

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday, February 16, 2016 at 6:00p.m. at the City of Brady Service Center located at 1405 N. Bridge Street, Brady, Texas with Mayor Anthony Groves presiding. Council members present were Latricia Doyal, Marilyn Gendusa, Shelly Perkins, Kathy Gloria and Jack Turk. City staff present were City Manager Kim Lenoir, City Secretary Tina Keys, Director of Public Works Steven Miller, Director of Finance Lisa Remini, Director of Community Services Peter Lamont, Code Enforcement Officer Ronnie Roberts, Airport Assistant Manager Lisa Perry, Police Chief Steve Thomas, and City Attorney Shannon Kackley. Others in attendance were Charlotte Harper, Dub Smith, Keith Kindle and Joe Whitehead.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:00 p.m. Roll was then called for Council and a quorum was certified.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Doyal gave the invocation, and the Pledge of Allegiance was recited.

3. APPROVAL OF AUDIT BOARD

Council Member Gloria moved to approve the audit board. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.

4. APPROVAL OF MINUTES for Feb 2 and 10, 2016

Council Member Gendusa moved to approve the minutes for Feb 2 and 10, 2016. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried 5-0.

5. PUBLIC COMMENTS

There were no public comments

6. PRESENTATIONS

- A. Peter Lamont introduced recent hires Assistant Airport Manager, Lisa Perry and Code Compliance Officer, Ronnie Roberts. Council welcomed them.

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action regarding awarding of bid to Archer Western Construction, LLC in the amount of \$412,100.00 for emergency replacement of WWTP carrousel bridge structure (Comprehensive Plan Item 29). Steven Miller presented to Council. Council Member Doyal moved to approve. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- B. Discussion, consideration, and possible action regarding Resolution 2016-014 to enter into professional services contract with LAN to prepare the TCEQ required Brady Lake Dam Inundation Study and City-wide Drainage Master Plan, not to exceed \$70,100 (Comprehensive Plan Item 18 & 19). Peter Lamont presented to Council. Council Member Doyal asked if we were going to get help with funding for grants and asked if a council member could be part of kickoff team. Keith Kindle said governor has authorized emergency funds and we may be able to get some of the grant funds. Charlotte Harper asked how this project would fit in with FEMA. Council Member Gendusa moved to approve Resolution 2016-014. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried 5-0.

- C. Discussion, consideration and possible action regarding Resolution 2016-015 authorizing funding application to TWDB for EDAP construction funding for Radium Reduction System in drinking water. (Comprehensive Plan Item 25). Steven Miller introduced Keith Kindle, eHT engineer, who presented to Council the Brady drinking water project update. Council Member Gendusa moved to approve Resolution 2016-015. Seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- D. Discussion, consideration, and possible action regarding Resolution 2016-016 to finance capital purchase of a 2008 Used Vibratory Smooth Drum Roller, Dynapac CA250D. (Not to exceed \$90,000.00). Lisa Remini presented to Council. Council Member Turk moved to approve Resolution 2016-016. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- E. Discussion, consideration, and possible action on Reservation Policies for City Facilities such as Airport, GRW, Richards Park, Swimming Pool, Brady Lake Pavilions, Gun Range and Civic Center. Kim Lenoir presented to council. Mayor Groves asked to look into adding a policy that we will run a background check on people responsible for rentals. Chief Thomas added that there are companies who can run the background checks but they will charge a fee. Council Member Doyal recommends staff think about this and put something together. Mayor Groves added staff needs to consult with legal counsel. Council Member Doyal asked about pipe and drape in Civic Center if somebody wants a smaller area at a cheaper price. Charlotte Harper suggested we look at charging a gate percentage on events that require a fee to enter. Council Member Gendusa said such exhibit shows will not come if we charge a percentage of a gate fee. Mrs. Harper also said we need to consider if we want to have a concession. Mayor Groves thinks the City would be better off staying with a fixed price or flat fee. Council Member Perkins would like to know if there will be a different rate for tax exempt or not for profit groups. Also would like a larger refundable deposit to make sure it is left in good condition. Council Member Perkins moved to direct staff to set up workshop to focus on fees and maintenance and deposits, etc. for the civic center and other facilities. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried 5 – 0.

8. STAFF REPORTS

- A. Monthly Financial Reports for January were presented by Lisa Remini.
- B. Monthly Activity Reports – Seniors; Golf; BPD; Civic Center; HOT Events presented by Peter Lamont
- B. February 19, 5:00 PM Candidate Application deadline, for May 7 City Election for Council Positions Place 4 and Place 5.
- C. February 23, possible City Council Work Session – Animal Control Ordinances – 23rd was not a good date. Council will meet March 1st at 1:30 at City Hall.
- D. March 1 – Appeal of P&Z's denial of zoning change from Single-Family Residential (SF-5) to Industrial District (I) as requested by Greg and Cheryl Kubacak for property located at 1000 E. 4th St. for the purpose of equipment storage.
- E. Upcoming Special Events: Golf Course, March 4-5 Kiwanis's Golf Tourney; Airport, March 17-26 – HOT Music Festival; G Rollie White Complex, March 5 – FFA; March 12 and 26 – Brady Futurity & Derby (Training Horse Races)
Council Member Perkins would like to have a tour of the GRW facilities.

9. ANNOUNCEMENTS

There were no announcements.

10. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 7:51 p.m.

Anthony W Groves
Mayor Anthony Groves

Mayor Anthony Groves

Attest: Tina Keys
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a rescheduled Regular Meeting on Tuesday, March 8, 2016 at 6:00 p.m. at the City of Brady Service Center located at 1405 N. Bridge Street, Brady, Texas with Mayor Anthony Groves presiding. Council members present were Latricia Doyal, Marilyn Gendusa, Shelly Perkins, Kathy Gloria and Jack Turk. City staff present were City Manager Kim Lenoir, City Secretary Tina Keys, Director of Public Works Steven Miller, Director of Finance Lisa Remini, Police Chief Steve Thomas, Fire Chief Lyle Daniel, Asst Fire Chief Dink Nichols, Animal Control Officer Katherine Mitchell and City Attorney Shannon Kackley. Others in attendance were Lynn Farris, James Griffin, Melissa Hail, Annita Ellison, Veronica Ruiz, Jesse Tucker, Rex Tucker, Larissa Nandin, Teena Scott, Aaron McBee, Susan Dorries, Jimmy Dorries, Michael Berry, Cord and Tina Painter and John Boone.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:05 p.m. Roll was then called for Council and a quorum was certified.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Doyal gave the invocation, and the Pledge of Allegiance was recited.

3. APPROVAL OF AUDIT BOARD

Council Member Doyal moved to approve the audit board. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.

4. APPROVAL OF MINUTES for February 16, 2016

Council Member Gendusa moved to approve the minutes for February 16, 2016. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried 5-0.

5. PUBLIC COMMENTS

There were no public comments

6. PRESENTATIONS AND PUBLIC HEARINGS

Annual Report for Brady Fire-EMS Department was presented by Chief Lyle Daniels. City Council recognized the good work that the Fire and EMS employees have been doing this year and thanked Chief Daniels and Assistant Chief Nichols for the annual report.

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action regarding revising Resolution 2016-009R to change the hourly rate of the election judge and clerk pay to match McCulloch County Election Day. Tina Keys presented to Council. Council Member Gendusa moved to approve revised Resolution 2016-009R. Seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- B. Discussion, consideration, and possible action regarding Resolution 2016-017 to finance a capital purchase of a used 2000 Freightliner cab and Chassis to support a Posthole Auger Rig for the Electric Division (Not to exceed \$29,000). Lisa Remini presented to Council. Council Member Turk moved to approve Resolution 2016-017. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- C. Discussion, consideration and possible action regarding authorizing the City Manager to enter into an agreement with CGI Communications for video advertising development for the City's website. Kim Lenoir presented to Council. Council Member Gendusa moved to approve. Seconded by Council Member Turk. All

Council Members voted "aye" and none "nay". Motion carried 5-0.

- D. Discussion, consideration and possible action regarding Resolution 2016-019 to authorize the use of City streets for the purpose of a 1-Mile Fun Run and 5K Fundraiser benefiting Rochelle Project Graduation. Melissa Hail presented to Council. Council Member Doyal moved to approve Resolution 2016-019. Seconded by Council Member Gloria. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- E. Discussion, consideration, and possible action regarding Resolution 2016-018 for a noise variance requested by the Ironhorse Motorcycle Club at Richards Park, May 27th thru 29th, 2016. Council requested that the start and end time for the noise variance be included for public awareness. Staff will gather this information from the club representative. Council Member Gendusa moved to approve Resolution 2016-018. Seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- F. Discussion, consideration, and possible action regarding G Rollie White Complex Reservation by John Boone (formerly known as Glory B Farms LLC) to be held on March 12 and 26, for the Brady Futurity & Derby (Training Horse Races). Council Members Perkins and Doyal requested this agenda item. Council asked Mr. Boone give details of events. Boone stated the quarter horses will begin coming into Brady on Friday night before the races. Races will run from 1pm to 6pm on Saturday. They will have concessions with hotdogs and currently, no beer sales. Council Member Perkins asked how many employees there will be. Boone stated 8 employees. Does he have an LLC? Boone is applying for an LLC, to be named JRM Producers. Does he have a permit to sell beer? Boone said he needs the LLC first and will apply for future events. Perkins asked who will be handling concessions? He couldn't recall his name, but he was the concessionaire at the previously used privately owned Alverado Track. When asked who will be in charge of the money, Boone explained how the registration money (purse) is received and distributed with a 5% administration fee up front and then remain purse goes 70/20/10 to 1/2/3 place winners and a 1099 IRS tax form is given with the winnings. Who will be in charge of security? Boone explained his staff as well as hired local off-duty officers as required by the City for the event. Council Member Perkins asked about advertising and if he has a website and asked if he is advertising in Brady. Boone currently is only advertising on facebook and website – BradyEquineTrainingCenter, no local advertising. Since there is no local advertising, Council Member Perkins asked how people are going to find out about the event. Mr. Boone explained it is mainly word of mouth and through the horse racing circuit. Council Member Doyal asked several questions, too. Council Member Gendusa asked if there is a contingency plan if it's raining and was told they will race in the rain. Council Member Gloria asked how many races will be run and was told there would be a futurity, a derby and people have asked for a 400 yard sprint. Council Member Perkins asked for a definition between a derby and a futurity. It was explained that the futurity is for horses that are 2 year olds that have never raced. Derby is 3 year olds and up. Council Member Perkins asked about liability insurance and a performance bond and was told they have a \$2 million liability insurance policy. No action was taken.

8. STAFF REPORTS

- A. March 9 - Quarterly Airport Advisory Board Meeting is rescheduled, date to be announced.
- B. March 15 – Annual Report for Brady Police Department and presentation of the City of Brady Hazard Mitigation Plan Update
- C. March 25, Good Friday City Holiday – Trash Schedule changes for that week Thursday Pick-up moves up to Wednesday and Friday pick up moves up to Thursday
- D. April 5 – Public Hearing for an appeal regarding the decision made by the Planning and Zoning Commission on January 19, 2016 to deny the application for a zoning change from Single Family Residential to Industrial

District on property located at 1000 East 4th Street, Block 29, Lot 1 of the Luhr Addition as requested by Greg and Cheryl Kubacak

- E. Upcoming Special Events: At Curtis Field Airport and HOT Event Center, March 17-26 – HOT Music Festival; At G Rollie White Complex, March 12 and 26 – Brady Futurity & Derby (Training Horse Races); At Richards Park, April 8 and 9 – MCHC Early Days II; At Brady Municipal Golf Course, April 2, 3 – BGA 3 Person Spring Shamble Golf Tournament; April 30 – BGA Duffers Golf Tourney
- F. April 25 - Early Voting for City Council and BISD School Board - Begins at City Hall, 8am to 5pm
- G. Note PUC letter dated 2-29-16 closing the enforcement case for the required transmission operator (TO) designation, now that LCRA serves as Brady TO.
- H. Public Works Surplus & Salvage Equipment Auction www.publicsurplus.com

9. ANNOUNCEMENTS

There were no announcements

10. EXECUTIVE SESSION

Council closed open session at 7:21 p.m. to go into Executive Session. Due to the ominous weather it was decided to forego Executive Session so everyone could get home safely before storm hit.

11. Open Session Action on any Executive Session Item listed above, if needed

Council did not meet in Executive Session.

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 7:23 p.m.



Mayor Anthony Groves

Attest: 
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Special Session on Tuesday, March 8, 2016 at 1:30 p.m. at the City of Brady City Hall located at 201 E Main Street, Brady, Texas with Mayor Anthony Groves presiding. Council members present were Patricia Doyal, Marilyn Gendusa, Shelly Perkins, Kathy Gloria and Jack Turk. City staff present were City Manager Kim Lenoir, City Secretary Tina Keys, Director of Community Services Peter Lamont, Police Chief Steve Thomas and Animal Control Officer Katherine Mitchell. Others in attendance were Tonya Rankin.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 1:37 p.m. Roll was then called for Council and a quorum was certified.

2. WORK SESSION DISCUSSION

- A. Discussion of Animal Control Services, Agriculture Zoning, and Possible Animal Control Ordinance Changes. Katherine Mitchell presented to Council. In discussing noise complaints, Council Member Gendusa asked if it applies to any time of day. ACO Mitchell answered no, there are no time specification. It's difficult to enforce a noise ordinance during the day. Wants to change determination to "by court". Council doesn't want time restraints on the noise ordinance. Council would prefer to have judge determine if it's a nuisance. Chief Thomas discussed "citizen complaints". Council Member Doyal likes new ordinance as written by ACO. ACO went over Treatment of Animals and would like to add "determination by ACO" as far as "odor" ACO would like to combine current ordinance and example ordinance for Abandoning animals. The section of the ordinance regarding Animals Registered to be Vaccinated, ACO wants changed to dog over 6 months old. Changes will include separate ordinance for cats. No action will be taken on agriculture zoning.

City Council took a break at 3:07pm and continued the meeting at 3:17pm.

- B. Review and discuss City of Brady Facility Naming Policy. Kim Lenoir and Peter Lamont presented to Council. Suggestions to get public involved in naming park at West Richards Street. Suggested Southshore Park for old Mutualistic site. Discussions were also made on renaming 11th street from Bridge St. to Willie Washington Park to Martin Luther King Street and to rename a street as Teague Street after George Teague. Council would also like to recognize Colonel Groves. Staff was directed to get citizens involved to name park on N. Richards Street. Council likes Brady Creek Trail and Brady Civic Center. Staff will bring forward as a resolution for City Council consideration.

3. EXECUTIVE SESSION

Council closed open session at 3:34 p.m. and went into executive session at 3:35 p.m.

- A. Pursuant to Section 551.071 (Consultation with Attorney), the City Council will seek attorney advice on a matter about contemplated litigation and deemed confidential pursuant to a duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.
- B. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange lease, or value of real properties located in the southern and northern sections of the City as the deliberation in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person.
- C. Pursuant to Section 551.087 (Economic Development), the City Council will deliberate the offer of a financial or other incentive or to discuss or deliberate regarding commercial or financial information that the City Council has received from a prospective cement plant (US Cement), retail, and other development projects that the City Council seeks to have located in or near the City and/or with which the City Council is conducting economic development negotiations.
- D. Pursuant to Section 551.074 (Personnel Matters) the City Council will deliberate the appointment,

employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee – Vacant Position(s) reassignments and City Attorney - annual review and evaluate the handling of requests under the Texas Public Information Act and deliberate the duties in regard to the Texas Open Meetings Act. Executive Session adjourned at 4:33 p.m.

4. Open Session Action on any Executive Session Item listed above, if needed

Regular Session reconvened at 4:34 p.m. No action was taken during or as a result of executive session.

5. ADJOURNMENT

There being no further business, the Mayor adjourned the Special City Council meeting at 4:36 p.m.

Anthony H Groves
Mayor Anthony Groves

Attest: Tina Keys
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday, March 15, 2016 at 6:00p.m. at the City of Brady Service Center located at 1405 N. Bridge Street, Brady, Texas with Mayor Anthony Groves presiding. Council members present were Patricia Doyal, Shelly Perkins, and Jack Turk. City staff present were City Manager Kim Lenoir, City Secretary Tina Keys, Director of Public Works Steven Miller, Director of Finance Lisa Remini, Director of Community Services Peter Lamont, Police Chief Steve Thomas, Fire Chief Lyle Daniel and City Attorney Shannon Kackley. Others in attendance were Larissa Nandin, James Griffin, C.J. Camarillo, Tracy Pitcox, Marvin Smith and Suzie Smith.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:00 p.m. Roll was then called for Council and a quorum was certified.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Doyal gave the invocation, and the Pledge of Allegiance was recited.

3. APPROVAL OF AUDIT BOARD

Council Member Doyal moved to approve the audit board. Seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried 3-0.

4. APPROVAL OF MINUTES for March 8, 2015

Council Member Perkins asked about items D and noted the minutes did not include the hours. Staff will specify hours and give them during staff reports at next meeting. Item F. Council Member Perkins asked about answers to her questions and commented the answers were all "negative." Council Member Doyal asked that her question be changed to read "asked various questions". As the minutes for Special Session were handed out prior to meeting and Council was not given sufficient time to review. Both sets of minutes will be addressed at next meeting. No action is taken.

5. PUBLIC COMMENTS

Marvin Smith read his resignation letter and his many years with the City.

Tracy Pitcox brought up the Heart of Texas Country Music Festival and brought programs to be handed out. He appreciates the City Council, city staff and airport staff for all their help with the event.

6. PRESENTATIONS AND PUBLIC HEARINGS

- A. Annual Brady Police Department Report – Chief Steve Thomas gave a presentation to Council
- B. Annual City of Brady Federal Racial Profile Report – Chief Steve Thomas presented to Council
- C. Presentation of the City of Brady Hazard Mitigation Report Update Summary – Emergency Management Fire Chief Lyle Daniels and Community Development Director Peter Lamont. Lamont and Daniel went over Hazard Mitigation status.

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action regarding awarding bid to Westar Construction for Brady Lake Boat Ramp reconstruction project (not to exceed \$108,344). Peter Lamont presented to Council. Council Member Turk moved to approve. Seconded by Council Member Perkins. All Council Members voted "aye" and none "nay". Motion carried 3-0.

