Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on April 21, 2016 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

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

Members absent:

- Councilmember Weldon Williams, Jr.

Others present:

- City Manager Terry Roberts, City Attorney Cary Bovey, Deputy City Secretary Kacey Weiss, Assistant City Manager-Chief Financial Officer Carolyn Miller, Director of Community Services Wende Ragonis, Fire Chief Ricky Boeker, Police Chief Craig Goodman, Public Works Director Dane Rau, Assistant City Manager of Public Utilities Lowell Ogle, Development Services Manager Erik Smith, Lori Lakatos, Becky Squyres, Corporal Chris Jackson and Sergeant Judson Hall

Citizens present:


Media Present:

- Arthur Hahn, Brenham Banner Press; and Codi Rynn, KWHI

1. Call Meeting to Order

2. Invocation and Pledges to the US and Texas Flags – Mayor Pro Tem Nix
3. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

4. Statutory Consent Agenda

4-a. Ordinance No. O-16-008 on Its Second Reading Amending the Water Conservation Plan for the City of Brenham

A motion was made by Councilmember Barnes-Tilley and seconded by Mayor Pro Tem Nix to approve the Statutory Consent Agenda Item 4-a. as presented.

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

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PUBLIC HEARING

A motion was made by Councilmember Ebel and seconded by Councilmember Goss to remove Items 5 through 16 from the table.

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

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Mayor Tate opened the Public Hearing and recused himself from the meeting due to a conflict of interest.
5. Public Hearing to Consider an Amendment of the City of Brenham’s “Envision 2020” Comprehensive Plan Future Land Use Map to Change the District From a Recreational/Open Space District to a Multifamily District on a Tract of Land Described as 4.293 Acres Out of the Phillip Coe Survey, A-31, Located on the North Side of Old Mill Creek Road in Brenham, Washington County, Texas

Development Services Manager Erik Smith presented this item. Smith explained that this is a request for an amendment to the “Envision 20/20” Comprehensive Plan. Smith advised that the current district designated by the Comprehensive Plan is “Recreational/Open Space” and staff would like to change the district to “Multifamily”. Smith advised that it is ideal to change the district designation in the City’s Comprehensive Plan when a rezoning request is made so that the city’s zoning map does not conflict with the map in the Comprehensive Plan.

Laurie Walker, a resident on Meadowbrook Lane, stated that she is concerned about too much development taking place and it affecting the vegetation in the creek that is nearby.

Developers Terry Ward and Marc Millis presented maps showing what the changes would be and what the developed area would look like. Ward stated that in the original planning, the area to be developed was 13.5 acres and it is now approximately 4.3 acres. Ward explained that they have taken concerns from the residents and have tried to adjust various things to address the concerns. Ward explained that an ordinance will be put into place regarding the trees for the development. Ward stated that for every tree that is removed the developers will plant new trees. Ward also discussed drainage issues.

6. Public Hearing to Consider an Amendment to the Official Zoning Map of the City of Brenham, to Change the Zoning District From a Single Family Residential Use (R-1) District to a Mixed Residential Use (R-2) District on a Tract of Land Described as 4.293 Acres Out of the Phillip Coe Survey, A-31, Located on the North Side of Old Mill Creek Road in Brenham, Washington County, Texas

Development Services Manager Erik Smith presented this item. Smith explained that Mill Creek Saeger, LLC. has requested a zone change for property on the north side of Old Mill Creek which consists of 4.293 acres of land. Smith stated that the land is currently zoned R-1 single family residential and the request is to change the zoning to R-2 Mixed Residential. Smith noted this type of change would allow for multifamily apartment complexes. Smith stated that the apartments proposed would be open to the public, but would likely house mostly Blinn students. Smith noted that Staff received a protest for the related zone change request for this item. Smith stated there were multiple concerns that were raised to Staff at the Planning and Zoning public hearing which included increased drainage, privacy, allowing a three story building, decreased property values, increased traffic, clearing of vegetation and parking lots in backyards.
Smith advised that Staff did receive a valid protest for this request from the neighboring property owners. Smith noted that Staff has reviewed the petition and verified there were 13 property owners that fell within the 200 ft. buffer zone that had all or part of their property fall within the area that can be used to count against the rezone. Smith explained the total amount of land area in the protest zone is 24.67% and the required land area in the protest zone to qualify is 20%. Smith advised the protest is valid and will require a super majority vote (75%) of the Council for approval.

