



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, DECEMBER 15, 2022 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - Mayor Milton Tate**
- 3. Special Recognitions**
 - ♦ The American Experience - Brenham Middle School, 6th Grade Students**
- 4. Citizens Comments**

CONSENT AGENDA

- 5. Statutory Consent Agenda**

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

 - 5-a. Approve the Minutes from December 1, 2022 Regular Meeting**
 - 5-b. Approve Ordinance No. O-22-028 on Its Second Reading Amending the City of Brenham's FY 2021-2022 Adopted Budget**
 - 5-c. Approve a Memorandum of Understanding Between the City of Brenham and Washington County Related to Reimbursement of Funding for Linda Anderson Park and Authorize the Mayor to Execute Any Necessary Documentation**

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

6. **Public Hearing, Discussion, and Possible Action on an Amendment to the State Plan of Operation Between the City of Brenham and the State of Texas Related to the Law Enforcement Support Office (LESO) Program and Authorize the Mayor to Execute Any Necessary Documentation**

REGULAR SESSION

7. **Discuss and Possibly Act Upon the Release of Gas Pipeline Easements Affecting the Brenham Market Square Development Property and Authorize the Mayor to Execute Any Necessary Documentation**
8. **Discuss and Possibly Act Upon the Award of Bid No. 23-002 Related to the Lease of Approximately 46 Acres of Land Located at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation**
9. **Discuss and Possibly Act Upon Recommendations for Appointments and/or Re-appointments to Various City Boards and Commissions and Authorize the Mayor to Execute Any Necessary Documentation**
10. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 17, Offenses and Miscellaneous Provisions of the Code of Ordinances of the City of Brenham**
11. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 8, Fire Protection and Prevention of the Code of Ordinances of the City of Brenham**
12. **Administrative/Elected Officials Report**

Administrative/Elected Officials Reports: Reports from City Officials or City staff regarding items of community interest, including expression of thanks, congratulations or condolences; information regarding holiday schedules; honorary or salutary recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

EXECUTIVE SESSION

13. **Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Aviators Plus, LLC v. City of Brenham, Texas; Cause No. 37896; 21st Judicial District Court, Washington County, Texas**

**14. Section 551.071 Texas Government Code - Consultation with Attorney
- Consultation with City Attorney Regarding Legal Issues Concerning
the City of Brenham Lake Somerville Raw Water Intake Structure, the
Federal Emergency Management Agency, and Associated Matters**

Adjourn

Executive Sessions: The City Council for the City of Brenham reserves the right to convene into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code, Chapter 551, including but not limited to §551.071 - Consultation with Attorney, §551.072 - Real Property, §551.073 - Prospective Gifts, §551.074 - Personnel Matters, §551.076 - Security Devices, §551.086 - Utility Competitive Matters, and §551.087 - Economic Development Negotiation

CERTIFICATION

I certify that a copy of the December 15, 2022 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on Monday, December 12, 2022 at 9:30 a.m.

Jeana Bellinger, TRMC, CMC

City Secretary

Disability Access Statement: This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7567 for assistance.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2022 at _____ AM PM.

Signature

Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on Thursday, December 1, 2022 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 Clint Kolby
Councilmember Shannan Canales
Councilmember Leah Cook
Councilmember Atwood Kenjura
Councilmember Adonna Saunders
Councilmember Albert Wright

Members Absent:

None

City of Brenham Staff present:

City Manager Carolyn Miller, City Attorney Cary Bovey, City Secretary Jeana Bellinger, General Manager of Public Utilities Debbie Gaffey, Deputy General Manager of Public Utilities Alton Sommerfield, Director of Public Works Dane Rau, Director of Development Services Stephanie Doland, Director of Finance Stacy Hardy, Human Resources Director Susan Nienstedt, Kyle Branham, Cherry Prewitt, Shawn Bolenbarr, Idalia Avezuela, Kevin Boggus, Lloyd Powell, Steven Eilert, Casey Redman, Tammy Jaster, JoAnne Hynes, and Shauna Laauwe

Citizens/Others Present:

Nathan Wade, Blake Brannon, Robert Buchman, Cherry Fratus, Marie Surovik, Kyle Bright, and Darren Huckert

Media Present:

Jason May, Brenham Banner-Press; and Josh Blaschke, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – City Manager Carolyn Miller**

3. Service Recognitions

- Jordan Moehlmann, Street Department – 5 Years

4. Citizens Comments

Terri Harris, owner of Meme's on Alamo Street in downtown expressed her concerns about a special event permit, approved by the City, for a producers market being held on Saturdays in November and December in the back alley behind her business. Harris explained that during the event she is unable to access her business through the alley and she is planning to begin some major renovations to her building and her contractors will need to access her building via the alley so that they will not have to park and block traffic on Alamo Street. Harris requested that the City Council deny the special event permit.

CONSENT AGENDA

5. Statutory Consent Agenda

- 5-a. Approve the Minutes from November 3, 2022 Regular Meeting and the November 17, 2022 Regular Meeting**
- 5-b. Approve Ordinance No. O-22-026 on Its Second Reading Authorizing the Placement of Stop Signs on Prairie Lea Street at Its Intersection with 5th Street**
- 5-c. Approve Ordinance No. O-22-027 on Its Second Reading Amending the Rate Tariff Schedule for the City of Brenham Electric Rates**

A motion was made by Councilmember Canales and seconded by Mayor Pro Tem Kolby to approve the Statutory Consent Agenda Items 5.a. thru 5.c. 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 Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

WORK SESSION – DEPARTMENT UPDATE

6. Discussion and Update on the Nancy Carol Roberts Memorial Library

Librarian Idalia Avezuela provided the following information on the Nancy Carol Roberts Memorial Library:

- Library statistics
- Programs, events, and outreach
- Special projects and collaborations
- Grants

WORK SESSION

7. Discussion and Update on the Texas Recreation and Park Society (TRAPS) Rodeo

Public Works Director Dane Rau provided the City Council with an update on the Texas Recreation and Park Society (TRAPS) Rodeo that was held in Brenham on November 9th and 10th and advised that over thirty cities participated and that the City's Parks Department employees competed in the Rodeo for the first time. The Rodeo events included:

- Backhoe Operation
- Mower Obstacle Course
- Truck & Trailer Obstacle Course
- Irrigation Assembly
- Plant and Weed Identification
- Nail Driving Contest
- Backpack Blower Competition

Rau advised that City of Brenham Parks Department employee Victor Ortiz placed third in the Plant and Weed Identification event and would be eligible to compete in this event during the state-wide Rodeo competition.

Rau explained that while the Rodeo competition was fun, the other big part of the Rodeo are the workshops and training that is provided during the two-day event. The workshops and training sessions were held at the Barnhill Center and at City Hall. Rau expressed his appreciation to park staff for competing and helping to showcase Brenham and our park system.

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

8. Public Hearing, Discussion and Possible Action on an Ordinance on Its First Reading Amending Appendix A – ‘Zoning’ of the Code of Ordinances of the City of Brenham for an Amendment to the City of Brenham’s Official Zoning Map to Change the Zoning District From a Local Business Residential Mixed Use District (B-1) to an Industrial Use District (I) on Approximately 3.77 Acres, Which is a Portion of a 6.899 Acre Tract of Land, Currently Addressed as 1150 Dixie Road and Being Further Described as Tract 51 (WCAD) Out of the Phillip Coe Survey, A-0031 in Brenham, Washington County, Texas (Case No. P-22-026)

City Planner Shauna Laauwe presented this item. Laauwe explained that the subject property is a 3.77-acre east portion of a 6.899-acre property addressed as 1150 Dixie Road and generally located on the east side of Dixie Road, south of Confederate Lane and abutting the Premier Metal Buyers business property to the east located at 1555 Highway 36 North. Premier Metal Buyers is requesting the rezoning from B-1 to Industrial District in order to expand their existing operations to allow for fleet parking, needed site circulation, and additional storage areas. Please see the attached Staff Report for a detailed analysis of the request.

Laauwe advised that the Planning and Zoning Commission held a public hearing on this item during their meeting on Monday, November 21, 2022. During the public hearing, two people spoke against the request and adjacent property owner, Marie Surovik, provided a written statement which was provided in the Council packet. Laauwe stated that the Planning and Zoning Commission unanimously (4-0) recommended approval of the zoning request.

Mayor Tate opened the public hearing.

Citizen Marie Surovik expressed her concern about the rezoning of the property. Surovik stated that she is a neighboring property owner to Premier Metal Buyers (PMB) current location, and she deals with excessive noise all hours of the day and night, the smell of burning metal, and a smoky haze over her property at all times. Surovik stated that she is concerned that with PMB expanding the issues she is currently dealing with are only going to get worse. Surovik advised Council that PMB is not a very good neighbor, and she has reached out to them numerous times to address some of her issues and PMB has not been responsive.

The owner of PMB, Blake Brannon, advised the City Council that when he purchased the property all of the surrounding properties were zoned Industrial, and most of the residential properties have been built around them. Brannon advised Council that PMB keeps two fire trucks on site and one water truck to try and mitigate the dust in the air. Brannon explained that PMB wants to be good neighbors and are doing everything they can to try and mitigate the nuisance.

Mayor Tate closed the public hearing.

A motion was made by Councilmember Saunders and seconded by Councilmember Canales to table this item.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

REGULAR SESSION

9. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the City of Brenham's FY2021-22 Adopted Budget

Finance Director Stacy Hardy presented this item. Hardy explained that this is the third and final amendment to the FY2021-22 budget and it includes:

- \$374,379 in General Fund expenditure increases for economic development incentives per Chapter 380 agreement with BK Stringer, LTD.
- \$525,121 increase to Electric WPC Fund expenses to account for higher passthrough purchase costs.
- \$2,133,653 increase to Gas WPC Fund revenues to account for higher billed receipts.
- \$265,610 increase to Water Fund revenues based on seasonal demand volumes.

Hardy also advised that the \$525,121 entry for Fund 122 – Electric WPC Fund was incorrectly shown in the revenue column, and it should be shown in the expenditure column. Hardy stated that Exhibit A will be corrected upon second reading of the ordinance.

A motion was made by Councilmember Canales and seconded by Councilmember Saunders to approve an Ordinance on its first reading, with the correction as noted, amending the City of Brenham's FY2021-22 Adopted Budget.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

10. Discuss and Possibly Act Upon the Use of Felony Forfeiture Funds for Forensic DNA Testing Services and Authorize the Mayor to Execute Any Necessary Documentation

Captain Powell presented this item. Powell explained that the Brenham Police Department is seeking approval from City Council to utilize Seized Funds within the police department's budget in order to utilize private laboratory services to test forensic evidence related to criminal cases. This expenditure will potentially aid in positively identifying a suspect in a violent crime.

A motion was made by Councilmember Canales and seconded by Councilmember Cook to approve the use of felony forfeiture funds, in the amount of \$6,536.00, for forensic DNA testing services 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 Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

11. Discuss and Possibly Act Upon Award of Project No. 2022-06 Related to Improvements to the Hohlt Park Nature Trail and Authorize the Mayor to Execute Any Necessary Documentation

Director of Public Works Dane Rau presented this item. Rau explained that on October 21, 2022, staff along with AKLA Architects opened bids regarding the Hohlt Park Nature Trail Improvements. This project was targeted in 2019 in which the City received a grant from Texas Parks and Wildlife for partial funding, (\$66,400). Subsequently, the BCDC allocated additional funds in back-to-back years to allow the improvements to occur. (\$40,000 in 2019; \$100,000 in 2021; and \$99,017 in 2022).

Rau advised that there were two bids received with Collier Construction being the low bidder at \$291,517.60 and when this was presented to BCDC on November 17th, the BCDC Board approved to move forward with Collier Construction's base bid.

Rau stated that the improvements will include a boardwalk, educational signage, a 0.59-mile granite looped trail, benches, and numerous plantings that attract butterflies and pollinators (see attachments). This will be known as the 'Crossover Nature Trail' and it will be a great addition to Hohlt Park.

A motion was made by Councilmember Saunders and seconded by Councilmember Wright to award Project No. 2022-06 related to improvements to the Hohlt Park Nature Trail to Collier Construction in the amount of \$291,517.60 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 Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

12. Administrative/Elected Officials Report

City Manager Carolyn Miller advised the City Council about the following:

- Downtown Christmas Stroll will be Saturday, December 3rd, beginning at 6:00 p.m.
- The KBTX Food for Families Food Drive will be held on Wednesday, December 7th at the Washington County Expo.

Council adjourned into Executive Session at 2:35 p.m.

