

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on February 20, 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 Rau, Kaci Konieczny, Wende Ragonis, Tammy Jaster, Cyndi Longhofer, Fire Chief Ricky Boeker, Dant Lange, Development Services Director Julie Fulgham, Jennifer Eckermann, Public Works Director Dane Rau, Bobby Branham, Public Utilities Director Lowell Ogle, Kevin Boggus, and Grant Lischka

Citizens present:

Georgia Sowers, Marvalette Hunter, Perry Thomas, Doug Baker, Ross Shelton, Tommy Upchurch, Deborah Pittman, Doreen Lehman, Clint Kolby

Media Present:

Arthur Hahn, Brenham Banner Press; Frank Wagner, KWHI

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

3. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

4. Statutory Consent Agenda

- 4-a. Ordinance No. O-14-008 on Its Second Reading Granting a Specific Use Permit to First Baptist Church of Brenham for a Church and Related Auxiliary Uses, Including Educational or Philanthropic Uses on a Site in an R-1 (Residential) Zoning District and a B-2 (Commercial, Research and Technology) District and Being Located on Approximately 33.28 Acres, being a Part of Tract 34 in the Isaac Lee Survey of the City of Brenham, Washington County, Texas (Said Property Located East of the Intersection of Cantey and South Market Streets)**
- 4-b. Ordinance No. O-14-009 on Its Second Reading to Repeal Chapter 17, Article VI, Prohibited Smoking Paraphernalia and Smoking Products, of the Code of Ordinances of the City of Brenham**
- 4-c. Ordinance No. O-14-010 on Its Second Reading to Repeal Ordinance No. O-08-004 Relating to a Non-Exclusive Franchise to South Central Carriers, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits**

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

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

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

PUBLIC HEARING

5. Public Hearing Regarding the Revocation and Cancellation of the Non-Exclusive Franchise Agreement Between the City of Brenham and Reliable Roll-Off Services, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits

City Secretary Jeana Bellinger presented this item. City Attorney Cary Bovey stated the cancellation of the non-exclusive franchise agreement is due to failure to comply with the terms of the franchise agreement. There was not a representative present from Reliable Roll-Off Services, LLC. Mayor Tate placed Jeana Bellinger under oath to give a testimony. Bellinger stated Mr. Jerry Hayslip was notified on January 31st of the violations of the franchise agreement in writing. Bellinger advised that Hayslip was severely deficient on his payment. Bellinger stated in four (4) years, Hayslip only made his payment on time nine (9) times. Bellinger explained that the delinquent payment statuses cost her office a significant amount of time. Bellinger stated Hayslip has not provided her office with a current Certificate of Insurance, nor proof of Workers Comp Insurance since 2008. Bellinger advised the current insurance card expired on August 13, 2013. Bellinger advised her office has given written notice of the delinquencies both regular and certified mail with the certified mail letters either refused or not accepted when sent to Hayslip.

Councilmember Herring questioned if Hayslip picked up the certified mail sent on January 31. Bellinger stated she received one letter back as not accepted or unclaimed and she checked the United States Post Office website and the other letter is awaiting pick up in Katy. Bellinger explained that her office has two addresses on file, so regular mail and certified mail letters were sent to both addresses. Bellinger advised another letter was mailed to Hayslip advising him of the procedures of today's Public Hearing. Bellinger explained both notices were sent regular mail and certified mail. Bellinger stated she checked the United States Post Office website and both certified letters are awaiting pick up.

Councilmember Goss questioned the amount Hayslip is delinquent. Bellinger stated that Hayslip came into her office to make a payment in January and paid his delinquencies from August through December 2013. Bellinger explained Hayslip is still delinquent for January and February payments. Councilmember Herring stated Hayslip's average yearly taxes total \$1400 and he believes the City is wasting its time doing business with him due to the amount of time wasted by Mrs. Bellinger's office. Councilmember Barnes-Tilley agrees with Councilmember Herring stating it seems that he can only produce a lot of promises.

REGULAR AGENDA

6. Discuss and Possibly Act Upon an Ordinance on Its First Reading Revoking and Cancelling the Non-Exclusive Franchise Agreement Between the City of Brenham and Reliable Roll-Off Services, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits

City Secretary Jeana Bellinger presented this item. There was no further discussion.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve an Ordinance on its first reading revoking and cancelling the non-exclusive franchise agreement between the City of Brenham and Reliable Roll-Off Services, LLC to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits.

