

## **Brenham City Council Minutes**

A regular meeting of the Brenham City Council was held on August 15, 2019 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 Andrew Ebel  
Councilmember Susan Cantey  
Councilmember Keith Herring  
Councilmember Clint Kolby

### Members absent:

Councilmember Adonna Saunders  
Councilmember Albert Wright

### Others present:

City Manager James Fisher, City Attorney Cary Bovey, City Secretary – Director of Administrative Services Jeana Bellinger, Deputy City Secretary I Kacey Weiss, Deputy City Secretary II Karen Stack, Assistant City Manager – Chief Financial Officer Carolyn Miller, Comptroller Stacy Hardy, Strategic Budget Officer Debbie Gaffey, Andria Heiges, Cynthia Longhofer, Melinda Gordon, Fire Chief Ricky Boeker, Police Chief Allwin Barrow, Dant Lange, Todd Ashorn, Public Works Director Dane Rau, Assistant City Manager of Public Utilities Lowell Ogle, Development Services Director Stephanie Doland, David Doelitsch, Allen Jacobs, Economic Development Director Susan Cates and Michael McDaniel

### Citizens present:

Perry Thomas and Cynthia Miler

### Media Present:

Arthur Hahn, Brenham Banner Press; and Josh Blaschke, KWHI

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

3. **Special Recognition**
  - **State Accreditation for Nancy Carol Roberts Memorial Library**

4. **Citizens Comments**

There were no citizen comments.

## **CONSENT AGENDA**

5. **Statutory Consent Agenda**

- 5-a. **Minutes from the June 20, 2019 Special City Council Meeting, June 20, 2019 Regular City Council Meeting, July 11, 2019 Special Joint City Council Meeting, July 11, 2019 Special City Council Meeting and July 11, 2019 Regular City Council Meeting**
- 5-b. **Ordinance No. O-19-024 on Its Second Reading for the Creation of Reinvestment Zone Number 47 Requested by Del Sol Foods, Inc. for the Commercial Tax Phase-In Incentive on That Certain 29.137 Acres of Land, Generally Located at 3015 – 3151 South Blue Bell Road, Being More Fully Described in Exhibit “A” of the Ordinance Creating Reinvestment Zone 47, and Designating This Property as Qualifying for Tax Phase-In**
- 5-c. **Ordinance No. O-19-025 on Its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas by Amending Part II, Division 1, Section 12 – Landscaping and Buffering to Revise the Minimum Landscape Requirements for Parking Areas, and Section 16 – Off-Street Parking Requirements to Revise the Minimum Parking Space Stall Dimensions and Establish a Minimum Parking Space Size for Spaces Designated as Compact Parking (Case Number P-19-023)**
- 5-d. **Ordinance No. O-19-026 Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from Local Business/Residential Mixed Use District (B-1) to Commercial, Research and Technology District (B-2) on the Following Tracts of Land (Case Number P-19-026):**
  - a) **1.416 Acres Addressed as 1701 State Highway 105, and Further Described as Part of Lots 23-27 in Block 1 of the Post Oak Grove Addition in Brenham, Washington County, Texas;**
  - b) **0.262 Acres Addressed as 1711 State Highway 105 (f/k/a 1703 State Highway 105), and Further Described as Part of Lots 28 and 29 in Block 1 of the Post Oak Grove Addition in Brenham, Washington County, Texas;**