Mr. Steve M. Jasinski, a resident at 304 Meadowbrook Lane, addressed the Council. Jasinski explained that he is concerned about loss of privacy, loss of market value to his property, social problems and crime in the area, as well as flood control.

Councilmember Barnes-Tilley questioned if this is granted and the project does happen, will the developers plans come to the City to be reviewed. Smith stated that all plans will have to be approved by the City. Barnes Tilley also asked Police Chief Craig Goodman to provide some insight on possible crime at the apartments. Goodman stated that the department has a good relationship with the Blinn Police Department and believes the area should be fine.

Councilmember Barnes-Tilley asked if the City needs this type of housing. Developer Terry Ward stated that he believes more subdivisions need to be added. City Manager Terry Roberts stated that he believes housing is needed.

Mayor Pro Tem Nix addressed Fire Chief Ricky Boeker regarding fires at the complex. Boeker stated that he would look at the plans making sure there are plenty of fire hydrants and points of access.

7. **Public Hearing to Consider an Amendment of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Allow a Multifamily Development on a Site of Two (2) or More Acres of Land Being Described as 4.293 Acres Out of the Phillip Coe Survey, A-31, Located on the North Side of Old Mill Creek Road in Brenham, Washington County, Texas**

Development Services Manager Erik Smith presented this item. Smith stated that Mill Creek Saeger, LLC. has requested a special use permit for a 4.293 acre tract of land on the north side of Old Mill Creek Road to allow for a multifamily development. Smith advised that the proposed apartments would be open to the public, but would likely house mostly Blinn students.

Smith advised that staff did receive a protest for the related zone change request for this item, with privacy for the existing neighboring homeowners being the main concern. Smith explained that staff did make a recommendation to the Planning and Zoning Commission to place restrictions on the 20’ buffer yard requirement to require the applicant to keep vegetation in place during the construction period and replace any existing trees removed.
Smith explained that in addition to the vegetation buffer and tree replacement conditions, the developer has requested that an additional .33 acre tract of land at the southwestern corner of the property be added as permanent green space to help with a buffer zone. Smith noted this area will remain as a permanent open space on the property.

Smith advised Council that without a special use permit, the property would not allow for this type of development. Smith stated that staff received a valid protest related to this request from the neighboring property owners. Smith advised that staff reviewed the petition and verified the total amount of land area in the protest zone is 24.67% and to be a successful protest, only 20% is needed; therefore, since it is a valid protest this item will require a super majority (75%) vote of the Council for approval.

Councilmember Herring asked who will inventory the trees. Smith explained that the applicant has to inventory all of the trees and will do so by putting a tape or some kind of marking on the trees to know what will need to be replaced. Smith stated he will inspect the area to make sure that it is being done correctly.

8. Public Hearing to Consider an Amendment of the City of Brenham’s “Envision 2020” Comprehensive Plan Future Land Use Map to Change the District From a Recreational/Open Space District to a Commercial/Retail District on a Tract of Land Described as 2.119 Acres Out of the Phillip Coe Survey, A-31, Located at the Northwest Corner of the Intersection of Old Mill Creek Road and S. Saeger Street in Brenham, Washington County, Texas

Development Services Manager Erik Smith presented this item. Smith advised the specific parcel is a tract of land described as 2.119 acres of land on the northwest corner of the intersection of Old Mill Creek Road and South Saeger Street. Smith stated the current district as designated by the Comprehensive Plan is “Recreational/Open Space” and staff is requesting the Comprehensive Plan be amended to designate this parcel as “Commercial/Retail”.

