



**CITY OF BRADY COUNCIL AGENDA  
REGULAR CITY COUNCIL MEETING  
DECEMBER 1, 2015 AT 6:00 PM**

NOTICE is hereby given of a meeting of the City Council of City of Brady, McCulloch County, State of Texas, to be held at 6:00pm on December 1, 2015, at the City of Brady Service Center, located at 1405 N. Bridge Street, Brady, Texas, for the purpose of considering the following items. The City Council of the City of Brady, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

Tony Groves  
Mayor

Latricia Doyal  
Mayor Pro Tem

Kathy Gloria  
Council Member

Shelly Perkins  
Council Member

Marilyn Gendusa  
Council Member

Jack Turk  
Council Member

Kim Lenoir  
City Manager

Shannon Kackley  
City Attorney

Tina Keys  
City Secretary

Platinum  
Level



Texas Comptroller  
Leadership Circle

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

**2. INVOCATION & PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AUDIT BOARD**

**4. APPROVAL OF MINUTES – November 17, 2015**

**5. PUBLIC COMMENTS**

Public comments are reserved for items NOT listed on the agenda. Please address public comments regarding items ON the agenda under "Individual Concerns" during public comments and discussion of those items. To speak, please fill out notecard and give to City Secretary.

**6. PRESENTATIONS AND PUBLIC HEARINGS**

- A. New Staff Introductions – Joe Schniers, Police Officer and Officer Roxie
- B. City Limit Boundary Presentation

**7. INDIVIDUAL CONCERNS**

- A. Discussion, consideration, and possible action regarding **second and final** reading of Ordinance 1184 to authorize the sale of the electric substations to LCRA
- B. Discussion, consideration and possible action regarding **second and final** reading of Ordinance 1185 Junked Vehicle Ordinance Changes
- C. Discussion, consideration and possible action regarding **first** reading of Ordinance 1187 to amend FY 2016 Budget
- D. Discussion, consideration and possible action regarding **first** reading of Ordinance 1188 Distributed Generation (DG) Ordinance
- E. 1. Discussion, consideration and possible action regarding **first** reading of Ordinance 1189 that addresses inclusion of properties served as if in city limits for over 20 years.

2. Discussion, consideration and possible action regarding **first** reading of Ordinance 1190 adopting the map of the Brady City Limits.
- F. Discussion, consideration and possible action regarding Resolution 2015-046 to apply for funding for Senior Citizen Meals
- G. Discussion, consideration and possible action to award the Brady Creek Trail construction project to low bidder Westar Construction at \$282,967.50.
- H. Discussion, consideration and possible action regarding Resolution 2015-047 to adopt revisions to City of Brady Personnel Policy
- I. Discussion regarding adopting special event permit policy and procedures and advise Staff as necessary

## **8. STAFF REPORTS**

- A. EPA – Quarterly Progress Report for Radium Reduction
- B. Dec 5 – Christmas in the Heart
- C. Dec 7 – Pre-Construction Meeting for Civic Center Project
- D. Dec 8 – Monthly P&Z Commission Meeting, 5:30pm
- E. Dec 9- Quarterly Airport Advisory Board Meeting, 5:00pm
- F. Dec 15 – PAWS Pet Registration Drive, City Hall, 3pm
- G. Dec 24 – 25 – City Offices closed for Holidays (closes 23<sup>rd</sup> at 3pm)
- H. Holiday Trash Schedule – Wednesday Pick-up for Thurs & Fri Service
- I. Landfill Closed – Dec 24, 25, and 26 – Opens Dec 28

## **9. ANNOUNCEMENTS**

Pursuant to the Texas Government Code § 551.0415, City Council Members and City staff may make reports about items of community interest during a meeting of the governing body without having given notice of the report. Items of community interest include: Expressions of thanks, congratulations, or condolence; An honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision; Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and Announcements involving an imminent threat to public health and safety of people in the municipality that has arisen after the posting of the agenda.

## **10. EXECUTIVE SESSION**

The City Council of the City of Brady will adjourn into Executive Session for the following:

- A. Pursuant to Section 551.086 (Deliberations, vote or final action about competitive matters of the public power utility), the City Council will deliberate, vote, or take final action on a competitive matter regarding its electric utility – proposed contract with LCRA; adding possible solar distribution portfolio.
- 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

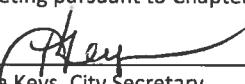
regarding commercial or financial information that the City Council has received from a prospective cement plant (US Cement), retail, and other development projects that the City Council seeks to have locate in or near the City and/or with which the City Council is conducting economic development negotiations.

- C. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange lease, or value of real property as the deliberation in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person.
- 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 – City Manager.

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

**12. ADJOURNMENT**

I certify that this is a true and correct copy of the City of Brady City Council Meeting Agenda and that this notice as posted on the designated bulletin board at Brady City Hall, 201 E. Main St., Brady, Texas 76825; a place convenient and readily accessible to the public at all times, and said notice was posted on 11-25-15 by 6:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.

  
Tina Keys, City Secretary

In compliance with the American with Disabilities Act, the City of Brady will provide for reasonable accommodations for persons attending public meetings at City Facilities. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 325-597-2152 or [citysec@bradytx.us](mailto:citysec@bradytx.us).

**Attendance by Other Elected or Appointed Officials:** It is anticipated that members of other governmental bodies, and/or city boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a possible meeting of the other body, board, commission and/or committee, whose members may be in attendance, if such numbers constitute a quorum. The members of the boards, commissions and/or committees may be permitted to participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item

**and action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.**

**The City Council of the City of Brady reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda as authorized by the Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.086 (Deliberations, vote or final action about competitive matters of the public power utility), and 551.087 (Economic Development).**

**This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.**

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, November 17, 2015 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, Kathy Gloria and Shelly Perkins. Council member Jack Turk joined meeting 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, Asst City Secretary Jessica Sutton, Police Chief Steve Thomas and City Attorney Shannon Kackley and Bonney Smith. Others in attendance were Beverly Sherwood, S.B. Ross, Eddie Wilson, Woody Pennington, Anita Ellison, George Matula, Pat Matula, Ovita Bratton, Bill Bratton, James Griffin, Neal Ulmer, Joe Sanchez, Alfredo Gonzales, Charles Hanson, Janabeth Hanson, Richard Hemingway, Cerise Carter, John Dagen, Donald Lee, Travis Gary, Pat Gary, Erin Corbell, Billy Cavin, Lou Alexander, Karen Behrens, Jason Behrens, Nanette Morgan, Richard Morgan, Anna Cox, Eddie Cox, Ed Burk, Neeley Taylor, Dub Smith, Lee Reinisch, Lynn Farris, Joe Whitehead, Jerlene Smith, Jackie Behrens, Jeanagayle Behrens, Dale Matthews.

**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 Perkins moved to approve the audit board. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried.

**4. APPROVAL OF MINUTES for November 3, 2015**

Council Member Gendusa moved to approve the minutes. Council Member Perkins stated Council Doyal needs to be added to roster of attendees. Council member Gendusa moved to approve as amended. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried.

**5. PUBLIC COMMENTS**

John Dagen – concerns about dust, view, noise, traffic from the proposed cement plant. Suggests spending funds on bringing other businesses to town.

Lou Alexander – property owner at 1019 W 11<sup>th</sup> concerned about pecan trees removed by City.

Billy Cavin – concerned about pecan trees at 1019 W 11<sup>th</sup>

Nanette Morgan – Armed Forces Weekend and Fly-in concern about proposed building of hangar at Curtis Field. No closer to breaking ground now than 18 months ago.

Charlotte Harper – proposed hunt at Brady Lake.

**6. PRESENTATIONS AND PUBLIC HEARINGS**

- A. Housing Study – James Griffin presented. Woody Pennington suggested discount dumping. Charlotte Harper discussed church program to help. Council member Perkins suggested providing copies of presentation to council, realtors and at City Hall. Will also be available on website.
- B. Drinking Water Project (Radium Reduction) Status Update – Steven Miller introduced Josh Berryhill and Keith Kindle with eHT

## 7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action regarding Resolution 2015-044 to canvass Special Election Vote. Council Member Turk moved to approve Resolution 2015-044. Seconded by Council Member Gendusa. All Council Members voted "aye" and none "nay". Motion carried.
- B. Discussion, consideration, and possible action regarding **first** reading of Ordinance 1184 to authorize the sale of the electric substations to LCRA. Section 2 needs to be changed to read "authorize to sign contract and other supporting documents". Kim Lenoir presented to Council. **Mayor:** "Do I have a motion to read the full ordinance?" **No motion was made, Mayor stated in accordance with City Charter:** "A majority of the City Council has dispensed with the full reading of the ordinance." **Mayor asked:** "Madam City Secretary to read the Ordinance Preamble for the record in accordance with the City Charter." **City Secretary read the preamble.** **Mayor called for a motion:** Council Member Gendusa moved to approve first reading of Ordinance 1184 as amended by the city attorney. Seconded by Council Member Turk. All Council Members voted "aye" and none "nay". Motion carried.
- C. Discussion, consideration and possible action regarding **first** reading of Ordinance 1185 Junked Vehicle Ordinance Changes. Kim Lenoir presented. **Mayor:** "Do I have a motion to read the full ordinance?" **No motion was made, Mayor stated in accordance with City Charter:** "A majority of the City Council has dispensed with the full reading of the ordinance." **Mayor asked:** "Madam City Secretary to read the Ordinance Preamble for the record in accordance with the City Charter." **City Secretary read the preamble.** **Mayor called for a motion:** Council Member Turk moved to approve first reading of Ordinance 1185. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried.
- D. Discussion, consideration, and possible action regarding **second and final** reading of Ordinance 1183 to revise Fee Schedule for Animal Services. Kim Lenoir presented to Council. **Mayor:** "Do I have a motion to read the full ordinance?" **No motion was made, Mayor stated in accordance with City Charter:** "A majority of the City Council has dispensed with the full reading of the ordinance." **Mayor asked:** "Madam City Secretary to read the Ordinance Preamble for the record in accordance with the City Charter." **City Secretary read the preamble.** **Mayor called for a motion:** Council Member Gendusa moved to approve second and final reading of Ordinance 1183. Seconded by Council Member Doyal. All Council Members voted "aye" and none "nay". Motion carried.
- E. Discussion, consideration, and possible action regarding City of Brady Sales Tax Rebate Economic Development Incentives for the proposed/possible US Cement Plant, not to exceed \$297,000 over 9 years up to \$33,000 per year. Peter Lamont presented. Council Member Gendusa asked if questions asked in October meeting were answered by US Cement. Peter Lamont responded he is not sure which questions. Council Member Doyal stated she believes proposal included in council packet does include everything discussed on Nov. 3<sup>rd</sup>. Council Member Perkins still wants buffer changed to 100'. Council Member Perkins spoke to five different people at TCEQ and they stated a 400' buffer for blasting is required. Would like representatives from TCEQ to speak with council and citizens. Believes more research needs to be done. Council member Turk reiterated that TCEQ will be responsible; they are in charge of it and not us. Council Member Turk stated he understands the concern but we can't keep hashing it out. Council member Doyal commented we are discussing proposed terms and this in no way binds us to anything. We need to deal with what's on the agenda. TCEQ can come in later and see if there are issues. Lamont stated we can change the buffer requirement, but they have to comply with TCEQ regulations. Attorney Kackley informed council they need to make a motion to amend to 100 feet. Council Member Gendusa moved to change buffer to 100'. Seconded by Council Member Perkins. Council Member Perkins commented this agreement does not apply to any particular site. Lamont confirmed. All voted "aye" and none "no". Proposal will be changed to reflect a 100 foot buffer. Council Member Perkins asked if the sales tax figures are based on a