- B. Discussion, consideration, and possible action regarding first reading of Ordinance 1193 granting a non – exclusive franchise to Brady Communications, LLC for the installation of a fiber optic communications system. This items requires a vote of at least 4 members of Council so this item will be deferred to next meeting. No action was taken.
- C. Discussion, consideration and possible action regarding Resolution 2016-020 to name or rename park facilities – Brady Creek Trail, Southshore Park (known as Mudulistic site), and Brady Civic Center (known as Ed Davenport Civic Center). Peter Lamont presented to Council. Council Member Doyal likes all the names but thinks the chains need to be taken down at the Southshore Park. Lamont responded there are facilities there that need work first and due to its isolation, staff recommends access continue to be coordinated by the Lake Store staff. Mayor Groves confirmed you can go to the lake store to get combination to lock to gain access. Mayor Groves also informed Council that this park is city property zoned recreational. Mayor questioned that if we name it a park, we can't sell park land without a vote. Other City property can be sold without a vote, but not park land. Staff concluded the site is already considered a park because of the recreational lake zoning and city ownership when the lake was built. In discussing the new Brady Creek trail, Mayor Groves also pointed out as we proceed with benefit runs, the potential for this trail to start and end gives potential to run without closing city streets. Council Member Perkins asked if people can walk entire distance of trail. Lamont stated you can walk one end to the other but there is still work to be done. Council Member Perkins also asked about signage, wants to make sure it's compatible with new signage. Mayor Groves said there is already a sign in place. Council Member Perkins commented people are already walking on it and loving it. Anita Ellison asked about potential problems with the Davenport family if the name of the Civic Center is changed. Council felt the civic center is mostly a new building. Ellison also asked how we can change the name of Richards Park. It was explained this is a different park on Richards Street that we are discussing, not Richards Park. James Griffin said walked the trail and was amazed at how wonderful it was, but he did notice however that it is dark and should have some lighting and an emergency phone. Lamont explained the issues with being in a flood plain and stated Brady PD is keeping a close eye down there. Council Member Turk moved to approve Resolution 2016-020. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried 3-0.

8. STAFF REPORTS

- A. Monthly Financial Reports for February
- B. Monthly Activity Reports – Seniors; Golf; BPD; Civic Center; HOT Events Funded
- C. Reorganization of Public Property Maintenance and Brady Lake/Aquatics – Mayor groves appreciates all Marvin has done for the City. Mayor Groves was unable to respond during Public Comments but we certainly do thank him.
- D. March 16, Monthly Municipal & Code Court – Municipal Judge Bill Spiller at 8:30am
- E. March 25, Good Friday City Holiday – Trash Schedule changes for that week Thursday Pick-up moves up to Wednesday and Friday pick up moves up to Thursday
- F. April 1 – LCRA Community Service Day at Brady Lake – 10am to 3pm
- G. April 1 & 2 – Brady's (Don't Mess With Texas) Spring Clean-up
- H. April 5 – Public Hearing for an appeal regarding the decision made by the Planning and Zoning Commission on January 19, 2016 to deny the application for a zoning change from Single Family Residential to Industrial District on property located at 1000 East 4th Street, Block 29, Lot 1 of the Luhr Addition as requested by Greg and Cheryl Kubacak
- I. Upcoming Special Events; March 18 to 27 – HOT Country Music Festival at Curtis Field Airport and HOT Event Center; March 26 – Brady Futurity & Derby (Training Horse Races) at G Rollie White Complex; April 8 & 9 –

MCHC Early Days II at Richards Park; April 2, 3 – BGA 3 Person Spring Shamble Golf Tournament; April 30 – BGA Duffers Golf Tourney at Brady Municipal Golf Course

J. April 25 to May 3 - Early Voting for City Council and BISD School Board - Begins at City Hall, 8am to 5pm (7am to 7pm April 26 & May 3)

9. ANNOUNCEMENTS

none

10. EXECUTIVE SESSION

Council closed open session at 7:47p.m. and went into executive session at 7:59 p.m.

- A. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange lease, or value of real properties located in the southern and northern sections of the City as the deliberation in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person.
- B. Pursuant to Section 551.087 (Economic Development), the City Council will deliberate the offer of a financial or other incentive or to discuss or deliberate regarding commercial or financial information that the City Council has received from a prospective cement plant (US Cement), retail, and other development projects that the City Council seeks to have locate in or near the City and/or with which the City Council is conducting economic development negotiations.
- C. Pursuant to Section 551.074 (Personnel Matters) the City Council will deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee – Vacant Position(s) reassignments and City Attorney - annual review

Executive Session adjourned at 8:09 p.m.

11. Open Session Action on any Executive Session

Regular Session reconvened at 8:10 p.m. No action was taken during or as a result of executive session.

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 8:11 p.m.


Mayor Anthony Groves

Attest: 
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday, April 5, 2016 at 6:00p.m. at the City of Brady Service Center located at 1405 N. Bridge Street, Brady, Texas with Mayor Anthony Groves presiding. Council members present were Latricia Doyal, Marilyn Gendusa, Shelly Perkins, Kathy Gloria and Jack Turk. City staff present were City Manager Kim Lenoir, City Secretary Tina Keys, Director of Public Works Steven Miller, Director of Finance Lisa Remini, Director of Community Services Peter Lamont, Police Chief Steve Thomas, and City Attorney Shannon Kackley. Others in attendance were Joe Whitehead, James Griffin, Audra Wilcox, Michelle Duque, Sondra Turner, Amy Greer, Chris Huffman, Huffman brother, Chris and Teresa Liefeste, Trevor Dickschat, Robert Darilek, Jonathan (Daniel) Mendoza, Julissa Bucholz and Dion White.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:04 p.m. Roll was then called for Council and a quorum was certified.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Doyal gave the invocation, and the Pledge of Allegiance was recited.

3. APPROVAL OF AUDIT BOARD

Council Member Gendusa moved to approve the audit board. Seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried 5-0.

4. APPROVAL OF MINUTES for March 8, March 8 Special Meeting and March 15, 2015

Council Member Perkins apologized for comments made during last meeting regarding minutes. Would like answers included in minutes to questions asked. Wanted items clarified on minutes. Council Member Perkins moved to approve the minutes. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried 5-0.

5. PUBLIC COMMENTS

Sondra Turner stated she had asked to be put on agenda. Mayor Groves stated her item was on the agenda under staff reports and will be discussed later in the meeting.

6. PRESENTATIONS AND PUBLIC HEARINGS

- A. April Autism Awareness Month Proclamation, Center for Life Resources CEO Dion White presented.
- B. Annual FY2015 Audit Presentation – Lisa Remini introduced Robert Darilek of Darilek Butler CPA firm who reviewed the Audit. 2015 was a clean audit and City of Brady was in compliance.
- C. Report on Brady Lake Hunting Program – Trevor Dickschat, Extension Agent presented a final report of the 2015-16 Youth Hunting Program. Council Members congratulated him on a job well done.
- D. Presentation from Operation Orphans an Award of Appreciation to City of Brady / Brady Lake for the 2015-16 Youth Hunt (*for unselfishly providing the key that will help unlock the door of opportunity for a deserving youngster*). Peter Lamont presented plaque to the City on behalf of Operation Orphans.
- E. **PUBLIC HEARING will be opened and delayed to May 3 as requested by clients:** City Council will hold a Public Hearing to hear appeal requested by Greg and Cheryl Kubacak and to receive public comments for/against the appeal regarding the decision made by the Planning and Zoning Commission on January 19,

2016 to deny the application for a zoning change from Single Family Residential to Industrial District on property located at 1000 East 4th Street, Block 29, Lot 1 of the Luhr Addition as requested by Greg and Cheryl Kubacak. NO PUBLIC COMMENTS WILL BE TAKEN AT THIS MEETING. The Mayor opened the Public Hearing at 7:11 p.m. and delayed presentation and public comments until the 3rd of May Meeting.

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action regarding naming Brady Civic Center. Delayed until next meeting due to Mrs. Davenport's request who wished to speak.
- B. Discussion, consideration, and possible action regarding first reading of **Ordinance 1193** granting a non-exclusive franchise to Brady Communications, LLC for the installation of a fiber optic communications system. Peter Lamont presented to Council. Representatives from Brady Communications discussed running fiber optic cable starting at 1601 S. Bridge to the South Elevated Water Tank at Burns and S. Pine Street. Company will focus on first phase, 125 homes around that area then focus on going North. The company would like to bring another line to the square for those businesses. The slowest speed will be 10 mb per second up to 30 mb per second. Council Member Gendusa asked how residents will access the lines. There will be slice points to build out east and west side of Bridge Street. They will allow the expansion of network to each group of homes. Council Member Gendusa asked if there will be an additional charge and was told there will be an installation charge. Council Member Gloria asked if it will be available for businesses. The response was "yes". Council Member Perkins wanted to clarify, if the City will receive 5% of gross revenue. Peter Lamont answered "yes". Mayor Groves inquired when will people be able to start using the new service? They don't have a specific timeline. Council Member Gendusa asked if it will be above or below ground and the response was "it will be aerial". Council Member Gendusa wanted to know if you have Suddenlink, will we be able to use it. "Yes." Council Member Perkins asked if there will be a physical connection into household and the response was "yes, it is fiber to the home or business". Mayor Groves commented "you sign an agreement with Brady Communications and pay a fee". Council Member Gendusa asked if the pricing has been set. Brady Communications stated "it's on their website. www.bradycom.com". Council Member Gloria asked "if you are currently wireless, are we now going to fiber?" and was told "yes, they would encourage you to go to fiber optic. Their wireless network will still be available." Council Member Perkins inquired "so you have the internet in Brady?" Their response was "yes". Council Member Perkins commented regarding the Ordinance, pg 2, Item C, 5% of Gross revenues then next paragraph, ...any and all Shall not include – don't you mean net receipts? Gross receipts is the biggest number. You're going to pay by gross receipts?" City Attorney Shannon Kackley commented "this is how we defined it in this ordinance." Council Member Perkins commented that Gross Receipts mean all revenues. It should be 5% of the net revenues." She went on to say that in item D needs to read "City Council MAY repeal this franchise not MY repeal." Council Member Perkins moved to approve the first reading of Ordinance 1193 as amended as discussed. Seconded by Council Member Gloria. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- C. Discussion, consideration and possible action regarding **Resolution 2016-021** requesting support from our state leaders and the 85th Legislature (opens January 2017) to approve the issuance of the remaining \$50 million to Texas Water Development Board's EDAP (economically distressed areas program) assistance AND to place a constitutional amendment before the voters of Texas in November 2017 to consider approval of the issuance of another \$250 million in general obligation bonds to continue to assist economically distressed areas to obtain adequate water and wastewater services. Kim Lenoir presented to Council and stated that Keith Kindle with EHT helped to draft the resolution. EDAP funds are currently used to design our water system, with a \$1.8 million 100% grant. For the next phase, construction phase, we are looking at EDAP funds, but we have to make sure the next legislature adopts these funds. We will send this to our state legislators. Council Member Doyal moved to approve Resolution 2016-021. Seconded by Council Member

Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.

- D. Discussion, consideration and possible action regarding **Resolution 2016-022** approving a noise variance request by Michelle Duque for a benefit BBQ and dance for her husband, Alfredo Duque who has been diagnosed with cancer. The family members spoke with Council about the benefit. The benefit will be held at Bernal's Dance Hall, 1105 E. 6th Street on Saturday, April 9, 2016 from 8:00 p.m. to 12:00 a.m. Council Member Turk moved to approve Resolution 2016-022. Seconded by Council Member Gloria. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- E. Discussion, consideration, and possible action regarding **Resolution 2016-023** to finance a capital purchase of a heart monitor with accessories (Not to exceed \$31,000.00). Lisa Remini presented to Council. Council Member Gloria moved to approve Resolution 2016-023. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- F. Discussion, consideration, and possible action regarding **Resolution 2016-024** approving temporary use of designated streets in Brady for the purpose of the Miles for Smiles, 5K Run Event from 7:00 a.m. until 11:00 a.m. on April 23, 2016, requested by the Brady High School Interact Club to benefit the Mission of Mercy. Peter Lamont presented to Council. Council Member Doyal asked what the Interact Club does. Representatives from Brady High School Interact Club explained that they do various projects, including veterans programs, canned food drives, now this is for Mission of Mercy. They try to come up with new projects every year. Mission of Mercy is a community led project to provide dental care for those who have no other means of access to dental care. Council Member Gloria asked if it's the same route of the Salute Run 5K route starting and ending at VFW, answered yes. Council Member Gendusa moved to approve Resolution 2016-024. Seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- G. Discussion, consideration and possible action to appointments to fill vacancies and alternates on City Boards – ZBA, Charter Commission, P&Z. Joe whitehead announced he will have to resign from Airport Board due to health. Council received one application from Heath McBride for ZBA. Council Member Gendusa highly recommends Mr. McBride. Mayor Groves appoints McBride to ZBA. Council Member Gendusa moved to approve appointment of Mr. McBride. Seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- H. Discussion, consideration and possible action regarding approval of BEDC action of offering a Small Business Loan, if needed. After Executive Session motion by Council Member Gendusa, seconded by Council Member Perkins to authorize staff to proceed with negotiations offering a Small Business Retention Loan to a local business, as discussed. All Council Members voted "aye" and none "nay". Motion carried 5-0.

8. STAFF REPORTS

- A. Quarterly Reports CIP Reports – Public Works - CW Project, DW Project, Emergency WWTP Project; Community Services Department – Richards Park, Willie Washington Park, Stanburn Park, Brady Creek Trail, Boating Access Grant and Marina (Fish House) Project, Airport Projects, Hazard Mitigation Plan, Storm Water and Dam Inundation Study
- B. Quarterly Update on Administration Projects, including Surveying and Re-platting of city-owned Davee and Dodge Heights Subdivisions Davee & Dodge Heights

Sondra Turner asked what about current improvements / people who are there now. What are you going to

do? City Manager Kim Lenoir responded that Kenneth Ross is out there surveying and will then identify as best they can where are those half acre lots are to be located. The City goal to keep the majority of the daily owners where they are. If they see some people need to move, they may be grandfathered in and given time to fix the issues. It was further explained the city is leasing that land to the people to put their homes on. The people sell their personal property to somebody else, then they want a lease from the City. We need to make sure they have the proper acreage as required by TCEQ for septic systems, $\frac{1}{2}$ acres per housing unit. Lenoir went on to explain the first step is to replat then make direct contact with the people in the subdivisions. Council Member Gloria reiterated that it's a requirement by TCEQ. Ms. Turner stated she still doesn't understand how it's going to work. Mayor Groves, explained that the first step in the process is the survey, then we will deal with it. It was asked "what does TCEQ say about current leases already in effect?" We have to have a plan to correct it; possible for these people who are not in compliance and when their lease expires, it will be adjusted and when you sell your property, the lease doesn't transfer with that sale of the improvements. Mayor Groves went on to say that if she has a lease on a piece of land, and the land next door belongs to somebody else, then that lease has to be redone. When we get the survey, we will know more about what has to be re-done. It could be replatted and that all her property is in one lease and Ms. Turner would be OK. Right now nobody is on a $\frac{1}{2}$ acre unless they lease more than one lot. Lenoir commented that the surveys will probably be completed this summer. Jim Griffin asked "is this going to be replatted?" and Mayor Groves responded "Yes". Mr. Griffin went on to say the lot numbers are completely wrong out there. If there are people living there, they are grandfathered until the lease expires. Lenoir again stated that when the survey is done, we will know more. Ms. Turner, asked about a sewer line and asked why they never get one? Mayor Groves stated there is no sewer out there anywhere and is sure the cost was not feasible.

Council Member Perkins asked what was the status of the dump station at the lake. Lamont answered that the current septic systems are operating. We've already done the permit for the new dump station at the Lake Store. It was asked what are we doing with the old dump station. Lamont does not know where the old dump station is. We have no open holes. There was a previous concern about a lid on the septic system and that has been fixed. The dump station will be a separate system from the septic system. It was again asked what did we do with the old one and Lamont replied he had not seen an old one. Council Member Gloria will find out where it was. Council Member Doyal also asked what the above ground tanks are out there but Lamont was not sure about any above ground tanks so they will look into it.

• Mayor Groves also commented that he would like folks to incorporate the new trail into future 5 K runs.

C. Upcoming Special Events:

- April 8 & 9 – MCHC Early Days II at Richards Park;
- April 14 & 15 – 9am *Coffee with a Cop*, Reno's On The Square
- April 16 – Rochelle Project Graduation Fun Run at Richards Park;
- April 16 – 10am to 1pm, *Connecting Volunteers*, Richards Memorial Library
- April 30 – BGA Duffers Golf Tourney at Brady Municipal Golf Course
- D. April 7, 5pm, Called ZBA/BOA Meeting at Service Center
- E. April 12, 5:30pm, Regular P&Z Meeting at Service Center
- F. April 20, 8:30am – Monthly Municipal & Code Court – Judge Spiller
- G. April 25 to May 3 - Early Voting for City Council and BISD School Board - Begins at City Hall, 8am to 5pm (7am to 7pm April 26 & May 3)
- H. April 26, 6:00pm - Quarterly BEDC Meeting, Service Center
- I. May 3 - Public Hearing for appeal by Greg and Cheryl Kubacak for Industrial District Zoning request at 1000 East 4th Street
- J. May 7 - Election Day, 7am to 7pm

K. Noise Variance Times approved for the Annual Iron Horse Rally at Richards Park, who will be playing music on Friday night, May 27 until 1:00am on Saturday morning and on Saturday, May 28 until 1:00am on Sunday morning.

9. ANNOUNCEMENTS

Mayor discussed the Early Day events and schedule. Council Member Gendusa reminded council members to check their boxes for a Saturday lunch invitation at the Early Day Event.

10. EXECUTIVE SESSION

Council closed open session at 8:15 p.m. and took a recess before going into Executive Session. Executive Session was opened at 8:27 p.m.

- A. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange lease, or value of real properties located in the southern and northern sections of the City as the deliberation in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person - sites for future Public Safety Facility and Multi-use Activity Center (Senior Citizen) Facility.
- B. Pursuant to Section 551.087 (Economic Development), the City Council will deliberate the offer of a financial or other incentive or to discuss or deliberate regarding commercial or financial information that the City Council has received from a prospective cement plant (US Cement), retail, and other development projects that the City Council seeks to have locate in or near the City and/or with which the City Council is conducting economic development negotiations.
- C. Pursuant to Section 552.074 (Personnel), the City Council will deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee – City Secretary Tina Keys and Council Members Latricia Doyal and Jack Turk.