9. Public Hearing to Consider an Amendment to the Official Zoning Map of the City of Brenham, to Change the Zoning District from a Single Family Residential Use (R-1) District to a Local Business/Residential Mixed Use (B-1) District on a Tract of Land Described as 2.119 Acres Out of the Phillip Coe Survey, A-31, Located on the Northwest Corner of the Intersection of Old Mill Creek Road and S. Saeger Street in Brenham, Washington County, Texas

Development Services Manager Erik Smith presented this item. Smith explained that Mill Creek Saeger, LLC has requested a zone change for property at the northwest corner of Old Mill Creek Road and S. Saeger Street which consists of 2.119 acres of land. Smith advised that the land is currently zoned R-1 single family residential and the request is to change the zoning to B-1 local business/residential mixed use. Smith stated this type of change would allow for the construction of combination multifamily apartment complexes and businesses.
Smith explained that the apartments and retail space proposed would be open to the public, but the apartments would likely house mostly Blinn students. Smith noted the first floor of the proposal, as presented to Staff, would be retail.

Smith advised that staff did receive a protest for the related zone change request for this item. Smith noted there were multiple concerns that were raised to staff at the Planning and Zoning public hearing which included increased drainage, privacy, allowing a three story building, decreased property values, increased traffic, clearing of vegetation and parking lots in backyards. Smith advised that he explained to the public that at this time, this is a land use matter and staff has not received an approvable site plan, civil drawings or construction drawings because the applicant wants to know if the land use will be approved prior to spending money on those items.

Smith explained that the Planning and Zoning Commission requested that staff advise Council that they would like Old Mill Creek Road prioritized as a road improvement project to help accommodate this request.

Smith stated that staff did receive a protest from neighboring property owners for the zone change request for this property; however, the protest did not meet the minimum requirements to require a super majority (75%) vote of the Council for approval.

REGULAR SESSION

10. Discuss and Possibly Act Upon Resolution No. R-16-010 Providing for an Amendment to the City of Brenham’s “Envision 2020” Comprehensive Plan Future Land Use Map to Change the District From Recreational/Open Space District to a Multifamily District on a Tract of Land Described as 4.293 Acres Out of the Phillip Coe Survey, A-31, Located on the North Side of Old Mill Creek Road in Brenham, Washington County, Texas

A motion was made by Councilmember Goss and seconded by Councilmember Williams to approve Resolution No. R-16-010 providing for an amendment to the City of Brenham’s “Envision 2020” Comprehensive Plan Future Land Use Map to change the district from Recreational/Open Space District to a Multifamily District on a tract of land described as 4.293 acres out of the Phillip Coe Survey, A-31, located on the North Side of Old Mill Creek Road in Brenham, Washington County, Texas
Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

**Mayor Milton Y. Tate, Jr.** Abstain
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 Official Zoning Map of the City of Brenham, to Change the Zoning District From a Single Family Residential Use (R-1) District to a Mixed Residential Use (R-2) District on a Tract of Land Described as 4.293 Acres Out of the Phillip Coe Survey, A-31, Located on the North Side of Old Mill Creek Road in Brenham, Washington County, Texas**

A motion was made by Councilmember Goss 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 district from a Single Family Residential Use (R-1) District to a Mixed Residential Use (R-2) District on a tract of land described as 4.293 acres out of the Phillip Coe Survey, A-31, located on the north side of Old Mill Creek Road in Brenham, Washington County, Texas.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

**Mayor Milton Y. Tate, Jr.** Abstain
Mayor Pro Tem Gloria Nix Yes
Councilmember Andrew Ebel No
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 Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Allow a Multifamily Development on a Site of Two (2) or More Acres of Land Being Described as 4.293 Acres Out of the Phillip Coe Survey, A-31, Located on the North Side of Old Mill Creek Road in Brenham, Washington County, Texas

