

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on May 7, 2020 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
Councilmember Adonna Saunders
Councilmember Albert Wright

Members absent:

None

Others present:

City Manager James Fisher, City Attorney Cary Bovey, City Secretary – Director of Administrative Services Jeana Bellinger, Assistant City Manager – Chief Financial Officer Carolyn Miller, Assistant City Manager - Public Services/Utilities Donald Reese, Police Chief Ron Parker, Fire Chief Ricky Boeker, Director of Development Services Stephanie Doland, Captain Lloyd Powell, Kim Hodde, Terrence Johnson, Greg Nienstedt, Pam Ruemke, Shauna Laauwe, and Human Resources Director Susan Nienstedt.

Citizens present:

Tolanda Langehennig, Stephen Grove, Jeff Robertson and Darren Huckart.

Media Present:

Alyssa Faykus, Brenham Banner Press; and Josh Blaschke, KWHI

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

3. **Proclamation**
 - **National Police Week**

4. **April Service Recognitions**
 - **Terrence Johnson, Police** **5 Years**
 - **Greg Nienstedt, Fire** **20 Years**
 - **Kim Hodde, Development Services** **30 Years**
 - **Pam Ruemke, Police/IT** **35 Years**

5. **Citizens Comments**

There were no citizen comments.

CONSENT AGENDA

6. **Statutory Consent Agenda**
 - 6-a. **Minutes from the April 16, 2020 Regular City Council Meeting**
 - 6-b. **Ordinance No. O-20-007 on Its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Brenham Housing Authority to Allow for a Multifamily Development in the Mixed Residential (R-2) Zoning District on a Site of Two Acres or More of Land Located Generally West of Hasskarl Drive and South of Eleanor Drive, and Further Described as a 5.490 Acre Parcel Being a Portion of Tract 184 of the Arrabella Harrington Survey, in Brenham, Washington County, Texas (Case Number P-20-009)**
 - 6-c. **Ordinance No. O-20-008 on Its Second Reading to Grant a Non-Exclusive Franchise to Pronto Services, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits**
 - 6-d. **Ordinance No. O-20-009 on Its Second Reading Amending Chapter 11, Garbage and Trash, of the Code of Ordinances, City of Brenham, Texas**
 - 6-e. **Ordinance No. O-20-010 on Its Second Reading Amending the Rate Tariff Schedule for the City of Brenham Sanitation Rates**
 - 6-f. **Discuss and Possibly Act Upon Final Payment in the Amount of \$37,145.90 to Solid Bridge Construction for Contract No. 2019-02 Related to Hohlt Park Stream Restoration and Authorize the Mayor to Execute Any Necessary Documentation**
 - 6-g. **Acceptance of a Donation from The Dorothy Elaine O’Connor Living Trust in the Amount of \$25,000.00 for the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Councilmember Cantey and seconded by Councilmember Herring to approve the Statutory Consent Agenda Items 6-a. through 6-g. 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
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

7. Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Annexing Approximately 52.428 Acres of Land Located South and West of Dixie Road, Being Further Described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas

City Manager James Fisher presented this item. Fisher explained that in February, the City received a request from the Estate of Joyce E. Baker to annex 52.428 acres of their 64-acre tract located in Washington County.

Fisher stated that the Executrix of the Estate, Susan Love, advised the City that the property was currently under contract with 1983 Land Investments, LLC (Stylecraft Builders, Inc.) for the development of single-family residential lots to join the existing Vintage Farms Subdivision.

Fisher advised Council that State law mandates that all annexations must provide for a Public Hearing to receive citizen input and this item allows for the Public Hearing as well as the first reading of the ordinance. The zoning of this 52.428-acre tract will be discussed in the following agenda item.

Mayor Tate opened the Public Hearing.

Citizen Tolanda Langehennig (1900 Dixie Road) addressed the Council. Ms. Langehennig expressed her concerns about the City annexing this tract and the effect it will have on Dixie Road. Ms. Langehennig stated that she and her neighbors are worried about an increase in traffic and the safety of the subdivision intersections on Dixie Road. Ms. Langehennig asked that Council not annex the 52.428 acres.