EXECUTIVE SESSION

- 13. Section 551.072 - Texas Government Code - Deliberation Regarding Real Property - Discussion Regarding the Lease Agreement with Dreamliner Diner Inc. (f/k/a Canion Kountry Bakery & Restaurant Inc.) Related to the Airport Terminal Building, and Associated Issues**
- 14. Section 551.074 - Texas Government Code - Deliberation Regarding Personnel Matters - Discussion Regarding the Appointment of a Brenham Municipal Court Presiding Judge and Associate Judge, Both for a Two Year Term Ending on December 31, 2024**
- 15. Section 551.074 -Texas Government Code - Deliberation Regarding Personnel Matters - Consider Compensation for the Municipal Court Presiding Judge and Associate Judge**
- 16. Section 551.086 - Texas Government Code - Utility Competitive Matters - City of Brenham Gas Utility System - Gas Supply and Transportation Arrangements and Agreements, and Associated Matters**

17. **Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding City of Brenham v. WTG Gas Marketing, Inc.; Cause No. 37573; 335th Judicial District Court, Washington County, Texas**
18. **Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Aviators Plus, LLC v. City of Brenham, Texas; Cause No. 37896; 21st Judicial District Court, Washington County, Texas**
19. **Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Legal Issues Concerning the City of Brenham Lake Somerville Raw Water Intake Structure, the Federal Emergency Management Agency, and Associated Matters**

Executive Session adjourned at 3:11 p.m.

20. **Discuss and Possibly Act Upon a Cancellation Agreement with Dreamliner Diner, Inc. (f/k/a Canion Kountry Bakery and Restaurant, Inc.) Related to the Lease of the Airport Terminal Building and Associated Issues and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Saunders to approve a Cancellation Agreement with Dreamliner Diner, Inc. (f/k/a Canion Kountry Bakery and Restaurant, Inc.) related to the lease of the airport terminal building, with the utility changes as discussed in Executive Session, 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 Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

21. **Discuss and Possibly Act Upon the Appointment of a Brenham Municipal Court Presiding Judge and Associate Judge, Both for a Two Year Term Ending on December 31, 2024 and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Wright to appoint John Winkelmann as the Municipal Court Presiding Judge and Robert Wright as the Associate Judge, both for a two-year term ending on December 31, 2024 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 Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

22. Discuss and Possibly Act Upon Compensation for the Municipal Court Presiding Judge and Associate Judge and Authorize the Mayor to Execute Any Necessary Documentation

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Saunders to approve a salary increase for the Municipal Court Judges of 2.5% beginning January 1, 2023 and another 2.5% increase beginning January 1, 2024, which is a total increase of 5% over the two year term 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 Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

ORDINANCE NO. O-22-028

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING THE FY2021-22 ADOPTED BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Brenham, Texas has previously approved a budget for the fiscal year ending September 30, 2022, after having filed the same with the City Secretary and after holding public hearings on same, all after due notice as required by statute; and

WHEREAS, due to unforeseen circumstances and/or conditions, the City Council finds it is necessary to amend the FY2021-22 Budget for municipal purposes;

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

SECTION 1.

That the City Council of the City of Brenham, Texas, does hereby amend the budget for the City of Brenham, Texas for the fiscal year ending September 30, 2022, as shown on Exhibit A.

SECTION II.

This Ordinance shall take effect as provided by State Law and the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the 1st day of December 2022.

PASSED and APPROVED on its second reading this the 15th day of December 2022.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

**CITY OF BRENHAM
FY2021-22 ADOPTED BUDGET
BUDGET AMENDMENT #3
EXHIBIT A**

FUND	AMENDMENT PAGE #	REVENUES (INC)/DEC	GRANT	ILA REVENUE (INC)/DEC	TRANSFERS-IN (INC)/DEC	OPERATING	DEBT PAYMENTS INC/(DEC)	GRANT/BOND	TRANSFERS-OUT INC/(DEC)	NET CHANGE TO FUND (INC)/DEC
			REVENUES (INC)/DEC			EXPENDITURES INC/(DEC)		CAP PROJ INC/(DEC)		
101 GENERAL FUND	1	-	-	-	-	374,379	-	-	-	374,379
122 ELECTRIC WPC FUND	2	-	-	-	-	525,121	-	-	-	525,121
123 GAS WPC FUND	3	(2,133,653)	-	-	-	1,747,605	-	-	-	(386,048)
104 WATER FUND	4	(265,610)	-	-	-	284,203	-	-	-	18,593
TOTAL		(2,399,263)	-	-	-	2,931,308	-	-	-	532,045

FUND 101 - GENERAL FUND

GL#	ACCOUNT NAME	ACCOUNT TYPE	AMENDMENT ACTION	CURRENT BUDGET	AMENDMENT	AMENDED BUDGET	REASON
1. 101-5-100-953.40	ECONOMIC DEVELOPMENT INCENTIVES	EXPENDITURE	INC/(DEC)	-	374,379	374,379	1. THIS AMENDMENT IS TO REIMBURSE BK STRINGER, LTD. FOR FACADE IMPROVEMENTS PER THE CHAPTER 380 AGREEMENT AS APPROVED BY CITY COUNCIL ON 9/15/22. FUNDING FOR THIS EXPENSE WILL COME FROM UNRESERVED FUND BALANCE, AND BE OFFSET BY A DECREASE IN FUTURE SALES TAX REVENUE REIMBURSEMENTS TO BK STRINGER, LTD.

FUND 102 - ELECTRIC FUND

GL#	ACCOUNT NAME	ACCOUNT TYPE	AMENDMENT ACTION	CURRENT BUDGET	AMENDMENT	AMENDED BUDGET	REASON
2. 122-5-100-701.00	ELECTRICITY PURCH COST	EXPENDITURE	INC/(DEC)	16,109,684	525,121	16,634,805	2. THIS AMENDMENT IS TO INCREASE THE ELECTRICITY PURCHASE EXPENSE WHICH WHICH IS OFFSET BY EXCESS REVENUES

FUND 123 - GAS FUND

GL#	ACCOUNT NAME	ACCOUNT TYPE	AMENDMENT ACTION	CURRENT BUDGET	AMENDMENT	AMENDED BUDGET	REASON
3. 123-4-611.00	GAS COST ADJUSTMENT	REVENUE	INC/(DEC)	(611,067)	2,133,653	1,522,586	3. THIS BUDGET AMENDMENT IS TO RECOGNIZE HIGHER THAN BUDGET BILLED REVENUES DUE TO HIGHER PASS-THROUGH GAS SUPPLY COSTS. THESE HIGHER REVENUES ARE OFFSET BY INCREASED GAS PURCHASE COSTS AND LEGAL FEES
123-5-100-705.00	GAS PURCHASE COST	EXPENDITURE	INC/(DEC)	1,713,704	1,602,384	3,316,088	
123-5-100-419.00	LEGAL FEES	EXPENDITURE	INC/(DEC)	300,000	145,221	445,221	

FUND 104 - WATER FUND

				AMENDMENT	CURRENT	AMENDED	REASON
GL#	ACCOUNT NAME	ACCOUNT TYPE	ACTION		BUDGET	BUDGET	
4. 104-4-603.00	WATER UTILITY REVENUES	REVENUE	INC/(DEC)		4,872,463	5,138,073	4. THIS AMENDMENT IS TO ACCOUNT FOR HIGHER BILLED WATER REVENUES DUE TO SEASONAL DEMAND, OFFSET BY INCREASED COSTS IN CHEMICALS & MAINTENANCE.
104-5-163-201.00	CHEMICALS	EXPENDITURE	INC/(DEC)		429,617	632,196	
104-5-163-311.00	UTILITY PLANTS	EXPENDITURE	INC/(DEC)		156,837	219,868	
104-5-100-904.00	GROSS REVENUE TAX	EXPENDITURE	INC/(DEC)		341,072	359,665	



Regular City Council
AGENDA ITEM 5-C.

Agenda Item: Approve a Memorandum of Understanding Between the City of Brenham and Washington County Related to Reimbursement of Funding for Linda Anderson Park and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-December 15, 2022

Department: Administration

Staff Contact: Carolyn Miller

SUMMARY STATEMENT:

Upon review of the current Interlocal Agreements (ILAs) between the City and Washington County, it was discovered that the City was still invoicing the County monthly for a 2014 ILA related to Linda Anderson Park. The City Manager met with Judge Durrenberger to advise him of the County's overpayment to the City and work out agreeable repayment terms. The terms of this Memorandum of Understanding allows the City to reimburse the County in five (5) annual installments.

ATTACHMENTS:

(1) MOU for Linda Anderson Park

RECOMMENDED ACTION:

Approve a Memorandum of Understanding between the City of Brenham and Washington County related to reimbursement of funding for Linda Anderson Park and authorize the Mayor to execute any necessary documentation.

MEMORANDUM OF UNDERSTANDING

THIS **MEMORANDUM OF UNDERSTANDING** (“MOU”) is made and entered into between WASHINGTON COUNTY, TEXAS, a political subdivision of the State of Texas (“**County**”), and the CITY OF BRENHAM, a Texas home-rule municipal corporation (“**City**”) on this ____ day of _____, 2022.

BACKGROUND

On December 14, 2014, The City and County entered into an Interlocal Agreement regarding the Linda Anderson Park (“**2014 ILA**”), a copy of which is attached as Exhibit A. Under the terms of the 2014 ILA, the County was to pay to the City a total sum of Seventy Thousand and No/100 Dollars (\$70,000.00) for the maintenance and operation of the Linda Anderson Park. The payment was to be made in twenty-four (24) monthly installments of Two Thousand Nine Hundred Sixteen and 67/100 Dollars (\$2,916.67).

The agreed monthly payments were scheduled to end in December of 2016; however, the parties acknowledge that the payments continued in error until 2022. A total of sixty-three (63) extra payments were made by the County, resulting in a total overpayment of One Hundred Eighty-three Thousand Seven Hundred Fifty and 21/100 Dollars (\$183,750.21) (“**Overpayment**”). The purpose of this MOU is to memorialize the agreement between the County and City as to the schedule by which the City will reimburse the Overpayment to the County.

REPAYMENT SCHEDULE

The parties agree that the Overpayment will be reimbursed by the City to the County in five (5) annual installments as follows:

- January 31, 2023, in the amount of \$36,750.04
- January 31, 2024, in the amount of \$36,750.04
- January 31, 2025, in the amount of \$36,750.04
- January 31, 2026, in the amount of \$36,750.04
- January 31, 2027, in the amount of \$36,750.05

In consideration for the City voluntarily making the annual installment payments, the County agrees it will not charge interest or fees related to the Overpayment. Any payments made under this MOU shall be and are subject to the current revenues available to the City at the time of the payment.

Nothing in this MOU shall be construed to waive, modify or amend any immunities from suit or liability enjoyed by the County or City, their officers, elected officials, agents, representatives and employees under the law.

This MOU represents the full and final agreement between the County and City regarding this Overpayment and may not be modified without the written approval of both parties.

WASHINGTON COUNTY

CITY OF BRENHAM

By _____
John Durrenberger, County Judge

By _____
Hon. Milton Y. Tate, Jr., Mayor

ATTEST:

By _____
Beth Rothermel
County Clerk

By _____
Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 6.

Agenda Item: Public Hearing, Discussion, and Possible Action on an Amendment to the State Plan of Operation Between the City of Brenham and the State of Texas Related to the Law Enforcement Support Office (LESO) Program and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-December 15, 2022

Department: Police Department

Staff Contact: Sgt. Steven Eilert

SUMMARY STATEMENT:

The Law Enforcement Support Office (LESO) Program, administered by DPS, allows Police Departments to apply to receive surplus military equipment from the federal government. The Brenham Police Department has participated in this program for many years and previously received a Mine Resistant Ambush Protection (MRAP) vehicle through the program.

The federal government retains title to the MRAP and the City's continued possession is subject to continued participation in the LESO Program. This is accomplished by the Chief signing a contract called the State Plan of Operation (SPO) each year.

In May of this year, President Biden signed Executive Order 14074, which limits the transfer of certain military equipment to law enforcement. The Executive Order directs state agencies, including DPS, to require new policies and procedures regarding equipment received through programs such as LESO. To implement the President's order, DPS has developed an addendum to its original SPO contract. The addendum creates strict limits on how the MRAP may be used and requires enhanced reporting and tracking. It also requires authorized personnel to have annual training, and for the department to develop a written policy regarding how these new requirements will be implemented. A copy of the proposed policy is attached for your review.

If the addendum is not signed and submitted before January 1st, 2023, the City may not participate in the LESO next year. The result would be forfeiture of the MRAP.

The MRAP has saved lives through high water rescues and shielding police officers from gunfire. It is the only vehicle of this type in our region. The police department is asking Council to approve this addendum to the LESO contract, so that this valuable vehicle may be retained.

It is notable that continued participation in the LESO program would allow the Department to apply to receive additional military surplus equipment; however, the Department does not plan to request any new equipment. Council has the option of approving the addendum, with the explicit condition that the Department may not request new equipment.

ATTACHMENTS:

- (1) Addendum
- (2) LESO Policy

RECOMMENDED ACTION:

Approve an Amendment to the State Plan of Operation between the City of Brenham and the State of Texas related to the Law Enforcement Support Office (LESO) Program and authorize the Mayor to execute any necessary documentation.