calendar year or fiscal year. Lamont answered that we will measure the sales tax increase based on 1 year after significant completion and hiring of employees. If it's January 10, 2019 we will look at January 10, 2020. The payment will be August 30, 2020.

Session was opened for public comments: Phil Graves: question is have you completed your due diligence on the company known as US Cement? Have you checked them and the courts? Kim Lenoir answered "yes, we feel comfortable with moving forward". Mr. Graves asked who wrote document? Mr. Graves asked if this will be the binding document? No, it's just the beginning of the negotiations. It's up for grabs? Shannon Kackley responded no. Mr. Graves asked why are we doing this. Asked who the real estate agent is. No answer. US Cement had an option to review other property at Voca. Why is this site so important? You are dealing with our tax money. And government money. All of this is designed around a government program and it's not a good program. Joe Whitehead: if they hire 200 people, how are we going to monitor that they keep 200 people employed? Lamont responded that they have to provide reports to Texas Workforce Commission as part of the training program. Peter Lamont stated that we can require them to report on it. Shelly Perkins responded that the agreement states they have to report to the Department of Labor. They have to follow all laws. Joe Whitehead: Blasting zone, go to Fredericksburg to the gypsum mine and ask them how far their buffer is. Need to go talk to them and see what it looks like. George Matula: distance proposing won't make any distance whatsoever to Sawyers and Jones'. Nothing in permit process that specifies distance. Rock crusher can be no closer than 200 feet from property lines and 440 yards from nearest residence. They will have a rock crusher on west side of hwy. \$33,000 a year is equal to one low paying job with no benefits. \$250,000 from EDC is 10 years of one low paying job. As soon as they realize they can get by with less employees or realize they can get their own utilities, it will all stop. Trudy Banister – has 85 acres a mile and a half from site. It will not increase value, help livestock or wildlife. Stated Council had asked for a list of employee positions, have they received that? Lamont replied that it has been provided to Texas Workforce Commission. They issued a commitment for training based on the list. Steve Turco we don't need this. Sand plants didn't ask for any incentives. Concerns who these people are. Who will they bring into this state? Anna Cox: due diligence has not been done. What is regulation of feet vs. a property owners fence line on a berm on a quarry. Mayor Groves answered that TCEQ knows. Cox commented it's your job to know. This company is not of good character. No owner of the company has come here. There are concerns about eminent domain and devaluations of land. Woody Pennington: Who showed the property? Lamont replied that Judge Neal and Kim Lenoir went out with them. Pennington stated the concern is a county commissioner holds real estate broker license. Nobody can answer who broker is. Peter Lamont's understanding is it was handled between lawyers. No broker was used. Joe Sanchez – why is the city spending money on something in the county. We couldn't get additional police and fire personnel because of lack of funding. But now you are spending money on a project in the county. Will have to put in water and gas lines. White cement bags say there is silica in the cement. And asbestos. People will be contaminated. Do a proper evaluation then vote. Jackie Behrens: Council and city leaders won't be here in 5 years. Stated "you hurt me, I will hurt you". Attorney David Matthews: regarding proposed terms and conditions – assuming starting point is the offer, ending point is the agreement. Most questions have still not been answered. What kind of assessment has been done on economic benefits? What is expected sales tax revenue? Who is US Cement? These questions haven't been answered. To believe there won't be any problems is naïve. To think TCEQ will take care of problems is naïve. They won't be there every day. You have the responsibility to do your due diligence before making any decisions. Terms and conditions - No. 2 doesn't say anything about where job are going to be. Are they here in Brady? Yes. Need to specify. No 3 – one is the cement plant and the other is the quarry. Regulations will be different. No 5 – buying from City No 7 – the light pollution will be horrific with size and location of site. Need 2000 acres. The selection of this site raises issues on EDC project. Doesn't recall any guidelines or criteria for economic incentive project. Take a look at long term effect. Charlotte Harper: You have heard some bad information. From personal research, major concern for a sand plant is they have to re-cover top

soil and recover contour or property. Pits are not lined and goes back down to resource. Never heard about asbestos being an issue here. Council will need to ask US cement for an environmental impact statement. There will still be disagreements to be worked out. There is a public comment period for an environmental statement or assessment. Need to decide if level of information provided is sufficient to make a decision. Will help find company to do this assessment. Mike Rice: air quality concerns. Eddie Wilson: asking council to delay vote until air quality people come to Brady.

Council Member Doyal moved to approve agreement as amended. Seconded by Council Member Gendusa. Motion is to approve amended incentive and direct staff to proceed. Council Member Perkins commented she believes there are too many unanswered questions. Four council members voted "aye" and one, Shelly Perkins, "nay". Motion carried 4-1.

- F. Discussion, consideration, and possible action regarding approval of the Brady Economic Development Corporation (BEDC) recommended Economic Development Incentives for the proposed/possible US Cement Plant (Maximum cost of \$556,000 over 10 years - \$250,000 one time, plus 9 years up to \$34,000 per year). Peter Lamont presented. Council Member Gendusa moved to amend agreement to change buffer to 100 feet and change words to EDC portion instead of City of Brady. Seconded by Council Member Doyal. Four council members voted "aye" and one, Shelly Perkins, "nay". Motion carried 4-1. Council Member Gendusa moved to approve EDC incentives and direct staff to proceed. Seconded by Council Member Turk. Gloria asked if EDC has approved, answer yes. Four Council members voted "aye" and Perkins "nay". Motion carried 4-1.
- G. Discussion, consideration, and possible action regarding acceptance of BEDC Annual Report. Kim Lenoir presented to Council. Council Member Turk moved to approve. Seconded by Council Member Gendusa. All Council members voted "aye" and none "nay". Motion carried.
- H. Discussion, consideration, and possible action regarding acceptance of McCulloch County/Brady Chamber of Commerce Annual Tourism Report. Erin Corbell presented to Council. Council Member Gendusa moved to approve. Seconded by Council Member Turk. All Council members voted "aye" and none "nay". Motion carried.
- I. Discussion, consideration, and possible action regarding acceptance of the City Manager's Annual Report on the status of the City of Brady Comprehensive Plan, and authorize publishing the report. Kim Lenoir presented. Council Member Perkins wants to change DOR to DRT and asked if the lake dam and storm water study are in preparation for flood plain designation. The plan will help clarify storm water/drainage issues. Council Member Turk moved to approve as amended. Seconded by Council Member Gendusa. All Council members voted "aye" and none "nay". Motion carried.
- J. Discussion, consideration, and possible action regarding appointment of members to the McCulloch County Appraisal District. All voted for Reed Williams and Cynthia Quinn. Vote 5-0.
- K. Discussion, consideration, and possible action regarding Resolution 2015-045 authorization for street closures for first Lighted Christmas Parade, Dec 5. Erin Corbell presented to council. Council Member Gendusa moved to approve Resolution 2015-045. Seconded by Council Member Gloria. All Council members voted "aye" and none "nay". Motion carried.
- L. Discussion regarding proposed Distributed Generation (DG) Ordinance and advise Staff as necessary. Steve Miller presented. A final ordinance and education campaign will be forthcoming.

- M. Discussion regarding proposed revisions to City of Brady Personnel Policy and advise Staff as necessary. Kim Lenoir presented. Updated policy will be provided to council at a later time for review and mark-up before returning to city council for final action.
- N. Discussion regarding adopting city limit map updates/corrections and advise Staff as necessary. Kim Lenoir presented to Council. The 1906 Western Boundary was still being clarified, but all other annexations were correctly recorded by GIS maps. Plan to bring forward Dec 1 and 15 for an ordinance.

## 8. STAFF REPORTS

- A. Monthly Financial Reports for October
- B. Monthly Activity Reports – Seniors; Golf; BPD; Animal Control Services (24 animals to PAWS and 70 by City)
- C. November 21 – Hunter's Appreciation Dinner
- D. Set Nov 30, 1pm – City Council Work Session to discuss Municipal Court Operations / FY 2016 Budget Amendments and executive session.
- E. Nov 26 & 27 – City Offices Closed – Thanksgiving Holidays
- F. City Hall will open Friday, Nov 27, 10am to 2pm for utility payments only.
- G. Thursday and Friday trash pick-up moved to Wednesday, Nov 25
- H. Landfill will be closed – Thurs (Nov 27), Fri (Nov 27), and Sat (Nov 28)

## 9. ANNOUNCEMENTS

There we no announcements

## 10. EXECUTIVE SESSION

Due to late hour, Council will discuss executive session items at the November 30 Special Meeting.