Mayor Tate closed the Public Hearing.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Cantey to approve an Ordinance on its first reading annexing approximately 52.428 acres of land located south and west of Dixie Road, being further described as Tract 7 of the Phillip Coe Survey, A-31, 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 Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Abstain
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

8. Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the Official Zoning Map of the City of Brenham, to Assign a Zoning Classification of a Planned Development District (PDD) on Approximately 52.428 Acres of Land Located South and West of Dixie Road, Being Further Described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas (Case Number P-20-012)

City Manager James Fisher presented this item. Fisher explained that the subject property is an approximate 52.428-acre tract of vacant land located north of the existing Vintage Farms Subdivision. The property is currently located in the Brenham Extraterritorial Jurisdiction (ETJ) and has been requested by the property owners to be annexed into the City of Brenham. Upon annexation of the subject property the owners are requesting the tract be assigned the zoning district of Planned Development District (PDD) for the development of a single-family home subdivision known as The Lakes at Vintage Farms. A small and separate portion of the subject tract is planned to be developed with patio homes and is referred to as The Cove at Vintage Farms.

Fisher stated that the applicants are requesting the PDD to establish alternative standards to the City's typical zoning and subdivision development standards. The proposed PDD would establish the underlying base zoning district as Residential (R-1) for the construction of single-family dwellings and Mixed Residential District (R-2) for the construction of patio homes.

Fisher advised the Council that the proposed request is in accordance with the future land use map adopted in Historic Past, Bold Future: Plan 2040, the City of Brenham Comprehensive Plan which suggests that Residential uses are appropriate at this location. Amenities proposed with this development plan include concrete sidewalks, 2,800 feet of regional trails, a 15-acre passive park with a pavilion and 4-acre pond.

Mayor Tate opened the Public Hearing. There were no public comments. Mayor Tate closed the Public Hearing.

A motion was made by Councilmember Cantey and seconded by Councilmember Wright to approve an Ordinance on its first reading amending the Official Zoning Map of the City of Brenham, to assign a zoning classification of a Planned Development District (PDD) on approximately 52.428 acres of land located south and west of Dixie Road, being further described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas (Case Number P-20-012).

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
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Abstain
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

9. Public Hearing, Discussion 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 Mixed Residential District (R-2) to a Commercial, Research and Technology District (B-2) on Approximately 0.997 Acres of Land Located at 811 W. Fifth Street, Being Further Described as Lot 1 in Block 2 of the Blinn Fifth Street Subdivision, in Brenham, Washington County, Texas (Case Number P-20-013)

City Manager James Fisher presented this item. Fisher explained that the subject property is an approximate one-acre (0.997 acre) tract of vacant land addressed as 811 West Fifth Street and generally located on the southeast corner of the T-intersection of West Fifth Street and High Street. The property is currently zoned R-2, Mixed Residential Use District. The applicant, Blinn Junior College, is requesting the 0.997-acre tract to be rezoned to B-2, Commercial, Research and Technology District to allow for the development of an accessory off-street parking area to serve a planned student dormitory to be located immediately to the west, across High Street.

Fisher explained that if the rezoning is approved, any proposed development of the property will undergo a planning permit process to ensure that all zoning, building and fire codes are met. Any B-2 development adjacent to residential property will be required to provide a twenty (20) foot buffer yard in addition to the required side and rear yard setbacks. Fisher stated that the proposed parking lot will also be required to provide landscape islands on the ends of each parking row, shrubbery or hedge along the public rights-of-way and a tree for every twelve (12) parking spaces.

Mayor Tate opened the Public Hearing. There were no public comments. Mayor Tate closed the Public Hearing.

A motion was made by Councilmember Herring and seconded by Councilmember Saunders 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 Mixed Residential District (R-2) to a Commercial, Research and Technology District (B-2) on approximately 0.997 acres of land located at 811 W. Fifth Street, being further described as Lot 1 in Block 2 of the Blinn Fifth Street Subdivision, in Brenham, Washington County, Texas (Case Number P-20-013).

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
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

REGULAR SESSION

A motion was made by Councilmember Kolby and seconded by Councilmember Saunders to remove Item 10 and Item 11 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 Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

10. Discuss and Possibly Act Upon an Amendment to the System Water Availability Agreement Between the City of Brenham and Brazos River Authority for the Temporary Resale of Water and Authorize the Mayor to Execute Any Necessary Documentation

City Manager James Fisher presented this item. Fisher explained that on September 1, 2019, an agreement was entered into between the Brazos River Authority (BRA) and the City of Brenham. At that time BRA made available to the City, for purchase, 774 acre-feet of raw water per fiscal year for municipal purposes.

Fisher stated that the intent of this agreement was to secure additional water to sustain long-term future growth for the City and that the 774 acre-feet of water is in addition to the City's primary water availability for 4,200 acre-feet. Fisher advised Council that while securing this water for future use is prudent, the additional water is not needed at this time so the City could resell it.