Executive Session adjourned at 9:26 p.m.

11. Open Session Action on any Executive Session

Regular Session reconvened at 9:27 p.m. Action was taken on Item 7.H.

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 9:28 p.m.



Mayor Anthony Groves

Attest: 

Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday, April 19, 2016, 6:00pm at the City of Brady Service Center located at 1405 N. Bridge Street, Brady, Texas with Mayor Anthony Groves presiding. Council members present were Latricia Doyal, Marilyn Gendusa, Shelly Perkins and Kathy Gloria. Jack Turk arrived after a quorum was certified. City staff present were City Manager Kim Lenoir, City Secretary Tina Keys, Director of Public Works Steven Miller, Director of Finance Lisa Remini, Director of Community Services Peter Lamont, Police Chief Steve Thomas, City Attorney Shannon Kackley and ACO Katherine Mitchell. Others in attendance were Robert Dearls, Dub Smith, Joe Whitehead, Joe Spano, Saundra Davenport, Tanya Ruffin, Keith Cornwell, Jane Huffman, John Rudder, Phil Graves, John Boone, Annita Ellison, Chris Huffman, Roy Garza, Matthew Brown, Lee Sellers, Eddie Mireles, Tommy Harris, David Slack, Jeffery Sutton, John Poole, Philip Cruts, Mike Harris, James Griffin, Mr. and Mrs. Leifestes, Oscar Corralejo Jr. and John Boone.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:03 p.m. Roll was then called for Council and a quorum was certified.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Gendusa gave the invocation, and the Pledge of Allegiance was recited.

3. APPROVAL OF AUDIT BOARD

Council Member Gendusa moved to approve the audit board. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried 5-0.

4. APPROVAL OF MINUTES for April 5, 2015

Council Member Gendusa moved to approve the minutes. Council Member Doyal asked about Item 8 and it was clarified. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried 5-0.

5. PUBLIC COMMENTS

Robert Searls – Republic Services in San Angelo – sharing information on their services.

John Boone and Ray Garza – Requested to be on future City Council agenda to discuss proposal submitted for G Rollie White Complex longterm lease agreement requested by them.

6. PRESENTATIONS AND PUBLIC HEARINGS

- A. Proclamation for Motorcycle Safety and Awareness Month was presented and signed by Mayor Groves.
- B. Proclamation for National Telecommunicators Week was presented and signed by Mayor Groves.
- C. State of the City Annual Report was postponed until next meeting due to long agenda ahead.

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action regarding naming Brady Civic Center. Jane Huffman commented on naming facilities on behalf of generous donors. Saundra Davenport talked about Ed Davenport and his contributions to the City and the legacy he left behind. Council Member Doyal explained the reason for voting the way she did by branding the name of Brady. She feels if someone is trying to think of the name of the Civic Center they may not think of Ed Davenport, however, she would like to keep the name as Ed Davenport. Council Member Turk agreed. Council Member Gendusa moved to leave name as Ed Davenport Civic Center. Seconded by Council Member Doyal. All Council Members voted "ayes" and none "nay". Motion carried 5 – 0.

B. Discussion, consideration, and possible action regarding **second and final reading of Ordinance 1193** granting a non –exclusive franchise to Brady Communications, LLC for the installation of a fiber optic communications system. Mayor Groves commented at the first reading it was changed to "as amended" by the discussion. It was not clear what was amended. In the future we will have it all written down and secretary will read amendments to make clear. Item was tabled and brought back up after Item E. There was discussion about gross revenues vs franchise fees. If we change to read franchise fees and revenues then we have changed the document that so that it will have to be another first reading. City Attorney Kackley feels comfortable with either option. It was asked what the impact would be on Brady Communications we delay two weeks. Brady Communications replied that an extra delay is not an issue. Brady Communications had a question about the "direct and indirect part." They would like it to be more defined as to how it relates to their customers. First paragraph, "equal to 5%" would need to be clarified and asked if that means Brady Communications will be paying a franchise fee for any customer who receives the service through fiber optic cabling. He doesn't want it to effect customers. It was asked "are you using the city's ROW to provide service to customers outside the city" and Mr. Huffman replied "no". He also asked about the customers who have no relation to the franchise agreement, will they be impacted. City Attorney Kackley responded that no, only customers inside the City would be impacted. Council Member Turk inquired if it will be the people in town who are directly fed by the lines. City Attorney Kackley asked how far does the wireless go and was told it could go 15 miles. He also asked if Brady Communications is using the city's ROW. The response was "not currently". Kackley asked "would you be?" and was told they would want to directly connect to the tower. "But the customer would not be connected to fiber optic system? Huffman responded "there are currently two fiber optic feeds. If a customer in Mason feeds off of a Mason feed, not Brady. It's going to be difficult to determine if a customer is going through the Brady feed." Huffman asked "is the 5% of gross sales going to only be 5% of the customers directly connected to a fiber optic system?" The concern is the indirect part. City Attorney Kackley said we will probably have to do an audit the first quarter then tweak how to base the 5%. We don't want to charge a fee for customers outside the city of Brady. We can amend this further. Council Member Gendusa asked if this will service McCulloch County and was told the fiber optic will only be in the city limits. Council Member Gloria asked "what do we mean by indirectly?" "What are we expecting from them." Answer, "anything related to the city right of way in Brady". Huffman asked "what about Verizon's franchise fees" and City Manager Lenoir answered that Verizon has copper phone lines which are exempt from franchise fees but there is also Verizon fiber optic that should be paying franchise fees but they are not. We are going to rectify that." Council Member Perkins confirmed this is a new service, not a new business. Their current business does not use city ROW, this new business will. The concern is as soon as they get the tower connected, they are fed by the ROW but they are not fiber optic connected. Lenoir said we could see how other cities handle the wireless part and went on to say we could pass as a new first reading and try to get an answer to clarify the wireless situation. We might have to audit then clarify. We are going to be able to define direct and indirect but we may have to wait to go through their business. Brady Communications stated if Verizon has fiber optic and they connect their customers to fiber optic, it is the same. They may need to change pricing. If Verizon uses a line in San Angelo and that line comes through Eden and into Brady through fiber optic line it would qualify as indirect. Council Member Turk moved to approve the **first reading of Ordinance 1193** with wording of franchise fees vs gross revenues. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.

C. Discussion, consideration and possible action regarding **first reading of Ordinance 1194** revised Animal Control Ordinance Sections 2.103 Noise; 2.105 Treatment of Animals; 2.106 Abandoning; 2/107 Report of Animals at Large; 2.110 Animals Registered to be Vaccinated; 2.111 Notice of Impoundment; 2.112 Right to Redeem Impounded Dog; 2.115 Disposition of Unredeemed Dogs; 2.117 Destruction of Sick or Injured Impounded Animals After 120 or 72 Hour Period; 2.118 Destruction Impounded Animals Prior to 120 or 72 Hour Period; 2.121 Vicious Animals to be Confined; Section 2.124 Keeping Animals in Front Yard Prohibited;

2.403 Restrictions on Keeping Horses; and 2.501 Requirements for Owners of Dangerous Dogs. Kim Lenoir discussed changes. Council Member Doyal asked about Exhibit A, Noise ..."determination by court. Is that the only thing the court is going to decide?" Animal Control Officer Katherine Mitchell explained that if we have an issue with evidence or if we have complaints of noise at night, then the court is an option. This is for complainant to go to court to talk about the issue. Council Member Doyal asked if there is anything else you take to court? Chief Thomas commented that citizens do have (and have always had) the ability to meet with the City Prosecutor/City Judge and file a complaint for various Class C Misdemeanors, including animal complaints. Chief Thomas went on to explain that this is normally done when the Animal Control Officer is unable to witness a violation within her presence/view. In this case, the Animal Control Officer would not be able to testify they saw the dog(s) loose but a citizen who personally witnessed the offense taking place could be listed as a corroborating witness to the incident. Chief Thomas then explained the difference between a personal knowledge and probable cause complaint and provided examples of each. After this explanation, Council Member Doyal asked if these animal ordinances should be revised to provide this information and Chief Thomas reminded the council that this process applied to several other ordinances as well, not just the animal ordinances and suggested it be placed in the "DEFINITIONS" portion that applies to all of Brady's Code of Ordinances and explains this process. City Attorney Kackley reiterated this and supported Chief Thomas' statement about making it clear that the citizen complaint process should be contained in more than just our animal statutes. Council Member Gloria then asked if there was a protocol in place to return to locations where dogs were reported to be loose in but had not been located. Katherine explained that she keeps a list of these locations and re-checks them frequently. Council Member Gloria then suggested that this type of situation is exactly the type of situation where the citizen could take matters upon themselves and file a complaint without ACO involvement or assistance. ACO agreed and advised that she explains this process to citizens who find themselves in this predicament. Council Member Gendusa agreed that it would be helpful for all of our citizens to know that this type of recourse is available. After commending ACO Mitchell for all her efforts, Council Member Perkins stated she believes there is a general lack of knowledge of what a Class C misdemeanor really is and offered this process (the citizen complaint process) was a viable option to help resolve conflicts and suggested complainants be encouraged to take pictures of loose animals as well. Perkins then stated that finding the best way to better educate our citizenry on this process was the "bigger question" and suggested the City place this information on our web site as well. Mayor Groves proposed that the Council go through all the changes to animal control ordinance and then go back and address how to best incorporate the citizen's complaint process. Chief Thomas said he understands how frustrating it must be for citizens when they call the PD for assistance only to have the problem persist in the future. Thomas hopes that this process helps to empower people and give them another mechanism to deal with these issues. Jane Huffman spoke and said she has called frequently about random pit bulls and has been told animal control is not on duty. She thinks frustration comes from the people answering the phone. "We don't know who the dogs belong to so filing a complaint won't help. There doesn't seem to be a lot of enforcement." ACO Mitchell told Mrs. Huffman when she calls to ask to speak to animal control and they will give her the message or leave a note in her box about the call/issue. Mayor Groves reminded everyone that Katherine has not been our animal control officer for very long. It was asked what ACO Mitchell's work hours were answered as being 8:00am – 5:00pm Monday to Friday, but always subject to being called back for emergency situations. Citizen commented that it is unlawful for a person to abandon or dump any animal in the City and asked about penalties for doing so. Citizen also asked about what "after leaving notice" meant and notice could be left if you don't know whose dog it is? ACO Mitchell explained there is a difference between abandonment and dumping and if an animal is abandoned, they leave notice. Council Member Gendusa moved to approve first reading of Ordinance 1194. Seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried 5 – 0.

D. Discussion, consideration and possible action regarding the first reading of Ordinance 1195 establishing for no overhead power lines, communication lines of similar improvements parallel and along the US 377 N ROW

including the downtown square for maintaining a controlled appearance. Kim Lenoir presented to Council and explained what a huge improvement this will make and how now is time to do it with the new TXDOT project. Council Member Gendusa asked if we have the money and Lenoir stated that it will be budgeted over 3-4 years. Council Member Turk moved to approve first reading of Ordinance 1195. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.

- E. Discussion on P & Z recommended ordinances for Infill Overlay and Substandard Buildings. Peter Lamont presented to Council. Council Member Perkins would like to propose a work session to go over several corrections that need to be made. Council Member Gendusa moved to direct staff to schedule a work session to deal with these two ordinances. Seconded by Council Member Perkins. All Council Members voted "aye" and none "nay". Motion carries 5 - 0
- F. Discussion, consideration, and possible action regarding Resolution 2016-009R-1 to change the Election Judge and the Alternate Judge for the May 7, 2016 General Election. Council Member Gloria moved to approve Resolution 2016-009R-1. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- G. Discussion, consideration, and possible action to fill vacancies and alternates on City Boards – ZBA, Charter Commission, P&Z. There were no applications, no action was taken.
- H. Discussion, consideration and possible action to appoint a non-voting advisory director for Brady Youth Sports Foundation. Kim Lenoir presented to Council. Council Member Gloria asked who members are. Oscar Coralego spoke to Council. Directors are Mike Wallace, Vice President; Autumn Huffman, Secretary; Kelly Bohannon, Treasurer. They are in the process of filling the board. Mayor Groves appointed Council Member Gendusa. Council Member Turk moved to approve the appointment of Marilyn Gendusa. Seconded by Council Member Perkins. All Council Members voted "aye" and none "nay". Motion carried 5-0.
- I. Discussion, consideration and possible action regarding approval of BEDC action of offering a Small Business Loan, if needed. No action was taken.

8. STAFF REPORTS

- A. Monthly Financial Reports for March
- B. Monthly Activity Reports – Seniors; Golf; BPD; Civic Center; HOT Events
- C. Upcoming Special Events:
 - April 20 – 11:30am "Good News" Chamber Luncheon, HOT Event Center
 - April 23 – Miles for Smiles, 5K at VFW at Richards Park
 - April 23 – Car Show & Child Welfare Fund Raiser Event at Richards Park
 - April 27 – Denim Day at Work – Donations to The Haven Family Shelter
 - April 30 – 25th Annual Duffers Golf Tourney at Municipal Golf Course – Denise Nichols Scholarship, Rotary Club Crawfish Boil
 - May 20-21 – 6th Annual Air Forces Day Fly-in at Curtis Field Airport
- D. April 20, 8:30am – Monthly Municipal & Code Court – Judge Bill Spiller
- E. April 25 to May 3 - Early Voting for City Council and BISD School Board - Begins at City Hall, 8am to 5pm (7am to 7pm on April 26 & May 3)
- F. April 26, 10:00 a.m. – 4 year TXDOT plan, Brownwood
- G. April 26, 6:00pm - Quarterly BEDC Meeting, Service Center
- H. April 28 – Texas Midwest Community Network (TMCN) Lunch – Abilene
- I. May 3 - Public Hearing for appeal by Greg and Cheryl Kubacak for Industrial District Zoning request at 1000

East 4th Street

- J. May 7 - Election Day, 7am to 7pm
- K. May 17 – Canvass Election, Seat Council Members as elected
- L. May 19 – Texas Midwest Community Network (TMCN) Annual Legislative Luncheon - Coleman
- M. May 24 – City Council FY17 Budget Goals Work Session
- N. Noise Variance Times approved for the Annual Iron Horse Rally at Richards Park, who will be playing music on Friday night, May 27 until 1:00am on Saturday morning and on Saturday, May 28 until 1:00am on Sunday morning.

9. ANNOUNCEMENTS

KNEL Candidate Forum will be Monday, April 25th at the Heart of Texas Events Center at 6:00 p.m. Council Member Gendusa scheduled herself to work July 9th, Texas Missions of Mercy, free dental treatment for anyone who shows up

10. EXECUTIVE SESSION

Council closed open session at 8:45 p.m. and reconvened at 9:00 in open session and got a report from Chief Thomas. Closed open session at 9:11 to go into Executive Session. Executive Session was opened at 9:12 p.m.

- A. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange lease, or value of real properties located in the southern and northern sections of the City as the deliberation in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person - sites for future Multi-use Activity Center (Senior Citizen) Facility.
- B. Pursuant to Section 551.087 (Economic Development), the City Council will deliberate the offer of a financial or other incentive or to discuss or deliberate regarding commercial or financial information that the City Council has received from a prospective cement plant (US Cement), retail, and other development projects that the City Council seeks to have locate in or near the City and/or with which the City Council is conducting economic development negotiations.

Executive Session adjourned at 9:17 p.m.

11. Open Session Action on any Executive Session

Regular Session reconvened at 9:18 p.m. No action

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 9:18 p.m.


Mayor Anthony Groves

Attest: 
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday, May 3, 2016, at 6:00pm at the City of Brady Service Center located at 1405 N. Bridge Street, Brady, Texas with Mayor Anthony Groves presiding. Council Members present were Patricia Doyal, Marilyn Gendusa, Shelly Perkins, Kathy Gloria and Jack Turk. City staff present were City Manager Kim Lenoir, City Attorney Shannon Kackley, Director of Public Works Steven Miller, Director of Community Services Peter Lamont, Police Chief Steve Thomas, Animal Control Officer Kathryn Mitchell and Assistant City Secretary Jessica Sutton. Others in attendance were Larissa McBride, County Judge Danny Neal, Roy Garza, John Boone, W.C. Barron, Veronica Ruiz, Patsy Cole, Farris Moreno, Cheryl Kubacak, Greg Kubacak, James Griffin, Linda Lott, John Campbell, Jon Chase, Donald Lee, Dub Smith, Mindy Gober, Kelly Elliott, Charlotte Harper, Lynn Farris, Erin Corbell, Annita Ellison, Dorothy Crawford, Bobby Doyal, Mary Routt, Billy Turner, Sheila Hemphill, Sondra Turner, Carl Tacker and Jeanette Tacker. (City Secretary Tina Keys arrived at approx. 7:45 p.m. after closing Early Voting polls.)

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:00 p.m. Assistant City Secretary Sutton was in attendance to record minutes. Roll was then called for Council and a quorum was certified.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Doyal gave the invocation, and the Pledge of Allegiance was recited.

3. APPROVAL OF AUDIT BOARD

Council Member Perkins moved to approve the audit board. Motion was seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

4. APPROVAL OF MINUTES for April 19, 2015

Council Member Gendusa moved to approve the minutes. Motion was seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

5. PUBLIC COMMENTS

Sondra Turner spoke about Lake Lot Leases and questioned when new survey would be done. Turner was advised Council/Staff could not respond during Public Comments.

County Judge Danny Neal referenced item 7J ("Cafeteria Building – multi-use"), and proposed a joint meeting between City, School District and County Officials to discuss a Multi-use Activity Center that might house the Senior Center and / or a Library. Judge Neal noted the County had also looked into purchasing the building known as Southward Cafeteria from Brady Independent School District (BISD).

Charlotte Harper read a letter she had recently written. In her letter, Harper expressed her disappointment in some citizens due to their lack of knowledge on projects they insisted discussing, specifically the Drinking Water and WWTP projects. Harper complimented City staff including Kim Lenoir and Steven Miller and Council for their perseverance in addressing water concerns/compliance.

At the end of the meeting, Shelia Hemphill announced her "Move that Mountain out of Mexican Colony" Tire Clean-Up Campaign and gave event specifics.

6. PRESENTATIONS AND PUBLIC HEARINGS

- A. Continue from April 5 PUBLIC HEARING: City Council will reconvene a Public Hearing to hear an appeal requested by Greg and Cheryl Kubacak and to receive public comments for/against the appeal regarding the decision made by the Planning and Zoning Commission on January 19, 2016 to deny the application for a

zoning change from Single Family Residential to Industrial District on property located at 1000 East 4th Street, Block 29, Lot 1 of the Luhr Addition as requested by Greg and Cheryl Kubacak.