## 11. ADJOURNMENT

There being no further business the Mayor adjourned the meeting at 10:10 p.m.

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Mayor Anthony Groves

Attest: \_\_\_\_\_  
Tina Keys, City Secretary

City Council  
City of Brady, Texas

## Agenda Action Form for Ordinance

AGENDA DATE:	12-1-2015	AGENDA ITEM	7.A.
AGENDA SUBJECT:	Discussion, consideration, and possible action regarding <b>second and final</b> reading of Ordinance 1184 to authorize the sale of the electric substations to LCRA		
PREPARED BY:	T. Keys/KL	Date Submitted:	11-25-15
EXHIBITS:	Ordinance 1184		
BUDGETARY IMPACT:	Required Expenditure:	\$00.00	
	Amount Budgeted:	\$00.00	
	Appropriation Required:	\$00.00	
CITY MANAGER APPROVAL:			
<b>SUMMARY:</b>			
The November 3 Special City Election passed and authorized the sale of the electric substations to LCRA.			
November 17, City Council approved first reading with amendments as suggested by city attorney.			
Staff will be available to answer any questions.			

<b>RECOMMENDED ACTION:</b>
<b>Mayor:</b> <u>“Do I have a motion to read the full ordinance?”</u>
<b>If no, Mayor will state:</b> <u>“A majority of the City Council has dispensed with the full reading of the ordinance.”</u>
<b>Mayor will ask:</b> <u>“Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter.”</u> <b>“Secretary reads preamble”</b>
<b>Mayor calls for a motion:</b> Move to approve second and final reading of Ordinance 1184

**ORDINANCE NO. 1184**

**AN ORDINANCE OF THE CITY OF BRADY, TEXAS, AUTHORIZING  
THE SALE OF THE CITY'S ELECTRIC SUBSTATIONS TO THE LOWER  
COLORADO RIVER AUTHORITY IN ACCORDANCE WITH THE CITY  
SPECIAL ELECTION HELD ON NOVEMBER 3, 2015 AS REQUIRED BY  
THE CITY CHARTER**

**WHEREAS**, Section 12.15 of the City of Brady, Texas (hereinafter the "City") City Charter requires that no City-owned electric utility shall be sold or leased, in whole or part, without authorization by a majority vote of the qualified voters of the City; and

**WHEREAS**, the City established the desire to sell its electric substations to the Lower Colorado River Authority ("LCRA"); and

**WHEREAS**, City Council approved Resolution No. 2015-034 on August 24, 2015 to call a Special Election for the sale of its electric substations to LCRA; and

**WHEREAS**, in accordance with City Charter and Resolution No. 2015-034, a Special Election was held November 3, 2015 to authorize the sale of the electric substations to LCRA; and

**WHEREAS**, the majority of voters who voted in the Special Election approved the sale of the electric substations to LCRA; and

**WHEREAS**, the Special Election was held and conducted in accordance with the City Charter and state law; and

**WHEREAS**, the Mayor is authorized to sign the contract with LCRA in which the City agrees to sell and LCRA agrees to purchase the City's electric substations; and

**WHEREAS**, this transaction has been deemed the most prudent for the continuing operation of the City-owned Electric Distribution System and in the best interest of the City; and

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part for all purposes and findings of fact.

Section 2. Mayor's Authority to Sign Contract. This Ordinance is hereby adopted and the Mayor is authorized to sign the contract and any and all supporting documents with LCRA in which the City agrees to sell and LCRA agrees to purchase the City's electric substations.

Section 3. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional

by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**PASSED, APPROVED** by the City Council of the City of Brady, Texas, on FIRST READING at a regular meeting held on this the 17<sup>th</sup> of November, 2015.

**PASSED, APPROVED, and ADOPTED** by the City Council of the City of Brady, Texas, on SECOND READING at a regular meeting held on this the 1<sup>st</sup> of December, 2015.

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Anthony Groves, Mayor

ATTEST:

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Tina Keys, City Secretary

City Council  
City of Brady, Texas

## Agenda Action Form for Ordinance

AGENDA DATE:	12-01-2015	AGENDA ITEM	7.B.
AGENDA SUBJECT:	Discussion, consideration and possible action regarding the <b>second and final</b> reading of Ordinance 1185 Junked Vehicle Ordinance		
PREPARED BY:	P Lamont	Date Submitted:	11-23-2015
EXHIBITS:	Proposed Ordinance 1185 Junked Vehicle Ordinance		
BUDGETARY IMPACT:	Required Expenditure:	\$00.00	
	Amount Budgeted:	\$00.00	
	Appropriation Required:	\$00.00	
CITY MANAGER APPROVAL:			
SUMMARY:	City staff and the City Attorney have been working with the Municipal Code Court to update the rules and procedures for the Junk Vehicle Ordinance.  Council was presented with this item for comment on November 3, 2015. The results of those discussions have been incorporated into the proposed ordinance.  The first reading was passed unanimously on November 17, 2015		

RECOMMENDED ACTION:
<p><b>Mayor:</b> <u>“Do I have a motion to read the full ordinance?”</u></p> <p><b>If no, Mayor will state:</b> <u>“A majority of the City Council has dispensed with the full reading of the ordinance.”</u></p> <p><b>Mayor will ask:</b> <u>“Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter.”</u> <b>“Secretary reads preamble”</b></p> <p><b>Mayor calls for a motion:</b> Move to approve <b>second and final</b> reading of Ordinance 1185</p>

**ORDINANCE NO. 1185**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADY, TEXAS  
AMENDING THE CITY OF BRADY CODE OF ORDINANCES CHAPTER 8  
OFFENSES AND NUISANCES BY AMENDING ARTICLE 8.200, TITLED  
JUNKED VEHICLES; PROVIDING FOR A CUMULATIVE & CONFLICTS  
CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS  
CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 1.04 of the City's Charter permits the City to pass and enforce ordinances, not inconsistent with the Charter and State law, to make and enforce all police, health, and sanitary regulations; as may be expedient for the protection and maintenance of good government, for peace and welfare of the City for the performance of the functions of the City and the order and security of its residences; and may provide suitable penalties for the violations of any ordinance enacted by the City; and

**WHEREAS**, Chapter 683 of the Texas Transportation Code declares that a junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way: (1) is detrimental to the safety and welfare of the public; (2) tends to reduce the value of private property; (3) invites vandalism; (4) creates a fire hazard; (5) is an attractive nuisance creating a hazard to the health and safety of minors; (6) produces urban blight adverse to the maintenance and continuing development of municipalities; and (7) is a public nuisance; and

**WHEREAS**, Chapter 8 of the City's Municipal Code of Ordinances regulates nuisances and establishes offenses related to said nuisances; and

**WHEREAS**, the City Council has determined that the safety, health and welfare of the citizens and general public require amendments to Chapter 8 of the Code of Ordinances to regulate Junked Vehicles, Junked Boats, and Other Junked or Inoperable Equipment; and

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADY,  
TEXAS THAT:**

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

**Section 2. Amendment to Municipal Code of Ordinances.** The City of Brady's Municipal Code of Ordinances, Chapter 8 (entitled "*Offenses and Nuisances*"), Article 8.200 (entitled "*Junked Vehicles*"), Article 8.200 is hereby amended by deleting language that is stricken (stricken) and adding language that is underlined (underlined) as follows:

## **ARTICLE 8.200 JUNKED VEHICLES\***

### **See. 8.201 Title; Jurisdiction**

- (a) Title. This article shall commonly be referred to as the junked vehicle article.
- (b) Jurisdiction. The provisions of this article shall apply within the city limits.

### **See. 8.202 Definitions**

~~Words and phrases used in this article shall have the meanings set forth in this section. Words and phrases which are not defined in this article but are defined in other provisions in this code shall be given the meanings set forth in those sections. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this article.~~

*Antique Vehicle*. A passenger car or truck that is at least 25 years old.

*City*. The City of Brady, County of McCulloch, State of Texas, and includes any official, agent or employee acting on behalf of the city.

*Code Officer*. The person or persons designated by the council to assist the council in implementing and enforcing this article. Such person must be a regularly salaried, full-time employee of the city.

*Council*. The city council of the City of Brady.

*Department*. The Texas Department of Transportation.

*Junked Vehicle*. A vehicle that is self propelled and:

- (1) Does not have lawfully attached to it:
  - (A) An unexpired license plate; and
  - (B) A valid motor vehicle inspection certificate; and
- (2) Is:
  - (A) Wrecked, dismantled, or partially dismantled, or discarded; or
  - (B) Inoperable and has remained inoperable for more than 72 consecutive hours, if the vehicle is on public property; or 30 consecutive days, if the vehicle is on private property.

*Motor Vehicle Collector*. A person who:

- (1) ~~Owns one or more antique or special interest vehicles; and~~
- (2) ~~Acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.~~

*Person*. An individual, corporation, organization, government agency, business, trust, partnership, association, or any other legal entity.

*Public Place*. Any place to which the public or a substantial group of the public has access and includes, but is not limited to, parks, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

*Public Right of Way*. The area on, below, above, or adjacent to a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the city has an interest.