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to approve an ordinance on its first reading amending Appendix – A “Zoning” of the Code of Ordinances of the City of Brenham granting a specific use permit to allow a multifamily development on a site of two (2) or more acres of land being described as 4.293 acres out of the Phillip Coe Survey, A-31, located on the north side of Old Mill Creek Road in Brenham, Washington County, Texas.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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13. Discuss and Possibly Act Upon Resolution No. R-16-011 Providing for an Amendment to the City of Brenham’s “Envision 2020” Comprehensive Plan Future Land Use Map to Change the District From a Recreational/Open Space District to a Commercial/Retail District on a Tract of Land Described as 2.119 Acres Out of the Phillip Coe Survey, A-31, Located at the Northwest Corner of the Intersection of Old Mill Creek Road and S. Saeger Street in Brenham, Washington County, Texas

A motion was made by Councilmember Goss and seconded by Councilmember Herring to approve Resolution No. R-16-011 providing for an amendment to the City of Brenham’s “Envision 2020” Comprehensive Plan Future Land Use Map to change the District from a Recreational/Open Space District to a Commercial/Retail District on a tract of land described as 2.119 acres out of the Phillip Coe Survey, A-31, located at the northwest corner of the intersection of Old Mill Creek Road and S. Saeger Street in Brenham, Washington County, Texas.
Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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14. 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 District from a Single Family Residential Use (R-1) District to a Local Business/Residential Mixed Use (B-1) District on a Tract of Land Described as 2.119 Acres Out of the Phillip Coe Survey, Located on the Northwest Corner of the Intersection of Old Mill Creek Road and S. Saeger Street in Brenham, Washington County, Texas

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to approve an Ordinance on its first reading amending the Official Zoning Map of the City of Brenham, to change the zoning district from a Single Family Residential Use (R-1) District to a Local Business/Residential Mixed Use (B-1) District on a tract of land described as 2.119 acres out of the Phillip Coe Survey, A-31, located on the northwest corner of Old Mill Creek Road and S. Saeger Street in Brenham, Washington County, Texas.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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15. Discuss and Possibly Act Upon Resolution No. R-16-013 Providing for an Amendment of the City of Brenham’s “Envision 2020” Comprehensive Plan Future Land Use Map to Change the Designation From Single Family Residential Use to Commercial/Retail Use on Certain Land Described as Block 9, Washington Terrace Addition, Out of the A. Harrington Survey, A-55, Said Land Being Bounded on the North by Rucker Street, on the East by North Park Street, on the South by West Blue Bell Road, and on the West by Ewing Street in Brenham, Washington County, Texas

A motion was made by Councilmember Goss and seconded by Councilmember Herring to approve Resolution No. R-16-013 providing for an amendment to the City of Brenham’s “Envision 2020” Comprehensive Plan Future Land Use Map to change the designation from Single Family Residential Use to Commercial/Retail Use on certain land described as Block 9, Washington Terrace Addition, out of the A. Harrington Survey, A-55, said land being bounded on the North by Rucker Street, on the East by North Park Street, on the South by West Blue Bell Road, and on the West by Ewing Street, in Brenham, Washington County, Texas.

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

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

16. 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 District From a Single Family Residential Use (R-1) District to a Local Business/Residential Mixed Use (B-1) District on a Tract of Land Described as Lot 7A and Lot 11A, Block 9, Washington Terrace Addition, Out of the A. Harrington Survey, A-55, Located at the Southeast Intersection of Ewing Street and Rucker Street in Brenham, Washington County, Texas

The owner of the lots, Jim Kolkhorst, addressed the Council. Kolkhorst stated that he would like to develop this area and place a Burger King and possibly offices and light retail at this location.
A motion was made by Councilmember Goss 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 district from a Single Family Residential Use (R-1) District to a Local Business/Residential Mixed Use (B-1) District on a tract of land described as Lot 7A and Lot 11A, Block 9, Washington Terrace Addition, out of the A. Harrington Survey, A-55, located at the Southeast intersection of Ewing Street and Rucker Street in Brenham, Washington County, Texas.