**DEFENSE LOGISTICS AGENCY
DISPOSITION SERVICES
74 WASHINGTON AVENUE NORTH
BATTLE CREEK, MICHIGAN 49037-3092**

GPL

August 15, 2022

**MEMORANDUM FOR LAW ENFORCEMENT SUPPORT OFFICE (LESO) PROGRAM
PARTICIPATING LAW ENFORCEMENT AGENCY (LEA)**

SUBJECT: Addendum to LESO Program State Plan of Operation (SPO)

This addendum amends the existing State Plan of Operation (dated February 2021) between the State and Law Enforcement Agency (LEA) and is herein referred to as the SPO Addendum. The SPO Addendum implements requirements found within Presidential Executive Order (EO) 14074 (Section 12), signed on May 25, 2022. In accordance with current SPO-Paragraph 17, notice is being provided of a unilateral change to the SPO. Unless an LEA takes immediate action to terminate the current SPO, the modifications or amendments will become binding.

1) ROLES AND RESPONSIBILITIES The State Shall:

- a) Ensure each LESO Program participating Law Enforcement Agency (LEA) has signed the LESO-approved SPO Addendum no later than January 1, 2023. The SPO Addendum will be signed by the Chief Law Enforcement Official (CLEO) (or assigned designee), the Civilian Governing Body (CGB), and the current State Coordinator (SC) (or authorized State Point of Contact [SPOC]).
- b) Provide LESO with a comprehensive list of LEAs who do not sign the SPO Addendum by January 1, 2023. LESO will restrict the LEA to ensure LEA may not request or receive “controlled” property as defined within this addendum.

2) MODIFICATION TO DEFINITION OF “CONTROLLED” PROPERTY This SPO Addendum adds the below items to the “controlled” property definitions currently found in the 2021 SPO. These items are added pursuant to EO 14074 which reestablishes EO 13688. In 2017, the Law Enforcement Equipment Working Group (established by EO 13688), further added, deleted and refined the definitions of “controlled” items in their annual equipment list review. Provisions within the 2021 MOA applicable to “controlled” property apply to the items listed below (regardless of DEMIL and/or DEMIL Integrity Code). Title and ownership of the “controlled” property listed below remains with the DoD in perpetuity and will not be relinquished to the LEA (regardless of DEMIL and/or Integrity Code). The LESO retains final authority to determine what items qualify as “controlled” property. The below items listed in Section 1.2 of Law Enforcement Equipment Working Group (LEEWG) Recommendations (as modified in 2017), will be managed and issued as controlled property unless other restrictions or conditions are noted:

- a) *Manned Aircraft, Fixed Wing*: Powered aircraft with a crew aboard, such as airplanes, that use a fixed wing for lift. (Note: These items were previously listed as controlled in LESO Program. Any aircraft without commercial application are prohibited).
- b) *Manned Aircraft Rotary Wing*: Powered aircraft with a crew aboard, such as helicopters, that use a rotary wing for lift. (Note: These items were previously listed as controlled in LESO Program. Any aircraft without commercial application are prohibited).

- c) *Unmanned Aerial Vehicles*: A remotely piloted powered aircraft without a crew onboard. (Note: These items are not currently issued in the LESO Program).
- d) *Armored Vehicles, Wheeled*: Any wheeled vehicle either purpose-built or modified to provide ballistic protection to its occupants, such as a Mine-Resistant Ambush Protected (MRAP) vehicle or an Armored Personnel Carrier (APC). These vehicles are sometimes used by law enforcement personnel involved in dangerous operating conditions, including active shooter or similar high-threat situations. These vehicles often have weapon-firing ports. (Note: These vehicles were previously considered controlled due to DEMIL code and are now prohibited unless certification requirements in Section 3 are met).
- e) *Tactical Vehicles, Wheeled*: A vehicle purpose-built to operate on- and off- road in support of military operations, such as a High Mobility Multi-purpose Wheeled Vehicle (HMMWV), 2.5-ton truck, 5-ton truck, or a vehicle with a breaching or entry apparatus attached. These vehicles are sometimes used by law enforcement in rough terrain or inclement weather for search and rescue operations, as well as other law enforcement functions. This excludes commercially available vehicles not tactical in nature, such as pick-up trucks or SUVs. (Note 1: This is LEEWG modified definition from 2017. Note 2: All tactical vehicles will now be considered controlled, and title will not pass. Note 3: Armored vehicles in this category will be considered prohibited unless certification requirements in Section 3 are met).
- f) *Command and Control Vehicles*: Any wheeled vehicle either purpose-built or modified to facilitate the operational control and direction of public safety units responding to an incident. Command and control vehicles provide a variety of capabilities to incident Commander, including, but not limited to, the provision for enhanced communications and other situational awareness capabilities. Command and Control Vehicles are similar to a recreational vehicle and can accommodate multiple people at multiple workstations in the command center. This category does not include SUVs and is not intended for other types of vehicles that could serve as a command-and-control center. (Note 1: This is the LEEWG modified definition from 2017. Note 2: Armored vehicles in this category will be considered prohibited unless certification requirements in Section 3 are met).
- g) *Specialized Firearms and Ammunition Under .50-Caliber (excludes firearms and ammunition designed for regularly assigned duties) and less lethal launchers*: Weapons and corresponding ammunition for specialized operations or assignment. This includes launchers specifically designed and built to launch less lethal projectiles. This excludes weapons such as service issued handguns, rifles or shotguns that are issued or approved by the agency to be used by all sworn officers/deputies during the course of regularly assigned duties. (Note 1: This is the LEEWG modified definition from 2017. Note 2: The LESO Program only issues weapons under .50 caliber that are designed for regularly assigned duties).
- h) *Explosives and Pyrotechnics*: Includes “flash bangs” as well as explosive breaching tools often used by special operations units. (Note: These items were previously prohibited in the LESO Program and are now specifically prohibited in EO 14074).
- i) *Breaching Apparatus*: Tools designed to provide rapid entry into a building or through a secured doorway. These tools may be mechanical in nature (a battering ram connected to a vehicle or a propellant), ballistic (slugs), or explosive. This category does not include dual purpose tools such as a sledgehammer or bolt cutter. (Note: This is the LEEWG modified definition from 2017).
- j) *Riot/Crowd Control Batons*: Non-expandable of greater length (more than 24 inches) than service-issued types and are intended to protect its wielder during crowd control situations by providing distance from assailants. This category includes all batons with advanced features such as tear gas discharge, electronic or “stun” capabilities. (Note: This is the LEEWG modified definition from 2017).

k) *Riot Helmets*: Helmets designed to protect the wearer's face and head from injury during melees from projectiles including rocks, bricks, liquids, etc. Riot helmets include a visor which protects the face. (Note 1: The LEEWG removed these items from the controlled list in 2017. Note 2: LESO does not issue Kevlar helmets based on DoD policy).

l) *Riot/Crowd Control Shields*: Shields intended to protect wielders from their head to their knees in crowd control situations. Most are designed for the protection of the user from projectiles including rocks, bricks, and liquids. Some afford limited ballistic protection as well. (Note: This is the LEEWG modified definition from 2017).

3) PROHIBITED ITEMS THAT MAY BE ISSUED FOR LIMITED PURPOSES EO 14074 lists the below items as “prohibited” for issue under the LESO Program; however identifies specific authorized uses for these “prohibited” items if requested, utilized and annually certified as being used only in authorized manners. When utilized in an authorized manner (as indicated in the below example descriptions), the items are categorized as “controlled” property.

a) *Long Range Acoustic Devices (LRAD) that do not have commercial application*- Participating LEAs in the State of Texas, are not authorized to acquire LRAD devices. All requests for these devices, will be denied.

b) *Vehicles that do not have commercial application*- This includes all tracked and armored vehicles, such as a Mine-Resistant Ambush Protected (MRAP), Armored Personnel Carrier (APC), or Armored HMMWV. (Note: This category excludes vehicles with commercial application, such as pick-up trucks, non-armored HMMWVs, 2.5-ton trucks, 5-ton trucks, or SUVs. The LESO Program identifies/defines vehicles with “commercial application” as items with a DEMIL Code of “A” or DEMIL “Q” (with an Integrity Code of 6) that may be sold to the general public under DoD sales programs).

i) *Authorized uses*- EO 14074 allows limited transfer of vehicles that do not have commercial application if the LEA certifies that the vehicle will be used exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief. Any other use of these vehicles is not authorized.

ii) *Annual Certification Requirements*- During the LESO Program annual inventory, LEAs with these vehicles must certify that the vehicle(s) is utilized exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief. An LEAs signature on the SPO Addendum agreeing to these new terms will serve as initial certification.

iii) LEAs that do not have a current SPO Addendum on file by January 1, 2023 or who fail to annually certify that the vehicle(s) use is exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief must return vehicle(s) to DLA Disposition Services.

4) ACQUIRING (OR RETAINING) CONTROLLED PROPERTY The State shall:

a) Review, verify and only submit to LESO for approval, requests for controlled property by LEAs who have current SPO and SPO Addendum on file with the state.

b) Ensure LEAs return controlled property to DLA Disposition Services if the Department of Justice (DOJ) determines or a Federal, State, Tribal, local, or territorial court enters a final judgment finding that the LEA has engaged in a pattern or practice of civil rights violations.

c) Ensure that prior to requesting/acquiring any controlled property, the LEAs:

i) Provide written or electronic notification to the local community of its intent to request controlled property. The notification must be translated into appropriate languages to inform individuals with limited English proficiency. The LESO Program would *recommend* that LEAs provide a notice of intent to request controlled property to the local community on or before January 1, 2023 and at the beginning of each fiscal year (October 1st) thereafter. This notification should include a comprehensive list of any controlled property that may be requested throughout the year. If this notice of intent does not include a specific controlled property item, such item may not be requested in the LESO Program until 30-days after an updated notice is published.

ii) Provide written or electronic notification to the city council or appropriate local Civilian Governing Body (CGB) of its intent to request controlled property and allow “reasonable opportunity to review” (normally 30-days). The LESO Program would *recommend* that LEAs provide a notice of intent to the CGB on or before January 1, 2023 and at the beginning of each fiscal year (October 1st) thereafter. This notification should include a comprehensive list of any controlled property that may be requested throughout the year. If this notice of intent does not include a specific controlled property item, such item may not be requested in the LESO Program until 30-days after an updated notice is published. Requests for controlled property must comport with all applicable approval requirements of the CGB.

(1) The above requirement includes elected Sheriff’s who also shall notify their CGB or city or county government within their jurisdiction.

(2) In cases of disagreement between requesting LEAs and CGB, the Governor appointed LESO Program State Coordinator (SC) will obtain an advisory opinion from the States Attorney General’s Office on whether CGBs are authorized by state law to deny the request.

iii) *Campus LEAs operating in Institutions of Higher Education (IHE)*- LEAs operating in IHEs otherwise referred to as “Campus Police” or “Campus LEAs” must also adhere to the requirements identified below:

(1) Obtain the IHE Board of Governors (or an equivalent body) *explicit approval* for the acquisition of controlled property. Such approval must be evidenced in the Campus LEAs request submitted to the LESO Program. Silence or inaction by the Campus LEAs Board of Governors does not constitute evidence of approval, and the “reasonable opportunity to review” (normally 30-days) standard does not apply to Campus LEA applications.

(2) Certify that their policies and training include specific provisions on using controlled property in a way that does not chill speech, is not disruptive to the educational environment, and does not foster a hostile climate among students.

(3) Campus LEAs who receive controlled vehicles are required to remove the militaristic appearance (i.e., painting the vehicle a different color).

5) REGIONAL SHARING AGREEMENTS LESO Program participants who are part of a regional sharing agreement must also adhere to the following requirements.

a) Participating LEAs in the State of Texas, are not authorized to share or loan any assigned LESO program property to any other LEA, regardless of if they are part of an internal regional sharing agreement with the participating LEA.