*Special Interest Vehicle*. A motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

**See. 8.203 — Public Nuisance; Prohibition**

~~It shall be unlawful for any person to cause or maintain a public nuisance with regard to junked vehicles as provided in this article.~~

**See. 8.204 — Filing and Investigating Complaints**

- (a) ~~Any city resident or property owner may file a complaint alleging a violation of this article. The complaint must be in writing; provide sufficient details about the alleged violation; be signed by the complainant; and be filed with the code officer or designee.~~
- (b) ~~The code officer, on his/her own knowledge or on the basis of a complaint by a city resident or property owner, shall investigate any alleged violation of this article.~~
- (c) ~~The code officer may enter and inspect the premises where a violation of this article is alleged to have occurred at any reasonable time and may obtain information to identify the nuisance and to remove or direct the removal of the nuisance in compliance with this article.~~
- (d) ~~If the code officer determines there is a violation of this article and that a public nuisance exists, the officer shall submit to the city manager a written report of violation.~~

**See. 8.205 — Exemptions**

~~This article shall not apply to a vehicle, or part thereof that:~~

- ~~(1) Is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property;~~
- ~~(2) Is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or~~
- ~~(3) Is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are maintained in an orderly manner, not a health hazard; and screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.~~

**See. 8.206 Notice and Removal**

~~(a) The code officer is authorized to issue written notice to the alleged violator. Notice must be provided in accordance with this article prior to abatement and removal of the junked vehicle nuisance.~~

~~(b) The notice shall describe the nature and location of the junked vehicle nuisance and be personally delivered, sent by certified mail with a five day return requested or delivered by the United States Postal Service with signature confirmation service to:~~

- ~~(1) The last known registered owner of the junked vehicle;~~
- ~~(2) Each lien holder of record of the junked vehicle; and~~
- ~~(3) The owner or occupant of the property on which the junked vehicle is located; or if the junked vehicle is located on a public right of way, the property adjacent to the right of way.~~

~~(c) The notice shall state that:~~

~~(1) The nuisance must be abated and removed not later than the tenth (10th) day after the date on which the notice was personally delivered or mailed; and~~

~~(2) Any request for a hearing must be made before that ten day period expires.~~

~~(d) If the post office address of the last known registered owner of the nuisance junked vehicle is unknown, notice may be placed on the vehicle or, if the owner is located, personally delivered.~~

~~(e) If the nuisance has not been removed within ten (10) days after the date on which the notice was personally delivered or mailed and the alleged violator has not requested a~~

public hearing, the code officer or designee may request the municipal court judge to order the removal of the nuisance. The court's order shall contain information about the junked vehicle's description, vehicle identification number, and license plate number, if the information is available at the location of the nuisance; and authorize the relocation of the junked vehicle, or a part thereof to a scrap yard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

(f) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the eleventh (11th) day after the date of the return.

**See. 8.207 Public Hearing**

(a) Upon request within the time period set out in Section 8.206 of this article, a public hearing shall be held upon request of a person who receives notice if the request is made not later than the date by which the nuisance must be abated and removed. The public hearing shall be before the city council or its designee to determine whether or not a junked vehicle nuisance exists and for the purpose of entering an order or resolution requiring the removal of such junked vehicle, if found to be a nuisance.

(b) If a hearing is requested, then the hearing shall be held not earlier than the eleventh (11th) day after the date on which notice was provided as described in Section 8.206 of this article.

(c) At the hearing, the junked vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(d) If, after written notice has been provided as described in Section 8.206 of this article, the junked vehicle is relocated to another location in the city after a proceeding for the abatement and removal of the vehicle has commenced, the relocation has no effect on the proceeding if the vehicle constitutes a public nuisance at the new location.

(e) If the city council or its designee finds, after a hearing, that the vehicle is a junked vehicle nuisance, an order shall be entered requiring the removal of the vehicle and the order shall:

(1) Contain information about the junked vehicle's description, vehicle identification number, and license plate number if the information is available at the location of the nuisance; and

(2) Authorize the relocation of the junked vehicle, or a part thereof to a scrap yard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

**See. 8.208 Administration of Removal of Vehicle**

~~The code officer shall administer the procedures for the abatement and removal of junked vehicles from property under this article, except any authorized person may remove the junked vehicle from the property.~~

**See. 8.209 Notice to Department of Public Safety**

~~The code officer shall, not later than the fifth (5th) day after the removal of a junked vehicle under this article, provide written notice of the removal to the state department of transportation. Such notice shall identify the vehicle or part of the vehicle that was removed.~~

**See. 8.210 Reconstruction Prohibited**

~~When a junked vehicle is declared a public nuisance under this article and is ordered to be removed, it shall not thereafter be reconstructed or made operable.~~

**See. 8.211 Enforcement**

~~(a) Civil and Criminal Penalties. The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance.~~

~~(b) Criminal Prosecution. Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding two hundred dollars (\$200.00). Each day that a provision of this article is violated shall constitute a separate offense. An offense under this article is a misdemeanor.~~

~~(c) Civil Remedies. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including, but not limited to the following:~~

~~(1) Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article; and~~

~~(2) A civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article; and~~

~~(3) Any other available relief.~~

~~(Ordinance 1060 adopted 1/6/10)~~

## **ARTICLE 8.200 JUNKED VEHICLES**

### **Abatement of Junked Vehicles, Junked Boats, and Other Junked or Inoperable Equipment**

#### **Sec. 8.201 Purpose**

This division establishes procedures conforming to subchapter E of chapter 683 of the Texas Transportation Code for the abatement and removal from private or public property or a public right-of-way of a junked vehicle or a part of a junked vehicle and procedures for the abatement and removal of a junked boat, junked off-road motorcycle or a junked all-terrain vehicle as a public nuisance.

#### **Sec. 8.202 Junked Vehicle is a Public Nuisance**

A junked vehicle, including part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

- (1) is detrimental to the safety and welfare of the public;
- (2) tends to reduce the value of private property;
- (3) invites vandalism;
- (4) creates a fire hazard;
- (5) is an attractive nuisance creating a hazard to the health and safety of minors;
- (6) produces urban decay adverse to the maintenance and continuing development of the City; and
- (7) is a public nuisance

(TEX. TRANSP. CODE § 683.0711)

#### **Sec. 8.203 Definitions**

In this division:

*Antique vehicle.* A passenger car or truck that is at least 25 years old.

*Authorized person.* Any person designated by the City Manager, including but not limited to a City Director, City staff, or a third-party vendor.

*Inoperable.* Not in running condition without the necessity of being repaired by, for example but without limitation, installing a part or parts, removing or replacing a damaged or missing part or parts, inflating a tire or tires, or charging of the vehicle's battery.

*Junked all-terrain vehicle.* An all-terrain vehicle that is wrecked, discarded, partially dismantled or inoperable.

*Junked boat.* A boat or personal watercraft that is wrecked, partially dismantled, discarded, lacking a watertight hull, or inoperable.

*Junked off-road motorcycle.* An off-road motorcycle that is wrecked, partially dismantled, discarded or inoperable.

*Junked trailer.* A trailer that is wrecked, dismantled, partially dismantled or inoperable.

*Junked vehicle.* A vehicle that is self-propelled and:

(1) Does not have lawfully attached to it :

(a) An unexpired license plate; and

(2) That is:

(a) Wrecked, dismantled, partially dismantled, or discarded; or

(b) Has remained inoperable for more than thirty consecutive days.

*Motor vehicle collector.* A person who:

(1) Owns one or more antique or special interest vehicle; and

(2) Acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

*Ordinary public view.* Visible at any time of the year from any public property or from any adjacent land (including any point below the second floor of any building located on the adjacent land) that is owned or occupied by a person other than the owner or occupant of the land on which a violating vehicle is kept. In relation to an antique vehicle or a special interest vehicle, "screened from ordinary public view" includes screening the vehicle with a fitted cover designed or fabricated for the make and model of the vehicle and that is good condition and the cover does not contain rips, tears or other holes.

*Special interest vehicle.* A motor vehicle of any age that has not been changed from the original manufacturer's specifications and, because of its historical interest, is being preserved by a hobbyist.

*Trailer.* A vehicle without motive power that is designed, adapted or used to carry property or passengers on its own structure exclusively.

*Violating vehicle.* Includes a junked vehicle, junked all-terrain vehicle, junked boat, junked trailer or junked off-road motorcycle or part thereof that is in violation of this division.

Wrecked. Damaged by collision, impact or other force, or by fire or explosion, in a manner that critically affects the proper operation or structural integrity of the vehicle. Notwithstanding, and without excluding other measurements or systems of damage rating, a vehicle is considered wrecked if the vehicle has been or would be classified on a Texas Department of Transportation Form CR-3 as having sustained a vehicle damage rating of "3" or greater. The term does not include damage due to ordinary wear and tear.

## **Sec. 8.204 Offenses**

(A) A person commits an offense if the person causes, suffers, allows or permits the keeping of a violating vehicle on a premises owned or controlled by that person.

(B) Unless otherwise permitted by applicable law, regulation, permit, or zoning regulations, a person commits an offense if the person causes, suffers, allows or permits the parking or standing of a motor vehicle or a trailer in a residential or nonresidential zone on private property, within public view, owned or controlled by that person if the vehicle:

(1) Has one or more flat tires;

(2) Is missing one or more wheels; or

(3) Is supported by one or more jacks, jack stands, blocks or similar means.

(C) The municipal court shall order abatement and removal of the violating vehicle upon conviction.

## **Sec. 8.205 Affirmative defenses**

(A) It is an affirmative defense to prosecution under section 8.204 (A), and to the abatement procedures established by this division, that the violating vehicle:

(1) Is completely enclosed in a building in a lawful manner and is not within ordinary public view; or

(2) Is a junked vehicle and:

(a) Is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or automobile wrecking yard in a zoning district in which such storage is authorized; or

(b) Is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle and the outdoor storage area, if any, are:

1. Maintained in an orderly manner;

2. Not a health hazard; and
3. Screened from ordinary public view.

(B) It is an affirmative defense to prosecution under section 8.204 (A) if the vehicle is presently under repair, if the owner shows reasonable progress within the preceding 30 days toward repairing the vehicle to an operable condition, and the vehicle is lawfully parked with a fitted cover designed or fabricated for the make and model of the vehicle and that is good condition and the cover does not contain rips, tears or other holes.

(C) It is an affirmative defense to prosecution under section 8.204 (B) if the vehicle has a flat tire, missing wheel or is supported by a jack, jack stand, block or other means for less than 72 hours.

#### **Sec. 8.206 Administration and removal procedures**

(A) The procedures set forth in this division shall be administered by regular full-time employees of the City; provided, however, that any authorized person may remove a violating vehicle under the authority of this division.