Mayor Groves opened the Public Hearing at 6:20 p.m. Mayor Groves and Peter Lamont gave brief introductions before requester and business owner Greg Kubacak spoke, explaining his business has grown in the last few years from two or three employees to thirty-five or forty. He said Texas Wildlife Supply brings in approximately four million dollars of revenue each year and is in need of more space to store equipment and stage their products. Kubacak offered to answer any questions from Council and/or citizens. No questions. Patsy Cole then spoke against the rezoning change, saying the neighborhood residents in the area in question are trying to fix-up the neighborhood and give it a community feel. Cole said rezoning the property to Industrial would do, effectively, the contrary, lessening the "neighborhood feel". Veronica Ruiz said she "seconded" everything said by Cole. Kubacak spoke once more, offering that they [he, his family and business] had helped to clean-up the property and neighborhood, by maintaining their lots. Linda Lott spoke, agreeing that the Kubacak's had in fact cleaned-up lots, but asked those in attendance to consider the ramifications of rezoning the lot; she asked where it [the rezoning] would stop. Lott noted if this lot was rezoned Industrial, it would be all the easier for the neighboring lots to be rezoned as well. "It would be a slippery-slope." With no more comments, the Mayor referenced citizen letters, one from Maria Reyes, submitted in opposition to the rezoning. Mayor Groves asked Peter Lamont if there was any further information from P&Z. Public Hearing was closed at 6:33 p.m. Moved to item 7A. for action.

B. State of the City Presentation by Kim Lenoir. During the presentation, Lenoir recognized the City's outstanding year and rich history and examined its opportunities and challenges. (The presentation and talking points are both available on the City's website at www.bradytx.us under the "Now Available" section.)

7. INDIVIDUAL CONCERNS

A. Discussion, consideration, and possible action regarding Greg and Cheryl Kubacak's appeal of the decision made by the Planning and Zoning Commission on January 19, 2016 to deny the application for a zoning change from Single Family Residential to Industrial District on property located at 1000 East 4th Street, Block 29, Lot 1 of the Luhr Addition as requested by Greg and Cheryl Kubacak. (See item 6A.) Council Member Gendusa moved to deny the appeal. The motion was seconded by Council Member Gloria. All Council Members voted "aye" and none "nay". Motion (to deny) carried in a 5-0 vote.

B. Discussion, consideration, and possible action regarding **second and final reading of Ordinance 1194** revising Animal Control Ordinance Sections 2.103 Noise; 2.105 Treatment of Animals; 2.106 Abandoning; 2.107 Report of Animals at Large; 2.110 Animals Registered to be Vaccinated; 2.111 Notice of Impoundment; 2.112 Right to Redeem Impounded Dog; 2.115 Disposition of Unredeemed Dogs; 2.117 Destruction of Sick or Injured Impounded Animals After 120 or 72 Hour Period; 2.118 Destruction Impounded Animals Prior to 120 or 72 Hour Period; 2.121 Vicious Animals to be Confined; Section 2.124 Keeping Animals in Front Yard Prohibited; 2.403 Restrictions on Keeping Horses; and 2.501 Requirements for Owners of Dangerous Dog; handouts with amendments were provided. Mayor Groves and Kim Lenoir gave introduction. (Council declined full reading and preamble (only) was read by Secretary per Council's request.) Council Member Perkins commented that additional permissions and/or prohibitions may be necessary since this was only some of the animal control ordinances, see submitted to staff a list of other items to be considered in the future. With no further discussion, Mayor Groves asked for a motion. Council Member Gendusa moved to approve the **second and final reading of Ordinance 1194**. Motion was seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

C. Discussion, consideration and possible action regarding **second and final reading of Ordinance 1193** granting a Non-Exclusive Franchise to Brady Communication, LLC for the installation of a Fiber Optic Communications System; introduction by Mayor Groves and Kim Lenoir. (Council declined full reading and preamble (only)

was read by Secretary per Council's request.) Brady Communication representative was present but no further discussion was required. Mayor Groves asked for a motion. Council Member Gloria moved to approve second and final reading of **Ordinance 1193**. The motion was seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

- D. Discussion, consideration and possible action regarding the second and final reading of **Ordinance 1195** establishing for no overhead power lines, communication lines of similar improvements parallel and along the US 377 N ROW including the downtown square for maintaining a controlled appearance; introduction by Mayor Groves and Kim Lenoir. (Council declined full reading and preamble (only) was read by Secretary per Council's request.) Sheila Hemphill asked for water plans relating to Downtown; Lenoir responded those plans would be available with the 30% design plans and had been discussed. With no further discussion, Mayor Groves asked for a motion. Council Member Gendusa moved to approve second and final reading of **Ordinance 1195**. The motion was seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.
- E. Discussion consideration and possible action on **Resolution 2016-025** authorizing the Mayor as the signature authority for all Texas Department of Transportation (TXDOT) documents pertaining and relating to the planned improvements of US377N and the downtown square including a Contract Agreement to Contribute Funds (Fixed Price \$297,280); introduction by Mayor Groves and Kim Lenoir. Council Member Perkins asked about improvements and for clarification on reimbursement of funds. Steven Miller answered questions on planned improvements and necessary coordination, while Lenoir clarified reimbursement would be up to ten percent (10%). With no further discussion, Mayor Groves asked for a motion. Council Member Doyal moved to approve **Resolution 2016-025**. The motion was seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.
- F. Discussion, consideration, and possible action regarding **Resolution 2016-016** for the temporary use of designated streets in Brady for the purpose of the Brady Elementary School Parent Teacher Organization 5-mile and 5K runs on May 22, 2016; introduction by Mayor Groves and Peter Lamont. Lamont pointed out applicable parties were made aware of event and local enforcement had event route/schedule. Organizer and PTO Member Larissa McBride gave a brief description of the event and offered to answer questions. Council Member Perkins spoke in support of the event but was concerned by the issue of safety. Peter Lamont and Chief Steve Thomas noted safety provisions to be taken. BISD employee, Kelly Elliott also spoke in support of the event, noting it would benefit the local PTO General Fund. Council Members Doyal and Gendusa asked for a little more introduction of McBride and Elliott to which Lamont replied. Doyal and Gendusa each noted their support of the event. With no further discussion, Mayor Groves asked for a motion. Council Member Gloria moved to approve **Resolution 2016-016**. The motion was seconded by Council Member Perkins. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.
- G. Discussion, consideration, and possible action regarding **Resolution 2016-027** for the 90th Annual July Jubilee Street Parade on July 2nd from 10:00 a.m. to 11:00 a.m. and the 43rd Annual World Championship Goat Cook-off Dance on Saturday September 3rd road closures, TXDOT permits and noise variance from 8:00 p.m. to 1:00 a.m. on Sunday September 4, 2016; introduction by Mayor Groves and Peter Lamont. Chamber President Erin Corbell gave a brief overview of the events and schedules. Corbell mentioned there would be no street dance during July Jubilee, but rather live music at Brady Lake. Corbell said the Chamber was scaling back due to low attendance during last year's July Jubilee Street Dance. Council Member Gloria suggested to staff that this item be two separate and apart resolutions—one for July Jubilee then another for GCO. Others agreed such an item needed a split motion in the future. With no further discussion Mayor Groves asked for a motion. Council Member Turk moved to approve **Resolution 2016-027**. The motion was seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

H. Discussion, consideration and possible action regarding a long-term lease proposal submitted by John Boone and Roy Garza for the G. Rollie White Complex; introduction by Mayor Groves and Peter Lamont. John Boone and Roy Garza spoke of their experiences in equestrian training and events and reiterated its advantages. They asked for questions from the Council. Council Member Gloria asked why leasing by the month rather than by the event was important. Garza answered, they were open to either, but Boone spoke on the advantages to a longer-term lease, saying horse trainers bringing their stock in, would want to be able to leave horses to winter here if they could. Boone said the appeal to trainers would be much less if facility had to be rented by the event rather than leased longer-term. Council Member Gloria commented she would prefer to approve each events as they came about, rather than lock the City into a long-term lease. Mayor Groves asked for staff directive. Staff recommended no long-term lease option be available at this point, citing GRW may have a niche that hasn't been fully explored yet; offering a citizen research group might help to determine the niche. Lenoir mentioned that current reservation policy does not require approval for each event individually. Council Member Gloria noted she was happy with the current reservation policy. Council Members Doyal and Gendusa believe the policy may need revision, to require Council approval of (one-time) events. Council Member Perkins discussed her concerns relating to facility conditions and food service; she asked about the current state of the Jockey House. Staff determined the Jockey House may need to be addressed at a later time. Boone suggested that approval for the longer term lease need not be immediate, and seconded Garza's statement, saying they are open to (just) an event at this point. Council Member Perkins requested a report on the state of the (GRW) facility, giving staff directive. Citizen comments were made by Annita Ellison and Jon Chase. Chase noted he had seen the Notice for Application of Liquor Sales and said it lacked a necessary contact name. Peter Lamont explained the application for sales was null at this point due to lack of [event] location information to be provided to TABC and suggested again more research or a possible workshop be conducted to determine "niche". With no further discussion, Mayor Groves asked for motion regarding the long-term lease proposal. Council Member Turk moved to deny, not entering into any long-term lease. Motion was seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion (to deny) carried in a 5-0 vote. Mayor and Council offered direction to staff to continue research to find niche for facility relating to such proposals.

I. Discussion, consideration and possible action of appointments to fill vacancies and alternates on City Boards – ZBA, Charter Commission, P&Z, if needed. Mayor Groves acknowledges the Council has received two board applications recently, one in their packets (Jeffrey Sutton), the second just prior to the meeting (Kelly Elliott for BEDC). Mayor Groves request a motion to appoint Jeffrey Sutton to P&Z as Alternate. Council Member Gendusa moved to approve appointment of Jeffrey Sutton to P&Z. The motion was seconded by Council Member Turk. Motion to approve appointment carried in a 4-0 vote.

J. Discussion, consideration and possible action regarding real property for a future Multi-use Activity Center (Senior Center), if needed. Mayor Groves announced Council would hold item for discussion during Executive Session. Citizen Sheila Hemphill asked for clarification on whether or not this property would include an existing facility. Mayor clarified, "yes" discussion would pertain to an existing facility. Action taken after Executive Session.

8. STAFF REPORTS

A. Upcoming Special Events:

May 20-21 – 6th Annual Air Forces Day Fly-in at Curtis Field Airport

May 27-30 – Memorial Weekend Golf Tourney

May 27-28 - Annual Iron Horse Motorcycle Rally at Richards Park, will be playing music on Friday night, until 1:00am on Saturday morning and on Sat. until 1:00am on Sun. morning, noise variance approved.

B. May 7 - Election Day, 7am to 7pm

C. May 17 – Canvass Election, Seat newly elected Council Members

- D. May 19 – Texas Midwest Community Network (TMCN) Annual Legislative Luncheon - Coleman
- E. May 24 – 9am, City Council FY17 Budget Goals Work Session at Brady Housing Authority
- F. May 30 – Memorial Day – City Offices Closed
- G. Monday 30, 31, Jun 1 - Holiday Trash Schedule – Monday to Tuesday, Tuesday to Wednesday

9. ANNOUNCEMENTS

Council Member Gloria reminded us of the Cinco de Mayo Celebration May 7th from 9:00 a.m. to 3:00 p.m. at the Mexican Colony Park. Council Member Gendusa gave a reminder of the hamburger luncheon starting at 11:00 a.m. during the Fly-In on Saturday, May 21st and of the reenactments taking place on Friday, May 20th. Plates for the hamburger luncheon will be \$7. Council recognized Kim Lenoir's daughter in the Top 10 graduates from BISD Class 2016 and Council Member Doyal's nephew Gavin is ranked number 3. Staff recognized Mayor Grove's 95-year old mother as having voted.

10. EXECUTIVE SESSION

Council closed open session at 8:30 p.m. to go into Executive Session after a fifteen minutes recess.

Council reconvened an Executive Session at 8:48 p.m.

- A. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange lease, or value of real properties located in the southern and northern sections of the City as the deliberation in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person - sites for future Multi-use Activity Center (Senior Citizen) Facility.
- B. Pursuant to Section 551.087 (Economic Development), the City Council will deliberate the offer of a financial or other incentive or to discuss or deliberate regarding commercial or financial information that the City Council has received from a prospective cement plant (US Cement), retail, and other development projects that the City Council seeks to have locate in or near the City and/or with which the City Council is conducting economic development negotiations.

Executive Session adjourned at 9:16 p.m.

11. Open Session Action on any Executive Session

Mayor reconvened open session at 9:17 p.m.

Council Member Gendusa moved to offer \$100,000 to BISD to purchase the vacant Southward Cafeteria building owned by BISD. The motion was seconded by Council Member Gloria. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 9:20 p.m.


Mayor Anthony Groves

Attest: 
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday, May 17, 2016, at 6:00pm at the City of Brady Service Center located at 1405 N. Bridge Street, Brady, Texas with Mayor Anthony Groves presiding. Council Members present were Latricia Doyal, Marilyn Gendusa, Shelly Perkins, and Kathy Gloria (Jack Turk was absent). City staff present were City Manager Kim Lenoir, Finance Director Lisa Remini, City Attorney Shannon Kackley, Director of Public Works Steven Miller, Director of Community Services Peter Lamont, Police Chief Steve Thomas, Animal Control Officer Kathryn Mitchell, Fire Chief Lyle Daniel and City Secretary Tina Keys. Others in attendance were Jane Huffman, James Griffin, Michelle Derrick, Jon Chase, Larissa Nandin, C.J. Camarillo, James Stewart, Rick Lenoir, Mr. and Mrs. Leifeste, JoAnn Coffey, Lynn Farris, Charles Stokes, Kelly Elliott, Chris Green, Bill Derrick and Joe Whitehead.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:02 p.m. Roll was then called for Council and a quorum was certified.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Pro Tem Doyal gave the invocation, and the Pledge of Allegiance was recited.

3. APPROVAL OF AUDIT BOARD

Council Member Gloria moved to approve the audit board. Motion was seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried in a 4-0 vote.

4. APPROVAL OF MINUTES for May 3, 2016

Council Member Gendusa moved to approve the minutes. Motion was seconded by Council Member Perkins. All Council Members voted "aye" and none "nay". Motion carried in a 4-0 vote.

5. PUBLIC COMMENTS

Lyle Daniel spoke on the Fire Commission Inspection held on April 21, 2016 and announced Brady Fire passed with no violations found. EMS service inspection also found no violations. Lyle Daniel was invited to represent the Rural EMS Service on a panel at a symposium in El Paso, by the State of Texas Health Services.

6. PRESENTATIONS AND PUBLIC HEARINGS

- A. Public Hearing was cancelled due to denial by P&Z Commission: Zoning change requested by Idette Gipson for property located at 805 East 8th Street, Block 60, Lot 3 of the Luhr Subdivision from Single-Family Residential to Manufactured Home District (Zoning Case denied by P&Z 5-10-16).

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action regarding Resolution 2016-028 to Canvass the May 7, 2016 elections. Mayor Groves read aloud the election results. Council Member Gendusa moved to declare the election official. The motion was seconded by Council Member Gloria. All Council Members voted "aye" and none "nay". Motion carried in a 4-0 vote.
- B. Administer Oath of Office and Swearing in of the newly elected officers: Jane Huffman, Council Member Place 4 and James Griffin, Council Member Place 5. Newly elected council members were sworn into office by City Secretary Tina Keys.

C. Recognition of outgoing Council Member Jack Turk and Mayor Pro Tem Latricia Doyal. Mayor Pro Tem Latricia Doyal was presented with flowers, a personalized drink mug and a honorary city street sign "Latricia Doyal Drive" as an appreciate for her service. Mrs. Doyal shared her experience and dedication to the city and its citizens as she shared stories of growing up in Brady. Serving for three years as Mayor Pro Tem was greatly appreciated by the City Council, city staff, and the community. Council recessed at 6:18 p.m. for a reception and called the meeting back to order at 6:43pm.

Charlotte Harper requested time to make a public comment. She stated that before current council came on board, "we had a mess". "When the new council came in, we saw a change. People paid attention to what was important and didn't talk badly. The Mayor runs a tight ship." Charlotte wanted to thank those who helped make it better. She went on to say, "the transparency made a big difference. That can be undone easily." She commented that she "doesn't like people who lie. And in this race, that has happened." She is "hoping that the new council will use the previous council as someone to look to as a way to do things the right way." She also thanked City Manager for the leadership staff.

D. Elect a Mayor Pro Tem. As outlined in the City Charter, each member drew numbers and voted in order drawn, all council members voted for Kathy Gloria except for Jane Huffman who voted for Shelly Perkins. Mayor Groves asked for a motion to elect Kathy Gloria as Mayor Pro Tem. Council Member Griffin moved. The motion was seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

E. Discussion consideration and possible action on **Resolution 2016-029** authorizing the Mayor to enter into an agreement for an Airport Master Plan with the Texas Department of Transportation. Peter Lamont presented to Council. Council Member Perkins asked about total project costs estimated costs and asked if we have to pay 10% of the overage. Lamont responded that we will still be responsible for 10% of the project. Council Member Gendusa inquired how long to finalize the plan. Peter Lamont stated "we are looking at a 9 month process". Council Member Gendusa commented "it is like a comprehensive plan for the airport". Council Member Gendusa moved to approve **Resolution 2016-029**. The motion was seconded by Council Member Gloria. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

F. Discussion, consideration, and possible action authorizing the Mayor to sign the letter notifying Sharyland that the City of Brady is suspending the effective date of our rate case for 90 days to give the City time to consider an ordinance denying the rate changes. Kim Lenoir presented to Council. Council Member Gendusa moved to approve. The motion was seconded by Council Member Perkins. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

G. Discussion, consideration, and possible action regarding the **first reading of Ordinance 1196** of the City of Brady, governing body of this municipality, hereby denying and disapproving the rate changes proposed by Sharyland Utilities, L.P. on April 29, 2016 as requested by Sharyland Utilities so the Public Utility Commission of Texas (PUCT) can study and address as a systemwide rate study. Kim Lenoir presented to Council. With no further discussion Mayor Groves asked for a motion. Council Member Gendusa moved to approve **first reading of Ordinance 1196**. The motion was seconded by Council Member Griffin. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

H. Discussion, consideration and possible action regarding Board Member duties and vacancies. Kim Lenoir presented to council. Council Member Gloria thinks, regarding the people whose terms are expiring, we, as a courtesy, should ask if they want to continue to serve. City Secretary was instructed to call board members. Mayor Groves stated he thinks the EDC board term is a maximum of 3 consecutive terms and we need to check to see if any have capped out. Council Member Gendusa said we will all get copies of applications and

have a chance to review and ask questions. It takes a majority of the council to approve. Anybody who applies is considered. We could call other applicants who have already applied. Mayor Groves announced we could publicize if people are interested, they should apply again. No action was taken.