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

7. Discuss and Possibly Act Upon Ordinance No. O-14-011 on Its Second Reading Granting a Specific Use Permit to HuntJon, LLC for a Retirement Village on a Site Area of Two Acres or More (Senior Apartment Housing) in an R-2 (Mixed Residential) Zoning District and Being Located on All or Portions of Lots 18A, 19, and 20 Within the Randle Second Addition to the City of Brenham, Washington County, Texas (Said Property Bounded by Liberty, North Market, and Cottonwood Streets)

Development Services Director Julie Fulgham presented this item. City Manager Terry Roberts stated due to the concerns for the project, this item was not placed on the Consent Agenda in order for Council to discuss.

Councilmember Herring questioned Ms. Hunter if she was an active participant in the project. HuntJon, LLC Representative Marvalette Hunter stated yes, she is an active participant.

Citizen Debra Pittman stated she has no issue with the intent of the project; however, she has a problem with the traffic and the fact that the location is already crowded and parking is an issue. Pittman explained the neighborhood streets are small and the scale of the building is too large for the historical neighborhood.

Citizen Georgia Sowers stated she would like to reiterate Debra's comments. Sowers explained that area is very congested and the project is too big for that area.

Fulgham explained the regulatory concerns were addressed in a memo that was laid around the Dias. Fulgham advised the parking, emergency access, and driveway concerns all meet requirements of the Ordinance.

Councilmember Herring questioned the significance of the number 76 units. HuntJon, LLC Representative Marvalette Hunter stated 76 units were chosen because it makes the project feasible. Mayor Tate stated Bluffview Villas also has 76 units.

Councilmember Barnes-Tilley stated her concerns about the traffic issues, but she is not sure how to address the issue; however, she does realize that the Developer has gone through the necessary avenues. Mayor Pro Tem Nix agrees with Councilmember Barnes-Tilley. Mayor Pro Tem Nix is concerned about the building being 3 stories high for elderly people. Mayor Pro Tem questioned what happens if the elevators are down. Mayor Pro Tem Nix is also concerned with Fire Department and Police Department access.

Councilmember Barnes-Tilley questioned what the City would do for the traffic impact in that area. Fulgham stated they would enact an Ordinance and perform an impact traffic analysis. Fulgham stated currently there are no current regulations, but the grid system in that area is able to disperse more quickly than most areas. Fulgham stated that most elderly people who will be living at the complex will not be traveling at the peak traffic times. Councilmember Barnes-Tilley questioned if it gets approved, what the City could do about parking. Councilmember Barnes-Tilley stated she understands Ms. Hunter claims this will not be an issue, but what happens if it becomes one. Fulgham stated Public Works and the City Engineer would draft a new parking Ordinance to allow for access and no parking on one or both sides of the street. Fulgham stated currently there are no official no parking zones. Councilmember Goss stated currently the City does not have any enforcement policies and have had parking problems all over the City unless the vehicle is abandoned. City Attorney Cary Bovey stated there is an Ordinance regulating large vehicles on residential streets, but adopted on a case by case basis and situation. City Engineer Grant Lischka stated the less points of conflict, the better. Lischka stated the driveways will line up with collector streets because they like to keep commercial driveways off of residential streets. Fulgham reiterated Cottonwood would be exit only, while Market Street will be entrance or exit. Councilmember Goss questioned about emergency access. Fulgham stated there is no access. Councilmember Goss questioned if the Fire Department will look at the complex. Fire Chief Ricky Boeker stated yes, when they get to that point.

Citizen Doreen Lehman questioned the living capacity and parking available. Hunter stated there are 76 units and 114 parking spots. Hunter stated they are required by the Ordinance to provide 1 ½ spots per unit.

Councilmember Barnes-Tilley questioned could the development changed from a retirement community to a multi-family community. Fulgham stated with the tax requirements and credits, the deed will have restrictions for at least 45 years that the property can only be used as a retirement community for people ages 55 and over.

City Manager Terry Roberts reiterated the lot closer to Cottonwood and other lot by Market Street has already been approved by Council. Councilmember Barnes-Tilley stated they need to address the citizens' issues, but don't want to hinder the development if they are adhering to our Ordinances. Fulgham stated the notification area was 200 feet from the boundary of the property as defined by the State.

Citizen Doug Baker stated they purchased the additional lot to adhere to the concerns of green space and land of the Planning and Zoning Commission. Baker stated everything in Brenham affects the traffic and people will adapt to the traffic and things will work out after a while. Baker stated those who are retired travel a lot less than those who are still in the workforce. Baker advised the Council is focusing on the bad points and if they do not think it is a good project then that needs to be addressed, which means the traffic issue is meniscal. Baker encouraged Council to look at the positive benefits the complex will bring to the community. Councilmember Barnes-Tilley stated she is not against the project, but issues are coming up and she wants to make sure they are addressed because many are speculated.