- c) **3.160 Acres Addressed as 1801 and 1803 State Highway 105, and Further Described as Tract 86 of the Arrabella Harrington Survey in Brenham, Washington County, Texas; and**
- d) **A Portion of the Called 0.9765 Acre Tract, out of the A. Harrington Survey, A-55, the James Walker Survey, A-106, and the Post Oak Grove Addition in Brenham, Washington County, Texas (WCAD R#19194)**
- 5-e. **Ordinance No. O-19-027 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from Local Business/Residential Mixed Use District (B-1) to Commercial, Research and Technology District (B-2) on a 1.056 Acre Tract of Land Addressed as 1708 State Highway 105, and Further Described as Lot 1 of the Southeast Portion of Post Oak Grove Addition in Brenham, Washington County, Texas (Case Number P-19-024)**
- 5-f. **Ordinance No. O-19-028 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from Mixed Residential District (R-2) to Commercial, Research and Technology District (B-2) on Approximately 2.29 Acres of Land Addressed as 901, 905, 909, 911 and 913 W. Fifth Street and 1104 and 1106 High Street, and Further Described as Lots 1, 2A and 4 in Block 21 of the Key's First Addition, in Brenham, Washington County, Texas (Case Number P-19-025)**
- 5-g. **Ordinance No. O-19-029 on Its Second Reading Amending the Official Zoning Map of the City of Brenham Granting a Specific Use Permit to Texas Plumbing Supply to Allow for Open (Outdoor) Display or Storage of Retail Merchandise as an Accessory Use to Uses Permitted in the Local Business/Residential Mixed Use (B-1) Zoning District on Approximately 2.190 Acres of Land Located at 1608 and 1702 S. Market Street, and Further Described as Part of Lots 1 and 2, and Lots 3-7 in Block L of the Stone Subdivision, in Brenham, Washington County, Texas (Case Number P-19-027)**
- 5-h. **Approve a Noise Variance from Ethan Lawhon for a Prayer Vigil Honoring Fallen El Paso, Texas and Dayton, Ohio Lives Lost to be Held on August 15, 2019 from 7:00 p.m. – 8:00 p.m. at the Courthouse Gazebo and Authorize the Mayor to Execute Any Necessary Documentation**
- 5-i. **Approve a Noise Variance from St. Mary's Immaculate Conception Catholic Church for a Fundraiser to be Held on September 1, 2019 from 8:00 a.m. – 5:00 p.m. at 701 Church Street and Authorize the Mayor to Execute Any Necessary Documentation**
- 5-j. **Approve Brenham Community Development Corporation's Conveyance of Approximately 1.1717 Acres of Land to Del Sol Food Company, Inc.**

Mayor Tate noted that Council would not be voting on item 5-h. as the application had been withdrawn by the requestor. A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Cantey to approve the Statutory Consent Agenda Items 5-a. through 5-g., 5-i., and 5-j. as presented.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
<b>Councilmember Adonna Saunders</b>	<b>Absent</b>
Councilmember Keith Herring	Yes
<b>Councilmember Albert Wright</b>	<b>Absent</b>
Councilmember Clint Kolby	Yes

## **WORK SESSION**

### **6. Discussion and Update on Possible Annexation of Various Tracts of Land into the City Limits of the City of Brenham**

City Manager James Fisher presented this item. Fisher explained that at the May 7, 2019 meeting, the City Council adopted Resolution No. R-19-013 authorizing the City Manager to review and identify various tracts for possible annexation in 2019.

Fisher stated that after review of various tracts and the “gateways” to the City, staff has finalized the tracts for annexation. Fisher advised that several of these tracts are currently appraised with an agricultural exemption so the City is required to offer these property owners Development Agreements that guarantees the continuation of ETJ status for an extended period not to exceed 45 years. Fisher noted that the City will offer these Agreements with a time period of 10 years.

Fisher explained that under the provisions of the Resolution, the City does not have to annex all of this land at one time, the City can choose sections and/or tracts to be annexed at different times. Fisher noted that staff is still discussing a timeline for all of these annexations and will advise the Council of the recommended schedule once it is finalized.

### **7. Discussion and Presentation Related to the Possible Amendment of Chapter 6, Buildings and Structures, Code of Ordinances, City of Brenham, Texas to Adopt the 2015 Version of the International Building Codes with Local Amendments**

Building Official Allen Jacobs presented this item. Jacobs explained that City Staff recommends updating the adopted building codes from the 2012 International Building Code

suite to the 2015 International Building Code suite. The suite of the International Codes includes the following:

- 2015 International Building Code (IBC)
- 2015 International Residential Code (IRC)
- 2015 International Fire Code (IFC)
- 2015 International Plumbing Code (IPC)
- 2015 International Mechanical Code (IMC)
- 2015 International Fuel Gas Code (IFGC)
- 2015 International Energy Conservation Code (IECC)
- 2015 International Existing Building Code (IEBC)
- 2015 International Property Maintenance Code (IPMC)
- 2015 International Swimming Pool and Spa Code (ISPSC)

Jacobs stated that the purpose of maintaining the current International Building Codes is to safeguard health, safety, property and public welfare. Jacobs stated that the adoption of the newer codes also maintains a more favorable ISO rating for the City of Brenham. Jacobs noted that the ISO rating is the Insurance Services Office, which sets the property insurance ratings for municipalities that insurance companies comply with.