6) POLICIES/PROCEDURES LEAs must establish policies/procedures that are consistent with the standards listed below, in order to request or maintain controlled property. LEAs must:

a) Adopt and comply with general policing standards.

i) *Community Policing*- LEA policies/procedures should reflect the concept that trust and mutual respect between police and the communities they serve are critical to public safety. Community policing fosters relationships between law enforcement and the local community which promotes public confidence in LEAs therefore increasing LEA ability to investigate crimes and keep the peace.

ii) *Constitutional Policing*- LEA policies/procedures must emphasize that all police work should be carried out in a manner consistent with the requirements of the U.S. Constitution and federal law. Policies/procedures must include First, Fourth, and Fourteenth Amendment principles in law enforcement activity, as well as compliance with Federal and State civil rights laws. LEA certified law enforcement officers receive training on the rights embodied by such Constitutional Amendments and how these amendments inform policing policies/procedures.

iii) *Community Input and Impact*- LEA policies/procedures must identify mechanisms that LEAs will use to engage the communities they serve to inform them and seek their input about LEAs actions, role in, and relationships with the community. LEAs should make particular efforts to seek the input of communities where controlled property is likely to be used so as to mitigate the effect that such use may have on public confidence in the police. This could be achieved through the LEAs regular interactions with the public through community forums, town halls, or meetings with the Chief, or community outreach divisions.

b) Adopt and comply with controlled property standards.

i) *Appropriate Use of Controlled Property*- LEA policies/procedures must define appropriate use of controlled property; officers who are authorized to use controlled property must be trained on these policies/procedures. LEAs should examine scenarios in which controlled property will likely be deployed, the decision-making processes that will determine whether controlled property is used, and the potential that both use and misuse of controlled property could create fear and distrust in the community. Policies/procedures should consider whether measures can be taken to mitigate that effect (i.e., keep armored vehicles at a staging area until needed) and any alternatives to the use of such property and tactics to minimize negative effects on the community, while preserving officer safety.

ii) *Supervision of Use*- LEA policies/procedures must specify appropriate supervision of personnel operating or utilizing controlled property. Supervision must be tailored to the type of controlled property being used and the nature of the engagement or operation during which the property will be used. Policies/procedures must describe when a supervisor of appropriate authority is required to be present and actively overseeing the property being used.

iii) *Effectiveness Evaluation*- LEA policies/procedures must articulate that the LEA will regularly monitor and evaluate the effectiveness and value of controlled property to determine whether continued deployment and use is warranted on operational, tactical, and technical grounds. LEAs should routinely review after-action reports and analyze any data on, for example, how often controlled property is used or whether controlled property is used more frequently in certain law enforcement operations or in particular locations or neighborhoods.

iv) *Auditing and Accountability*- LEA must establish policies/procedures that are designed to prevent misuse, unauthorized use and/or loss of controlled property. LEA will hold personnel accountable to agree and comply with State, local, Tribal and Federal controlled property use policies/procedures.

v) *Transparency and Notice*- LEA policies/procedures must articulate that LEA will engage the community regarding controlled property, policies/procedures governing its use, and review of “significant incidents” (as defined in Section 8), with the understanding that there are reasonable limitations on disclosures of certain information and law enforcement sensitive operations and procedures.

c) Must adopt and comply with record-keeping requirements for controlled property.

i) Upon LESO request, LEAs must provide a copy of the general policing standards and specific controlled property standards that were adopted, to include any related policies/procedures.

ii) *Record-Keeping Requirement*- LEAs must retain comprehensive training records, either in the personnel file of the officer who was trained or by the LEAs training division or equivalent entity, for a period of at least three (3) years, and must provide a copy of these records, upon LESO request.

7) TRAINING LEAs that request or have acquired controlled property via the LESO Program must establish written policies/procedures for controlled property use, and all personnel who are authorized to use the controlled property will be trained on these policies/procedures. LEAs must:

a) Provide annual training on general policing standards to personnel who may use the controlled property.

b) Provide annual training on property standards to personnel who may use the controlled property.

c) Provide controlled property operational and technical training to personnel and ensure personnel are proficient prior to using controlled property.

d) Provide scenario-based training to personnel that combines constitutional and community policing principles with controlled property specific training. LEA personnel authorizing or directing the use of controlled property should have enhanced scenario-based training to examine, deliberate, and review the circumstances in which controlled property should or should not be used.

8) DOCUMENTATION REQUIRED FOR “SIGNIFICANT INCIDENTS” LEAs must collect and retain the information (described below) when any law enforcement activity involves a “Significant Incident” which requires (or results in) the use of controlled property on the LEAs inventory. A “Significant Incident” is defined as any law enforcement operation or action that involves: 1) a violent encounter among civilians or between civilians and the police, 2) a use-of-force that causes death or serious bodily injury, 3) a demonstration or other public exercise of First Amendment rights, or 4) an event that draws, or could be reasonably expected to draw, a large number of attendees or participants, such as those where advanced planning is needed. LEAs must:

a) Collect and retain documentation for controlled property used in a “Significant Incident” for a minimum of three (3) years after the incident has occurred. The LEA must provide documentation to LESO upon request.

i) Documentation should also be made available to the community the LEA serves in accordance with applicable policies/procedures with exemptions made concerning the disclosure of any sensitive information.

b) No new report or format is required for “Significant Incident” reports so long as information is easily accessible and organized. The required information may already exist in a police report, operations plan, officer daily log, incident report, after-action report or described in a use-of-force report. If required information (annotated below) is contained in a pre-existing reports, the LEA must simply ensure that the report includes information that controlled property was used. Required information is listed below:

- i) Name and quantity of controlled property used, including relevant details such as make/model/serial number of controlled property used.
- ii) Description of the LEA action/operation involving the controlled property.
- iii) Identification of LEA personnel who used and directed the use of the controlled property.
- iv) Identify or describe civilians who were the subject or target of LEA action/operation. For large crowds or multiple persons, the LEA must provide general description of the civilians (i.e., a crowd of approximately 250 people).
- v) Result of the action/operation in which controlled property was used (i.e., arrests, citations, injuries or fatalities, use-of-force, victim extraction, or property damage).

9) ANNUAL CERTIFICATIONS By signing the SPO Addendum, the LEA agrees to the below certification statements. In addition, the LEA must annually certify compliance with the below certification statements during the Annual LESO Program Inventory. LEAs must:

- a) Certify they have authorization from their CGB to participate in the LESO Program.
- b) Certify they have provided their CGB and local community a comprehensive list of controlled property that may be requested through the LESO Program.
 - i) Notification may be made electronically or in writing and must be translated into appropriate languages to inform individuals with limited English proficiency. It is recommended this notification be done on an annual basis.
 - ii) If controlled property is not identified in the comprehensive list provided to the CGB and local community, an updated notification to CGB and local community must be made. The CGB and local community will be afforded 30-days to review what additional items are being requested.
- c) Certify the request for controlled property comports/complies with all applicable approval requirements of the CGB.
- d) Certify they have adopted and comply with controlled property standards (i.e., appropriate use, supervision of use, effectiveness evaluation, auditing/accountability of use, transparency/notice of use, and record-keeping requirements.
- e) Certify they have provided annual training to personnel on the maintenance, sustainment, and appropriate use of controlled property, including respect for the rights of citizens under the Constitution of the United States and de-escalation of force.
- f) Certify that LRAD devices are not authorized to be acquired by any participating LEAs in the State of Texas.

g) Certify that controlled property vehicle(s) are utilized exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief.

h) Certify that controlled property requiring a license (or other authorization), is only utilized by personnel who hold license (or other authorization) to operate such property.

i) Certify that controlled property will be returned to DLA Disposition Services when no longer needed.

j) Certify that they are abiding by the current LESO Program SPO and SPO Addendum, and maintain a signed copy of these documents on file.

k) Certify the Application for Participation on-file with LESO Program is current and accurately reflects the number of officers in the agency when fully staffed. (Note: If Application for Participation is not accurate, LEA must provide an updated Application for Participation to State Coordinators Office).

l) Certify they are compliant with LESO Program allocation limits. (Note: Property allocation limits are based on the number of officers at an LEA when fully staffed).

m) Certify that they agree to return the controlled property if the Department of Justice (DOJ) determines or a Federal, State, Tribal, local, or territorial court enters a final judgment finding that the LEA has engaged in a pattern or practice of civil rights violations.

n) *Campus LEAs (as described in Section 4)* must also certify that their policies and training include specific provisions on using controlled property in a way that does not chill speech, is not disruptive to the educational environment, and does not foster a hostile climate among students.

o) *Program participants who are part of a regional sharing agreement (as described in Section 5)*, must also certify that the State of Texas does not authorize participating LEAs to share or loan any LESO assigned property to any other LEA, regardless of if they are part of an internal regional sharing agreement with the participating LEA.

10) SAVINGS CLAUSE/INTERPRETATION Nothing in this SPO Addendum shall be construed to impair or otherwise affect the requirements under the existing SPO between the State and LEA (dated February 2021), unless expressly amended herein. To the extent there is a disagreement concerning the interpretation of this SPO Addendum or the extent this SPO Addendum affects requirements under the existing SPO, the disagreement shall be resolved at the exclusive discretion of the LESO Program.

11) AGREEMENTS OF PARTIES By signing this SPO Addendum, the State and LEA acknowledges and accepts these changes. The SPO Addendum must be signed by LEAs no later than January 1, 2023 to remain eligible for LESO Program participation. The changes contained in this SPO Addendum are acknowledged and accepted by the following:

Governor-appointed State Coordinator State of Texas

Title (Print): Chief, Crime Records Division, Texas Dept of Public Safety

Name (Print): Michelle Farris

Signature (Sign):  Date (MM/DD/YYYY): 10/4/2022

Law Enforcement Agency Name: _____

Chief Law Enforcement Official (CLEO) Title (Print): _____

Name (Print): _____

Signature (Sign): _____ Date (MM/DD/YYYY): _____

Civilian Governing Body (CGB) Title (Print): _____

Name (Print): _____

Signature (Sign): _____ Date (MM/DD/YYYY): _____

	BRENHAM POLICE DEPARTMENT	
	Policy Law Enforcement Support Office Equipment	
	Effective Date: 11/29/2022	Revised: 11/29/2022
	Approved: Ron Parker Chief of Police	
	Reference:	

POLICY

Several agencies around the State of Texas take part of different types of grant funding and equipment obtainment opportunities. With certain agencies when equipment is obtained via grants or government funded opportunities there are requirements that must be met to maintain compliance.

I. PURPOSE

The purpose of this policy is to establish the governing regulations in the utilization, training, and documented usage of Law Enforcement Support Office (LESO) Controlled Equipment.

II. DEFINITIONS

- A. Armored Vehicle, Wheeled: Any wheeled vehicle either purpose-built or modified to provide ballistic protection to its occupants, such as a Mine-Resistant Ambush Protected (MRAP) vehicle or an Armored Personnel Carrier (APC).
- B. Vehicles that do not have commercial application: All tracked and armored vehicles, such as a MRAP, APC, or Armored High Mobility Multi-Purpose Wheeled Vehicle (HMMWV).
- C. LEA: Law Enforcement Agency, which is the designated agency who takes possession of the LESO controlled property.
- D. LESO Coordinator: The designated liaison between the LEA and the Law Enforcement Support Office (LESO).
- E. CLEO: Chief Law Enforcement Official or their appointed designee or interim Chief when he/she is not available, or the position is vacant.

- F. Operator/s: Persons approved by the CLEO and LESO Coordinator to operate LESO controlled property after referred and approved by the Emergency Response Team Commander.

III. EQUIPMENT USAGE

- A. Authorized uses per EO 14074 allows “Vehicles that do not have commercial application” to the designated LEA to utilize them exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, or relief.

1. Disaster-Related Emergencies

- a. Are constituted but not limited to things such as

i. Tornado/s

- i. A local atmospheric storm, generally of short duration, formed by winds rotating at very high speeds, usually in a counter-clockwise direction. The vortex, up to several hundred yards wide, is visible to the observer as a whirlpool-like column of winds rotating about a hollow cavity or funnel.

ii. Flooding

- i. A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, unusual or rapid accumulation or runoff of surface waters, or mudslides/mudflows cause by accumulation of water.

iii. Earthquakes

- i. The sudden motion or trembling of the ground produced by abrupt displacement of rock masses, usually within the upper 10 to 20 miles of the earth’s surface.

iv. Hurricane/s

- i. A tropical cyclone, formed in the atmosphere over warm ocean areas, in which wind speeds reach 74 miles per hour or more and blow in a large spiral around a relatively calm center or “eye”. Circulation is counter-clockwise in the Northern Hemisphere and clockwise in the Southern Hemisphere.

v. Acts of Terrorism

- i. Radiological Attacks; or the spreading of radioactive material with the intent to cause harm.
- ii. Explosive Device Attacks; including the utilization of improvised explosive devices (IEDs). With the intent to destroy, incapacitate, injure, harass, or distract.
- iii. Complex Coordinated Attacks; including but not limited to the utilization of Vehicle-Borne Improvised Explosive Device (VBIED) in conjunction with other means of attacks. Which require the activation of multiple teams including the following: Emergency Response Team (ERT), Special Weapons and Tactics Team (SWAT), Bomb Teams, and HazMat Teams.

2. Active Shooter Scenarios

- a. One or more subjects who participate in a random or systematic shooting spree, demonstrating their intent to continuously harm others. Their overriding object appears to be that of mass murder, rather than other criminal conduct, such as robbery, hostage taking, etc.

3. Hostage Operations

- a. One or more subjects who participate as a hostage taker/s. With the seizing or detention of one of more persons coupled with a threat to kill, injure or continue to detain persons in order to compel a third person or governmental organization to take some action.

4. Search & Rescue Operations

- a. Search for lost, missing, or otherwise endangered people to provide medical aid and bring them to safety.

5. Anti-Terrorism

- a. Preparedness
 - i. The capabilities necessary to have a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination during incident response of an act of terrorism.