(B) The City may seek an owner's written consent to enter private property to examine a suspected violation of this division, to obtain information to identify the violating vehicle, and to remove or direct the removal of the violating vehicle. The City is authorized to obtain a search warrant to conduct an inspection permitted by this section when consent to enter the property for the inspection has been refused or otherwise cannot be obtained.

(C) No violating vehicle removed under the authority of this division may thereafter be reconstructed or made operable.

(D) The relocation of a violating vehicle to another location within the City after a proceeding for the abatement and removal of the violating vehicle has commenced has no effect on the proceeding if the violating vehicle constitutes an offense at the new location.

(E) The City shall notify the appropriate designated state agency of the removal of a junked vehicle not later than the fifth day after the removal of a junked vehicle by identifying the vehicle or part of the vehicle removed.

#### **Sec. 8.207 Notice, hearing, and order of removal**

(A) Prior to the abatement or removal of a violating vehicle under this division, the City shall provide not less than ten-days' notice of the probable violation by personal deliver, certified mail with a five-day return requested to, or delivery through the United States Postal Service with signature confirmation service requested to:

- (1) The last known registered owner of the violating vehicle;

(2) Each lienholder of record, if any, of the violating vehicle; and

(3) The owner or occupant of:

(a) The property on which the violating vehicle is located; or

(b) If the violating vehicle is located on a public right-of-way, the property adjacent to the right-of-way.

(B) If the post office address of the last known registered owner of the violating vehicle is unknown, notice may be placed on the violating vehicle or, if the owner is located, personally delivered. If a notice is returned undelivered, any action to abate the violating vehicle shall be continued to a date not earlier than the eleventh day after the date of the return.

(C) A notice sent under this division shall include a statement that:

(1) The violating vehicle must be abated and removed not later than the tenth day after the date on which the notice was delivered or mailed; and

(2) Any request for a hearing must be made before the ten-day period expires.

(D) A person entitled to notice under this section may request a hearing prior to the removal of the violating vehicle. A request for a hearing shall be made in writing and shall be delivered to the director of the department charged by the City Manager with enforcement of this division not later than ten days after receipt of the notice by the person making the request for a hearing, but in no event more than thirty days following the mailing or delivery of the notice. If a hearing is timely requested by a person for whom notice is required under subsection (A), the hearing shall be held not earlier than the eleventh day after date of the service of the notice. If no request for a hearing is timely filed by a person to whom notice is required under this section, no hearing shall be required.

(E) Upon the timely request for a hearing of any person to whom a notice was provided regarding a violating vehicle, a public hearing will be held before a municipal court judge. Notice of the time, date, and location of the hearing will be provided to each person who submitted a timely request for a hearing.

(F) The issue at the hearing is whether the violating vehicle is a junked vehicle.

(G) At any hearing conducted pursuant to this Article, the violating vehicle is presumed to be inoperable unless demonstrated otherwise by the owner.

(H) If the municipal court judge determines the vehicle to be a junked vehicle, the judge shall order the vehicle to be removed.

(I) Any order requiring the removal of violating vehicle shall include the vehicle's:

- (1) Description;
- (2) Vehicle identification number, if any; and
- (3) License plate, hull registration, or similar registration number, if any.

**Sec. 8.208 Removal of Junked Vehicle**

The city may remove a junked vehicle at any time following a public hearing and order of the judge or following the waiver of a hearing.

**Sec. 8.209 Disposal of Junked Vehicle**

(A) A junked vehicle, or part thereof, shall be disposed of by the City by removal to a scrapyard, demolisher, or any suitable site operated by the City for processing as scrap or salvage, and any reconstruction or work to make the vehicle operable after being removed is prohibited.

(B) If the City Council determines that commercial scrap yard or salvage yard are not available or are inadequate, the City may operate its own disposal site and make final disposition of junked vehicles or vehicle parts at the disposal site or the City may transfer the vehicle or vehicle parts to another disposal site if the disposal site is only as scrap or salvage.

**Section 3. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**Section 4. Savings.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed offense, nor shall the repeal prevent a prosecution from being commenced for any violation occurring to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

**Section 5. Remedies.** All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Code of Ordinances in effect on the effective date of this Ordinance and modified by this Ordinance or any other ordinances in effect on the effective date of this Ordinance and modified by this Ordinance and requiring the payment of fees for licenses, permits, and other services provided by the City which have accrued on the effective date of this Ordinance; and any and all accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such

ordinances, shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 6. Effective Date.** This Ordinance shall be in full force and effect on December , 2015.

PASSED AND APPROVED ON FIRST READING on this \_\_\_\_\_ day of  
\_\_\_\_\_ 2015.

PASSED AND APPROVED ON SECOND READING on this \_\_\_\_\_ day of  
\_\_\_\_\_ 2015.

\_\_\_\_\_  
Anthony Groves, Mayor

ATTEST:

\_\_\_\_\_  
Tina Keys, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
M. Shannon Kackley, Asst. City Attorney  
DENTON NAVARRO ROCHA BERNAL HYDE & ZECH, P.C.

City Council  
City of Brady, Texas

## Agenda Action Form for Ordinance

AGENDA DATE:	12-1-2015	AGENDA ITEM	7.C.
AGENDA SUBJECT:	Discussion, consideration and possible action regarding <b>first</b> reading of Ordinance 1187 to amend FY 2016 Budget.		
PREPARED BY:	Lisa Remini	Date Submitted:	11-24-2015
EXHIBITS:	Ordinance #1187 Proposed Budget Amendments Projected Fund Balance Compliance		
BUDGETARY IMPACT:	Required Expenditure:	\$31,448,877.00	
	Amount Budgeted:	\$30,284,788.00	
	Appropriation Required:	\$1,164,089.00	
CITY MANAGER APPROVAL:			

### SUMMARY:

Staff recommends that the FY 16 Budget be amended to provide for the various items listed on the attached "Proposed Budget Amendment" report.

The "Projected Fund Balance Compliance" report supports all recommended amendments.

### RECOMMENDED ACTION:

**Mayor:** "Do I have a motion to read the full ordinance?"

**If no, Mayor will state:** "A majority of the City Council has dispensed with the full reading of the ordinance."

**Mayor will ask:** "Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter." "Secretary reads preamble"

**Mayor calls for a motion:**

Move to approve the **first** reading of Ordinance 1187.

**ORDINANCE NO. 1187**

**AN ORDINANCE OF THE CITY OF BRADY, TEXAS AMENDING THE FISCAL  
YEAR 2015-2016 BUDGET**

An ordinance amending the 2015-2016 Fiscal Year Budget as follows:

Increasing total expenditures by \$1,164,089 for an expenditure budget of \$31,448,877 as per attached summary, made a part of this ordinance.

These amendments will allow for the completion of the fiscal year operations for the City of Brady.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
BRADY TEXAS** that the FY 2015-2016 budget be amended accordingly.

**APPROVED UPON FIRST READING THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2015,**

**APPROVED AND PASSED UPON SECOND READING THIS THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_ 2015.**

---

Anthony Groves, Mayor

ATTEST: \_\_\_\_\_  
Tina Keys, City Secretary

**CITY OF BRADY**  
**FY 16 PROPOSED BUDGET AMENDMENTS 12-1-2015**

FUND:	DIVISION:	ACCOUNT DESCRIPTION	CURRENT	AMENDMENT	PROPOSED
			BUDGET	INC / (DEC)	BUDGET
<b>GENERAL</b>					
<b>REVENUES</b>					
10-4-13-815.01	Civic Center	EDC Contribution	\$ -	\$ 700,000	\$ 700,000
10-4-01-910.23	Administration	Administrative Fee from Sewer Fund	\$ 479,842	\$ (437,957)	\$ 41,885
10-4-01-910.30	Administration	Administrative Fee from Water Fund	\$ 475,585	\$ (67,504)	\$ 408,081
		<b>Net change in Revenues</b>		<b>\$ 194,539</b>	
<b>EXPENDITURES</b>					
10-5-07-203.00	Fire	Professional fees	\$ -	\$ 19,000	\$ 19,000
10-5-03-401.00	Public Property	Capital Projects	\$ 75,000	\$ 50,000	\$ 125,000
10-5-12-325.00	Streets	Materials	\$ 65,000	\$ 112,700	\$ 177,700
10-5-13-401.00	Civic Center	Capital Projects	\$ 1,100,000	\$ 736,100	\$ 1,836,100
10-5-17-401.00	Municipal Court	Capital Projects	\$ -	\$ 120,000	\$ 120,000
10-5-24-402.00	Repair Shop	Capital Equipment	\$ -	\$ 750	\$ 750
10-5-34-312.00	GRWhite Complex	General Repairs	\$ 50,000	\$ 32,000	\$ 82,000
		<b>Net change in Expenditures</b>		<b>\$ 1,070,550</b>	
		<b>Net impact on General Fund Balance</b>		<b>\$ (876,011)</b>	
<b>ELEC/WWTP</b>					
<b>EXPENDITURES</b>					
20-5-23-312.00	WWTP	Emergency Repairs / Replacement	\$ 22,000	\$ 499,000	\$ 521,000
20-5-23-910.10	WWTP	Administrative Fee to General Fund	\$ 479,842	\$ (437,957)	\$ 41,885
		<b>Net change in Expenditures</b>		<b>\$ 61,043</b>	
		<b>Net Impact on Elec/WWTP Fund Balance</b>		<b>\$ (61,043)</b>	
<b>WATER</b>					
<b>EXPENDITURES</b>					
30-5-31-910.30	Water	Administrative Fee to General Fund	\$ 475,585	\$ (67,504)	\$ 408,081
		<b>Net change in Expenditures</b>		<b>\$ (67,504)</b>	
		<b>Net impact on Water Fund Balance</b>		<b>\$ 67,504</b>	