Hunter stated she has developed many retirement communities and had never had a problem with parking in all of her projects. Hunter explained Bluffview Villas is the same as her development and some parking there is never used. Hunter encouraged Council and citizens to look at current projects in Brenham. Hunter advised if you look at how it is created, the complex is gated and they are providing ample parking. Hunter stated relative to population, seniors are not traveling as much and will not enter and exit the complex at the same time. Hunter explained on average, those living at the retirement community are well above 55 because 55 is young. Councilmember Herring questioned on the exit at Cottonwood, would there be a rolling gate or an arm. Hunter stated there will be a rolling gate and cannot be used as an entrance. Councilmember Barnes-Tilley questioned if the residents park on the street, would they have to walk all around to Liberty to enter the complex. Hunter stated they would have to take Liberty Street to come around Market Street and come into the front of the building because there will be no pedestrian gates for additional entrances into the complex. Hunter explained there will be a security code gate with access code for residents. Pittman stated she does not think it is ideal for a walking community. Pittman questioned if they could do a traffic study.

Councilmember Barnes-Tilley questioned if the project will be brought back to Council before the development moves forward. Fulgham stated the Plan Review Committee will meet with the Developer for regulations and review of the Ordinances. Councilmember Barnes-Tilley stated if they have additional issues, they can be addressed with City Staff. Fulgham stated if they required a variance then it would go before the Board of Adjustments or City Council. Fulgham advised if they meet the Ordinances, Council will not be involved again.

A motion was made by Councilmember Goss and seconded by Councilmember Williams to approve Ordinance No. O-14-011 on its second reading granting a Specific Use Permit to HuntJon, LLC for a Retirement Village on a site area of two acres or more (Senior Apartment Housing) in an R-2 (Mixed Residential) Zoning District and being located on all or portions of Lots 18A, 19, and 20 within the Randle Second Addition to the City of Brenham, Washington County, Texas (said property bounded by Liberty, North Market, and Cottonwood Streets).

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

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

8. Discuss and Possibly Act Upon Resolution No. R-14-004 in Support of HuntJon, LLC's Submission of an Application Requesting Low Income Housing Tax Credits to the Texas Department of Housing and Community Affairs for Belle Towers, a Low Incoming Housing Development for Seniors

A motion was made by Councilmember Goss and seconded by Councilmember Ebel to remove this item from the table.

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

Development Services Director Julie Fulgham presented this item. Fulgham stated HuntJon, LLC, is requesting support of their Texas Department of Housing and Community Affairs tax credit application #14099 for the Belle Towers Senior Community development. Fulgham explained applications for the tax credit benefits are scored on a number of factors and applications may qualify for up to seventeen points for a resolution or resolutions from the municipality and/or county in which the proposed development site is located. Fulgham advised Resolutions that expressly set forth that the municipality or county supports the Application or Development are worth maximum points while resolutions setting forth that the municipality or county has no objection to the Applicant or Development are worth fewer points.

Fulgham stated in addition to points for a Resolution for support, the developer may also receive an additional 10 points (the ten points are calculated for a commitment by a Local Political Subdivision of the lesser of the population of the Place multiplied by a factor of 0.10 in funding per Low Income Unit or \$10,000 in funding per Low Income Unit), if the municipality provides financial support to the project as well. Fulgham explained the amount of financial support needed to receive 10 points for this project is \$60,800.00.

Fulgham advised that Staff recommends supporting the project, finding it is aligned with the recommendations of the Downtown Master Plan, and would provide affordable housing for seniors in the community. Fulgham explained if Council is inclined to offer financial support as well, Staff believes the most cost effective way to provide that financial support is by reducing the impact fee required for this project in regards to storm-water runoff.

Fulgham stated in lieu of on-site detention, Staff has determined that off-site storm sewer improvements, which can carry storm water run-off to the nearby creek, is a more effective solution, in both cost and storm-water management. Fulgham explained the City's Public Works Department would perform the work and the developer would be invoiced for the cost associated with the project. Fulgham stated this work would be in lieu of on-site detention. Fulgham advised if the Council wishes to offer financial support, the invoice for this project (needed for the additional impact to our storm-sewer system in the area) would be reduced by \$60,800.