- I. Discussion, consideration and possible action regarding proposed orientation plan for new council members and board members. Kim Lenoir presented to Council. Mayor Groves further expounded on the Open Meeting Act and went over other standard operating procedures.
- J. Discussion regarding future ordinances/projects for future city council work sessions. Kim Lenoir presented to Council and asked for members to select top 5 topics and return to her in the week.
- K. Discussion, consideration and possible action regarding FY17 Budget Work Session Schedule. Kim Lenoir presented to Council. No conflicts with the existing schedule were announced.

8. STAFF REPORTS

- A. Monthly Financial Reports for April 2016, presented by Director of Finance Lisa Remini.
- B. Monthly Activity Reports – Seniors, Golf, BPD, Animal Control, Tourism Funding, Airport, Civic Center
- C. Announced Upcoming Special Events:
 - May 20-21 – 6th Annual Air Forces Day Fly-in at Curtis Field Airport
 - May 27-30 – Memorial Weekend Golf Tourney
 - May 27-28 - Annual Iron Horse Motorcycle Rally at Richards Park, will be playing music on Friday night, until 1:00am on Saturday morning and on Sat. until 1:00am on Sun. morning, noise variance approved.
- D. May 19 – Texas Midwest Community Network (TMCN) Annual Legislative Luncheon - Coleman
- E. May 24 – 9am, City Council FY17 Budget Goals Work Session; 1pm Public Safety Building Concept Plan Review at Brady Housing Authority
- F. May 26-27 – HOG WILD Local Government Educational Seminar at Texas State University
- G. May 28 - Aquatic Center / Swimming Pool Opens for Summer
- H. May 30 – Memorial Day – City Offices Closed
- I. Monday 30, 31, Jun 1 - Holiday Trash Schedule – Monday pick-up moves to Tuesday, Tuesday pick-up moves to Wednesday.

9. ANNOUNCEMENTS

There were no announcements.

10. EXECUTIVE SESSION

Council closed open session at 8:01 p.m. and took a break before going into Executive Session.

Council reconvened into Executive Session at 8:08 p.m.

- A. Pursuant to Section 551.074 (Personnel Matters) City Council will meet to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee: City Manager Lenoir and City Attorney Kackley's duties under the City Charter; Board Appointments
- B. Pursuant to Section 551.071 (Consultation with Attorney). The City Council will seek and receive advice from the City Attorney on the following matters: To seek legal advice about (1) pending or contemplated litigation; or (2) a settlement offer; or (3) on a matter in which the duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, to wit: legal issues raised by utility easements and the City Charter.

- C. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange lease, or value of real properties located in the southern and western sections of the City as the deliberation in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person – utility easements.
- D. Pursuant to Section 551.087 (Economic Development), the City Council will deliberate the offer of a financial or other incentive or to discuss or deliberate regarding commercial or financial information that the City Council has received from a prospective cement plant (US Cement), retail, and other development projects that the City Council seeks to have locate in or near the City and/or with which the City Council is conducting economic development negotiations.

Executive Session adjourned at 8:32 p.m.

11. Open Session Action on any Executive Session

Mayor reconvened open session at 8:33 p.m. No action was taken as a result of executive session.

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 8:34 p.m.



Mayor Anthony Groves

Attest: 

Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Special Work Session on Tuesday, May 24, 2016, at 9:00am at the Daughters of the Republic of Texas Meeting Room located at 113 N. Church Street, Brady, Texas with Mayor Anthony Groves presiding. Council Members present were Kathy Gloria, Marilyn Gendusa, Shelly Perkins, Jane Huffman and James Griffin. City staff present were City Manager Kim Lenoir, Director of Finance Lisa Remini, Director of Public Works Steven Miller, Director of Community Services Peter Lamont, Police Chief Steve Thomas, Police Captain Lupe Carrizales, Fire Chief Lyle Daniel, Assistant Fire/EMS Chief Dink Nichols and City Secretary Tina Keys. Others in attendance were JoAnn Coffey and County Judge Danny Neal.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 9:03 a.m. Roll was then called for Council and a quorum was certified.

2. DISCUSS ANY CHANGES TO MISSION, VISION, VALUE STATEMENTS

Kim Lenoir reviewed mission, vision and value statements with Council. No changes suggested at this time.

3. DISCUSS REVENUE RESOURCES AND 2015 RATE STUDY

Lisa Remini presented to Council.

4. DISCUSS ANY CHANGES TO 5 YEAR CAPITAL AND PROJECT PLAN

Lisa Remini and Kim Lenoir reviewed with Council.

5. DISCUSS AND PRIORITIZE CAPITAL PROJECT NEEDS BY FUND FOR FY 2017

Kim Lenoir had Council review FY 2017 capital projects. A list of projects was prioritized and is attached.

6. RECESS FOR LUNCH

Council recessed for lunch at 12:30pm and reconvened at 1:07pm.

7. PRESENTATION

Charlie Kearns and Jim Wilson with EIKON Consulting Group presented the concept plan for new Public Safety Facility to include Fire/EMS, PD, Communications, and multi-use training room (Comprehensive Plan Action Item 33). Slides attached.

8. DISCUSS AND PLAN FUTURE WORK SESSION DATES AND TOPICS

Council discussed the next work session will be scheduled for June 14, 2016 at 9:00 a.m. for Substandard Building Ordinance, Infill Ordinance, Curfew Ordinance and if time allowed Civic Center rules and fees.

9. ANNOUNCEMENTS

There were no announcements.

10. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 3:35 p.m.



Mayor Anthony Groves

Attest: 
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday, June 7, 2016, at 6:00pm at the City of Brady Service Center located at 1405 N. Bridge Street, Brady, Texas with Mayor Anthony Groves presiding. Council Members present were Marilyn Gendusa, Shelly Perkins, Kathy Gloria, Jane Huffman and James Griffin. City staff present were City Manager Kim Lenoir, Finance Director Lisa Remini, City Attorney Shannon Kackley, Director of Public Works Steven Miller, Director of Community Services Peter Lamont, City Secretary Tina Keys, Police Chief Steve Thomas, Code Compliance officer Kim Davee, and Water Department Supervisor Vern Canter. Others in attendance were Latricia Doyal, Jon and Mary Chase, Bill and Michelle Derrick, Neal Ulmer, Mike Harris, Gail Wright, Dru Childre, Mary Ann Carnes, Ed Hernandez, Lynn Farris, Anita Ellison and Rosalinda Moreno.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:00 p.m. Roll was then called for Council and a quorum was certified.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Gendusa gave the invocation, and the Pledge of Allegiance was recited.

3. APPROVAL OF AUDIT BOARD

Council Member Gendusa moved to approve the audit board. Motion was seconded by Council Member Gloria. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

4. APPROVAL OF MINUTES for May 17 and 24, 2016

Council Member Perkins would like the location of the May 24th minutes be corrected to read DRT – Daughters of the Republic of Texas. Council Member Gendusa moved to approve the minutes as amended. Motion was seconded by Council Member Griffin. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

5. PUBLIC COMMENTS

Mike Harris – would like an update on the Brady Lake Marina as he hasn't seen any progress. Mayor responded this will be covered in Staff Reports.

Jon Chase had a comment regarding the EDC board but opted to wait for the agenda item.

6. PRESENTATIONS AND PUBLIC HEARINGS

- A. Drinking Water/Radium Reduction System Design Update – Steven Miller commented that the project is approaching the 50% level and introduced Keith Kindle with eHT who presented to Council. Council Member Gendusa asked when construction would start and Kindle answered "early 2018". Council Member Gendusa asked "we're not doing anything in 2017?" and Kindle stated "that is correct". Council Member Gendusa went on to inquire if that is that because of the legislation, and Kindle confirmed, but stated "they will still be working on it until the EDAP funds come into the TWDB from the state budget. The project should be finished by the end of 2019." It is all dependent on when TWDB gets the next \$50 million EDAP allocation.

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action regarding Resolution 2016-030 authorizing the Mayor to sign agreement for access easement across dedicated right-of-way for the Texas Housing Foundation, Trails of Brady Apartment Complex Project, dedicating driveways off of Nine Road. Kim Lenoir introduced Dru Childre to update council. Mr. Childre apologized for the delay as they have had some water, drainage, and water quality issues to address. They have been working with engineers to design a water filtration system to use until new city water system comes on board. Complete sets of plans went out for bid. Bids came in high. Construction business is booming right now. They are having to go back and get alternative bids. They are

hoping to get local businesses involved and are pushing to close on financing by end of the month. They are getting very close, but are not there yet and are hoping to see some action on site in the next month or so. Council Member Huffman asked for information about apartments as there seems to be a lot of questions. Mr. Childre explained that it's a 72 unit apartment complex. A certain percentage is affordable housing and there will be 8 market rate units that anybody can live in. They had to apply to the State of Texas for federal state tax credits. The tax credits are sold off to an investor and they purchase the tax credits and we utilize their investments. It's not a local tax credit. Units are going to be rent restrictive. Residents have to qualify by income level and have to be able to pay a certain amount of rent. They are similar to the Sagebrush Apartments. They are financed through same program. There are going to be 72 units in 2 buildings, a clubhouse and other amenities for residents to utilize. Council Member Gendusa asked what are the amenities to be installed? Childre explained there would be a playground, swimming pool, picnic tables, BBQ grills clubhouse with activity center, laundry building, financial education, after school programs, tutoring, and other services designed to meet community needs of this complex. It's a 4 $\frac{1}{2}$ acre parcel. Council Member Gendusa inquired if people applying would have to have an income and Childre answered "yes and they have to qualify, and have background checks." Council Member Huffman asked if tax abatements were given. Childre explained yes there were only in respect with IRS Rules and Tax Credits. The apartment complex is owned by the Texas Housing Foundation (THF) located in Marble Falls, a tax exempt organization. Jane Huffman asked if this would be a life time tax exemption and the response from Childre was "yes". Council Member Griffin asked if the easements are permanent or only for construction and he was told they will be permanent. Council Member Huffman asked Childre "when are you starting?" and was told "After closing, construction will start the following month. Hopefully no later than the beginning of August. Rain will play a key part. Project will take about 12 months to complete." Mike Harris asked "who will do maintenance?" Childre answered that the maintenance will be provided by THF. THF have 17 – 18 different properties they own and operate and they will be managing, leasing, operating, and maintaining. They will try to hire locally. Mayor Groves commented that they visited a number of Texas Housing Authority complexes in different places and said they are extremely well kept and well maintained. "It's not what you picture when you say housing authority operation." Childre commented "it is not government housing. It's privately owned. It's an affordable housing project. They will be the managing member. There will be an investor who owns 99.9%. It's the private market investing that provides long term equity. It's not government owned or operated. It's a program through the government which allow them to privately build these projects." Council Member Huffman asked if there is a maximum income you can make to live there and Childre responded there is for the affordable units. "There will be eight units available to anybody. The eight units was based on a financial model. They tried to get more than eight but it would not pencil out financially. Because there is an income limit, the property can only generate so much money. Between the amount of debt and income and costs to build, there is only a certain amount of loan the development can withstand. They could only withstand a certain amount of market rate units." Council Member Huffman asked "what is maximum income?" but Childre said he does not know but could provide that tomorrow. Kim Lenoir talked about access easements requested and how those will be platted. In compliance with the Zoning Ordinance, the preliminary/construction plat will go before P&Z next Tuesday. The final plat, once the construction is completed, will go before P&Z and City Council. Council Member Gendusa moved to approve. The motion was seconded by Council Member Gloria. Four Council Members voted "aye" and one Council Member, Jane Huffman, voted "nay". Motion carried in a 4-1 vote with Jane Huffman opposed.

B. Discussion, consideration and possible action regarding first reading of Ordinance 1197 of the City of Brady, Texas amending FY2015-2016 Budget. Lisa Remini presented. Council Member Gendusa asked, on page 1 of adjustment general fund, projected budget \$4,716,000 total expenses \$9,612,000. What was that? How did we short change it by \$4,800,000?" Remini answered "we recognized last year that we have more expenditures than revenues. Our general fund consists of those divisions that do not generate revenue to support its expenditures such as EMS, Police, Fire, parks systems, administration. So we take in property tax

and sales tax but there is only about less than \$2 million in those revenues to support general fund. So that's where the shortfall is. There were no other questions. Council Member Gendusa moved to approve the first reading of Ordinance 1197. The motion was seconded by Council Member Griffin. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

- C. Discussion consideration and possible action to fill vacancies, expired terms and alternates on Brady Economic Development Corporation (BEDC), Board of Adjustments / Zoning Board of Adjustments (BOA/ZBA), Airport Advisory, Charter Commission, and Planning & Zoning Commission (P&Z). Council Member Gendusa commented that we got new application before the meeting started and would like time to review. Mayor Groves recommended moving on to items D and E and come back to this item.
- D. Discussion consideration and possible action on **Resolution 2016-031** for temporary closure and use of designated streets for the purpose of the Annual July Jubilee First Methodist Church Bar-B-Que on Saturday, July 2 from 10:00 a.m. to 2:00 p.m. (Closing E 3rd and E 4th Street between S. Blackburn and S. Elm). Peter Lamont presented to Council. Council Member Gendusa moved to approve **Resolution 2016-031**. The motion was seconded by Council Member Perkins. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.
- E. Discussion, consideration, and possible action regarding **second and final reading of Ordinance 1196** of the City of Brady, governing body of this municipality, hereby denying and disapproving the rate changes proposed by Sharyland Utilities, L.P. on April 29, 2016, as requested by Sharyland Utilities so the Public Utility Commission of Texas (PUCT) can study and address as a systemwide rate study. Kim Lenoir presented to Council. Council Member Griffin moved to approve. The motion was seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried in a 5-0 vote.

Council took a 15 minute recess at 7:15pm to review applications received for Boards and Commissions and reconvened at 7:30pm and went back to Item C. Mayor Groves had applications for P&Z Tom Flannigan and Connie Easterwood. For ZBA we had an application from James Stewart and Christopher Green listed 3 boards he was interested in including ZBA. Bill Derrick applied for Charter Review as has others Lauren Bedwell, Chris Green, Joanne Coffey, and Latricia Doyal. For Airport Board we have an application for Carey Day. The EDC board had applications from Charles Stokes, Lauren Bedwell, Kelly Elliott, Don Miller, Michelle Derrick, Richard Jolliff, and Bill Neslage.

Starting with Tom Flannigan and Connie Easterwood for P&Z – any comments? Council Member Huffman stated that Kelly Elliott would be willing to be on different board and she would recommend her for P&Z.

Planning and Zoning:

Mayor Groves recommends and asked for a vote for Tom Flannigan - all "ayes", none "nay"
Connie Easterwood - all "ayes" and none "nay".

ZBA:

James Stewart - all "ayes" and none "nay".

Charter Review:

Bill Derrick - all "ayes" and none "nay"
JoAnne Coffey – all "ayes" and none "nay"
Latricia Doyal - all "ayes" and none "nay"

Airport Board:

Carey Day – all "ayes" and none "nay"

EDC:

Jon Chase came up to make a statement – regarding rumor started by Council Member Gendusa that he has

a plot to expose Griffin, he will not repeat accusations. Mr. Chase said he was asked at forum why he didn't think Mr. Griffin could do a better job. Chase said his track record is lacking. Chase asked Council to renew Bedwell and Stokes to their positions and commented that Harper is in poor health at this time. He went on to say "we are in the middle of important projects. EDC took the lead on the cement plant and stood tall and supported the approval of voters in the 2009 election for the Civic Center. The EDC has funded retail studies in the last 3 years and has accomplished more than any prior EDC" and again asked the Council to approve Stokes and Bedwell. Council Member Gendusa interjected that his comment was not about EDC. Mayor Groves replied that he could have made his citizen comment at the beginning of the meeting as part of citizen comments but a large portion dealt with EDC. Council Member Gendusa informed the Mayor that he should have stopped him. Mayor continued that he can say what he wants during public comments. Council Member Gendusa contended this was not a Public Comment agenda time.

EDC:

Mayor Groves stated "we have 2 members whose terms have not expired. Charlotte Harper applied but based on information regarding her health, the mayor said he will not recommend her.

Mayor Groves went on to say Charles Stokes is a current member and a single applicant for EDC. Council Member Huffman asked "shouldn't we discuss all of them" but the Mayor said he suggested going over single applicants first. Jane suggested we should narrow down. Council Member Gloria stated that we don't have in writing that Kelly Elliott wants a different board. Mayor Groves suggested a vote on the other board she put in for. Council Member Gloria suggested that current board members be given first priority.

The Mayor commented that the Mayor has the authority to appoint someone for the approval of the council. Mayor opened the discussion about Charles Stoke and asked if anybody feels that Charles Stokes should not be reappointed. Council Member Huffman said she does not think he should. She does "not think he should be on there. Thinks there is a family conflict. Thinks we need to vote." Mayor called for a vote.

Charles Stokes – one "aye", Council Member Gloria – not approved

Lauren Bedwell – all "ayes" and none "nay"

Mayor again reminded the council that two council members can recommend somebody.

Don Miller – Council Member Huffman thinks he will be great. Mayor recommended Don Miller and called for a vote, Four Council Members voted "aye" with one "nay" by Council Member Gloria, approved.

Michelle Derrick – Mayor commented he reappointed Derrick to EDC then she resigned. He went on to say he has no confidence in somebody who has already resigned once because she didn't like the way things were going. He will not recommend based on the fact she was unhappy so she resigned. Council Member Perkins recommended Michelle Derrick, Council Member Huffman seconded, four Council Members approved Michelle Derrick – Kathy Gloria voted "nay". All EDC appointment positions filled. Richard Jolliff received no appointment to EDC, but Council Member Perkins suggested that he may be good on the Airport Advisory Board. City Secretary will contact him.