CITY OF BRADY  
FY 16 PROPOSED BUDGET AMENDMENTS 12-1-2015

FUND:	DIVISION:	ACCOUNT DESCRIPTION	CURRENT	AMENDMENT	PROPOSED
			BUDGET	INC / (DEC)	BUDGET
<b>GAS</b> <b>EXPENDITURES</b> 40-5-42-910.80	Gas	Transfer to Special Revenue Fund	\$ 390,247	\$ 50,000	\$ 440,247
		<b>Net change in Expenditures</b>		\$ 50,000	
		<b>Net impact on Gas Fund Balance</b>		\$ (50,000)	
<b>SPECIAL REVENUE</b> <b>REVENUES</b> 80-4-43-910.40	Community Dev	Transfers in from Gas Fund	\$ 390,247	\$ 50,000	\$ 440,247
<b>EXPENDITURES</b> 80-5-43-278.01	Community Dev	Local Cost - Brady Trails	\$ 41,550	\$ 50,000	\$ 91,550
		<b>Net impact on Special Rev Fund Balance</b>		\$ -	

CITY OF BRADY  
 FY 16 BUDGET AMENDMENT REQUESTS  
 12/01/2015

DIVISION	ACCOUNT DESCRIPTION	AMOUNT	REASON FOR AMENDMENT
<b>REVENUES</b>			
Civic Center	EDC Contribution	\$ 700,000	Contribution from EDC for Civic Center construction per Resolution 2015-028R
Admin	Transfer	\$ (437,957)	Not required to meet General Fund needs
Admin	Transfer	\$ (67,504)	Not required to meet General Fund needs
	<b>TOTAL</b>	<b>\$ 194,539</b>	
<b>EXPENDITURES</b>			
Fire	Professional Fees	\$ 19,000	Concept plans for new Fire / EMS station
PPM	Capital Projects	\$ 50,000	Acquire Activity Center and improvements
Streets	Materials	\$ 112,700	Increase street maintenance work
Civic Center	Capital Projects	\$ 36,100	Finish engineering work for Civic Center
Civic Center	Capital Projects	\$ 700,000	Construction for Civic Center
Muni Court	Capital Projects	\$ 120,000	New Municipal Court building improvements
Repair Shop	Capital Equipment	\$ 750	Complete installation of Repair Shop lift
GRW Complex	General Repairs	\$ 32,000	Continue GRW Complex improvements
	<b>TOTAL</b>	<b>\$ 1,070,550</b>	
WWTP	Emergency Repairs	\$ 499,000	Repairs needed to keep current WWTP running
WWTP	Administrative Fee	\$ (437,957)	Retain funds for unexpected WWTP repairs
		<b>\$ 61,043</b>	
Water	Administrative Fee	<b>\$ (67,504)</b>	Retain funds to meet fund balance level requirements
Gas	Transfer out	<b>\$ 50,000</b>	To provide for 8 foot wide trails with the Brady Trails project
Comm Dev	Transfer in	\$ 50,000	To provide for 8 foot wide trails with the Brady Trails project
	Local Cost - Brady Trails	\$ 50,000	To provide for 8 foot wide trails with the Brady Trails project

## CITY OF BRADY

FY 16 ADJ PROJECTED FUND BALANCES - COMPLIANCE		TOTAL REVENUES	TOTAL EXPENSES	FUND BALANCE
<b>GENERAL FUND - 10</b>				
<b>BEGINNING GENERAL FUND BALANCE 10-1-2015</b>				<b>\$3,098,568</b>
Budget FY16		\$4,093,735	\$8,555,500	(\$4,461,765)
Amendments 12-1-2015		\$700,000	\$1,070,550	(\$370,550)
Transfer in leiu of taxes from Electric Fund		\$2,574,430		\$2,574,430
Transfer in leiu of taxes from Gas Fund		\$345,634		\$345,634
Administrative fee from Sewer Fund		\$41,885		\$41,885
Administrative fee from Water Fund		\$408,081	\$0.00	\$408,081
Transfer excess reserve funds from Utility Support		\$10,640		\$10,640
Transfer excess reserve funds from Solid Waste		\$200,712		\$200,712
Restricted - Projected				(\$78,575)
<b>ENDING GENERAL FUND BALANCE - Unrestricted 9-30-2016</b>				<b>\$1,769,060</b>
Number of days to operating expenditures				90
Excess funds available				\$9,635
Total budgeted expenditures FY16		\$9,626,050		
Less budgeted capital expenditures		(\$2,490,605)		
Net Operating Expenditures		\$7,135,445		
Minimum level Fund Balance required		\$1,759,425	90 days	
<b>ELECTRIC &amp; SEWER FUND - 20</b>				
<b>BEGINNING ELECTRIC &amp; SEWER FUND BALANCE 10-1-15</b>				<b>\$6,618,643</b>
Budget FY 16		\$9,172,862	\$8,291,489	\$881,373
Amendment 12-1-2015			\$499,000	(\$499,000)
Transfer in leiu of taxes from Electric to General Fund			\$2,574,430	(\$2,574,430)
Administrative fee from Sewer to General Fund		\$0	\$41,885	(\$41,885)
Restricted				(\$11,750)
<b>ENDING ELECTRIC &amp; SEWER FUND BALANCE - Unrestricted 9-30-16</b>				<b>\$4,372,951</b>
Number of days to operating expenditures				183
Excess funds available				\$216,203
Total budgeted expenditures FY 16		\$11,406,804		
Less budgeted capital expenditures		(\$2,977,842)		
Operating Expenditures		\$8,428,962		
Minimum level Fund Balance required		\$4,156,748	180 days	
<b>WATER FUND - 30</b>				
<b>BEGINNING WATER FUND BALANCE 10-1-2015</b>				<b>\$3,149,934</b>
Budget FY16		\$1,929,672	\$3,394,587	(\$1,464,915)
Administrative fee to General Fund			\$408,081	(\$408,081)
Transfer to Utility Support Fund		\$0		\$0
Restricted				(\$320,000)
<b>ENDING WATER FUND BALANCE - Unrestricted 9-30-2016</b>				<b>\$956,938</b>
Number of days to operating expenditures				186
Excess funds available				\$33,290
Total budgeted expenditures FY 16		\$3,802,668		
Less budgeted capital expenditures		(\$1,929,715)		
Operating Expenditures		\$1,872,953		
Minimum level Fund Balance required		\$923,648	180 days	

CITY OF BRADY		TOTAL REVENUES	TOTAL EXPENSES	FUND BALANCE
FY 16 ADJ PROJECTED FUND BALANCES - COMPLIANCE				
GAS FUND - 40				
BEGINNING GAS FUND BALANCE 10-1-2015				\$1,431,618
Budget FY16		\$1,531,122	\$1,251,142	\$279,980
Transfer in lieu of taxes to General Fund			\$345,634	(\$345,634)
Transfer to Utility Support Fund			\$0	\$0
Transfer to Special Revenue Fund			\$440,247	(\$440,247)
Restricted				\$0
ENDING GAS FUND BALANCE - Unrestricted 9-30-2016				\$925,717
Number of days to operating expenditures				187
Excess funds available				\$34,195
Total budgeted expenditures FY16		\$2,037,023		
Less budgeted capital expenditures		(\$229,215)		
Operating Expenditures		\$1,807,808		
Minimum level Fund Balance required		\$891,522	180 days	
UTILITY SUPPORT FUND - 50				
BEGINNING UTILITY SUPPORT FUND BALANCE 10-1-2015				\$374,843
Budget FY 16		\$271,300	\$506,760	(\$235,460)
Transfer to General Fund excess reserves			\$10,640	(\$10,640)
Transfer from Water Fund		\$0		\$0
Transfer from Gas Fund		\$0		\$0
ENDING UTILITY SUPPORT FUND BALANCE - Unrestricted 9-30-2016				\$128,743
Number of days to operating expenditures				106
Excess funds available				\$19,048
Total budgeted expenditures FY 16		\$517,400		
Less budgeted capital expenditures		(\$72,524)		
Operating Expenditures		\$444,876		
Minimum level Fund Balance required		\$109,695	90 days	
SOLID WASTE FUND - 60				
BEGINNING SOLID WASTE FUND BALANCE 10-1-2015				\$913,072
Budget FY16		\$1,180,000	\$1,223,748	(\$43,748)
Transfer excess funds to General Fund			\$200,712	(\$200,712)
Restricted				(\$391,000)
ENDING SOLID WASTE FUND BALANCE - Unrestricted 9-30-2016				\$277,612
Number of days to operating expenditures				110
Excess funds available				\$50,396
Total budgeted expenditures FY16		\$1,424,460		
Less budgeted capital expenditures and Street Sanitation exps		(\$502,972)		
Operating Expenditures		\$921,488		
Minimum level Fund Balance required		\$227,216	90 days	
Total Ending Fund Balances - Unrestricted				\$8,431,021
Number of days to Total Operating Expenditures				149
FY 16 Adj Projected Fund Balances - compliance 12-1-2015				Page 2

CITY OF BRADY		TOTAL REVENUES	TOTAL EXPENSES	FUND BALANCE
FY 16 ADJ PROJECTED FUND BALANCES - COMPLIANCE				
SPECIAL REVENUE FUND - 80				
BEGINNING SPECIAL REVENUE FUND BALANCE 10-1-2015				\$361,464
Budget FY 16		\$2,048,682	\$2,584,472	(\$535,790)
Amendment 12-1-2015			\$50,000	(\$50,000)
Transfer from Gas Fund		\$440,247		\$440,247
ENDING SPECIAL REVENUE FUND BALANCE - RESTRICTED 9-30-15				\$215,921
TOTAL BUDGET AFTER TRANSFERS		\$24,949,002	\$31,448,877	(\$6,499,875)

City Council  
City of Brady, Texas

## Agenda Action Form for Ordinance

AGENDA DATE:	12-1-2015	AGENDA ITEM	7.D.
AGENDA SUBJECT:	Discussion, consideration, and possible action regarding <b>first</b> reading of Ordinance 1188 Distributed Generation (DG) Ordinance		
PREPARED BY:	T. Keys/KL	Date Submitted:	11-25-15
EXHIBITS:	Ordinance 1188		
BUDGETARY IMPACT:	Required Expenditure:	\$00.00	
	Amount Budgeted:	\$00.00	
	Appropriation Required:	\$00.00	
CITY MANAGER APPROVAL:			
SUMMARY:	<p><b>Amendment to the Municipal Code of Ordinances.</b> The City of Brady's Municipal Code of Ordinances, Chapter 13 (entitled "Utilities") is to be amended by adding Section 13.1012 entitled "Distributed Generation" to regulate non-emergency generators on the City's Electric Distribution Grid.</p> <p>On November 17, staff discussed and reviewed the proposed ordinance, explaining the safety need to regulate generators connected to City of Brady electric grid. Staff will prepare policies and procedures to implement the ordinance.</p> <p>Staff will be available to answer any questions.</p>		