A motion was made by Councilmember Goss and seconded by Councilmember Ebel to approve Resolution No. R-14-004 in support of HuntJon, LLC's submission of an application requesting Low Income Housing Tax Credits to the Texas Department of Housing and Community Affairs for Belle Towers, a low incoming housing development for seniors and provide funding support of reduced impact fees in the amount of \$60,800.00.

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 an Ordinance Authorizing the Issuance of City of Brenham, Texas, General Obligation Refunding Bonds in an Aggregate Principal Amount Not to Exceed \$5,650,000; Providing For the Award of the Sale Thereof in Accordance with Specified Parameters; Authorizing the Execution and Delivery of a Purchase Contract Relating to Said Bonds; Authorizing the Execution and Delivery of a Paying Agent/Registrar Agreement and an Escrow Agreement; Authorizing the Approval of an Official Statement; and Enacting Other Provisions Relating Thereto

Garry Kimball with Specialized Public Finance presented this item. Kimball stated a revised Ordinance was laid around the Dias. Kimball presented information related to the opportunity to advance refund a portion of the City's 2007 General Obligation Refunding Bonds (which refunded a portion of the 2001 Certificates of Obligation). Kimball explained the City would issue approximately \$5,060,000.00 in Series 2014 General Obligation Refunding Bonds and would recognize about \$502,904.76.00 in savings. Kimball advised this action would yield a net present value benefit of around 8.651%.

Kimball advised they would close the deal with mid-May in order to coincide with IRS regulations. Kimball explained the Ordinance provides his company with parameters of flexibility to move forward.

A motion was made by Councilmember Williams and seconded by Councilmember Herring to approve an Ordinance authorizing the issuance of City of Brenham, Texas, General Obligation Refunding Bonds in an aggregate principal amount not to exceed \$5,650,000; providing for the award of the sale thereof in accordance with specified parameters; authorizing the execution and delivery of a purchase contract relating to said bonds; authorizing the execution and delivery of a paying Agent/Registrar Agreement and an Escrow Agreement; authorizing the approval of an Official Statement; and enacting other provisions relating thereto.

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 Bid No. 14-005 for the Purchase of Refuse Bags for the Sanitation Department and Authorize the Mayor to Execute Necessary Documentation

Sanitation Superintendent Bobby Branham presented this item. Branham stated on February 5, 2014 the Purchasing Dept. opened bids for the purchase of 12,500 refuse bags. Branham advised Houston Poly Bag 1 Ltd. was the low bid submitted and meets all bid specifications. Branham stated bids were mailed out to six vendors with three bids received. Branham advised Central Poly received the bid last year at \$6.95/roll. Branham stated Staff requested for the 2013-2014 budget year \$90,000 for the purchase of refuse bags; therefore, they would be under budget. Branham stated currently these bags are passed out twice per year to our residential customers and are also sold at two locations. Branham explained Houston Poly Bag 1 Ltd. provided a sample bag which was identical in strength to our current bags. Branham stated during production of the 12,500 rolls they will match the desired length and width of 34" x 30" that is required along with providing the insert and bag ties.

Councilmember Ebel questioned if it is problematic for residents to put trash in boxes. Councilmember Ebel asked if this slows down the process. Branham stated he would need to look at it. Branham advised this is not problematic, but they do ask that residents identify if there is broken glass; however, it does slow them down some.

Councilmember Barnes-Tilley encouraged residents to recycle.

Citizen Georgia Sowers stated that she really likes the Recycling Center. Sowers questioned if it were possible to get paper bags to recycle instead of the trash bags. Branham stated it was not an option.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to approve Bid No. 14-005 and award the purchase of 12,500 rolls of refuse bags to Houston Poly Bag 1 Ltd. in the amount of \$81,500.00 for the Sanitation 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

11. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the Code of Ordinances of the City of Brenham, Chapter 10, Advisory Boards & Committees, Article I, Main Street Advisory Board, to Provide for the Powers, Duties, Organization, Operation, Board Membership and Additional Matters Related to the Main Street Advisory Board

Main Street Brenham Manager Jennifer Eckermann presented this item. Eckermann stated as discussed during Work Session of the last meeting, Eckermann met with Jeana Bellinger to discuss changes to the Main Street Board By-Laws, being recommended by the Board. Eckermann explained at the time, Bellinger said the Ordinance needed to be updated concerning changes to terms, etc. previously adopted by Council. Eckermann stated the Ordinance in the packet includes those changes, and the ones that were discussed at the last meeting, to include an increase in the number of Board members and the addition of an Executive Committee.