- b. Protection
 - i. The capabilities necessary to secure the homeland against acts of terrorism.
- c. Prevention
 - i. The capabilities necessary to avoid, prevent, stop a threatened or actual act of terrorism.
- d. Response Recovery
 - i. The capabilities necessary to save lives and assist the community affected by an incident.
- e. Relief
 - i. The capabilities necessary to minimize suffering and provide basic human needs such as food, water and shelter.

IV. TRAINING

- A. “Operator/s” of “Armored Vehicle, Wheeled” equipment provided from the LESO Program will undergo all required training and obtain all necessary licensing required to operate said equipment. All training will be provided by the departments LESO Coordinator & Training Coordinator
 - 1. Annual training over general policing standards will occur for all operators of LESO controlled property will occur.
 - 2. Annual training on property standards to personnel who may use the controlled property will occur.
 - 3. Operational and technical training will be provided to personnel, and they will demonstrate proficiency prior to using controlled property.
 - 4. Scenario-Based training to personnel that combine constitutional and community policing principles with LESO controlled property will occur.
 - 5. LEA personnel authorizing or directing the use of the controlled property will receive enhanced scenario-based training to examine, deliberate, and review the circumstances in which the LESO controlled property should or should not be used.
- B. Any personnel that have not completed annual training will lose their operator/s status or any and all access to the authorization, direction, or utilization of any LESO controlled equipment.

- C. Training records regarding LESO controlled equipment will be kept for a period of at least three (3) years, and copies of the records will be provided to LESO personnel upon request.

V. ACTIVATION PROCESS

- A. The “Armored Vehicle, Wheeled” may be activated for usage by trained certified staff members such as the CLEO, LESO Coordinator, and trained command staff personnel.
 - 1. Any of the members listed above will need to evaluate and determine under which category the usage will be classified.
 - 2. The activating person or any member listed above will need to supervise the use of the LESO controlled property during use. The supervising person shall regularly monitor and evaluate the effectiveness and value of the LESO controlled property to determine where continued deployment and use is warranted.
 - 3. Upon activation or usage notification is to be made to the LESO Coordinator.
 - a. The LESO Coordinator is to know the location of and have accessibility to all LESO controlled property.
 - 4. The activating staff member shall complete the designated utilization tracking form showing the reason, duration, and date of use of the LESO controlled property.
 - a. All necessary reports and attached documents including use-of-force or other supporting documentation will be copied and attached to the utilization tracking form.

VI. DOCUMENTATION

- A. Auditing & Accountability
 - 1. LEA will abide by set policies and procedures to prevent misuse, unauthorized use and/or loss of LESO controlled property.
 - 2. LEA will hold its personnel accountable to agree and comply with State, local, Tribal and Federal controlled property use policies/procedures.

3. LESO Coordinator will conduct an annual audit on LESO controlled property and submit information to the LESO agency.
4. The LESO Coordinator will conduct an annual review of all tracking forms from utilization of LESO controlled property.
 - a. An analysis will be conducted to examine how often the controlled property is utilized, where it is utilized, what is the reason for the utilization, and location utilized.

VII. ANNUAL CERTIFICATIONS

- A. An annual authorization will need to be obtained from the Civilian Governing Body (CGB) to participate in the LESO Program
- B. An annual list showing the CGB and the local community a comprehensive list of controlled property in their possession.
 1. The LEA will also provide a comprehensive list of controlled property that may be requested through the LESO Program if an item is to be obtained from the program with 30-days for review prior to the item being requested.
 2. Notification can be made electronically or in writing and will be translated into appropriate languages to inform individuals with limited English proficiency.



Regular City Council
AGENDA ITEM 7.

Agenda Item: Discuss and Possibly Act Upon the Release of Gas Pipeline Easements Affecting the Brenham Market Square Development Property and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-December 15, 2022

Department: Public Utilities

Staff Contact: Shawn Bolenbarr

SUMMARY STATEMENT:

In 2001 the City of Brenham purchased a section of gas pipeline from Cleco that allowed the City of Brenham to relocate its Brenham City Gate Station and consolidate measurement facilities and allow centralized odorization and regulation. Although the gas main was purchased and belongs to the City of Brenham, the easements that surrounded this section of gas main were never dedicated to the city.

On October 17, 2022, the City of Brenham Utilities Department was approached by the Market Square Development with regards to abandoning gas pipeline easements that are located internal to the Market Square Development site. These specific easements are not well-defined with metes and bounds but are more of a blanket easement. The easements were for gas services that used to serve houses located on the Market Square property. The houses no longer exist, and the gas services have been abandoned.

Since the City of Brenham does not technically own these easements, it was suggested by the City Attorney to file a Quit Claim Deed for the abandonment of the easements. By filing the Quit Claim Deed, the City of Brenham would convey that it has no interest in the easements. This method of abandonment was approved by Lisciotti Development, the title company, and the owner of Market Square Development.

The City of Brenham Public Utilities Department respectfully asks City Council to approve the release of the abandoned gas pipeline easements affecting the Brenham Market Square Development property.

ATTACHMENTS:

- (1) Deed Record For 197-455 (Pipeline Easement)
- (2) Deed Record For 149-22 (Pipeline Easement)
- (3) Deed Record For 95-6 (Pipeline Easement)

RECOMMENDED ACTION:

Approve the release of gas pipeline easements affecting the Brenham Market Square Development Property and authorize the Mayor to execute any necessary documentation upon final approval by the City Attorney.

EASEMENT-WILL KOLWES & WIFE TO L. HAUSMAN:

THE STATE OF TEXAS

COUNTY OF WASHINGTON () WHEREAS, Will Kolwes of Washington County, Texas, is the present owner of certain tracts of land lying and being situated in the Hiram Lee one-fourth League and the John Long League in Washington County, Texas, and the same is more fully described in Volume 143, page 124, Deed Records of Washington County, Texas, to which reference is here had and made; and

Whereas, L. Hausman of Washington County, Texas, is the owner of a certain tract of land lying to the Northeast of the said Kolwes property and the same being a part of the John Long League and being that same property conveyed by T.F. Matchett to the said L. Hausman by deed recorded in Volume 144, page 137, Deed Records of Washington County, Texas to which reference is here had and made; and

Whereas, the Texas Southeastern Gas Company is the owner of a natural gas transmission

pipe line which is situated to the Southwest of the Hausman property and runs across the North part of the Will Kolwes property; and whereas, the L. Hausman property is some three hundred and twenty-five (325) feet to the northeast of said gas line; and

Whereas, the said L. Hausman desires to connect to the said natural gas pipe line in order that he might furnish natural gas to his property above mentioned and to accomplish the same it is necessary that the said L. Hausman construct and lay a gas line across the property of the said Will Kolwes for a distance of some 325 feet, more or less, which is agreeable to the said Will Kolwes, therefore,

KNOW ALL MEN BY THESE PRESENTS, that we, Will Kolwes and Hattie Kolwes, husband and wife, of Washington County, Texas, for and in consideration of the sum of Fifty and No/100 (\$50.00) Dollars, cash, to us in hand paid by L. Hausman, of Washington County, Texas, the receipt of is hereby acknowledged and confessed, do hereby GRANT, SELL AND CONVEY unto L. Hausman, the right to construct, reconstruct and perpetually maintain a natural gas pipe line together with all necessary laterals, in, upon and across that certain tract of land owned by the grantors herein and being a part of the John Long Survey in Washington County, Texas, and being the north part of that certain tract of land which is fully described in Volume 143, page 124, Deed Records of Washington County, Texas, to which reference is here had and made for a full description and for all matters pertinent. It being the intention of the grantors herein to limit this easement and right of way to that property owned by the grantors herein which lies between the natural gas pipe line owned by the Texas Southeastern Gas Company and the property owned by the grantee herein which is situated some 325 feet to the Northeast of said pipe line.

It is understood that the said natural gas line to be constructed by the grantee herein shall be placed at a depth of not less than eighteen (18) inches below the ground level and shall be so constructed so as not to interfere with the use and occupancy of the property by the grantors herein, their heirs or assigns.

It is further agreed and understood that where the gas pipe line crosses the road owned by the grantors herein and which leads to the Brenham-Houston Highway that said gas pipe line shall be placed at and maintained at a sufficient depth below the ground level in order that the same will not interfere with the use of said road and the maintenance of the same.

The grantee here agrees for himself, his heirs or assigns, that he will at all times, after doing any work in connection with the construction, reconstruction or repair of said gas pipe line, or any lateral thereof, restore said premises to the condition in which same were found before such work was undertaken.

It is further agreed by the grantors herein, for themselves, their heirs or assigns that they will not unnecessarily interfere with the peaceful and continuous use of said gas line to be constructed by the grantee herein, his heirs or assigns.

TO HAVE AND TO HOLD the same perpetually unto the said L. Hausman, his heirs or assigns, together with the right and privilege at any time and all times to enter said premises, or any part thereof for the purpose of constructing, reconstructing and maintaining said natural gas pipe line, and for making connections therewith.

Witness our hands at Brenham, Texas, this the 13th day of August, A.D. 1946.

Will Kolwes

Hattie Kolwes.

THE STATE OF TEXAS

COUNTY OF WASHINGTON () Before me, the undersigned authority, a Notary Public in and for Washington County, Texas, on this day personally appeared Will Kolwes and Hattie Kolwes, his

wife, both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they each executed the same for the purposes and consideration therein expressed, and the said Hettie Kolwes, wife of the said Will Kolwes, having been examined by me, privately and apart from her husband, and having the same fully explained to her, she, the said Hettie Kolwes, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office this the 13th day of August A.D. 1946.

(Seal).

W.D. Tomchafsky
Notary Public in and for
Washington Co., Texas.

Filed for Record Aug. 17th A.D. 1946 at 3:10 O'clock

P.M. Travis Phillips, C.C.W.C.

Recorded Aug. 17th A.D. 1946 at 4 O'clock

P.M. BY *A. J. Bennett* Deputy.

EASEMENT-WILL KOLWES & WIFE TO L. HAUSMAN:

THE STATE OF TEXAS

COUNTY OF WASHINGTON () WHEREAS, Will Kolwes of Washington County, Texas, is the present owner of certain tracts of land lying and being situated in the Hiram Lee one-fourth League and the John Long League in Washington County, Texas, and the same is more fully described in Volume 143, page 124, Deed Records of Washington County, Texas, to which reference is here had and made; and

Whereas, L. Hausman of Washington County, Texas, is the owner of a certain tract of land lying to the Northeast of the said Kolwes property and the same being a part of the John Long League and being that same property conveyed by T.F. Hatchett to the said L. Hausman by deed recorded in Volume 144, page 137, Deed Records of Washington County, Texas to which reference is here had and made; and

Whereas, the Texas Southeastern Gas Company is the owner of a natural gas transmission

pipe line which is situated to the Southwest of the Hausman property and runs across the North part of the Will Kolwes property; and whereas, the L. Hausman property is some three hundred and twenty-five (325) feet to the northeast of said gas line; and

Whereas, the said L. Hausman desires to connect to the said natural gas pipe line in order that he might furnish natural gas to his property above mentioned and to accomplish the same it is necessary that the said L. Hausman construct and lay a gas line across the property of the said Will Kolwes for a distance of some 325 feet, more or less, which is agreeable to the said Will Kolwes, therefore,

KNOW ALL MEN BY THESE PRESENTS, that we, Will Kolwes and Hattie Kolwes, husband and wife, of Washington County, Texas, for and in consideration of the sum of Fifty and No/100 (\$50.00) Dollars, cash, to us in hand paid by L. Hausman, of Washington County, Texas, the receipt of is hereby acknowledged and confessed, do hereby GRANT, SELL AND CONVEY unto L. Hausman, the right to construct, reconstruct and perpetually maintain a natural gas pipe line together with all necessary laterals in, upon and across that certain tract of land owned by the grantors herein and being a part of the John Long Survey in Washington County, Texas, and being the north part of that certain tract of land which is fully described in Volume 143, page 124, Deed Records of Washington County, Texas, to which reference is here had and made for a full description and for all matters pertinent. It being the intention of the grantors herein to limit this easement and right of way to that property owned by the grantors herein which lies between the natural gas pipe line owned by the Texas Southeastern Gas Company and the property owned by the grantee herein which is situated some 325 feet to the Northeast of said pipe line.

It is understood that the said natural gas line to be constructed by the grantee herein shall be placed at a depth of not less than eighteen (18) inches below the ground level and shall be so constructed so as not to interfere with the use and occupancy of the property by the grantors herein, their heirs or assigns.

It is further agreed and understood that where the gas pipe line crosses the road owned by the grantors herein and which leads to the Brenham-Houston Highway that said gas pipe line shall be placed at and maintained at a sufficient depth below the ground level in order that the same will not interfere with the use of said road and the maintenance of the same.

