



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY OCTOBER 9, 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 – Councilmember Williams**
- 3. Service Recognitions**
 - **Seth Klehm – 5 years**
 - **Louise Barbour – 20 years**
 - **Jesus Vela Sr. – 20 years**
- 4. Proclamations** **Pages 1 - 3**
 - **Relay for Life – October 10, 2014**
 - **Fire Prevention Week – October 7-11, 2014**
 - **Domestic Violence Month – October, 2014**
- 5. Citizens Comments**

CONSENT AGENDA

- 6. 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.

 - 6-a. Minutes from the August 7, 2014, August 21, 2014, September 4, 2014, and September 18, 2014 Regular City Council Meetings** **Pages 4 - 53**
 - 6-b. Ordinance No. O-14-034 on Its Second Reading Amending Chapter 5, Animal and Fowl, of the Code of Ordinances of the City of Brenham, Texas Designating a Caretaker of Impounded Animals** **Pages 54 - 56**

WORK SESSION

- 7. Presentation and Update Regarding the Charter and Possible Ballot Propositions for the 2015 Charter Election** **Pages 57 - 58**

REGULAR AGENDA

- 8. Discuss and Possibly Act Upon Resolution No. R-14-020 Appointing an Alternate Deputy City Secretary** **Pages 59 - 61**
- 9. Discuss and Possibly Act Upon a Request for a Noise Variance for the Jones/Buchman Wedding to Be Held on October 11, 2014 from 12:00 P.M. to 12:00 A.M. at Fireman's Park and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 62 - 64**
- 10. Discuss and Possibly Act Upon a Request for a Noise Variance for Relay for Life to Be Held on October 10, 2014 from 6:00 P.M. to 12:00 A.M. at Fireman's Park and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 65 - 67**
- 11. Discuss and Possibly Act Upon Ordinance No. O-14-035 on Its Second Reading Amending Chapter 6, Buildings and Structures, of the Code of Ordinances of the City of Brenham, Texas** **Pages 68 - 131**
- 12. Discuss and Possibly Act Upon a Development Agreement Between the City of Brenham, the Brenham Community Development Corporation (BCDC) and John F. Beckendorf for the Future Development of Fritz Beckendorf Road and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 132 - 178**
- 13. Discuss and Possibly Act Upon Change Order No. 1 to Collier Construction, LLC for the Extension of Chappell Hill Street and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 179 - 183**
- 14. Discuss and Possibly Act Upon Resolution No. R-14-021 Authorizing the Sale of a 1986 Pierce Arrow 55' Telesquirt Fire Truck to the City of Columbus Fire Department and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 184 - 190**
- 15. Discuss and Possibly Act Upon a Lease Purchase Agreement with JPMorgan Chase Bank for the Lease Purchase of an Asphalt Zipper AZ600-B260 for the City of Brenham's Street Department and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 191 - 199**
- 16. Discuss and Possibly Act Upon Resolution No. R-14-022 Reauthorizing an Investment Policy for the City of Brenham** **Pages 200 - 216**

17. **Discuss and Possibly Act Upon Resolution No. R-14-023 Authorizing the Submission of a Grant Pre-Application to the U.S. Department of Agriculture Rural Development Community Facilities Loan & Grants Program for the Construction of the Brenham Pet Adoption and Animal Care Facility and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 217 - 219**
18. **Discuss and Possibly Act Upon the Submission of Grant Applications to the Mason Foundation for Animal Shelter Design and the Meacham Foundation for Assistance in the Construction of the Brenham Pet Adoption and Animal Care Facility and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 220 - 221**
19. **Discuss and Possibly Act Upon the Purchase of One (1) Reel Mower and One (1) Mulching Mower for the Parks Department Through the BuyBoard Local Government Purchasing Cooperative and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 222 - 225**

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.

20. 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 October 9, 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 October 6, 2014 at **12:30 PM**.

Jeana Bellinger, TRMC

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

PROCLAMATION

WHEREAS, Relay for Life is more than a walk-a-thon – it’s time to make some noise and silence cancer for good; Relay for Life is a time to celebrate those who have battled cancer, remember those lost and get inspired to fight back; and

WHEREAS, About 1,665,540 new cancer cases are expected to be diagnosed in 2014 and about 585,720 Americans are expected to die of cancer, almost 1,600 people per day. Cancer is the second most common cause of death in the US, exceeded only by heart disease, accounting for nearly 1 of every 4 deaths; and

WHEREAS, Dedicated volunteers are committed to fighting cancer, which is vital in the triumph over this disease; a cancer survivor’s recovery involves much more than medical treatments – it takes hope to heal. Relay for Life volunteers provide that hope; and

WHEREAS, It is right and just for the City Council and the residents of Brenham to join together to support Relay for Life and commit to the fight against cancer;

NOW, THEREFORE I, Milton Y. Tate Jr., Mayor of the City of Brenham, do hereby proclaim Friday, October 10, 2014 as

RELAY FOR LIFE NIGHT

Milton Y. Tate Jr., Mayor
City of Brenham

PROCLAMATION

- WHEREAS,** the City of Brenham, Texas is committed to ensuring the safety and security of all those living in and visiting Brenham; and
- WHEREAS,** fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and
- WHEREAS,** working smoke alarms cut the risk of dying in home fires in half; and
- WHEREAS,** three out of five home fire deaths result from fires in properties without working smoke alarms; and
- WHEREAS,** Brenham residents should install smoke alarms in every sleeping room, outside each separate sleeping area, and on every level of the home; and
- WHEREAS,** Brenham residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and
- WHEREAS,** Brenham firefighters are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and
- WHEREAS,** the 2014 Fire Prevention Week theme, “*Working Smoke Alarms Save Lives: Test Yours Every Month!*” effectively serves to remind us that we need working smoke alarms to give us the time to get out safely.
- WHEREAS,** It is right and just for the City Council and the residents of Brenham to test their smoke alarms once a month, and to support the many public safety activities and efforts of the Brenham Fire Department during Fire Prevention Week 2014.

NOW, THEREFORE, I Milton Y. Tate, Jr., Mayor of the City of Brenham, do hereby proclaim the week of October 5-11, 2014 as

FIRE PREVENTION WEEK

Milton Y. Tate Jr., Mayor
City of Brenham

PROCLAMATION

- WHEREAS,** Domestic violence is a crime that affects all aspects of a community with far reaching consequences for the primary victims women and children; and
- WHEREAS,** Domestic violence is particularly devastating because it so often occurs in the privacy of the home which is meant to be a place of shelter and security; and
- WHEREAS,** Thousands of women and children in Texas are victims of domestic violence offenses, which violate their basic human rights to live with respect, dignity, and freedom from fear and violence; and
- WHEREAS,** We are committed to ending domestic violence in our state through public education and services by helping victims find empowerment to help them succeed in their goals; and
- WHEREAS,** We should move forward with all citizens, government officials, law enforcement agencies, health professionals, social service providers, educators, clergy and community leader to end domestic violence that threatens so many; and
- WHEREAS,** Our efforts to help victims of domestic violence will always be one of our most important tasks and through teamwork and cooperation, we will continue to provide needed services to the victims and survivors of domestic violence.

NOW, THEREFORE I, Milton Y. Tate Jr., Mayor of the City of Brenham do hereby proclaim October as:

DOMESTIC VIOLENCE AWARENESS MONTH

Milton Y. Tate Jr., Mayor
City of Brenham

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on August 7, 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, Deputy City Secretary Amanda Klehm, Chief Financial Officer Carolyn Miller, Stacy Hardy, Rhonda Kuehn, Cynthia Longhofer, Kaci Konieczny, Susan Nienstedt, Wende Ragonis, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Barbara Martin, David Doelitsch, Development Services Director Julie Fulgham, Jennifer Eckermann, Kim Hodde, Public Works Director Dane Rau, Bobby Branham, Casey Redman, Public Utilities Director Lowell Ogle, Kevin Schmidt, Tony Tavary, Pam Ruemke, Andria Heiges, Kevin Boggus, and Grant Lischka

Citizens present:

Stephen Stuckert, Sally Clinton, Katie Carr, Gregg Appel, Connie Jarnagin, Tanner Jongin, Anthony Smith, Willy Dilworth, Clarence Gerke, Heather Ruemke

Media Present:

Arthur Hahn, Brenham Banner Press; Ed Pothul, KWHI

1. Call Meeting to Order

2. Invocation and Pledges to the US and Texas Flags – City Manager Terry Roberts

3. 3-a. Service Recognitions

- **Barbara Martin – Public Utilities – 5 years**
- **Kevin Schmidt – Information Technology – 5 years**

3-b. Awards

- **GFOA Distinguished Budget Presentation Award**

Chief Financial Officer Carolyn Miller presented the award in Council and stated this is the Finance Department’s Fifth Consecutive Year to receive the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association (GFOA) for the City’s annual financial report for the period ending September 30, 2013.

4. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

5. Statutory Consent Agenda

5-a. Minutes from the July 15, 2014 Special City Council Meeting and July 17, 2014 Regular City Council Meeting

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Herring to approve the Statutory Consent Agenda Item 5-a. Minutes from the July 15, 2014 Special City Council Meeting and the July 17, 2014 Regular City Council Meeting.

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

WORK SESSION

6. Discussion and Update on FY2014-15 Budget Workshop

Chief Financial Officer Carolyn Miller presented this item. Miller stated compared to 2013, the 2014 certified property valuations were higher by 2.21%.

Miller explained that the City's tax rate will be lower by \$0.0720 due to the impact of the October 1, 2014 implementation of the Comprehensive Exchange of Services Interlocal Agreement with Washington County and the transfer of the emergency communications function to the County. Miller advised the proposed FY14-15 tax rate is decreasing from \$0.5632 per \$100 valuation to \$0.4912 per \$100 valuation (\$0.0720 or 12.78% reduction). Miller explained if Council approves the proposed tax rate of \$0.4912, the City would be under the rollback rate of \$0.4921.

Miller advised that Council that during the budget workshop in July they decided to add the following items, which will impact the FY14-15 budget:

- Vehicle for Deputy Fire Marshal in the amount of \$36,100
- Allocate General Fund reserves of \$225,000 for Street Reconstruction (\$900,000 over four years)
- Lease purchase of Asphalt Zipper for \$39,500 per year over five years
- Include mid-year 2% COLA in departmental budgets with approval subject to General Government revenues and expenditures trends (General Fund \$57,801; Utility Funds \$28,154).

7. Discussion and Presentation Regarding the Potential Sale of Several Parcels of Land Located Along Wilkins and Jefferson Streets

City Engineer Grant Lischka presented this item. Lischka stated the City has recently installed underground storm sewer in a drainage way that parallels Burleson Street between Jefferson Street and MLK Jr. Parkway. Lischka explained that along portions of this drainage way, the City owns several parcels. Lischka explained now that the drainage way has been covered, staff believes that these parcels are no longer necessary for the City to own.

Councilmember Herring questioned if the ditch was in the flood plan. Lischka stated no and he is unsure of why the Street Department maintained the ditch. Councilmember Herring questioned if the lot could be subdivided into a larger lot. Lischka stated yes into 2 lots, so there would be 3 total lots to sell. Councilmember Williams inquired about the small lot at Wilkins and Jefferson. Councilmember Williams stated the City took it over for taxes, but it's overgrown and the City needs to sell it. Lischka stated that he will look into it. Code Enforcement Officer David Doelitsch stated that the Street Department recently went out and cleaned up that lot. Public Works Director Dane Rau explained that the City does not own that lot, but has a lien on it.

Lischka asked the Council if it would be okay to get a survey done to size up the lots. Mayor Tate stated yes.

8. Discussion and Presentation Regarding the Potential Sale of Several Parcels of Land Located Along Old Mill Creek Road and the Possible Future Extension of the U.S. Highway 290 Frontage Road from Old Mill Creek Road to W. Main Street

City Engineer Grant Lischka presented this item. Lischka stated that as discussed with Council in April, staff has hired a surveyor to layout developable lots within the old railroad right-of-way along Old Mill Creek Road. Lischka stated that on the preliminary layout, the Dixie Street right-of-way will be extended to Old Mill Creek Road. However, while he believes that a straight connection between Old Mill Creek Road and W. Main Street is necessary, he would like to find alternatives other than Dixie Street. Lischka stated one alternative is to extend the frontage road on the east side of U.S. Highway 290 from Old Mill Creek Road to W. Main Street. Lischka stated he believes this is a better option than extending Dixie Street. Lischka advised the Council that right-of-way would need to be acquired and that staff is currently trying to coordinate meetings with adjacent property owners.

Councilmember Barnes-Tilley questioned whether or not Saegar Street could be used. Lischka stated that it was also an alternative route.

Councilmember Herring questioned if the City could make a cul-de-sac on Dixie and maintain the right of way. Lischka advised that this is an option. City Attorney Cary Bovey stated that the City could maintain the right of way and abandon it later if the City determined that they did not need it.

Councilmember Barnes-Tilley questioned if TxDOT has any interest in funding this project. Lischka stated not at this time. Councilmember Barnes-Tilley stated that she does not want to do anything to Dixie because it would be a problem for those residents. Mayor Tate stated to keep the right of way for now in case the City needs it later.

REGULAR AGENDA

9. Discuss and Possibly Act Upon an Amendment to the Development Agreement Related to the Donation of Land for Future Park Purposes and Authorize the Mayor to Execute Any Necessary Documentation

City Engineer Grant Lischka presented this item. Lischka stated the Development Agreement related to the donation of land for a future park currently states that the developer will construct Chappell Hill Street south of U.S. Highway 290.

Lischka explained being that Chappell Hill Street is part of the City's thoroughfare plan, the City agreed to participate 25 percent of the cost of the street. Lischka advised the 25 percent is the cost for oversizing from a 31-foot local street to a 39-foot collector street. Lischka stated in an effort to benefit from the economy of scale, staff believes that bidding both projects together will possibly result in a lower total cost for the projects than if they were bid separately. Lischka stated the simplest way to bid the projects together is for the City to bid out the projects and be reimbursed by the developer; however, that would require an amendment to the development agreement. Lischka stated instead of the developer constructing the road and being reimbursed 25% by the City, the City would now construct the road and be reimbursed 75% by the developer. Lischka explained that bids will be opened later this month for the two projects.

City Attorney Bovey stated that the City will handle all payments with the Developer paying the City ahead of time.

Councilmember Barnes-Tilley stated this is not a priority at this time and she wants to make sure that the City is not putting any money into this project. Lischka stated the funds are coming from BCDC. Lischka further explained that the waterline and roads will be handled in house and BCDC will reimburse the City for the work.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve an amendment to the Development Agreement related to the donation of land for future park purposes 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

10. Discuss and Possibly Act Upon an Ordinance on Its First Reading Adopting a Revised City of Brenham Drought Contingency Plan and Water Conservation Plan for 2014

Public Utilities Director Lowell Ogle presented this item. Ogle stated this ordinance pertains to the City of Brenham's Drought Contingency and Water Conservation Plan. Ogle advised this plan is mandated by the Texas Commission on Environmental Quality (TCEQ) and is required to be adopted every 5 years. Ogle explained the Drought Contingency and Water Conservation Plan includes quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for municipal use, in gallons per capita per day. Ogle advised the plan also includes current rate schedules, statistics for domestic water usage and updated contracts from the Brazos River Authority and the Brenham State Supported Living Center.

Ogle stated the changes in this Plan compared to the 2011 Plan are as follows:

- Revised specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought.

Councilmember Goss questioned if the City had to initiate any stages of this plan and had a major fire, would the City be penalized. Ogle stated no, we would just go to the next stage and take the steps outlined in that stage within the plan. Ogle stated the plan is based on 3 consecutive days. Ogle advised that goal of the plan is to have water for our consumers.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve an Ordinance on its first reading adopting a revised City of Brenham Drought Contingency Plan and Water Conservation Plan for 2014 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

11. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 23, Subdivisions, Section 23-36, Filing Fees, of the Code of Ordinances of the City of Brenham, Texas

Development Services Director Julie Fulgham presented this item. Fulgham explained that Section 23-26 currently requires filing fees for subdivisions to be adopted by ordinance and the proposed changes to this section would require filing fees to be adopted by resolution, which is consistent with most ordinances and is the preferred method for adopting fees.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve an Ordinance on its first reading amending Chapter 23, Subdivisions, Section 23-36, Filing Fees, of the Code of Ordinances of the City of Brenham, Texas.

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

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

12. Discuss and Possibly Act Upon a Professional Services Contract Between the City of Brenham and Bureau Veritas Group for Inspection and Permitting Services for the Development Services Department and Authorize the Mayor to Execute Any Necessary Documentation

Development Services Director Julie Fulgham presented this item. Fulgham stated the City has contracted with Texas First and Bureau Veritas to perform building and inspection duties as a result of a month-long absence of the City's Building Official, Allen Jacobs. Fulgham advised that Bureau Veritas services will be utilized on a request only basis as defined in the contract, which will allow the City to only utilize their services as needed.

Fulgham stated in addition to the contract with Bureau Veritas, the City has a short term contract with Texas First, a temporary job placement firm that caters to municipalities. Fulgham explained that an Interim Building Official (John Brown), supplied by Texas First, started on Monday to perform various building and inspection duties for the City on a contract. The contract with Texas First is from August 4, 2014 to September 1, 2014.

City Attorney Bovey stated that he has been working with Bureau Veritas on the contract language and is still waiting on the final revisions to the contract.

Councilmember Barnes-Tilley questioned if this was coming out of the City Manager's contingency funds. Fulgham explained that it was.

Councilmember Goss stated that Council may want to revisit bringing back the second inspector. Fulgham explained the numbers until this summer have not justified the need for a second inspector but these contracts offer a good backup alternative and are more cost effective than adding staff. Mayor Tate asked that staff gauge the usage and time to see if the City needs another inspector.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve a Professional Services Contract between the City of Brenham and Bureau Veritas Group for inspection and permitting services for the Development Services Department, and authorize the Mayor to execute any necessary documentation once approved by the City Attorney.

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 an Ordinance on Its First Reading Amending Chapter 12, Health and Sanitation, Article II, Cleanliness of Premises, of the Code of Ordinances of the City of Brenham, Texas

Court Administrator Rhonda Kuehn presented this item. Kuehn advised these changes will reflect current practices being conducted by court staff when dealing with unclean premises and the abatement of nuisances on those premises. Kuehn advised the current Ordinance states that upon receiving notice to abate a nuisance, the property owner has the right to request an administrative hearing before the city manager or his designee by filing a written request for a hearing with the city secretary. Kuehn explained the requested changes would remove “city manager or his designee” and replace with “municipal court judge” as well as remove “city secretary” and replace with “municipal court clerk”.

Kuehn also explained that the City Secretary’s office also wanted to make some changes to Section 12-11 to more properly reflect lien procedures currently being followed and to bring the section into compliance with State law.

Councilmember Barnes-Tilley questioned if these have been current practices and we are just updating the Ordinance to reflect current practices. Kuehn stated yes.

A motion was made by Councilmember Herring and seconded by Mayor Pro Tem Nix to approve an Ordinance on its first reading amending Chapter 12, Health and Sanitation, Article II, Cleanliness of Premises, of the Code of Ordinances of the City of Brenham, Texas

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

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

14. Discuss and Possibly Act Upon the Acceptance of the Edge Reimbursement Implementation Grant from the Texas State Library and Archives Commission in the Amount of \$5,000 for New Computer Equipment for the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation

Administrative Services Manager Wende Ragonis presented this item. Ragonis stated the Edge Initiative was developed by a national coalition of leading library and local government organizations and is funded by the Bill and Melinda Gates Foundation.

Ragonis explained it was created with the vision that all people should have opportunities to enrich and improve their lives through open access to information, communication, and technology services provided by public libraries.

Ragonis explained the Nancy Carol Roberts Memorial Library was invited to participate in the Edge Program Technology Assessment. Ragonis advised once compiled, the assessment report is designed to help public libraries set a path for continuous improvement. Ragonis explained the Edge Initiative, working through the Texas State Library and Archives Commission, offers grants to public libraries for new technologies which can make a difference in the community.

Ragonis stated the Nancy Carol Roberts Memorial Library was awarded a \$5,000 Edge reimbursement grant to purchase new technology. Ragonis advised Library and IT Staff collaborated to research what type of technology would be of greatest benefit to NCRML patrons while being compliant with the City's IT standards. Ragonis explained that staff determined that the following devices would best align the library with current technology service offerings and allow for expansion of services provided:

- 1) ***One laptop at an estimated cost of \$1,800.*** The laptop would have integrated camera and audio capabilities for video conferencing. Staff will use this laptop for collecting electronic inventory data and as a presentation tool. The Library does not currently have a laptop in its inventory.
- 2) ***Five e-readers at an estimated cost of \$150 for a total cost of \$750.*** These devices are similar to the "Play-a-Ways" that are currently in circulation. The e-readers will have Ebooks downloaded onto the device by genre.
- 3) ***Seven Chromebooks at an estimated cost of \$325 for a total cost of \$2,275.*** The initial Chromebook deployment is for patron use in the library facility with a City of Brenham WiFi connection. Local area students will benefit from the use of Chromebooks as these are the standard technology tool in area classrooms. Students can access email and other school related assignments with these devices.

Ragonis advised the total amount staff anticipates spending is \$4,825. Ragonis explained the per device cost includes protective cases or covers for the devices.

Mayor Tate questioned if there were strings attached to the grant. Ragonis explained that it is a reimbursement grant, so the City will have to purchase the items and be reimbursed by the grant.

A motion was made by Councilmember Williams and seconded by Councilmember Herring to approve the acceptance of the Edge Reimbursement Implementation Grant from the Texas State Library and Archives Commission in the amount of \$5,000 for new computer equipment for the Nancy Carol Roberts Memorial Library 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

15. Discuss and Possibly Act Upon the Approval of the FY2014-15 Preliminary Budget for the Washington County Appraisal District

Chief Financial Officer Carolyn Miller presented this item. Miller stated the City has received a copy of the Washington County Appraisal District (WCAD) FY2014-2015 Proposed Budget. Miller explained the WCAD proposed budget shows an increase of \$55,460 over the prior year's budget mainly due to the addition of a Compliance Officer position and 2% salary increases for staff. Miller advised the impact for the City of Brenham is an increase of \$9,274 for FY14-15 which was included in the General Fund proposed budget already reviewed with Council.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve the FY2014-15 proposed budget for the Washington County Appraisal 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	Yes

16. Discuss and Possibly Act Upon an Ordinance on Its First Reading Repealing Chapter 25, Article III, Division 2, Section 25-57, Reserved Parking, of the Code of Ordinances of the City of Brenham, Texas

Main Street Manager Jennifer Eckermann presented this item. Eckermann stated that the Main Street Board has discussed reserved parking spaces downtown at numerous committee and board meetings and at the July meeting, the Board voted to recommend to the City Council that reserved parking in the downtown area be repealed.

Mayor Pro Tem Nix questioned if this included handicap spots. Eckermann stated no, it does not include handicap spots. Councilmember Herring questioned about Courthouse parking. Mayor Tate stated that Courthouse parking was done many years ago by Council. Councilmember Herring stated that he can see the County Jail van having a reserved parking spot, but no other reserved parking spots at the Courthouse. Fulgham stated that she does not think that Courthouse parking spots are included in this Ordinance. Fulgham explained that this is for individual requests for reserved parking.

Mayor Tate asked about the parking spaces that are currently reserved. Eckermann stated those spots would remain until they expire next summer but the parking spot owners have been made aware that this would be the Board's recommendation.

Councilmember Herring questioned if Hospice Boutique was made aware of the meeting today. Eckermann stated that no, but she would let them know before the second reading.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve an Ordinance on its first reading repealing Chapter 25, Article III, Division 2, Section 25-57, Reserved Parking, of the Code of Ordinances of the City of Brenham, Texas.

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

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

17. Discuss and Possibly Act Upon RFQ No. 14-009 for a Refurbished Horizontal Cardboard Baler for the City of Brenham's Recycling Center and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Director Dane Rau presented this item. Rau stated the City of Brenham Recycling Center relies heavily on the horizontal cardboard baler to keep the center operating and bringing revenue into the department. Rau explained that staff has recently been experiencing major issues with the current baler and have had it worked on several times this year to keep it operational.

Rau explained the current baler was bought in early 2000 and that this machine works six days a week and bales cardboard constantly as product is brought in by the citizens and from our internal cardboard collection routes. Rau stated when this machine is down it creates a mountain of cardboard very quickly. Rau stated that due to the age and wear on the current baler it is no longer cost effective for the City to continue to have it repaired.

Rau advised Council that he would like to replace the old baler with a 2003 completely refurbished Cram-A-Lot HX-72 baler from Rise Equipment LLC. Rau advised the refurbished baler will be delivered to the City's facility from the Carolinas and will have a 90 day warranty on major parts.

Councilmember Herring questioned how long it would take to switch to the new machine. Sanitation Superintendent Bobby Branham stated that it could be done within two business days.

Councilmember Goss questioned if he has inspected the machine. Rau stated no because it is in the Carolinas, but he has spoken with people and have received photos who operated the machine. Rau explained that he is comfortable with what he has seen and heard. Rau explained that the paper mill was going out of business and needed to sell the machine.

Mayor Pro Tem Nix questioned if the price included shipping and installation. Rau stated yes.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve RFQ No. 14-009 for the purchase of a refurbished horizontal cardboard baler for the City of Brenham's Recycling Center from sanitation fund reserves in the amount of \$56,850.00 and authorize the Mayor to execute any necessary documentation

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

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

18. Discuss and Possibly Act Upon a Contract Between the City of Brenham and Vaisala, Inc. Related to the Support and Maintenance of the Automated Weather Observation System (AWOS) Located at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

Planning Technician Kim Hodde presented this item. Hodde stated that in the past, TxDOT has contracted with Vaisala for the AWOS maintenance and support services then billed the individual airports accordingly. Hodde explained that TxDOT is no longer doing this so all airports will have to contract directly with the vendor, Vaisala, Inc.

Hodde stated that Vaisala's maintenance cost is \$5,500 annually and the data service is \$780.00 annually for a total annual cost of \$6,280.00. Hodde explained that if the City signs a three-year contract, Vaisala is offering a five percent (5%) discount thus making the total \$5,966.00 per year. Hodde explained both of these services are eligible for fifty percent (50%) reimbursement under the City's RAMP Grant with TxDOT. Hodde stated that Vaisala has been very quick to respond to any issues that the City has had in the past; therefore, she is requesting the approval of a three (3) year agreement.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve a contract between the City of Brenham and Vaisala, Inc. related to the support and maintenance of the Automated Weather Observation System (AWOS) located at the Brenham Municipal Airport for a three year term beginning September 1, 2014 at an annual discounted cost of \$5,966.00 and authorize the Mayor to execute any necessary documentation.

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

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

19. Discuss and Possibly Act Upon the Extension of a Contract Between the City of Brenham and Ron Stegemoller dba RS Aircraft Services for Mechanic Services at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

Planning Technician Kim Hodde presented this item. Hodde stated the City of Brenham approved an agreement with Ron Stegemoller dba RS Aircraft Service for mechanic services at the Brenham Municipal Airport on the 16th day of September, 2004. Hodde explained that Article II of this agreement allows for a five (5) year renewal option if Lessee gives written notice of such desire to Lessor not less than sixty (60) days before the end of the current term. Hodde explained this agreement was extended on August 5, 2010 for a five (5) year term to expire on September 16, 2014; however, the City and Mr. Stegemoller desire to extend the lease for another five (5) year term by mutual agreement. Hodde advised that the Airport Advisory Board and Staff feels that Mr. Stegemoller is an asset to the airport and would ask that this five (5) year extension be approved.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Herring to approve the extension of a contract between the City of Brenham and Ron Stegemoller dba RS Aircraft Service for mechanic services at the Brenham Municipal Airport a five (5) year term beginning on September 16, 2014 and ending on September 15, 2019 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

Short break was taken by the Council

4. Citizens Comments

Citizen Stephen Stuckert stated that he wanted to discuss the Saegar Street extension. Stuckert stated from 1840s until present, up to five generations have been buried in Prairie Lea Cemetery including veterans from all conflicts for residents of Brenham and Washington County. Stuckert expressed his opposition to bisecting the cemetery with a road. Stuckert advised that this may increase vandalism and litter increase by passing through of cars. Stuckert stated the City should use the \$2 million dollars in a better manner for the residents of Brenham than to create a bridge for the road going through the cemetery. Stuckert explained that just because the City can do it, doesn't mean that they should.

Council adjourned into Executive Session at 2:35pm.

EXECUTIVE SESSION

- 20. Section 551.071 - Texas Government Code – Consultation with the City Attorney – Consultation with City Attorney Regarding Legal Issues Concerning Platting of the Prairie Lea Cemetery and Possible Future Extension of Saeger Street**
- 21. Section 551.072 - Texas Government Code – Deliberation Regarding Real Property – Discussion Regarding Potential Purchase of Real Property for Redevelopment**

Executive Session adjourned at 3:53

RE-OPEN REGULAR SESSION

- 22. Discuss and Possibly Act Upon the Purchase of Real Property for Redevelopment and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Councilmember Herring and seconded by Councilmember Williams to have staff approach the adjacent property owners to see if any of them have an interest in purchasing the property and report that information back to the Council for further consideration.

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

- 23. Administrative/Elected Officials Report**

City Manager Terry Roberts reported on the following:

- Welcomed back Councilmember Williams.
- Refreshments will be served after the meeting for August birthdays – Councilmembers Ebel and Goss.
- September 9th at 6pm: TxDOT Public Hearing at Brenham Elementary School regarding the plan for the clover leaf intersection.
- Fireman’s Fiesta is Saturday, August 9th.

Public Works Director Dane Rau reported on the following:

- Mosquito spraying has been taking place three times a week, but they will be backing off now and start spraying storm drains.

City Engineer Grant Lischka reported on the following:

- Chappell Hill Street extension will be formally out to bidders on August 26th. The bid award for the project will come before Council at the first meeting in September.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger
City Secretary

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on August 21, 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 Weldon Williams, Jr.

Members absent:

Councilmember Mary E. Barnes-Tilley

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, Cynthia Longhofer, Kaci Konieczny, Wende Ragonis, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Development Services Director Julie Fulgham, Public Works Director Dane Rau, Leslie Kelm, Public Utilities Director Lowell Ogle, Andria Heiges, Kevin Boggus, and Grant Lischka

Citizens present:

Lu Hollander and Page Michel

Media Present:

Arthur Hahn and Caitlin Hahn, Brenham Banner Press; Ed Pothul, KWHI

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

3. Proclamation
➤ **Library Card Sign-Up Month**

Library Supervisor Andria Heiges was present to receive the Proclamation.

4. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

5. Statutory Consent Agenda

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

5-a. Minutes from the July 21, 2014 and July 24, 2014 Special City Council Budget Workshops

5-b. Ordinance No. O-14-023 on Its Second Reading Amending Chapter 23, Subdivisions, Section 23-36, Filing Fees, of the Code of Ordinances of the City of Brenham, Texas

5-c. Ordinance No. O-14-024 on Its Second Reading Adopting a Revised City of Brenham Drought Contingency Plan and Water Conservation Plan for 2014

5-d. Ordinance No. O-14-025 on Its Second Reading Amending Chapter 12, Health and Sanitation, Article II, Cleanliness of Premises, of the Code of Ordinances of the City of Brenham, Texas

5-e. Ordinance No. O-14-026 on Its Second Reading Repealing Chapter 25, Article III, Division 2, Section 25-57, Reserved Parking, of the Code of Ordinances of the City of Brenham, Texas

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve the Statutory Consent Agenda Items 5-a., 5-b., 5-c., 5-d., and 5-e.

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	Absent
Councilmember Weldon Williams	Yes

WORK SESSION

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

Lu Hollander, with the Washington County Convention and Visitors Bureau, presented this report. She focused on the highlights featured in the *Third Quarter CVB Report: April - June 2014*, pointing out the visitor statistics, major tourism events, advertising placements, and editorial coverage.

7. Discussion Regarding the FY2014-15 Street Rehabilitation and Program of Work

Public Works Director Dane Rau presented this item. Rau stated that based on the 2013 Street Inventory, over 55% of the City's 81 miles of streets fall into the "Poor" and "Fair" category. Rau explained that it is Staff's intent to improve those percentages by reconstructing approximately 2.5 miles of streets per year for the next four years or a value of \$360,000 per year. Rau advised this compares to one (1) mile of street work at \$135,000 in the current budget year. Rau explained that Staff has identified 14 sections of roadway that they would like to improve beginning on October 1, 2014.

Rau advised Council that areas that are included this year are: Longhofer, Borman, and Reimer and in the the upcoming years, Staff plans to improve: Allison St, Westwind, Windy, Windswept, Drumm St, Edward St, Eldon St, Munz St, and Meadow Lane.

Mayor Tate questioned if these are short ranges of street. Rau stated the range is from 360 feet to 1200 feet. Rau explained that some stretches of street are short while others are long. Mayor Tate questioned if the Street Department was able to do all of the projects in house. Rau stated yes.

PUBLIC HEARING

8. Public Hearing, Discussion and Receipt of Input Related to the Proposed Creation of Reinvestment Zone Number 40 Requested by Independence Coffee Company, LLC for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 1.40 Acres, More or Less, Being Located at 321 South Baylor Street, Brenham, Texas, with Boundaries Further Described in Exhibit "A" of the Ordinance Creating Reinvestment Zone Number 40, and Designating This Property as Qualifying for Tax Phase-In

Project Manager with the Brenham Economic Development Foundation Clint Kolby presented this item. Kolby stated that prior to considering the creation of a Reinvestment Zone for implementing a tax phase-in incentive for Independence Coffee Company the City Council is required to hold a Public Hearing to receive citizen input regarding the Reinvestment Zone.

Kolby explained that Independence Coffee Company is planning to relocate their operations to the old Beaumier Iron Works building located at 321 South Baylor Street. Mayor Tate questioned if there were any environmental problems with that site and if they were using the brick building or metal building. Kolby stated there are no environmental problems thus far and they will be using the brick building located at the front of the property only.

Councilmember Ebel questioned if they would also be opening a retail storefront there. Kolby explained that they would have retail in the front and roasting in the back of the building. Mayor Tate questioned about parking. Kolby stated that they are still in discussions with the City about the required parking.

There were no citizen comments.

REGULAR AGENDA

9. Discuss and Possibly Act Upon an Ordinance on Its First Reading for the Creation of Reinvestment Zone Number 40 Requested by Independence Coffee Company, LLC for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 1.40 Acres, More or Less, Being Located at 321 South Baylor Street, Brenham, Texas, with Boundaries Further Described in Exhibit “A” of the Ordinance Creating Reinvestment Zone Number 40, and Designating This Property as Qualifying for Tax Phase-In

Development Services Director Julie Fulgham presented this item. Mayor Pro Tem Nix questioned if the whole site is environmentally safe. City Attorney Cary Bovey stated that Independence Coffee would have to comply with all City Ordinances and any applicable State or Federal environmental laws before any permit can be issued.

Councilmember Goss questioned who performed the inspection of the structural integrity of the building. Fulgham stated that the building has not been inspected yet. Fulgham explained that the last inspection of the building was done in the 1980s. Fulgham advised that the structural inspection has not been done yet, but at the walkthrough, there were no signs of problems and the building seems to be well maintained. Mayor Pro Tem Nix questioned if the inspection should be done before the Tax Phase In. Bovey stated that it is not required because the inspection is not related to the creation of a reinvestment zone.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve an Ordinance on its first reading for the creation of Reinvestment Zone Number 40 requested by Independence Coffee Company, LLC 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	No
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Absent
Councilmember Weldon Williams	Yes

10. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the FY2013-14 Adopted Budget

Chief Financial Officer Carolyn Miller presented this item. Miller explained the highlights of the amendment to the FY2013-14 budget include the following revenue increases:

- General Fund: Revenues for insurance proceeds and HOT taxes for increased collections;
- Donations Fund: Revenues for animal shelter capital donations;
- BCDC Fund: Revenues due to the sale of land in the Brenham Business Center; and
- Capital Projects Fund: Contributions from the Fortnightly for the library renovation and expansion project.

Miller explained the highlights of the amendment to the FY2013-14 budget include the following expenses:

- General Fund: Increased expenditures due to the unanticipated expenses from the Henderson Park restroom building fire and the purchase of land at 300 N. Park Street;
- Streets & Drainage Fund: Street overlay project;
- Central Fleet Fund: Purchase of equipment;
- 2014 Capital Projects: Costs associated with bond issuance;
- Water Fund: Increased due to the high pressure plane expansion project; and
- Hotel Occupancy Tax Fund: Additional funding expenditures approved by the HOT board.

A motion was made by Councilmember Williams and seconded by Councilmember Herring to approve an Ordinance on its first reading amending the FY2013-14 adopted budget.

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	Absent
Councilmember Weldon Williams	Yes

11. Discuss and Possibly Act Upon Authorization to Sell the Brenham Fire Department’s Jaws of Life Tools and Power Units and Designate the Proceeds as Matching Funds for the Purchase of New Jaws of Life Tools and Power Units and Authorize the Mayor to Execute Any Necessary Documentation

Fire Chief Ricky Boeker presented this item. Boeker stated the Brenham Fire Department membership purchased these tools originally and donated them to the City of Brenham and now staff is asking to sell these tools through GovDeals and use the proceeds to purchase new replacement Jaws of Life tools. Boeker advised that any difference in the selling price and the cost of new tools will be paid for by the Brenham Fire Department membership. Boeker explained that the tools have experienced some mechanical issues in the past and that is why staff recommends selling the units.

Councilmember Goss questioned since the company is not living up to their commitments, even though they are out of business, can the City go after them. City Attorney Cary Bovey stated the equipment was purchased by the Title 1c3 and donated to the Brenham Fire Department; therefore, the City Attorney cannot represent the volunteers, but they can hire an attorney and pay legal fees.

Mayor Pro Tem Nix questioned if we can sell the equipment with the defects and would the City of Brenham be held liable. Bovey explained that the City could sell the equipment as long as any defects were stated in the Bill of Sale. Boeker explained the problem is an oil leak, which when they replaced once, it did not fix the problem.

A motion was made by Councilmember Ebel and seconded by Councilmember Herring to approve the sales of the Brenham Fire Department’s Jaws of Life tools and power units and designate the proceeds for the purchase of new Jaws of Life tools and power units 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	Absent
Councilmember Weldon Williams	Yes

12. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- BCDC is working on a Development Agreement with John Beckendorf regarding a street that will run between Blue Bell Road and Tiaden Lane in the Brenham Business Center. Once all the details have been worked out, the Agreement will be brought to Council for final approval since the oversizing of the road will be at the City of Brenham's cost.
- Staff is working with BISD on finishing the inspections of the new schools.
Fire Chief Ricky Boeker reported on the following:
 - Fire Chief Ricky Boeker advised the Council that the Fireman's Fiesta was a success. They only made \$89 less than last year.