Mayor Tate questioned the composition of the Executive Board. Eckermann stated the Executive Committee would report back to the Advisory Board and would help the Board to make it more efficient, but the Committee will not be making any recommendations. Councilmember Goss questioned how the Executive Committee would make the Board more efficient. Eckermann stated every member currently services on at least one committee. Councilmember Eckermann stated the individual committees will look at projects and come up with ideas that will be reviewed by the Executive Committee, who will take it to the Advisory Board.

Eckermann explained the Executive Committee will make receive the full reports from the individual committees and make suggestions and condensed reports to the Advisory Board. Eckermann stated it is currently taking too much time in Advisory Board meetings to go over every detail of every committee and their projects. Councilmember Goss stated the Executive Committee appears to be a board that will make decisions and eventually oversee the Advisory Board. Eckermann stated that the Executive Committee will not be able to make recommendations or decisions, only the Advisory Board.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve an Ordinance on its first reading amending the Code of Ordinances of the City of Brenham, Chapter 10, Advisory Boards & Committees, Article I, Main Street Advisory Board, to provide for the powers, duties, organization, operation, Board membership to increase to 11 members and additional matters related to the Main Street Advisory Board.

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

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

12. Discuss and Possibly Act Upon Resolution No. R-14-007 Providing for the Approval of the Bylaws of the Main Street Advisory Board

Main Street Brenham Manager Jennifer Eckermann presented this item. Eckermann stated the Main Street Board By-Laws includes the changes discussed during the Work Session at the February 6 Council meeting. Eckermann advised the Board is recommending increasing the size of the board by two (2) members, and the addition of an Executive Committee.

Mayor Tate stated Council does not want to see the Executive Committee run the Advisory Board or to overtake the Advisory Board.

Councilmember Herring questioned why the Executive Committee would not be subject to the Open Meetings Act. City Attorney Cary Bovey stated the number of Advisory Board members would be less than a quorum; therefore, they would not be subject to the Open Meetings Act.

Councilmember Goss stated that he does not see the purpose of the committee. Councilmember Goss stated that the Board should be able to accomplish their duties without an Executive Committee. Councilmember Goss advised that over time, there will be more animosity over who makes decisions for the Board.

Councilmember Barnes-Tilley explained the Executive Committee will not be making any decisions and will not be any different in the functioning of other committees. Councilmember Barnes-Tilley does not see a problem with increasing the number of members from 9 to 11.

Eckermann stated the Executive Committee would produce reports from other committees to weed down the details and conversations during the Advisory Board meeting, so that progress can continue to move forward instead of getting bogged down in details. Fulgham stated the Main Street Advisory Board, unlike other Boards, has different workloads. Fulgham reiterated that the Executive Committee would bring the details to the Advisory Board in the form of reports.

Councilmember Goss questioned why the Chairperson and Vice Chairperson would make up the majority of the Board and not just four people. Eckermann stated it is traditionally thought that the Executive Committee have officers present at those meetings.

A motion was made by Councilmember Ebel and seconded by Mayor Pro Tem Nix to approve Resolution No. R-14-007 providing for the approval of the bylaws of the Main Street Advisory Board to increase the board to 11 members.

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

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

13. Discuss and Possibly Act Upon a Request for a Noise Variance for Outdoor Music on the Patio to be Held from 3:00 P.M. to 10:00 P.M., March 8, March 15, March 22, and March 29, 2014 and April 5, April 12, April 19 and April 26, 2014 at The Boys Club and Saloon at 202 E. Commerce and Authorize the Mayor to Execute Any Necessary Documentation

Deputy City Secretary Amanda Klehm presented this item. Klehm stated Doreen Lehman has requested a noise variance to hold outdoor events for music on the patio from 3:00 P.M. to 10:00 P.M., March 8, March 15, March 22, and March 29, 2014 and April 5, April 12, April 19 and April 26, 2014 at The Boys Club and Saloon at 202 E. Commerce. Klehm explained after 10pm, they will move the music inside. Klehm advised they will have a variety of bands with drums, guitar and a tambourine with a sound amplification system with two speakers, which require a Noise Variance. Klehm stated the Brenham Fire Department has approved the noise variance request; however, the Brenham Police Department has some concerns.

City Manager Terry Roberts stated that Items #13 and #14 are related; therefore questioning City Attorney Cary Bovey if both items can be addressed now. Bovey stated since they have been posted, it is fine to discuss both items now. Roberts explained that Item #13 is related to Saturdays and Item #14 is related to Sundays.