P&Z:

City Manager Kim Lenoir commented that alternates typically move up to fill vacant term place positions. Mayor Groves recommend to move Jeffrey Sutton, P&Z Alternate, move up to fill JoAnne Coffey's resignation place. All voted "aye" and none "nay". All P&Z Positions filled.

ZBA:

Council Member Huffman recommends Kelly Elliott for ZBA. She will fill out new paperwork for next meeting. Mayor asked if Council is comfortable with appointing Chris Green to ZBA and if it's not what he wants, he can decline. And next council meeting we can put him in what he wants. All in favor of appointing Chris Green to ZBA – all "aye's" and none "nay".

Kim Lenoir announced that we still need a council member on HOT and people on Airport, ZBA and Charter Review, so please continue to recruit citizens to apply by the next meeting.

8. STAFF REPORTS

A. Upcoming Special Events:

Thursdays, 4pm to 6pm – Farmers Market – Downtown Square
June 9 – Movies in the Park – The Goonies – 8:45 p.m., Richards Park
June 11-12 Two-person Golf Scramble
June 16 – 9pm *Sandlot* Movies in the Park at Willie Washington Park
June 17 – 6pm Annual Employee Family Swimming Pool Party
June 18 – Smoke on the Hill at Richards Park
June 25-26 Two-person Golf Scramble
July 1 – Miss HOT Pageant at Brady Lake Pavilion
July 2 – July Jubilee – Parade; Mud Volleyball; Dance (Swimming Pool Closed)
July 4 – City Offices Closed (Swimming Pool Open)

B. June 14 – 9am to 12 noon – Council Work Session, City Hall to discuss Substandard Building Ordinance; In-fill Ordinance; Curfew Ordinance; and Civic Center Policies and Fees

9. ANNOUNCEMENTS

Chief Thomas – TXDOT child car seat exchanges, going to do it again on June 18 at Walmart, we are hosting, 11:00am – 1:00pm.

Council Member Perkins complimented Chief Thomas and the Fire Dept on mock tragedy scenario at high school – Shattered Dreams. Chief Thomas said this one is the best ones he has ever been associated with. Everybody associated with BISD, teachers, volunteers; they did a great job. Two students championed it and they did a fabulous job.

Council Member Griffin said thank you for everyone who participated in Mission of Brady this past weekend. Five homes were rehabbed and a wheel chair ramp was built in Lohn. Had over 115 people show up to help.

10. EXECUTIVE SESSION

Council closed open session at 8:25 p.m. and took a 15 minute break before going into Executive Session.

Council reconvened into Executive Session at 8:41 p.m.

- A. Pursuant to Section 551.074 (Personnel Matters) City Council will meet to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee: Board Appointments
- B. Pursuant to Section 551.071 (Consultation with Attorney). The City Council will seek and receive advice from the City Attorney on the following matters: To seek legal advice about (1) pending or contemplated litigation; or (2) a settlement offer; or (3) on a matter in which the duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, to wit: legal issues raised by utility easements and the City Charter.
- C. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange lease, or value of real properties located in the southern and western sections of the City as the deliberation in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person – utility easements.

D. Pursuant to Section 551.087 (Economic Development), the City Council will deliberate the offer of a financial or other incentive or to discuss or deliberate regarding commercial or financial information that the City Council has received from a prospective cement plant (US Cement), retail, and other development projects that the City Council seeks to have locate in or near the City and/or with which the City Council is conducting economic development negotiations.

Executive Session adjourned at 8:44p.m.

11. Open Session Action on any Executive Session

Mayor reconvened open session at 8:45 p.m. No action was taken as a result of executive session.

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 8:46 p.m.


Mayor Anthony Groves

Attest: 
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Work Session on Tuesday, June 14, 2016, 9:00am at the City of Brady City Hall located at 201 E. Main Street, Brady, Texas with Mayor Anthony Groves presiding. Council members present were Kathy Gloria, Marilyn Gendusa, Shelly Perkins, James Griffin and Jane Huffman. City staff present were City Manager Kim Lenoir, City Secretary Tina Keys, Director of Community Services Peter Lamont, Police Chief Steve Thomas.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Pro Tem Gloria called the meeting to order at 9:03 a.m. Roll was then called for Council and a quorum was certified. Shelly Perkins was in attendance but stepped out and was not present when a quorum was certified. Mayor Groves joined the meeting after the meeting started.

2. DISCUSS ANY CHANGES TO SUBSTANDARD BUILDING ORDINANCE

Peter Lamont, Director of Community Services, discussed the need to clean up the structures around town. Staff has recommended moving the final decision making process on substandard structures to ZBA (versus the City Council) but homeowner can still appeal to district court.

Huffman asked if we are talking about houses that are occupied as well as vacant? She has a problem with people coming on private property. Lamont said if there is reason a house is unsafe, we have to show just cause and get a court order. If there is reason to be concerned for health and safety, then we can go to judge for a court order. Lamont commented we are looking at abandoned structures first. Huffman said several years ago when the City wanted to implement the IPMC and it gave a whole lot of power to the City. She understands there is a huge problem but there are going to be a lot of mad citizens. She would want a judge involved before an inspection is made.

Gloria doesn't have a problem cleaning up town, we need to sell our town, and agrees with that. She wants to get rid of abandoned buildings that are falling down. But the people who have homes, although it may not be what we think is a nice home, we need to have a backup plan how we can help them.

Gendusa said previous City Managers said they could not find the owners so that's why nothing was done. Gendusa asked if we can move forward with the hospital. Lenoir explained this ordinance will take care of that. Lamont went on to say the problem is the asbestos and fuel oil tank is an issue with the old hospital.

Perkins asked if the question is about notification or desire to inspect. The City should notify the owner and see if there is a way to help them. Huffman said it is not our right to tell somebody what they have to do in their home. Lamont told about a situation where a neighbor can't get insurance because of the condition of that home. Griffin knows out of town people who owe property taxes, let's go after them first. Then the locals will take note. There are people who are living in dire situations because that's all they have. Lamont explained we need to have mechanisms in place to handle these situations. Lamont explained ZBA would have the final say as to what to do with structure. Homeowner has 30 days to go to District Court to appeal.

Perkins believes this is a good starting point. Lamont said the intent is to start with vacant structures. Gendusa questioned Section 3.204, second page, No. 6, lack of adequate means of egress. What is this about improper space or floor area? Gendusa, how can we enforce that? Lamont stated we can remove that or make it "required at time of construction." Lamont explained that under our current zoning codes, you can't go out and build a "tiny home". Perkins wants Sec.3.224 B to change wording of Prima Facia since it is latin and we need to use plain english. Also

on 3.203 it says *prima facia* (add definition in English).

Gloria - Sec. 3.221 "in the opinion of the building inspector," she has a problem with "opinion," change to "determination." Lenoir summarized that staff will bring forward a plan of action for enforcement, outline options for help and support for the property owners, will give an annual report and make it a part of our comprehensive plan, which effects all structures, commercial and residential. Huffman asked if we can do commercial first. Huffman stated one of the sand plants are putting money into the mission. Lamont stated we need to work on a mixture of abatements. Huffman suggested work on commercial and uninhabited first. Staff projects July for Council consideration.

Council took a break at 10:51am and went back to open session at 11:04am

3. DISCUSS ANY CHANGES TO IN-FILL ORDINANCE

Kim Lenoir went over purpose for ordinance. Peter Lamont further expounded. Will have to have public hearings with P&Z and Council. It's an addition to existing Zoning Ordinance. This is for new construction or significant repairs, expansions. Repairs can be brought back to original material. Add-on can be built in same style of existing home. But would have to meet current codes. Griffin noted when you build now, you have to have a certain percent of masonry. But if you were building a wood structure, you wouldn't have to have that certain percent of masonry. Gendusa asked for clarification on what SUP (Specific Use Permit) means and what SF-5 and SF-10 (Single Family Residential with lot size 5,000sf or 10,000sf) means in item 11. Currently we don't have any but if a block is cleaned off, then they could bring forward a planned development (PD), there is no size limit. Members direct staff to proceed with developing this ordinance and bring forth in July. Council Member Perkins had to leave to attend a prior commitment.

4. DISCUSS ANY CHANGES TO CURFEW ORDINANCE

Police Chief Steve Thomas entered the meeting to discuss a minor curfew ordinance. Staff was directed to bring ordinance forward for consideration.

5. DISCUSSION OF PURPOSE FOR CIVIC CENTER, RESERVATION POLICIES AND FEES

Not discussed.

6. DISCUSS AND PLAN FUTURE WORK SESSION DATES AND TOPICS

Not discussed.

7. ANNOUNCEMENTS

Steve Thomas announced new branding of police department

8. EXECUTIVE SESSION

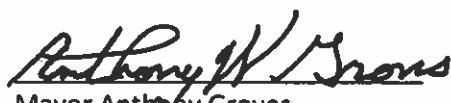
Council closed open session at 12:21p.m. Due to time constraints, did not go into Executive Session.

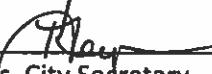
9. OPEN SESSION ACTION ON ANY EXECUTIVE SESSION

No action

10. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 12:21 p.m.


Mayor Anthony Groves

Attest: 
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday, June 21, 2016, at 6:00pm at the City of Brady Service Center located at 1405 N. Bridge Street, Brady, Texas with Mayor Anthony Groves presiding. Council Members present were Marilyn Gendusa, Shelly Perkins, Jane Huffman and James Griffin. City staff present were City Manager Kim Lenoir, City Secretary Tina Keys, Director of Public Works Steven Miller, Director of Community Services Peter Lamont, Director of Finance Lisa Remini, City Attorney Shannon Kackley, Police Chief Steve Thomas, and Animal Control Officer Katherine Mitchell. Others in attendance were Annita Ellison, Don Miller, Nancy Criado, Bill and Michelle Derrick, James Stewart and Ed Hernandez

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:00 p.m. Roll was then called for Council and a quorum was certified.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Gendusa gave the invocation, and the Pledge of Allegiance was recited.

3. APPROVAL OF AUDIT BOARD

Council Member Perkins moved to approve the audit board. Motion was seconded by Council Member Griffin. All Council Members voted "aye" and none "nay". Motion carried in a 4-0 vote.

4. APPROVAL OF MINUTES for June 7 and 14, 2016

Council Member Gendusa asked for a correction on page 4 of the June 7th minutes, under EDC, where appointment of Michelle Derrick...it should read Council Member Perkins recommended appointment and was seconded by Council Member Huffman. Also in same minutes, paragraph A, last 2 sentences, should be 4 to 1 vote rather than a 4 to 0 vote. Council Member Gendusa moved to approve the minutes as amended. Motion was seconded by Council Member Perkins. All Council Members voted "aye" and none "nay". Motion carried in a 4-0 vote.

5. PUBLIC COMMENTS

Ed Hernandez commented regarding Open Meetings. He stated concern about how meetings are conducted – meetings are more in line of a public forum. It's getting out of hand and there are violations of Open Meetings Act. Many times public comments concern items on the agenda. When there is a motion, the mayor asks for discussion, that's for council only, doesn't extend to audience. They don't get a vote and they don't get a voice. There is a lot of whispering between council members, passing notes, texting are not acceptable. There is something in the Act that says it is very strongly prohibited for special favours and considerations. It might be hard to prove but it is a serious violation of the code of ethics. Not sure what oath of office contains, but thinks it says something about upholding laws of the State of Texas. Wish we would consider that.

6. PRESENTATIONS AND PUBLIC HEARINGS

- A. Brady Police Department – New Mission, Goals and Core Values Statement. Chief Thomas presented to the Council.

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action regarding second and final reading of Ordinance 1197 of the City of Brady, Texas amending FY2015-2016 Budget (from \$31,448,877 to \$26,508,677 mainly due to carry-over of design work of the Clean Water and Drinking Water Capital Projects that will continue in FY2017). Lisa Remini presented to Council. Council Member Gendusa moved to approve the second and final reading of Ordinance 1197. The motion was seconded by Council Member Perkins. All Council Members voted "aye"

and none "nay". Motion to approve carried in a 4-0 vote.

B. Discussion, consideration, and possible action regarding filling vacancies for expired terms and alternates on the Board of Adjustments / Zoning Board of Adjustments (BOA/ZBA), Airport Advisory Board, Charter Review Commission, Planning & Zoning Commission (P&Z) and Hotel Occupancy Tax (HOT) Council Committee. Mayor appointed Teresa Leifeste to Charter Review. All were in favor, 4 to 0. Mayor appointed Chad Blankenship to Charter Review. All were in favor, 4 to 0. Mayor appointed Richard Jolliff to Airport Board. All were in favor, 4 to 0. Mayor Groves inquired of the Council, if Kelly Elliott agrees to serve on Charter Review Commission, he would like to appoint her. All were in favor, 4 to 0. Mayor appointed Patsy Cole to Charter Review. All were in favor 4 to 0. Kirk Roddie was appointed to Airport Board with all in favor 4 to 0. Marilyn Gendusa was appointed to the Hotel Occupancy Tax (HOT) Council Committee – with all in favor, 4 to 0. Mayor Groves appointed Rod Young to the Zoning Board of Adjustments. All were in favor 4 to 0. There was discussion regarding the need to fill two more vacancies on Airport Board. Council and staff discussed making possible change handbook to the board handbook to include residents residing in McCulloch County as possible board candidates.

C. Discussion, consideration and possible action regarding **first reading of Ordinance 1198** of the City of Brady, Texas establishing a Curfew for Minors (under 17 years of age, 11:00pm until 6:00am Sunday to Thursday and 12 midnight to 6:00am for Friday and Saturday). Chief Thomas presented to Council. Council Member Huffman asked for a clarification, that if an officer sees a vehicle at 1am and there is no probable cause, but the driver appears to be under 17, they can stop the vehicle. Chief responded "basically, yes" and went on to explain the goal is not to be intrusive. Council Member Huffman asked if there are laws that regulate 6 juveniles in a car at 1:30am in the morning and the Chief responded "no". Council Member Huffman inquired, "if it passes, do you have the authority to do that" and Chief Thomas confirmed. Mayor Groves asked if the ordinance is passed, and down the road we have a different Chief, he might want to pursue a different path. A citizen may file a citizen complaint and City Manager could address as necessary. City Attorney Shannon Kackley advised that under state law, the council will have to revisit the ordinance within three years. Council Member Perkins asked Chief Thomas if he has reviewed the suggested changes and if there were any changes that the Chief felt were not good. Chief Thomas answered no. Mayor Groves commented we can approve first reading then review and go back to first reading if there are changes. Council Member Perkins requested some editing changes to the Ordinance. Council Member Huffman thinks we should wait for first reading after document is corrected and not rush. Mayor asked for a motion. There was no motion. Staff is directed to prepare final draft for next agenda.

D. Discussion, consideration and possible action approving **Resolution 2016-032** authorizing a noise variance as outlined by the Municipal Code of Ordinances, Noise Nuisances, Section 8.501.2(c) for the Cox Family Reunion on July 9, from 10:00pm to 1:00am, July 10, 2016 at Brady Lake Pavilion. Peter Lamont presented to Council. Mayor Groves asked for a motion. Council Member Griffin moved to approve **Resolution 2016-032**. The motion was seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried in a 4-0 vote.

E. Discussion regarding Council Members Orientation Schedules and Process. Council Member Perkins advised, under public words, sanitation is misspelled. There were questions brought up about new hire paperwork. City Manager will review with Human Resources to go over required documents for new council members. Mayor recommended that the new council members set up times with City Manager by end of the week.

F. Discussion regarding upcoming topics and times for additional City Council Work Sessions. Council Member Perkins would like Animal Shelter be put to the top of the list. Council Member Gendusa asked what happens to the animals on July 1st when PAWS closes and City Manager Lenoir responded that it's up to them (PAWS).

Council Member Gendusa asked if PAWS should have to vacate but Lenoir responded that it's not our building. Mayor Groves proposes we do the first cut in the budget then address at that meeting putting on the agenda other dates and would like to go through the first budget meeting and the agenda item will be to schedule additional work sessions. At end of each budget meeting we can discuss. A time for first budget meeting was discussed. Council Member Huffman had down 1:00pm, whereas Council Member Gendusa thought it was at 5:00pm. Mayor Groves asked for a poll vote to hold the first budget work session at 1:00pm at the City of Brady Housing Authority on July 7th. Three voted in favor.

G. Discussion regarding City Council meeting procedures and processes. Mayor Groves asked for feedback, input from Council and Citizens on how meeting went. Council Member Huffman stated she doesn't think we can allow the audience to speak. Mayor Groves responded that as the mayor, he does have that authority to ask the audience. Attorney Kackley confirmed. Mayor Groves said the citizens have no right to speak on an agenda item, but we can allow them to do so and stated "the Mayor has that authority. The Open Meetings Act says you cannot address items not on the agenda because others do not know that item would be discussed. The Mayor has the leeway to allow the citizens to speak to the degree the mayor decides." Council Member Perkins went to her copy of the Government Code Chapter 551, Open Meetings.... And went on to read. Mayor Groves stated in the future when somebody lists on the sign up sheet, an item on the agenda, he will ask if they want to wait for that item but if they have anything else to say about something not on the agenda then it must be said during public comments. Attorney Kackley also pointed out in the charter, rules and procedures, council shall determine its own rules. Council can adopt its own procedure but it must be by ordinance. Staff was instructed pull ordinances and review. Mayor Groves asked for a vote from the audience by a show of "thumbs up" or "thumbs down". Most voted thumbs up.

- A. Monthly Financial Reports for May 2016
- B. Monthly Activity Reports – Senior Center Meals, Golf, BPD, Animal Control, Tourism Funding, Airport, Civic Center. Council Member Perkins asked Katherine about AC report - hit by vehicle picked up, does that mean animal is dead? Yes. If they are hit and still alive it, will fall under stray. If there are ever rabies checked, is that something you track? Yes, that would fall under bite report, and will fall under quarantine or euthanized.
- C. Upcoming Special Events:
 - Thursdays, 4pm to 6pm – Farmers Market – Downtown Square
 - June 25-26 - Two-person Golf Scramble
 - July 1 – Miss HOT Pageant at the Palace Movie Theater
 - July 2 – July Jubilee – Parade; Mud Volleyball; Dance at Richards Park (Swimming Pool Closed)
 - July 2 – Fireworks Show – Richards Park
- D. July 4 – City Offices Closed (Swimming Pool Open)
- E. July 4 and 5 Holiday Trash Schedule Changes
- F. July 5 – WWTP Design Report at City Council Meeting
- G. July 7, 12, 14 and 18 – FY17 Budget Work Sessions – time TBD
- H. July 14 – TXDOT 30% Design Review N. Bridge Street and Downtown Square, 5pm, Service Center

9. ANNOUNCEMENTS

Council Member Gendusa announced that this weekend is field day for HAM operators.