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 September 4, 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, Deputy City Secretary Amanda Klehm, Chief Financial Officer Carolyn Miller, Stacy Hardy, Cynthia Longhofer, Kaci Konieczny, Wende Ragonis, Fire Chief Ricky Boeker, Development Services Director Julie Fulgham, Kim Hodde, Public Works Director Dane Rau, Leslie Kelm, Public Utilities Director Lowell Ogle, Janie Mehrens, and Grant Lischka

Citizens present:

Tim Culliver, Donna Culliver, Susan Lake, Page Michel, Christi Bond, Ragan Bond, Bryan Morisak, Austin Morisak, Tiffany Morisak, Deana Alfred, Lynn Nolte, Carolyn Thomas, Fredricka Berry, Alesia Whaley, Mr. & Mrs. Ross

Media Present:

Arthur Hahn and Caitlin Hahn, Brenham Banner Press; Mark Whitehead, KWHI

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

- 3. **Proclamations**
 - **Washington County Big Read**
 - Deana Alfred, Lynn Nolte, Susan Lake, Carolyn Thomas, and Fredricka Berry were present to receive the Proclamation.
 - **Childhood Cancer Awareness Month – September 2014**
 - Tim Culliver, Donna Culliver, and Alesia Whaley were present to receive the Proclamation.
 - **Constitution Week – September 17-23, 2014**
 - Tiffany Morisak was present to receive the Proclamation.

4. **Citizens Comments**

There were no citizen comments.

CONSENT AGENDA

5. **Statutory Consent Agenda**

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

5-a. Ordinance No. O-14-027 on Its Second Reading for the Creation of Reinvestment Zone Number 40 Requested by Independence Coffee Company, LLC for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 1.40 Acres, More or Less, Being Located at 321 South Baylor Street, Brenham, Texas, with Boundaries Further Described in Exhibit “A” of the Ordinance Creating Reinvestment Zone Number 40, and Designating This Property as Qualifying for Tax Phase-In

5-b. Ordinance No. O-14-028 on Its Second Reading Amending the FY2013-14 Adopted Budget

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

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

WORK SESSION

6. Presentation and Update Regarding the Charter Review

City Secretary Jeana Bellinger presented this item. Bellinger presented recommended changes to Articles III (City Council), IV (The City Manager; Finances) and V (Bonds).

Councilmember Goss questioned changes to Article III, Section 14 – Councilmember Salaries. Councilmember Goss questioned why no changes were made to this section. City Attorney Cary Bovey stated this is more of a policy decision in which Council can decide to make changes. Mayor Tate stated Council should decide if they want to change it. Councilmember Goss stated due to the time and energy put forth for operations of the City, he thinks that the salaries need to be reviewed. Bellinger stated that she can do some research and bring back her findings at the next meeting.

7. Presentation and Discussion on Adoption of the 2012 International Building Code

Development Services Director Julie Fulgham presented this item. Fulgham discussed therecommended adoption of the 2012 International Building Code. Fulgham stated that an ISO survey and meeting was held in August and the City didn't do well because the codes are so old; therefore staff is recommending the City adopt the 2012 codes. Fulgham stated if the City adopts the new codes, our ISO ratings will be much higher next year.

Councilmember Barnes-Tilley questioned if the ISO rating for these codes has the same effect on citizens as the Fire Department. Councilmember Barnes-Tilley questioned if a 10 rating could adversely affect the citizens. Fulgham stated it does not affect them as much as the Fire Department, but better to be updated on codes to coincide with State law.

Fulgham explained that they must enforce the 2012 Code for Energy and 2009 Code by State law. Fulgham advised that most plans for building are overbuilt to the City's minimum codes. Fulgham stated the City would be protecting infrastructure and doing a great service to the citizens by adopting the new code.

Citizen Mrs. Ross questioned if the new subdivision on Stone Street was being built to the new code. Fulgham stated that the subdivision must meet the 2009 Energy Code, but it is a mixture between the 2009 and 2012 codes.

Councilmember Goss questioned is there a grace time between plan review, permitting, and inspection, if the City adopts the new code during this period. Fulgham explained that as long as a permit is active, it can continue under the codes permitted. Fulgham advised all new permits and applications must be under new codes if received after the adoption of the new codes.

PUBLIC HEARING

8. **Proposed Budget for Fiscal Year Beginning October 1, 2014 and Ending September 30, 2015**

Due to the Transfer of the Emergency Communications Function From The City of Brenham to Washington County, Effective October 1, 2014, the FY2014-15 Proposed Budget for the City of Brenham Will Raise Less Revenue from Total Property Taxes Than Last Year's Budget By An Amount of \$646,329, Which Is A 10.77 Percent Decrease From Last Year's Budget. The Property Tax Revenue to be Raised from New Property Added to the Tax Roll This Year Is \$37,124

Chief Financial Officer Carolyn Miller presented this item. Miller stated that due to the transfer of the Emergency Communications function from the City to Washington County effective October 1, 2014, the FY2014-15 proposed budget for the City of Brenham will raise less revenue from total property taxes than last year's budget by an amount of \$646,329, which is a 10.77 percent decrease from last year's budget. Miller explained the property tax revenue to be raised from new property added to the tax roll this year is \$37,124.

There were no citizen comments.

9. **Public Hearing Concerning the Approval of an Amendment to the Official Zoning Map of the City of Brenham, to Change the Zoning from an Industrial (I) District to a Manufactured Home Residential (R-3) District on Property Located at 20785 FM 389, and Specifically Being a 10.74 Acre Tract Described as a Portion of Tract 196 of the Phillip Coe Addition in the City of Brenham, Washington County, Texas**

Development Services Director Julie Fulgham presented this item. Fulgham stated that prior to considering an ordinance to change the zoning on the Wehmeyer property a public hearing must be held to hear input regarding this proposed amendment.

Councilmember Goss questioned when originally looking at Wehmeyer location, he wanted to initiate a mobile home park. Fulgham stated that there are quite a few issues with the final stages of development of the mobile home park, mainly with access; however, staff doesn't feel that there would be conflict with the zones at this location because the Ordinance will require a buffer or screen fence.

Councilmember Goss questioned if Wehmeyer will have to provide the screening or the individual land owners. Fulgham stated whomever develops first will be required to provide the screening.

There were no citizen comments.

REGULAR AGENDA

10. Discuss and Possibly Act Upon an Ordinance on Its First Reading Adopting the Budget for Fiscal Year Beginning October 1, 2014 and Ending September 30, 2015 and Take Record Vote

Chief Financial Officer Carolyn Miller presented this item. Miller stated the proposed FY2014-15 Budget has been developed in compliance with the property tax code, local government code, and City Charter. Miller explained a property tax rate of \$0.4912 per \$100 valuation is necessary to fund the proposed budget. Miller advised the proposed budget is on the City's website, on file with the City Secretary, Washington County Clerk, and at the Nancy Carol Roberts Memorial Library. Miller stated Senate Bill (S.B.) 656, which became effective September 1, 2013, requires the city council's vote to adopt a budget be a record vote.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve an Ordinance on its first reading adopting the budget for Fiscal Year beginning October 1, 2014 and ending September 30, 2015 and take a record vote.

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 an Ordinance on Its First Reading Levying Taxes for the Tax Year 2014 for the City of Brenham at \$0.4912 per \$100 Valuation

Chief Financial Officer Carolyn Miller presented this item. Miller stated the Proposed FY2014-15 Budget includes a tax rate of \$0.4912 per \$100 valuation which has two components: maintenance and operations (M&O) and interest and sinking (I&S). Miller explained the proposed tax rate of \$0.4912 will allocate \$0.2890 to the General Fund for maintenance and operations and, the balance of \$0.2022 to the Debt Service Fund for interest and sinking.

Miller stated the City has complied with all of the notices, publications, and public hearings as required by the Tax Code. Miller explained that unlike in prior years, because this year's tax rate raises less revenue than last year, the Tax Code does not specify the wording of the motion to adopt the tax rate.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve an Ordinance on its first reading levying taxes for the Tax Year 2014 for the City of Brenham at \$0.4912 per \$100 valuation.

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 an Ordinance on Its First Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning from an Industrial (I) District to a Manufactured Home Residential (R-3) District on Property Located at 20785 FM 389, and Specifically Being a 10.74 Acre Tract Described as a Portion of Tract 196 of the Phillip Coe Addition in the City of Brenham, Washington County, Texas

Development Services Director Julie Fulgham presented this item. Fulgham stated this is a request for zones change from an Industrial (I) District to a Manufactured Home Residential (R-3) District for a 10.74 acre portion of Tract 196 of the Phillip Coe Addition. Fulgham explained this property is currently zone Industrial and is bounded by Industrial (I) zoning on two sides and Manufactured Home Residential (R-3) Zoning on two sides. Fulgham advised that if the zone change is successful, a master plan for a manufactured home park and final plat must be approved by the Planning and Zoning Commission.

Councilmember Goss questioned if Wehmeyer will need to get with adjacent property owner for another access point in or out. Fulgham stated if he develops further then he will need to do that. Councilmember Goss questioned if his driveway does not meet requirements, does it provide for a way in or out. Fulgham explained no, but he could develop the park all the way to Industrial in ingress or regress. Fulgham advised that he cannot develop until he has 2 points. Dannhaus stated he has a couple of options to meet this requirement.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve an Ordinance on its first reading amending the official zoning map of the City of Brenham, to change the zoning from an Industrial (I) District to a Manufactured Home Residential (R-3) District on property located at 20785 FM 389, and specifically being a 10.74 acre tract described as a portion of Tract 196 of the Phillip Coe Addition in the City of Brenham, Washington County, Texas.

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

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

13. Discuss and Possibly Act Upon Bid No. B0039-0026-00 for the Extension of Chappell Hill Street and Authorize the Mayor to Execute Any Necessary Documentation

City Engineer Grant Lischka presented this item. Lischka stated the City has received bids on the Chappell Hill Street Extension project. Lischka explained the project included the construction and improvements to Chappell Hill Street from Lawndale Street to Stringer Street (City portion) and the construction of Chappell Hill Street south of U.S. 290 (Kruse portion). Lischka advised the lowest responsible bidder on the project was Collier Construction, L.L.C. in the amount of \$2,152,239.55. Lischka explained that the City's portion would be \$1,174,427.15.

Lischka stated this bid includes the alternate bid for concrete pavement from Lawndale to Stringer. Lischka explained the concrete pavement is an addition of \$92,792.30 (an 8.6% increase); however, Staff believes that the additional cost for concrete will be offset by savings in the future maintenance costs. Lischka advised the Kruse portion is \$977,842.40. Lischka stated this does not include an alternate for concrete pavement. Lischka explained the City's engineer, Jones and Carter, Inc., is negotiating a change order with the Collier Construction L.L.C. to include concrete pavement on the Kruse portion. Lischka advised the change order would not involve additional City funding.

Councilmember Goss stated that he does not see that it is justified to spend the extra money to do concrete on this section when everywhere else is asphalt. Mayor Pro Tem Nix stated that concrete streets haven't received the traffic that Chappell Hill has or will receive. Lischka stated that from the Loop to South Day Street gets significant traffic. Lischka explained that Staff can do an overlay much cheaper instead of reconstructing the street every 25 years. Lischka advised that most state streets are concrete under the black top. Councilmember Barnes-Tilley questioned if the City of Brenham Street Department can stripe the streets. Lischka stated that the TxDOT require specific equipment that the City does not have; however, the City can do that type of striping, but don't have the certain equipment within tolerances that TxDOT requires.

Councilmember Ebel questioned if the Stringer Street portion will need work. Lischka explained yes, it will need some improvements, but it is on the Street Department's list for rehabilitation in the next year.

Councilmember Barnes-Tilley questioned if the \$100,000 for street lighting is included with the Kruse and BCDC contributions. Lischka stated yes.

A motion was made by Councilmember Goss and seconded by Councilmember Herring to Award Bid No. B0039-0026-00 in the amount of \$2,059,477.25 to Collier Construction, LLC for the extension of Chappell Hill Street 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

14. Discuss and Possibly Act Upon Resolution No. R-14-018 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with Independence Coffee Company, LLC

Project Manager with the Brenham Economic Development Foundation Clint Kolby presented this item. Kolby stated the owners of Independence Coffee Co. have plans to relocate their operations into the Beaumier Iron Works building in downtown Brenham. Kolby explained the use of the tax phase-in incentive will help Independence Coffee Co. invest in new equipment as well as help off-set the initial costs of relocating. Kolby advised Independence Coffee Co. will be locating in the Downtown Zone of the tax phase-in policy, which means that only the new value added to the property tax roll is considered for eligibility. Kolby stated employment and payroll records are not a requirement in the Downtown Zone.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve Resolution R-14-018 authorizing the execution of a Tax Phase-In Agreement between the City of Brenham and Independence Coffee Company, LLC.

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	No
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

15. Discuss and Possibly Act Upon the Ballot for TML MultiState Intergovernmental Employee Benefits Pool Board of Trustees TML Region 10 and Authorize the Mayor to Execute Any Necessary Documentation

Risk Management Manager Janie Mehrens presented this item. Mehrens stated as a member of the Texas Municipal League Intergovernmental Employees Benefit Pool, the City of Brenham may participate in the election of members of the Board of Trustees. Mehrens explained the votes cast on the ballot for the Trustee election must be certified that the ballot was cast in accordance with official action taken at a duly called meeting of the voting body, thus the vote must occur during the formal session of the Council meeting. Mehrens advised as noted on the ballot, Vic Barnett of Caldwell has served previously as Trustee from Region 10 and is the incumbent Trustee from Region 10. Mehrens stated the term of office for this position is October 1, 2014 – September 30, 2017.

Councilmember Goss questioned if Mehrens knows Vic Barnett. Mehrens stated yes, she has met him several times. Mayor Tate stated that he knows him as well and he is a good guy. Councilmember Williams questioned if Mehrens knew the other candidate. Mehrens stated no, she does not. Mayor Tate stated that he does not know them either.

A motion was made by Councilmember Williams and seconded by Councilmember Ebel to nominate Vic Barnett on the ballot for TML Multistate Intergovernmental Employee Benefits Pool Board of Trustees TML Region 10 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

16. Discuss and Possibly Act Upon Renewal with Texas Municipal League Intergovernmental Risk Pool for General Liability, Law Enforcement Liability, Public Officials Liability, Mobile Equipment, Airport Liability, Property, Auto Liability and Physical Damage, Crime, Animal Mortality and Theft and Workers' Compensation Coverage for the City of Brenham for Fiscal Year 2014-15 and Authorize the Mayor to Execute Any Necessary Documentation

Risk Management Manager Janie Mehrens presented this item. Mehrens stated the renewal of various property and liability coverage with Texas Municipal League Intergovernmental Risk Pool for FY 2015 will have a number of variations from FY 2014 contributions, the most significant in the Workers' Compensation contribution.

Mehrens explained several factors contributed to the changes in contribution amounts:

- General Liability
 - 6.7% overall reduction of \$1 million limit
 - 10% reduction in rates in General Liability for Electric, Municipalities in City of Brenham's population range, Waterworks, and Gas
 - 10% increase in General Liability rates for Sewer and Streets
 - 100% increase in General Liability rates for swimming pools
- Property
 - No rate changes
 - 1.25% adjustment factor applied to building values
- Automobile Liability
 - 8% overall increase
 - 12% increase for Police Passenger
 - 7% increase for all other vehicles
- Errors & Omission Liability – No changes in base rates
- Law Enforcement Liability – 3.12% reduction
- Workers' Compensation
 - 10% increase in rates for Electrical Distribution, Gas Distribution, Animal Shelter, and Volunteer Firefighters
 - 5% increase for Library and Heavy Equipment Maintenance (Garage)
 - 24% increase in City's contribution because of change in Experience Modifier from .29 to .36

Mehrens advised that the City will receive a 2% reduction in contributions for earlypayment of the annual costs if paid by October 31, which will amount to \$7,128. Mehrens stated no equity return will be given in FY 2014 as these credits are not calculated in the base rates.

Mehrens explained the overall cost of the Property, Liability, and Workers' Compensation coverage for the City of Brenham for FY 2014 will be increased by \$31,649 over FY 2014 before the early pay discount is applied. Mehrens stated the most significant changes occurred in Automobile Liability and Physical Damage and Worker's Compensation. Mehrens explained the overall increase in coverage contributions is 9.7%; with the loss of equity return, the total increase in cost is 12%.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve the renewal with Texas Municipal League Intergovernmental Risk Pool for General Liability, Law Enforcement Liability, Public Officials Liability, Mobile Equipment, Airport Liability, Property, Auto Liability and Physical Damage, Crime, Animal Mortality and Theft and Workers' Compensation Coverage for the City of Brenham for fiscal year 2014-15 as presented and authorize the Mayor to execute any necessary documentation.

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

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

17. Discuss and Possibly Act Upon on Ordinance on Its First Reading Amending the Rate Tariff Schedule(s) for the City of Brenham’s Large and Small Industrial Electric Rate Classes

Public Utilities Director Lowell Ogle presented this item. Ogle stated the changes to the Large and Small Industrial Electric Rate Classes do not involve any change to the rates adopted October 1, 2013. Ogle explained the changes being recommended are to the Monthly Charges table in the tariffs to enhance transparency on electric rate components and better reflect actual practice. Ogle advised specifically, the transmission wires charge, generation charge, and ERCOT fees on the current tables are being combined into an Energy Charge of \$0.075 per kWh. Ogle stated the Energy Charge is a placeholder (constant) which is adjusted monthly by the Power Cost Recovery Factor (PCRF) to pass through actual and estimated energy costs for the fiscal year from the City’s wholesale provider, LCRA.

A motion was made by Councilmember Goss and seconded by Councilmember Herring to approve an Ordinance on its first reading amending the Rate Tariff Schedule(s) of small and large industrial electric customers for the City of Brenham.

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

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

18. Discuss and Possibly Act Upon on Ordinance on Its First Reading Amending the Rate Tariff Schedule(s) for the City of Brenham’s Natural Gas Rates

Public Utilities Director Lowell Ogle presented this item. Ogle stated the changes to the Natural Gas Rate Tariffs do not involve any change to the rates adopted October 1, 2013. Ogle explained the changes being recommended are to the Monthly Charges table in the tariffs to enhance transparency on natural gas rate components and better reflect actual practice.

Ogle advised specifically, the commodity charge of \$5.35 per mcf for natural gas and transportation is being added to the table. Ogle stated this Commodity Charge is a placeholder (constant) which is adjusted monthly by the Gas Cost Adjustment Factor (GCA) to pass through actual natural gas costs from the City's wholesale provider, Municipal Gas Acquisition and Supply Corporation. Ogle explained the changes include a cleanup of tariff language and a distribution charge rate correction from \$2.080 to \$1.859 per mcf for Large Commercial and Small Industrial Service – Rural which is an inactive (no customers) rate class.

A motion was made by Councilmember Goss and seconded by Councilmember Barnes-Tilley to approve an Ordinance on its first reading amending the Rate Tariff Schedule(s) for natural gas customers in 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

19. Discuss and Possibly Act Upon on Ordinance on Its First Reading Amending the Rate Tariff Schedule(s) for the City of Brenham's Sanitary Sewer Rates

Public Utilities Director Lowell Ogle presented this item. Ogle stated during the July Budget Workshop, funding for an increase in Wastewater Fund debt service payments in fiscal year 2015 was discussed. Ogle explained a rate increase of \$1 per month on the Customer Charge was recommended. Ogle stated this rate change would provide revenue to fund approximately 57% of the \$139,765 increase in debt service payment. Ogle advised in addition, inconsistencies in tariff language have been corrected and the determination of volume charges for Industrial customers has been clarified. Ogle explained Reclaimed Wholesale Water currently in the Water Tariff is being moved to the Sanitary Sewer Tariff which is where the revenue is recorded.

A motion was made by Councilmember Goss and seconded by Councilmember Williams to approve an Ordinance on its first reading amending the Rate Tariff Schedule(s) for sanitary sewer customers 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

20. Discuss and Possibly Act Upon on Ordinance on Its First Reading Amending the Rate Tariff Schedule(s) for the City of Brenham’s Utility Rules and Regulations

Public Utilities Director Lowell Ogle presented this item. Ogle stated the changes being recommended are to add clarification on billing procedures to reflect actual practices.

A motion was made by Councilmember Goss and seconded by Councilmember Herring to approve an Ordinance on its first reading amending the Rate Tariff Schedule(s) for the City of Brenham’s Utility Rules and Regulations.

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

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

Council adjourned into Executive Session at 3:33 pm.

EXECUTIVE SESSION

21. Section 551.074 – Texas Government Code – Personnel Matters – Discuss and Consider the City Manager’s Employment Agreement and Related Issues

Executive Session adjourned at 4:02 pm.

RE-OPEN REGULAR AGENDA

22. Discuss and Possibly Act Upon the City Manager's Employment Agreement and Related Issues

Mayor Tate stated that City Manager Terry Roberts is doing a great job and the Council would like to extend his contract from February 1, 2015 to January 31, 2016.

A motion was made by Councilmember Ebel and seconded by Councilmember Williams to approve the extension of the City Manager's Employment Agreement February 1, 2015 to January 31, 2016.

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

A motion was then made by Councilmember Herring and seconded by Councilmember Ebel to approve a two percent (2%) salary increase for the City Manager, effective April 1, 2015.

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

City Manager Terry Roberts stated that he accepted the contract extension and thanked the Mayor and Council for their continued support.

23. Administrative/Elected Officials Report

- Public Works Director Dane Rau gave an update on the vegetation program. Councilmember Goss stated it is very noticeable what the Street Department has done with that and taking care of TxDOT's business. Councilmember Goss commends Staff for their dedication. Rau also gave an update on mowing Highway 290; Rau stated it took 6 days on a shredder with fuel costing \$600 and the overall cost totaling less than \$1500.
- Development Services Director Julie Fulgham advised the Council that this would be her last Council meeting. She thanked the Council for the opportunity to serve this community.
- City Engineer Grant Lischka gave an update on various airport improvement projects

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 September 18, 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, Cynthia Longhofer, Kaci Konieczny, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Development Services Director Julie Fulgham, Kim Hodde, Public Works Director Dane Rau, Public Utilities Director Lowell Ogle, Kevin Boggus, Janie Mehrens, and Grant Lischka

Citizens present:

None

Media Present:

Arthur Hahn and Caitlin Hahn, Brenham Banner Press

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

3. Awards

- GFOA Certificate of Achievement for Excellence in Financial Reporting
 - *Sixth Consecutive Year*

Chief Financial Officer Carolyn Miller presented the award; Council congratulated her team on a job well done.

4. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

5. Statutory Consent Agenda

5-a. Minutes from the August 7, 2014 Regular City Council Meeting

5-b. Ordinance No. O-14-029 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning from an Industrial (I) District to a Manufactured Home Residential (R-3) District on Property Located at 20785 FM 389, and Specifically Being a 10.74 Acre Tract Described as a Portion of Tract 196 of the Phillip Coe Addition in the City of Brenham, Washington County, Texas

5-c. Ordinance No. O-14-030 on Its Second Reading Amending the Rate Tariff Schedule(s) for the City of Brenham's Large and Small Industrial Electric Rate Classes

5-d. Ordinance No. O-14-031 on Its Second Reading Amending the Rate Tariff Schedule(s) for the City of Brenham's Natural Gas Rates

5-e. Ordinance No. O-14-032 on Its Second Reading Amending the Rate Tariff Schedule(s) for the City of Brenham's Sanitary Sewer Rates

5-f. Ordinance No. O-14-033 on Its Second Reading Amending the Rate Tariff Schedule(s) for the City of Brenham's Utility Rules and Regulations

Mayor Tate requested that Council pass on Consent Agenda Item 5-a.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve the Statutory Consent Agenda Item 5-b., 5-c., 5-d., 5-e., and 5-f.

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

WORK SESSION

6. Presentation and Update Regarding Article III, Section 14, Salaries, of the City of Brenham's Charter

City Secretary Jeana Bellinger presented this item. Bellinger stated in response to Councilmember Goss' request that research be done on salary and compensation paid to Mayors and Councilmembers in other cities, she used the 2014 *Texas State Directory* to locate cities with populations in the 10,000 to 20,000 range. Bellinger explained that since there were a total of 94 cities that fit her population criteria, she asked the City Manager to randomly select 20 cities for her research. The following cities were chosen:

Athens	Midlothian
Belton	Mineral Wells
Boerne	Mount Pleasant
Brownwood	Palestine
Ennis	Port Lavaca
Fredericksburg	Portland
Jacksonville	Stephenville
Kilgore	Taylor
Lakeway	Tomball
Lockhart	Uvalde

Bellinger advised that in an effort to gather the correct information, phone calls were made to the City Secretary in each of the 20 cities and the following questions were asked:

1. How often does your Council meet? What time are the meetings? On average, how long to they last?
2. What is the average age of your council? Is the majority of your Council retired or employed?

3. Is your Mayor/Council paid a salary? If so how much and how often?
4. Does your Mayor/Council receive any other type of compensation (i.e. car allowance, expense allowance, cell phones, i-Pads, etc...)?
5. Does your Mayor/Council receive reimbursement for “local” expenses (i.e. travel to/from ribbon cuttings, lunch with staff members, community meetings, etc...)?
6. Does the City pay for your Mayor/Council to attend “out-of-town” conferences, seminars and other continuing education programs? If so, what expenses would the City pay for them (i.e. registration, mileage, meals, hotel, etc...)?

Bellinger explained that during her research of salary and compensation, Councilmember Williams called and requested that she also research the history of Brenham’s salary for the Mayor and Council. Bellinger stated that in order to obtain historical salary information, her office researched old council minutes and election records, dating back to 1921.

Bellinger advised the Council of the following as a result of her research:

History of Brenham’s Salary/Compensation:

- The earliest mention of the Mayor/Council receiving a salary was in February, 1921.
- Prior to 1985, salary adjustments were discussed and decided upon by the Council during a regular City Council meeting.
- The Mayor/Council salaries were added to the City’s Charter in 1985. The monthly compensation proposed at that time was \$200 for the Mayor and \$150 for Council. The proposition passed with a vote of 574 (83%) citizens in favor and 115 (17%) against.
- Salaries were again amended via a Charter Election 1993. The monthly compensation proposed at that time was \$275 for the Mayor and \$225 for Council. The 1993 proposition passed with a vote of 969 (61%) citizens in favor and 618 (39%) against.
- Since 1921, the Mayor and Council have received two expense allowance adjustments. The first in 1962 authorized the Mayor to receive \$50 a month and Councilmembers \$25 a month for expenses. These amounts were increased in 1999 to \$100 a month for the Mayor and \$50 a month for Councilmembers.

Salary/Compensation Research:

- The City of Brownwood is the only city surveyed that holds daytime meetings (9:00 a.m.).
- A majority of the cities (16 out of the 20 surveyed) hold two meetings per month.
- The average age of all the Mayors/Councilmembers was 52. The Cities of Stephenville and Lockhart have the youngest governing body – both with an average age of 35.
- The majority of Council members are actively employed versus being retired.
- The City of Belton pays the least – only \$1 per year.

- The highest paying City was Port Lavaca. The Mayor is paid \$600 per month. Councilmembers are paid \$300 a month. The next closest cities were Fredericksburg and Lockhart.
- A majority of the cities (Athens, Brownwood, Ennis, Midlothian, Mineral Wells, Portland, and Tomball) pay their Mayor and Council on a per meeting basis. The per-meeting pay ranges from \$10 to \$125.
- Several cities provide a monthly stipend for expenses ranging from \$1 to \$750. These cities are Boerne, Lockhart, Mount Pleasant, and Tomball. There was only one city (Lockhart) that also provides their Mayor with a car allowance of \$3,000 a year.
- The City of Lockhart also pays \$50 a month for internet service in the homes of the Mayor and Councilmembers.
- A couple of cities (Midlothian and Taylor) provide their Mayor and Councilmembers with iPads and data plans for the iPads.

Bellinger advised that since the salaries of the Mayor and Council are a part of the City's Charter, any adjustment to the amount will require voter approval. The Council thanked Bellinger for her research and advised her that the salary stated in the City's Charter remain as is.

7. Presentation and Update Regarding Articles VI and VII of the City of Brenham's Charter

City Secretary Jeana Bellinger presented this item. Bellinger explained each recommended change to Articles VI and VII with the Council.

REGULAR AGENDA

8. Discuss and Possibly Act Upon Ordinance No. O-14-034 on Its Second Reading Adopting the Budget for Fiscal Year Beginning October 1, 2014 and Ending September 30, 2015 and Take Record Vote

Chief Financial Officer Carolyn Miller presented this item. Miller stated the Fiscal Year 2014-15 Proposed Budget has been developed in compliance with the Property Tax Code, Local Government Code and the City Charter. Miller explained a property tax rate of \$0.4912 per \$100 valuation is necessary to fund the proposed budget, which is on the City's website, on file with the City Secretary, Washington County Clerk, and at the Nancy Carol Roberts Memorial Library. Miller advised that because of the recent passage of Senate Bill (S.B.) 656, city council's vote to adopt a budget is required to be a record vote.

A motion was made by Councilmember Herring and seconded by Mayor Pro Tem Nix to approve Ordinance O-14-034 on its second reading adopting the budget for fiscal year beginning October 1, 2014 and ending September 30, 2015.

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 Ordinance No. O-14-035 on Its Second Reading Levying Taxes for the Tax Year 2014 for the City of Brenham at \$0.4912 per \$100 Valuation

Chief Financial Officer Carolyn Miller presented this item. Miller stated the FY2014-15 Proposed Budget includes a tax rate of \$0.4912 per \$100 valuation which has two components: maintenance and operations (M&O) and interest and sinking (I&S). Miller explained the proposed tax rate of \$0.4912 will allocate \$0.2890 to the General Fund for M&O expenditures and the balance of \$0.2022 will be allocated to the Debt Service Fund for principal and interest obligations. Miller advised the proposed tax rate of \$0.4912 is below the effective rate of \$0.5542 and below the rollback rate of \$0.4921.

Miller stated the City has complied with all of the notices, publications, and public hearings as required by the Tax Code. Miller explained that unlike in prior years, because this year's tax rate raises less revenue than last year, the Tax Code does not specify the wording of the motion to adopt the tax rate.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to Approve Ordinance O-14-035 on its second reading levying taxes for the Tax Year 2014 for the City of Brenham at \$0.4912 per \$100 valuation.

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 5, Animal and Fowl, of the Code of Ordinances of the City of Brenham, Texas Designating a Caretaker of Impounded Animals

Police Chief Rex Phelps presented this item. Phelps stated that in 2012, the Texas State Board of Veterinary Medical Examiners affirmed the need for a vet/patient/client relationship as is delineated in Section 801.351 of the Veterinary Licensing Act of the Occupations Code and ruled it must apply to shelters as well. Phelps explained that relationship generally begins when the vet first exams the animal; in the case of an animal in a shelter, that exam may not happen until after the mandatory holding period is met and the shelter becomes the animal's owner. Phelps advised that under Texas law, an animal's owner or a caretaker can perform acts of veterinary medicine on the animal without involving a veterinarian and without concern for establishing a vet/patient/client relationship because the owners/caretakers are exempt from the Veterinary Licensing Act. This ordinance would designate the City Manager as the owner/caretaker of all the animals in the shelter so that any needed medical attention could be provided, when needed, by City staff or a veterinarian contracted by the City.

Councilmember Barnes-Tilley questioned if this takes away the 3 day period. City Attorney Cary Bovey stated it does not. Councilmember Barnes-Tilley questioned the purpose of the 3 day period. Bovey explained that if the owner changes their mind, the owner can determine what to do with the animal or can reclaim it.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve an Ordinance on its first reading amending Chapter 5, Animal and Fowl, of the Code of Ordinances of the City of Brenham, Texas designating a Caretaker of impounded animals.

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 Two (2) Lease Agreements and Award Agreements for Updated Mailing Equipment and Certification Software for the Utility Billing Department and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Director Lowell Ogle presented this item. Ogle advised the agreements with Pitney Bowes are under Texas Buyboard Contract #407-12. Ogle stated the mail equipment and software is used for mailing of over 90,000 bills per year as well as mail for all other departments within the city. Ogle advised all mail is tracked by department for expensing.

Ogle explained that based on the information gathered, Staff recommends awarding the agreements to Pitney Bowes in the amount of \$860/month for the equipment and \$330/month for the software. Ogle advised overall this will be a significant savings of over \$2,500 during the next 12 months in lease fees and over \$12,500 over the term of the agreements.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to award two (2) lease agreements with Pitney Bowes for updated mailing equipment and certification software for the Utility Billing Department 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

12. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 6, Buildings and Structures, of the Code of Ordinances of the City of Brenham, Texas

Development Services Director Julie Fulgham presented this item. Fulgham stated this is a complete rewrite of Chapter 6, primarily to adopt the following codes: 2012 International Building Code (IBC), 2014 National Electric Code (NEC), 2012 International Fuel Gas Code (IFGC), 2012 International Mechanical Code (IMC), 2012 International Property Maintenance Code (IPMC), 2012 International Plumbing Code (IPC), 2012 International Energy Conservation Code (IECC), 2012 International Residential Code (IRC), and 2012 International Existing Building Code (IEBC). Fulgham explained this Ordinance also creates the office of the Building Official and deletes a lot of obsolete language from the Article II, Electrical, which dates back to 1947.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve an ordinance on its first reading amending Chapter 6, Buildings and Structures, of the City of Brenham Code of Ordinances.

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 the Approval of the Routine Airport Maintenance Program (RAMP) Grant Agreement No. M1517BRENM with TxDOT for FY2015 and Authorize the Mayor to Execute Any Necessary Documentation

Planning Technician Kim Hodde presented this item. Hodde stated this item is for consideration of a grant agreement with TxDOT for participation in the Routine Airport Maintenance Program (RAMP) for September 1, 2014 to August 31, 2015.

Hodde explained as in the prior years, this agreement allows the City to be reimbursed for 50% of the cost of monthly AWOS monitoring, the annual AWOS Maintenance Contract, as well as 50% of replacement lamps for the airport lighting system, herbicides, general maintenance, and a contingency for emergency repairs. Hodde stated Staff has budgeted funds for \$50,000 and with TxDOT's match of \$50,000, this will enable the City to do \$100,000 worth of maintenance and fencing at half the cost.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve the Routine Airport Maintenance Program (RAMP) Grant Agreement No. M1517BRENM with TxDOT for FY2014-15 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

14. Discuss and Possibly Act Upon the Approval of an Amended Ground Space Lease Agreement with John Richardson dba JR Leasing for Hangar Space at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

Planning Technician Kim Hodde presented this item. Hodde stated originally, John Richardson dba JR Leasing had planned to construct two 50x60 hangars at the airport so two separate ground space lease agreements were executed with Mr. Richardson. Hodde advised that Mr. Richardson contacted the City and would like to build one 60x75 hangar plus a parking area instead of the two smaller hangars. Hodde explained that since, the 11,200 sf leased space is the same but is in one lease rather than two leases of 5,600 sf each, Staff is leaving the original effective and expiration dates in place. Hodde stated approval of this amended lease agreement will void the two prior leases.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve an amended ground space lease agreement with John Richardson dba JR Leasing for hangar space at the Brenham Municipal Airport 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

15. Discuss and Possibly Act Upon the Renewal of City of Brenham Group Health Plan with TML Multistate Intergovernmental Employee Benefits Pool and Establishment of Funding Rates for Calendar Year 2015 and Authorize the Mayor to Execute Any Necessary Documentation

Risk Manager Janie Mehrens presented this item. Mehrens stated the annual procurement of group medical coverage is being presented somewhat earlier this year than in the past for the January 1 renewal. Mehrens explained the new enrollment requirements of TML IEBP require that the City's plan election be made by September 22 with employee enrollment beginning in early November. Mehrens advised the overall increase in rates is 11% over current calendar year rates. Mehrens stated that because a proposed 2% COLA has been deferred until mid-year, Staff is recommending that employee costs remain at the current level and that City contribution rates increase by the amounts shown on the spreadsheet. Mehrens explained that since the proposed funding rates do not include an increase in employee contributions, this results in an increase of 11.5% in City costs. Mehrens advised the rates would become effective January 1, 2015.

Councilmember Barnes-Tilley questioned if Staff budgeted to cover the extra amount. Mehrens stated yes. Councilmember Barnes-Tilley questioned that they were approving the additional amount even if salaries go up. Mehrens stated yes because it is not contingent on salaries.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve renewal of City of Brenham Group Health Plan with TML Multistate Intergovernmental Employee Benefits Pool and establishment of funding rates for calendar year 2015 and authorize the Mayor to sign 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

16. Discuss and Possibly Act Upon Resolution No. R-14-019 Authorizing the Execution of an Agreement with TxDOT for the Temporary Closure of State Right of Way in Connection with the 2014 Christmas Stroll to be Held on Friday, December 5, 2014

Deputy City Secretary Amanda Klehm presented this item. Klehm stated the 2014 Christmas Stroll is sponsored by the City of Brenham. Klehm advised this year's stroll will be held on December 5, 2014 from 5:30 pm until 10:00 pm. Klehm stated Main and Alamo Streets will be closed between Market Street and Austin Street from 4:00 pm until 10:00 pm.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Herring to approve Resolution No. R-14-019 authorizing the execution of an Agreement with TxDOT for the temporary closure of state right of way in connection with the 2014 Christmas Stroll to be held on Friday, December 5, 2014.

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

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

17. Administrative/Elected Officials Report

Police Chief Rex Phelps reported on the following:

- October 7th is National Night Out. The theme is Old West.
- The Animal Shelter is only 12% short of meeting the fundraising goal. The Animal Friends Gala is Saturday Night and they will be donating 25% of proceeds to the Animal Shelter.
- October 2nd he will bring back approval to apply for grants to help cover the remaining amount.

City Manager Terry Roberts reported on the following:

- Fortnightly contributions are in at \$1.5 million dollars for the Library project.
- Staff should be ready to go out for bids for the Library and Animal Shelter by the end of the year.
- Payments from TxDOT for the pass through toll were received at \$1,718,000. The minimum Staff was hoping to receive was \$1,025,000 to cover the debt service payment.
- The ILA Task Force will meet Monday morning at 10am. This will be the last meeting before the County takes over Communications on October 1st.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-14-034

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 5, ANIMALS AND FOWL, ARTICLE III, DOGS AND CATS, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS TO ESTABLISH THE CITY’S ROLE AS THE DESIGNATED CARETAKER OF IMPOUNDED ANIMALS; 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, a recent ruling by the Texas State Board of Veterinary Medical Examiners (TSBVME), indicates that all veterinarians must have a vet/patient/client relationship in order for them to provide any medical care and treatment to any pet; and

WHEREAS, the TSBVME is a state regulatory board that oversees compliance and ensures people who enter into veterinarian profession meet minimum academic and examination requirements; and

WHEREAS, as a result of TSBVME’s ruling, shelter facilities such as the City of Brenham’s Donald G. Austin Memorial Animal Shelter (“Shelter”) will risk the health of its pets and kennels by not being able to provide basic medical treatment for stray and abandoned animals upon intake; and

WHEREAS, Shelter staff requests that Chapter 5, Animals and Fowl, of the City’s Code of Ordinances be amended to designate the City Manager, or his designee, as the designated caretaker of all animals brought into the Shelter, upon intake; and

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

SECTION 1.

Chapter 5 Animal and Fowl, Article III Dogs and Cats, of the Code of Ordinances of the City of Brenham, Texas, is hereby amended by adding Sec. 5-46. to read as follows:

Sec. 5-46. Designation of Caretaker.

The City Manager, or his designee, is designated the caretaker of every impounded animal on the date of impoundment. Immediately upon intake, the designated caretaker is authorized to provide protective vaccinations, by a licensed veterinarian or by a person under the veterinarian's supervision, and any other medical care needed to help prevent the spread of disease.

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 18th day of September, 2014.