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

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WORK SESSION

17. Presentation and Discussion Regarding Staffing and Possible Locations for a Future City of Brenham Fire Department Substation

Fire Chief Ricky Boeker and Mike Pietsch with Mike Pietsch, P.E. Consulting Services, Inc. presented this item. Boeker explained that Mr. Pietsch is well-respected throughout the State for his work with improving Communities Public Protection Classification (PPC) Rating and fire station locations. Boeker stated that Mr. Pietsch did a report that will develop an accurate fire station location plan for the City of Brenham and evaluate the required apparatus and staffing at all existing and proposed fire stations. Boeker stated that Mr. Pietsch worked with the City in 2005 to help Staff prepare for an ISO grading and in 2012 when the City was graded by ISO.

Mr. Pietsch addressed the Council regarding the report. Pietsch stated that the area of Chappell Hill Street approximately 0.25 miles South of State Highway 290 Bypass would be his suggested location of a second fire station based on future growth in this area. Pietsch also noted that the study found that by 2019 ideal staffing for the two fire department locations would include 12 firefighters on duty 24 hours a day and 7 days a week.
RE-OPEN REGULAR SESSION

18. Discuss and Possibly Act Upon a Contract for Participation in the City of Brenham’s Rotation Log for Non-Consent Tows and Authorize the City Manager to Execute Any Necessary Documentation

Police Chief Craig Goodman presented this item. Goodman stated that representatives from the City of Brenham and Washington County have had several meetings with representatives from each of the towing companies that currently participate in the non-consent towing rotation contract. Goodman advised that it is the committee’s belief that the City needs to amend the fee structure so that it is reasonable and fair to all parties involved, and to change the effective dates to reflect a calendar year of January 1 to December 31.

A motion was made by Councilmember Herring and seconded by Councilmember Goss to approve a contract for participation in the City of Brenham’s Rotation Log for Non-Consent Tows subject to final approval of the City Attorney and City Manager and authorize the City Manager 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 a Request for a Noise Variance from Shawna Wills for a Graduation Dinner at 705 E. Sixth Street to be Held on May 7, 2016 from 3:00 p.m. – 10:00 p.m. and Authorize the Mayor to Execute Any Necessary Documentation

Deputy City Secretary Kacey Weiss presented this item. Weiss explained that Shawna Wills is requesting a noise variance for a graduation dinner at 705 E. Sixth Street on May 7, 2016 from 3:00 p.m. – 10:00 p.m. Weiss advised that the Brenham Police Department and the Brenham Fire Department have approved the noise variance request. Weiss stated that she would contact Mrs. Wills to remind her to notify her neighbors of this event.
A motion was made by Councilmember Williams and seconded by Councilmember Goss to approve a request for a noise variance from Shawna Wills for a graduation dinner at 705 E. Sixth Street to be held on Saturday, May 7, 2016 from 3:00 p.m. – 10:00 p.m. 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

20. Administrative/Elected Officials Report

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

- Public notices were mailed to utility customers notifying them that the drinking water had exceeded the maximum contaminant levels for chlorite and halo acetic acids.

City Manager Terry Roberts reported on the following:

- Due to the recent flooding, there was a washout on Burleson Street and an 8 inch water line was damaged.
- Walk with a Doc will be on Saturday, April 23rd

Public Works Director Dane Rau reported on the following:

- The crossing on Burleson Street that was damaged during the recent flooding should be repaired within the next two weeks.
EXECUTIVE SESSION

– Deliberation Regarding Saeger Street Right-Of-Way, Its Value and Associated
Issues

This item was passed and will be brought back before Council at the Pre-Budget Retreat
on May 2nd.

The meeting was adjourned.

_________________________________
Milton Y. Tate, Jr.
Mayor

_________________________________
Kacey A. Weiss
Deputy City Secretary