Jacobs explained that the developer of the International Codes, the International Code Council (ICC), publishes new versions of the codes every three (3) years. Jacobs stated that the City of Brenham, similar to other municipalities, historically has adopted the International Codes from the previous cycle of the newest released codes; this being the 2015 version of the International Codes.

Jacobs advised that in addition to the 2015 International Codes, the City of Brenham also adopts local amendments to these codes. Jacobs explained that the local amendments accommodate the City of Brenham code of ordinances, and also allow the City of Brenham to enforce code requirements that are beneficial to our municipality. Jacobs noted that in addition, these local amendments are necessary as they reflect local construction practices and laws.

## **8. Discussion and Presentation Related to the Possible Amendment of Chapter 27, Vehicles for Hire, Code of Ordinances, City of Brenham, Texas**

Deputy City Secretary II Karen Stack presented this item. Stack stated that this work session was being held to discuss two proposed changes to the City's Vehicles for Hire ordinance. Stack advised that the first change staff are suggesting is to clarify that limousine and other charter services are not regulated by this ordinance and therefore limousines do not need a permit to operate in the City of Brenham. Stack also discussed the Police Department's recommendation that three (3) or more Driving While Intoxicated (DWI) or Driving Under the Influence (DUI) charges disqualify an applicant for a City Chauffeur's Permit.

Councilmember Cantey asked whether the ordinance could be written so that an applicant could be disqualified for fewer than three DWI convictions. Sergeant Todd Ashorn of the

Brenham Police Department replied that it could, but he felt that because everyone makes mistakes the ordinance should allow at least one.

Councilmember Herring stated that he was concerned about the use of the word “director” throughout the ordinance and requested that it be clarified so that it would be clear to citizens who was responsible for each part of the permitting process.

## **REGULAR SESSION**

### **9. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 27, Vehicles for Hire, Code of Ordinances, City of Brenham, Texas**

A motion was made by Councilmember Cantey and seconded by Councilmember Herring to approve an ordinance on its first reading amending Chapter 27, Vehicles for Hire, Code of Ordinances, City of Brenham, Texas, subject to the changes discussed in work session.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
<b>Councilmember Adonna Saunders</b>	<b>Absent</b>
Councilmember Keith Herring	Yes
<b>Councilmember Albert Wright</b>	<b>Absent</b>
Councilmember Clint Kolby	Yes

### **10. Discuss and Possibly Act Upon Resolution No. R-19-021 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with Del Sol Food Company, Inc. in Reinvestment Zone Number 47**

Economic Development Director Susan Cates presented this item. Cates explained that Del Sol Food Company, Inc. will invest \$7.7M for an expansion project. Cates stated that of this, \$2.85M would be for improvements to existing and newly acquired property that would increase the value an estimated \$1.38M. Cates noted that in addition, Del Sol is estimating adding 10 new full-time equivalent positions related to this expansion.

Cates explained that she has revised the Tax Phase-In Calculation to include the total number of jobs, both created and retained, rather than only jobs created. Cates noted that the original calculation was based on jobs created by Del Sol for this expansion. Cates advised that the original calculations were presented at a Work Session on July 11<sup>th</sup>.

A motion was made by Councilmember Herring and seconded by Councilmember Cantey to approve Resolution No. R-19-021 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with Del Sol Food Company, Inc. in Reinvestment Zone Number 47.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
<b>Councilmember Adonna Saunders</b>	<b>Absent</b>
Councilmember Keith Herring	Yes
<b>Councilmember Albert Wright</b>	<b>Absent</b>
Councilmember Clint Kolby	Yes

**11. Discuss and Possibly Act Upon the Approval of the FY2019-20 Proposed Budget for the Washington County Appraisal District**

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item and introduced Willy Dilworth, Chief Appraiser with the Washington County Appraisal District (WCAD). Dilworth explained that the WCAD proposed budget shows an increase of \$80,758 over the prior year’s budget mainly due to salary and benefit increases. Dilworth stated that professional and contracted services also increased over the prior year along with several smaller line items in other categories. Dilworth noted that the impact for the City of Brenham is an increase of \$8,430 for FY19-20, which was included in the General Fund proposed budget already reviewed with Council.