PASSED and APPROVED on its second reading this the 9th day of October, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 7

DATE OF MEETING: October 9, 2014	DATE SUBMITTED: October 6, 2014	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger	
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 and Update Regarding the Charter and Possible Ballot Propositions for the 2015 Charter Election		
<p>SUMMARY STATEMENT: The City Attorney and I met in Round Rock on October 2nd to review our recommended changes to the Charter and prepare ballot propositions for you to consider.</p> <p>After reviewing the changes we have already presented to the Council, we found a few other things we would recommend changing in Articles III (Council) and VII (Miscellaneous). I will explain these additional recommendations in detail during the meeting.</p> <p>We also reviewed each recommended change to the Charter and a prepared a list of twenty (20) possible ballot propositions for the Council to consider. The propositions are broken down as follows:</p> <ul style="list-style-type: none"> ➤ <u>Proposition 1:</u> Administrative - Grammar, spelling, punctuation, deleting “Reserved” sections, and renumbering. ➤ <u>Proposition 2:</u> Legislative – Updating reference to State or Federal laws, correcting citations to law, deleting provisions that are inconsistent with current laws and deleting obsolete sections. ➤ <u>Propositions 3 thru 20:</u> All other changes that did not fit into Proposition 1 or 2. <p>During the meeting I will explain each proposition and present ideas on how we plan to educate the voters prior to the election.</p>		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: None		

FUNDING SOURCE (Where Applicable):

RECOMMENDED ACTION: None; discussion only.

APPROVALS: Terry K. Roberts



AGENDA ITEM 8

DATE OF MEETING: October 9, 2014	DATE SUBMITTED: October 6, 2014	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger	
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-14-020 Appointing an Alternate Deputy City Secretary.		
SUMMARY STATEMENT: Due to Amanda Klehm's resignation, I do not have a Deputy City Secretary to provide assistance to the council and citizens in my absence. I am recommending that any person performing the duties of the Administrative Assistant to the City Manager be appointed as an alternate Deputy City Secretary. This person would provide coverage for both me and my Deputy in the event we are out of the office or are unable (for any reason) to perform the responsibilities of City Secretary's Office.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Resolution No. R-14-020		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve Resolution No, R-14-020 approving the Administrative Assistant to the City Manager as an alternate Deputy City Secretary.		
APPROVALS: Terry K. Roberts		

RESOLUTION NO. R-14-020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS APPOINTING AN ALTERNATE DEPUTY CITY SECRETARY; ESTABLISHING OTHER TERMS AND CONDITIONS RELATED TO THE ALTERNATE DEPUTY CITY SECRETARY POSITION.

WHEREAS, the City Council desires to plan for situations in which the City Secretary and Deputy City Secretary are unable to or refuse to exercise the powers and perform the duties of the office of City Secretary; and

WHEREAS, Article III, Section 23 of the Brenham City Charter provides that the City Council may create such appointive offices as the City Council deems advisable; and

WHEREAS, the City Council desires to appoint an Alternate Deputy City Secretary to exercise the powers and perform the duties of the office of City Secretary only in the event the City Secretary and Deputy City Secretary are unable or refuse to carry out the powers and duties of the City Secretary; and

WHEREAS, the City Council desires to designate the position of administrative assistant to the City Manager as the Alternate Deputy City Secretary, said powers of the Alternate Deputy City Secretary to be exercised as authorized herein by the person serving as the administrative assistant to the City Manager;

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

I.

The position of administrative assistant to the City Manager is hereby designated and appointed as the Alternate Deputy City Secretary, said powers of the Alternate Deputy City Secretary to be exercised as authorized herein by the person serving as the administrative assistant to the City Manager.

II.

The Alternate Deputy City Secretary shall exercise the powers and perform the duties of the office of City Secretary only in the event that both the City Secretary and Deputy City Secretary are unable or refuse to carry out the powers and duties of the City Secretary.

III.

The Alternate Deputy City Secretary shall possess all of the powers and duties of the office of City Secretary when exercising the powers and performing the duties of the City Secretary as authorized herein.

RESOLVED this the 9th day of October, 2014.

Hon. Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC, City Secretary



AGENDA ITEM 9

DATE OF MEETING: October 9, 2014	DATE SUBMITTED: October 2, 2014	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger	
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 type="checkbox"/> 1 ST READING <input type="checkbox"/> 2 ND READING <input type="checkbox"/> RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Request for a Noise Variance for the Jones/Buchman Wedding to Be Held on October 11, 2014 from 12:00 P.M. to 12:00 A.M. at Fireman’s Park and Authorize the Mayor to Execute Any Necessary Documentation.		
SUMMARY STATEMENT: Robert Buchman and Sandi Jones submitted a Noise Variance request for their wedding and reception at Fireman’s Park. The event will have a sound system with speakers, which requires the Noise Variance. The wedding will be held on Saturday, October 11, 2014 from 4:30PM to 11:00PM. They have asked for time before and after the event for set-up and clean-up. Therefore, they will be in the park from Noon till Midnight. Both the Police and Fire Departments have approved the variance since the actual event will be ending at 11:00 PM – even though family and friends will be in the park till Midnight cleaning up.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference): N/A		
ATTACHMENTS: (1) Noise Variance Request		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve a request for a noise variance from Jones/Buchman wedding to be held on October 11, 2014 from Noon to 11:00 PM at Fireman’s Park and authorize the Mayor to execute any necessary documentation.		
APPROVALS: Terry K. Roberts		

pd cash \$10.00 9-26-14 JK

NOISE VARIANCE REQUEST

Application Fee \$10.00

Noise Variance - 180.00

1. Name of sponsoring organization: Personal

2. Name and address of individual making application on behalf of sponsoring organization: Robert Buchman - Houston Fire Dept.
Sandi Jones

3. Purpose of the Event: Wedding & Reception

4. Location of Event: Firemans Park

5. Date of the event: Oct 11, 2014

6. Time of Event: 4:30-12:00

7. Event Set-up: From: 12:00pm To: 4:00pm

Event Clean-up: From: 11:00pm To: 12:00am

8. You are required to describe the following:
a) Types of Activities Planned and any additional information specific to this event: Wedding, Reception, Dinner & Dance

b) Bands/Musical Instruments: D.J.

c) Sound amplification equipment: 1 powered 15" speaker
1 passive 15" and 1 passive dual 15"

d) Cleanup provisions: We will clean up all trash

Sandi Jones & Robert Buchman
Name of Applicant (Printed or Typed)

Date: 9.24.14

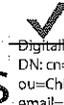
Sandijones & Robert B
Applicant or Authorized Person's Signature

Phone: 979-203-3889

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any Court? Yes No. If "Yes", please identify the offense, State of conviction and penalty imposed (attach additional sheets if necessary):

CITY STAFF REVIEW

Date received: _____


APPROVED
 Digitally signed by Rex Phelps
 DN: cn=Rex Phelps, o=City of Brenham,
 ou=Chief of Police,
 email=rphelps@cityofbrenham.org, c=US
 Date: 2014.10.03 10:20:25 -05'00'

Rex Phelps

_____ DENIED

Date: 09/26/2014

Rex Phelps, Chief of Police

Comments/Reason for Denial:

He suggests 11:00pm end time instead of midnight.


APPROVED
 Digitally signed by Ricky Boeker
 DN: cn=Ricky Boeker, o=City of Brenham,
 ou=Fire Chief,
 email=rboeker@cityofbrenham.org, c=US
 Date: 2014.10.03 10:19:43 -05'00'

Ricky Boeker

_____ DENIED

Date: 09/29/2014

Ricky Boeker, Chief of Fire Department

Comments/Reason for Denial:

He suggests 11:00pm end time instead of midnight.

Noise Variance Approved by the City Council on the _____ day of _____, 2014.

Date: _____

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, City Secretary



AGENDA ITEM 10

DATE OF MEETING: October 9, 2014		DATE SUBMITTED: October 2, 2014	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Jeana Bellinger	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING	
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING	
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION	
	<input type="checkbox"/> WORK SESSION		
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Request for a Noise Variance for Relay for Life to Be Held on October 10, 2014 from 6:00 P.M. to 12:00 A.M. at Fireman’s Park and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: Holly Johnson with Washington County Relay for Life submitted a Noise Variance request for their annual event at Fireman’s Park. The event will have a sound system with speakers, which requires the Noise Variance. The event will be held Friday, October 10, 2014 from 6pm-Midnight at Brenham Fireman’s Park.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference): N/A			
ATTACHMENTS: (1) Noise Variance Request			
FUNDING SOURCE (Where Applicable): N/A			
RECOMMENDED ACTION: Approve a request for a noise variance from Relay for Life to be held on October 10, 2014 from 6:00 P.M. to 12:00 A.M. at Fireman’s Park and authorize the Mayor to execute any necessary documentation.			
APPROVALS: Terry K. Roberts			

pd ck# 2444
\$ 10.00
9-4-14
ATK

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: Washington County Relay For Life
2. Name and address of individual making application on behalf of sponsoring organization: Jessy Johnson - P.O. Box 2622
Brenham, Texas 77834
3. Purpose of the Event: walk-a-thon for cancer research / fundraising
4. Location of Event: Brenham Fireman's Park Baseball Field
5. Date of the event: Friday, October 10th 2014
6. Time of Event: 6:00 pm
7. Event Set-up: From: 9:00 AM To: 1:00 PM
Event Clean-up: From: 12 midnight To: 1:00 am
8. You are required to describe the following:
 - a) Types of Activities Planned and any additional information specific to this event: walking, kids games, music, dancing
 - b) Bands/Musical Instruments: None
 - c) Sound amplification equipment: 1 sound system with DJ
 - d) Cleanup provisions: will be done by R.F.L. & civic organizations

Holly Johnson
Name of Applicant (Printed or Typed)
Jessy Johnson
Applicant or Authorized Person's Signature

Date: 9.3.2014
Phone: 979.203.1702

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any Court? Yes No If "Yes", please identify the offense, State of conviction and penalty imposed (attach additional sheets if necessary):

CITY STAFF REVIEW

Date received: _____

Rex Phelps
Rex Phelps, Chief of Police

APPROVED
Digitally signed by Rex Phelps
DN: cn=Rex Phelps, o=City of Brenham,
ou=Chief of Police,
email=rphelps@cityofbrenham.org, c=US
Date: 2014.10.03 10:14:44 -05'00'

DENIED

Date: 09/08/2014

Comments/Reason for Denial:

Ricky Boeker
Ricky Boeker, Chief of Fire Department

APPROVED
Digitally signed by Ricky Boeker
DN: cn=Ricky Boeker, o=City of Brenham,
ou=Fire Chief,
email=rboeker@cityofbrenham.org, c=US
Date: 2014.10.03 10:15:03 -05'00'

DENIED

Date: 09/05/2014

Comments/Reason for Denial: _____

Noise Variance Approved by the City Council on the _____ day of _____, 2012.

Milton Y. Tate, Jr., Mayor

Date: _____

ATTEST:

Jeana Bellinger, City Secretary



AGENDA ITEM 11

DATE OF MEETING: October 9, 2014	DATE SUBMITTED: October 3, 2014	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Grant Lischka	
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 checked="" 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 Ordinance No. O-14-035 on Its Second Reading Amending Chapter 6, Buildings and Structures, of the Code of Ordinances of the City of Brenham, Texas		
SUMMARY STATEMENT: This is a complete rewrite of Chapter 6, primarily to adopt the following codes: 2012 International Building Code (IBC), 2014 National Electric Code (NEC), 2012 International Fuel Gas Code (IFGC), 2012 International Mechanical Code (IMC), 2012 International Property Maintenance Code (IPMC), 2012 International Plumbing Code (IPC), 2012 International Energy Conservation Code (IECC), 2012 International Residential Code (IRC), and 2012 International Existing Building Code (IEBC). This ordinance also creates the office of the Building Official and deletes a lot of obsolete language from the Article II, Electrical, which dates back to 1947. The redlined version has corrected grammatical errors that were contained in the first reading and also references the correct sections of the applicable codes in the local amendments.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference): 1. Approve the proposed ordinance, 2. Modify the proposed ordinance, 3. Deny the proposed ordinance		
ATTACHMENTS: (1) Red-lined version of the Ordinance from first reading; and (2) Clean version of Ordinance No. O-14-035		
FUNDING SOURCE (Where Applicable): N/A		

RECOMMENDED ACTION: Recommend approving an Ordinance No. O-14-035 on its second reading, amending Chapter 6, Buildings and Structures, of the City of Brenham Code of Ordinances, City of Brenham, Texas.

APPROVALS: Terry K. Roberts

ORDINANCE NO. O-14-035

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING CHAPTER 6, BUILDINGS AND STRUCTURES, ARTICLES I-XI; ADOPTING THE 2012 EDITIONS OF THE INTERNATIONAL BUILDING CODE, INTERNATIONAL FUEL GAS CODE, INTERNATIONAL PROPERTY MAINTENANCE CODE, INTERNATIONAL PLUMBING CODE, INTERNATIONAL ENERGY CONSERVATION CODE, INTERNATIONAL MECHANICAL CODE, INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL EXISTING BUILDINGS CODE, AND THE 2014 EDITION OF THE NATIONAL ELECTRIC CODE; ADOPTING LOCAL AMENDMENTS TO SAID CODES; PROVIDING FOR AN EFFECTIVE DATE IN ACCORDANCE WITH THE CITY CHARTER OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETINGS.

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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

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WHEREAS, the City regulates buildings and structures within the City limits to provide safe and appropriate buildings and structures,

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WHEREAS, the City Council of the City of Brenham, Texas desires to amend Chapter 6, Buildings and Structures by adopting the 2012 editions of the following: International Building Code, International Fuel Gas Code, International Mechanical Code, International Property Maintenance Code, International Plumbing Code, International Energy Conservation Code, International Energy Conservation Code and the International Existing Building Code and the 2014 edition of the National Electric Code, and to amend or add to the Code of Ordinances of the City of Brenham, Texas in order to adopt these codes;

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

SECTION 1.

Chapter 6, Buildings and Structures, of the Code of Ordinances of the City of Brenham, Texas, is hereby amended in its entirety to read as follows:

**CHAPTER 6
BUILDINGS AND STRUCTURES**

- ARTICLE I. - IN GENERAL**
- ARTICLE II - BUILDING CODE**
- ARTICLE III. - ELECTRICAL**
- ARTICLE IV. - GAS**
- ARTICLE V. - PROPERTY MAINTENANCE**
- ARTICLE VI. - PLUMBING**
- ARTICLE VII. - ENERGY CODE**
- ARTICLE VIII. - MECHANICAL CODE**
- ARTICLE IX. - RESIDENTIAL CODE**
- ARTICLE X. - EXISTING BUILDING CODE**
- ARTICLE XI. - SWIMMING POOLS**

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ARTICLE I. IN GENERAL

Sec. 6-1. Adoption of building codes.

The codes listed below and all revisions thereto are hereby adopted and incorporated as fully as if set forth at length herein, save and except such portions as may hereinafter be amended, and not less than two (2) copies of said codes have been and are now filed at the offices of the City of Brenham, and from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, alteration, repair, equipment, use and occupancy, location, and maintenance of all buildings and structures within the area of jurisdiction of the City.

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Regulations adopted in Article I shall be applicable to all articles within this Chapter.

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- Codes adopted by the City of Brenham:
- 2012 International Building Code (IBC)
 - 2014 National Electric Code (NEC)
 - 2012 International Fuel Gas Code (IFGC)
 - 2012 International Mechanical Code (IMC)
 - 2012 International Property Maintenance Code (IPMC)
 - 2012 International Plumbing Code (IPC)
 - 2012 International Energy Conservation Code (IECC)
 - 2012 International Residential Code (IRC)
 - 2012 International Existing Building Code (IEBC)

Sec. 6-2. Permits.

(a) Permits shall be issued for all work as required by the adopted codes.

(b) The City Council shall set, by resolution, fees for permits under this chapter at their sole discretion.

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(c) Permits issued for lawful construction shall be null and void if such construction has been abandoned for a period of 180 days.

Sec. 6-3. Office of the Building Official —Appointment; qualifications; making required inspections and reports.

A qualified Building Official shall serve as chief combination inspector and any designated combination inspectors shall be appointed by the City Manager, subject to the approval of the governing body. Such inspector(s) must be fully qualified professionals; must be of good moral character and business integrity; and must maintain all applicable international code council inspector certifications and licenses as required by best practices or state law. The Building Official shall be responsible for interpretations and enforcement of the adopted building codes.

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Sec. 6-4.1. Same – Conflicting interests prohibited.

The Building Official and any designated combination inspectors during their tenure of office shall not be engaged in the business of building, plumbing, electrical or any other type of construction contracting or any branch of the construction business either directly or indirectly or have such financial interest in such business within the City. It shall be prohibited for any employee engaged in inspection activities to inspect his/her own work or any work performed by an entity in which they have a financial interest.

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Sec. 6-5. Board of appeals – Composition; appointment; qualifications.

The Building Standards Commission is hereby appointed the board of appeals for any appeal of a decision by the Building Official or variance requested from the adopted building codes.

Sec. 6-5.1. Calling meetings.

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The board of appeals shall meet at the call of the Building Official.

Sec. 6-5.2, Appeals to Board of Appeals; procedure; fee.

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Any permit holder, whose work has been denied or rejected by the inspector, and a controversy has arisen as to whether the work conforms to the ordinances and regulations, or a person who has been ordered by the inspector to incur an expense in the alteration, repair or construction of any building, may, within fifteen (15) days thereafter appeal therefrom by giving to the inspector notice in writing of such an appeal; such notice or a certified copy thereof shall at once be transmitted by the inspector to the board of appeals. After notice to such persons as the board may direct, a hearing shall be had, and the board may by a majority vote affirm, annul or modify such action of the inspector. If the action of the inspector is affirmed, such action shall have full force and effect. If the action of the inspector is modified or annulled a permit shall be issued accordingly.

Sec. 6-5.3, Appeals to governing body.

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If an applicant is dissatisfied with the decision of the board of appeals he shall have the right of final appeal to the governing body, whose judgment as to all matters involved shall be final.

Sec. 6-6. Liability.

The provisions of this Chapter shall not be construed to relieve from or to lessen the responsibility of any person performing work within the scope of these adopted codes for damage or injury to any person or property, nor shall it be construed to impose on the City any liability by reason of the inspection herein provided for or by reason of any certificate issued hereafter.

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Sec. 6-7. Exemption of owners doing own work.

Any person, who has acquired the necessary permits from the Building Official, may perform work on a property or premises where the person has a homestead exemption, provided that the material and equipment used and the work that is done are in strict accord with the rules and regulations of this article and that the inspector's approval be obtained upon inspection in regular order. The property owner must actually perform the work and no person other than the actual owner shall do any part of the work unless the other person is fully licensed and in full compliance with all the provisions of this article.

Sec. 6-8. Keeping records.

The Building Official shall keep complete records of all permits issued and inspections made.

Sec. 6-9. Request for final inspection; issuance and revocation of certificate; temporary and preliminary certificates.

Upon the completion of all work which has been authorized by issuance of a permit, it shall be the duty of the permit holder to notify the inspector, who shall inspect the installation promptly after such notice is given; and, if it is found to be fully in compliance with the provisions of this chapter, they shall issue to such person a final certificate of approval authorizing occupancy of the building or structure.. When a certificate is issued authorizing the use of temporary work, such certificate shall be issued to expire at a stated time and shall be revocable by the inspector at his discretion. A preliminary certificate may be issued authorizing the use of certain specified portions of an uncompleted project, which preliminary certificate shall be revocable at the discretion of the inspector. No certificate of occupancy shall be issued unless all work has been inspected and is in strict conformity with the provisions of this chapter and the statutes of the state.

Sec. 6-9.1. Same – Inspections prior to concealment.

When any part of a building system is to be hidden from view by the permanent placement of parts of the building, the person installing any concealed building systems shall so notify the inspector and such parts of the installation shall not be concealed until they have been inspected or approved.

Sec. 6-9.2. Same – Notice of defects.

If upon inspection of any building system, the building system is found to not be fully in compliance with this article, the inspector shall at once forward to the [permit holder](#), a notice stating the defects which have been found to exist.

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Sec. 6-9.3. Same – Periodic re-inspections; correction of defective conditions.

The inspector shall periodically make a thorough re-inspection of the installation of all permitted work; and when any permitted work completed has been found to be in a dangerous or unsafe condition, the persons owning, using, or operating the same shall be so notified in writing by the inspector and shall make the necessary repairs or change required to for such work to be in a safe condition and have such work completed within fifteen (15) days or any longer period specified by the inspector in said notice. The inspector is hereby empowered to disconnect or order the discontinuance of utility services to such structure, building, or systems so found to be defectively or improperly constructed or installed until such work have been made safe as directed by the inspector.

Sec. 6-10. Tradesman – License required.

It shall be unlawful for any plumber, electrician, or mechanical installer to perform any work that requires a permit within the [City](#), without first obtaining a license from the State of Texas to engage in electrical, plumbing, or mechanical work and practice. Licensed tradesman must be the permit holders for any work required to be completed by a licensed tradesman.

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Sec. 6-11. Conflict of codes with other regulations.

(a) The provisions of the building codes, and local amendments thereto, shall supersede other ordinances, codes or regulations to the extent that such laws, ordinances, codes or regulations are inconsistent with the provisions of said codes; provided, that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance, or regulation which is more restrictive or establishes a higher standard than those provided in the building codes, and such more restrictive requirement or higher standard shall govern during the period in which it is in effect.

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(b) In a case where a provision of the building codes is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire, safety, health, water supply or sewage disposal law or ordinance, or regulation adopted pursuant thereto, or other ordinance, code or regulation, the provision or requirement which is more restrictive or establishes the higher standard shall prevail.

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Sec. 6-12. Conformity with other regulations.

(a) Installations, alterations and repairs to commercial or residential premises, manufactured homes, materials, assemblies, and equipment utilized in connection therewith, shall be reasonably safe to persons and property, and in conformity with applicable ordinances of the City and orders, rules and regulations issued by the authority thereof.

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(b) Except as otherwise provided in this article, conformity of installations, alterations and repairs of commercial or residential premises, manufactured homes, materials, assemblies, and equipment utilized in connection with such buildings and structures, with the applicable requirements of the building codes adopted in Chapter 6, shall be prima facie evidence that such work, materials, assembly or equipment is reasonably safe to persons and property.

Sec. 6-13. Severability of provisions of code.

It is hereby declared that the several provisions of the building codes are separable, in accordance with the following:

- (1) If any court of competent jurisdiction shall judge any provisions thereof to be invalid, such judgment shall not affect any other provisions thereof not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall judge invalid the application of any provision thereof to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

Sec. 6-14. Penalties for violations of codes.

(a) Any person who shall violate any of the provisions of the building codes adopted under this Chapter, shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in Section 1-5 of the City of Brenham Code of Ordinances.

(b) Any person who allows or permits the use or occupancy of any building, structure or premises of which he is the owner, which is in violation of any provision of the building codes adopted under this Chapter shall likewise be punished.

Sec. 6-15, – Sec. 6-25. RESERVED.

ARTICLE II. BUILDING CODE

Sec. 6-26. Adoption of building code.

The International Building Code, being particularly the 2012 International Building Code, and all revisions thereto, save and except such portions as may hereinafter be amended, of which code not less than two (2) copies have been and are now filed at the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of all buildings and structures within the area of jurisdiction of the City.

Sec. 6-26.1. Same – Building code local amendments.

The following local amendments are made to the International Building Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting the following: the City of Brenham

Section 114.3 is deleted in its entirety.

Section 114.4 is deleted in its entirety.

Section 1612.3 is hereby amended by inserting the following: City of Brenham

Section 1612.3 is hereby amended by inserting the following: "Flood Insurance Study for Washington County, Texas and Incorporated Areas," dated August 16, 2011."

Section 3412.2 is hereby amended by inserting the following: [Effective date of ordinance adopting Building Code]

Section 107 is hereby amended by adding Section 107.6 to read as follows:

Building Plans, Applications and Permits

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Sec. 6-15. Relief.¶
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It is not the intent of the building codes to declare, and it does not so declare, anything to be a nuisance which is not such in fact. Any person to whom any order is directed or against whose property is taken or proposed to be taken under the terms and provisions of the building codes shall have the right to appeal such order or action to any court having jurisdiction thereof. ¶

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An application for a building permit shall be accompanied by a minimum of two (2) copies of a site plan and floor plan for all one-and two-family dwellings, commercial building and apartments five thousand (5,000) square feet or less. Large commercial and apartment buildings over five thousand (5,000) square feet, will require two (2) copies of a full set of plans, including plumbing, electrical, mechanical, structural, final topography, MEP site plans, and all architectural and engineering seals to accompany an application for a building permit. Utility requirements should be noted on all plans.

Site plan [shall be in conformity with the City of Brenham's adopted Design Guidelines and Standards Specifications and](#) will show:

- (1) Plan drawn to scale of not smaller than one" = 50' and labeled.
- (2) Plan must show dimension of all property lines.
- (3) All existing and proposed structures must be shown with building dimensions and distances from property lines.
- (4) Access must be shown with dimensions, shape and location.
- (5) All recorded public easements shall be shown and properly dimensioned.
- (6) Location and width of curbs, drainage ditches, sidewalks and right-of-ways.
- (7) Parking areas must be shown and dimensioned.
- (8) Proposed finished floor elevation and top of curb elevation shall be noted.

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The floor plan shall include the proposed utility requirements for the structure. Plan review will be completed within ten (10) working days after submission of plans on most applications. Larger projects may take longer. After review, individual permits will be issued for building, electrical, mechanical, plumbing, fire system and irrigation phases. Each individual contractor shall be responsible for inspection of his work. All plumbing, mechanical, fire system and irrigation contractors must show appropriate state license and proof of insurance. All electrical contractors shall have a current state license and all employees must have proper journeyman or apprentice license on job. All extensions, taps, permit fees or deposits shall be paid at the time the permit is issued.

Prior to construction, the contractor or owner shall verify with the [City](#) all utility locations and depths. The contractor shall be responsible for placing a string line on a minimum of two (2) property lines, the front and one side. The building inspector may request string lines on additional property lines. These string lines shall be in place at the time of the foundation inspection.

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All alterations to building layout, electrical, mechanical, plumbing and structural must have amended drawings and city approval prior to construction.

The property owner is responsible for location of property lines and underground utilities. Fences shall not obstruct drainage or redirect drainage on adjacent property. Any fence along or across an easement may be removed by utility personnel. The [City](#) is not required to reconstruct any fences inside of utility easements.

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All retainer wall construction requires written approval of the [City](#) prior to construction. All cut and/or fill on an improved property requires written city approval prior to work.

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A certificate of occupancy will be issued at the completion of all new construction by the City building department. Permanent service will be connected upon issuance of the certificate of occupancy. No occupancy of the building will be allowed prior to the issuance of the certificate of occupancy. No exceptions will be made without written consent of the City Building Official.

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Section 1507.8 is hereby amended in its entirety to read as follows: Wooden roof covering materials are forbidden.

Section 1507.9 is deleted in its entirety.

Section 2308.9 is hereby amended in its entirety to read as follows: Walls and partitions shall be constructed in accordance with the applicable provisions of Sections 2308.9.1 through 2308.9.4.2. In walls containing Plumbing Drain, Waste & Vent lines all framing members shall be 2 inch by six inch (2 x 6) or larger.

Section 2303.1.1 is hereby amended in its entirety to read as follows: Sawn lumber used for load-supporting purposes, including end-jointed or edge-glued lumber, machine stress-rated or machine-evaluated lumber, shall be identified by the grade mark of a lumber grading or inspection agency that has been approved by an accreditation body that complies with DOC PS 20 or equivalent. Grading practices and identification shall comply with rules published by an agency approved in accordance with the procedures of DOC PS 20 or equivalent procedures. Utility grade lumber shall not be used for joists, rafters or vertical framing.

Section 105 is hereby amended by adding Section 105.8 to read as follows: If work done on a building/structure cumulatively within any 12-month period constitutes a "substantial improvement" (as defined in the City's flood damage prevention ordinances, e.g., Section 8 ½ -5 of this Code), the owner shall—to the extent reasonably practicable—make the building comply with current code provisions for new construction regarding: (i) structural components (except foundations) and (ii) life safety features (hand and guard rails, smoke alarms, carbon monoxide alarms, safety glazing, ground fault circuit interrupters, arc-fault combination breakers, emergency egress from sleeping rooms, locking devices on required egress components, etc.). To determine the "market value" of a pre-existing building, the most current tabulation of square foot construction costs published by the International Code Council (usually as part of "Building Valuation Data." see e.g., www.iccsafe.org/cs/techservices) shall be used.

Section 105 is hereby amended by adding Section 105.9 to read as follows: If a building is "substantially damaged" (as defined in the City's flood damage prevention ordinances, e.g., Section 8 ½ -5 of this Code), the owner shall cause it to be: (i) secured to prevent entry by unauthorized persons, within 24 hours after all embers are extinguished (or other damaging occurrence has ended) and (ii) either demolished (in accordance with Chapter 8 ½ of this Code) or rebuilt in conformity with applicable technical codes as though it were a new building. Normal permits (including certificate of occupancy) are required. Work to demolish or rebuild must begin within 60 days following the date the occurrence ends and must be completed within a reasonable time, but not longer than the time allowed by the applicable permit(s). To determine the "market value" of a pre-existing building, the most current tabulation of square foot construction costs published by the International Code Council (usually as part of "Building Valuation Data," see e.g., www.iccsafe.org/cs/techservices) shall be used.

Section 110.3.1 is hereby amended in its entirety to read as follows: Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job. Form Surveys performed by a Texas Registered Professional Licensed Surveyor are required to be submitted prior to approval of foundation inspection.

Section 110.3.2 is hereby amended in its entirety to read as follows: Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor. Form Surveys performed by a Texas Registered Professional Licensed Surveyor are required to be submitted prior to approval of foundation inspection.

Sec. 6-27 – Sec. 6-29. RESERVED.

ARTICLE III. ELECTRIC CODE

Sec. 6-30. Adoption of National Electric Code (NEC) 2014 Edition.

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The National Electric Code, being particularly the 2014 National Electric Code, and all revisions thereto, save and except such portions as may hereinafter be amended, of which code not less than two (2) copies have been and are now filed at the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

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Sec. 6-30.1. Electrical Code local amendments.

The following local amendments are made to the National Electric Code, 2014 Edition, as adopted by the City of Brenham:

Section 422.40 is hereby amended in its entirety to read as follows:

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422.40 Polarity in Cord-and Plug-Connected Appliances.

(A) If the appliance is provided with a manually operated, line-connected, single-pole switch for appliance on-off operation, an Edison-base lampholder, or a 15- or 20-ampere receptacle, the attachment plug shall be of the polarized or grounding type. A 2-wire, nonpolarized plug shall be permitted to be used on a listed double-insulated shaver.

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(B) Window air conditioners. All window air conditioning units, whether to be operated on 110vac or 220vac current, shall be installed with and bonded to a polarized plug, and Number 10 AWG wire minimum for 220vac shall be used in bonding said air conditioning unit to the said polarized plug.

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Article 110 is hereby amended by adding Section 110.80 to read as follows:

110.80 Meters.

(A) Tiers. On apartment buildings, where space limitations will not permit placing all meters at the same height, they may be arranged in two tiers, with the openings for the meter dials in lower tier as near as practicable to five feet above mean ground level and second tier placed as near as practicable above the first. Where space limitations will not permit placing of meter cabinets as outlined above, the electric public service company, subject to the approval of the building official, may determine the arrangement to be used. All service outlets shall be located so as to permit placing the electric public service company's service wires on the wall of the building next to the supply.

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(B) Street side meters. The electric public service company shall never require the placing of the meter on the front or street side of a building, without the written consent of the owner, and where not practical in the opinion of the building official to place metering devices on the exterior of the building, said location shall be at a point, or points, convenient to the electric public service company's service as determined by the building official.

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(c) Minimum size of service conduit.

Service conduit for any occupancy shall not be smaller than 1.25 inches, unless specifically approved otherwise by the building official.

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Article 110 is hereby amended by adding Section 110.81 to read as follows:

110.81 Distribution system limitation.

For the purpose of this article, the distribution system of any person furnishing electric power shall not extend to any property which such person does not own in fee simple or control by easement.

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Article 110 is hereby amended by adding Section 110.82 to read as follows:

110.82 Tampering with fuses, circuit breakers.

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It shall be unlawful for any person:

(A) To bridge, tamper with or change from its original installation (except upon the approval of the building official, and then only after a proper permit for alteration has been issued) any fuse of the plug, cartridge type or link type installed in panel boards, main switches or switchboards;

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(B) To alter or change circuit breakers so that the original calibration will be affected; or

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(C) To tie down or secure any circuit breaker so that it will not function properly.

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Section 210.52 is hereby amended by adding subsection (E)(4) to read as follows:

Switches and equipment installed on the outside of the building in a recess in the outside wall and covered by a door as part of the building structure shall be considered as being on the exterior of the building and exposed to the weather.

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Section 230.42 is hereby amended by adding subsection (D) to read as follows:

(D) Service entrance conductors.

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In any residence, apartment, apartment house, commercial building or other building of whatsoever character now existing or to be constructed within the City, all service entrance conductors, including underground conductors, shall have a minimum current-carrying capacity of 150 amperes. On buildings with existing service, this requirement shall apply when:

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(1) Load is added or modified;

(2) An existing service is found to be inadequate for demand;

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(3) An unsafe condition exists; or

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(4) When replacing main service panel, all-service disconnect, service riser, or service underground lateral.

Exception: Existing dwellings with a framed area of less than 1,500 square feet may have conductors with a minimum current-carrying capacity of 125 amperes.

Article 230 is hereby amended by adding Section 230.56.1 to read as follows:

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230.53.1 All-service disconnect.

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In every building now existing or to be constructed within the City, there must be an "all-service disconnect" accessible on the outside of the building and located as close as practicable to the meter. It shall consist of one switch or circuit breaker having a continuous current rating of no less than 150 amperes. On buildings with existing service, this requirement shall apply when load is added or modified or whenever an unsafe condition exists or when replacing main service panel, all-service disconnect, service riser or service underground lateral. Exception: Existing dwellings with a framed area of less than 1,500 square feet may have a main "all-service disconnect" with a minimum continuous current rating of 125 amperes.

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Article 300 is hereby amended by adding Section 300.51 to read as follows:

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300.51 Wires, cables, conductors and circuits.

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(A) Wires, cables and conductors. Notwithstanding any other code provision or ordinance to the contrary, it shall be unlawful for any person to install or use any of the following in connection with electrical work for any structure in the City:

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(1) Any wire other than solid or stranded copper;

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(2) Any wire smaller than gauge 12 AWG;

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(3) Any wire without a separate ground, either in the same cable or in the same conduit;

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(4) Armored cable, type A/C;

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(5) MC cable, unless the exterior armor is color-coded its entire length by the manufacturer to distinguish it from other flexible metallic conduit systems;

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(6) Nonmetallic sheathed cables, as listed in article 334 of the NEC, but this prohibition only applies to multifamily dwellings with more than one floor above grade; or

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(7) Nonmetallic sheathed cables, as listed in article 334 of the NEC, except in buildings used and occupied exclusively for residential purposes (without any nonresidential occupancies or mixed uses, even if only accessory or incidental).

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(B) Circuits. Notwithstanding any other code provision or ordinance to the contrary, it shall be unlawful for any person to install or use more than ten openings (outlets or fixtures) on any single electrical circuit for any structure in the City.

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Article 110 is hereby amended by adding Section 110.83 to read as follows:

110.83 Grounding, GFCIs, etc.

Deleted: (j) Old work. In any proceeding to enforce this section with respect to: ¶
(1) wire smaller than gauge 12 AWG; or ¶
(2) wire lacking a separate ground; or ¶
(3) having more than ten openings on a single circuit; ¶

(A) Supplemental grounding. On any new service or change-out service there must be a supplemental grounding electrode as specified in article 250.52(A) of the NEC, with the grounding electrode conductor sized per table 250.66 of the NEC.

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(B) Certain GFCIs. The ground-fault circuit-interrupter required for a hydro-massage shall not be located under such a bathtub and must be readily accessible as specified in 680.71.

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Sec. 6-32. Same - Right of entry and disconnection of service.

The Building Official or his duly authorized assistant shall have the right to enter any building during reasonable hours in the discharge of his official duties and shall have the authority to cause the disconnection of any wiring or equipment, which such wiring or equipment in his judgment is dangerous to life or property, or may interfere with the work of the fire department.

Sec. 6-33. Meter loop specifications.

The National Electrical Code, being particularly the 2014 National Electrical Code, save and except such portions as may hereinafter be amended and the meter loop specifications of the Municipal Light and Power System of the City of Brenham, Texas, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling for all electrical work within the area of jurisdiction of the City. Not less than two (2) copies of said National Electrical Code, and meter loop specifications of the Municipal Light and Power System of the City, shall be filed in the office of the Building Official of the City.

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Sec. 6-34. Modifications of code or meter loop specifications.

Any requirement deemed by the inspector necessary for safeguarding the hazards from fire and to life in connection with any electrical installation not specially covered by this article shall be determined by the inspector, subject to appeal to the board of appeals in the manner prescribed in Section 6-5.1.

Sec. 6-35. Approved materials, devices, appliances, apparatus.

It shall be unlawful to manufacture, sell or use any electrical materials, devices, appliances or apparatus which are not approved by the Underwriters' Laboratories, Inc., Chicago, Illinois, anywhere or anytime within the City.

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Sec. 6-36. Allowing use of or furnishing electric current without inspection and certificate of approval prohibited.

In order to protect the lives of the citizens and the property of the citizens from the dangers incident to defective wiring of buildings and structures, it shall be unlawful for any person to allow any electrical current used for the purpose of producing light, heat or power in buildings or structures belonging to such person, to be turned on without first having had an inspection made of the wiring by the inspector and having received from the inspector a certificate of occupancy approving the wiring of such building, unless otherwise provided in this Article.

It shall be unlawful for any person engaged in the business of selling electricity to furnish any electrical current for use for light, heat or power purposes in any building or structure of any person, unless the building or structure has first been inspected by the inspector and a certificate of occupancy given as hereinafter provided, unless otherwise authorized in this article.

Sec. 6-37. Re-inspection and correction in certain knob and tube systems; protection for exterior switches and fuse cabinets.

Whenever the service wires of a so-called knob and tube system are disconnected or electrical services disconnected to and in any commercial building or any building in the first fire district which has been vacated for any period in excess of thirty (30) days, the service shall not again be connected until same has been wired so as to conform to this article, subject to any special conditions as approved by the electrical inspector.

All switches or fuse cabinets mounted on the exterior of any buildings must be of an approved weatherproof type.

Whenever old work is found in the following instances, the Building Official may refuse or disconnect permanent electric service until compliance with the 2014 National Electric Code is completed. The instances shall be when:

1. wiring smaller than gauge 12 SWG is found;
2. wire lacking a separate ground is found; or
3. any structure having more than ten openings on a single circuit.

Sec. 6-38. Advertising on light and telephone poles and wires; wires under sheds, etc.

(a) It shall be unlawful for any person to place or allow to be placed any advertising cards or posters or other light material on any electric, telephone or telegraph poles within the City.

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Sec. 6-39. Electric policy and construction standards.

(a) Adopted. The following electric policy and construction standards are hereby adopted by reference as though they were copied herein fully; Electric Policy and Construction Standards of the City of Brenham, Texas.

(b) Copy on file. An official copy of the Electric Policy and Construction Standards of the City of Brenham, Texas, shall be kept on file in the Office of the City Secretary, which shall be available for the public to review.