The grantee here agrees for himself, his heirs or assigns, that he will at all times, after doing any work in connection with the construction, reconstruction or repair of said gas pipe line, or any lateral thereof, restore said premises to the condition in which same were found before such work was undertaken.

It is further agreed by the grantors herein, for themselves, their heirs or assigns that they will not unnecessarily interfere with the peaceful and continuous use of said gas line to be constructed by the grantee herein, his heirs or assigns.

TO HAVE AND TO HOLD the same perpetually unto the said L. Hausman, his heirs or assigns, together with the right and privilege at any time and all times to enter said premises, or any part thereof for the purpose of constructing, reconstructing and maintaining said natural gas pipe line, and for making connections therewith.

Witness our hands at Brenham, Texas, this the 13th day of August, A.D. 1946.

Will Kolwes

Hattie Kolwes.

THE STATE OF TEXAS

COUNTY OF WASHINGTON () Before me, the undersigned authority, a Notary Public in and for Washington County, Texas, on this day personally appeared Will Kolwes and Hattie Kolwes, his

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 wife, both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they each executed the same for the purposes and consideration therein expressed, and the said Hettie Kolwes, wife of the said Will Kolwes, having been examined by me privately and apart from her husband, and having the same fully explained to her, she, the said Hettie Kolwes, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office this the 13th day of August A.D. 1946.

(Seal).

W.C. Tomchafsky
 Notary Public in and for
 Washington Co., Texas.

Filed for Record Aug. 17th A.D. 1946 at 3:10 O'clock

P.M. Travis Phillips, C.C.W.C.

Recorded Aug. 17th A.D. 1946 at 4 O'clock

P.M. BY *A. J. Bennett* Deputy.

OFFICIAL

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 RIGHT OF WAY DEED: WILL KOLWES TO M. & M. PIPE LINE COMPANY.
 THE STATE OF TEXAS

COUNTY OF WASHINGTON KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of Forty Nine & No/100 Dollars (\$49.00) Dollars to the undersigned, Will Kolwes (herein styled Grantor, whether one or more) paid, the receipt of which is hereby acknowledged, the said Grantor does hereby Grant, Sell and Convey unto M. and M. Pipe Line Company (herein styled Grantee), its successors and assigns, the right of way and easement to construct, maintain and operate pipe lines through the following described lands situate in Washington County, State of Texas, to-wit:

Beginning W line J. H. Tliden tract and E line of this tract, Thence N. 45 1/2 W. 1687 feet thence N. 47 1/2 W. 800 feet. Thence N. 45 3/4 W. 759 feet to E. line D. C. Becker tract, more fully described in deed from N. E. Dever to Will Kolwes recorded in Volume (Book 61) Page 610, Deed Records of said County, to which reference is here made for further description.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such lines and appurtenances thereto shall be maintained, with ingress to and egress from the premises, for the purpose of constructing, inspecting, repairing, maintaining, and replacing the property of Grantee above described, and the removal of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises, except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes to a sufficient depth so as not to interfere with cultivation of soil, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation of said pipe, telegraph and telephone lines; said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by the said Grantor, one by the said Grantee, and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive. Should more than one pipe line be laid under this grant at any time, the sum of twenty-five cents per lineal rod for each additional line shall be paid, besides the damages above provided for.

Upon written application to the Grantee at Dallas, Texas, the Grantee will make or cause to be made a tap on any gas pipe line constructed by Grantee on Grantor's premises for the purpose of supplying gas to the Grantor for domestic use only, the cost of meter, saddle, and labor to be borne by said Grantee, all other expenses, including fittings, to be borne by Grantor, gas to be measured and furnished at the main line of Grantee at the same price and under the same rules and regulations as prevail in the nearest city or town where Grantee is supplying gas.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood that party securing this grant in behalf of Grantee is without authority to make any covenant or agreement not herein expressed.

Witness the execution hereof on this the 11th day of February A. D. 1929.

Will Kolwes.

THE STATE OF TEXAS

COUNTY OF WASHINGTON Before me, Almet Schlenker, a Notary Public in and for said County and State, on this day personally appeared Will Kolwes, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the 11th day of February A. D. 1929.

(Seal)

Almot Schlenker. Notary Public in
and for Washington County, Texas

Filed for record at 3:25 o'clock P. M. Mar. 18, 1929.

G. B. Thompson CCCWC

Recorded at 3:49 o'clock P. M. Mar. 25, 1929.

By *G. B. Thompson* Deputy.



Regular City Council
AGENDA ITEM 8.

Agenda Item: Discuss and Possibly Act Upon the Award of Bid No. 23-002 Related to the Lease of Approximately 46 Acres of Land Located at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-December 15, 2022

Department: Purchasing Services

Staff Contact: Kyle Branham

SUMMARY STATEMENT:

The City went out for bids in November 2022 for the lease of 46 acres of land at the Brenham Municipal Airport. This lease of land that is located at the North end of the runway will be for hay production and or livestock grazing. We are currently in a lease agreement for \$35.50 per acre that is set to expire December 31, 2022.

The bid opening was held on December 7, 2022 and there were three (3) bids received. After reviewing all bids, Jay Schroeder who is the current lessee was deemed the highest bidder at \$38.00 per acre which is an annual rent of \$1,748.00. The other two bids received were \$34.50 and \$21.74 per acre. Jay has leased the property since 2017, and in that time he has performed fence maintenance he has also disced/ plowed and planted winter pasture to make hay and has also had several groups of cattle utilize this land for grazing. He intends on continuing to use the land in a similar way while attempting to improve the lands production potential.

This lease agreement shall remain in effect for a term of one (1) year and shall automatically renew annually for a term of one (1) year. Original term and all renewals shall not exceed a total of five (5) years. Terms will run from January 1st -December 31st.

ATTACHMENTS:

- (1) Bid Tabulation
- (2) Map

RECOMMENDED ACTION:

Award ITB No. 23-002 for the lease of approximately 46 acres of land located at the Brenham Municipal Airport, to Jay Schroeder in the amount of \$38.00 per acre and authorize the Mayor to execute any necessary documentation.



Lease of Land at Brenham Municipal Airport

23-002 Bid Tabulation

BIDDERS	Johnny Randerman Rec'd 12/7/22 8:14AM	Jay Schroeder Rec'd 12-6-22 4:03PM	John Goeke Rec'd 12/7/22 9:53AM
Price Per Acre	\$34.50	\$38.00	\$21.74
Total Annual Rent (46 acres)	\$1,587.00	\$1,748.00	\$1,000.04



46 Acre Hay and Land Lease

1 inch = 439 feet





Regular City Council
AGENDA ITEM 9.

Agenda Item: Discuss and Possibly Act Upon Recommendations for Appointments and/or Re-appointments to Various City Boards and Commissions and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-December 15, 2022

Department: Administration

Staff Contact: Jeana Bellinger

SUMMARY STATEMENT:

See attached memo from City Secretary Jeana Bellinger.

ATTACHMENTS:

- (1) Memo from City Secretary
- (2) Board Information Sheets

RECOMMENDED ACTION:

Approve recommendations for appointments and/or re-appointments to various City Boards and Commissions, as presented, and authorize the Mayor to execute any necessary documentation.



To: Mayor and City Council
City Manager Carolyn Miller

From: Jeana Bellinger, City Secretary

Subject: Advisory Board Appointments for 2023

Date: December 9, 2022

The past few weeks, Carolyn Miller and I have been meeting with the Boards and Committees Subcommittee of Council (Councilmember Canales, Cook and Saunders) to review requests for appointment and/or reappointment to the City's advisory boards and commissions.

As outlined in the City's policy for Boards and Committees, the members being recommended for appointment to the Boards listed below will serve a **three (3) year term**, expiring on December 31, 2025.

Animal Services Advisory Board

The Animal Services Board membership is mandated by Chapter 823 of the Health and Safety Code and requires specific skill sets to serve on this Board. Due to the legal requirements for this Board and recent staff changes, the recommendation is to not make any appointments to this Board at this time.

Brenham Police Citizen Advisory Board

This Board was created in 2020 and since its creation, there have been several vacancies that have not been filled; however, during this year's campaign my office received several applications from citizens wanting to serve on this Board. The recommendation is to fill three (3) of the five (5) vacancies:

- Andrea Liner – Education Community
- Phyllis McMahon – Senior Citizen Community
- Neal Pieper – LGBTQ Community

There are still two (2) vacancies on this Board.

Library Advisory Board

This Board had three (3) members eligible for reappointment. The Subcommittee is recommending the reappointment of all three (3) members:

- Lillian Marshall
- Keith Herring
- Jerry Wise-Jares

Planning & Zoning Commission

This Board had three (3) members eligible for reappointment and one (1) vacancy to fill. The Subcommittee is recommending the following:

- Reappointments
 - Keith Behrens
 - Deanna Alfred
 - Calvin Kossie
- New Appointment
 - Darren Heine

Both the Parks Board and the Main Street Board had four (4) members eligible for reappointment. Every year my office receives numerous applications for these two boards and the Subcommittee is recommending that two (2) of the four (4) members eligible for reappointment be replaced with new members. This will allow an opportunity for new members to serve while maintaining the knowledge that the tenured members provide.

Parks and Recreation Advisory Board

- Reappointments
 - Bill Betts
 - Delbert Boeker
- New Appointments
 - Wendy Buth
 - Courtney Mason

Main Street Board

- Reappointments
 - Tiffany Morisak
 - Connie Wilder
- New Appointments
 - Celia Baker-Haley
 - Andrea Liner

The Main Street Board also had two (2) vacancies and the Subcommittee is recommending the following individuals be appointed:

- Colleen Broussard
- Dax Flisowski

As outlined in the City's policy for Boards and Committees, the members being recommended for appointment for the following Boards will serve a **two (2) year term**, expiring on December 31, 2024.

Brenham Community Development Corporation

This Board had three (3) members eligible for reappointment. The Subcommittee is recommending the reappointment of all three (3) members:

- Gary Crocker
- Bill Betts
- Jim Kolkhorst

Brenham Housing Authority Board

This Board had four (4) eligible for reappointment. The Subcommittee is recommending the reappointment of all four (4) members:

- Richard Flammer
- Marcus Wamble
- Cory Flencher
- Lillian Pollard

Board of Adjustments

This Board had two (2) members eligible for reappointment. The Subcommittee is recommending the reappointment of both members:

- Danny Goss
- Arlen Thielemann

This Board also had one (1) vacancy and the Subcommittee is recommending Dax Flisowski be appointed to fill the vacancy.

Building and Standards Commission

This Board had two (2) vacancies and the Subcommittee is recommending the appointment of:

- Richard Morris
- Matthew Metzger

Attached to this memo are general information sheets for each board referencing the new members. If you have any questions about any of these appointments, please let me know.

BRENHAM POLICE CITIZEN ADVISORY BOARD

Term of Office: Three years; 3-term limit (9 years total); one-year layoff

Meeting Schedule: Bi-Monthly; 2nd Tuesday at 5:30 p.m.

Responsible Staff Member: Ron Parker, Christi Korth

The Brenham Police Citizen Advisory Board (CAB) was created to act as a community resource for the Police Chief in the formation of strategies, development of community policing concepts and programs, to serve as an advisory body on certain police matters, fostering and enhancing public transparency and trust, and increasing public awareness. The CAB is not a review board of specific police actions, whether internal or external, but simply is a forum for potential discussions concerning community challenges and concerns, and in leveraging the experience of persons outside of policing to benefit and improve police/community relations.

The primary focus of the CAB is to provide a forum with key stakeholders regarding law enforcement appearance, the police mission relevant to interaction with the public, community policing, and enhancing communications within the community. It is comprised of a wide cross-section of community members representative of Brenham. The imagination of all members drives the board and reflects holistic views that serve as catalysts for the integration of community viewpoints into police department planning, operations, and strategies. The membership of the board consists of citizens from throughout the community who represent a range of interests and experiences.

Position	Board Member	Representation	Last Appointment	Term	Term Expiration
1	Brian Ross	Homeowners Assoc	1/1/2022	2 Years	12/31/2023
2	Matt Sweeney	Faith Community	1/1/2022	3 Years	12/31/2024
3	VACANT	LGBTQ Community			
4	VACANT	Senior Citizen Community			
5	Whitney Hooks	Banking Industry	1/1/2022	3 Years	12/31/2024
6	Shae Janner	Chamber of Commerce	1/1/2022	3 Years	12/31/2024
7	James McDonald	Minority/Faith Community	1/1/2022	2 Years	12/31/2023
8	Alpesh Patel	Hoteliers	1/1/2022	3 Years	12/31/2024
9	Weldon Clampitte	Senior Citizen Community	1/1/2022	3 Years	12/31/2024
10	VACANT	Education			
11	VACANT	Blinn Student			
12	Jesse Vela	Small Business Community	1/1/2022	3 Years	12/31/2024
13	VACANT	Education			
14	Holly Johnson	Citizen	1/1/2022	3 Years	12/31/2024
15	Leigh Linden	Citizen	1/1/2022	2 Years	12/31/2023

Submitting the following applications for consideration:

- (3) Neal Pieper, LGBTQ – Father of LGBTQ child
- (4) Phyllis McMahon, Senior Citizen – Worked in various government organizations
- (10) Andrea Liner, Education – Former registrar at Blinn; VP of Registrar Association

NOTES:

2 vacancies remain – Positions 11 and 13.