Patrol Lieutenant Dant Lange states the Police Department standpoint is they are in favor of legitimate businesses and their prosperity, but they have some concerns with some of the residents in the area where the establishment is located. Lange stated they currently receive noise complaints in the area of the business and the resolution is to approach the establishment to lower the noise level. Lange explained the concern the Police Department has is if the variance is granted then this will not be an option and the residents will have to endure the noise until the time expires. Lange stated there are apartments within the business district and some of those residents work shiftwork and they call in because they have to get sleep and get up at unusual times. Lange explained the department is aware that other events occur Downtown; however, the concern lies in the fact that the requestor would like to have events Downtown on consecutive nights, Saturday and Sunday, which could cause problems.

Mayor Tate questioned what time the noise complaints usually begin. Lange stated he researched this and the complaints usually begin at 8:00pm and last until around midnight. The Boys Club and Saloon owner Doreen Lehman stated that she does not have a band that starts before 9:00pm. Lehman advised that there is one particular lady that continuously calls and complains about her establishment. Lehman advised that her establishment has complied every single time there has been a complaint and the Police have had to come to her bar. Lehman explained this particular lady called every Friday and Saturday night for 8 straight weekends in a row when they first opened and, when the Police arrive, they would state her establishment was not too loud; however, they still had to respond to the complaint call. Lehman stated that she has no intention of doing an event or having a band on every single one of those dates, but she listed them on the application in order to get Council's approval because she has not started contacting bands to see what dates that she could hire someone; therefore, to cover basis, she listed all dates, but has no intention of using them all. Lehman advised she wants to take advantage of Spring time and have crawfish on the patio with Zydeco music playing. Lehman states that she has small speakers on her patio that she will play the music from, which are equivalent to the size speakers that a resident would have on their back porch. Lehman explained the Sunday events are mostly band practice with three guitar players.

Mayor Tate questioned if the patio opens up to the street. Lehman stated the patio opens up onto Commerce Street and there is an iron gate that is locked at night, but during operational hours, per the Fire Marshal, it has to be unlocked. Lehman explained she has been working with the Health Inspector to be able to bring some food to the patio. Lehman stated her establishment is a non-smoking bar, so people can bring their kids during the daytime to enjoy the music and crawfish.

Councilmember Williams questioned if the band could be inside playing music while the customers sit outside on the patio to help alleviate the noise complaints. Lehman stated that during day with crawfish, she probably will not even have bands, but rather Zydeco music playing on the jukebox. Lehman explained the speakers on the patio are permanently attached and continuously play KTEX music during business hours at a softer tone that way if a smoker wishes to go on the patio to smoke, they can still hear some music. Lange stated where the establishment is located Downtown, the concrete catches the echoes and reverberations of the sound. Lange stated there is no question of the integrity of the business, but the eyebrows rise about the Sunday request. Lehman stated she requested Sunday because she has had guitarist contact her to come play, but if they do not want her to have music on the patio on Sunday, then she won't. Lehman stated on Sundays, it would just be guitarists on the porch with no speakers.

Councilmember Barnes-Tilley questioned, comparatively speaking, how many complaints the City receives during Hot Nights, Cool Tunes. Lange stated that he cannot provide those numbers at this time, but he stated it is hard to compare to because it is a more controlled event and media coverage where people are aware that the event will take place. Councilmember Barnes-Tilley wanted to try to determine if the complaints were out of the ordinary and compare similar events that take place Downtown. Lange stated the Department does not see the same complaints from the BT Longhorn.

Mayor Pro Tem Nix questioned how many apartments are located near her establishment. Lehman stated there are 8 apartments above Brenham Bakery and approximately 20 in the catty-corner spot in the apartment complex. Lehman stated the businesses that surrounding her are open Monday-Friday 8-5pm. A gentleman present with Lehman questioned if Saturday was okay, but not Sunday. Lange stated the Police Department is most concern with the residents' quality of life and when noise complaints arise, they must respond to those calls. Lange explained if they had to choose between Saturdays and Sundays, the Department would choose to eliminate Sundays.

Councilmember Herring suggested Council approve taking the amount of dates for Saturdays and Sundays and cutting the number in half, instead of all of the dates. Councilmember Herring stated she could use the first year as a trial run to see how people respond to the events. Lehman stated she is willing to make a compromise and hire a guitarist without a speaker to play because it would cost her more in beer than she could ever sell to hire a band from 3pm-closing. Lehman stated she wanted to get Council's permission first before she started booking bands, but she isn't sure what she will be able to get.