(c) Contrary provisions. Any matters in the Electric Policy and Construction Standards of the City of Brenham, Texas, which are contrary to existing ordinances of the City shall prevail, and, to that extent, any existing ordinances to the contrary are hereby repealed in that respect only.

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(d) Duties of officials. Within said electric policy and construction standards of the City, when reference is made to the duties of certain officials named therein, the designated official in the City of Brenham who has duties corresponding to those of the named official shall act insofar as the enforcement of the provisions of said policy and standards are concerned.

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Sec. 6-40 – Sec. 6-49. RESERVED.

ARTICLE IV. GAS.

Sec. 6-50. Adoption of code.

The International Fuel and Gas Code, being particularly the 2012 International Fuel Gas Code (IFGC), save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been made and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

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Sec. 6-50.1. Same – Gas code local amendments.

The following local amendments are made to the International Fuel and Gas Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 106.6 is deleted in its entirety.

~~Section 108.3 is deleted in its entirety.~~

Section 108.4 is ~~deleted in its entirety.~~

Section 108.5 is hereby by amended in its entirety to read as follows: Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Deleted: hereby by amended in its entirety to read as follows: Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000.00). Each day that a violation occurs shall be deemed a separate offense

Section 108.7 is hereby by amended in its entirety to read as follows: The code official shall have the authority to require disconnection of utility service to the building, structure or system regulated by the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The code official shall notify the serving utility, and wherever possible, the owner and occupant of the building, structure or service system of the decisions to disconnect prior to taking such action. If not notified prior to disconnection, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practicable thereafter.

Section 108.7.1 is hereby by amended in its entirety to read as follows: A person shall not make energy source connections to installations regulated by this code which have been disconnected or ordered to be disconnected by the code official, or the use of which has been ordered to be discontinued by the code official until the code official authorizes the reconnection and use of such installations. When an installation is maintained in violation of this code, the code official shall institute appropriate action to prevent, restrain, correct or abate the violation.

Section 108.7.2 is deleted in its entirety.

Section 108.7.3 is deleted in its entirety.

Section 403 is hereby amended by adding Section 403.14 to read as follows:

Even if otherwise permitted by this code:

1. All gas piping shall be SCH 40 black iron pipe, copper, brass or aluminum tubing or piping shall not be used in the City. Deleted: C
2. Thermo plastic pipe may be used for gas lines only if it: (i) meets ASTM D2513 (or equivalent, or better), (ii) is identified by proper markings and (iii) is installed with a locator wire (No. 12 gauge insulated solid copper wire). Deleted: 4
3. Thermo plastic pipe shall terminate above ground outside of buildings and be installed in pre-manufactured anodeless risers or service head adapter risers, all in accordance with the manufacturer's installation instructions.

Section 406.4 is hereby amended in its entirety to read as follows: Low pressure (not to exceed 0.5 PSI) gas piping shall withstand a pressure of at least 10 inches of mercury on a manometer for a period of time not less than 10 minutes without showing any drop in pressure, except that the following shall apply in the case of new construction: The newly-constructed system must withstand a pressure of at least 25 PSI, spring gage here is acceptable, for a period of not less than 10 minutes without showing any drop in pressure as an initial pressure test, i.e. rough-in, and the system must also withstand a pressure test of 10 inches of mercury on a manometer gage as a final test. Higher pressure piping systems must withstand pressure of at least 10 PSI, but never less than twice the maximum pressure to which the piping will be subjected in operation, for a period of at least 10 minutes without showing a drop in pressure. The manometer under test conditions shall not be pressured more than 50% of the gage maximum pressure, i.e. a 10 psi test would require a 20 psi manometer gage.

Section 306.3 is hereby amended in its entirety to read as follows: There must be a permanently-installed stairway, either fixed or folding, to serve attic space where appliances or equipment are located. The opening must be at least 25.5" x 54", and any folding staircase must be rated for at least 350 pounds capacity and at least 20 minutes fire resistance and large enough to remove the largest appliance installed there in.

Section 402 is hereby amended by adding Section 402.7 to read as follows: Each new or replaced gas meter shall be located on the same lot/property that it serves.

Sec. 6-51. Cut-off valve.

- (a) All gas service lines on the customer's property will be required to be equipped, ahead of the gas meter assembly, with an approved type, flat ahead-lock pattern, cut-off valve to permit sealing of the valve by authorized city personnel in order to prevent any flow of gas or prevent opening of said valve by persons other than authorized city personnel.

- (b) All gas piping on customer's premises where installed for connection of a range; water heater; space heater; and the like; will be required to be provided with an approved type cut-off valve, installed in the line and directly ahead of the above referred to appliances.

Sec. 6-52 – Sec. 6-55. RESERVED.

ARTICLE V. INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 6-56. Adoption of code.

The International Property Maintenance Code, being particularly the 2012 International Property Maintenance Code (IPMC), save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been made and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

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Sec. 6-56.1. Same – Property Maintenance code local amendments.

The following local amendments are made to the International Property Maintenance Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 103.5 is deleted in its entirety.

Section 106 is deleted in its entirety.

Section 107 is deleted in its entirety.

Section 108 is deleted in its entirety.

Section 110 is deleted in its entirety.

Section 111 is deleted in its entirety.

Section 112.4 is deleted in its entirety.

Section 302.4 is hereby amended by inserting: twelve (12) inches

Section 302.8 is deleted in its entirety.

Section 304.14 is hereby amended in its entirety to read as follows: Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

Section 602.3 is hereby amended in its entirety to read as follows: Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Exceptions: 1) When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code; and 2) In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

Section 602.4 is hereby amended in its entirety to read as follows: Indoor work spaces to be occupied shall be supplied with heat to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied. Exceptions: 1) Processing, storage and operation areas that require cooling or special temperature conditions; and 2) Areas in which persons are primarily engaged in vigorous physical activities.

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Sec. 6-57 – Sec. 6-60. RESERVED.

ARTICLE VI. INTERNATIONAL PLUMBING CODE

Deleted: PROPERTY MAINTENANCE

Sec. 6-61. Adoption of code.

The International Plumbing Code, being particularly the 20012 International Plumbing Code (IPC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, installation, extension, or repair of all plumbing, plumbing fixtures and plumbing systems within the area of jurisdiction of the City.

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Sec. 6-61.1. Same – Plumbing code local amendments.

The following local amendments are made to the International Plumbing Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 106.6.2 is deleted in its entirety.

Section 106.6.3 is deleted in its entirety.

Section 108.3 is deleted in its entirety.

Section 108.4 is deleted in its entirety.

Section 108.5 is hereby amended in its entirety to read as follows: Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Deleted: hereby amended in its entirety to read as follows: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars (\$2000.00). Each day that a violation continues shall be deemed a separate offense

Section 605 is hereby amended by adding Section 605.26 to read as follows:

Even if otherwise permitted by the IPC: Acrylonitrile-Butadiene-Styrene (ABS) pipe and fittings, Type M copper, lead- based pipe, aluminum DWV pipe and components are not approved materials for use.

Section 918 is hereby amended by adding 918.9 to read as follows: Air admittance valves are only approved for use in an unenclosed structure, i. e. outdoor kitchen.

Section 604.1 is hereby amended in its entirety to read as follows: The design of the water distribution system shall conform to accepted engineering practice. Methods utilized to determine pipe sizes shall be approved. Any manifold system shall not be located on a wall shared with a garage unless it does not penetrate the garage wall.

Section 605 is hereby amended by adding Section 605.26 to read as follows:

Even if otherwise permitted by the IPC:

1. PVC type water pipe and fittings are not allowed for use in the City. Exceptions: (A) Schedule 40 meeting ASTM D1785 (or better) PVC water pipe may be used where permitted by the IPC, but only if: (i) it is installed underground (but see paragraph "b" requiring selected material in some locations) or as pool piping, (ii) all joints are primed and glued as required by the manufacturer's recommendations (and the primer must be purple or another distinctive color, except on above-ground pool piping), and (iii) it is identified by proper markings. (B) This section does not apply to irrigation systems.

2. All water lines under a slab on grade must be copper Type L, K or PEX, no joints. Each water line under, in or through a slab on grade must be sleeved with a continuous piece of tubing at least 0.025 inches thick terminating at least six inches above the finished floor.
3. Irrigation systems must meet these criteria: (i) Schedule 40 PVC material meeting ASTM D1785 (or better) must be used for pressure lines, i.e. up to the valves. (ii) Class 160 PVC material (or better) must be used for field lines. (iii) All lines shall be buried at least six inches below grade. Note: The City is not responsible for irrigation system components located in street areas or easements (and special permits may be required to install such components in those locations).
4. Underground water service piping must be buried at least 12 inches below grade.
5. PVC drain, waste or vent pipe and fittings must be Schedule 40 meeting ASTM D2665 (or better) and identified by proper markings. Exception; Area drain piping may be SDR 35 PVC.

Section 916.3 is hereby amended in its entirety to read as follows: The vent located below the flood level rim of the fixture being vented shall be installed below the floor using drainage pattern fittings with a fall of not less than one-quarter inch (1/4") per foot to the drain. The vent shall be sized in accordance with Section 906.2 with 2 "diameter pipe being the minimum. The lowest point of the island fixture vent shall connect full size to the drainage system. The vent or branch vent shall extend as high as practicable, but not below the drain board. There shall be a vent loop at the top of the fixture riser. The fittings shall prevent a horizontal segment at the top of the loop. Cleanouts shall be provided in the island fixture drain and vent to permit rodding of all piping located below the flood level rim of the fixtures. Rodding in both directions shall be permitted through a clean out.

Section 1101.2 is hereby amended in its entirety to read as follows: The provisions of this chapter are applicable to interior leaders, building storm drains, building storm sewers, exterior conductors, downspouts, roof gutters and other storm drainage fixtures and facilities.

Section 603.1 is hereby amended in its entirety to read as follows: The water service pipe shall be sized to supply water to the structure in the quantities and at the pressures required in this code. The water service pipe shall be not less than 3/4 inch (19.1 mm) in diameter. Maximum water meter size, unless an Registered Professional Engineer can clearly and convincingly demonstrate the need for a larger meter in a particular case, is: 1-inch for an irrigation system, or 1-inch for a single-family dwelling

Sec. 6-62. Cross-connection control program.

- (a) General. No water service connection shall be made to any establishment where a potential or actual contamination hazard exists unless the water supply is protected in accordance with the Texas Commission on Environmental Quality (TCEQ) Rules and Regulations for Public Water Systems (290 Rules) and this section. The water purveyor shall discontinue water service if a required backflow prevention assembly is not installed, maintained and tested in accordance with the 290 Rules and this section.

(b) Backflow prevention assembly installation, testing and maintenance.

- (1) All backflow prevention assemblies shall be tested upon installation by a licensed backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester.
- (2) All backflow prevention assemblies shall be installed and tested in accordance with the manufacturer's instructions, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14) or the University of Southern California Manual of Cross-Connection Control.
- (3) Assemblies shall be repaired, overhauled, or replaced at the expense of the customer whenever said assemblies are found to be defective. Original forms of such test, repairs, and overhaul shall be kept and submitted to the City within five (5) working days of the test, repair or overhaul of each backflow prevention assembly.
- (4) No backflow prevention assembly or device shall be removed from use, relocated, or other assembly or device substituted without the approval of the city. Whenever the existing assembly or device is moved from the present location or can not be repaired, the backflow assembly or device shall be replaced with a backflow prevention assembly or device that complies with this section, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current addition, University of Southern California Manual of Cross-Connection Control, current addition, or the current plumbing code of the City, whichever is more stringent.
- (5) Test gauges used for backflow prevention assembly testing shall be tested for accuracy at least annually in accordance with the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current addition, or the University of Southern California's Manual of Cross-Connection Control, current addition. The original calibration form must be submitted to the City within five (5) working days after calibration.
- (6) A recognized backflow prevention assembly tester must hold a current endorsement from the Texas Natural Resource Conservation Commission (Commission).

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(c) Customer service inspections.

- (1) A customer service inspection shall be completed prior to providing continuous water service to all new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.

- (2) Only individuals with the following credentials shall be recognized as capable of conducting a customer service inspection:
- a. Plumbing inspectors and water supply protection specialists that have been licensed by the Texas State Board of Plumbing Examiners.
 - b. Customer service inspectors that have been licensed by the Texas Commission on Environmental Quality (TCEQ).
- (3) The customer service inspection must certify that:
- a. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by a properly installed air gap or an appropriate backflow prevention assembly.
 - b. No cross-connection between the public water supply and a private water source exists. Where an actual properly installed air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed and a service agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester.
 - c. No connection exists which allows water to be returned to the public drinking water supply is permitted.
 - d. No pipe or pipe fitting which contains more than eight (8) per cent lead may be used for the installation or repair of plumbing at any connection that provides water for human use.
 - e. No solder or flux which contains more than 0.2 per cent lead can be used for the installation or repair of plumbing at any connection that provides water for human use. A minimum of one (1) lead test shall be performed for each inspection.

Sec. 6-63 – Sec. 6-65. RESERVED.

ARTICLE VII. ENERGY CODE

Sec. 6-66. Adoption of code.

The International Energy Conservation Code, being particularly the 2012 International Energy Conservation Code (IECC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

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Sec. 6-66.1. Same – Energy code local amendments.

The following local amendments are made to the International Energy Conservation Code, 2012 Edition, as adopted by the City of Brenham:

Sections C101.1 and R101.1 are hereby amended by inserting: the City of Brenham

Sections C108.4 and R108.4 are deleted in their entirety.

Section C104.5 is hereby amended in its entirety to read: The code official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability. In lieu of inspection by City employees, the building official may require a written certification that a building meets or exceeds minimum requirements, if the certification is: (i) signed by a code-certified inspector (as defined in V.T.C.A., Health and Safety Code § 388.02) not employed by the City, and (ii) accompanied by an approved inspection checklist, properly completed, signed and dated by the inspector. If the fees of the code-certified inspector are paid by the City, the amount shall be added to the building permit fees otherwise payable. With approval from the building official, a permittee may pay such fees directly to an independent inspection firm. Only code-certified inspectors or inspectors as approved by the currently adopted edition of the IECC may perform inspections and enforce this code in the City. A copy of all approved inspections, rough-in and final shall be provided to the City prior to final inspections being requested.

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Sec. 6-67 – Sec. 6-70. RESERVED.

ARTICLE VIII. MECHANICAL CODE

Sec. 6-71. Adoption of code.

The International Mechanical Code, being particularly the 2012 International Mechanical Code (IMC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

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Sec. 6-71.1. Same – Mechanical code local amendments.

The following local amendments are made to the International Mechanical Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 106.5 is deleted in its entirety.

Section 108.3 is deleted in its entirety.

Section 108.4 is deleted in its entirety.

Deleted: hereby amended in its entirety to read as follows: Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000.00). Each day that a violation continues shall be deemed a separate offense

Section 108.5.5 is hereby amended in its entirety to read as follows: Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Section 306.3 is hereby amended in its entirety to read as follows: Attics containing appliances shall be provided with an opening and unobstructed passageway large enough to allow removal of the largest appliance. The passageway shall not be less than 30 inches (762 mm) high and 22 inches (559 mm) wide and not more than 20 feet (6096 mm) in length measured along the centerline of the passageway from the opening to the appliance. The passageway shall have continuous solid flooring not less than 24 inches (610 mm) wide. A level service space not less than 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present at the front or service side of the appliance. The clear access opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), and large enough to allow removal of the largest appliance. There must be a permanently-installed stairway, either fixed or folding, to serve attic space where appliances or equipment are located. The opening must be at least 25.5" x 54", and any folding staircase must be rated for at least 350 pounds capacity and at least 20 minutes fire resistance and large enough to remove the largest appliance installed there in.

Exceptions:

1. The passageway and level service space are not required where the appliance is capable of being serviced and removed through the required opening.
2. Where the passageway is unobstructed and not less than 6 feet (1829 mm) high and 22 inches (559 mm) wide for its entire length, the passageway shall be not greater than 50 feet (15 250 mm) in length.

Sec. 6-72 – Sec. 6-75. RESERVED.

ARTICLE ~~IX~~, RESIDENTIAL CODE

Deleted: VII

Sec. 6-76. Adoption of code.

The International Residential Code, being particularly the 2012 International Residential Code (IRC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

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Sec. 6.76.1. Same – Residential code local amendments.

The following local amendments are made to the International Residential Code, 2012 Edition, as adopted by the City of Brenham:

All amendments and deletions to the other "International Codes" adopted by this Schedule are also carried forward and adopted as amendments to or deletions from the International Residential Code, 2012 Edition.

This code does not apply to installation and maintenance of electrical wiring and related components. See National Electrical Code.

Section R101.1 is hereby amended by inserting: the City of Brenham

Section R113.3 is deleted in its entirety.

Section R113.4 is deleted in its entirety.

Table R301.2 (1) is hereby amended in its entirety to read as follows:

Table R301.2(1). Climatic and Geographical Design Criteria Page 3-3			
Ground snow load:	0 [per figure R301.2(5)]	Air freezing index:	50 BF days
Wind speed (mph):	100 (3-second gust) [per figure R301.2(4)A]	Mean annual temperature:	68° F
Seismic design category:	A [per figure R301.2(2)]	Subject to damage from weathering:[per figure R301.2(3)]	Negligible
Winter design temperature:	32° F [appendix D of the IPC, Houston] [per figure R302.2(1)] Local Data if more accurate	Frost line: [per figure R301.2(8)]	5"
Ice shield underlayment:	Not required	Termite: [per figure R301.2(6)]	Very heavy
Flood hazards:	Map effective date: August 16, 2011 Community Number 480648 Panel numbers: 0295C 0300C 0315C 0450C	Decay:	Mod. to severe

Section P2603.5.1 is hereby amended in its entirety to read as follows: Building sewers that connect to private sewage disposal systems shall be a not less than twelve (12) inches below finished grade at the point of septic tank connection. Building sewers shall be not less than twelve (12) inches below grade.

Section P3103.1 is hereby amended in its entirety to read as follows: Open vent pipes that extend through a roof shall be terminated not less than twelve (12) inches above the roof or twelve (12) inches above the anticipated snow accumulation, whichever is greater, except that where a roof is to be used for any purpose other than weather protection, the vent extension shall be run not less than 7 feet above the roof.

Sec. 6-77 – Sec. 6-80. RESERVED.

ARTICLE X. EXISTING BUILDING CODE

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Sec. 6-81. Adoption of code.

The International Existing Building Code, being particularly the 2012 International Existing Building Code (IEBC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

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Sec. 6-81.1. Same – Existing building code local amendments.

The following local amendments are made to the International Existing Building Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 113.3 is deleted in its entirety.

Section 113.4 is deleted in its entirety.

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Section 1401.2 is hereby amended by inserting: December 31, 2014.

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Sec. 6-82 – Sec. 6-85. RESERVED.

ARTICLE XI. SWIMMING POOLS

Sec. 6-86. Definition.

A swimming pool within the meaning of this section shall be any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, and either above or below the ground which contains water of more than twenty-four (24) inches in depth and which is used primarily for the purpose of bathing or swimming.

Sec. 6-87. Installation of new pools and compliance of existing pools.

- (a) It shall be unlawful for any person to construct, install or enlarge a swimming pool in the city limits not enclosed in a permanent building with self-closing, self-latching doors, except in accordance with the following regulations.
- (b) It shall be unlawful for any person who owns an indoor swimming pool within the City limits on the effective date hereof to maintain such swimming pool without self-closing, self-latching doors leading directly to the pool area after September 1, 1991.
- (c) It shall be unlawful for any person who owns an outdoor swimming pool within the City limits on the effective date hereof to maintain such swimming pool without fences as provided in Section 6-146 after September 1, 1991.

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Sec. 6-88. Permit.

It shall be unlawful for any person to construct, install, enlarge or alter any private swimming pool unless a building permit has first been obtained from the building inspector. The permit fee shall be paid per fee schedule. Application shall be on forms provided by the building inspector and shall be accompanied by plans drawn to scale showing the following:

- (1) Pool dimensions and volume of water in gallons;
- (2) Location and type of waste disposal system;
- (3) Location of pool on lot, distance from lot lines and distance from structure;
- (4) Fencing and landscape plan, or a combination thereof; and
- (5) Specifications on gate latching.

Sec. 6-89. Construction requirements.

- (a) All pools located, erected, enlarged, or constructed within the City of Brenham shall conform to the following requirements:
 - (1) A minimum five-foot rear and side yard is required;
 - (2) A minimum twenty-five-foot front yard and a fifteen-foot side yard on corner lots is required, or pools must be located behind the established building lines of the principle structure located on the lot, whichever distance is greater;
 - (3) Pools must be a minimum of five (5) feet from any structure to allow access for emergency rescue operations; and
 - (4) All measurements are taken from the outermost edge of the pool coping.
- (b) Any connection to the City's sewer system shall include a suitable gap or backflow prevention device to prevent contamination of the pool by the sewer.
- (c) Gaseous chlorination system shall not be used as a disinfection method for pool waters. The building inspector shall recommend a proper disinfectant.
- (d) Any connection to the City's potable water system shall be protected by a suitable air gap or approved backflow prevention device.

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Sec. 6-90. Fence.

- (a) Pools within the scope of this section or not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool and shall not be less than four (4) feet in height, so constructed as not to have voids, holes or openings larger than four (4) inches in one dimension. Gates or doors shall be equipped with a self-closing and self-latching childproof device for keeping the gate or door securely closed at all times when not in actual use. Such latch shall be installed at a minimum height of four (4) feet or the top of the fence. Gates or doors may be disabled from use to the satisfaction of the City Manager or his designee in lieu of a self-closing and self-latching device. The location of fencing required shall be subject to all other applicable ordinances. No fence shall be located, erected, constructed or maintained closer than three (3) feet to a pool. The wall of the house or building faced to a pool may be incorporated as a portion of such fence.
- (b) Aboveground pools with self-provided fencing to prevent unguarded entry will be allowed without separate additional fencing, providing the self-provided fence is of four-foot required height and design as heretofore specified.
- (c) Permanent access from grade to aboveground pools having stationary ladders, stairs or ramps shall have not less than equal safeguard fencing and gates.

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Sec. 6-91. Pool covers.

Pools which have a maximum depth of four (4) feet or less may be covered in lieu of a fence to comply with these requirements.

Sec. 6-92. Other regulations.

No pool shall be so operated or maintained as to create a nuisance, a hazard, an eyesore or otherwise to result in a substantial adverse effect on neighboring properties, or to be in any other way detrimental to public health, safety and welfare.

Sec. 6-93. Maintenance.

A swimming pool or swimming pools shall be disinfected and maintained in a sanitary manner. The health inspector may inspect or cause to be inspected each private swimming pool maintained in the City.

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Sec. 6-94. Pool safety equipment.

Each pool shall maintain at least one floating throw-ring and rope and/or one rescue pole per pool. Such equipment shall be maintained in good working order.

Sec. 6-95. Penalty.

Any person ~~who shall violate any provision of this article, shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in Section 1-5 of the City of Brenham Code of Ordinances,~~

- Deleted:** , firm or corporation
- Deleted:** violating
- Deleted:** shall be fined not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) for each offense
- Deleted:** and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Sec. 6-96 – Sec. 6-99. RESERVED.

SECTION 2.
EFFECTIVE DATE

This ordinance shall take full force and effect, after its passage and approval, on December 31, 2014, and as provided by the Charter of the City of Brenham, Texas.

SECTION 3.
REPEALER

All ordinances inconsistent with this ordinance are hereby repealed except that the amendments to the codes specified in the code of Ordinance, City of Brenham, Texas are incorporated herein by reference.

SECTION 4.
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 5.
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 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 18th day of September, 2014.

PASSED and APPROVED on its second reading this the 9th day of October, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-14-035

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 6, BUILDINGS AND STRUCTURES, ARTICLES I-XI; ADOPTING THE 2012 EDITIONS OF THE INTERNATIONAL BUILDING CODE, INTERNATIONAL FUEL GAS CODE, INTERNATIONAL PROPERTY MAINTENANCE CODE, INTERNATIONAL PLUMBING CODE, INTERNATIONAL ENERGY CONSERVATION CODE, INTERNATIONAL MECHANICAL CODE, INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL EXISTING BUILDINGS CODE, AND THE 2014 EDITION OF THE NATIONAL ELECTRIC CODE; ADOPTING LOCAL AMENDMENTS TO SAID CODES; PROVIDING FOR AN EFFECTIVE DATE IN ACCORDANCE WITH THE CITY CHARTER OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR PROPER NOTICE AND OPEN 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 regulates buildings and structures within the City limits to provide safe and appropriate buildings and structures,

WHEREAS, the City Council of the City of Brenham, Texas desires to amend Chapter 6, Buildings and Structures by adopting the 2012 editions of the following: International Building Code, International Fuel Gas Code, International Mechanical Code, International Property Maintenance Code, International Plumbing Code, International Energy Conservation Code, International Energy Conservation Code and the International Existing Building Code and the 2014 edition of the National Electric Code, and to amend or add to the Code of Ordinances of the City of Brenham, Texas in order to adopt these codes;

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

SECTION 1.

Chapter 6, Buildings and Structures, of the Code of Ordinances of the City of Brenham, Texas, is hereby amended in its entirety to read as follows:

CHAPTER 6 BUILDINGS AND STRUCTURES

- ARTICLE I. - IN GENERAL**
- ARTICLE II – BUILDING CODE**
- ARTICLE III. - ELECTRICAL**
- ARTICLE IV. - GAS**
- ARTICLE V. - PROPERTY MAINTENANCE**
- ARTICLE VI. - PLUMBING**
- ARTICLE VII. - ENERGY CODE**
- ARTICLE VIII. - MECHANICAL CODE**
- ARTICLE IX. - RESIDENTIAL CODE**
- ARTICLE X. - EXISTING BUILDING CODE**
- ARTICLE XI. - SWIMMING POOLS**

ARTICLE I. IN GENERAL

Sec. 6-1. Adoption of building codes.

The codes listed below and all revisions thereto are hereby adopted and incorporated as fully as if set forth at length herein, save and except such portions as may hereinafter be amended, and not less than two (2) copies of said codes have been and are now filed at the offices of the City of Brenham, and from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, alteration, repair, equipment, use and occupancy, location, and maintenance of all buildings and structures within the area of jurisdiction of the City.

Regulations adopted in Article I shall be applicable to all articles within this Chapter.

Codes adopted by the City of Brenham:

- 2012 International Building Code (IBC)
- 2014 National Electric Code (NEC)
- 2012 International Fuel Gas Code (IFGC)
- 2012 International Mechanical Code (IMC)
- 2012 International Property Maintenance Code (IPMC)
- 2012 International Plumbing Code (IPC)
- 2012 International Energy Conservation Code (IECC)
- 2012 International Residential Code (IRC)
- 2012 International Existing Building Code (IEBC)

Sec. 6-2. Permits.

(a) Permits shall be issued for all work as required by the adopted codes.

(b) The City Council shall set, by resolution, fees for permits under this chapter at their sole discretion.

(c) Permits issued for lawful construction shall be null and void if such construction has been abandoned for a period of 180 days.

Sec. 6-3. Office of the Building Official —Appointment; qualifications; making required inspections and reports.

A qualified Building Official shall serve as chief combination inspector and any designated combination inspectors shall be appointed by the City Manager, subject to the approval of the governing body. Such inspector(s) must be fully qualified professionals; must be of good moral character and business integrity; and must maintain all applicable international code council inspector certifications and licenses as required by best practices or state law. The Building Official shall be responsible for interpretations and enforcement of the adopted building codes.

Sec. 6-4.1. Same – Conflicting interests prohibited.

The Building Official and any designated combination inspectors during their tenure of office shall not be engaged in the business of building, plumbing, electrical or any other type of construction contracting or any branch of the construction business either directly or indirectly or have such financial interest in such business within the City. It shall be prohibited for any employee engaged in inspection activities to inspect his/her own work or any work performed by an entity in which they have a financial interest.

Sec. 6-5. Board of appeals – Composition; appointment; qualifications.

The Building Standards Commission is hereby appointed the board of appeals for any appeal of a decision by the Building Official or variance requested from the adopted building codes.

Sec. 6-5.1. Calling meetings.

The board of appeals shall meet at the call of the Building Official.

Sec. 6-5.2. Appeals to Board of Appeals; procedure; fee.

Any permit holder, whose work has been denied or rejected by the inspector, and a controversy has arisen as to whether the work conforms to the ordinances and regulations, or a person who has been ordered by the inspector to incur an expense in the alteration, repair or construction of any building, may, within fifteen (15) days thereafter appeal therefrom by giving to the inspector notice in writing of such an appeal; such notice or a certified copy thereof shall at once be transmitted by the inspector to the board of appeals. After notice to such persons as the board may direct, a hearing shall be had, and the board may by a majority vote affirm, annul or modify such action of the inspector. If the action of the inspector is affirmed, such action shall have full force and effect. If the action of the inspector is modified or annulled a permit shall be issued accordingly.

Sec. 6-5.3. Appeals to governing body.

If an applicant is dissatisfied with the decision of the board of appeals he shall have the right of final appeal to the governing body, whose judgment as to all matters involved shall be final.

Sec. 6-6. Liability.

The provisions of this Chapter shall not be construed to relieve from or to lessen the responsibility of any person performing work within the scope of these adopted codes for damage or injury to any person or property, nor shall it be construed to impose on the City any liability by reason of the inspection herein provided for or by reason of any certificate issued hereafter.

Sec. 6-7. Exemption of owners doing own work.

Any person, who has acquired the necessary permits from the Building Official, may perform work on a property or premises where the person has a homestead exemption, provided that the material and equipment used and the work that is done are in strict accord with the rules and regulations of this article and that the inspector's approval be obtained upon inspection in regular order. The property owner must actually perform the work and no person other than the actual owner shall do any part of the work unless the other person is fully licensed and in full compliance with all the provisions of this article.

Sec. 6-8. Keeping records.

The Building Official shall keep complete records of all permits issued and inspections made.

Sec. 6-9. Request for final inspection; issuance and revocation of certificate; temporary and preliminary certificates.

Upon the completion of all work which has been authorized by issuance of a permit, it shall be the duty of the permit holder to notify the inspector, who shall inspect the installation promptly after such notice is given; and, if it is found to be fully in compliance with the provisions of this chapter, they shall issue to such person a final certificate of approval authorizing occupancy of the building or structure.. When a certificate is issued authorizing the use of temporary work, such certificate shall be issued to expire at a stated time and shall be revocable by the inspector at his discretion. A preliminary certificate may be issued authorizing the use of certain specified portions of an uncompleted project, which preliminary certificate shall be revocable at the discretion of the inspector. No certificate of occupancy shall be issued unless all work has been inspected and is in strict conformity with the provisions of this chapter and the statutes of the state.

Sec. 6-9.1. Same – Inspections prior to concealment.

When any part of a building system is to be hidden from view by the permanent placement of parts of the building, the person installing any concealed building systems shall so notify the inspector and such parts of the installation shall not be concealed until they have been inspected or approved.

Sec. 6-9.2. Same – Notice of defects.

If upon inspection of any building system, the building system is found to not be fully in compliance with this article, the inspector shall at once forward to the permit holder, a notice stating the defects which have been found to exist.

Sec. 6-9.3. Same – Periodic re-inspections; correction of defective conditions.

The inspector shall periodically make a thorough re-inspection of the installation of all permitted work; and when any permitted work completed has been found to be in a dangerous or unsafe condition, the persons owning, using, or operating the same shall be so notified in writing by the inspector and shall make the necessary repairs or change required to for such work to be in a safe condition and have such work completed within fifteen (15) days or any longer period specified by the inspector in said notice. The inspector is hereby empowered to disconnect or order the discontinuance of utility services to such structure, building, or systems so found to be defectively or improperly constructed or installed until such work have been made safe as directed by the inspector.

Sec. 6-10. Tradesman – License required.

It shall be unlawful for any plumber, electrician, or mechanical installer to perform any work that requires a permit within the City, without first obtaining a license from the State of Texas to engage in electrical, plumbing, or mechanical work and practice. Licensed tradesman must be the permit holders for any work required to be completed by a licensed tradesman.

Sec. 6-11. Conflict of codes with other regulations.

(a) The provisions of the building codes, and local amendments thereto, shall supersede other ordinances, codes or regulations to the extent that such laws, ordinances, codes or regulations are inconsistent with the provisions of said codes; provided, that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance, or regulation which is more restrictive or establishes a higher standard than those provided in the building codes, and such more restrictive requirement or higher standard shall govern during the period in which it is in effect.

(b) In a case where a provision of the building codes is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire, safety, health, water supply or sewage disposal law or ordinance, or regulation adopted pursuant thereto, or other ordinance, code or regulation, the provision or requirement which is more restrictive or establishes the higher standard shall prevail.

Sec. 6-12. Conformity with other regulations.

(a) Installations, alterations and repairs to commercial or residential premises, manufactured homes, materials, assemblies, and equipment utilized in connection therewith, shall be reasonably safe to persons and property, and in conformity with applicable ordinances of the City and orders, rules and regulations issued by the authority thereof.

(b) Except as otherwise provided in this article, conformity of installations, alterations and repairs of commercial or residential premises, manufactured homes, materials, assemblies, and equipment utilized in connection with such buildings and structures, with the applicable requirements of the building codes adopted in Chapter 6, shall be prima facie evidence that such work, materials, assembly or equipment is reasonably safe to persons and property.

Sec. 6-13. Severability of provisions of code.

It is hereby declared that the several provisions of the building codes are separable, in accordance with the following:

- (1) If any court of competent jurisdiction shall judge any provisions thereof to be invalid, such judgment shall not affect any other provisions thereof not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall judge invalid the application of any provision thereof to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

Sec. 6-14. Penalties for violations of codes.

(a) Any person who shall violate any of the provisions of the building codes adopted under this Chapter, shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in Section 1-5 of the City of Brenham Code of Ordinances.

(b) Any person who allows or permits the use or occupancy of any building, structure or premises of which he is the owner, which is in violation of any provision of the building codes adopted under this Chapter shall likewise be punished.

Sec. 6-15. – Sec. 6-25. RESERVED.

ARTICLE II. BUILDING CODE

Sec. 6-26. Adoption of building code.

The International Building Code, being particularly the 2012 International Building Code, and all revisions thereto, save and except such portions as may hereinafter be amended, of which code not less than two (2) copies have been and are now filed at the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of all buildings and structures within the area of jurisdiction of the City.

Sec. 6-26.1. Same – Building code local amendments.

The following local amendments are made to the International Building Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting the following: the City of Brenham

Section 114.3 is deleted in its entirety.

Section 114.4 is deleted in its entirety.

Section 1612.3 is hereby amended by inserting the following: City of Brenham

Section 1612.3 is hereby amended by inserting the following: "Flood Insurance Study for Washington County, Texas and Incorporated Areas," dated August 16, 2011."

Section 3412.2 is hereby amended by inserting the following: [Effective date of ordinance adopting Building Code]

Section 107 is hereby amended by adding Section 107.6 to read as follows:

Building Plans, Applications and Permits

An application for a building permit shall be accompanied by a minimum of two (2) copies of a site plan and floor plan for all one-and two-family dwellings, commercial building and apartments five thousand (5,000) square feet or less. Large commercial and apartment buildings over five thousand (5,000) square feet, will require two (2) copies of a full set of plans, including plumbing, electrical, mechanical, structural, final topography, MEP site plans, and all architectural and engineering seals to accompany an application for a building permit. Utility requirements should be noted on all plans.

Site plan shall be in conformity with the City of Brenham's adopted Design Guidelines and Standards Specifications and will show:

- (1) Plan drawn to scale of not smaller than one" = 50' and labeled.
- (2) Plan must show dimension of all property lines.
- (3) All existing and proposed structures must be shown with building dimensions and distances from property lines.
- (4) Access must be shown with dimensions, shape and location.
- (5) All recorded public easements shall be shown and properly dimensioned.
- (6) Location and width of curbs, drainage ditches, sidewalks and right-of-ways.
- (7) Parking areas must be shown and dimensioned.
- (8) Proposed finished floor elevation and top of curb elevation shall be noted.

The floor plan shall include the proposed utility requirements for the structure. Plan review will be completed within ten (10) working days after submission of plans on most applications. Larger projects may take longer. After review, individual permits will be issued for building, electrical, mechanical, plumbing, fire system and irrigation phases. Each individual contractor shall be responsible for inspection of his work. All plumbing, mechanical, fire system and irrigation contractors must show appropriate state license and proof of insurance. All electrical contractors shall have a current state license and all employees must have proper journeyman or apprentice license on job. All extensions, taps, permit fees or deposits shall be paid at the time the permit is issued.

Prior to construction, the contractor or owner shall verify with the City all utility locations and depths. The contractor shall be responsible for placing a string line on a minimum of two (2) property lines, the front and one side. The building inspector may request string lines on additional property lines. These string lines shall be in place at the time of the foundation inspection.

All alterations to building layout, electrical, mechanical, plumbing and structural must have amended drawings and city approval prior to construction.

The property owner is responsible for location of property lines and underground utilities. Fences shall not obstruct drainage or redirect drainage on adjacent property. Any fence along or across an easement may be removed by utility personnel. The City is not required to reconstruct any fences inside of utility easements.

All retainer wall construction requires written approval of the City prior to construction. All cut and/or fill on an improved property requires written city approval prior to work.

A certificate of occupancy will be issued at the completion of all new construction by the City building department. Permanent service will be connected upon issuance of the certificate of occupancy. No occupancy of the building will be allowed prior to the issuance of the certificate of occupancy. No exceptions will be made without written consent of the City Building Official.

Section 1507.8 is hereby amended in its entirety to read as follows: Wooden roof covering materials are forbidden.

Section 1507.9 is deleted in its entirety.

Section 2308.9 is hereby amended in its entirety to read as follows: Walls and partitions shall be constructed in accordance with the applicable provisions of Sections 2308.9.1 through 2308.9.4.2. In walls containing Plumbing Drain, Waste & Vent lines all framing members shall be 2 inch by six inch (2 x 6) or larger.

Section 2303.1.1 is hereby amended in its entirety to read as follows: Sawn lumber used for load-supporting purposes, including end-jointed or edge-glued lumber, machine stress-rated or machine-evaluated lumber, shall be identified by the grade mark of a lumber grading or inspection agency that has been approved by an accreditation body that complies with DOC PS 20 or equivalent. Grading practices and identification shall comply with rules published by an agency approved in accordance with the procedures of DOC PS 20 or equivalent procedures. Utility grade lumber shall not be used for joists, rafters or vertical framing.

Section 105 is hereby amended by adding Section 105.8 to read as follows: If work done on a building/structure cumulatively within any 12-month period constitutes a "substantial improvement" (as defined in the City's flood damage prevention ordinances, e.g., Section 8 ½ -5 of this Code), the owner shall—to the extent reasonably practicable—make the building comply with current code provisions for new construction regarding: (i) structural components (except foundations) and (ii) life safety features (hand and guard rails, smoke alarms, carbon monoxide alarms, safety glazing, ground fault circuit interrupters, arc-fault combination breakers, emergency egress from sleeping rooms, locking devices on required egress components, etc.). To determine the "market value" of a pre-existing building, the most current tabulation of square foot construction costs published by the International Code Council (usually as part of "Building Valuation Data." see e.g., www.iccsafe.org/cs/techservices) shall be used.