City Attorney Cary Bovey explained that Council is being asked to consider two related items. The first (Item 10) is an amendment to the City's System Water Availability Agreement with BRA, authorizing the City to resell 774 acre-feet of water to Dow Chemical. The second (Item 11) is an agreement between the City and Dow Chemical for the resale of the water. Bovey stated that if approved, both agreements would terminate no later than August 31, 2020, or upon Dow Chemical using the 774 acre-feet of water if it did so prior to August 31, 2020. Bovey advised that there is no automatic renewal of this contract, and if the City wants to sell excess water again in the future, new agreements with the BRA and Dow Chemical would be required.

Councilmember Herring questioned why the proposed agreement between the City and Dow Chemical did not allow the City to make a profit from the resale of the water, but instead is essentially allowing the City to only recover its cost. Fisher advised that Dow would not pay a price that exceeded the City's cost. Herring noted that other governmental entities that have entered into similar agreements with Dow have been involved in lawsuits over water and he is nervous about the City establishing a relationship with the company. Herring asked whether the proposed agreement had any provisions for termination if the City needed the excess water. Bovey stated there was not and noted that Dow anticipated quickly using the entire 774 acre-feet of water.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Saunders to approve an amendment to the System Water Availability Agreement between the City of Brenham and Brazos River Authority for the temporary resale of water 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
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

11. Discuss and Possibly Act Upon a Water Supply Resale Agreement Between the City of Brenham and The Dow Chemical Company Related to the Temporary Resale of Water and Authorize the Mayor to Execute Any Necessary Documentation

City Manager James Fisher presented this item. Fisher explained that Dow Chemical Company desires to purchase the City's excess water on a temporary basis and will pay to the City \$79.00 per acre-foot or \$61,146.00 for the 774 acre-feet of water within thirty days from the effective date of this Agreement. Fisher stated that Dow Chemical will withdraw an amount not to exceed 774 acre-feet of water. Fisher advised that the agreement is effective upon the BRA approval of a Temporary Resale Amendment and will terminate when the Dow Chemical has withdrawn the 774 acre-feet of water or August 31, 2020, whichever occurs first.

A motion was made by Councilmember Cantey and seconded by Mayor Pro Tem Ebel to approve a Water Supply Resale Agreement between the City of Brenham and The Dow Chemical Company related to the temporary resale of water and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed 6-1 with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Keith Herring	No
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

12. Discuss and Possibly Act Upon the First Amendment to the Interlocal Agreement for Managing Entity by the Brazos Valley Council of Governments (BVCOG) for the Brazos Valley Wide Area Communications System (BVWACS) and Authorize the Mayor to Execute Any Necessary Documentation

City Manager James Fisher presented this item. Fisher explained that the Brazos Valley Wide Area Communications System (BVWACS) was started in 2010 with City of Brenham, Washington County, City of Bryan, City of College Station, Brazos County and Texas A&M University. The BVWACS system is part of the Harris County System which gives all radios on both systems the ability to talk to each other on an emergency scene thru mutual aid channels that are programmed in all our radios. Since the inception of the BVWACS the goal was to have all seven (7) Counties in the BVCOG on this system. Fisher advised that Grimes County and the City of Navasota were added last year, and this First Amendment will add Madison County to the system.

A motion was made by Councilmember Herring and seconded by Councilmember Cantey to approve the First Amendment to the Interlocal Agreement for Managing Entity by the Brazos Valley Council of Governments (BVCOG) for the Brazos Valley Wide Area Communications System (BVWACS) 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
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

13. Discuss and Possibly Act Upon the First Amendment to the Second Restatement of the Interlocal Agreement for the Construction, Acquisition, Implementation, Operation and Maintenance of the Brazos Valley Wide Area Communications System (BVWACS) and Authorize the Mayor to Execute Any Necessary Documentation

City Manager James Fisher presented this item. Fisher explained that this document is allowing Madison County to become a full BVWACS party and it also states what equipment they will bring to the BVWACS system and what their role will be in the upkeep of that equipment.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Cantey to approve the First Amendment to the Second Restatement of the Interlocal Agreement for the Construction, Acquisition, Implementation, Operation and Maintenance of the Brazos Valley Wide Area Communications System (BVWACS) 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
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