Councilmember Barnes-Tilley questioned, due to the current amount of complaint calls, if this is why the Police Department was hesitant to approve the noise variance. Lange explained that is a good portion of the concern. Lehman stated the majority of the complaints were in October and November and questioned if there have been any other complaints since then. Lange stated there have been complaints since then. Lehman stated her bartenders are supposed to let her know if this happens because she is not at the bar all the time.

Councilmember Herring questioned how does the Noise Ordinance work and if there was a decibel rating. Lange stated there is a distance currently, which is 50 feet and is heard with a reasonable and prudent person considers the music loud, so it's based on judgment, pretty much. Councilmember Herring questioned if they use a decibel meter. Lange stated they do not use decibel meters because they are expensive.

Lehman stated the complainant is one person. Lange explained when the Police Department finds that one person continually files complaints, they usually talk to them to attempt to resolve the issue and look into the legitimacy of the complaints. Lange reassured Council that the complaints that they are receiving are not just from one person and they are coming from residents that live in that Downtown area.

Councilmember Barnes-Tilley stated she is wondering if there is a compromise like Councilmember Herring stated where a business can make the most of an opportunity while respecting those that live in the area. Lehman suggested if she has a band or guitarist on Sundays on the patio that she will not use speakers.

Councilmember Goss stated there needs to be a balance between promoting business Downtown and residents living Downtown, so where do you put together. Councilmember Goss questioned Main Street Board Member Tommy Upchurch on how you put the two together. Upchurch stated the two must work together and will evolve over time, but will need to look at a balance between residents and nightlife in the Downtown area. Main Street Manager Jennifer Eckermann stated that right now they are growing pains, but it is possible to balance the two. Eckermann gave the example of college towns where they are able to balance residents and nightlife in the Downtown areas due to experience. Eckermann stated they can do research on how to properly handle these situations based on other towns that have been doing this for a significant amount of time.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve a request for a noise variance for outdoor music on the patio to be held from 3:00 P.M. to 10:00 P.M., March 8, March 15, March 22, and March 29, 2014 and April 5, April 12, April 19 and April 26, 2014 with provision that only three (3) of those dates being used at The Boys Club and Saloon at 202 E. Commerce and authorize the Mayor to execute any necessary documentation.

Councilmember Herring states this allows the business owner to schedule with the bands and encourages business Downtown while allowing Council to see how this will work for future years. Lehman questioned if there is not a band, but rather just playing music on the jukebox with the patio speakers, will that count towards her dates. Mayor Tate stated that she is responsible for the loudness of the music. Councilmember Herring stated he understands that the noise variance was for bands, not for speakers; therefore, that takes that out of the equation. City Attorney Cary Bovey stated the noise variance deals with noise amplification for music and speakers. Lange reiterates the fact that a noise variance is for sound amplification and points out that the Ordinance states that no sound amplification or amplified music may take place on Sunday.

Councilmember Barnes-Tilley questioned when the complaints generally come in, early in the night or as the evening goes on. Lange stated the research shows the majority of the complaints as the evening goes on. Councilmember Barnes-Tilley questioned if there is a more appropriate stop time to avoid complaints. Lange stated the majority of the complaints start around 9:00pm. Mayor Tate questioned if the complaint calls are the music or patrons. Lange stated the research does not show what the calls are related to. Mayor Tate stated sometimes people outside are getting too rowdy, which is not something the owner can help. Lehman stated patrons usually hang out on the patio rather than on the street because they can't take their beer on the street. Lehman stated the majority of patrons do not show up until 9:30pm or 10:00pm.

Councilmember Goss questioned why Councilmember Herring chose only 3 dates instead of cutting the number of dates requested in half. Councilmember Herring revised his motion to state 4 dates instead of the original 3 dates.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve a request for a noise variance for outdoor music on the patio to be held from 3:00 P.M. to 10:00 P.M., March 8, March 15, March 22, and March 29, 2014 and April 5, April 12, April 19 and April 26, 2014 with four (4) dates being used at The Boys Club and Saloon at 202 E. Commerce 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

Mayor Tate asked Ms. Lehman to please work with the City regarding the dates of the events that will take place at her establishment. Lehman stated that she will contact Amanda Klehm and let her know the dates when she is planning to hold the events.