Section 105 is hereby amended by adding Section 105.9 to read as follows: If a building is "substantially damaged" (as defined in the City's flood damage prevention ordinances, e.g., Section 8 ½ -5 of this Code), the owner shall cause it to be: (i) secured to prevent entry by unauthorized persons, within 24 hours after all embers are extinguished (or other damaging occurrence has ended) and (ii) either demolished (in accordance with Chapter 8 ½ of this Code) or rebuilt in conformity with applicable technical codes as though it were a new building. Normal permits (including certificate of occupancy) are required. Work to demolish or rebuild must begin within 60 days following the date the occurrence ends and must be completed within a reasonable time, but not longer than the time allowed by the applicable permit(s). To determine the "market value" of a pre-existing building, the most current tabulation of square foot construction costs published by the International Code Council (usually as part of "Building Valuation Data," see, e.g., www.iccsafe.org/cs/techservices) shall be used.

Section 110.3.1 is hereby amended in its entirety to read as follows: Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job. Form Surveys performed by a Texas Registered Professional Licensed Surveyor are required to be submitted prior to approval of foundation inspection.

Section 110.3.2 is hereby amended in its entirety to read as follows: Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor. Form Surveys performed by a Texas Registered Professional Licensed Surveyor are required to be submitted prior to approval of foundation inspection.

Sec. 6-27 – Sec. 6-29. RESERVED.

ARTICLE III. ELECTRIC CODE

Sec. 6-30. Adoption of National Electric Code (NEC) 2014 Edition.

The National Electric Code, being particularly the 2014 National Electric Code, and all revisions thereto, save and except such portions as may hereinafter be amended, of which code not less than two (2) copies have been and are now filed at the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

Sec. 6-30.1. Electrical Code local amendments.

The following local amendments are made to the National Electric Code, 2014 Edition, as adopted by the City of Brenham:

Section 422.40 is hereby amended in its entirety to read as follows:

422.40 Polarity in Cord-and Plug-Connected Appliances.

- (A) If the appliance is provided with a manually operated, line-connected, single-pole switch for appliance on-off operation, an Edison-base lamp holder, or a 15- or 20-ampere receptacle, the attachment plug shall be of the polarized or grounding type. A 2-wire, non-polarized plug shall be permitted to be used on a listed double-insulated shaver.

- (B) Window air conditioners. All window air conditioning units, whether to be operated on 110vac or 220vac current, shall be installed with and bonded to a polarized plug, and Number 10 AWG wire minimum for 220vac shall be used in bonding said air conditioning unit to the said polarized plug.

Article 110 is hereby amended by adding Section 110.80 to read as follows:

110.80 Meters.

- (A) Tiers. On apartment buildings, where space limitations will not permit placing all meters at the same height, they may be arranged in two tiers, with the openings for the meter dials in lower tier as near as practicable to five feet above mean ground level and second tier placed as near as practicable above the first. Where space limitations will not permit placing of meter cabinets as outlined above, the electric public service company, subject to the approval of the building official, may determine the arrangement to be used. All service outlets shall be located so as to permit placing the electric public service company's service wires on the wall of the building next to the supply.
- (B) Street side meters. The electric public service company shall never require the placing of the meter on the front or street side of a building, without the written consent of the owner, and where not practical in the opinion of the building official to place metering devices on the exterior of the building, said location shall be at a point, or points, convenient to the electric public service company's service as determined by the building official.

(c) Minimum size of service conduit.

Service conduit for any occupancy shall not be smaller than 1.25 inches, unless specifically approved otherwise by the building official.

Article 110 is hereby amended by adding Section 110.81 to read as follows:

110.81 Distribution system limitation.

For the purpose of this article, the distribution system of any person furnishing electric power shall not extend to any property which such person does not own in fee simple or control by easement.

Article 110 is hereby amended by adding Section 110.82 to read as follows:

110.82 Tampering with fuses, circuit breakers.

It shall be unlawful for any person:

- (A) To bridge, tamper with or change from its original installation (except upon the approval of the building official, and then only after a proper permit for alteration has been issued) any fuse of the plug, cartridge type or link type installed in panel boards, main switches or switchboards;
- (B) To alter or change circuit breakers so that the original calibration will be affected;
or
- (C) To tie down or secure any circuit breaker so that it will not function properly.

Section 210.52 is hereby amended by adding subsection (E)(4) to read as follows: Switches and equipment installed on the outside of the building in a recess in the outside wall and covered by a door as part of the building structure shall be considered as being on the exterior of the building and exposed to the weather.

Section 230.42 is hereby amended by adding subsection (D) to read as follows:

(D)Service entrance conductors.

In any residence, apartment, apartment house, commercial building or other building of whatsoever character now existing or to be constructed within the City, all service entrance conductors, including underground conductors, shall have a minimum current-carrying capacity of 150 amperes. On buildings with existing service, this requirement shall apply when:

- (1) Load is added or modified;
- (2) An existing service is found to be inadequate for demand;
- (3) An unsafe condition exists; or
- (4) When replacing main service panel, all-service disconnect, service riser, or service underground lateral.

Exception: Existing dwellings with a framed area of less than 1,500 square feet may have conductors with a minimum current-carrying capacity of 125 amperes.

Article 230 is hereby amended by adding Section 230.56.1 to read as follows:

230.53.1 All-service disconnect.

In every building now existing or to be constructed within the City, there must be an "all-service disconnect" accessible on the outside of the building and located as close as practicable to the meter. It shall consist of one switch or circuit breaker having a continuous current rating of no less than 150 amperes. On buildings with existing service, this requirement shall apply when load is added or modified or whenever an unsafe condition exists or when replacing main service panel, all-service disconnect, service riser or service underground lateral. Exception: Existing dwellings with a framed area of less than 1,500 square feet may have a main "all-service disconnect" with a minimum continuous current rating of 125 amperes.

Article 300 is hereby amended by adding Section 300.51 to read as follows:

300.51 Wires, cables, conductors and circuits.

- (A) Wires, cables and conductors. Notwithstanding any other code provision or ordinance to the contrary, it shall be unlawful for any person to install or use any of the following in connection with electrical work for any structure in the City:
- (1) Any wire other than solid or stranded copper;
 - (2) Any wire smaller than gauge 12 AWG;
 - (3) Any wire without a separate ground, either in the same cable or in the same conduit;
 - (4) Armored cable, type A/C;
 - (5) MC cable, unless the exterior armor is color-coded its entire length by the manufacturer to distinguish it from other flexible metallic conduit systems;
 - (6) Nonmetallic sheathed cables, as listed in article 334 of the NEC, but this prohibition only applies to multifamily dwellings with more than one floor above grade; or
 - (7) Nonmetallic sheathed cables, as listed in article 334 of the NEC, except in buildings used and occupied exclusively for residential purposes (without any nonresidential occupancies or mixed uses, even if only accessory or incidental).
- (B) Circuits. Notwithstanding any other code provision or ordinance to the contrary, it shall be unlawful for any person to install or use more than ten openings (outlets or fixtures) on any single electrical circuit for any structure in the City.

Article 110 is hereby amended by adding Section 110.83 to read as follows:

110.83 Grounding, GFCIs, etc.

- (A) Supplemental grounding. On any new service or change-out service there must be a supplemental grounding electrode as specified in article 250.52(A) of the NEC, with the grounding electrode conductor sized per table 250.66 of the NEC.
- (B) Certain GFCIs. The ground-fault circuit-interrupter required for a hydro-massage shall not be located under such a bathtub and must be readily accessible as specified in 680.71.

Sec. 6-32. Same - Right of entry and disconnection of service.

The Building Official or his duly authorized assistant shall have the right to enter any building during reasonable hours in the discharge of his official duties and shall have the authority to cause the disconnection of any wiring or equipment, which such wiring or equipment in his judgment is dangerous to life or property, or may interfere with the work of the fire department.

Sec. 6-33. Meter loop specifications.

The National Electrical Code, being particularly the 2014 National Electrical Code, save and except such portions as may hereinafter be amended and the meter loop specifications of the Municipal Light and Power System of the City of Brenham, Texas, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling for all electrical work within the area of jurisdiction of the City. Not less than two (2) copies of said National Electrical Code, and meter loop specifications of the Municipal Light and Power System of the City, shall be filed in the office of the Building Official of the City.

Sec. 6-34. Modifications of code or meter loop specifications.

Any requirement deemed by the inspector necessary for safeguarding the hazards from fire and to life in connection with any electrical installation not specially covered by this article shall be determined by the inspector, subject to appeal to the board of appeals in the manner prescribed in Section 6-5.1.

Sec. 6-35. Approved materials, devices, appliances, apparatus.

It shall be unlawful to manufacture, sell or use any electrical materials, devices, appliances or apparatus which are not approved by the Underwriters' Laboratories, Inc., Chicago, Illinois, anywhere or anytime within the City.

Sec. 6-36. Allowing use of or furnishing electric current without inspection and certificate of approval prohibited.

In order to protect the lives of the citizens and the property of the citizens from the dangers incident to defective wiring of buildings and structures, it shall be unlawful for any person to allow any electrical current used for the purpose of producing light, heat or power in buildings or structures belonging to such person, to be turned on without first having had an inspection made of the wiring by the inspector and having received from the inspector a certificate of occupancy approving the wiring of such building, unless otherwise provided in this Article.

It shall be unlawful for any person engaged in the business of selling electricity to furnish any electrical current for use for light, heat or power purposes in any building or structure of any person, unless the building or structure has first been inspected by the inspector and a certificate of occupancy given as hereinafter provided, unless otherwise authorized in this article.

Sec. 6-37. Re-inspection and correction in certain knob and tube systems; protection for exterior switches and fuse cabinets.

Whenever the service wires of a so-called knob and tube system are disconnected or electrical services disconnected to and in any commercial building or any building in the first fire district which has been vacated for any period in excess of thirty (30) days, the service shall not again be connected until same has been wired so as to conform to this article, subject to any special conditions as approved by the electrical inspector.

All switches or fuse cabinets mounted on the exterior of any buildings must be of an approved weatherproof type.

Whenever old work is found in the following instances, the Building Official may refuse or disconnect permanent electric service until compliance with the 2014 National Electric Code is completed. The instances shall be when:

1. Wiring smaller than gauge 12 SWG is found;
2. Wire lacking a separate ground is found; or
3. Any structure having more than ten openings on a single circuit.

Sec. 6-38. Advertising on light and telephone poles and wires; wires under sheds, etc.

(a) It shall be unlawful for any person to place or allow to be placed any advertising cards or posters or other light material on any electric, telephone or telegraph poles within the City.

Sec. 6-39. Electric policy and construction standards.

(a) Adopted. The following electric policy and construction standards are hereby adopted by reference as though they were copied herein fully; Electric Policy and Construction Standards of the City of Brenham, Texas.

(b) Copy on file. An official copy of the Electric Policy and Construction Standards of the City of Brenham, Texas, shall be kept on file in the Office of the City Secretary, which shall be available for the public to review.

(c) Contrary provisions. Any matters in the Electric Policy and Construction Standards of the City of Brenham, Texas, which are contrary to existing ordinances of the City shall prevail, and, to that extent, any existing ordinances to the contrary are hereby repealed in that respect only.

(d) Duties of officials. Within said electric policy and construction standards of the City, when reference is made to the duties of certain officials named therein, the designated official in the City of Brenham who has duties corresponding to those of the named official shall act insofar as the enforcement of the provisions of said policy and standards are concerned.

Sec. 6-40 – Sec. 6-49. RESERVED.

ARTICLE IV. GAS.

Sec. 6-50. Adoption of code.

The International Fuel and Gas Code, being particularly the 2012 International Fuel Gas Code (IFGC), save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been made and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

Sec. 6-50.1. Same – Gas code local amendments.

The following local amendments are made to the International Fuel and Gas Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 106.6 is deleted in its entirety.

Section 108.3 is deleted in its entirety.

Section 108.4 is deleted in its entirety.

Section 108.5 is hereby by amended in its entirety to read as follows: Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Section 108.7 is hereby by amended in its entirety to read as follows: The code official shall have the authority to require disconnection of utility service to the building, structure or system regulated by the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The code official shall notify the serving utility, and wherever possible, the owner and occupant of the building, structure or service system of the decisions to disconnect prior to taking such action. If not notified prior to disconnection, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practicable thereafter.

Section 108.7.1 is hereby by amended in its entirety to read as follows: A person shall not make energy source connections to installations regulated by this code which have been disconnected or ordered to be disconnected by the code official, or the use of which has been ordered to be discontinued by the code official until the code official authorizes the reconnection and use of such installations. When an installation is maintained in violation of this code, the code official shall institute appropriate action to prevent, restrain, correct or abate the violation.

Section 108.7.2 is deleted in its entirety.

Section 108.7.3 is deleted in its entirety.

Section 403 is hereby amended by adding Section 403.14 to read as follows:

Even if otherwise permitted by this code:

1. All gas piping shall be SCH 40 black iron pipe, copper, brass or aluminum tubing or piping shall not be used in the City.
2. Thermo plastic pipe may be used for gas lines only if it: (i) meets ASTM D2513 (or equivalent, or better), (ii) is identified by proper markings and (iii) is installed with a locator wire (No. 12 gauge insulated solid copper wire).
3. Thermo plastic pipe shall terminate above ground outside of buildings and be installed in pre-manufactured anodeless risers or service head adapter risers, all in accordance with the manufacturer's installation instructions.

Section 406.4 is hereby amended in its entirety to read as follows: Low pressure (not to exceed 0.5 PSI) gas piping shall withstand a pressure of at least 10 inches of mercury on a manometer for a period of time not less than 10 minutes without showing any drop in pressure, except that the following shall apply in the case of new construction: The newly-constructed system must withstand a pressure of at least 25 PSI, spring gage here is acceptable, for a period of not less than 10 minutes without showing any drop in pressure as an initial pressure test, i.e. rough-in, and the system must also withstand a pressure test of 10 inches of mercury on a manometer gage as a final test. Higher pressure piping systems must withstand pressure of at least 10 PSI, but never less than twice the maximum pressure to which the piping will be subjected in operation, for a period of at least 10 minutes without showing a drop in pressure. The manometer under test conditions shall not be pressured more than 50% of the gage maximum pressure, i.e. a 10 psi test would require a 20 psi manometer gage.

Section 306.3 is hereby amended in its entirety to read as follows: There must be a permanently-installed stairway, either fixed or folding, to serve attic space where appliances or equipment are located. The opening must be at least 25.5" x 54", and any folding staircase must be rated for at least 350 pounds capacity and at least 20 minutes fire resistance and large enough to remove the largest appliance installed there in.

Section 402 is hereby amended by adding Section 402.7 to read as follows: Each new or replaced gas meter shall be located on the same lot/property that it serves.

Sec. 6-51. Cut-off valve.

- (a) All gas service lines on the customer's property will be required to be equipped, ahead of the gas meter assembly, with an approved type, flat ahead-lock pattern, cut-off valve to permit sealing of the valve by authorized city personnel in order to prevent any flow of gas or prevent opening of said valve by persons other than authorized city personnel.

- (b) All gas piping on customer's premises where installed for connection of a range; water heater; space heater; and the like; will be required to be provided with an approved type cut-off valve, installed in the line and directly ahead of the above referred to appliances.

Sec. 6-52 – Sec. 6-55. RESERVED.

ARTICLE V. INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 6-56. Adoption of code.

The International Property Maintenance Code, being particularly the 2012 International Property Maintenance Code (IPMC), save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been made and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

Sec. 6-56.1. Same – Property Maintenance code local amendments.

The following local amendments are made to the International Property Maintenance Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 103.5 is deleted in its entirety.

Section 106 is deleted in its entirety.

Section 107 is deleted in its entirety.

Section 108 is deleted in its entirety.

Section 110 is deleted in its entirety.

Section 111 is deleted in its entirety.

Section 112.4 is deleted in its entirety.

Section 302.4 is hereby amended by inserting: twelve (12) inches

Section 302.8 is deleted in its entirety.

Section 304.14 is hereby amended in its entirety to read as follows: Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

Section 602.3 is hereby amended in its entirety to read as follows: Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Exceptions: 1) When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code; and 2) In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

Section 602.4 is hereby amended in its entirety to read as follows: Indoor work spaces to be occupied shall be supplied with heat to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied. Exceptions: 1) Processing, storage and operation areas that require cooling or special temperature conditions; and 2) Areas in which persons are primarily engaged in vigorous physical activities.

Sec. 6-57 – Sec. 6-60. RESERVED.

ARTICLE VI. INTERNATIONAL PLUMBING CODE

Sec. 6-61. Adoption of code.

The International Plumbing Code, being particularly the 20012 International Plumbing Code (IPC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, installation, extension, or repair of all plumbing, plumbing fixtures and plumbing systems within the area of jurisdiction of the City.

Sec. 6-61.1. Same – Plumbing code local amendments.

The following local amendments are made to the International Plumbing Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 106.6.2 is deleted in its entirety.

Section 106.6.3 is deleted in its entirety.

Section 108.3 is deleted in its entirety.

Section 108.4 is deleted in its entirety.

Section 108.5 is hereby amended in its entirety to read as follows: Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Section 605 is hereby amended by adding Section 605.26 to read as follows:

Even if otherwise permitted by the IPC: Acrylonitrile-Butadiene-Styrene (ABS) pipe and fittings, Type M copper, lead- based pipe, aluminum DWV pipe and components are not approved materials for use.

Section 918 is hereby amended by adding 918.9 to read as follows: Air admittance valves are only approved for use in an unenclosed structure, i. e. outdoor kitchen.

Section 604.1 is hereby amended in its entirety to read as follows: The design of the water distribution system shall conform to accepted engineering practice. Methods utilized to determine pipe sizes shall be approved. Any manifold system shall not be located on a wall shared with a garage unless it does not penetrate the garage wall.

Section 605 is hereby amended by adding Section 605.26 to read as follows:

Even if otherwise permitted by the IPC:

1. PVC type water pipe and fittings are not allowed for use in the City. Exceptions: (A) Schedule 40 meeting ASTM D1785 (or better) PVC water pipe may be used where permitted by the IPC, but only if: (i) it is installed underground (but see paragraph "b" requiring selected material in some locations) or as pool piping, (ii) all joints are primed and glued as required by the manufacturer's recommendations (and the primer must be purple or another distinctive color, except on above-ground pool piping), and (iii) it is identified by proper markings. (B) This section does not apply to irrigation systems.

2. All water lines under a slab on grade must be copper Type L, K or PEX, no joints. Each water line under, in or through a slab on grade must be sleeved with a continuous piece of tubing at least 0.025 inches thick terminating at least six inches above the finished floor.
3. Irrigation systems must meet these criteria: (i) Schedule 40 PVC material meeting ASTM D1785 (or better) must be used for pressure lines, i.e. up to the valves. (ii) Class 160 PVC material (or better) must be used for field lines. (iii) All lines shall be buried at least six inches below grade. Note: The City is not responsible for irrigation system components located in street areas or easements (and special permits may be required to install such components in those locations).
4. Underground water service piping must be buried at least 12 inches below grade.
5. PVC drain, waste or vent pipe and fittings must be Schedule 40 meeting ASTM D2665 (or better) and identified by proper markings. Exception; Area drain piping may be SDR 35 PVC.

Section 916.3 is hereby amended in its entirety to read as follows: The vent located below the flood level rim of the fixture being vented shall be installed below the floor using drainage pattern fittings with a fall of not less than one-quarter inch (1/4") per foot to the drain. The vent shall be sized in accordance with Section 906.2 with 2" diameter pipe being the minimum. The lowest point of the island fixture vent shall connect full size to the drainage system. The vent or branch vent shall extend as high as practicable, but not below the drain board. There shall be a vent loop at the top of the fixture riser. The fittings shall prevent a horizontal segment at the top of the loop. Cleanouts shall be provided in the island fixture drain and vent to permit rodding of all piping located below the flood level rim of the fixtures. Rodding in both directions shall be permitted through a clean out.

Section 1101.2 is hereby amended in its entirety to read as follows: The provisions of this chapter are applicable to interior leaders, building storm drains, building storm sewers, exterior conductors, downspouts, roof gutters and other storm drainage fixtures and facilities.

Section 603.1 is hereby amended in its entirety to read as follows: The water service pipe shall be sized to supply water to the structure in the quantities and at the pressures required in this code. The water service pipe shall be not less than 3/4 inch (19.1 mm) in diameter. Maximum water meter size, unless a Registered Professional Engineer can clearly and convincingly demonstrate the need for a larger meter in a particular case, is: 1-inch for an irrigation system, or 1-inch for a single-family dwelling

Sec. 6-62. Cross-connection control program.

- (a) General. No water service connection shall be made to any establishment where a potential or actual contamination hazard exists unless the water supply is protected in accordance with the Texas Commission on Environmental Quality (TCEQ) Rules and Regulations for Public Water Systems (290 Rules) and this section. The water purveyor shall discontinue water service if a required backflow prevention assembly is not installed, maintained and tested in accordance with the 290 Rules and this section.

(b) Backflow prevention assembly installation, testing and maintenance.

- (1) All backflow prevention assemblies shall be tested upon installation by a licensed backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester.
- (2) All backflow prevention assemblies shall be installed and tested in accordance with the manufacturer's instructions, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14) or the University of Southern California Manual of Cross-Connection Control.
- (3) Assemblies shall be repaired, overhauled, or replaced at the expense of the customer whenever said assemblies are found to be defective. Original forms of such test, repairs, and overhaul shall be kept and submitted to the City within five (5) working days of the test, repair or overhaul of each backflow prevention assembly.
- (4) No backflow prevention assembly or device shall be removed from use, relocated, or other assembly or device substituted without the approval of the city. Whenever the existing assembly or device is moved from the present location or cannot be repaired, the backflow assembly or device shall be replaced with a backflow prevention assembly or device that complies with this section, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current addition, University of Southern California Manual of Cross-Connection Control, current addition, or the current plumbing code of the City, whichever is more stringent.
- (5) Test gauges used for backflow prevention assembly testing shall be tested for accuracy at least annually in accordance with the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current addition, or the University of Southern California's Manual of Cross-Connection Control, current addition. The original calibration form must be submitted to the City within five (5) working days after calibration.
- (6) A recognized backflow prevention assembly tester must hold a current endorsement from the Texas Natural Resource Conservation Commission (Commission).

(c) Customer service inspections.

- (1) A customer service inspection shall be completed prior to providing continuous water service to all new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.

- (2) Only individuals with the following credentials shall be recognized as capable of conducting a customer service inspection:
 - a. Plumbing inspectors and water supply protection specialists that have been licensed by the Texas State Board of Plumbing Examiners.
 - b. Customer service inspectors that have been licensed by the Texas Commission on Environmental Quality (TCEQ).
- (3) The customer service inspection must certify that:
 - a. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by a properly installed air gap or an appropriate backflow prevention assembly.
 - b. No cross-connection between the public water supply and a private water source exists. Where an actual properly installed air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed and a service agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester.
 - c. No connection exists which allows water to be returned to the public drinking water supply is permitted.
 - d. No pipe or pipe fitting which contains more than eight (8) per cent lead may be used for the installation or repair of plumbing at any connection that provides water for human use.
 - e. No solder or flux which contains more than 0.2 per cent lead can be used for the installation or repair of plumbing at any connection that provides water for human use. A minimum of one (1) lead test shall be performed for each inspection.

Sec. 6-63 – Sec. 6-65. RESERVED.

ARTICLE VII. ENERGY CODE

Sec. 6-66. Adoption of code.

The International Energy Conservation Code, being particularly the 2012 International Energy Conservation Code (IECC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

Sec. 6-66.1. Same – Energy code local amendments.

The following local amendments are made to the International Energy Conservation Code, 2012 Edition, as adopted by the City of Brenham:

Sections C101.1 and R101.1 are hereby amended by inserting: the City of Brenham

Sections C108.4 and R108.4 are deleted in their entirety.

Section C104.5 is hereby amended in its entirety to read: The code official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability. In lieu of inspection by City employees, the building official may require a written certification that a building meets or exceeds minimum requirements, if the certification is: (i) signed by a code-certified inspector (as defined in V.T.C.A., Health and Safety Code § 388.02) not employed by the City, and (ii) accompanied by an approved inspection checklist, properly completed, signed and dated by the inspector. If the fees of the code-certified inspector are paid by the City, the amount shall be added to the building permit fees otherwise payable. With approval from the building official, a permittee may pay such fees directly to an independent inspection firm. Only code-certified inspectors or inspectors as approved by the currently adopted edition of the IECC may perform inspections and enforce this code in the City. A copy of all approved inspections, rough-in and final shall be provided to the City prior to final inspections being requested.

Sec. 6-67 – Sec. 6-70. RESERVED.

ARTICLE VIII. MECHANICAL CODE

Sec. 6-71. Adoption of code.

The International Mechanical Code, being particularly the 2012 International Mechanical Code (IMC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

Sec. 6-71.1. Same – Mechanical code local amendments.

The following local amendments are made to the International Mechanical Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 106.5 is deleted in its entirety.

Section 108.3 is deleted in its entirety.

Section 108.4 is deleted in its entirety.

Section 108.5.5 is hereby amended in its entirety to read as follows: Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Section 306.3 is hereby amended in its entirety to read as follows: Attics containing appliances shall be provided with an opening and unobstructed passageway large enough to allow removal of the largest appliance. The passageway shall not be less than 30 inches (762 mm) high and 22 inches (559 mm) wide and not more than 20 feet (6096 mm) in length measured along the centerline of the passageway from the opening to the appliance. The passageway shall have continuous solid flooring not less than 24 inches (610 mm) wide. A level service space not less than 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present at the front or service side of the appliance. The clear access opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), and large enough to allow removal of the largest appliance. There must be a permanently-installed stairway, either fixed or folding, to serve attic space where appliances or equipment are located. The opening must be at least 25.5" x 54", and any folding staircase must be rated for at least 350 pounds capacity and at least 20 minutes fire resistance and large enough to remove the largest appliance installed there in.

Exceptions:

1. The passageway and level service space are not required where the appliance is capable of being serviced and removed through the required opening.
2. Where the passageway is unobstructed and not less than 6 feet (1829 mm) high and 22 inches (559 mm) wide for its entire length, the passageway shall be not greater than 50 feet (15 250 mm) in length.

Sec. 6-72 – Sec. 6-75. RESERVED.

ARTICLE IX. RESIDENTIAL CODE

Sec. 6-76. Adoption of code.

The International Residential Code, being particularly the 2012 International Residential Code (IRC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

Sec. 6.76.1. Same – Residential code local amendments.

The following local amendments are made to the International Residential Code, 2012 Edition, as adopted by the City of Brenham:

All amendments and deletions to the other "International Codes" adopted by this Schedule are also carried forward and adopted as amendments to or deletions from the International Residential Code, 2012 Edition.

This code does not apply to installation and maintenance of electrical wiring and related components. See National Electrical Code.

Section R101.1 is hereby amended by inserting: the City of Brenham

Section R113.3 is deleted in its entirety.

Section R113.4 is deleted in its entirety.

Table R301.2 (1) is hereby amended in its entirety to read as follows:

Table R301.2(1). Climatic and Geographical Design Criteria Page 3-3			
Ground snow load:	0 [per figure R301.2(5)]	Air freezing index:	50 BF days
Wind speed (mph):	100 (3-second gust) [per figure R301.2(4)A]	Mean annual temperature:	68° F
Seismic design category:	A [per figure R301.2(2)]	Subject to damage from weathering:[per figure R301.2(3)]	Negligible
Winter design temperature:	32° F [appendix D of the IPC, Houston] [per figure R302.2(1)] Local Data if more accurate	Frost line: [per figure R301.2(8)]	5"
Ice shield underlayment:	Not required	Termite: [per figure R301.2(6)]	Very heavy
Flood hazards:	Map effective date: August 16, 2011 Community Number 480648 Panel numbers: 0295C 0300C 0315C 0450C	Decay:	Mod. to severe

Section P2603.5.1 is hereby amended in its entirety to read as follows: Building sewers that connect to private sewage disposal systems shall be a not less than twelve (12) inches below finished grade at the point of septic tank connection. Building sewers shall be not less than twelve (12) inches below grade.

Section P3103.1 is hereby amended in its entirety to read as follows: Open vent pipes that extend through a roof shall be terminated not less than twelve (12) inches above the roof or twelve (12) inches above the anticipated snow accumulation, whichever is greater, except that where a roof is to be used for any purpose other than weather protection, the vent extension shall be run not less than 7 feet above the roof.

Sec. 6-77 – Sec. 6-80. RESERVED.

ARTICLE X. EXISTING BUILDING CODE

Sec. 6-81. Adoption of code.

The International Existing Building Code, being particularly the 2012 International Existing Building Code (IEBC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the City.

Sec. 6-81.1. Same – Existing building code local amendments.

The following local amendments are made to the International Existing Building Code, 2012 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 113.3 is deleted in its entirety.

Section 113.4 is deleted in its entirety.

Section 1401.2 is hereby amended by inserting: December 31, 2014

Sec. 6-82 – Sec. 6-85. RESERVED.

ARTICLE XI. SWIMMING POOLS

Sec. 6-86. Definition.

A swimming pool within the meaning of this section shall be any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, and either above or below the ground which contains water of more than twenty-four (24) inches in depth and which is used primarily for the purpose of bathing or swimming.

Sec. 6-87. Installation of new pools and compliance of existing pools.

- (a) It shall be unlawful for any person to construct, install or enlarge a swimming pool in the city limits not enclosed in a permanent building with self-closing, self-latching doors, except in accordance with the following regulations.
- (b) It shall be unlawful for any person who owns an indoor swimming pool within the City limits on the effective date hereof to maintain such swimming pool without self-closing, self-latching doors leading directly to the pool area after September 1, 1991.
- (c) It shall be unlawful for any person who owns an outdoor swimming pool within the City limits on the effective date hereof to maintain such swimming pool without fences as provided in Section 6-146 after September 1, 1991.

Sec. 6-88. Permit.

It shall be unlawful for any person to construct, install, enlarge or alter any private swimming pool unless a building permit has first been obtained from the building inspector. The permit fee shall be paid per fee schedule. Application shall be on forms provided by the building inspector and shall be accompanied by plans drawn to scale showing the following:

- (1) Pool dimensions and volume of water in gallons;
- (2) Location and type of waste disposal system;
- (3) Location of pool on lot, distance from lot lines and distance from structure;
- (4) Fencing and landscape plan, or a combination thereof; and
- (5) Specifications on gate latching.

Sec. 6-89. Construction requirements.

- (a) All pools located, erected, enlarged, or constructed within the City of Brenham shall conform to the following requirements:
 - (1) A minimum five-foot rear and side yard is required;
 - (2) A minimum twenty-five-foot front yard and a fifteen-foot side yard on corner lots is required, or pools must be located behind the established building lines of the principle structure located on the lot, whichever distance is greater;
 - (3) Pools must be a minimum of five (5) feet from any structure to allow access for emergency rescue operations; and
 - (4) All measurements are taken from the outermost edge of the pool coping.
- (b) Any connection to the City's sewer system shall include a suitable gap or backflow prevention device to prevent contamination of the pool by the sewer.
- (c) Gaseous chlorination system shall not be used as a disinfection method for pool waters. The building inspector shall recommend a proper disinfectant.
- (d) Any connection to the City's potable water system shall be protected by a suitable air gap or approved backflow prevention device.

Sec. 6.90. Fence.

- (a) Pools within the scope of this section or not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool and shall not be less than four (4) feet in height, so constructed as not to have voids, holes or openings larger than four (4) inches in one dimension. Gates or doors shall be equipped with a self-closing and self-latching childproof device for keeping the gate or door securely closed at all times when not in actual use. Such latch shall be installed at a minimum height of four (4) feet or the top of the fence. Gates or doors may be disabled from use to the satisfaction of the City Manager or his designee in lieu of a self-closing and self-latching device. The location of fencing required shall be subject to all other applicable ordinances. No fence shall be located, erected, constructed or maintained closer than three (3) feet to a pool. The wall of the house or building faced to a pool may be incorporated as a portion of such fence.
- (b) Aboveground pools with self-provided fencing to prevent unguarded entry will be allowed without separate additional fencing, providing the self-provided fence is of four-foot required height and design as heretofore specified.
- (c) Permanent access from grade to aboveground pools having stationary ladders, stairs or ramps shall have not less than equal safeguard fencing and gates.

Sec. 6-91. Pool covers.

Pools which have a maximum depth of four (4) feet or less may be covered in lieu of a fence to comply with these requirements.

Sec. 6-92. Other regulations.

No pool shall be so operated or maintained as to create a nuisance, a hazard, an eyesore or otherwise to result in a substantial adverse effect on neighboring properties, or to be in any other way detrimental to public health, safety and welfare.

Sec. 6-93. Maintenance.

A swimming pool or swimming pools shall be disinfected and maintained in a sanitary manner. The health inspector may inspect or cause to be inspected each private swimming pool maintained in the City.

Sec. 6-94. Pool safety equipment.

Each pool shall maintain at least one floating throw-ring and rope and/or one rescue pole per pool. Such equipment shall be maintained in good working order.

Sec. 6-95. Penalty.

Any person who shall violate any provision of this article, shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in Section 1-5 of the City of Brenham Code of Ordinances.

Sec. 6-96 – Sec. 6-99. RESERVED.

SECTION 2.
EFFECTIVE DATE

This ordinance shall take full force and effect, after its passage and approval, on December 31, 2014, and as provided by the Charter of the City of Brenham, Texas.

SECTION 3.
REPEALER

All ordinances inconsistent with this ordinance are hereby repealed except that the amendments to the codes specified in the code of Ordinance, City of Brenham, Texas are incorporated herein by reference.

SECTION 4.
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 5.
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 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 18th day of September, 2014.

PASSED and APPROVED on its second reading this the 9th day of October, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 12

DATE OF MEETING: October 9, 2014	DATE SUBMITTED: September 25, 2014	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Grant Lischka	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Development Agreement Between the City of Brenham, the Brenham Community Development Corporation (BCDC) and John F. Beckendorf for the Future Development of Fritz Beckendorf Road and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: Mr. John Beckendorf approached the City regarding securing access to Blue Bell Road for his property located at US Highway 290 East and Taden Lane approximately two years ago. Concerns regarding incompatible development with access to the Brenham Business Center lead to the negotiation of a Development Agreement.		
Components of the Agreement with Mr. Beckendorf include: (1) making utilities available to the site (utilities have already been promised at the time the land within the Brenham Business Center was purchased from the Beckendorf's); (2) over-size cost participation of the proposed right-of-way from local street standards to collector street standards; (3) prohibition of metal buildings and architectural approval by the BCDC design committee; (4) project vesting rights for development regulations in place at the date the agreement is executed; and (5) construction and dedication by the developer of Taden Lane to city street standards at the time of development.		
In addition to this Development Agreement, Mr. Beckendorf requested temporary access to his land from Blue Bell Road; until such time that his property develops. Therefore, you will also find in this packet a License Agreement granting Mr. Beckendorf access to his land from an existing curb cut and driveway. The location specified in the License Agreement (and shown on the exhibit) should protect the aesthetics of the Brenham Business Center since infrastructure exists at this location and 'tire tracks' would not be created. This License Agreement is for informational purposes only and does not need specific approval by City Council since the City Manager is authorized to approve such agreements.		

Both the Development Agreement and the License Agreement are tri-party agreements between Mr. Beckendorf, BCDC, and the City of Brenham. The City is a party to the Development Agreement because of the connection to utilities and acceptance of the public right-of-way. The BCDC is responsible for dedicating the land to be used for the public right-of-way and enforcing the architectural controls as outlined in the agreement and Mr. Beckendorf (or his developer) is responsible for the design and construction of the road and all development costs on the property, according to the terms of the agreement. The Development Agreement is valid for 10 years.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS:

B. CONS:

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Development Agreement between the City, BCDC and Mr. Beckendorf, with Exhibits; and (2) License Agreement between Mr. Beckendorf and BCDC, with Exhibits

FUNDING SOURCE (Where Applicable): N/A

RECOMMENDED ACTION: Approve a Development Agreement between the City of Brenham, the Brenham Community Development Corporation (BCDC) and John F. Beckendorf for the future development of Fritz Beckendorf Road and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry K. Roberts

DEVELOPMENT AGREEMENT

**BETWEEN
BRENHAM COMMUNITY DEVELOPMENT CORPORATION,
THE CITY OF BRENHAM
AND
JOHN F. BECKENDORF**

DEVELOPMENT AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §

This Development Agreement ("Agreement") is between the Brenham Community Development Corporation ("BCDC"), the City of Brenham, a Texas home rule municipal corporation (the "City") and John F. Beckendorf ("DEVELOPER"). In this Agreement, the BCDC, the CITY, and DEVELOPER are sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS:

DEVELOPER owns approximately 39.50 acres of land (the "Land"), located within the corporate limits of the City, in Washington County, Texas (the "County"). The Land is that tract or parcel of land described in the deeds recorded in Volume 1131, Pages 705-717 of the Official Records of Washington County, Texas, and being more fully described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes. DEVELOPER desires that the Land be governed by this Agreement.

DEVELOPER intends to develop the Land primarily for commercial uses, as provided herein, to serve the residents and property owners of the Land, as well as other residents of the City, the County, and members of the public in general. In this Agreement, the Land, as it will be developed, is sometimes referred to herein as the "Project."

DEVELOPER, the BCDC and the City wish to enter into this Agreement to encourage innovative and comprehensive master-planning of the Land, provide certainty of regulatory requirements throughout the term of this Agreement, and to provide assurances of a high-quality development that will benefit the present and future residents of the City.

Therefore, for and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including the agreements set forth below, the BCDC, City, and DEVELOPER agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Definitions. Unless the context or the usage of the particular word or phrase requires a different interpretation, in addition to terms defined elsewhere herein, the following terms and phrases shall have the meanings indicated below:

Agreement: This Development Agreement between the BCDC, City, and DEVELOPER.

Applicable Fees: The fees and charges to be paid by DEVELOPER to the City with respect to the permits, utility extensions, services, development of the Land, and other fees as provided for in this Agreement or otherwise applicable to the Land.

Applicable Rules: The City ordinances, codes, rules, regulations and official policies in effect as of the Vesting Date, except as otherwise provided herein, which are applicable to the development of the Land.

Brenham Community Development Corporation (BCDC): A Type B Texas economic development corporation organized pursuant to Tex. Rev. Civ. Stat. Ann. art. 5190.6 §4B, as codified in Chapters 501 et seq. of the Texas Local Government Code.

City: The City of Brenham, Texas, a Texas home rule municipal corporation.

City Council: The City Council of the City of Brenham, Texas.

City Engineer: The Engineer for the City of Brenham, Texas.

City Manager: The City Manager of the City of Brenham, Texas, or the City Manager's designee.

County: Washington County, Texas.

DEVELOPER: John F. Beckendorf, and his heirs, successors and assigns under this Agreement.

Land: Approximately 39.50 acres of land, currently situated in the extraterritorial jurisdiction of the City of Brenham, Washington County, Texas. The Land is that tract or parcel of land described in the deeds recorded in Volume 1131, Pages 705-717 of the Official Records of Washington County, Texas, being more fully described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes.

Project: The Land and existing and future improvements thereto, as it will be developed under this Agreement and Applicable Rules.

Street System: shall mean the street system, including paved streets and roads, entrance streets, arterial streets, main feeder streets and internal streets that will serve the Land.

Term: The term of this Agreement, commencing on the Effective Date and continuing for ten (10) years thereafter.

Vesting Date: shall be the same date as the Effective Date of this Agreement.

ARTICLE 2

PUBLIC BENEFITS, INFRASTRUCTURE AND AMENITIES

2.1 **Orderly Growth**. The City desires that development within its corporate boundaries occur in an orderly manner in order to protect the health, safety and welfare of its present and future citizens, protect property values and provide for the growth of the City's tax base. This Agreement will benefit the City by facilitating the planned development of an appropriate area within the City's corporate boundaries, which will allow for thoughtful and high-quality planning, the development of necessary utility facilities and other infrastructure, the provision of other municipal services, and the development of a balanced community that includes commercial and residential uses.