LIBRARY ADVISORY BOARD

Term of Office (City): Three years; 3-term limit (9 years total); one-year layoff

Term of Office (Fortnightly): Two years; 3-term limit (6 years total); two-year layoff

Meeting Schedule: Every other month, 3rd Wednesday at 5:15 p.m.

Responsible Staff Member: Susan Nienstedt/Idalia Avezuela

The Library Advisory Board was created to assist the City of Brenham in the planning and operation of the Nancy Carol Roberts Memorial Library with the ultimate goal being to provide the best service possible to the citizens of the library's service population as assigned by the Texas State Library and Archives Commission.

The Board's purpose is counsel city staff on establishing, reviewing and updating policies, monitoring existing operations, making recommendations regarding fee schedules for services, considering ways to better utilize the existing facilities, and at all times providing a plan for future development of the library.

The Board shall consist of nine (9) members approved by the Brenham City Council. Five (5) members shall be appointed by the Brenham Fortnightly Board from its membership and four (4) members are to be appointed by the Mayor or City Council members. All members shall reside in Washington County. City members shall be appointed to staggered three (3) year terms, ending in December of each calendar year and shall be limited to three (3) full consecutive terms, with a minimum one (1) year absence before consideration for reappointment. Fortnightly members shall be appointed to staggered two (2) year terms, ending in December of each calendar year and shall be limited to three (3) full consecutive terms, with a minimum one (1) year absence before consideration for reappointment.

The City Librarian shall be an ex-officio member of the Board. The Staff Liaison, to be designated by the City Librarian, will perform support services, prepare agendas, post meeting notices, and prepare the minutes of the Board meetings. The Board members shall elect a Chairperson, a Vice-Chairperson and a Secretary, whose terms shall be for a period of one (1) year.

Board Member	Nominating Entity	Last Appointment	Term	Term Expiration
Lillian Marshall	City	1/1/2023	3 Years	12/31/2025
Keith Herring	City	1/1/2023	3 Years	12/31/2025
Jerry Wise Jares	City	1/1/2023	3 Years	12/31/2025
Carol Kiphart	City	1/1/2022	2 Years	12/31/2023
Sabrina Roberts	Fortnightly	N/A	N/A	12/31/2023
Jody Tyson	Fortnightly	N/A	N/A	12/31/2023
Janie Mehrens	Fortnightly	N/A	N/A	12/31/2023
Lu Hollander	Fortnightly	N/A	N/A	12/31/2023
Renee Mueller	Fortnightly	N/A	N/A	12/31/2023

** Member in good standing; reappointment recommended.*

PLANNING AND ZONING COMMISSION

Term of Office: Three years; 3-year term limit (9 years total); one-year layoff

Meeting Schedule: Monthly; 4th Monday at 5:15 p.m.

Responsible Staff Member: Stephanie Doland/Shaua Laauwe/Kim Hodde

The Planning & Zoning Commission (P&Z) fulfills those planning and zoning responsibilities delegated to it by the City Council.

Seven (7) members are appointed by the City Council to serve three-year staggered terms. The City Manager appoints a staff member to provide support to the Board; to appear on behalf of City Council at all public hearings; to establish administrative procedures; and maintain all records of the Board.

As provided by the laws of the State of Texas and ordinances of the City of Brenham, the P&Z: approves or disapproves land subdivision plat or re-plats; vacates plats or re-plats; holds public hearings and makes recommendations to the City Council relative to creation, amendment and implementation of zoning regulations, use classifications and districts; recommends to the City Council plans, programs, policies related to future growth and development of the city; and performs other duties and responsibilities as may be referred to the P&Z by the City Council.

Position	Board Member	Last Appointment	Term	Term Expiration
1	M. Keith Behrens	1/1/2023	3 Years	12/31/2025
2	VACANT			
3	Catharyne Neil	1/1/2022	2 Years	12/31/2023
4	Artis Edwards, Jr.	1/1/2022	2 Years	12/31/2023
5	Deanna Alfred	1/1/2023	3 Years	12/31/2025
6	Calvin Kossie	1/1/2023	3 Years	12/31/2025
7	Christopher Cangelosi	1/1/2022	2 Years	12/31/2023

**Member in good standing; reappointment recommended.*

Recommending the following to fill vacancy in Position 2:

- Darren Heine – local architect

PARKS AND RECREATION ADVISORY BOARD

Term of Office: Three years; 3-term limit (9 years total); one-year layoff

Meeting Schedule: Bi-monthly; 2nd Wednesday at Noon

Responsible Staff Member: Dane Rau/Tammy Jaster

The Parks and Recreation Advisory Board assists the City of Brenham in the planning and operation of the parks and recreations system and reviews and monitors existing operations and considers ways to better utilize existing facilities.

The Board consists of nine (9) members, the majority of whom reside in Washington County and are appointed to staggered, three-year, terms by the City Council. The City Manager appoints a staff member to serve as an ex-officio member of the Board.

The Board's authority is advisory; all recommendations from this Board are presented to the City Council for approval before any final action is taken.

Position	Board Member	Appointment Date	Term	Term Expiration
1	Tina Henderson	1/1/2022	2 Years	12/31/2023
2	Ginger Bosse	1/1/2022	2 Years	12/31/2023
3	Bill Betts	1/1/2023	3 Years	12/31/2025
4	Jim Baker	1/1/2023	3 Years	12/31/2025
5	Delbert Boeker	1/1/2023	3 Years	12/31/2025
6	Paula Buls	1/1/2023	3 Years	12/31/2025
7	Lee Chalmers	1/1/2022	2 Years	12/31/2023
8	Andrea Fischer	1/1/2022	2 Years	12/31/2023
9	William Robinson	1/1/2022	2 Years	12/31/2023

**Recommending two (2) members for reappointment (Betts, Boeker)*

Recommending two (2) members (Baker, Buls) not be reappointed to allow for new members to serve:

- (4) Wendy Buth – volunteer work at Texas A&M, Blinn College, First Baptist Church*
- (6) Courtney Mason – Fair, 4-H, FFA, BISD Booster Club volunteer*

MAIN STREET BOARD

Term of Office: Three years; 3-year term limit (9 years total); one-year layoff

Meeting Schedule: Monthly; 1st Monday at 4:00 p.m.

Responsible Staff Member: Susan Cates/Monique Breaux

The Main Street Board oversees the activities of the Main Street Director and develops plans and programs to stimulate both historic preservation and economic vitality for downtown Brenham, according to the Texas Historical Commission's criteria for Main Street Communities.

Eleven (11) members are appointed to three-year terms by the City Council. These members shall be knowledgeable about downtown, marketing, financing, historic preservation, or other disciplines important to the purpose and scope of the Board. All three-year terms expire in December of the appropriate calendar year.

The Board is responsible for working with the City Manager to employ and oversee the activities of a Main Street Director; recommending to the City Council appropriate policies and plans for downtown development; working with Visit Brenham to recommend and implement marketing strategies for downtown Brenham that will improve downtown sales and create a positive public image; and develop financial assistance programs to assist downtown property owners.

Position	Board Member	Last Appointment	Term	Term Expiration
1	VACANT			
2	Margie Young	1/1/2023	3 Years	12/31/2025
3	Tiffany Morisak	1/1/2023	3 Years	12/31/2025
4	Lowell Ogle	1/1/2022	2 Years	12/31/2023
5	Jon Hill	1/1/2023	3 Years	12/31/2025
6	Pete Simpson	1/1/2022	2 Years	12/31/2023
7	VACANT			
8	Wendy Meaux	1/1/2022	2 Years	12/31/2023
9	Douglas Peck	1/1/2022	2 Years	12/31/2023
10	Elizabeth Price	1/1/2022	2 Years	12/31/2023
11	Connie Wilder	1/1/2023	3 Years	12/31/2025

**Recommending two (2) members for reappointment (Morisak, Wilder)*

Recommending the following citizens to fill vacancies in Positions 1 and 7:

- (1) Celia Baker Haley – Main Street volunteer; wide range community service volunteer*
- (7) Andrea Liner – Former registrar at Blinn, VP of Registrar Association*

Recommending two (2) members (Young, Hill) not be reappointed to allow for new members to serve:

- (2) Colleen Broussard – Wide range of volunteer service; chamber/ED volunteer*
- (5) Dax Flisowski – Urban/regional planning experience*

BRENHAM COMMUNITY DEVELOPMENT CORPORATION

Term of Office: Two years; no term limits

Meeting Schedule: Quarterly; 3rd Thursday @ 7:30 a.m.

Responsible Staff Member: Carolyn Miller/Jeana Bellinger

The Brenham Community Development Corporation (BCDC) promotes economic and community development within the city and on behalf of the city by developing, implementing, providing, and financing projects as defined in Section 4B of the Development Corporation Act (Article 5190.6 V.T.C.S.). The BCDC has all the powers, both express and implied, granted to corporations governed by Section 4B of the Development Corporation Act (Article 5190.6 V.T.C.S.) and by the Texas Non-profit Corporation Act. The Corporation is operated according to its own Articles of Incorporation and Bylaws.

The business of the BCDC is managed by a Board of Directors composed of seven (7) members, appointed by the City Council to two-year, staggered, terms. All terms expire in December of the appropriate year. At least four (4) members of the Board must reside within the city limits of Brenham, Texas. Any member of the Board that does not reside within the Brenham must: 1) be a resident of Washington County, Texas; or 2) reside within ten (10) miles of the boundaries of the City of Brenham, Texas and reside in a county bordering Washington County, Texas. The City Manager shall act as the President/Chief Executive Officer for the Board. The City Secretary shall act as the Secretary for the Board.

The Board of Directors shall appoint a Chairman for a two (2) year term by January 31 of each even numbered year and said term shall expire on December 31 of the next following odd numbered year. The Board of Directors shall appoint a Vice-Chairman for a two (2) year term by January 31 of each odd numbered year and said term shall expire on December 31 of the next following even numbered year. A Board member shall not serve more than three (3) consecutive terms as Chairman or Vice-Chairman. The Chairman of the Board shall be the presiding officer for meetings and the Vice-Chairman shall act in the Chairman's absence.

The BCDC Board develops a budget each year based on sales tax projections. The City collects a local sales tax of 1.5 cents; of that amount, 3/8 (.375) cents is dedicated to BCDC activities. Historically, the BCDC has allocated 35% of its funds to economic development activities and 65% to community development projects.

Position	Board Member	Last Appointment	Term	Term Expiration
1	John Hasskarl	1/1/2022	2 Years	12/31/2023
2	Darrell Blum	1/1/2022	2 Years	12/31/2023
3	Ken Miller	1/1/2022	2 Years	12/31/2023
4	Charles Moser	1/1/2022	2 Years	12/31/2023
5	Gary Crocker	1/1/2023	2 Years	12/31/2024
6	Bill Betts	1/1/2023	2 Years	12/31/2024
7	Jim Kolkhorst	1/1/2023	2 Years	12/31/2024

**Member in good standing; reappointment recommended.*

BRENHAM HOUSING AUTHORITY (BHA) BOARD

Term of Office: Two (2) years

Meeting Schedule: Monthly; 3rd Tuesday at 5:15 p.m.

Responsible Staff Member: City staff is not responsible for this Board

The Board manages the Public Housing Program in the City of Brenham under the rules and regulations of the U.S. Department of Housing and Urban Development and Texas Local Government Code, Chapter 392. The Board hires an Executive Director to administer the day-to-day operations of the Brenham Housing Authority.

As mandated by state law (LGC §392.031) the Mayor is responsible for making appointments to the Board; however, his appointments are always presented to the full City Council as a courtesy.

Position	Board Member	Appointment Date	Term	Term Expiration
1	John Harris	1/1/2022	2 Years	12/31/2023
2	Wanda Cooley (Tenant)	1/1/2022	2 Years	12/31/2023
3	Ray Daugbjerg	1/1/2022	2 Years	12/31/2023
4	Richard Flammer	1/1/2023	2 Years	12/31/2024
5	Marcus Wamble	1/1/2023	2 Years	12/31/2024
6	Cory Flencher	1/1/2023	2 Years	12/31/2024
7	Lillian Pollard (Tenant)	1/1/2023	2 Years	12/31/2024
8	George Dillingham	1/1/2022	2 Years	12/31/2023
9	Kenneth Miller	1/1/2022	2 Years	12/31/2023

**All requested reappointment*

Executive Director:

Ben Menjares
500 S. Jackson St.
Brenham, TX 77833
E-mail: Bmenjares@brenhamhousing.org
Phone: 979-836-9221 x109
Cell: 979-421-2310

BOARD OF ADJUSTMENTS

Term of Office: Two year; 3-term limit

Meeting Schedule: Monthly; 2nd Monday at 5:15 p.m.