10. EXECUTIVE SESSION

Council closed open session at 7:51 p.m. and took a break.

Council reconvened into Executive Session at 8:09 p.m.

- A. Pursuant to Section 551.074 (Personnel Matters) City Council will meet to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee: evaluation of Board appointments.
- B. Pursuant to Section 551.071 (Consultation with Attorney). The City Council will seek and receive advice from the City Attorney on the following matters: To seek legal advice about (1) pending or contemplated litigation; or (2) a settlement offer; or (3) on a matter in which the duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, to wit: legal issues related to responses to public comments under the Texas Open Meetings Act.
- C. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange lease, or value of real properties of the City as the deliberation in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person – utility easements, animal shelter, and other proposed public facilities.
- D. Pursuant to Section 551.087 (Economic Development), the City Council will deliberate the offer of a financial or other incentive or to discuss or deliberate regarding commercial or financial information that the City Council has received from a prospective cement plant (US Cement), retail, and other development projects that the City Council seeks to have locate in or near the City and/or with which the City Council is conducting economic development negotiations.

Executive Session adjourned at 9:40 p.m.

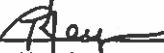
11. Open Session Action on any Executive Session

Mayor reconvened open session at 9:41 p.m. No action was taken.

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 9:43 p.m.


Mayor Anthony Groves

Attest: 
Tina Key, City Secretary

AMENDMENT FOR CONSULTING SERVICES

STATE OF TEXAS §
COUNTY OF McCULLOCH §
CITY OF BRADY, TX §

This is an Amendment by and between the City of Brady, Texas, (CITY), a home rule municipal corporation located at 201 E. Main Street, Brady, Texas 76825, and, Freese and Nichols, Inc. (FNI), a professional engineering firm located at 10431 Morado Circle, Ste. 300, Austin, TX 78759, from the original Agreement executed on February 19, 2015.

WHEREAS, CITY desires to obtain certain professional engineering services; and

WHEREAS, FNI is in the business of providing such services,

NOW, THEREFORE, the CITY and FNI mutually agrees as follows:

I. SCOPE OF SERVICES & OBLIGATIONS

FNI, HEREINAFTER referred to as ENGINEER and shall serve as an ENGINEER of the CITY. The description of services contained herein is intended to be general in nature. It is neither exhaustive, nor a limitation on ENGINEER's services so long as its services actually delivered are consistent with the provisions of this Amendment.

ENGINEER agrees to provide professional services to the CITY generally described as Phase II - Preliminary Engineering Design Services, TPDES Permitting and Environmental Assessment for Replacement of WWTP or as more fully described in and made a part of this Amendment in Attachment A the parts of which are listed as follows:

1. ARTICLE I - BASIC SERVICES
2. ARTICLE II - SPECIAL SERVICES
3. ARTICLE III - ADDITIONAL SERVICES
4. ARTICLE IV - TIME OF COMPLETION
5. ARTICLE V - RESPONSIBILITIES OF CITY
6. ARTICLE VI - DESIGNATED REPRESENTATIVES

An Authorization to Proceed shall be issued by the CITY prior to any work commencing or initiation of services by the ENGINEER.

ENGINEER shall procure and maintain at all times, and at its own expense, for the program or services covered by this Amendment, any and all necessary liability insurance with companies authorized to do business in the State of Texas. ENGINEER must deliver to CITY proof of insurance (Attachment B as attached) evidencing that coverage's are in full force and effect.

ENGINEER shall defend, indemnify and hold harmless the CITY, its officials and employees, against all suits or claims that may be based on any injury to persons or property that may occur, or may be alleged to occur, in the course of the performance of this Amendment by ENGINEER, its agents or employees, provided, that the damage, claims, loss, demand, or suit is caused in whole or in part by any negligent act or omission of ENGINEER, or any sub-consultant of ENGINEER, or anyone directly or indirectly employed by ENGINEER.

All professional services provided under this Amendment must be completed as described in each work order; the dates for performance can only be extended with a written consent letter signed by both CITY and ENGINEER.

ENGINEER shall provide services which reflect normal professional and industry standards, procedures and performances. ENGINEER shall exercise due diligence and proper care and perform services subject to this Amendment or Contract in a good and professional workmanlike manner. Approval or acceptance of work delivered or rendered by ENGINEER to CITY shall not constitute, or be deemed, a release of the responsibility and liability of the ENGINEER, its employees, agents, or associates from the exercise of skill and diligence, nor shall CITY's approval be deemed to be an assumption of responsibility by CITY or any defect or error by ENGINEER.

II. COMPENSATION

CITY shall compensate ENGINEER for its services in the amount and manner as described by the individual work orders. A Lump Sum Fee Summary as follows:

Basic Services -

| | |
|---|---------------------|
| • TPDES Permitting and Environmental Assessment | \$136,590.00 |
| • Preliminary Engineering Design (30%) | \$584,779.00 |
| Subtotal Basic Services | \$721,369.00 |

Special Services -

| | |
|------------------------------|---------------------|
| • Survey Services | \$10,409.00 |
| • Geotechnical Investigation | \$26,607.00 |
| Subtotal Special Services | \$37,016.00 |
| TOTAL FEE BASIS | \$758,385.00 |

Unless otherwise stated or agreed to in writing by both parties, ENGINEER shall invoice CITY at the end of each month for the services performed under the scope of services in each work order during that month.

Additional services shall be negotiated through contract amendment(s) that are authorized by the CITY.

ENGINEER shall invoice the CITY monthly and will reflect the percentage of the project completed at the date of the invoice. The CITY shall process payments of amounts due for Basic Engineering Services,

Special Services, Additional Services and Reimbursable Expenses, if any, under this Amendment within 60-days after ENGINEER's presentation of payment invoice. ENGINEER understands payment administration is coordinated with the Texas Water Development Board and release of reimbursements to CITY is through OUTLAY EXPENDITURE REPORTS.

Reimbursable expenses shall mean the ENGINEER's cost of reproduction of reports, drawings and similar project related items. Reimbursable expenses are controlled or otherwise limited as shown in the Reimbursable Expense Addendum as attached and made a part of this Amendment.

III. SPECIAL CONDITIONS

No officer, agent or employee of the CITY is employed by ENGINEER or has a financial interest direct or indirect in this Amendment or the compensation to be paid under this Amendment.

ENGINEER shall promptly correct any defective designs or specification furnished by ENGINEER at no cost to CITY. CITY's approval, acceptance, use of, or payment for all or any part of the Engineer's services hereunder shall in no way alter the Engineer's obligations or rights hereunder.

All documents, including but not limited to original drawings, estimates, specifications, field notes and data that are created for or an outcome of work generated or produced for the CITY shall become the property of CITY. This includes certain intellectual property, such as datasets/results generated from computer programs or software, documentation, specifications, inventions, improvements, discoveries and other copyrightable or patentable works ("Works") developed by ENGINEER, solely or with others, resulting from performance of services under this Amendment or Contract and which shall become the property of the CITY.

ENGINEER does hereby irrevocably grant and assign to CITY and its licensees all rights in and to the Works during the performance period of this Amendment or Contract and thereafter, including by not limited to the right to reproduce, distribute, prepare derivative Works, display and perform action on the Works.

ENGINEER understands that performing work for the CITY may involve access to and creation of confidential information or information involving the personal privacy and personal identity of customers or citizens, trade secret or other confidential information ("proprietary information") of the CITY and its affiliates or customers. ENGINEER agrees not to disclose or use any proprietary information without the prior written consent of the CITY.

This Amendment contains the entire Amendment of the Parties and there are no other promises or conditions in any other Amendment whether oral or written. This Amendment may be modified or amended if the addendum is made in writing and is executed by both parties.

This Amendment shall be governed by the laws of the State of Texas. Venue shall be in McCulloch County, Texas

IV. TERM

ENGINEER shall complete all Basic Services and Special Services on or before the timeline established in Attachment A.

Either party may terminate the Amendment or Contract at any time upon thirty (30) days written notice. Upon ENGINEER's receipt of such Notice by the CITY, ENGINEER shall cease work immediately.

If this Amendment is terminated by the CITY, the ENGINEER will be paid for services performed to the date of termination. If this Amendment is terminated by the ENGINEER, the ENGINEER will be paid for services performed on the completed portions of the project which are usable to the CITY.

If, through any cause, ENGINEER fails to fulfill its obligations under this Amendment, or if the ENGINEER violates any of the conditions or requirements of this Amendment, CITY has the right to terminate this Amendment or Contract by giving the ENGINEER five (5) days written notice the ENGINEER will be compensated for the services satisfactorily performed before the termination date.

CITY OF BRADY, TEXAS

Kim Lenoir, City Manager

Date

ATTEST:

Tina Keys, City Secretary

FREESE AND NICHOLS, INC.

Trooper Smith, P.E., ENV SP - Vice President

Date

SCOPE OF SERVICES AND RESPONSIBILITIES OF CITY

ARTICLE I

BASIC SERVICES: FNI shall render the following professional services in connection with the development of the Project. Preliminary design services for the new WWTP will be administered within this contract, including environmental assessment, TPDES permitting, drainage analysis, survey, and preliminary geotechnical investigation.

The final (100%) design, bid phase, and construction phase services for the remainder of the WWTP project including the solids handling solution and final geotechnical work will be administered through a separate contract(s).

A. **PROJECT MANAGEMENT AND ADMINISTRATIVE DUTIES:** Upon execution of this AMENDMENT and upon receiving a Notice to Proceed from the CITY, FNI will provide the project management services for each phase as follows:

FNI shall coordinate internally and also with the CITY for successful project initiation, planning, execution, monitoring/controlling and closeout. FNI shall manage scope, time, cost, quality, staff resources, communications, risk and procurements as necessary. This includes but is not limited to:

1. **Consult with the CITY** throughout the project to ensure the scope of services is met and verify the CITY'S requirements for the project are satisfactory.
2. **Monthly Invoicing:** FNI will prepare and submit monthly invoices to the CITY and TWDB following TWDB Outlay procedures.
3. **Monthly Status Reports:** FNI will prepare and submit monthly status reports to the CITY with FNI's monthly invoice. Monthly status reports will comprise a one to two-page summary of the progress to date on the project, work completed during the prior month, work anticipated to be completed during the upcoming month, and discussion of any scope, schedule, or budget issues that may need to be resolved.
4. **Quality Assurance / Quality Control:** FNI will develop and implement a QA/QC plan for the work.
5. **Project Comment Response Forms:** For each deliverable, FNI will provide a comment response form addressing each of the CITY's comments.
6. **Meetings with the CITY:** FNI will schedule the following meetings with the CITY and prepare agendas and meeting minutes:
 - a. **Project Kickoff Meeting:** Will include kickoff meeting with design team and CITY and a site visit with design team, environmental team, geotechnical team and surveyor in order to clarify the required services and communicate the project scope with all related departments at the CITY.
 - b. **Technology Transfer Workshop:** FNI will schedule a workshop to facilitate the transfer of skills and knowledge to the CITY. The workshop will be conducted with the goal to make and document decisions for plant processes and other design needs of the project.
 - c. **Review Meetings:** Up to four (4) review meetings with CITY staff after draft deliverables and prior to CITY Council Presentations. This includes reviews of the technical memoranda and preliminary design documents.

- d. **Conference Calls:** Up to five (5) conference call meetings with CITY staff throughout the preliminary design phase of the project. A conference call meeting is defined as a scheduled event with dedicated staff members engaged.
- e. **CITY Council Presentations:** Presentations will be scheduled for major milestones, as well as for progress reports. Drafts of proposed presentations shall be coordinated with CITY for review and comment prior to scheduling any particular council agenda. This includes up to four (4) presentations during the preliminary design phase as described below.
 - i. Presentation update after Technology Transfer Workshop
 - ii. Presentation update after the submittal of the Draft Preliminary Design Documents
 - iii. Two (2) additional CITY Council project updates
- f. **Agency Meetings:** Up to three (3) with agencies such as the Texas Water Development Board (TWDB) and Texas Commission on Environmental Quality (TCEQ).

7. **TWDB Coordination:** FNI will work with TWDB to ensure appropriate forms are provided and procedures are followed to secure funding.

B. PRELIMINARY DESIGN PHASE

1. ENVIRONMENTAL SERVICES

- a. **TPDES PERMITTING**
 - i. **Compile Existing Information and Meet with CITY.** FNI will obtain the current TPDES permit application forms from the Texas Commission on Environmental Quality (TCEQ). Where appropriate, we will use information, including pertinent maps and drawings, from the CITY's previous TPDES permit application to address questions in the current application. If necessary, we will meet with the CITY to review data, identify other information needed for the application, and take photographs and make general observations at the facility.
 - ii. **Prepare Permit Application and Transmittal Letter.** FNI will prepare a draft permit application and provide two (2) copies for the CITY's review. The application will include maps, engineering drawings, schematic diagrams, and other required figures. We will finalize the application based on the CITY's comments and deliver a final original application and three (3) copies to the TCEQ on behalf of the CITY. We will also provide two (2) copies of the final application for the CITY's files.
 - iii. **Application Delivery and Meeting with TCEQ.** FNI may meet with TCEQ staff upon delivery of the final application to discuss the requested replacement facilities to the CITY's existing WWTP.
 - iv. **Follow-Up with TCEQ.** We have estimated that it may take up to 40 hours to address TCEQ comments after submitting the application, which includes a possible additional meeting with the TCEQ to discuss the proposed permit amendments.
- b. **ENVIRONMENTAL ASSESSMENT**
 - i. **Conduct site visit.** FNI will conduct a site visit to make observations in the project area in order to describe the existing conditions (environment) and assess project impacts. The presence and locations of waters of the U. S., including wetlands, and of potential

threatened/endangered species habitat will be identified. This site visit will be performed in conjunction with the Phase I Environmental Site Assessment.

- ii. Conduct Phase I Environmental Site Assessment. FNI will conduct an initial site assessment conforming to the current ASTM Standard E1527-13 for Environmental Site Assessments to assess the potential for hazardous materials contamination on any property being acquired or constructed as part of the project to meet guidelines in the TWDB ED-001A document for EA format guidelines. This site visit will be performed in conjunction with the initial assessment site visit.
- iii. Agency coordination. FNI will submit coordination/notification letters and the draft EA to appropriate agencies, as required, including U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Texas Commission on Environmental Quality, Texas Water Development Board, Texas Parks and Wildlife Department, Federal Emergency Management Agency, local managers of the Federal Flood Insurance Program, the local council of government, and other regional agencies or local governments that may have jurisdiction. Comments received from the agencies will be incorporated into the final EA.
- iv. Preparation of Draft and Final EA. FNI will prepare a draft EA following appropriate TWDB guidelines. The draft EA will be submitted to the CITY for review prior to submitting it to TWDB and other agencies for review. FNI will incorporate the CITY's comments into the EA and submit the revised draft EA to the TWDB and resource agencies for review and comment. After TWDB and agency review, the EA will be finalized by incorporating any required changes or comments received into the final document.
- v. Archeological/cultural resource investigations. FNI will perform a cultural resources archival review for the new WWTP site and submit a consultation letter to the Texas Historical Commission (THC).

2. SURVEY: Reference Article II – Special Services.
3. GEOTECHNICAL INVESTIGATION: Reference Article II – Special Services.
4. DRAINAGE ANALYSIS: FNI determined during the Engineering Feasibility Report (EFR) stage that the available drainage analysis was over 30-years old and could potentially have a different floodplain delineation and/or higher water surface elevation. In order to comply with FEMA standards, FNI will modernize the drainage analysis from HEC-2 into HEC-RAS. We do not anticipate a need to update the hydrologic flow conditions (HEC1 model) for the project; however, FNI can perform that as an additional service if needed. FNI efforts will include the following:
 - a. Data Collection: FNI will work with the project surveyor to identify and locate topographical cross-sections upstream and downstream of the project site. One site visit will be coordinated to capture photos and site conditions of the project area.
 - b. Hydrologic Model Review: FNI will review the effective hydrologic model parameters and will make minor adjustments if needed to develop flow rates for the hydraulic model. If major revisions to the hydrologic model are required FNI can provide those services as described in Article III – Additional Services.
 - c. Pre-Project Hydraulic Analyses: Update the corrected effective model cross sections using topographic data obtained in Item (a) above to adequately describe the study reach.

- d. Project Team Coordination: Attend one meeting with the City to discuss the impacts of the updated pre-project floodplain on the proposed development.
- e. Proposed Project Conditions Hydraulic Analyses: Modify the pre-project condition cross sections to develop a project conditions hydraulic model for each proposed project alternative described in the EFR.
- f. Evaluate impacts to upstream and downstream water surface elevations, downstream discharges and velocity for proposed condition. Prepare a tabular comparison of the project conditions results to the pre-project condition flood levels and velocities to determine if there are any adverse impacts due to project conditions.
- g. Prepare a technical memorandum summarizing results, anticipating permit requirements and proposed recommendations. Update the EFR drainage summary tables and update the drainage Engineer's preliminary opinion of probable construction cost.
- h. Perform internal quality assurance/quality checks on drainage analysis, TM and other drainage exhibits.
- i. Attend one meeting with the City to discuss the impacts drainage analysis on the proposed development.

5. PRELIMINARY DESIGN (30%): FNI will submit 30% preliminary design plans, a 30% specification list, a 30% Preliminary Opinion of Probable Construction Costs (POPCC), and a concise memorandum summarizing the process decisions from the Technology Transfer workshop as well as summarizing other preliminary design items.