2.2 **Restrictive Covenant**. DEVELOPER shall record a restrictive covenant in the Official Records of Washington County, Texas, providing that the obligations of this Agreement are covenants running with subsequent developers and/or owners of the Land.

ARTICLE 3 **WATER, WASTEWATER AND GAS**

3.1 **Extension of Public Utilities to the Land**. CITY will extend CITY'S water, wastewater and/or gas utility systems lines and facilities to the Land to serve the Project, in accordance with the Applicable Rules at the time of the extension, and according to plans approved by the City.

ARTICLE 4 **STREETS AND ROADS; LIGHTING**

4.1 **Street System**. The street system serving and situated within the Land shall be constructed as shown on the final plat of the Land, to be submitted to the City for review and approval at a later date in accordance with the City's subdivision regulations and other Applicable Rules. The street system shall be designed and constructed in accordance with the standards contained in the Applicable Rules. Upon DEVELOPER'S dedication of the street improvements to the City, and express written acceptance of the street improvements by the City, the City shall be responsible for the maintenance of the street improvements, except to the extent any maintenance or repairs are covered by fiscal security required by Applicable Rules.

4.2 **Street Lighting**. DEVELOPER shall install street lighting in the Project in accordance with Applicable Rules.

4.3 **Entrance Roads**. DEVELOPER shall design, construct and dedicate any and all onsite and offsite improvements related to any entrance road for ingress and egress to and from the Land from South Blue Bell Road and/or U. S. Highway 290 in compliance with all procedures, standards and requirements of Chapter 23, Subdivisions, Code of Ordinances, City of Brenham, Texas. DEVELOPER shall also adhere to the conceptual layout as shown on Exhibit "B" and all Applicable Rules in the design, construction and dedication of said entrance road improvements. BCDC agrees to dedicate to the City,

concurrently with the DEVELOPER'S platting of the adjacent Land, a sufficient amount of land for the DEVELOPER's construction of said entrance road to the Land from South Blue Bell Road. The City agrees to reimburse to DEVELOPER an amount equal to TWENTY PERCENT (20%) of the total costs incurred by the DEVELOPER for the design and construction of the entrance road or \$50,000.00, whichever amount is less, for the over-sizing of the entrance road to the Land from a local street design to a collector street design from South Blue Bell Road. Said reimbursement shall be paid by the City to DEVELOPER no later than thirty (30) days after the City has approved and accepted the entrance road improvements, which approval shall not be unreasonably withheld. DEVELOPER agrees that the City shall not be required to reimburse DEVELOPER for the over-sizing of the entrance road improvements until such time as the City has approved and accepted the entrance road improvements. DEVELOPER agrees to convey and dedicate such entrance road improvements to the City, at no cost (except for the over-sizing reimbursement provided for herein), upon the completion of construction of said improvements and approval and acceptance of the same by the City.

4.4 Entrance Road Naming Rights. DEVELOPER, City and BCDC hereby agree that the name of the entrance road described in Section 4.3 of this Agreement shall be "Fritz Beckendorf Road." Any obligation, contractual or otherwise, of the City and/or BCDC to name any street or roadway within the Brenham Business Center to include the word "Beckendorf" is hereby deemed satisfied and the City and BCDC are fully and completely released from said obligation.

ARTICLE 5

TAX LEVY; OBLIGATIONS NOT DEBT

In order to provide for the payment of its obligations under this Agreement, the City will, if necessary, levy, within the limits prescribed by law, for the current year and each succeeding year thereafter, while its obligations under this Agreement remain in effect, an ad valorem tax upon all taxable property within the City sufficient to pay the City's obligations under this Agreement, including the payment of interest and to create and provide for a sinking fund of not less than two percent (2%) of the principal amount of the City's obligations under this Agreement, with full allowance being made for tax delinquencies and the costs of tax collection, and such taxes, when collected shall be applied to the payment of the City's obligations under this Agreement and to no other purpose. The City hereby finds and declares that the existing and available taxing authority of the City for such purposes is adequate to permit a legally sufficient tax. The City acknowledges and agree that the obligations created by this Agreement shall not constitute "debt" and shall be paid out of current revenues of the City; or in the alternative, shall be paid out of a specified fund, said fund being in the immediate control of the City and being in an amount sufficient to satisfy the City's obligations created herein; or further in the alternative, that sufficient provision and tax levy has been made by the party to create an interest and sinking fund adequate to pay at least two percent (2%) of the principle and any interest due each year.

ARTICLE 6
LAND DEVELOPMENT

6.1 Construction Standards and Approval of BCDC Required. DEVELOPER shall design, construct, and maintain all buildings, structures, parking areas, landscaping and other improvements to the Land in accordance with the standards outlined in the Brenham Business Center Design Guidelines and Restrictions (“Design Guidelines”) attached hereto as Exhibit “C” and incorporated herein for all purposes, excluding any additional setback or green space requirements in the Design Guidelines. DEVELOPER shall submit to the BCDC all plans for proposed non-residential improvements for a determination regarding compliance with the Design Guidelines. DEVELOPER must obtain BCDC approval of the planned non-residential improvements prior to beginning construction of any improvements to the Land.

ARTICLE 7
TERM, AUTHORITY AND VESTING OF RIGHTS

7.1 Term.

7.1.1 Term. The term of this Agreement will commence on the Effective Date and continue for ten (10) years thereafter ("Term"), unless sooner terminated under this Agreement. After the initial Term, the Agreement may be extended by mutual agreement of the Parties.

7.1.2 Extensions. The Parties agree that neither the City, BCDC, nor DEVELOPER is under any obligation to extend this Agreement after the Term.

7.1.3 Expiration. After the Term and any extension, this Agreement will be of no further force and effect, except that termination will not affect any right or obligation arising from any provision surviving this Agreement as provided herein.

7.1.4 Termination or Amendment. This Agreement may be terminated or amended as to the Land at any time by mutual written consent of the City, BCDC, and DEVELOPER or may be terminated or amended only as to a portion of the Land by the mutual written consent of the City and owners of only the portion of the Land affected by the amendment or termination.

7.2 Authority. This Agreement is entered under the statutory authority of Chapter 51, Texas Local Government Code. The Parties intend that this Agreement provide for the development plans and regulations for the Land; and provide exceptions to certain ordinances and regulations; and provide other terms and consideration.

7.3 Vesting of Rights. As of the Vesting Date, DEVELOPER has initiated the subdivision and development permit process for the Project. The City agrees that, in accordance with Chapter 245, Texas Local Government Code, the City will consider the approval of any further approvals necessary for the Project based solely on this Agreement and the Applicable Rules, as may be modified by this Agreement. Further, the City agrees that, upon approval of this Agreement, DEVELOPER has vested authority to develop the Land in accordance with this Agreement the Applicable Rules, as may be modified by this Agreement.

7.4 Equivalent Substitute Obligation. If any Party is unable to meet an obligation under this Agreement due to a court order invalidating all or a portion of this Agreement, preemptive state or federal law, an imminent and bona fide threat to public safety that prevents performance or requires different performance, changed circumstances or subsequent conditions that would legally excuse performance under this Agreement, or any other reason beyond the Party's reasonable and practical control, the Parties will cooperate to revise this Agreement to provide for an equivalent substitute right or obligation as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid and enforceable, or other additional or modified rights or obligations that will most nearly preserve each Party's overall contractual benefit under this Agreement.

7.5 Cooperation. The City, BCDC and DEVELOPER each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder.

7.6 Litigation. In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken by the Parties hereunder or in connection herewith, DEVELOPER, BCDC and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement. The filing of any third party lawsuit relating to this Agreement or the development of the Project will not delay, stop or otherwise affect the development of the Project or the City's processing or issuance of any approvals for the Project, unless otherwise required by a court of competent jurisdiction. The City's and BCDC's agreements hereunder and participation in the defense of such a lawsuit are expressly conditioned on DEVELOPER'S agreement to pay any and all costs that the City and/or BCDC incurs with respect to any such suit. DEVELOPER agrees to defend and indemnify the City and BCDC for any litigation expenses, including court costs and attorneys fees, related to defense of this Agreement, and for any damages related to the development of the Project or any action or inaction of the City and/or BCDC in connection with the Agreement, any subsequent related agreement, or the Project. The filing of any third party lawsuit relating to this Agreement or the development of the Project will not delay, stop or otherwise affect the development of the Project or the City's processing or issuance of any approvals for the Project, unless otherwise required by a court of competent jurisdiction.

ARTICLE 8
GENERAL PROVISIONS

8.1 Assignment; Binding Effect.

8.1.1 This Agreement, and the rights and obligations of DEVELOPER hereunder, may be assigned by DEVELOPER to a subsequent purchaser of all or a portion of the undeveloped property within the Land, provided that the assignee assumes all of the obligations of this Agreement. Any assignment must be in writing, specifically describe the property in question, set forth the assigned rights and obligations and be executed by the proposed assignee. A copy of the assignment document must be delivered to the City and the BCDC. Upon any such assignment, DEVELOPER will be released of any further obligations under this Agreement as to the Land sold and obligations assigned.

8.1.2 If DEVELOPER assigns its rights and obligations hereunder as to a portion of the Land, then the rights and obligations of any assignee and DEVELOPER will be severable, and DEVELOPER will not be liable for the nonperformance of the assignee and vice-versa. In the case of nonperformance by one assignee, the City and/or BCDC may pursue all remedies against that nonperforming assignee, but will not unreasonably impede development activities of any performing assignee as a result of that nonperformance.

8.1.3 The provisions of this Agreement will be binding upon, and inure to the benefit of the Parties, and their respective successors and assigns. This Agreement will not, however, be binding upon, or create any encumbrance to title as to, any ultimate consumer who purchases a fully developed and improved lot within the Land.

8.2 Severability. If any provision of this Agreement is deemed illegal, invalid, or unenforceable, under present or future laws, by a court of appropriate jurisdiction, it is the intention of the Parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible.

8.3 Applicable Law and Venue. The interpretation, performance, enforcement and validity of this Agreement is governed by the laws of the State of Texas. Exclusive venue will be in a court of appropriate jurisdiction in Washington County, Texas.

8.4 No Third Party Beneficiary. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided.

8.5 Mortgagee Protection. This Agreement will not affect the right of DEVELOPER to encumber all or any portion of the Land by mortgage, deed of trust or other instrument to secure financing for the Project. The City and BCDC agree as follows:

- 8.5.1 Neither entering into this Agreement, nor any breach of this Agreement, will affect any lien upon all or any portion of the Land.
- 8.5.2 The City and BCDC will, upon written request of a Lender given in compliance with Section 8.16, provide the Lender with a copy of any written notice of default given to DEVELOPER under this Agreement within ten (10) days of the date such notice is given to DEVELOPER.
- 8.5.3 In the event of default by DEVELOPER under this Agreement, a Lender may, but will not be obligated to, cure any default during any cure period extended to DEVELOPER, either under this Agreement or under the notice of default.
- 8.5.4 Any Lender who comes into possession of any portion of the Land by foreclosure or deed in lieu of foreclosure will take such property subject to the terms of this Agreement. No Lender will be liable for any defaults or monetary obligations of DEVELOPER arising prior to the Lender's acquisition of title, but a Lender will not be entitled to obtain any permits or approvals with respect to that property until all delinquent fees and other obligations of DEVELOPER under this Agreement that relate to the property in question have been paid or performed.

8.6 Certificate of Compliance. Within thirty (30) days of written request by any Party given accordance with Section 8.16, the other Parties will execute and deliver to the requesting Party a statement certifying that: (a) this Agreement is unmodified and in full force and effect or, if there have been modifications, that this Agreement is in full force and effect as modified and stating the date and nature of each modification; (b) there are no current uncured defaults under this Agreement, or specifying the date and nature of each default; and (c) any other information that may be reasonably requested. A Party's failure to deliver a requested certification within this 30-day period will conclusively be deemed to constitute a confirmation that this Agreement is in full force without modification, and that there are no uncured defaults on the part of the requesting Party. The City Manager is authorized to execute any requested certificate on behalf of the City, and the BCDC President is authorized to execute any requested certificate on behalf of the BCDC.

8.7 Default. If any Party defaults in its obligations under this Agreement, the other Parties must, prior to exercising a remedy available to that Party due to the default, give written notice to the defaulting Party, specifying the nature of the alleged default and the manner in which it can be satisfactorily cured, and extend to the defaulting Party at least thirty (30) days from receipt of the notice to cure the default. If the nature of the default is such that it cannot reasonably be cured within the 30-day period, the commencement of the

cure within the 30-day period and the diligent prosecution of the cure to completion will be deemed a cure within the cure period.

8.8 Remedies for Default. If any Party defaults under this Agreement and fails to cure the default within the applicable cure period, the non-defaulting Parties will have all rights and remedies available under this Agreement or applicable law, including the right to institute legal action to cure any default, to enjoin any threatened or attempted violation of this Agreement or to enforce the defaulting Party's obligations under this Agreement by specific performance or writ of mandamus, or to terminate this Agreement. All remedies available to a Party will be cumulative and the pursuit of one remedy will not constitute an election of remedies or a waiver of the right to pursue any other available remedy.

8.9 Reservation of Rights. To the extent not inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws.

8.10 Attorneys Fees. A prevailing Party in any dispute under this Agreement will be entitled to recover from the non-prevailing Party (or Parties) its reasonable attorney's fees, expenses and court costs in connection with any original action, any appeals, and any post-judgment proceedings to collect or enforce a judgment.

8.11 Waiver. Any failure by a Party to insist upon strict performance by the other Parties of any provision of this Agreement will not, regardless of the length of time during which that failure continues, be deemed a waiver of that Party's right insist upon strict compliance with all terms of this Agreement. In order to be effective as to a Party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

8.12 Entire Agreement. This Agreement contains the entire agreement of the Parties, and there are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this Agreement. This Agreement may be amended only by written agreement signed by the Parties.

8.13 Exhibits, Headings, Construction and Counterparts. All exhibits attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. Each of the Parties has been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not be employed in interpreting this Agreement or its exhibits. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together

constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the Parties.

8.14 Time. Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

8.15 Authority for Execution. The City and BCDC certify, represent, and warrant that the execution of this Agreement has been duly authorized and that this Agreement has been approved in conformity with applicable legal requirements. DEVELOPER certifies, represents, and warrants that the execution of this Agreement is duly authorized in conformity with its bylaws and other applicable legal requirements.

8.16 Notices. Any notices under this Agreement may be sent by hand delivery, facsimile (with confirmation of delivery) or certified mail, return receipt requested, to the Parties at the following addresses or as such addresses may be changed from time to time by written notice to the other Parties:

City: Terry Roberts, City Manager
City of Brenham
P.O. Box 1059
Brenham, Texas 77833
Telephone: 979-337-7389

BCDC: Terry Roberts, President
City of Brenham
P.O. Box 1059
Brenham, Texas 77833
Telephone: (979) 337-7389

Copy to: Cary L. Bovey
Law Office of Cary L. Bovey, PLLC
2251 Double Creek Dr., Suite 204
Round Rock, Texas 78664
Telephone: (512) 904-9441

DEVELOPER: John F. Beckendorf
8307 Highway 105
Brenham, Texas
Telephone: (979) 836-9249

Copy to: _____

_____, Texas

Telephone:
Fax:

Either City, BCDC or DEVELOPER may change its mailing address at any time by giving written notice of such change to the other in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices under this Agreement will be deemed given on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt or facsimile confirmation.

8.17. Covenants Running with the Land. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. DEVELOPER and every purchaser, assignee or transferee of an interest in the Land, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Land, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of DEVELOPER contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. After valid execution of this Agreement by the Parties, DEVELOPER shall record this Agreement and all exhibits hereto in the Official Records of Washington County, Texas.

8.18 Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

- Exhibit A - Metes and Bounds Description of the Land
- Exhibit B - Right-of-way layout
- Exhibit C - Brenham Business Center Design Guidelines and Restrictions

IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement on the dates indicated below, to be effective on the date the last party signs.

CITY OF BRENHAM

By: _____
Hon. Milton Y. Tate, Mayor

Date: _____

STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §

This instrument was acknowledged before me on the _____ day of _____, 20__, by _____, the Mayor of the City Brenham, a Texas home-rule municipal corporation, on behalf of the City of Brenham.

Notary Public in and for the State of Texas

(NOTARY SEAL)

BRENHAM COMMUNITY DEVELOPMENT CORPORATION

By: Terry K. Roberts
Terry Roberts, President

Date: 9/23/14

STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §

This instrument was acknowledged before me on the 23rd day of Sept., 2014, by Terry K. Roberts, President of the Brenham Community Development Corporation.

Jeana C. Bellinger
Notary Public in and for the State of Texas



DEVELOPER

By: John Beckendorf
Name: John Beckendorf
Title: owner
Date: 9-23-14

STATE OF TEXAS §
 §
COUNTY OF Washington §

This instrument was acknowledged before me on the 23rd day of September, 2014, by John Beckendorf, _____ of _____, a Texas _____.

Jeana C. Bellinger
Notary Public in and for the State of Texas

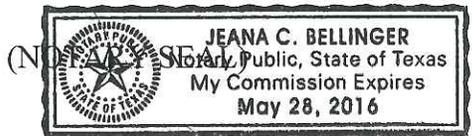


EXHIBIT A

Metes and Bounds Description of the Land

Exhibit A

VOL. 462 PAGE 632

All that tract or parcel of land situate in Washington County, Texas out of the Isaac Lee Survey A-77 and being a portion of a called 183.08 acre tract described in a deed from Katherine Margaret Eckardt Sander to Fritz W. Beckendorf, et ux dated November 29, 1955 and recorded in Volume 205, Page 580 of the Washington County Deed Records, more particularly described as follows:

BEGINNING at an iron pin lying in the Southwest margin of U. S. Highway 290 marking the Northwest corner of the tract of land herein described, the Northeast corner of a called 1.610 acre tract described in a deed to Henry Moody, et al and recorded in Volume 369, Page 13 of the Washington County Deed Records, lies N 80 deg. 50' 53" W, 835.93 feet from this point;

THENCE with the Southwest margin of U. S. Highway 290 in a curve to the right having a radius of 2714.97 feet, a length of 119.21 feet (Chord S 68 deg. 33' 08" E, 119.20 feet) to a set iron pin at fence corner for Northeast corner of the tract of land herein described;

THENCE departing said highway margin with an existing fence line S 1 deg. 12' 54" E, 220.00 feet to an iron pin set in said fence line for Southeast corner of the tract of land herein described;

THENCE S 88 deg. 47' 06" W, 110.00 feet to an iron pin set for Southwest corner of this tract;

THENCE N 1 deg. 12' 54" W. 265.93 feet to the PLACE OF BEGINNING and containing 0.615 acres of land.

As surveyed by David A. Blakey, Registered Public Surveyor No. 4052 on December 28, 1983.

VOL. 530 PAGE 295

FIELD NOTES for Fritz W. Beckendorf for a tract or parcel of land in Washington County, Texas, out of and a part of the Isaac Lee League A-77, and the land described herein being a portion of the 183.08 acre tract described in deed from Katherine Margaret Eckardt Sander to Fritz W. Beckendorf, et ux, dated 29 November 1955 and recorded in Volume 205 at Page 580 of the Deed Records of Washington County, Texas.

BEGINNING at the northeast corner of a 0.615 acre parcel conveyed by Fritz W. Beckendorf, et ux to Allen J. Beckendorf by deed recorded in Volume 462 at Page 632 of the Official Records of Washington County, Texas, an iron pin found on the southern margin of U. S. Highway No. 290 which runs along the northern boundary of the original Fritz W. Beckendorf tract of which this survey is a part, as was said 0.615 acre parcel;

THENCE, running in a southeasterly direction with said highway line in a curve to the right having a radius of 2714.97 ft., through a central angle of 0° 27' 46" for a distance of 21.93 feet, chord S 67° 03' 32" E 21.92 ft. to an iron pin set for corner;

THENCE, departing from said highway and original boundary, S 1° 12' 54" E 261.03 ft. to an iron pin set for the southeast corner of this parcel;

THENCE, S 88° 47' 06" W 130.00 ft. to an iron pin set for corner;

THENCE, N 1° 12' 54" W 50.00 ft. to an iron pin found at the southwest corner of said 0.615 acre tract previously surveyed;

THENCE, N 88° 47' 06" E 110.00 ft. with the south line of said 0.615 acre parcel to the southeast corner thereof, an iron pin found for a reentrant corner hereof;

THENCE, with the east line of said 0.615 acre parcel, N 1° 12' 54" W 220.00 ft. to the place of beginning, containing 0.248 acre of land.

Surveyed by William W. Reue, Registered Public Surveyor No. 1070 on February 8, 1986.

VOL. 1131 PAGE 705

All that tract or parcel of land, lying and being situated in the Isaac Lee Survey (A-77) of Washington County, Texas, believed by all parties to contain 39.50 acres of land, more or less, and described as being that certain 183.08 acre tract of land described in deed dated November 20, 1955 from Katherine Margaret Eckardt Sander to Fritz W. Beckendorf, et us of record in Volume 205, at page 580 of the Deed Records of Washington County, Texas, LESS AND EXCEPT, HOWEVER, numerous prior deeds or conveyances over the years which are of record in the real property records of Washington County, Texas.

All that tract or parcel of land, lying and being situated in the Isaac Lee Survey (A-77) of Washington County, Texas, containing 5.200 acres of land, more or less, and being more particularly described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes.

VOL. 1262 PAGE 385

All that certain tract or parcel of land situated in the City of Brenham, Washington County, Texas, out of and a part of the Isaac Lee Survey A-77, containing a portion of Reserve "B" of the Brenham Business Center, Phase I as shown on plat thereof recorded in Slide 403A of the Washington County Plat File, containing 2.000 acres of land, more or less, and being more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes pertinent.

Being the same property described in Deed dated September 3, 2003, executed by Brenham Community Development Corporation to John I. Mayer, recorded in Volume 1093, Page 757, Official Records of Washington County, Texas.

2.000 AC. LOT ONE OF RESERVE "B"
BRENHAM BUSINESS CENTER PHASE I

ALL THAT CERTAIN TRACT OR PARCEL OF LAND situated in the City of Brenham, Washington County, Texas out of and a part of the Isaac Lee Survey A-77, containing a portion of Reserve "B" of the Brenham Business Center, Phase I as shown on plat thereof recorded in Slide 403A of the Washington County Plat File. Also, being part of the 29.062 acre tract described in deed dated February 12, 1998, from Fritz W. Beckendorf, et al to Brenham Community Development Corporation, recorded in Volume 883, Page 417 of the Official Records of Washington County, Texas (883/417 O.R.W.C.)

BEGINNING at the northwest corner of this survey, a 1/2" iron pin found on the southeast margin of Horton Street for the southwest corner of Reserve "A" common with the northwest corner of Reserve "B" of Brenham Business Center, Phase I above referenced;

THENCE leaving said street line, S 62° 26' 05" E 23.85 ft. (call S 63° 18' 41" E 23.74 ft.) with the common line of Reserve "A" and Reserve "B" to a 1/2" iron pin found for common corner on the west boundary of the residue of the 183.08 acre Fritz W. Beckendorf Estate tract described in deed recorded in Volume 205, Page 580 of the deed Records of Washington County, Texas (205/580 D.R.W.C.);

THENCE with a west boundary of the Beckendorf residue tract common with an east line of Reserve "B", S 13° 43' 05" E 115.15 ft. (call S 13° 41' 51" E 115.25') to a 1/2" iron pin found for corner;

THENCE with a south boundary of the Beckendorf land and a north line of Reserve "B", N 76° 59' 23" E 214.98 ft. (call N 76° 53' 07" E 214.58') to a 1/2" iron pin found at a northeast corner of Reserve "B" common with an interior corner of the Beckendorf land;

THENCE with the eastern boundary of Reserve "B" common with a west boundary of the Beckendorf land, S 13° 26' 27" E 84.37 ft. (call S 13° 45' 06" E 84.74') to a 1/2" iron pin found at an angle point and S 13° 23' 25" W 280.38 ft. (record bearing S 13° 23' 25" W, basis of orientation) to a 1/2" iron pin set for the southeast corner of this parcel;

THENCE departing from said original boundary, N 56° 19' 33" W 400.36 ft. severing Reserve "B" to a 1/2" iron pin set on the southeast margin of Horton Street for the southwest corner hereof;

THENCE with said street line common with the northwest boundary of said Reserve "B", running in a northeasterly direction with a curve to the left having a radius of 1970.00 ft. and follow said curve through a central angle of 06° 58' 49" for a distance of 240.00 feet, chord N 30° 11' 02" E 239.86 ft. to the place of beginning containing 2.000 acres of land.

EXHIBIT B

Right-of-Way Layout



EXHIBIT C

Brenham Business Center Design Guidelines and Restrictions

BRENHAM BUSINESS CENTER

Design Guidelines and Restrictions

Economic Development Foundation of **BRENHAM**
A city with a flavor all its own.



The Brenham Business Center is a multi-use development designed to provide businesses with a premier business park. It combines a quality business environment with a community atmosphere to create a livable and lucrative Business Center. An attractive architectural infrastructure organizes the beautiful site into a cohesive environment of individual sites.

The picturesque 150-acre site is located with convenient access to the majority of Texas business hubs. It is the only Class A business park between Houston and Austin with seventy-two percent of the total state population within a 213 mile radius. Roads, lighting standards, underground electricity, water, and gas are already in place and ready for your business. Prices are more than reasonable, with lots still sold by the acre, not by the square foot.

Careful attention has been given to land use, orientation, view corridors, circulation, and overall aesthetic appeal. The Brenham Business Center offers a range of site sizes that will accommodate and appeal to diverse tenants from high-tech companies, to light manufacturing. The Brenham Business Center maximizes inherent opportunities of the site in order to allow for a well designed park that will help elevate your business to the next level.

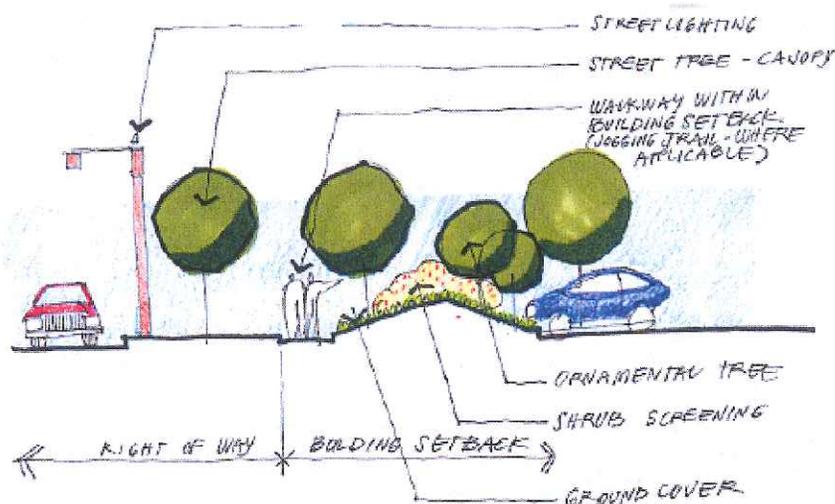


The proper selection of plant material is an essential component of the overall landscape development at the Brenham Business Center. Plant species should be allocated according to performance within the following broadly defined design situations:

Large Scale Buffering/Parkland: These areas should combine new planting that is visually compatible with the existing landscape and require less care to maintain. Emphasis should be on durability and growth rate.

Roadway Setback/Screening: These areas must create visual appeal and vertical mass to provide definition and screening over large distances, and setting for site development. Emphasis should be on scale at maturity and lasting performance.

Building/Parking/Transition Spaces: These areas must create interest and atmosphere to enhance the image established by surrounding architectural and hard-scape elements. Emphasis should be on inherent design attributes such as form, foliage and color.



Within these design situations, plant species may be divided into categories which represent their overall physical qualities. A combination of the following four categories will provide a comprehensive palette of plants for each design situation:

Canopy/Shade Tree (over 20') – These function as massive elements which provide unification of larger spaces and contest for building sites. Additionally, they provide overhead enclosure for spatial definition and protection from sun and rain.

Ornamental/Flowering Tree (8'-20') – These provide screening and accent elements to further define spaces and create focal points.

Shrub/Vine (2'-8') – These provide texture and mass to help integrate the overall planting scheme. The size is ideal enhancing visual appeal at eye level.

Groundcovers/Turf (under 2') – These provide texture and color over larger areas and can also function as effective erosion control when properly installed. Generally, groundcovers are used for detail and turf is used in larger scale situations.

A detailed plant list will be provided upon request.



It is essential to coordinate and control the consistency of all signage and lighting fixtures at the Brenham Business Center, in order to maintain a unified project image.

All signage guidelines should address location, placement, size, material color, illumination, and typographic design.

Site Lighting Fixtures: Site lighting fixtures must be installed and should provide a sense of safety and security throughout the area. Spill-over onto adjacent properties must be avoided and is prohibited where adjacent property is single family residential. All public street lighting will be installed by the local power company.





Parking Lots: For parking lots, the light fixture luminaries should be a basic box shape with light cut-off, such as Kim EKG model or equal, mounted on a metal pole not to exceed thirty feet (30') in height or as determined appropriate by the Building Committee (BC). The light color should be warm and consistent with surrounding light sources. Parking lots must be illuminated to a minimum of two (2.0) foot-candles. Any lighting used to illuminate off-street parking areas shall be located, shielded, and directed upon the parking area in such a manner that it does not reflect or cast glare onto adjacent properties or interfere with street traffic.

Open Space and Walkway Fixtures: The light fixture luminaire for open-space and walkway fixtures should be a box or other approved design mounted on a pole not exceeding fifteen feet (15') in height. The fixture and pole color should be compatible with the building or other site lighting. Open space and walkways will be illuminated to approximately one (1.0) foot-candles.

The use of low level lighting, landscape accent lighting and architectural lighting is encouraged. The illumination source should be a "warm light."

All fixtures and lighting plans are subject to approval by the Building Committee.



These requirements combine to establish the context and setting for buildings. Setbacks and green space determine the building-to-site relationship as well as transition area between individual parcels and the overall circulation system.

Distances and Area: The roadway setback determines the distance between the right of way and building line to define the street-scape area. Variable setback distances are encouraged to create more interesting spaces to be viewed from the street-scape, with a minimum roadway setback of 50’.

The side yard setbacks must combine to total 50’ where compatible adjacent land use occurs on both sides. Zero lot-line is permitted on one side only per BC approval. The side yard setback where incompatible adjacent land uses occur must be a minimum of 30’. The rear yard setback is a minimum of 10’, except where common service driveways are utilized per BC approval.



Green space is defined as areas without impervious cover. The minimum allowable area of green space per lot is determined by a lot size formula, and can be no less than 20% of the gross site area inclusive of setbacks and easements.

Restrictions: Driveway cuts along roadways are limited to one per lot or a minimum spacing of 200' between cuts. All driveway widths are 18' minimum and 30' maximum within the minimum roadway setback. Facility signage is limited to one sign per driveway. All utilities must be run within utility easements behind buildings or below ground, when visible from the street.

Landscape: All green space must be landscaped to enhance aesthetic quality and minimize erosion. Retention of existing vegetation in healthy condition is encouraged and is to be credited toward the landscape requirement.

Landscape improvements within the roadway setback must be according to a BC approved Master Plan, so as to function as a unified street-scape sign. These improvements include planting, automatic irrigation, walks, and lighting. All side yard and rear yard setbacks must be planted with 2" caliper trees or equivalent and allocated at a minimum of 4" caliper/300 square feet, positioned for screening.



The Brenham Community Development Corporation (BCDC) established the following guidelines and restrictions for ownership or improvements of properties located in the Brenham Business Center.

1. There is expressly reserved a 15-foot right-of-way and easement adjacent to and parallel with each boundary line of any tract now or hereafter located within Brenham Business Center (being a total 30 foot easement along interior boundary lines) for the construction, maintenance, repair, expansion and/or operations of utilities of any kind, including electric light and power, telephone, gas, water, sewer, storm sewer or drainage, television, or any other utility or service purpose. These easements shall be for the general benefit of the owners of property in the Brenham Business Center, and may be used by any public or private utility company entering into and upon said properties.
2. BCDC reserves the right to dedicate additional easements and rights-of-way on properties located within the Brenham Business Center as may be necessary or convenient for the development and/or sale of said properties. This is in addition to such easements and right-of-ways that may currently be shown on a map or plat of the Brenham Business Center.
3. Any tract or parcel of land situated in the Brenham Business Center will be utilized for manufacturing and commercial enterprises only. No retail sales will be conducted or permitted. All uses and operations of such properties are subject to all governmental rules and regulations including the ordinances of the City of Brenham and the City of Brenham's commercial construction plan review requirements.

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&
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SEZHTEDCG**



No improvements shall be placed on or construction commenced on any tract or parcel located within the Brenham Business Center until the architectural/engineering building plans and specifications, and the plot plans showing the location of improvements, drives, parking areas, and landscaping have been approved in writing by the BCDC or its designated committee. The judgment of the BCDC, or its designated committee, is final. Unless otherwise approved by BCDC or its designated committee, the following development guidelines will apply to the construction of all improvements on tracts within Brenham Business Center:

- A. No buildings or above-ground structures shall be constructed within fifty feet from the boundary line lying adjacent to any public roadway. Further, such construction shall be set back at least fifty feet from all side and rear property lines.
- B. At least twenty percent of the surface area of a tract or lot, inclusive of setbacks and easements, must be planted and maintained with approved vegetation. All side and rear setbacks are to be planted and/or bermed as directed by the BCDC so as to provide screening to enhance the aesthetics of the Brenham Business Center, to enhance drainage, and to minimize erosion.
- C. All driveways shall be of a concrete or other approved hard surface material; and shall be of a minimum of eighteen feet in width and a maximum of thirty feet in width. Unless otherwise approved by BCDC, driveway cuts along the public roadways are limited to one per lot or tract and all driveway cuts between lots shall maintain a minimum spacing of 200 feet.



D. Adequate parking for visitors, and employees of any lot or tract owner shall be provided on site. Such parking shall be paved utilizing approved hard surface materials and screened from existing streets and adjacent properties as directed by the BCDC.

E. The type, number, size, and location of signage shall be approved by the BCDC before the sign is placed on site. It is the Owner's responsibility to provide the design and type of sign approved by BCDC.

F. The BCDC shall have the sole and exclusive right to approve the design, type and size of the proposed structure, the aesthetic quality of materials, color and finish, the harmony of the proposed structure to existing structures located within the Brenham Business Center, and the location of such structure, drives, signage, and parking areas with respect to the topography of the property.

5. The BCDC may grant a variance to these covenants, conditions and restrictions, where enforcement of one or more of the same would result in hardship to the lot owner, provided that such variance will not adversely affect the development plan of the Brenham Business Center.

**SMITH & BULLOCK
ATTORNEYS AT LAW**



6. Owner (Grantee) agrees that normal business operations will be constructed, operational, and occupied within 18 months of the purchase of the tract. Should Owner fail to use the tract within such eighteen-month period, BCDC shall have the right and option, to repurchase all of the tract described and conveyed to Owner for the same cash purchase price. The BCDC will notify the owner in writing should they choose to exercise this right. Should BCDC fail to exercise such right and option to repurchase within six months after the expiration of said eighteen-month period, such right and option to repurchase the tract will be waived.
7. No tract may be subdivided in two or more parcels without the prior written consent of the BCDC.
8. All buildings and structures, and all landscaping shall be kept and maintained in a neat and attractive condition, and free of trash, debris and salvage. No noxious or offensive activities shall be permitted on the property at any time.
9. No excavation or removal of vegetation shall be permitted on any lot or tract except in connection with the building of improvements and landscaping. Approved in advance by the BCDC is required.
10. A detailed legal document containing Restrictions, Covenants, Easements, and Conditions of the Brenham Business Center, as established and adopted by the Brenham Community Development Corporation is available upon request.



The Foundation Board of Directors, at its meeting held on June 14, 2000, expressed its concern that buildings to be erected at the Brenham Business Center should bear some relation to the size of lot upon which they were to be placed. In the past there had been cases where too much land had been sold to individual companies with the result that after the buildings had been erected a substantial portion of the land was unused. The Foundation wished to encourage local companies to expand and also to encourage new businesses to Brenham and Washington County. Part of the reason for expansions and the attraction of new businesses was the creation of new jobs which, in turn, was the aim of creating industrial and business parks. If excess land was not utilized by companies in the industrial park and business center then the aim of creating new jobs was not being met.

As a result, the Board agreed that, as a general guideline, the size of buildings to be erected within the Brenham Business Center should be a minimum of 7,000 sq. ft. per acre.

MEMBER
&
DIRECTOR
SOCIETY

ECONOMIC DEVELOPMENT FOUNDATION OF BRENHAM

314 S. Austin Street

Brenham, TX 77833

Phone: (979)836-8927 Fax: (979)836-3563

Website: www.brenhamtexas.com/economic

3. **Non-exclusive:** This License is nonexclusive and is subject to: 1) any existing or future utility, drainage or communications facilities located in, on, under or upon the Licensed Premises as approved by the Licensor; 2) any utility or communication company, public or private, and to all vested rights presently owned by any utility or communication company, public or private for the use of the Licensed Premises for facilities presently located within the boundaries of the right-of-way; and 3) to any existing or future lease, license, or other interest in the Licensed Premises granted by Licensor to any individual, corporation or other entity, public or private.

4. **Environmental Protection:** Licensee shall not use or permit the use of the Licensed Premises for any purpose that may be in violation of any environmental laws or regulations, and any amendments thereto, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), the Resource Conservation and Recovery Act of 1976 (“RCRA”), the Texas Water Code and the Texas Solid Waste Disposal Act. Licensee warrants that the permitted use of the Licensed Premises will not result in the disposal or other release of any hazardous substance or solid waste in, on, upon, under or to the Licensed Premises, and that it will take all steps necessary to ensure that no such hazardous substance or solid waste will ever be discharged in, on, upon, under or onto the Licensed Premises or property adjoining the Licensed Premises by Licensee. The terms “hazardous substance and waste” shall have the meaning specified in CERCLA and the term solid waste and disposal (or dispose) shall have the meaning specified in the RCRA; provided, however, that in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment; and provided further, at the extent that the laws of the State of Texas establish a meaning for hazardous substance, release, solid waste, or disposal which is broader than that specified in the CERCLA or RCRA, such broader meaning shall apply. **Licensee shall indemnify, defend and hold Licensor harmless against all costs, expenses, fines and fees related to any environmental discharge on, remediation of, or cleanup of the Licensed Premises and surrounding the Licensed Premises resulting, directly or indirectly, from Licensee’s use of the Licensed Premises under this License. This paragraph 4 shall survive termination of this License Agreement.**

5. **Mechanic’s liens not permitted:** Licensee shall fully pay for all labor and materials used in, on or about the Licensed Premises and will not permit or suffer any mechanic’s or material man’s liens of any nature be affixed against the Licensed Premises by reason of any work done or materials furnished to the Licensed Premises at Licensee’s instance or request.