### RECOMMENDED ACTION:

**Mayor:** "Do I have a motion to read the full ordinance?"

**If no, Mayor will state:** "A majority of the City Council has dispensed with the full reading of the ordinance."

**Mayor will ask:** "Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter." **"Secretary reads preamble"**

**Mayor calls for a motion:**

Move to approve first reading of Ordinance 1188

ORDINANCE NO. 1188

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADY, TEXAS  
AMENDING THE CITY OF BRADY CODE OF ORDINANCES CHAPTER 13 UTILITIES  
BY ADDING SECTION 13.1012, TITLED DISTRIBUTED GENERATION; PROVIDING A  
SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN  
EFFECTIVE DATE.**

**WHEREAS**, Chapter 13 (Utilities) of the City of Brady Code of Ordinances provides for the regulatory control of the City's electric service; and

**WHEREAS**, the City of Brady is the approving authority to distribute and service electricity to customers in a safe and compliant method; and

**WHEREAS**, the provision of such electric service is vital to the safety and well-being of the City's residents, users, and customers;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADY, TEXAS:**

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

**Section 2. Amendment to the Municipal Code of Ordinances.** The City of Brady's Municipal Code of Ordinances, Chapter 13 (entitled "Utilities") is hereby amended by adding Section 13.1012 (entitled "Distributed Generation") to read as follows:

**Sec. 13.1012 Distributed Generation**

(a) The City shall be the sole provider of electric power within the City's designated certificate of convenience and necessity (CCN), as defined by the Public Utility Commission of Texas, with the exception of emergency generators as defined herein.

(1) **Prohibition.** Interconnections to the City's electric system by a distributed generation facility, regardless of the size or nature of the facility, shall be strictly prohibited. For purposes of this section distributed generation shall mean a device that converts a form of energy (typically petrochemical or gas) into electricity.

This prohibition shall not apply to emergency generators during periods of outages of the City's electric system. All such emergency generators shall be permitted, inspected, tested and approved by the City prior to use.

(2) The City Manager is authorized to develop administrative rules to facilitate the efficient implementation of this section and protect the best interest of the city.

(3) Nothing in this ordinance prohibits Distributed Renewable Generation (solar or wind) as defined by the Public Utility Commission of Texas provided all rules and regulations are met.

**Section 3. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**Section 4. Savings.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed offense, nor shall the repeal prevent a prosecution from being commenced for any violation occurring to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

**Section 5. Remedies.** All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Code of Ordinances in effect on the effective date of this Ordinance and modified by this Ordinance or any other ordinances in effect on the effective date of this Ordinance and modified by this Ordinance and requiring the payment of fees for licenses, permits, and other services provided by the City which have accrued on the effective date of this Ordinance; and any and all accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 6. Effective Date.** This Ordinance shall become effective on its second reading.

PASSED AND APPROVED ON FIRST READING on this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

PASSED AND APPROVED ON SECOND READING on this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

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Anthony Groves, Mayor

ATTEST:

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Tina Keys, City Secretary

APPROVED AS TO FORM: M. Shannon Kackley, Asst. City Attorney, DENTON NAVARRO ROCHA BERNAL HYDE & ZECH, P.C.

City Council  
City of Brady, Texas

## Agenda Action Form for Ordinance

AGENDA DATE:	12-1-2015	AGENDA ITEM	7.E1.
AGENDA SUBJECT:	Discussion, consideration, and possible action regarding <b>first</b> reading of Ordinance 1189 that addresses inclusion of properties served as if in city limits for over 20 years.		
PREPARED BY:	T. Keys/KL	Date Submitted:	11-25-15
EXHIBITS:	Ordinance 1189		
BUDGETARY IMPACT:	Required Expenditure:	\$00.00	
	Amount Budgeted:	\$00.00	
	Appropriation Required:	\$00.00	
CITY MANAGER APPROVAL:			

### SUMMARY:

GIS Map contractors and surveyor Kenneth Ross are developing a final city limit map for the public to review. If available, staff will have a copy of this map to give the City Council on December 1. A Public Presentation will be held December 1 to review the actual boundary lines of the city as mapped. The northwestern and western boundary line have been in question for many years.

Section 41.003 of the Texas Local Government Code allows the City Council to adopt an ordinance declaring an area that is adjacent to the City that has received longstanding treatment as part of the City to now become a part of the City to correct city limit boundaries.

The attached ordinance is to include properties currently thought to be in the city limits and served as if they were in the city limits, but appear now not to have been. This might include only one or two properties on the northwestern city limit line.

Staff will be available to answer any questions.

### RECOMMENDED ACTION:

**Mayor:** "Do I have a motion to read the full ordinance?"

**If no, Mayor will state:** "A majority of the City Council has dispensed with the full reading of the ordinance."

**Mayor will ask:** "Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter." **"Secretary reads preamble"**

**Mayor calls for a motion:**

Move to approve first reading of Ordinance 1189

**ORDINANCE NO. 1189**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADY, TEXAS  
DECLARING AREAS RECEIVING LONGSTANDING TREATMENT AS PART  
OF THE CITY OF BRADY, TEXAS; PROVIDING A SEVERABILITY CLAUSE;  
PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 41.003 of the Texas Local Government Code allows the City Council to adopt an ordinance declaring an area that is adjacent to the City that has received longstanding treatment as part of the City to be a part of the City; and

**WHEREAS**, the areas described in Exhibit A and Exhibit B (collectively "Areas") are not within the City's boundaries; and

**WHEREAS**, the City's records indicate that the Areas have been considered a part of the City for at least the preceding 20 years; and

**WHEREAS**, the City has provided municipal services, including police protection, to the area and has otherwise treated the area as part of the municipality during the preceding 20 years; and

**WHEREAS**, there has not been a final judicial determination during the preceding 20 years that the area is outside the City's boundaries; and

**WHEREAS**, there is no pending lawsuit that challenges the inclusion of the Areas as part of the City; and

**WHEREAS**, the City Council has determined that the safety, health and welfare of the citizens and general public require the City to declare the Areas as part of the City; and

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

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

**Section 2. Declaration.** The City Council determines the Areas reflected in Exhibit A and Exhibit B meet the requirements of Section 41.003 of the Texas Local Government Code and declares the Areas to be within the City's Boundaries.

**Section 3. Retroactive.** The City began its continuous treatment of the Areas as part of the City on ??? (date). Under, Section 41.003(c) of the Texas Local Government Code, the Areas have been a part of the City since ??? (same date).

**Section 4. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**Section 5. Savings Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent the prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

**Section 6. Effective Date.** This Ordinance shall be in full force and effect on November , 2015.

PASSED AND ADOPTED ON this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

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Anthony Groves, Mayor

ATTEST:

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Tina Keys, City Secretary

APPROVED AS TO FORM:

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M. Shannon Kackley, Asst. City Attorney  
DENTON NAVARRO ROCHA BERNAL HYDE & ZECH, P.C.

## EXHIBIT A

## EXHIBIT B

City Council  
City of Brady, Texas

## Agenda Action Form for Ordinance

AGENDA DATE:	12-1-2015	AGENDA ITEM	7. E2.
AGENDA SUBJECT:	Discussion, consideration, and possible action regarding <b>first</b> reading of Ordinance 1190 that adopts the map of the Brady City Limits.		
PREPARED BY:	T. Keys/KL	Date Submitted:	11-25-15
EXHIBITS:	Ordinance 1190		
BUDGETARY IMPACT:	Required Expenditure:	\$00.00	
	Amount Budgeted:	\$00.00	
	Appropriation Required:	\$00.00	
CITY MANAGER APPROVAL:			
SUMMARY:	<p>GIS Map contractors and surveyor Kenneth Ross are developing a final city limit map for the public to review. If available, staff will have a copy of this map to give the City Council on December 1. A Public Presentation will be held December 1 to review the actual boundary lines of the city as mapped. The northwestern and western boundary line have been in question for many years.</p> <p>Section 43.021 of the Texas Local Government Code allows a Home-Rule Municipality to "fix the boundaries of the municipality. Sections 41.001 and 41.0015 of the Texas Local Government Code requires the City to prepare a map reflecting the City's boundaries and provide a copy of any corrected map to County Clerk.</p> <p>The attached ordinance is to adopt the map of the city limits.</p> <p>Staff will be available to answer any questions.</p>		

### RECOMMENDED ACTION:

**Mayor:** "Do I have a motion to read the full ordinance?"

**If no, Mayor will state:** "A majority of the City Council has dispensed with the full reading of the ordinance."

**Mayor will ask:** "Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter." **"Secretary reads preamble"**

**Mayor calls for a motion:**

Move to approve first reading of Ordinance 1190

**ORDINANCE NO. 1190**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADY, TEXAS  
FIXING ITS BOUNDARIES; PROVIDING FOR A CUMULATIVE &  
CONFLICTS CLAUSE; ADOPTION OF CITY BOUNDARY MAP; PROVIDING  
A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND  
PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 43.021 of the Texas Local Government Code allows a Home-Rule Municipality to “fix the boundaries of the municipality;” and

**WHEREAS**, the City’s Boundary Map has not been updated and needs to reflect the City’s current boundaries; and

**WHEREAS**, Sections 41.001 and 41.0015 of the Texas Local Government Code requires the City to prepare a map reflecting the City’s boundaries and provide a copy of any corrected map to County Clerk; and

**WHEREAS**, the City Council has determined that the safety, health and welfare of the citizens and general public require the City to fix the boundaries of the City, adopt a Boundary Map that reflects the City’s current boundaries, and provide said map to the County Clerk of McCulloch County, Texas; and