A motion was made by Councilmember Herring and seconded by Councilmember Kolby to approve the FY2019-20 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 Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
<b>Councilmember Adonna Saunders</b>	<b>Absent</b>
Councilmember Keith Herring	Yes
<b>Councilmember Albert Wright</b>	<b>Absent</b>
Councilmember Clint Kolby	Yes

**12. Discuss and Possibly Act Upon the Approval of a Request from the Washington County Appraisal District to Retain the Accumulated Funds of \$39,275 from FY2017-18 Budget Savings, the City of Brenham’s Portion Being \$4,281.66**

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item and introduced Willy Dilworth, Chief Appraiser with the Washington County Appraisal District (WCAD). Dilworth stated that the Washington County Appraisal District’s audited financial statement for the fiscal year ending August 31, 2018 showed budget savings of \$39,275. Dilworth advised that WCAD is requesting to retain the savings to use for the 2020 Pictometry flight. Miller explained that, if approved, the City of Brenham’s portion of the funds to be retained would be \$4,281.66. Miller stated that if the \$39,275 is not retained by the WCAD, \$4,281.66 would be returned to the City.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Cantey to approve a request from the Washington County Appraisal District to retain the accumulated funds of \$39,275, from FY2017-18 budget savings, with the City of Brenham’s portion being \$4,281.66, for the 2020 Pictometry flight.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
<b>Councilmember Adonna Saunders</b>	<b>Absent</b>
Councilmember Keith Herring	Yes
<b>Councilmember Albert Wright</b>	<b>Absent</b>
Councilmember Clint Kolby	Yes

**13. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 24, Taxation, Code of Ordinances, City of Brenham, Texas to Provide for the Creation of a Municipal Sales and Use Tax for the City of Brenham**

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller explained that Cities that adopted local sales and use tax prior to October 1, 1979, may, in accordance with the provisions in Tax Code 321.105(l), choose to repeal the exemption for residential use of natural gas and electricity. Miller stated that the City of Brenham adopted a local sales and use tax on April 1, 1969. Miller advised that the current local sales and use tax rate is \$0.015 and a portion of this rate, \$0.00375 (25%) is 4B sales tax and goes to the Brenham Community Development Corporation (BCDC). Miller noted that reimposing local sales and use tax on the residential use of electric and gas should generate an estimated \$97,000 to the General Fund for supporting basic city services and \$32,000 to BCDC.

Miller stated that staff is asking Council to designate 100% of the BCDC amount to support economic development initiatives, rather than the current 35/65 split between economic



development and parks and recreation. Miller explained that if approved, the reimposition of local sales and use tax on the residential use of electric and gas would be effective with utility billing occurring on and after October 1, 2019.

A motion was made by Councilmember Cantey and seconded by Mayor Pro Tem Ebel to approve an Ordinance on its first reading amending Chapter 24, Taxation, Code of Ordinances, City of Brenham, Texas to Provide for the Creation of a Municipal Sales and Use Tax 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 Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
<b>Councilmember Adonna Saunders</b>	<b>Absent</b>
Councilmember Keith Herring	Yes
<b>Councilmember Albert Wright</b>	<b>Absent</b>
Councilmember Clint Kolby	Yes

**14. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the Rate Tariff Schedule(s) for the City of Brenham Water Rates**

Assistant City Manager of Public Utilities Lowell Ogle presented this item. Ogle explained that the City's water rates are designed to cover the cost of water services, in an equitable manner, among rate classes. Ogle noted that the last rate adjustment was in 2008. Ogle stated that in December 2018, NewGen Strategies & Solutions, LLC (NewGen) was engaged to update the City's water rate model and recommend water rate changes based on new cost of service projections and consumption estimates. Ogle advised that NewGen initially recommended a 1.3% increase in water rates, but increased their recommendation to 4% after consumption estimates were lowered to reflect the City's true historical experience.

Ogle stated that currently, the average monthly residential water bill on 5,000 consumption gallons is \$24.79. Ogle noted that under the proposed new rate structure, the monthly bill would increase to \$25.78, a +\$0.99 difference. Ogle advised that the proposed new rates would be effective with utility billing occurring on and after October 1, 2019.