14. Discuss and Possibly Act Upon a Ground Space Lease Agreement Between Aviators Plus, LLC and the City of Brenham for the Construction and Operation of a Fuel Farm at the Brenham Municipal Airport, and Authorize the Mayor to Execute Any Necessary Documentation

City Manager James Fisher presented this item. Fisher explained that Aviators Plus, LLC (Brent Nedbalek) is a Fixed Base Operator (“FBO”) at the Brenham Municipal Airport. Mr. Nedbalek constructed a Jet-A fuel farm on the property he has leased located at 2901 Aviation Way and has requested a ground space lease for the construction of an AvGas (aviation gasoline) fuel farm. Fisher stated that the proposed location was reviewed and approved by the Airport Advisory Board and the agreement has been reviewed by the City Attorney.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Kolby to approve a Ground Space Lease Agreement between Aviators Plus, LLC and the City of Brenham for the construction and operation of a fuel farm at the Brenham Municipal Airport, and authorize the Mayor to execute any necessary documentation.

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

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

15. Discuss and Possibly Act Upon Amendment No. 01 to the Airport Project Participation Agreement Between the City of Brenham and the Texas Department of Transportation and Authorize the Mayor to Execute any Necessary Documentation

City Manager James Fisher presented this item. Fisher stated that in December 2017 the City was notified that the runway bump issue was getting worse and becoming a safety issue. In 2018 the City submitted a letter of interest to TxDOT with a preliminary estimate of \$421,200.

Fisher stated that in February 2019, the Transportation Commission approved the project and in March the project was bid out. In April 2020, TxDOT provided the City with an updated project cost of \$706,583. There is a possibility that the City can receive a \$69,000 grant from the CARES Act program that was recently enacted by the Federal Aviation Administration (FAA) to be used to offset most of the City’s share of this project. TxDOT is working with the FAA and will notify the City as soon as the grant funds have been confirmed and the process/timeline is in place

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Cantey to approve Amendment No. 01 to the Airport Project Participation Agreement between the City of Brenham and the Texas Department of Transportation 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
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

16. Discuss and Possibly Act Upon Resolution No. R-20-020 Related to the Gas Fund and Maintenance of Cash Reserves

City Manager James Fisher presented this item. Fisher explained that the City's gas contract is administered by Municipal Energy Resources Corporation (MERC). During 2008 when the cost of natural gas rose exponentially, MERC adopted internal policies to address financial risk to protect the 74 municipal customers in the Joint Gas Purchase Program. MERC felt that all the municipal customers have joint responsibility for the Program and should maintain reserves sufficient to minimize the risk.

Fisher stated that in 2013, the City Council approved a resolution to maintain unrestricted cash reserves in the Gas Fund of at least \$850,000 for the purpose of paying our gas supplier. However, over the past several years, gas purchase costs have significantly declined, and MERC has agreed that we can reduce the level of unrestricted cash reserves from \$850,000 to \$666,000. Fisher stated that reducing the cash reserve amount would provide additional working capital dollars for the Gas Fund.

A motion was made by Councilmember Herring and seconded by Councilmember Saunders to approve Resolution No. R-20-020 related to the Gas Fund and maintenance of cash reserves.

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
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

17. Discussion and Update on the City of Brenham's COVID-19 (Coronavirus) Response and Recovery Efforts

City Manager James Fisher advised the Council of the following COVID-19 response and recovery efforts:

- In accordance with Governor Abbot's Open Texas plan, the City is carefully moving forward with opening facilities.
 - The Library is partially open and taking online orders for curbside pickup of books. The computers at the library are available for use by appointment.
 - The Aquatic Center will open on May 18, 2020 for use of the lap pool and therapeutic pool by appointment. Starting June 3, 2020, the leisure pool will reopen with limited weekend hours.
 - The Visitor Center is open.
 - The restrooms, tennis courts, and pickleball courts in City Parks are being reopened. Other park amenities and facilities including ball fields, playgrounds, and the carousel will remain closed.
 - City Hall, Animal Services, and Municipal Court remain closed to the general public. June 1, 2020 is the anticipated reopening date for these facilities.
 - The Police and Fire Stations will remain closed to the public.
- Staff is still looking into how to have Hot Nights, Cool Tunes with new social distancing rules.
- The new splashpad will be ready by May 31st; however, will not be able to open based on Governor Abbott's order.

18. Administrative/Elected Officials Report

There were no administrative/elective officials reports given.

The meeting was adjourned.

Milton Y. Tate, Jr.

Mayor

Jeana Bellinger, TRMC, CMC

City Secretary