- a. Treatment Process
 - i. Influent Lift Station Analysis and Influent Sewer Collection Improvements
 - ii. Preliminary Treatment
 - iii. Primary Treatment
 - iv. Secondary Treatment Process
 - v. Filtration
 - vi. Disinfection System
 - vii. Post-Secondary Aeration System/Outfall
 - viii. Flow Equalization
 - ix. Additional Structures such as valve vaults, splitter boxes, etc.
 - x. Preliminary hydraulic profile
 - xi. Solids Handling

- b. Drainage
 - i. 30% Drainage Plans: Based on the findings of the updated drainage analysis, and based on the selected alternative, FNI will
 - 1. Prepare a preliminary grading plan showing spot elevations and contours of the selected alternative (fill or levee) and any compensatory storage/excavation needed to offset the rise of water surface due to the project. Grading plan will include minor swales and ditches to properly convey runoff to Brady Creek.
 - 2. Work with the project team to ensure WWTP discharges will adequately drain to Brady Creek without tail water impacting WWTP hydraulics.
 - 3. Prepare typical cross-sections details of grading, ditches and special drainage structures.
 - 4. Draft a technical specification list for the drainage items, including a list of potential special specifications.
 - c. Electrical including verification of backup power plan and investigation of City's existing emergency generator.
 - d. Instrumentation and Control
 - e. Buildings (laboratory/maintenance and blower/electrical)
 - f. Permitting: analysis of all required permitting for new WWTP including: discharge permit (see Environmental Services), Site Development Permit, Driveway Permit, Utility Installation Permit, TDLR, Stormwater General Permit, McCulloch County CLOMR, USACE Nationwide Permits, and Texas Antiquities Permits.
 - g. 30% Design POPCC
 - h. Construction Sequencing
 - i. Alternative Project Delivery Options
 - j. Project Schedule
- 6. DELIVERABLES: FNI will provide copies to the CITY as required. For each draft and final submittal, furnish electronic and hard copies as shown for the following deliverables of the Preliminary Design Phase:
 - a. TPDES Permit Application
 - i. Two (2) hard copies
 - ii. One (1) electronic copy
 - b. Environmental Assessment (EA)
 - i. Two (2) hard copies
 - ii. One (1) electronic copy

- c. Technology Transfer Workshop Binder
 - i. Two (2) hard copies
 - ii. One (1) electronic copy
 - iii. Workshop documentation will be delivered through the memorandum as stated in Section 5: Preliminary Design (30%).
- d. Preliminary Design (30%)
 - i. Plans – Four (4) hard copies and one (1) electronic copy
 - ii. Specification List – Four (4) hard copies and one (1) electronic copy
 - iii. 30% Design POPCC
 - iv. Concise memorandum summarizing the process decisions from the Technology Transfer workshop as well as summarizing other preliminary design items.

ARTICLE II

SPECIAL SERVICES: FNI shall render the following special services in connection with the development of the Project.

A. SURVEY:

- 1. FNI will solicit the services of a qualified surveyor to perform the field and topographic surveying required for the preparation of preliminary WWTP design drawings and drainage analysis.

B. GEOTECHNICAL INVESTIGATION – PRELIMINARY PHASE SERVICES:

- 1. FNI will select a qualified geotechnical subconsultant to conduct geotechnical investigations of the subsurface in two phases. The investigation will consist of field exploration, laboratory testing, and engineering analysis pertaining to the site development analysis and preliminary design. The first phase of the geotechnical investigation is included as part of this contract and described below. The final phase geotechnical services will be completed as part of final design and will be included in a separate contract. FNI's geotechnical subconsultant will perform subparts a. through c., and FNI's geotechnical engineers will perform subpart d.

a. Field Exploration:

- i. Conduct a site visit to assess site access and mark exploratory borings.
- ii. Notify Texas 811, the City of Brady, and appropriate local personnel to locate existing underground utilities.
- iii. Drill four (4) borings as part of the first phase investigation. The borings will be drilled to depths ranging from 30 to 50 feet. Two (2) of the borings will be located within the limits of the existing fill on the southern half, and the remaining borings will be on the northern half. The borings necessary to supplement the first phase borings for final design work will be determined based on the results of the preliminary four (4) borings and preliminary design decisions and will be included in a separate contract.

- iv. Provide an Engineer or Geologist to direct the drilling, log the borings, record field testing, and handle and transport the samples.
- v. Collect subsurface samples intermittently using tubes and split-spoon samplers. Rock and rock-like materials will be sampled using a core barrel and/or tested in-situ using the TxDOT Cone Penetration Test.
- vi. Record groundwater observations within the borings at the time of drilling and at the completion of drilling and sampling.
- vii. Backfill borings with soil and rock cuttings after completion of drilling, sampling, and groundwater observations.

b. Laboratory Testing:

- i. First Phase: Limited testing shall be performed on the Phase 1 samples to determine soil classification and pertinent engineering properties of the subsurface materials. Selection of samples to be tested will be at the discretion of the Engineer. Additional testing will be performed in the second phase to determine soil classification and pertinent engineering properties of the subsurface materials. First phase tests are expected to include:
 1. Material classification (Atterberg Limits, percent passing the no. 200 sieve, and/or particle size gradation)
 2. Moisture content and unit dry weight
 3. Unconfined compressive strength

c. Summary Data Reports

- i. Provide a summary of the field exploration and laboratory testing.
- ii. Provide a generalized summary of subsurface conditions and the encountered geological formation.
- iii. Prepare a Preliminary Geotechnical Investigation Data Report summarizing the first phase investigation and findings.

d. Engineering Analysis and Recommendations Reports

- i. Analyze the data obtained from the field exploration and laboratory testing as it relates to site development/feasibility and preliminary design.
- ii. Prepare a technical memorandum summarizing our interpretation of the first phase data report, and provide considerations for use during the preliminary design effort
- iii. Provide geotechnical support to the design team during the various phases of design.

2. DELIVERABLES: FNI will prove copies to the CITY as required. For each draft and final submittal, furnish electronic and hard copies as shown for the following deliverables of the Preliminary Design Phase:

- a. Geotechnical Report TM

- i. Two (2) hard copies
- ii. One (1) electronic copy

ARTICLE III

ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by CITY, which are not included in the above described basic services and special services, are described as follows:

ENVIRONMENTAL

The environmental scope of services for this project is based on the assumption that the TPDES application will be processed by the TCEQ as an uncontested, routine TPDES permit application that would not require other extraordinary effort. If the permit becomes contested, additional effort would be necessary. Freese and Nichols, Inc. can provide such additional services, if necessary, upon the CITY's written request and authorization.

Other additional services to be performed by FNI, if authorized by the CITY, which are not included in the basic services are described as follows:

- A. Development of a drainage area map to describe stormwater runoff patterns through the study limits. Use USDA soil data to determine hydrologic soil groups for each watershed.
 - a. Determine existing land use conditions in the watershed based on field visits, information obtained from the City and available maps.
 - b. Determine hydrologic parameters including curve numbers, time of concentration, hydraulic lengths, and slopes for existing land use conditions.
 - c. Develop a hydrologic model using USACE HEC-HMS to describe the expected stormwater runoff through the study limits for the 100-year storm event based on existing land use conditions.
 - d. For scoping purposes, it is assumed that runoff conditions along the reach will remain the same between pre-project and project conditions; therefore changes to the flow regime based on project conditions is not included and can be developed as an additional service.
 - e. Include Hydrologic Analysis within TM. Effort includes preparing exhibits QA/QC.
- B. Site clearing activities needed to provide site access to complete survey or geotechnical investigation services.
- C. TCEQ permitting follow-up exceeding the budgeted 40-hour amount in order to secure a final TPDES permit.
- D. Design updates needed to address TCEQ comments if received after completion of design plans and specifications due to accelerated schedule.
- E. The preparation and solicitation for CMAR services and additional CMAR assistance to the City.
- F. Presence/absence surveys for federally listed threatened/endangered species.
- G. Preparation of an individual 404 permit application, Letter of Permission, preconstruction notification (PCN), or jurisdictional determination report for the U. S. Army Corps of Engineers.

- H. Application for General Land Office easements.
- I. Application for Texas Parks & Wildlife Department Sand and Gravel Permit.
- J. Additional field investigations or analysis required to respond to public or regulatory agency comments, including additional data requests, schematics or drawings of project features.
- K. Preparation of mitigation plans for compensating for environmental impacts.
- L. Preparation of Storm Water Pollution Prevention Plans.
- M. Consultation with the U. S. Fish and Wildlife Service under Section 7 of the Endangered Species act.
- N. Expert representation at legal proceedings or at contested hearings.
- O. Mitigation monitoring if required by permit conditions.
- P. Monitoring compliance with permit conditions.
- Q. Participation in public meetings or hearings for the TPDES application or EA.
- R. Subcontract with a consultant to conduct a cultural resources survey.
- S. Subsurface utility exploration (SUE).
- T. Field layouts or the furnishing of construction line and grade surveys.
- U. GIS mapping services or assistance with these services.
- V. Making property, boundary and right-of-way surveys, preparation of easement and deed descriptions, including title search and examination of deed records.
- W. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by CITY.
- X. Providing renderings, model, and mock-ups requested by the CITY.
- Y. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by CITY or 2) due to other causes not solely within the control of FNI.
- Z. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by OWNER.
- AA. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- BB. Providing shop, mill, field or laboratory inspection of materials and equipment. Observe factory tests of equipment at any site remote to the project or observing tests required as a result of equipment failing the initial test.
- CC. Conducting pilot plant studies or tests.

- DD. Preparing data and reports for assistance to CITY in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- EE. Assisting OWNER in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this AMENDMENT. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this AMENDMENT.
- FF. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues.
- GG. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this AMENDMENT.
- HH. Visits to the site in excess of the number of trips included in Article I for periodic site visits, coordination meetings, or contract completion activities.
- II. Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the CITY.
- JJ. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form.
- KK. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services attached to this professional services AMENDMENT.
- LL. Providing additional Laboratory Services, studies and reports besides what is described in Article II.
- MM. Providing additional Surveying Services, studies and reports besides what is described in Article II.
- NN. Providing additional GIS Digitizing Services, studies and reports besides what is described in Article II.
- OO. Providing additional Construction Testing Services, studies and reports besides what is described in Article II.
- PP. Wastewater Modeling of the CITY Sewer System.

ARTICLE IV

TIME OF COMPLETION: FNI is authorized to commence work on the Project upon execution of this AMENDMENT and agrees to complete the services in accordance with the following schedule:

- TPDES Permitting – submittal of permit application to TCEQ 6 months after Notice to Proceed
- Environmental Assessment – 1 year after Notice to Proceed
- 30% Preliminary Design – 8 months after Notice to Proceed as described in the table below.

| Activity # | Activity (in chronological order – beginning after NTP) | Completion Time |
|--|--|--|
| 1 | Technology Transfer Workshop | 2 months after NTP |
| 2 | Process and Hydraulic Calculations/Decisions | 2 months after Activity #2 |
| 3 | Drawings, Specifications, and POPCC | 2 months after Activity #3 |
| 4 | Internal QC | 2 weeks after Activity #4 |
| 5 | Incorporation of Internal QC comments | 2 weeks after Activity #5 |
| 6 | City Review | 2 weeks after Activity #6 |
| 7 | Incorporate City comments | 2 weeks after receipt of City comments |
| TOTAL Preliminary 30% Design Time | | 8 months |

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in CITY or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this AMENDMENT and in Attachment B.

ARTICLE V

RESPONSIBILITIES OF CITY: CITY shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Designate in writing a person to act as CITY's representative with respect to the services to be rendered under this AMENDMENT. Such person shall have contract authority to transmit instructions, receive information, interpret and define CITY's policies and decisions with respect to FNI's services for the Project.
- B. Provide all criteria and full information as to CITY's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which CITY will require to be included in the drawings and specifications.
- C. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project. Information needed for the TPDES permit application includes, but is not necessarily limited to, the following items: tables of effluent analyses to be prepared by the CITY's laboratory for all required parameters and copies of signed laboratory reports for the required analyses.
- D. The CITY shall provide the application fee and submit the final application, copies, and the fee to the TCEQ. The CITY shall also provide for advertisement and notification of the permit amendment/renewal application, if required by the TCEQ.

- E. The CITY shall prepare public notices for TPDES applications, EAs, and public meetings or hearings, as required, and submit for publication in the appropriate newspapers. The CITY shall make available to FNI affidavits from publishers of such notices as needed to document publication.
- F. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this AMENDMENT.
- G. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as CITY deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.
- H. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- I. CITY shall make or arrange to have made all subsurface investigations, including but not limited to borings, test pits, soil resistivity surveys, and other subsurface explorations. CITY shall also make or arrange to have made the interpretations of data and reports resulting from such investigations. All costs associated with such investigations shall be paid by CITY.
- J. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as CITY may require or FNI may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as CITY may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as CITY may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.
- K. CITY shall determine, prior to receipt of construction bid, if FNI is to furnish Resident Project Representative service so the Bidders can be informed.
- L. If CITY designates a person to serve in the capacity of Resident Project Representative who is not FNI or FNI's agent or employee, the duties, responsibilities and limitations of authority of such Resident Project Representative(s) will be set forth in an Attachment attached to and made a part of this AMENDMENT before the Construction Phase of the Project begins. Said attachment shall also set forth appropriate modifications of the Construction Phase services as defined in Attachment A, Article I, together with such adjustment of compensation as appropriate.
- M. Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completion inspections and final payment inspections.
- N. Give prompt written notice to FNI whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services, or any defect or nonconformance of the work of any Contractor.
- O. Furnish, or direct FNI to provide, Additional Services as stipulated in Attachment A, Article III of this AMENDMENT or other services as required.
- P. Bear all costs incident to compliance with the requirements of this Article V.

ARTICLE VI

DESIGNATED REPRESENTATIVES: FNI and CITY designate the following representatives:

CITY's Designated Representative –

Steven Miller
201 East Main
P.O. Box 351
Brady, Texas 76825
Phone: 325/597-2152
Fax: 325/597-2068
E-mail: smiller@bradytx.us

FNI's Designated Representative –

Trooper Smith
10431 Morado Circle
Ste. 300, Austin, TX 78759
Phone: 512/617-3116
Fax: 512/617-3101
E-mail: Trooper.Smith@freese.com

FNI's Accounting Representative –

Billy Metzger
10431 Morado Circle
Ste. 300, Austin, TX 78759
Phone: 512/617-3177
Fax: 512/617-3101
E-mail: Billy.Metzger@freese.com

ATTACHMENT B

CERTIFICATE OF INSURANCE REQUIREMENTS
CITY OF BRADY, TEXAS

Without limiting any of the other obligations or liabilities of the contractor, the ENGINEER shall provide MINIMUM insurance coverage as listed below, prior to the execution of the contract and maintain coverage, without interruption provided by an insurer of a Best Rating of B+ or better, until the work is completed and accepted by the CITY. A certification of insurance will be placed on file with the Purchasing Agent of the City of BRADY, prior to the execution of the Amendment or contract.

TYPE OF COVERAGE MINIMUM LIMITS

WORKER'S COMPENSATION - Coverage A Statutory

Worker's Compensation Insurance shall include a Waiver of Subrogation in favor of the City of BRADY

EMPLOYERS LIABILITY - Coverage B

| | | |
|-----------------------------|---------------|------------|
| Bodily Injury by Accident - | Each Accident | \$ 100,000 |
| Bodily Injury by Disease - | Policy Limit | \$ 500,000 |
| Bodily Injury by Disease - | Each Employee | \$ 100,000 |

COMMERCIAL GENERAL LIABILITY:

| | |
|---|------------|
| Coverage A - Each Claim | \$ 500,000 |
| Coverage B - Personal & Advertising Injury | \$ 500,000 |
| General Aggregate Other Than Products/ Completed Operations | \$ 500,000 |
| Products/Completed Operations Aggregate | \$ 500,000 |

PROFESSIONAL LIABILITY INSURANCE:

| | |
|-------------------|-------------|
| Each Claim | \$ 750,000 |
| General Aggregate | \$1,000,000 |

AUTOMOBILE LIABILITY:

| | | |
|-----------------------------|-------------|------------|
| Bodily Injury Liability - | Each Person | \$ 250,000 |
| Bodily Injury Liability - | Each Claim | \$ 500,000 |
| Property Damage Liability - | Each Claim | \$ 100,000 |

NOTES (as applicable):

- 1) Coverage must include all owned, hired, and non-owned vehicles.
- 2) Coverage must include the City of BRADY as an Additional Insured for all work performed for or on behalf of the City with the exception of workers compensation and professional liability insurance.
- 3) Contractual liability coverage cannot be excluded; and ENGINEER will assume all liability for independent subcontractors.
- 4) Vendor may satisfy the minimum limits required by the Commercial General Liability or Business Automobile Liability insurance with an umbrella or excess liability policy.
- 5) Vendor's insurance shall be deemed primary with respect to any insurance or self-insurance program carried by the CITY.

In the event of any material change, non-renewal, or cancellation of any policy, ENGINEER's insurance company will give thirty (30) days actual prior written notice to the Contracting Department of the City of BRADY for such changes or cancellation.

REIMBURSIBLE EXPENSES ADDENDUM TO AMENDMENT
FOR ENGINEERING SERVICES -

The Amendment to which this Addendum is attached obligates the City of Brady ("CITY") to pay your expenses associated with delivery of services and work product.

This Addendum amends the Amendment to state the maximum amounts, which CITY will reimburse you for the types of expenses listed. CITY provides quality services on a frugal public budget and we expect the same good stewardship of public funds by ENGINEERs or professionals with whom CITY contracts.

These expense limitations also apply to subconsultants, subcontractors, experts and other third parties whom you may hire. You and others are free to incur any level of cost or luxury desired, but City's obligation to reimburse expenses is capped at the lesser of either actual cost or the maximums stated for each category below. Itemized receipts or accounting are a prerequisite to City's obligation to pay the expenses listed in this Addendum:

Hotel. \$100.00 per night inclusive of taxes. City will not pay for room service, Internet, movies, massages, valet parking, telephone calls (except to City personnel on job-related matters), or other hotel services. (In cities over 200,000 population, the rate = \$125.00/night).

Airfare. City pays only the lowest available fare for economy e-ticket as shown on the airline's website.

Rental car. City will pay the rental, taxes and self-serve fuel for a compact or mid-size car; no fuel charges, waivers, or insurance fees. A larger vehicle may be authorized for special needs or business necessity.

Meals. Actual costs, up to a maximum of \$38 per day per person; no alcohol. Receipts are required.

Amenities. You are solely responsible for the cost of snacks, drinks, alcohol, etc. that are not necessary for conducting City business.

Business services. When in Brady – you shall use photocopiers, printers, facsimiles, and similar services at City Hall. When in other locations – CITY will pay you the actual cost of such services as evidenced by your receipts.

Surcharges and/or Overhead. CITY does not pay any percentage defined as "administrative" cost or other expenses.

Exceptions. You may request an exception by CITY to any of the above limits due to special needs of the case or reasonable accommodation for a disability.