A motion was made by Councilmember Cantey and seconded by Councilmember Kolby to approve an Ordinance on its first reading amending the Rate Tariff Schedule(s) for the City of Brenham Water Rates.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
<b>Councilmember Adonna Saunders</b>	<b>Absent</b>
Councilmember Keith Herring	Yes
<b>Councilmember Albert Wright</b>	<b>Absent</b>
Councilmember Clint Kolby	Yes

**15. Discuss and Possibly Act Upon the Purchase of Equipment for the Electric Department from Techline, Inc. Through the Lower Colorado River Authority (LCRA) Material Program and Authorize the Mayor to Execute Any Necessary Documentation**

Assistant City Manager of Public Utilities Lowell Ogle presented this item. Ogle explained that Blue Bell Creameries requested new 4000 amp service for its new milk bay relocation project. Ogle stated that the project is scheduled to begin this summer and would require the purchase of (4) 1250 KVA transformers.

Ogle advised that three (3) of the 1250 KVA transformers are needed to supply the load capacity they requested. Ogle noted that the unit cost for these transformers is \$30,500 for a total for the three of \$91,500. Ogle stated that one (1) 1250 KVA transformer is requested as an emergency spare in case of a transformer failure. Ogle explained that this unit requires special engineering and will be designed to a more compact size in order to fit inside the existing vault that serves the production area. Ogle noted that the cost of this transformer is \$60,421.05. Ogle advised that the cost of these transformers has been budgeted in the FY20 budget and would not be delivered prior to October 1, 2019.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Cantey to Approve the purchase of equipment for the Electric Department from Techline, Inc., in the amount of \$151,921.05, through the Lower Colorado River Authority (LCRA) Material Program and authorize the Mayor to execute any necessary documentation.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
<b>Councilmember Adonna Saunders</b>	<b>Absent</b>
Councilmember Keith Herring	Yes
<b>Councilmember Albert Wright</b>	<b>Absent</b>
Councilmember Clint Kolby	Yes

**16. Discuss and Possibly Act Upon Bid No. E2017-01 Related to the Higgins Branch Creek Channel Restoration and Authorize the Mayor to Execute Any Necessary Documentation**

Public Works Director Dane Rau presented this item. Rau explained that on July 30, 2018, Gunda Engineering and staff opened bids regarding the Higgins Branch Creek Restoration Improvements. Rau stated that two bids were received, and they were very close. Rau noted that Lindsey Construction, Inc. was the low bidder.

Rau explained that staff has had success receiving funding through the Natural Resources Conservation Service (NRCS) and U.S. Department of Agriculture (USDA) related to this project. Rau stated that NRCS has allocated roughly \$604,000 towards the restoration of this creek channel. Rau noted that this would be a 90/10 match in which the City would be responsible for roughly \$55,000-\$65,000 of the costs to restore the channel. Rau explained that the City's portion of the restoration costs is currently budgeted in the FEMA Fund that was established in the FY2018-19 budget. Rau stated that the repairs have to be completed by December.

A motion was made by Councilmember Kolby and seconded by Councilmember Cantey to approve Bid No. E2017-01 to Lindsey Construction, Inc., in the amount of \$664,176.65, related to the Higgins Branch Creek Channel Restoration 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 Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
<b>Councilmember Adonna Saunders</b>	<b>Absent</b>
Councilmember Keith Herring	Yes
<b>Councilmember Albert Wright</b>	<b>Absent</b>
Councilmember Clint Kolby	Yes

**17. Administrative/Elected Officials Report**

City Manager James Fisher reported on the following:

- A letter from a citizen was read complimenting the electric department
- Washington County Chamber Tailgate Event is August 22<sup>nd</sup> from 6:00 to 10:00 p.m. at Silver Wings Ballroom
- Planning and Zoning Board meeting is August 26<sup>th</sup>
- Fire Department presentation "Blink of the Eye" is August 27<sup>th</sup> at the Fireman's Training Center

The meeting was adjourned.

*Andrew Ebel*

Mayor Pro Tem

*Jeana Bellinger, TRMC, CMC*

City Secretary