Responsible Staff Member: Stephanie Doland/Kim Hodde

Five (5) members are appointed by the City Council for staggered terms of two (2) years. The Board shall have at least two (2) and no more than four (4) alternate members, appointed by the City Council, who shall serve in the absence of one or more regular members when requested to do so by the Mayor. These alternate members, when appointed, shall serve for the same period as the regular members.

The Board hears and decides appeals where it is alleged there is error of law in any order, requirement, or decision made by the Zoning Administrator, including appeals alleging error in the interpretation of the classification of any use not specifically named in the City of Brenham Zoning Ordinance and to hear and decide special exceptions and variances as provided for in the City of Brenham Zoning Ordinance.

Position	Board Member	Last Appointment	Term	Term Expiration
1	Danny Goss	1/1/2023	2 Years	12/31/2024
2	Arlen Thielemann	1/1/2023	2 Years	12/31/2024
3	Jon Hodde	1/1/2022	2 Years	12/31/2023
4	VACANT			
5	Mary Lou Winkelmann	1/1/2022	2 Years	12/31/2023

**Member in good standing; reappointment recommended.*

Recommending the following be appointed for Position 4:

- *Dax Flisowski – Urban planner; electric utility experience*

Position	Alternate Member	Last Appointment	Term	Term Expiration
A-1	Walt Edmunds	1/1/2022	2 Years	12/31/2023
A-2	VACANT			
A-3	VACANT			
A-4	VACANT			

BUILDING AND STANDARDS COMMISSION

Term of Office: Two years

Meeting Schedule: As needed; Upon call by Building Official

Responsible Staff Member: Stephanie Doland/Allan Jacobs/David Doelitsch

The Building and Standards Commission (the “Commission”) is organized in Chapter 6 of the Code of Ordinances (Sec. 6-102) and Chapter 214 of the Texas Local Government Code.

The Commission is created to hear and determine cases concerning alleged violations of Chapter 6. The Commission shall consist of a panel composed of five (5) members, with terms of office of two (2) years. The panel shall include a plumber and electrician licensed by the State of Texas as well as a general contractor by trade. All members shall reside in the City of Brenham, unless a licensed tradesman required above cannot be recruited to serve, then such person may reside within Washington County. As near as practical, all members shall be qualified in one (1) or more of the fields of fire prevention, building construction, sanitation, health or public safety.

In addition to said five (5) members, the Fire Marshal, Building Official and Health Inspector of the City of Brenham shall be ex officio, nonvoting members of the Commission. Any city employee in the respective department or division of the city, who shall be designated by the city manager, shall be authorized to act as substitute for the respective superior of their respective department or division as ex officio member of said commission.

Three (3) members of the building and standards commission shall constitute a quorum. In varying the application of any provision of this article or in modifying an order of the building official, affirmative votes of not less than three (3) members shall be required. A vacancy on the building and standards commission shall be filled for the unexpired term.

The City Council may appoint two (2) alternate members of the commission who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager. A vacancy is filled in the same manner as a vacancy among the regular members.

Position	Board Member	Requirement	Last Appointment	Term	Term Expiration
1	Arlen Thielemann	General Contractor	1/1/2022	2 Years	12/31/2023
2	Walt Edmunds	Plumbing	1/1/2022	2 Years	12/31/2023
3	VACANT	Citizen			12/31/2022
4	Stoney Lacina	Citizen	1/1/2022	2 Years	12/31/2023
5	VACANT	Electrical			12/31/2022

Position	Alternate Member	Last Appointment	Term	Term Expiration
1	VACANT			
2	VACANT			

Recommending the following citizens to fill vacancies in Positions 3 and 5:

- (3) Matthew Metzger – volunteer fireman*
- (5) Richard Morris – construction experience*



Regular City Council
AGENDA ITEM 10.

Agenda Item: Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 17, Offenses and Miscellaneous Provisions of the Code of Ordinances of the City of Brenham

Meeting Type: Regular Meeting-December 15, 2022

Department: Administration

Staff Contact: Jeana Bellinger

SUMMARY STATEMENT:

At the November 17th City Council meeting Fire Marshall Steven Loving presented changes to the Fire Department's False Alarm Policy. As part of his presentation, he recommended removing wording related to fire alarms from Chapter 17, Article V, Offenses and Miscellaneous Provisions, to Chapter 8, Fire Protection and Prevention.

Upon further review of Chapter 17, Article V, I discovered that this Article contained nothing but old and outdated language from the late 1980's that was no longer applicable to the City's current policies and procedures. Therefore, the ordinance being presented for first reading removes all the old language and reserves the Article for future use. The language related to fire false alarms has been rewritten and will be presented by Fire Marshall Loving in the agenda item related to Chapter 8.

ATTACHMENTS:

(1) Ordinance - First Reading

RECOMMENDED ACTION:

Approve an Ordinance on its first reading amending Chapter 17, Offenses and Miscellaneous Provisions of the Code of Ordinances of the City of Brenham.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 17, OFFENSES AND MISCELLANEOUS PROVISIONS, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BY REPEALING ARTICLE V, ALARMS SYSTEMS; PROVIDING FOR A NEW ARTICLE V, RESERVED, FOR FUTURE AMENDMENTS TO CHAPTER 17; PROVIDING FOR A REPEALER AND SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETINGS

WHEREAS, pursuant to Texas Local Government Code, Section 51.001, the City has the authority to adopt ordinances and regulations that are for good government, peace and order of the City; and

WHEREAS, as a home-rule municipality, Texas Local Government Code, Section 51.072 confirms that the City has the full power of local self-government; and

WHEREAS, the City Council finds that Chapter 17, Offenses and Miscellaneous Provisions, Article V, Alarm Systems, of the City of Brenham's Code of Ordinances is antiquated and is no longer applicable; and

WHEREAS, the City Council desires that Article V be repealed in its entirety, and replaced with reservation wording for future amendments to Chapter 17; and

WHEREAS, the City Council hereby finds that the best interests of the City will be promoted by the enactment of this Ordinance;

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

SECTION 1.

Chapter 17, Offenses and Miscellaneous Provisions, Article V, Alarm Systems, of the Code of Ordinances of the City of Brenham is hereby repealed.

SECTION 2.

Chapter 17 of the Code of Ordinances of the City of Brenham is hereby amended to read as follows:

ARTICLE V. RESERVED

Sec. 17-71 – 17-75. RESERVED.

SECTION 3. **SAVINGS CLAUSE**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 4. **SEVERABILITY**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. City hereby declares that it would have passed this Ordinance, and each section, subsection, sentences, clauses and phrases remaining should any provision be declared unconstitutional or invalid.

SECTION 5. **REPEALER**

Any other ordinances or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 6. **EFFECTIVE DATE**

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 7.
PROPER NOTICE AND MEETINGS

It is hereby officially found and determined that the meetings at which this ordinance was passed were open to the public as required and that public notice of the time, place and purpose of said meetings were given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED, on its first reading on the ____ day of _____, 2022.

PASSED AND APPROVED, on its second reading on the ____ day of _____, 2022.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 11.

Agenda Item: Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 8, Fire Protection and Prevention of the Code of Ordinances of the City of Brenham

Meeting Type: Regular Meeting-December 15, 2022

Department: Fire Department

Staff Contact: Steven Loving

SUMMARY STATEMENT:

This Ordinance is a result of the workshop with City Council completed on November 17, 2022. The draft of the creation of this Ordinance was a result of the workshop, with request by Council Members included in the changes from original information presented. Changes to include a shorter period prior to initiation of a graduating fee schedule for false alarms and tabulations of fee to be conducted on a quarterly bases. The initiation of the fee would initiate after the 3rd False alarm at the same location. This would assist the city with cost recovery for excessive fire alarm responses, for false alarms. The creation of this Ordinance also allows for a separation from the original Ordinance for excessive false alarm fees to addressing the Fire Alarms specifically in Chapter 8 which address Fire Department and Fire Marshal issues within the Code of Ordinances. The fee schedule and change of placement of the Ordinance would bring the standard with in line of several other cities current Ordinances, policies and procedure related to this issue.

ATTACHMENTS:

(1) Ordinance - First Reading

RECOMMENDED ACTION:

Approve an Ordinance on its first reading amending Chapter 8, Fire Protection and Prevention of the Code of Ordinances of the City of Brenham.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 8, FIRE PROTECTION AND PREVENTION, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BY AMENDING ARTICLE I, GENERAL, TO ALLOW FEES FOR FALSE ALARMS; PROVIDING FOR A REPEALER AND SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETINGS

WHEREAS, pursuant to Texas Local Government Code section 51.001, the City of Brenham, Texas (“City”) has the authority to adopt ordinances and regulations that are for the good government, peace and order of the City; and

WHEREAS, the City Council desires to amend the provisions of Chapter 8 regulating Fire Protection and Prevention, of the Code of Ordinances of the City of Brenham; and

WHEREAS, Chapter 8, Article I, General, of the Code of Ordinances of the City of Brenham, Texas shall be amended as follows; and

WHEREAS, the general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Ordinance;

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

SECTION 1

Chapter 8, Article I, Section 8-6 of the Code of Ordinances of the City of Brenham is hereby amended to read as follows:

Sec. 8-6. Fees charged for false alarms.

“False alarm” shall mean the activation of any fire alarm system subject to this Article which results in a response by the Fire Department and which is caused by: 1) intentional or unintentional misuse of the fire alarm system by the owner, its employees, agents, or occupants; 2) activation of a fire alarm system not caused by heat, smoke or fire, including activations caused by the mechanical failure, malfunction, improper installation, or lack of proper maintenance; or 3) any other alarm activation for which the fire department personnel are unable to determine the apparent cause of the activation.

Excluded from the definition of false alarm is:

- (a) Alarms caused by actions of a communications service provider;
- (b) Alarms caused by power outage of more than four (4) hours, severe weather, or other natural disaster;
- (c) Alarms activated after the fire alarm business has, in good faith, provided advanced notice to the 911 dispatch center that the fire alarm system would be undergoing installation or modifications and maintenance that could trigger a false alarm signal; and
- (d) Multiple fire alarms within a twenty-four (24) hour period that could be considered as one (1) alarm with resulting corrective action being taken by the owner or alarm system service provider.

Any person, firm, or corporation having any type of fire alarm shall not be charged a fee for the first three (3) false alarms responded to by the Fire Department within a calendar year; however, said owner shall be charged for each subsequent alarm:

- (a) \$50.00 (Fifty and No/100 Dollars) for the Fourth (4th) through Sixth (6th) false alarm;
- (b) \$75.00 (Seventy-five and No/100 Dollars) for the Seventh (7th) through the Ninth (9th) false alarm; and
- (c) \$100.00 (One Hundred and No/100 Dollars) for any subsequent false alarm(s) responded to thereafter within a calendar year.

Fees will be charged on all false alarms, regardless of whether the alarm is monitored by the City.

All false alarm fees will be calculated and invoiced quarterly. Payments for false alarm fees shall be due within thirty (30) days of invoice date. Any person delinquent by more than fifteen (15) days in the payment of false alarm fees charged hereunder may be disconnected from alarm monitoring service. Disconnection from alarm monitoring service may result in violation of the Fire Code and is subject to enforcement.

SECTION 2. **SAVINGS CLAUSE**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 3.
SEVERABILITY

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. City hereby declares that it would have passed this Ordinance, and each section, subsection, sentences, clauses and phrases remaining should any provision be declared unconstitutional or invalid.

SECTION 4.
REPEALER

Any other ordinances or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 5.
EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 6.
PROPER NOTICE AND MEETINGS

It is hereby officially found and determined that the meetings at which this ordinance was passed were open to the public as required and that public notice of the time, place and purpose of said meetings were given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED, on its first reading on the ____ day of _____, 2022.

PASSED AND APPROVED, on its second reading on the ____ day of _____, 2022.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 13.

Agenda Item: Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Aviators Plus, LLC v. City of Brenham, Texas; Cause No. 37896; 21st Judicial District Court, Washington County, Texas

Meeting Type: Regular Meeting-December 15, 2022

Department: Administration

Staff Contact: Carolyn Miller

SUMMARY STATEMENT:

To be discussed in Executive Session.

ATTACHMENTS:

None

RECOMMENDED ACTION:

No action - Executive Session discussion only.



Regular City Council
AGENDA ITEM 14.

Agenda Item: Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Legal Issues Concerning the City of Brenham Lake Somerville Raw Water Intake Structure, the Federal Emergency Management Agency, and Associated Matters

Meeting Type: Regular Meeting-December 15, 2022

Department: Administration

Staff Contact: Carolyn Miller

SUMMARY STATEMENT:

To be discussed in Executive Session.

ATTACHMENTS:

None

RECOMMENDED ACTION:

No action - Executive Session discussion only.