6. **Future Licensor use:** This License is made expressly subject and subordinate to the right of Licensor to use the Licensed Premises for any purpose of the Licensor. In the event that Licensor shall, at any time subsequent to the date of this Agreement, at its sole discretion, determine that the Licensor desires to use the Licensed Premises, or any portion thereof, Licensee shall at its sole cost and expense make or cause to be made such modifications or relocate any and all improvements to the Licensed Premises so as to not interfere with the Licensor’s use of the Licensed Premises. A minimum of thirty (30) days written notice for the exercise of the above action shall be given by Licensor, and Licensee shall promptly commence to make the

required modifications and/or relocations and complete them within thirty (30) days. In the event the Licensee fails to make the required modifications and/or relocations and complete them within thirty (30) days, Licensor may perform said modifications and/or relocations and Licensee shall reimburse Licensor for all costs incurred by Licensor in making such required changes.

7. **Duration of License:** This License shall terminate and be of no further force and effect: 1) immediately upon Licensee's construction and dedication of the entrance road improvements to the City of Brenham for ingress and egress to and from the Licensee Land from South Blue Bell Road; or 2) upon termination of the License as otherwise provided in this Agreement, whichever event first occurs.

8. **Compliance with laws:** Licensee agrees to abide by and be governed by all laws, ordinances and regulations of any and all governmental entities having jurisdiction over the Licensee.

9. **INDEMNIFICATION:** LICENSEE SHALL DEFEND, PROTECT AND KEEP LICENSOR FOREVER HARMLESS AND INDEMNIFIED AGAINST AND FROM ANY PENALTY, OR ANY DAMAGE, OR CHARGE, IMPOSED FOR ANY VIOLATION OF ANY LAW, ORDINANCE, RULE OR REGULATION ARISING OUT OF THE USE OF THE LICENSED PREMISES BY THE LICENSEE, WHETHER OCCASIONED BY THE NEGLIGENCE OF LICENSEE, HIS EMPLOYEES, OFFICERS, AGENTS, VOLUNTEERS, CONTRACTORS OR ASSIGNS OR THOSE HOLDING UNDER LICENSEE. LICENSEE SHALL AT ALL TIMES DEFEND, PROTECT AND INDEMNIFY LICENSOR, AND IT IS THE INTENTION OF THE PARTIES HERETO THAT LICENSEE HOLD LICENSOR HARMLESS, AGAINST AND FROM ANY AND ALL LOSS, COST, DAMAGE, OR EXPENSE, INCLUDING ATTORNEY'S FEES, ARISING OUT OF OR FROM ANY ACCIDENT OR OTHER OCCURRENCE ON OR ABOUT THE LICENSED PREMISES CAUSING PERSONAL INJURY, DEATH OR PROPERTY DAMAGE RESULTING FROM USE OF THE LICENSED PREMISES BY LICENSEE, HIS AGENTS, EMPLOYEES, VOLUNTEERS, STUDENTS AND INVITEES, EXCEPT WHEN CAUSED BY THE WILLFUL MISCONDUCT OR NEGLIGENCE OF LICENSOR, ITS OFFICERS, EMPLOYEES OR AGENTS, AND ONLY THEN TO THE EXTENT OF THE PROPORTION OF ANY FAULT DETERMINED AGAINST LICENSOR FOR ITS WILLFUL MISCONDUCT OR NEGLIGENCE. LICENSEE SHALL AT ALL TIMES DEFEND, PROTECT, INDEMNIFY AND HOLD LICENSOR HARMLESS AGAINST AND FROM ANY AND ALL LOSS, COST, DAMAGE, OR EXPENSE, INCLUDING ATTORNEY'S FEES, ARISING OUT OF OR FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION RESULTING FROM THE LICENSEE'S USE OF THE LICENSED PREMISES AND FOR ANY FAILURE OF LICENSEE, HIS OFFICERS, EMPLOYEES, AGENTS, VOLUNTEERS, CONTRACTORS OR ASSIGNS IN ANY RESPECT TO COMPLY WITH AND PERFORM ALL THE REQUIREMENTS AND PROVISIONS HEREOF. THIS PARAGRAPH 9 SHALL SURVIVE TERMINATION OF THIS LICENSE AGREEMENT.

10. **Action upon termination:** At such time as this License may be terminated for any reason whatsoever, Licensee, upon request by Licensor, shall remove all improvements and appurtenances owned by it, if requested in writing by Licensor, situated in, under, on or within the Licensed Premises and, if requested in writing by the Licensor, shall restore such Licensed Premises to substantially the condition of the Licensed Premises prior to Licensee's use of the Licensed Premises at Licensee's sole expense, within thirty (30) days of the date of Licensor's written request. This paragraph 10 shall survive termination of this License Agreement.

11. **Termination:** This Agreement shall be terminated upon occurrence of one or more of the following:

- a. Written agreement of both parties;
- b. Immediately upon Licensee's construction and dedication of the entrance road improvements to the City of Brenham for ingress and egress to and from the Licensee Land from South Blue Bell Road;
- c. By Licensor giving Licensee thirty (30) days prior written notice of termination; or
- d. By Licensor upon failure of Licensee to perform its obligations as set forth in this Agreement.

Upon termination of this License, Licensee shall immediately cease use of the Licensed Premises so as to not interfere with the Licensor's or Licensor's assign's use of the Licensed Premises.

12. **Notice:** When notice is permitted or required by this Agreement, it shall be in writing and shall be deemed delivered when delivered in person or when placed, postage prepaid in the United States mail, certified return receipt requested, and addressed to the parties at the address set forth below their signature. Either party may designate from time to time another and different address for receipt of notice by giving notice of such change or address.

13. **Governing law:** This Agreement is governed by the laws of the State of Texas; and exclusive venue for any action shall be in a court of competent jurisdiction in Washington County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

14. **Exhibits:** Any and all exhibits attached to this Agreement are incorporated herein by reference.

15. **Binding effect:** This Agreement shall be binding upon and inure to the benefit of the executing parties and their respective successors and assigns.

16. **Entire Agreement:** This Agreement embodies the entire agreement between the parties and supersedes all prior agreements, understandings, if any, relating to the Licensed Premises and the matters addressed herein and may be amended or supplemented only by written instrument executed by the party against whom enforcement is sought.

17. **Recitals:** The recitals to this Agreement are incorporated herein by reference.

EXECUTED and effective this _____ day of _____, 2014.

LICENSOR: CITY OF BRENHAM

Date: _____

Milton Y. Tate, Jr., Mayor

ATTEST:

By:
Title:

LICENSOR: BRENHAM COMMUNITY DEVELOPMENT CORPORATION

Date: _____

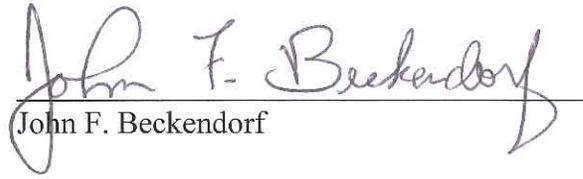
Terry K. Roberts, President

ATTEST:

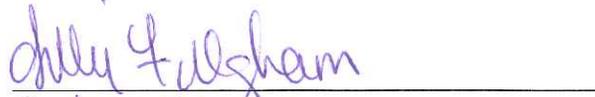
By:
Title:

LICENSEE: JOHN F. BECKENDORF

Date: 9/23/2014


John F. Beckendorf

ATTEST:


By: Julie Fulgham
Title: Director of Development Services

LICENSEE: ALAN BECKENDORF

Date: 9/23/2014


Alan Beckendorf

ATTEST:

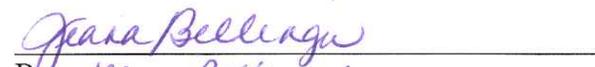

By: Jeana Belling
Title: City Secretary

EXHIBIT "A"

TRACT ONE:

All that tract or parcel of land situated in Washington County, Texas out of the Isaac Lee Survey A-77 and being a portion of a called 183.08 acre tract described in a deed from Katherine Margaret Eckardt Sander to Fritz W. Beckendorf, et ux dated November 29, 1955 and recorded in Volume 205, Page 580 of the Washington County Deed Records, more particularly described as follows:

BEGINNING at an iron pin lying in the Southwest margin of U. S. Highway 290 marking the Northwest corner of the tract of land herein described, the Northeast corner of a called 1.610 acre tract described in a deed to Henry Moody, et al and recorded in Volume 369, Page 13 of the Washington County Deed Records, lies N 80 deg. 50' 53" W, 835.93 feet from this point;
THENCE with the Southwest margin of U. S. Highway 290 in a curve to the right having a radius of 2714.97 feet, a length of 119.21 feet (Chord S 68 deg. 33' 08" E, 119.20 feet) to a set iron pin at fence corner for Northeast corner of the tract of land herein described;
THENCE departing said highway margin with an existing fence line S 1 deg. 12' 54" E, 220.00 feet to an iron pin set in said fence line for Southeast corner of the tract of land herein described;
THENCE S 88 deg. 47' 06" W, 110.00 feet to an iron pin set for Southwest corner of this tract;
THENCE N 1 deg. 12' 54" W. 265.93 feet to the PLACE OF BEGINNING and containing 0.615 acres of land.

TRACT TWO:

All that tract or parcel of land in Washington County, Texas, out of and a part of the Isaac Lee League A-77, and the land described herein being a portion of the 183.08 acre tract described in deed from Katherine Margaret Eckardt Sander to Fritz W. Beckendorf, et ux, dated 29 November 1955 and recorded in Volume 205 at Page 580 of the Deed Records of Washington County, Texas.

BEGINNING at the northeast corner of a 0.615 acre parcel conveyed by Fritz W. Beckendorf, et ux to Allen J. Beckendorf by deed recorded in Volume 462 at Page 632 of the Official Records of Washington County, Texas, an iron pin found on the southern margin of U. S. Highway No. 290 which runs along the northern boundary of the original Fritz W. Beckendorf tract of which this survey is a part, as was said 0.615 acre parcel;

THENCE, running in a southeasterly direction with said highway line in a curve to the right having a radius of 2714.97 ft., through a central angle of 0° 27' 46" for a distance of 21.93 feet, chord S 67° 03' 32" E 21.92 ft. to an iron pin set for corner;

THENCE, departing from said highway and original boundary, S 1° 12' 54" E 261.03 ft. to an iron pin set for the southeast corner of this parcel;

THENCE, S 88° 47' 06" W 130.00 ft. to an iron pin set for corner;

THENCE, N 1° 12' 54" W 50.00 ft. to an iron pin found at the southwest corner of said 0.615 acre tract previously surveyed;

THENCE, N 88° 47' 06" E 110.00 ft. with the south line of said 0.615 acre parcel to the southeast corner thereof, an iron pin found for a reentrant corner hereof;

THENCE, with the east line of said 0.615 acre parcel, N 1° 12' 54" W 220.00 ft. to the place of beginning, containing 0.248 acre of land.

TRACT THREE:

All that tract or parcel of land, lying and being situated in the Isaac Lee Survey (A-77) of Washington County, Texas, believed by all parties to contain 39.50 acres of land, more or less, and described as being that certain 183.08 acre tract of land described in deed dated November 20, 1955 from Katherine Margaret Eckardt Sander to Fritz W. Beckendorf, et ux of record in Volume 205, at page 580 of the Deed Records of Washington County, Texas, LESS AND EXCEPT, HOWEVER, numerous prior deeds or conveyances over the years which are of record in the real property records of Washington County, Texas.

All that tract or parcel of land, lying and being situated in the Isaac Lee Survey (A-77) of Washington County, Texas, containing 5.200 acres of land, more or less, and being more particularly described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes.

EXHIBIT "B"

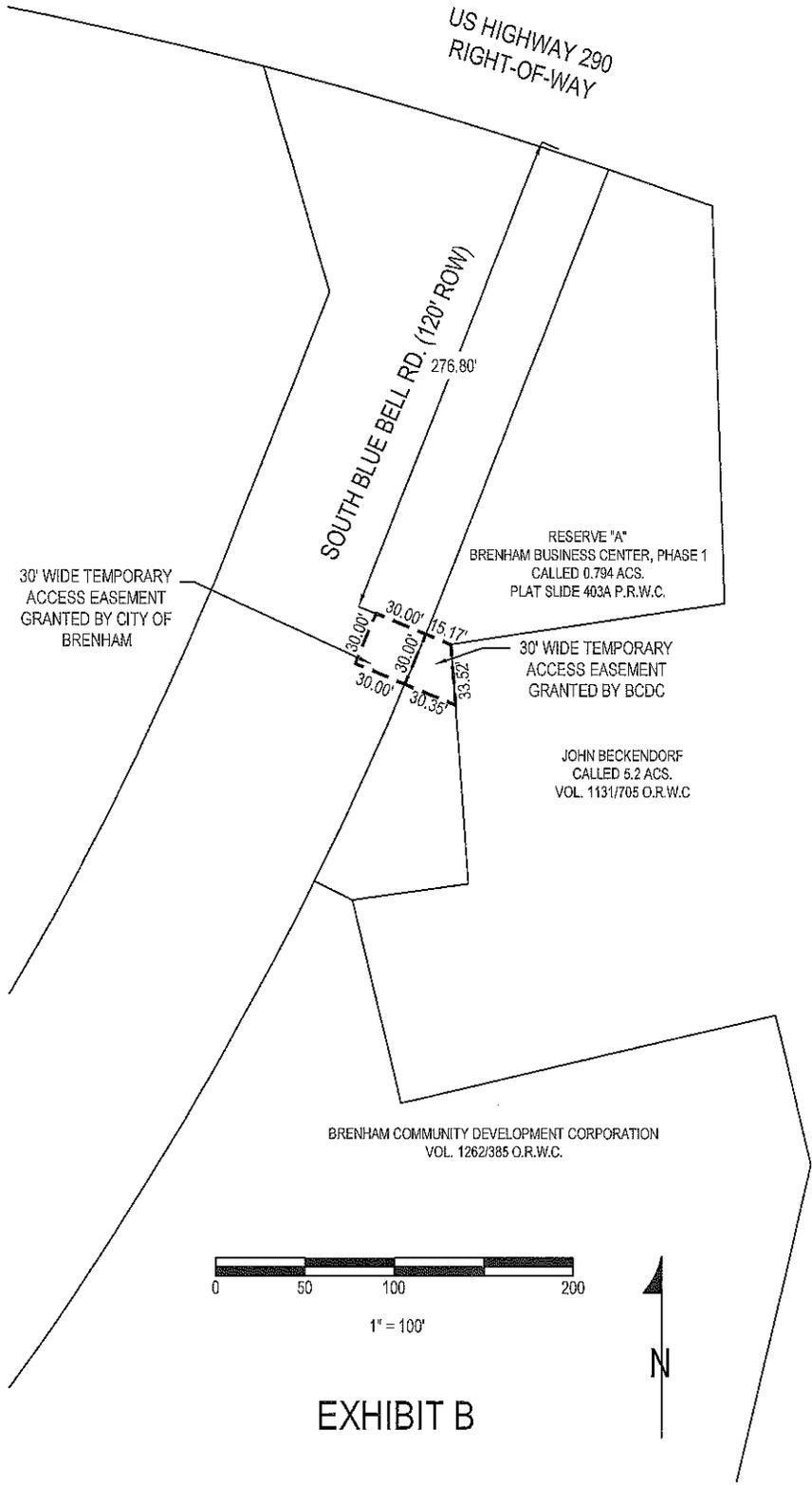


EXHIBIT B



AGENDA ITEM 13

DATE OF MEETING: October 9, 2014	DATE SUBMITTED: October 3, 2014	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Grant Lischka	
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 Change Order No. 1 to Collier Construction, LLC. for the Extension of Chappell Hill Street and Authorize the Mayor to Execute Any Documentation.		
<p>SUMMARY STATEMENT: The portion of the Chappell Hill Street Extension south of U.S. Highway 290 is being funded by the BCDC (25%) and the Developer (75%). Bids were taken for hot mix asphaltic concrete pavement (HMAC). After opening of the bids, the developer and BCDC showed interest in substituting concrete pavement in lieu of HMAC. Using unit prices from other portions of the project, the substitution of concrete pavement is an additional \$126,309 for this portion of the road. Bids were also taken for the installation of street lights along this portion of road, which totaled \$106,200. Staff believes that there are other alternatives for street lighting that will be less costly and therefore recommends that they be removed from the contract. As a condition of using concrete pavement, the contractor has requested an additional 45 calendar days added to the contract. Staff has reviewed this request and has no issue with this extension. It is the contractor's intention to complete the northern portion of Chappell Hill Street (near South Market Street) first and therefore this change should not have any effect on the completion schedule of the northern portion of the road.</p> <p>This change order reflects the sum of the increase in cost for concrete pavement and the decrease in cost for removing the street lighting, making the net increase \$20,109. The BCDC and Developer have agreed to fund the additional cost of concrete pavement in lieu of HMAC and no funding from the City will be required. Being that no City funding it involved and that a concrete street will provide a longer life cycle than HMAC, staff recommends approving Change Order No. 1 as presented.</p>		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
<p>A. PROS:</p> <p>B. CONS:</p>		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Change Order No. 1		

FUNDING SOURCE (Where Applicable): Brenham Community Development Corporation and private developers.

RECOMMENDED ACTION: Approve Change Order No. 1, in the amount of \$20,109.00, to Collier Construction, LLC. for the extension of Chappell Hill Street and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry K. Roberts

CHANGE ORDER NO. 1

DATE: SEPTEMBER 29, 2014

Project: Chappell Hill Street Extension	J&C Job No.: B0039-0026-00
Owner: City of Brenham P.O. Box 1059, Brenham, TX 77834	Contractor: Collier Construction, L.L.C. P.O. Box 1889, Brenham, TX 77834

Description of Changes: 1. Delete the street lighting on the Kruse portion of the project. 2. Change the pavement on the Kruse portion of the project from asphalt to reinforced concrete.

Reason for Changes: To change the type of pavement on the Kruse portion of the project from HMAC to reinforced concrete.

Change in Contract price and time summary:

	<u>COST</u>	<u>TIME</u>
Original Contract:	\$2,059,477.25	150 Calendar Days
Net previous change(s):	\$0.00	0 Calendar Days
Contract prior to this change order:	\$2,059,477.25	150 Calendar Days
Net increase from this change order:	\$20,109.00	45 Calendar Days
Revised Contract Amount:	\$2,079,586.25	195 Calendar Days
Cumulative % Change in Contract:	0.98 %	30 %

<p>RECOMMENDED BY: Jones & Carter, Inc.</p> <p> Wm. R. Krueger, P.E., Vice President 9/29/2014 Date</p>	<p>ACCEPTED BY: Contractor: Collier Construction, L.L.C.</p> <p> Mike Collier, President 9/29/2014 Date</p>
	<p>APPROVED BY: Owner: City of Brenham</p> <p>_____ Milton Y. Tate, Jr., Mayor 9/29/2014 Date</p>

Enclosure: Attachment No. 1

Construction of the City of Brenham
Chappell Hill Street Extension
J&C No. B0039-0026-00

To implement payment for this work, the following revisions are made to the Item/Quantity Sheets:

Item No.	Description	Unit	Unit Price	Revised Unit Price	Bid Quantity	Revised Quantity	Previous Amount	Revised Amount	Net Change
106.	Mobilization, including bonds, insurance, move-in, move-out and related work.	L.S.	\$53,650.00	\$53,650.00	1	0	\$53,650.00	\$0.00	(\$53,650.00)
106A.	Mobilization, including bonds, insurance, move-in, move-out and related work.	L.S.	\$0.00	\$64,550.00	0	1	\$0.00	\$64,550.00	\$64,550.00
109.	Perform all specified excavation work.	L.S.	\$83,000.00	\$83,000.00	1	0	\$83,000.00	\$0.00	(\$83,000.00)
109A.	Perform all specified excavation work.	L.S.	\$0.00	\$92,400.00	0	1	\$0.00	\$92,400.00	\$92,400.00
110.	Perform all specified embankment work, including moisture adjustment and compaction.	L.S.	\$95,000.00	\$95,000.00	1	0	\$95,000.00	\$0.00	(\$95,000.00)
110A.	Perform all specified embankment work, including moisture adjustment and compaction.	L.S.	\$0.00	\$98,950.00	0	1	\$0.00	\$98,950.00	\$98,950.00
113.	Furnish and install a minimum of 8" (compacted thickness) of Type A, Grade 2 crushed limestone base material, including moisture adjustment and compaction.	S.Y.	\$11.00	\$11.00	8,780	0	\$96,580.00	\$0.00	(\$96,580.00)
114.	Furnish and install MC-30 prime oil.	Gal.	\$6.00	\$6.00	2,189	0	\$13,134.00	\$0.00	(\$13,134.00)
115.	Construct hot mix asphaltic concrete overlay (2") (Type D).	S.Y.	\$14.50	\$14.50	8,755	0	\$126,947.50	\$0.00	(\$126,947.50)
116.	Construct reinforced concrete curb and gutter.	L.F.	\$9.50	\$9.50	3,901	0	\$37,059.50	\$0.00	(\$37,059.50)
140.	Furnish and install standard street light assembly.	Ea.	\$5,350.00	\$5,350.00	8	0	\$42,800.00	\$0.00	(\$42,800.00)

<u>Item No.</u>	<u>Description</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Revised Unit Price</u>	<u>Bid Quantity</u>	<u>Revised Quantity</u>	<u>Previous Amount</u>	<u>Revised Amount</u>	<u>Net Change</u>
141.	Furnish and install specified electrical conduit and wire.	L.S.	\$57,400.00	\$57,400.00	1	0	\$57,400.00	\$0.00	(\$57,400.00)
142.	Purchase electrical service, pole, and disconnect from Bluebonnet Electric.	Ea.	\$6,000.00	\$6,000.00	1	0	\$6,000.00	\$0.00	(\$6,000.00)
145.	Construct 8" minimum thickness reinforced concrete pavement.	S.Y.	\$0.00	\$35.00	0	9,622	\$0.00	\$336,770.00	\$336,770.00
146.	Construct 6" reinforced concrete curb dowelled onto reinforced concrete pavement.	L.F.	\$0.00	\$10.00	0	3,901	\$0.00	\$39,010.00	\$39,010.00
NET INCREASE IN CONTRACT PRICE									\$20,109.00



AGENDA ITEM 14

DATE OF MEETING: October 9, 2014	DATE SUBMITTED: September 17, 2014	
DEPT. OF ORIGIN: Fire Department	SUBMITTED BY: Ricky Boeker	
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-14-021 Authorizing the Sale of a 1986 Pierce Arrow 55' Telesquirt Fire Truck to the City of Columbus Fire Department and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: The 1986 Pierce Arrow Fire Truck is one of the apparatus that is being replaced and the Columbus Fire Department has expressed an interest in purchasing it. We had gotten a trade in price of \$10,000 from the company that we purchased our new trucks from and we felt that we could get more if we sold it ourselves. We have had the truck appraised by Texas Fire Trucks and it appraised at \$23,500 which I have enclosed with the agenda form. This truck will be sold as is and this has been conveyed to Columbus. I have presented this to the Columbus Fire Department and they have agreed to this price and have enclosed their letter of intent to purchase our truck at the appraised value if approved by City Council.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS: By selling to Columbus we have received a better price than if we would trade truck in		
B. CONS: None		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Resolution No. R-140921; (2) Appraisal from Texas Fire Trucks; (3) Letter of Commitment from the Columbus Fire Department; (4) Specifications on the 1986 Pierce Arrow 55' Telesquirt Fire Truck; and (5) Bill of Sale		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve Resolution No. R-14-021 authorizing the sale of a 1986 Pierce Arrow 55' Telesquirt Fire Truck to the City of Columbus Fire Department and authorize the Mayor to execute any necessary documentation.		
APPROVALS: Terry K. Roberts		

RESOLUTION NO. R-14-021

A RESOLUTION OF THE CITY OF BRENHAM, TEXAS AUTHORIZING THE SALE OF A SURPLUS 1986 PIERCE ARROW WITH FIFTY-FIVE FOOT TELESQUIRT TO THE COLUMBUS FIRE DEPARTMENT

WHEREAS, the City of Brenham (“City”) owns, and the Brenham Fire Department (“Department”) operates, a 1986 Pierce Arrow fire truck with a fifty-five foot Telesquirt (VIN# E-3176); and

WHEREAS, the City Council of the City of Brenham (“City Council”) hereby determines that the Department has sufficient equipment to fulfill its duties without the use of the 1986 Pierce Arrow fire truck, and therefore the 1986 Pierce Arrow fire truck is surplus equipment; and

WHEREAS, the Columbus Fire Department has offered to purchase the 1986 Pierce Arrow fire truck for twenty-three thousand five hundred and no/100 dollars (\$23,500.00); and

WHEREAS, the City Council hereby determines that twenty-three thousand five hundred and no/100 dollars (\$23,500.00) is fair consideration for the 1986 Pierce Arrow fire truck;

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

The City Council hereby authorizes the sale of the 1986 Pierce Arrow fire truck with a fifty-five foot Telesquirt (VIN# E-3176) to the Columbus Fire Department, “as is” and with no warranty, for the purchase price of twenty-three thousand five hundred and no/100 dollars (\$23,500.00), and authorizes the Mayor to execute any necessary documentation.

PASSED and APPROVED on this 9th day of October, 2014.

Milton Y. Tate, Jr., Mayor

ATTEST

Jeana Bellinger, TRMC
City Secretary

To: Chief Boeker

8/07/14

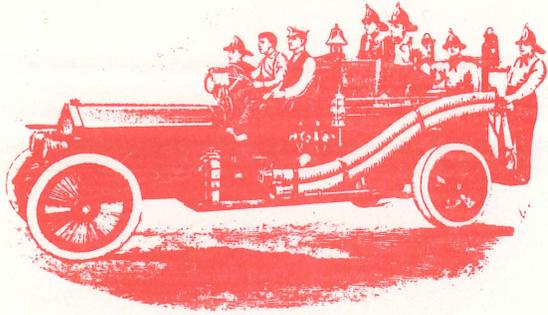
Subject: Brenham Fire Department Appraisal

The following information is an estimated appraisal on the apparatus you requested, the value reflect apparatus that is in good to excellent condition and well maintained and pass pump certification. Equipment such as ground ladders, hose reel, emergency lights and Sirens were also calculated in the appraisal.

1986 Pierce Arrow 55' Telesquirt	\$23,500
Mileage 29,898	
1500 GPM Waterous pump	
500 water tank	
Diesel engine	
Automatic Transmission	

These values are compiled by recent truck sales of trucks of the same age and condition with similar equipment and options. We do not guarantee that they will sell for this amount, Keep in mind these values are only good for approximately 6 months and will depreciate yearly. Please let me know if we can help you with anything else.

Erik Petocz
CEO/ Texas Fire Trucks



Columbus Fire Department

*602 Spring Street
P.O. Box 125*

Columbus, Texas 78934

Since 1886

August 13, 2014

Chief Ricky Boeker
Brenham Fire Department
101 N. Chappell Hill Street
Brenham, TX 77833

Regarding Purchase of 1986 Pierce Arrow 55' Telesquirt

The Columbus Fire Department met on Monday August 11, 2014 and voted to purchase your 1986 Pierce Arrow for the appraised price of \$23,500.00. This letter is to serve as our commitment to purchase the 1986 Pierce Arrow based on the appraisal and the condition of the apparatus at the time of the appraisal. We are excited to have the opportunity to add this truck to our fleet and look forward to giving it a good home for the future.

Sincerely,

Dusty Dittmar
Chief

Accepted: _____



1986 Pierce Arrow 55' Telesquirt

(E2)

Year	1986	Color	Red		
Vin #	E-3176				
Height	129"				
Length	358"				
Wheel Base	188"				
Width	96"				
GVWR	43000 Pounds				
Engine	Detroit	Model	8V-92TA	Serial Number	8VF104234
Transmission	Allison HT740				
Water Tank	500 gal.				
Pump	Waterous 1500 gpm				
Tires	Rear	11R 22.5			
	Front	11.00 R 20			
Generator	7.5kw	Hale	14.2 hp	included	
Tele-Squirt 50	Model	B5042			
Hose Reel	200' red line -included			included	
2 cross lay compartments			Assorted ground ladders	included	

Passed Annual Pump test – 4-05-2014

Hose and equipment does not go with the truck - ONLY Ladders

Mileage 29,898 *est. old odometer when replaced 24,000*

8-5-2014

Engine Hours

2300 hrs Est.

Bill of Sale

Date: _____, 2014

Seller: City of Brenham

Seller's Mailing Address:

City of Brenham
200 W. Vulcan Street
Brenham, TX 77833
Washington County

Buyer: Columbus Fire Department

Buyer's Mailing Address:

P.O. Box 125
Columbus, TX 78934
Colorado County

Consideration:

Twenty-Three Thousand Five Hundred and no/100 dollars (\$23,500.00)

Transferred Properties:

1986 Pierce Arrow fire truck with 55' Telesquirt VIN# E-3176

Reservations from Transfer:

None.

Exceptions to Transfer and Warranty:

None.

Seller, for the Consideration and subject to the Reservations from Transfer and the Exceptions to Transfer and Warranty, sells, transfers, and delivers the Transferred Properties to Buyer, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Buyer and Buyer's heirs, successors, and assigns forever.

SELLER HAS MADE NO AFFIRMATION OF FACT OR PROMISE RELATING TO THE TRANSFERRED PROPERTIES THAT HAS BECOME ANY BASIS OF THIS BARGAIN, AND FURTHER, SELLER HAS MADE NO AFFIRMATION OF FACT OR PROMISE RELATING TO THE TRANSFERRED PROPERTIES THAT WOULD CONFORM TO ANY SUCH AFFIRMATION OR PROMISE. SELLER DISCLAIMS ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE WHATEVER WITH RESPECT TO THE TRANSFERRED PROPERTIES. THE TRANSFERRED PROPERTIES ARE SOLD ON AN "AS IS" BASIS.

When the context requires, singular nouns and pronouns include the plural.

City of Brenham, Seller

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

Buyer: Columbus Fire Department

Printed Name: Dusty Dittmar
Title: Chief
Organization: Columbus Fire Department



AGENDA ITEM 15

DATE OF MEETING: October 9, 2014		DATE SUBMITTED: October 3, 2014													
DEPT. OF ORIGIN: Finance		SUBMITTED BY: Carolyn D. Miller													
MEETING TYPE:		CLASSIFICATION:													
<input checked="" type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING													
<input type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT													
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR													
		<input type="checkbox"/> WORK SESSION													
ORDINANCE:															
<input type="checkbox"/> 1 ST READING															
<input type="checkbox"/> 2 ND READING															
<input type="checkbox"/> RESOLUTION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Lease Purchase Agreement with JPMorgan Chase Bank for the Lease Purchase of an Asphalt Zipper AZ600-260B for the City of Brenham's Street Department and Authorize the Mayor to Execute Any Necessary Documentation.															
SUMMARY STATEMENT: In the FY2014-2015 Adopted Budget, Council approved the purchase of an Asphalt Zipper road mixer for the Street Department. This capital item was approved to be purchased through a lease purchase procurement method with annual lease payments paid from the Debt Service Fund. The Asphalt Zipper will be rented for two months (September and October 2014) and then purchased through the Houston Galveston Area Council Cooperative for \$138,000 (original price of \$164,490 less \$6,490 allowance for field demo and less \$20,000 adjustment for 2 monthly rental payments). We received lease proposals from JPMorgan Chase Bank, who we have used in the past for lease purchase agreements, and De Lage Landen, the leasing partner for municipality clients for our current bank, BBVA Compass.															
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Proposal</u></th> <th style="text-align: left;"><u>Terms</u></th> <th style="text-align: left;"><u>Interest Rate</u></th> <th style="text-align: left;"><u>Annual Payment</u></th> </tr> </thead> <tbody> <tr> <td>JPMorgan Chase Bank</td> <td>5 years</td> <td>2.164%</td> <td>\$ 29,313.51</td> </tr> <tr> <td>De Lage Landen</td> <td>5 years</td> <td>3.690%</td> <td>\$ 29,637.85</td> </tr> </tbody> </table>				<u>Proposal</u>	<u>Terms</u>	<u>Interest Rate</u>	<u>Annual Payment</u>	JPMorgan Chase Bank	5 years	2.164%	\$ 29,313.51	De Lage Landen	5 years	3.690%	\$ 29,637.85
<u>Proposal</u>	<u>Terms</u>	<u>Interest Rate</u>	<u>Annual Payment</u>												
JPMorgan Chase Bank	5 years	2.164%	\$ 29,313.51												
De Lage Landen	5 years	3.690%	\$ 29,637.85												
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):															
A. PROS:															
B. CONS:															
ALTERNATIVES (In Suggested Order of Staff Preference):															

ATTACHMENTS: (1) Financing Proposal from JPMorgan Chase Bank; and (2) Financing Proposal from De Lage Landen (BBVA Compass leasing partner)
FUNDING SOURCE (Where Applicable): Estimated annual lease payments of \$39,500 were approved in the FY2014-2015 Adopted Budget of the Debt Service Fund.
RECOMMENDED ACTION: Approve a Lease Purchase Agreement with JPMorgan Chase Bank for 5 years, at an interest rate of 2.164% with an annual payment of \$29,313.51 for the purchase of an Asphalt Zipper AZ600-260B for the City of Brenham's Street Department and authorize the Mayor to execute any necessary documentation.
APPROVALS: Terry K. Roberts



JPMorgan Chase Bank, N.A.
 545 West 19th Street, Floor 01
 Houston, TX 77008-3611
 Tel: 713-868-8648 Fax: 866-386-7049
 E-Mail: Noni.D.Mrok@chase.com

Noni R Mrok
 Sr. Relationship Manager

October 3, 2014

Stacy Hardy
 Controller
 City of Brenham
 200 W. Vulcan Street
 Brenham, TX 77834

Dear Ms. Hardy:

JPMorgan Chase Bank, N.A. is pleased to submit the following equipment financing proposal. This document is for discussion purposes only and is contingent upon the Lessee's compliance with the requirements of the Internal Revenue Code of 1986 ("Code"), as amended, and all applicable state laws related to Lessee's ability to enter into a tax-exempt lease-purchase financing for the intended purposes. The final terms and conditions are subject to credit approval and may be different from the terms and conditions outlined below.

Type of Transaction:	Fixed-rate, fully amortizing, tax-exempt lease-purchase agreement ("Agreement").
Lessor:	JPMorgan Chase Bank, N.A. or any affiliate of JPMorgan Chase Bank, N.A., its successors and/or assigns ("JPMorgan Chase" or the "Lessor").
Lessee:	City of Brenham
Equipment:	One new 01AD4 AZ 600 Asphalt Zipper w/ a 203 HP engine, 72" Standard Cutter head, & customer upgraded 600, Wireless Remote, DOT certified transport trailer
Financed Amount:	\$138,000
Location of Equipment:	200 W. Vulcan Street, Brenham, TX 77834
Commencement Date:	Anticipated to be no later than November 1, 2014
Interest Rate:	2.164%
Payments:	Lessee will be required to make FIVE consecutive ANNUAL payments of principal and interest, each in ARREARS, equal to \$29,313.51, beginning September 1, 2015.

Adjustments to Rate & Payments:	The Interest Rate and Payments quoted herein are based on current market rates as indicated by the THREE Year Interest Swap Rate ("Index Rate"), which rate was 1.31% as of September 30, 2014. For every change in the Index Rate, an adjustment will be made to the Interest Rate and Payment in order to maintain Lessor's economics. The final Interest Rate and Payment will be agreed to 3 days prior to closing.										
Bank Qualified:	This proposal assumes that Lessee will not issue more than \$10 million in tax-exempt obligations this calendar year and that the Lessee will designate this lease as a "qualified" tax-exempt obligation.										
Use of Proceeds/Title:	To finance the acquisition of One new 01AD4 AZ 600 Asphalt Zipper w/ a 203 HP engine, 72" Standard Cutter head, & customer upgraded 600, Wireless Remote, DOT certified transport trailer, the legal title of which shall vest in the Lessee during the term of the Agreement.										
Prepayment:	The Lessee shall have the right to prepay, in whole, on any payment date. If Lessee chooses to prepay, a penalty will be assessed based on the following schedule: <table border="0" style="margin-left: 40px;"> <tr> <td>Month 0-12</td> <td>5% of outstanding principal balance</td> </tr> <tr> <td>Month 13-24</td> <td>4% of outstanding principal balance</td> </tr> <tr> <td>Month 25-36</td> <td>3% of outstanding principal balance</td> </tr> <tr> <td>Month 37-48</td> <td>2% of outstanding principal balance</td> </tr> <tr> <td>Month 49-60</td> <td>1% of outstanding principal balance</td> </tr> </table>	Month 0-12	5% of outstanding principal balance	Month 13-24	4% of outstanding principal balance	Month 25-36	3% of outstanding principal balance	Month 37-48	2% of outstanding principal balance	Month 49-60	1% of outstanding principal balance
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Month 25-36	3% of outstanding principal balance										
Month 37-48	2% of outstanding principal balance										
Month 49-60	1% of outstanding principal balance										
Security:	Lessee will grant Lessor a first priority security interest in the financed equipment.										
Appropriation:	This Agreement shall be subject to appropriation, with documentation within the Agreement requiring appropriation for payment of all lease schedules or none at all. Appropriation for partial payment or for select assets within a schedule will not be permitted.										
Disbursement of Proceeds:	Lessor will fund directly to vendor.										
Expenses and Fees:	Lessee shall be responsible for all out-of-pocket expenses, including, but not limited to, Lessor's outside counsel, other attorney fees, search and registrations, and appraisals.										
Documentation:	Lessor or its counsel shall prepare documentation. The Lessee shall be responsible for its own expenses related to review of the lease documents and delivery of legal/validity opinion to the Lessor.										
Reporting Requirements:	Lessee shall deliver audited annual financial statements within 180 days of end of each fiscal year.										
Events of Default:	The Events of Default will be standard and customary for transactions of this nature.										

Maintenance and Insurance:	All maintenance and insurance are the responsibility of Lessee. Lessee shall bear all risk of loss or damage to the Equipment and shall be responsible for keeping the Equipment insured with companies satisfactory to and for such amounts as required by Lessor. Lessor, its parent and affiliates, its successors, and assigns, must be named as loss payee and additional insured as applicable, on all insurance policies. Evidence of such insurance must be satisfactory to Lessor.
Representation and Warrants:	Usual representations and warranties in connection with the financing, including without limitation, absence of material adverse change, absence of material litigation, absence of Default or potential default and continued accuracy of representations.
Conditions Precedent:	Usual and customary conditions related to the issuance of the Tax-Exempt financing, including acceptable legal documentation and standard approvals from the City, State and local officials, as may be required.
Governing Law:	All aspects of the financing being discussed including this Proposal and any loan documents would be governed by the laws of the State of Texas.
Waiver of Jury Trial:	The Lessee will waive, to the fullest extent permitted by applicable law, any right to have a jury participate in resolving any dispute in any way related to this term sheet, any related documentation or the transactions contemplated hereby or thereby.
Waiver of Immunity:	Lessee hereby expressly and irrevocably waives any immunity (including sovereign, crown or similar immunity) and any defenses based thereon from any suit, action or proceeding or from any legal process in any forum with respect to Lease.
Proposal Only:	This proposal is not a commitment to undertake this financing. A commitment can be issued only after full credit and economic review and subsequent approval by the appropriate officers of JPMorgan Chase Bank, NA or any affiliate of JPMorgan Chase Bank, NA, its successors and/or assigns. A commitment shall not be binding on Lender/Lessor unless it is in writing and signed by Lender/Lessor and accepted by Lessee. Lender/Lessor will have the sole right of assignability of this proposal or any lease between Lessee and Lender/Lessor.
Expiration Date:	This proposal will expire in two weeks unless Lessee acknowledges its acceptance by signing and returning a copy of this proposal to Lessor.
Confidentiality:	You further acknowledge that Lessor and its affiliates (collectively, "Chase") may, from time to time, be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which you may have conflicting interests regarding the transaction described herein and otherwise. In return, Chase confirms that it will not use confidential information obtained from you by virtue of the potential transaction contemplated by this proposal or our other relationships with

you in connection with the performance by Chase of such services for other companies. You also acknowledge that Chase will not use in connection with the potential transaction contemplated by this preliminary proposal, or furnish to you, confidential information obtained from other companies.