14. Discuss and Possibly Act Upon a Request for a Noise Variance for Outdoor Music on the Patio to be Held from 4:00 P.M. to 8:00 P.M., March 9, March 16, March 23, and March 30, 2014 at The Boys Club and Saloon at 202 E. Commerce and Authorize the Mayor to Execute Any Necessary Documentation

Deputy City Secretary Amanda Klehm presented this item. Klehm stated Doreen Lehman has requested a noise variance to hold outdoor events for music on the patio from 4:00 P.M. to 8:00 P.M., March 9, March 16, March 23, and March 30, 2014 at The Boys Club and Saloon at 202 E. Commerce. Klehm advised after 8 pm, they will move the music inside. Klehm explained they will have a variety of bands with drums, guitar and a tambourine with a sound amplification system with two speakers, which require a Noise Variance.

Councilmember Barnes-Tilley questioned if Council should be more specific on what type of music is allowed on Sundays. Lehman stated she will bring in local guitarist and play on Sundays. Lehman explained that she has 2 local guys that are play and 1 on rotation.

Lehman stated they can try it and if they get a noise complaint, then they will shut the doors. Councilmember Goss stated there is an Ordinance in place and the Police officers are only enforcing the law. Councilmember Goss stated the Ordinance states there is to be no noise amplification on Sundays.

A motion was made by Councilmember Herring and seconded by Councilmember Williams to approve a request for a noise variance for outdoor music on the patio to be held from 4:00 P.M. to 8:00 P.M., March 9, March 16, March 23, and March 30, 2014 with two (2) dates at The Boys Club and Saloon at 202 E. Commerce and authorize the Mayor to execute any necessary documentation with the provision that be acoustic music only and not consecutive dates.

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 3:14pm. The Executive Session was recessed briefly at 3:21pm and reconvened at 3:26pm.

WORK SESSION

16. Presentation of the 2013 Annual Report by the Finance and Administrative Services Division

Chief Financial Officer Carolyn Miller presented this report. Miller explained the call and motivation to serve by reviewing who is a public servant and whom they serve. Miller reviewed the Staff and Department accomplishments, services to Board, Public, City Council and Departments, Awards, Internal and External Customers, and statistics for the following departments: Accounting and Budgeting, City Secretary, Human Resources, Municipal Court, Risk Management, Aquatic Center, Library Services and Purchasing Services.

Miller explained that the City received, for a fifth consecutive year, the *Certificates of Achievement for Excellence in Financial Reporting* from the Government Finance Officers Association for the City's annual financial reports as well as the *Distinguished Budget Presentation Award* for the fourth consecutive year. Miller concluded her presentation with a video compiled of employee's personal views of why they serve and whom they serve. Miller expressed her division's strive for leadership and accountability through performance in order to provide excellent service for the City's internal and external customers by putting others first.

There were no questions.

Council adjourned into Executive Session at 3:26pm.

EXECUTIVE SESSION

15. Texas Government Code Section 551.072 – Deliberation Regarding Real Property – Discuss and Consider Various Properties in the Downtown Area for Possible Future Acquisition

Executive Session adjourned at 4:20pm.

RE-OPEN REGULAR AGENDA

Councilmember Goss excused himself from the meeting.

WORK SESSION

17. Presentation of the 2013 Annual Report by the Development Services Department

Development Services Director Julie Fulgham presented this report. Fulgham reviewed the awards, accomplishments, training/certifications, and seminars that her departmental employees completed throughout the fiscal year. Fulgham explained the projects and plan review committee progress.

Fulgham reviewed the accomplishments and projects for the following departments and boards: Building and Inspection Division, Building Standards Commission, Planning Division, Board of Adjustments and Appeals, Planning and Zoning Commission, Main Street Department, Main Street Advisory Board, Brenham Municipal Airport, and Airport Advisory Board. Fulgham concluded with the goals of Development Services for 2013 and 2014. Fulgham stated the Mapping/GIS Department was transferred to the Public Utilities Department in October 2013.

There were no questions.

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

Development Services Director Julie Fulgham presented this report. Fulgham stated while preparing for annexation, Staff discovered the development agreements executed with property owners with agricultural exemptions on their properties during the 2008 annexation process have expired. Staff would like further direction if these tracts should be included within the 2014 annexation proceedings or if development agreements should be offered again. Council advised Fulgham to move forward with the annexation.

19. Administrative/Elected Officials Report

- **Upcoming City Council Meeting Dates and Times**

City Manager Terry Roberts reported on the following:

- February 28th – Workshop meeting at 8:00am. Handouts will be ready ahead of time.
- April 3rd Council meeting has been moved to 8:00am.
- April 17th regular Council meeting has been moved to April 24th at 1pm.
- Budget Workshops have been tentatively set for July 22, 23 & 24.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

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