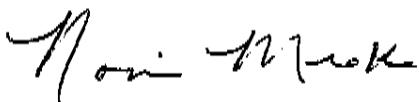
**IRS Circular 230
Disclosure:**

JPMorgan Chase & Co. and its affiliates do not provide tax advice. Accordingly, any discussion of U.S. tax matters contained herein (including any attachments) is not intended or written to be used, and cannot be used, in connection with the promotion, marketing or recommendation by anyone unaffiliated with JPMorgan Chase & Co. of any of the matters addressed herein or for the purpose of avoiding U.S. tax-related penalties.

Please feel free to contact me at 713-868-8648 if you would like to discuss this proposal in greater detail or have additional equipment financing requirements. Upon receipt of the accepted proposal, we will begin the approval process. Thank you for the opportunity to serve your equipment financing needs.

Sincerely,

JPMorgan Chase Bank, N.A.



By: Noni R Mrok

Title: Sr. Relationship Manager

CITY OF BRENHAM

Accepted Date: _____

By: _____

Title: _____

Sample Loan Amortization

<u>date</u>	<u>funding</u>	<u>payment</u>	<u>interest</u>	<u>principal</u>	<u>balance</u>
11/1/2014	\$138,000.00				\$138,000.00
9/1/2015		\$ 29,313.51	\$2,488.60	\$ 26,824.91	\$111,175.09
9/1/2016		\$ 29,313.51	\$2,405.83	\$ 26,907.68	\$ 84,267.41
9/1/2017		\$ 29,313.51	\$1,823.55	\$ 27,489.96	\$ 56,777.45
9/1/2018		\$ 29,313.51	\$1,228.66	\$ 28,084.85	\$ 28,692.60
9/1/2019		\$ 29,313.51	\$ 620.91	\$ 28,692.60	\$ -
	<u>\$138,000.00</u>	<u>\$146,567.55</u>	<u>\$8,567.55</u>	<u>\$138,000.00</u>	

Proposal for Tax Exempt Lease Purchase Financing

Date: September 22, 2014

Customer: City of Brenham, TX

The following is a proposal for financing for City of Brenham, TX (“Customer”) regarding the equipment described herein (“Equipment”) by De Lage Landen Financial Services, dba De Lage Landen Public Finance LLC (“DLL”) for discussion purposes only.

This proposal is an indication of interest regarding a possible financing transaction on the general terms and conditions outlined herein and should not be construed as a commitment.

- This is a finance/ownership contract. \$1.00 purchase option at contract end.
- Title to the equipment must be in the name of the Customer, with a security interest granted to DLL.
- Fixed interest rate for the term of the contract.
- Cancellation for convenience or vendor non-performance is not permitted.
- Payment invoicing and contract servicing will be in the name of **DLL Public Finance**.

Equipment: Asphalt Zipper \$138,000

Transaction Overview

Term:	5 Years
Acquisition Cost:	\$138,000*
Down Payment:	\$0.00
Buy Out:	\$0.00
Principal Balance:	\$138,000*
Payment Mode:	Annual/Advance
Interest Rate:	3.69%
Payment Factor:	.214767
Payment:	\$29,637.85*

**1st payment due at lease signing. Estimated. Subject to change.*

Interest Rate Lock: Interest rates and rate factors are valid for funding prior to 10/31/14 and indexed thereafter. The transaction must be funded prior to 10/31/14, or DLL reserves the right to adjust and determine a new Fixed Interest Rate

Interest Rate Indexing: If interest rate indexing is required as per the paragraph above, the interest rate will be indexed to the Securities Industry and Financial Markets Swap/Ask Index (formerly the BMA Swap/Ask Index) (“SIFMA Swap Ask Yield”). The interest rate and resulting payments will be determined ten (10) days prior to closing.

General Terms and Conditions

- De Lage Landen Public Finance LLC must fund this transaction prior to 10/31/14, or DLL reserves the right to adjust and determine a new Fixed Interest Rate.
- This transaction must be designated as tax-exempt under Section 103 of the Internal Revenue Code of 1986
- Failure to consummate this transaction once credit approval is granted and the financing documents are drafted and delivered to Customer may result in a documentation fee being assessed.
- All financing is subject to verification that all costs are eligible for inclusion in a tax exempt financing.
- If state sales tax is applicable to the sale of the Equipment to the Customer, such tax is explicitly **NOT** the responsibility of DLL.
- Either DLL or Customer may terminate discussions at any time in its sole discretion.
- If made, an approval by DLL would be in a separate writing and would be subject to legal and business due diligence and credit review, with results satisfactory to DLL, in its sole discretion.
- Customer acknowledges that the terms of the financing (if approved) may change before the parties execute final documentation.
- No financing terms will be binding on either party until Customer and DLL sign definitive documentation.
- This Letter is not a statement of all terms and conditions of the financing, which terms and conditions would be contained fully in final documentation and would supercede the terms of this Letter.
- This Letter is intended for the use of the Customer only, and no other party may rely upon or derive any legal rights from this Letter.
- This Letter is valid for acceptance and funding prior to 10/31/14 and thereafter shall automatically be deemed to be null and void.

Thank you for the opportunity to present this proposal and for your thoughtful consideration.

De Lage Landen Financial Services

John J D'Angelo

John J. D'Angelo

ACCEPTED:

City of Brenham, TX

Signature: _____

Name & Title: _____

Date: _____



AGENDA ITEM 16

DATE OF MEETING: October 9, 2014	DATE SUBMITTED: October 1, 2014	
DEPT. OF ORIGIN: Finance	SUBMITTED BY: Carolyn D. Miller	
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-14-022 Reauthorizing an Investment Policy for the City of Brenham.		
<p>SUMMARY STATEMENT: In 1987, the Texas Legislature adopted the Public Funds Investment Act (PFIA) which established guidelines for local governments. This Act requires that a local government adopt a written investment policy and reauthorize the policy annually. With the assistance of Linda Patterson of Patterson & Associates, we have included a red-line version of the Investment Policy with a few changes as summarized below:</p> <p>Section V. Responsibilities and Control</p> <p><u>City Council Responsibilities</u></p> <ul style="list-style-type: none"> ✓ As required by the PFIA, added training every two years <p><u>Investment Officer</u></p> <ul style="list-style-type: none"> ✓ Disclose personal business relationships in accordance with City policy <p><u>Internal Controls</u></p> <ul style="list-style-type: none"> ✓ Delete bullet avoid physical delivery of securities ✓ Written confirmation of all transactions ✓ Review wire transfer agreements with the depository bank or third party custodian ✓ Faster notification of loss of rating from two weeks to three days <p>Section VI. Suitable and Authorized Investments</p> <p><u>Authorized Investments</u></p> <ul style="list-style-type: none"> ✓ Added interest bearing or money market accounts in any bank in Texas as investment option <p>Section IX. Safekeeping of Securities and Collateral</p> <p><u>Safekeeping and Custodial Agreements</u></p> <ul style="list-style-type: none"> ✓ Required monthly collateral reports <p><u>Collateral Policy</u></p> <ul style="list-style-type: none"> ✓ Approve the collateralization agreements with custodians 		
We are asking Council to reauthorize the proposed policy with changes as noted.		

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS:

B. CONS:

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Resolution No. R-14-022; and (2) Redlined copy of Investment Policy showing changes since last adoption in November, 2013.

FUNDING SOURCE (Where Applicable):

RECOMMENDED ACTION: Approve Resolution No. R-14-022 reauthorizing an Investment Policy for the City of Brenham dated October 9, 2014.

APPROVALS: Terry K. Roberts

RESOLUTION NO. R-14-022

A RESOLUTION REAUTHORIZING AN INVESTMENT POLICY FOR THE CITY OF BRENHAM

WHEREAS, in the 1987 session the Texas Legislature adopted the Public Funds Investment Act, “the Act”, which established guidelines for local government investments; and

WHEREAS, the Act requires that a local government adopt a written investment policy; and

WHEREAS, the Act requires the governing body of a local government to reauthorize the written investment policy annually; and

WHEREAS, the amended policy dated October 9, 2014 complies with the provision of the Act; and

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

Section 1: The City of Brenham Investment Policy attached hereto as “Exhibit A” is hereby reauthorized as the investment policy of the City of Brenham effective October 9, 2014.

Section 2: This Resolution shall take effect immediately upon its passage.

APPROVED on this _____ day of _____, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



INVESTMENT POLICY

I. POLICY

It is the policy of the City of Brenham that all available funds shall be invested in conformance with these legal and administrative guidelines with consideration for anticipated cash flow requirements and consideration of the safety and risk of investments. The City shall seek to optimize interest earnings to the extent possible based on these risk parameters.

Effective cash management is recognized as essential to good fiscal management. Investment interest is a source of revenue to City of Brenham funds. The City of Brenham's investment portfolio shall be designed and managed in a manner designed to obtain the highest reasonable earnings from this revenue source, to be responsive to public trust, and to be in compliance with legal requirements and limitations.

Investments shall be made with the primary objectives of:

- **Safety** and preservation of principal
- Maintenance of sufficient **liquidity** to meet operating needs
- Diversification to avoid concentrated risk
- **Public trust** from prudent investment activities
- Optimization of **interest earnings** on the portfolio

The Investment Policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City of Brenham's funds. This Policy serves to satisfy the statutory requirements of the Public Funds Investment Act, the "Act", (Texas Government Code, Chapter 2256) in defining and adopting a formal investment policy and strategy. The policy and strategy shall be reviewed by the Audit / Investment Committee and adopted by resolution of the City Council no less than annually. Any modifications to the Policy will be noted in the written resolution.

II. SCOPE

This Investment Policy shall govern the investment of all financial assets of the City of Brenham. These funds are accounted for in the City of Brenham's Comprehensive Annual Financial Report (CAFR) and include:

- General Fund
- Special Revenue Funds
- Capital Projects Funds
- Enterprise Funds
- Trust and Agency Funds, to the extent not required by law or existing contract to be kept segregated and managed separately
- Debt Service Funds, including reserves and sinking funds, to the extent not required by law or existing contract to be kept segregated and managed separately
- Brenham Community Development Corporation Funds
- Internal Service Funds
- Self-Insurance Funds
- Any new fund created by the City of Brenham, unless specifically exempted from this Policy by the City Council or by law.

The City of Brenham may consolidate cash balances from all funds for investment purposes and efficiencies. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles. The consolidated portfolio will address the varying needs, goals, and objectives of each fund.

This Investment Policy shall apply to all transactions involving the financial assets and related activity for all the foregoing funds. However, this Policy does not apply to the assets administered for the benefit of the City of Brenham by outside agencies or under deferred compensation programs.

III. INVESTMENT OBJECTIVES

The City of Brenham shall manage and invest its cash with five primary objectives, listed in order of priority: **safety, liquidity, diversification, public trust, and yield**. The safety of the principal invested always remains the primary objective. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

The City of Brenham shall maintain a comprehensive cash management program, which includes timely collection of account receivables, vendor payments in accordance with invoice terms, and prudent investment of funds. Cash management is defined as the process of managing monies in order to ensure cash availability and reasonable market earnings on the City's assets.

SAFETY

Safety of principal is the foremost objective of the investment program. Investments of the City of Brenham shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. Competitive bidding and perfected ownership of investments will be in place at all times. The objective will be to mitigate credit and interest rate risk. Each investment transaction shall be conducted in a manner to control the risk of capital loss by investing in high credit quality securities.

- Credit Risk – The Entity will minimize credit risk, the risk of loss due to the failure of the issuer or backer of the investment, by:
 - Limiting investments to the highest credit quality investments
 - Pre-qualifying the financial institutions and broker/dealers with which the City of Brenham transacts business
 - Perfecting City ownership by delivery versus payment settlement, and
 - Diversifying the investment portfolio so that potential credit or market risk is minimized.
- Market Risk – the City will minimize the risk from interest rate volatility by:
 - Structuring the investment portfolio to meet cash requirements for ongoing operations, thereby avoiding the need to liquidate investments prior to maturity.
 - Investing operating funds in laddered securities and maintaining a liquidity portion to cover unanticipated expenses.

LIQUIDITY

The City of Brenham investment portfolio shall be structured in a ladder of maturities to match expected liabilities along with a liquidity portion to meet unanticipated liabilities. Securities will have active secondary markets.

PUBLIC TRUST

All participants in the City of Brenham’s investment process shall seek to act responsibly as custodians of the public trust. Investment officers shall avoid any transaction that might impair public confidence in the City of Brenham’s ability to govern effectively.

DIVERSIFICATION

The portfolio will be diversified by market sector and maturity based on the cash flow and risk tolerances of the City.

YIELD

The City of Brenham investment portfolio shall be designed with the objective of attaining a reasonable market yield throughout budgetary and economic cycles, taking into account the City’s investment risk constraints and the cash flow characteristics of the portfolio. Yield is secondary to the safety and liquidity objectives described above.

Based upon the cash flow of the City the maximum dollar- weighted average maturity of the consolidated portfolio shall be six months. The benchmark used to determine whether reasonable yields are being achieved shall be the six month U.S. Treasury Bill.

IV. INVESTMENT STRATEGY

The City of Brenham maintains a consolidated portfolio which is designed to address the unique characteristics of the fund groups represented in the portfolio.

Operating Funds: The primary objective for operating funds is to assure anticipated cash flows are matched with adequate investment liquidity. The secondary objective is to create a portfolio structure which will experience minimal volatility during economic cycles. This may be accomplished by purchasing high credit quality, short to medium term securities in a laddered structure. The maximum dollar weighted average maturity of six months reflects the expenditure cash flow of operating funds and will be calculated using the stated final maturity dates of each security.

Capital Project Funds: Funds for capital projects or special purposes should be invested based on anticipated cash flows and allow for flexibility and unanticipated project outlays. At no time will the stated final maturity dates of investments exceed the estimated project completion date on capital project funds.

Debt Service Funds: Debt service funds shall be invested with the primary objective of funding debt service obligations on the required payment date. Priority will be given to funding the next debt service due before any extensions are made in the funds.

Debt Service Reserve Funds: Debt Service Reserves should be invested to generate a dependable revenue stream from securities with a low degree of volatility. Securities should be short to medium term maturities and of high credit quality.

The City primarily utilizes a passive “buy and hold” portfolio strategy. Maturity dates are primarily matched with cash flow requirements and investments are purchased with the intent to be held until maturity. However, investments may be liquidated prior to maturity for the following reasons:

- An investment with declining credit may be liquidated early to minimize loss of principal.
- Cash flow needs require that the investment be liquidated.
- Market conditions present an opportunity to benefit from the trade.

V. RESPONSIBILITY AND CONTROL

CITY COUNCIL RESPONSIBILITIES

The City Council, in accordance with the Act, shall:

- Designate Investment Officers by resolution
- Receive and review quarterly investment reports
- Annually review and approve the City's broker/financial institution certification list – *As noted in Section VIII, the governing body has designated this responsibility to the Audit & Investment Committee*
- Review and adopt the investment policy and strategy at least annually
- Provide for investment training for investment officers

INVESTMENT OFFICERS

The Chief Financial Officer and the City Manager are hereby designated as "Investment Officers" pursuant to the Act. Investment Officers are delegated authority to invest the funds on behalf of the City and such authorization shall remain in effect until rescinded by the City Council or until the Officer resigns or is terminated. The Investment Officers are authorized to execute investment transactions on behalf of the City. No person may engage in an investment transaction or the management of City of Brenham funds except as provided under the terms of this Investment Policy as approved by the City Council.

Investment Officers shall:

- Obtain training as defined by the Act and this Policy
- Prepare, sign, and submit quarterly investment reports to Council
- Maintain compliance files on all counter-parties (brokers) and provide the list for Council approval at least annually
- Provide for competitive bidding
- Disclose personal business relationships in accordance with policy
- Maintain full and complete records of the City's portfolio and transactions.

QUALITY AND CAPABILITY OF INVESTMENT MANAGEMENT

The Investment Officers shall obtain training in investments. The seminars should be offered by professional organizations, associations, and other independent sources approved by Council. The training is to insure the quality and capability of investment management in compliance with the Act.

In accordance with the Act, the designated Investment Officers shall attend 10 hours of investment training session within 12 months of their designation and every successive two fiscal years. A newly appointed Investment Officer must attend a training session of at least 10 hours of instruction within twelve months of the date the officer took office or assumed the officer's duties. For purposes of this policy, an "independent source" from which investment training shall be obtained shall include a professional organization, an institution of higher education or any other sponsor other than a business organization with whom the City of Brenham may engage in an investment transaction.

INTERNAL CONTROLS

The Chief Financial Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

The Chief Financial Officer shall establish a process for a compliance audit on policies and procedures. The internal controls shall address the following points at a minimum.

- Control of collusion.
- Separation of transactions authority from accounting and record keeping.
- Custodial safekeeping.
- Clear delegation of authority to subordinate staff members.
- Written confirmation for all transactions for investments and wire transfers.
- Review of wire transfer agreements with the depository bank or third party custodian.
- Review of compliance with the Act and this Policy.

Deleted: <#>Avoidance of physical delivery securities.¶

Deleted: telephone (voice)

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The Chief Financial Officer shall monitor, on no less than a monthly basis, the credit rating on all authorized investments in the portfolio based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by Policy, the Investment Officer shall notify the City Manager of the loss of rating, conditions affecting the rating and possible loss of principal with liquidation options available, within three days after notification of the loss of the required rating.

Deleted: two weeks

PRUDENCE

The standard of prudence to be applied to all transactions shall be the "prudent person rule". This rule states that "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

In determining whether an Investment Officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- The investment of all funds, or funds under the City's control, over which the Officer had responsibility rather than a consideration as to the prudence of a single investment.
- Whether the investment decision was consistent with the written approved Investment Policy of the City.

INDEMNIFICATION

The Investment Officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally liable for a specific investment's credit risk or market price changes, provided that these deviations are reported immediately and the appropriate action is taken to control adverse developments.

ETHICS AND CONFLICTS OF INTEREST

All participants in the investment process shall seek to act responsibly as custodians of the public trust. Investment officers shall avoid any transaction that might impair public confidence in the City's ability to govern effectively. Officers and employees involved in the investment process shall refrain from personal business activity that would conflict with the proper execution and management of the investment program, or that would impair their ability to make impartial decisions.

Council members, employees and Investment Officers shall disclose to the Texas Ethics Commission and the City Manager, and the City Manager discloses to the City Council if:

- a) The officer has a personal business relationship with a business organization offering to engage in an investment transaction with the City; or
- b) The officer is related within the second degree by affinity of consanguinity, as determined under Chapter 573 of the Texas Government Code, to an individual seeking to transact investment business with the City; or
- c) The officer has any material interests in financial institutions with which they conduct business; or
- d) The officer has any personal financial/investment positions that could be related to the performance of the investment portfolio.

Employees and officers shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of the City of Brenham.

VI. SUITABLE AND AUTHORIZED INVESTMENTS

City funds may be invested only in the instruments described below, all of which are authorized and further defined by the Act. The City will not be required to liquidate an investment that becomes unauthorized subsequent to its purchase.

I. AUTHORIZED INVESTMENTS

1. Obligations of the United States of America, its agencies and instrumentalities with stated maturities not to exceed three (3) excluding mortgage backed securities.
2. Obligations of the this State or any State or agency thereof including political subdivisions having been rated as investment quality by two nationally recognized investment rating firm, and having received a rating of not less that "AA" or its equivalent with maturities not to exceed three (3) years.

3. Fully insured or collateralized Certificates of Deposit issued by a bank doing business in Texas insured by the Federal Deposit Insurance Corporation or its successor or secured by obligations in a manner provided for by this Policy and state law with maturities not to exceed 12 months.
4. Fully collateralized direct repurchase agreements as defined by the Act with a defined termination date. Collateral shall be pledged to the City, held in the City's name, and deposited with a third party approved by the City. Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in Texas. A Bond market Association Master Repurchase Agreement must be executed prior to investment. All repurchase agreement transactions will be on a delivery vs. payment basis. Securities received for repurchase agreements must have a continuous market value equal to or greater than 102%. Repurchase agreements shall not have maturities over 3 months. Flex repurchase agreements used exclusively for capital project funds may exceed three months but may not be for a period longer than the expected expenditure of the bond proceeds.
5. AAA-rated money market mutual funds that are 1) registered and regulated by the Securities and Exchange Commission, 2) have a dollar weighted average stated maturity of 60 days or less, 3) are rated AAA by at least one nationally recognized rating service, and 4) seek to maintain a net asset value of \$1.00 per share.
6. Constant dollar, local government investment pools, which 1) are created under and conform to the requirements of the Act, 2) are rated no lower than AAA or an equivalent rating by at least one nationally recognized rating service, 3) seek to maintain a \$1.00 net asset value, and 4) are authorized by resolution or ordinance by the City Council.
7. Fully insured or collateralized interest bearing or money market account in any bank in Texas.

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II. UN-AUTHORIZED INVESTMENTS

The Act and this Policy prohibits investment in the following investment instruments:

- Obligations whose payment represents the coupon payments of the outstanding principal balance of the underlying mortgage-backed security collateral and pay no principal (Interest Only mortgage backed securities);
- Obligations whose payment represents the principal stream of cash flow from underlying mortgage-backed security collateral and bear no interest (Principal only mortgage backed securities);
- Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
- Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index; and

The practice of "leveraging" whereby funds are borrowed for the sole purpose of investing is prohibited.

VII. INVESTMENT PARAMETERS

MAXIMUM MATURITIES

The longer the maturity of investments, the greater their price volatility; therefore, it is the City’s policy to concentrate its investment portfolio in shorter-term securities in order to limit principal risk caused by changes in interest rates.

The City shall attempt to match its investments with anticipated cash flow requirements. The City will not directly invest in securities maturing more than three (3) years from the date of purchase; however, the above described obligations, certificates, or agreements may be collateralized using longer dated investments.

The consolidated portfolio will have a maximum dollar-weighted average maturity of six months. This dollar-weighted average will be calculated using the stated final maturity dates of each security.

DIVERSIFICATION

The City of Brenham recognizes that investment risks can result from issuer defaults, market price changes or various technical complications leading to temporary illiquidity. Risk is controlled through portfolio diversification that shall be achieved by the following general guidelines:

- Limiting investments to avoid over concentration in investments from a specific issuer or business,
- Limiting investment in investments that have higher credit risks
- Investing in investments with varying maturities, and
- Continuously investing a portion of the portfolio in readily available funds such as local government investment pools (LGIPs), or money market funds to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.

The following maximum limits, by instrument, are established for the City of Brenham’s total portfolio:

1. U.S. Treasury Securities.....	90 %
2. Agencies and Instrumentalities	80 %
3. Certificates of Deposit	20 %
4. Repurchase Agreements*	80 %
5. Money Market Mutual Funds	20 %
6. Authorized Pools	100 %

**Excluding flexible repurchase agreements for bond proceeds investments*

VIII. SELECTION OF BANKS AND DEALERS

DEPOSITORY

As required by the City of Brenham Charter, every two (2) years a banking services depository shall be selected through a competitive process, which shall include a formal request for proposal (RFP) and be consistent with state law. The selection of a depository will be determined by competitive bid and evaluation of bids will be based on the following selection criteria:

- The ability to qualify as a depository for public funds in accordance with state law.
- The ability to provide required services.
- The ability to meet all requirements in the banking RFP.
- The lowest net banking service cost, consistent with the ability to provide an appropriate level of service.
- The credit worthiness and financial stability of the bank.

All banks will execute a written depository agreement in accordance with FIRREA¹ designating authorized collateral.

AUTHORIZED BROKERS/DEALERS

The City Audit/Investment Committee shall, at least annually, review, revise, and adopt a list of qualified broker/dealers and financial institutions (banks and pools) authorized to engage in securities transactions with the City. Those firms that request to become qualified bidders for securities transactions will be required to provide information for the City's questionnaire that provides information regarding creditworthiness, contact information, and experience; and 2) the City's certification stating the firm has received, read and understood the City of Brenham's Investment Policy and have in place controls to prohibit selling the City any security not authorized by that Policy.

The City shall have a minimum of three broker/dealers to assure competitive bidding. Authorized firms may include primary dealers or regional dealers and qualified depositories. All investment providers, including financial institutions, banks, and local government investment pools, must sign the City's certification.

COMPETITIVE BIDS

All transactions will be made on a competitive basis. The Chief Financial Officer shall develop and maintain procedures for ensuring a competition in the investment of the City funds.

¹The Financial Institutions Resource and Recover Enforcement Act governs the actions of the FDIC in cases of bank default.

DELIVERY VS. PAYMENT

Securities shall be purchased only using the **delivery vs. payment** method with the exception of investment pools and mutual funds. Funds will be released after notification that the purchased security has been received by the custodian.

IX. SAFEKEEPING OF SECURITIES AND COLLATERAL

SAFEKEEPING AND CUSTODIAN AGREEMENTS

The City of Brenham shall contract with a depository for the safekeeping of securities owned by the City of Brenham as part of its investment portfolio or approve the custodial agreement for collateral to secure demand or time deposits. Securities owned by the City of Brenham shall be held in the City's name as evidenced by safekeeping receipts of the institution holding the securities.

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Deleted: held as

Collateral for deposits will be held by an independent third party custodian outside of the pledging bank and evidenced by original safekeeping receipts of the pledging institution with which the collateral is deposited. Original safekeeping receipts and monthly collateral reports shall be delivered to the City.

COLLATERAL POLICY

Consistent with the requirements of the Public Funds Collateral Act, it is the policy of the City to require collateralization of City funds in time and demand deposit with any depository bank. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest on the deposits or investments less an amount insured by the FDIC. At its discretion, the City of Brenham may require a higher level of collateralization for certain investment securities.

Securities pledged as collateral shall be held by an independent third party outside the holding company of the pledging bank with whom the City has a current custodial agreement. The Chief Financial Officer is responsible for entering into or approving collateralization agreements with custodians. The agreements are to specify the acceptable investment securities for collateral, including provisions relating to possession of the collateral, the substitution or release of investment securities, ownership of securities, and the method of valuation of securities. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to and retained by the City. Collateral shall be priced weekly at a minimum and to assure that the market value of the pledged securities is adequate.

Any substitution of collateral shall require prior City approval. The substituted security's market value will be equal to or greater than the required security value. Written notification of the substitution must be provided to the bank or safekeeping agent prior to any security release.

COLLATERAL DEFINED

The Entity shall accept only the following types of collateral:

- Obligations of the United States or its agencies and instrumentalities including mortgage backed securities
- Direct obligations of the state of Texas or its agencies and instrumentalities rated as to investment quality by a nationally recognized rating firm not less than A or its equivalent
- Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized rating firm not less than A or its equivalent

SUBJECT TO AUDIT

All collateral shall be subject to inspection and audit by the Chief Financial Officer or the City of Brenham's independent auditors.

X. PERFORMANCE

PERFORMANCE STANDARDS

The City of Brenham's investment portfolio will be managed in accordance with the parameters specified within this Policy. The portfolio shall be designed with the objective of obtaining a reasonable yield throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow requirements of the City.

PERFORMANCE BENCHMARK

It is the policy of the City of Brenham to purchase investments with maturity dates coinciding with cash flow needs. Through this strategy, the City shall seek to optimize interest earnings utilizing allowable investments available on the market at that time. Market value will be calculated on a monthly basis on all securities owned and compared to current book value. The City of Brenham's portfolio shall be designed with the objective of regularly meeting or exceeding the period average yield on the six month U.S. Treasury Bill which is comparable to the City's maximum weighted average maturity in days based on its cash flow analysis.

XI. REPORTING

METHODS

The Investment Officer shall prepare an internal investment report on a monthly basis and on a quarterly basis for Council that summarizes investment strategies employed in the most recent quarter and describes the portfolio in terms of investment securities, maturities including the yield for the quarter.

The quarterly investment report shall be in compliance with the Act and include a summary statement of investment activity prepared in compliance with generally accepted accounting principles. This summary will be prepared in a manner that will allow the City Audit/Investment Committee to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will be provided to the City Council for review. The report will include the following:

- A listing of individual securities held at the end of the reporting period.
- Unrealized gains or losses as calculated on the beginning and ending book and market value of securities for the period.
- Additions and changes to the market value during the period.
- Average weighted yield of portfolio as compared to the City's benchmark.
- Listing of investments by maturity date.
- Fully accrued interest and earnings for the reporting period
- The percentage of the total portfolio that each type of investment represents.
- Any additional reporting information as required by the Act.
- Statement of compliance of the City of Brenham's Investment Policy and the Act.

Month-end market prices on each security are to be obtained from nationally recognized security databases (e.g., The Wall Street Journal, Bloomberg, etc.).

An independent auditor will perform an annual formal review of the quarterly reports with the results reported to the governing body.

MONITORING MARKET VALUE

Market value of all securities in the portfolio will be determined on a monthly basis. These values will be obtained from a reputable and independent source reported in the quarterly report.

XII. INVESTMENT POLICY ADOPTION

The City of Brenham's Investment Policy shall be adopted no less than annually by resolution of the City Council. The City of Brenham's Investment Policy shall be subject to revisions consistent with changing laws, regulations, and needs of the City but any such changes must be adopted by the Council before use. The resolution adopting the policy and strategies must include any changes or modifications to the Policy.

AUTHORITY/DATE ISSUED:

City Council Resolution # R-07-026	November 15, 2007
City Council Resolution # R-08-037	October 16, 2008
City Council Resolution # R-09-024	October 15, 2009
City Council Resolution # R-10-025	November 4, 2010
City Council Resolution # R-11-020	November 3, 2011
City Council Resolution # R-12-021	November 29, 2012
City Council Resolution # R-13-017	November 7, 2013
City Council Resolution # R-14-XXX	October 9, 2014



AGENDA ITEM 17

DATE OF MEETING: October 9, 2014	DATE SUBMITTED: September 30, 2014	
DEPT. OF ORIGIN: Police Department	SUBMITTED BY: Rex L. Phelps	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input 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-14-023 Authorizing the Submission of a Grant Pre-Application to U.S. Department of Agriculture Rural Development Community Facilities Loan & Grants Program for the Construction of the Brenham Pet Adoption and Animal Care Facility and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: The Community Facilities Loan/Grant program is administered through the USDA Rural Development and is a loan and grant program. The loan is a low interest loan and the grant is based on the median household income of the community served. We are not interested in applying for a loan; we are instead pursuing the grant option. After speaking with the Acting Area Director of the USDA Rural Development, we have been assured the shelter project meets the eligibility requirements but that grant funding is limited. This is a pre-application form. We have to submit the pre-application package to the USDA Rural Development Office in Bryan for their consideration. If they approve it, we will bring back a formal application to Council. Our proposal will include asking for up to \$250,000 in grant funding.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS: USDA Rural Development approves our Pre-Application packet, allowing us to apply for grant funding of \$250,000.		
B. CONS: USDA Rural Development doesn't approve the application which would mean we could not apply for grant funding.		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Resolution No. R-14-023		
FUNDING SOURCE (Where Applicable):		

RECOMMENDED ACTION: Approve Resolution No. R-14-023 authorizing the submission of a grant pre-application to U.S. Department of Agriculture Rural Development Community Facilities Loan & Grants Program for the construction of the Brenham Pet Adoption and Animal Care Facility and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry K. Roberts

RESOLUTION NO. R-14-023

A RESOLUTION OF THE CITY OF BRENHAM, TEXAS AUTHORIZING THE SUBMISSION OF A GRANT PRE-APPLICATION TO THE UNITED STATES DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT COMMUNITY FACILITIES LOAN AND GRANTS PROGRAM FOR THE CONSTRUCTION OF THE BRENHAM PET ADOPTION AND ANIMAL CARE FACILITY

WHEREAS, the USDA’s Rural Development Community Facilities Loan & Grants Program provides grants to assist in the development of essential community facilities in rural areas and towns of up to 20,000 in population; and

WHEREAS, the Brenham Police Department and the Animal Shelter Task Force are committed to raising funds to construct a new animal shelter which will serve the entire county’s population; and

WHEREAS, if the pre-application is approved by the USDA Rural Development, the Department will prepare a grant application seeking approximately \$250,000 in grant funding;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF BRENHAM, TEXAS that the Mayor is authorized to execute all necessary documents for the submission of a pre-application to USDA Rural Development Community Facilities Loan and Grants Program.

RESOLVED this the 9th day of October, 2014.

Hon. Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC, City Secretary



AGENDA ITEM 18

DATE OF MEETING: October 9, 2014		DATE SUBMITTED: September 30, 2014	
DEPT. OF ORIGIN: Police Department		SUBMITTED BY: Rex L. Phelps	
MEETING TYPE:		CLASSIFICATION:	
<input checked="" type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1ST READING			
<input type="checkbox"/> 2ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Submission of Grant Applications to the Mason Foundation for Animal Shelter Design and the Meacham Foundation for Assistance in the Construction of the Brenham Pet Adoption and Animal Care Facility and Authorize the Mayor to Execute Any Necessary Documentation.			
SUMMARY STATEMENT: Both of these grant funding opportunities are private foundations that assist animal sheltering projects. We can request funding of up to \$4,000. In the case of the Mason Foundation, we do have to certify that we can match the funded amount – in this case \$4,000 – which is why we are asking Council to authorize the submission of the grants. Both Foundations require written permission to use any photographs or written materials we submit in future marketing or fund raising campaigns of their own.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS: Council approves submitting the grant applications of \$4,000 a piece and we receive \$8,000 in grant funding.			
B. CONS: Council doesn't approve the applications and we don't apply or receive the funding.			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: None			
FUNDING SOURCE (Where Applicable):			

RECOMMENDED ACTION: Authorize the submission of grant applications to the Mason Foundation for Animal Shelter Design and the Meacham Foundation for Assistance in the construction of the Brenham Pet Adoption and Animal Care Facility and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry K. Roberts



AGENDA ITEM 19

DATE OF MEETING: 10/9/14		DATE SUBMITTED: 10/3/14	
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 One (1) Reel Mower and One (1) Mulching Mower for the Parks Department Through the BuyBoard Local Government Purchasing Cooperative and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: During the 2014-15 budget process the Parks Dept. budgeted to purchase a reel mower and a mulching mower. The reel mower will replace a 2001 unit that has over 2,600 hours on it. These mowers are used 2-3 times per week to cut the athletic fields at Hohlt, Linda Anderson and Fireman's. This unit was budgeted at \$30,000 and will be bought for \$29,936.36. The 6' mulching mower will replace a 2000 model mower that has over 2,500 hours on it. These types of mowers are used to mow areas such as Fireman's Park grounds, Jackson St. grounds, and athletic fields that do not require reel mowing. They do not discharge material which provides a safer environment for congested areas. These units are also very useful for mulching up leaves in the fall. This unit was budgeted at \$24,000.			
We have received word from our supplier that there will be a 3% increase in Toro products beginning November 1 st . Therefore we would like to move forward on these units and place the order before the price increase goes into effect.			
We ask that council award the purchase of these mowers to Professional Turf Products L.P. which will be bought off the Texas Buy board.			
Pricing for the purchase was obtained through the Texas Association of School Boards (BuyBoard), a cooperative purchasing program which extends the advantages of volume contract purchasing to local governments and other qualified entities. BuyBoard contracts fulfill the State of Texas statutes for competitive bidding.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS: Slightly under budget. Will replace older units in fleet.			
B. CONS:			

ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1.) Pricing Sheet from Professional Turf Products, L.P.
FUNDING SOURCE (Where Applicable): Equipment Fund
RECOMMENDED ACTION: Approve the purchase of one (1) reel mower in the amount of \$29,936.36 and one (1) mulching mower in the amount of \$23,205.87 for the Parks Department from Professional Turf Products, L.P., through the BuyBoard Local Government Purchasing Cooperative and authorize the Mayor to execute any necessary documentation.
APPROVALS: Terry K. Roberts



Professional Turf Products, L.P.

5026 Service Center Drive
 San Antonio, Texas 78218
 Pat Brown
 (888) 776-8873 ext. 5434
 brownp@proturf.com



Count on it.

Ship To	City Of Brenham	Date	9/30/2014
Bill To	BUYBOARD (CONTRACT # 373-11)	Tax Rate	
Contact	Casey Redman	Destination	2.00%
Address	3801 Duncan Drive	Trade-In	
City	Brenham, TX	Finance	
State	TX	Account Type	Corp
Postal Code	77834-1059	<i>Comments:</i>	
Phone			
Fax			

hnl

Proposal

Qty	Model #	Description	Unit	Extended
1	31228	Toro Groundsmaster 360 2WD 72" Side Base Deck		
1	30304	72" Guardian Recycler Completion Kit		
1	30508	Differential Lock		
1	30052	MVP Kit - 400 Hour Kit GM360 TIV		\$23,205.87
1	03170	Toro Reelmaster 3100-D		
3	03182	32" 8 Blade Cutting Unit		
1	03173	32" Lift Arm Kit		
1	30053	400 Hour Filter Maintenance Kit ('08 and newer) RM3100 (2)		\$29,936.36

SubTotal	\$	53,142.23
Destination		Included
Tax (Estimated)	\$	-
TOTAL	\$	53,142.23

Comments:

For all New Equipment, Demo units may be available for up to 20% savings.
 For all New Equipment, Refurbished units may be available for up to 40% savings.

Terms & Conditions:

1. Orders are considered contractual. Order cancellations are subject to fees up to 10% of the original order value.

2. New equipment delivery time is estimated at six weeks from the time credit is approved & documents are executed.
3. Pricing, including finance options, valid for 30 days from time of quotation.
4. After 30 days all prices are subject to change without notice.
5. Used and Demo equipment is in high demand and availability is subject to change.
 - A. Upon firm customer commitment to purchase, said equipment availability will be determined and "locked".
 - B. In the event equipment is unavailable at time of order, PTP will employ every resource to secure an acceptable substitute.
 - C. PTP strongly advises the customer to issue a firm PO as quickly as possible after acceptance of quotation.
6. "Trade In Allowances" will be treated as a credit for future parts purchases on PTP account unless other arrangements have been made.

Returns Policy:

1. All returns are subject to restocking, refurbishing, usage, and shipping fees.
2. All returns must be able to be sold as new.
3. Items missing parts are non returnable.
4. Professional Turf Products will have sole discretion as to the resalable condition of the product.
5. This policy does not apply to items that are defective, or shipped incorrectly by PTP or one of its vendors.

Payment:

1. Terms are net 10 unless prior arrangements have been made.
2. Quoted prices are subject to credit approval.
 - A. PTP will work with third party financial institutions to secure leases when requested to do so.
 - B. When using third party financiers, documentation fees & advance payments may be required.
 - C. For convenience, monthly payments are estimated based on third party rate factors in effect at time of the quotation.
 - D. PTP assumes no liability in the event credit becomes unavailable or rates change during the approval process.
3. There will be a service charge equal to 1.5% per month (18% per annum) on all past due invoices.
4. By Law we are required to file a "Notice to Owner" of our intent to file lien in the event of payment default.

This notice must be sent within 60 days of the date the original invoice and will happen automatically regardless of any special payment arrangements that may have been made.

Authorized Signature: _____

Date: _____