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

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

**Section 2. The City’s Boundaries.** The City’s Boundaries include all of the properties that were the part of the original Town of Brady and all of the properties annexed since 1906. These properties are:

<b>Year</b>	<b>Ordinance Number</b>	<b>Subdivision</b>
1906		Original Town of Brady
1927	44	W. 1st Street to Brady Creek – Old City Service Center
1927	52	South Brady – 16th to 17th Street
1929	80	North Brady – Boy Street to Ballou Street
1947	176	South Brady – Stanburn Park Area
1949	193-194	W. 11th and 12th Streets between Live Oak to Persimmon
1952	215	Houses North and West of 6th Street near park, Simpson, Jordan, & Bombay Streets
1956	239	Curtis Airfield
1961	276	Houses Southside of W. 6th Street, near park

1961	293	S. Bridge Commercial Tract
1962	291	S. Bridge Commercial Tract
1964	324	S. Bridge Commercial Tract
1965	330	Live Oak Cemetery
1968	369	Rest Haven Cemetery, Golf Course, Lake
1969	378	3 acres – Brady Nursing Home
1970	385	GRW Complex – 100 acres
1971	396	Wastewater Treatment Plant
1971	397	McBee 2.4 acres, W. 17th Street and Simpson Street
1972	412	Parkview
1972	413	Richard Park, Park Addition/Memory Lane
1973	423	Broad, six small tracts around Park
1975	435	McCulloch County Hospital
1976	454	Meadow Creek
1976	453	Rudder Tract
1976	448	Southgate Terrace
1980	497	Civic Center Site
1984	544	South Brady to SH 71
1984	546	Highland South Addition
1992	684	Aston Property
2001	894	39 acres north of Golf Course, 14.8 acres east and south of Golf Course

*[Areas included within limits under Sec. 41.003, per Ordinance 1189]*

**Section 3. Adoption of City Boundary Map.** The City Council adopts the Boundary Map, attached as Exhibit A, prepared by ???? on (date) as the Boundary Map of the City. A copy of the Boundary Map will be kept with City Secretary. And a certified copy of the Boundary Map will be provided to the County Clerk of McCulloch County, Texas.

**Section 4. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**Section 5. Savings Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent the prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

**Section 6. Effective Date.** This Ordinance shall be in full force and effect on December 15, 2015.

PASSED AND ADOPTED ON this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

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Anthony Groves, Mayor

ATTEST:

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Tina Keys, City Secretary

APPROVED AS TO FORM:

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M. Shannon Kackley, Asst. City Attorney  
DENTON NAVARRO ROCHA BERNAL HYDE & ZECH, P.C.

# EXHIBIT A

**City Council  
City of Brady, Texas  
Agenda Action Form**

<b>AGENDA DATE:</b>	12-01-2015	<b>AGENDA ITEM</b>	7. F
<b>AGENDA SUBJECT:</b>	Discussion, consideration, and possible action regarding Resolution 2015-046 to apply for funding for Senior Citizen meals and authorizing the Mayor to sign such documents as necessary.		
<b>PREPARED BY:</b>	K Lenoir	<b>Date Submitted:</b>	11/24/2015
<b>EXHIBITS:</b>	Resolution 2015-046		
<b>BUDGETARY IMPACT:</b>	<b>Required Expenditure:</b>	\$0.00	
	<b>Amount Budgeted:</b>	\$0.00	
	<b>Appropriation Required:</b>	\$0.00	
<b>CITY MANAGER APPROVAL:</b>			

**SUMMARY:**

Each year the Sunset Center provides 19,600 meals as part of its Congregate Meal and Home Delivered Meal Programs. These programs are partially funded by the Texas Department on Aging and Disability Services through the Area Agency on Aging. This resolution authorizes the Mayor to sign the Vendor application and contract paperwork to continue this funding.

This is an annual agreement

**RECOMMENDED ACTION:**

Staff recommends approving Resolution 2015-046 to apply for funding for Senior Citizen meals and authorizing the Mayor to sign such documents as necessary.

Governing Authority Resolution 2015-046  
Business OrganizationCOUNTRY, TERRITORY or NATION OF United StatesSTATE or PROVINCE OF TexasCOUNTY OF McCulloch

On the \_\_\_\_\_ day of \_\_\_\_\_, year \_\_\_\_\_, the Governing Authority of City of Brady,  
 a Business Organization, at a meeting held in the City of Brady, McCulloch County or Parish,  
 and in the State or Province of Texas, with a quorum of the Governing Authority present, it was duly moved and  
 seconded that the following resolution be adopted:

BE IT RESOLVED that the Governing Authority of the above Business Organization does hereby authorize

the Mayor

and his/her/their successors to negotiate, on terms and conditions that he/she/they may deem advisable, a contract or contracts with the Texas Department of Aging and Disability Services (DADS), and to execute the contract or contracts on behalf of the Business Organization, and further we do hereby give him/her the power and authority to do all things necessary to implement, maintain, amend, renew or request closure of the contract. Although the authority of the successors is binding on this Organization, it is acknowledged that this Organization must specifically authorize another party by name in a resolution within 30 days of the change in authorization, or when specifically required by DADS, whichever is sooner.

The above resolution was passed in accordance with the Governing Documents of this Organization and the laws of the jurisdiction in which this Organization was formed. The terms "Governing Authority," "Business Organization" and "Governing Documents" are used as defined in the Texas Business Organizations Code.

This Organization is a (check one)  General Partnership  Corporation  Limited Liability Company  
 Limited Partnership  Limited Liability Partnership  Association  
 Other (specify) Non-profit

I certify that the above and foregoing constitute a true and correct copy of a part of the minutes of a meeting of the Governing

Authority of \_\_\_\_\_  
 held on the \_\_\_\_\_ day of \_\_\_\_\_, year \_\_\_\_\_.

\_\_\_\_\_  
Signature\_\_\_\_\_  
Printed Name and Title

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, year \_\_\_\_\_.

\_\_\_\_\_  
Signature – Notary Public\_\_\_\_\_  
Printed Name of Notary and Jurisdiction\_\_\_\_\_  
My commission expires \_\_\_\_\_

**City Council  
City of Brady, Texas  
Agenda Action Form**

<b>AGENDA DATE:</b>	12-01-2015	<b>AGENDA ITEM</b>	7. G
<b>AGENDA SUBJECT:</b>	Discussion, consideration, and possible action regarding award the Brady Creek Trail Construction and project to low bidder Westar Construction in the amount of \$282,967.50.		
<b>PREPARED BY:</b>	K Lenoir	<b>Date Submitted:</b>	11/24/2015
<b>EXHIBITS:</b>	KSA Bid recommendation and tabulation Advertisement for bids Estimate for materials testing		
<b>BUDGETARY IMPACT:</b>	<b>Required Expenditure:</b>	\$283,000.00	
	<b>Amount Budgeted:</b>	\$327,040.90	
	<b>Appropriation Required:</b>	\$44,040.90	
<b>CITY MANAGER APPROVAL:</b>			

**SUMMARY:**

In May of 2012, the City was awarded a Texas Parks and Wildlife, Recreational Trails Grant. The project was awarded a one year extension in March of 2015 and the project completion date is now June 30, 2016.

KSA Engineers were contracted to develop plans and specification for the project and to oversee the bidding process. The trail is to stretch from Memory Lane in Richards Park, along Brady Creek and terminate at the Park on Richards Drive. The project was let for bid on September 30, 2015. Bidders were asked to provide costs for a five foot trail, six foot trail and an eight foot trail layout.

Bids were opened on October 28, 2015 and after review of the bids, KSA recommended award to Westar Construction for Bid Schedule 1. After staff discussion, it is being proposed that the City award Bid Schedule 3, the eight foot trail and execute a budget amendment to fund the difference.

Total costs for the project include:

Plans, Specifications and Construction oversight:	\$ 41,410.00
Construction	\$282,967.50
<u>Materials Testing</u>	\$ 2,663.40
Project Total	\$327,040.90

**RECOMMENDED ACTION:**

Staff recommends awarding the bid to Westar Construction of Georgetown, Texas for the base bid under Bid Schedule 3 in the amount of \$282,967.50.

November 4, 2015

Peter Lamont  
 Director of Community Services  
**City of Brady, Texas**  
 201 E. Main Street  
 Brady, TX 76825

*via delivery*

**RE: City of Brady  
 Brady Creek Trail Project  
*Bid Recommendation***

Dear Mr. Lamont:

KSA has reviewed the sealed bid proposals that were received up until 2:00 pm on Wednesday, October 28, 2015 and then publicly opened and read aloud for the above referenced project at City Hall, as duly advertised. A total of four (4) bids were received for this project. As shown on the attached bid tabulation, the low total bid was submitted by Westar Construction, Inc., 4500 Williams Dr., Suite 212-PMB 411, Georgetown, Texas 78633. The results of the bids are as follows:

		Bid Schedule 1	Bid Schedule 2	Bid Schedule 3
Westar Construction, Inc.	Base Bid:	\$ 206,440.00	\$ 232,200.00	\$ 282,967.50
	Base Bid + Alts:	\$ 246,300.00	\$ 278,000.00	\$ 341,142.50
Lanat Enterprises, LLC	Base Bid:	\$ 210,683.00	\$ 235,286.75	\$ 283,655.50
	Base Bid + Alts:	\$ 250,960.30	\$ 281,721.55	\$ 342,617.80
M&C Fonseca Construction Co., Inc.	Base Bid:	\$ 216,355.00	\$ 243,355.00	\$ 297,636.25
	Base Bid + Alts:	\$ 261,685.00	\$ 295,435.00	\$ 363,778.75
Entrenos, Inc.	Base Bid:	\$ 259,570.00	\$ 301,787.75	\$ 387,623.25
	Base Bid + Alts:	\$ 313,565.00	\$ 366,104.25	\$ 473,382.75

Westar Construction, Inc. submitted all required documentation with their sealed bid, including a qualifications statement which KSA has reviewed and evaluated. KSA understands the Texas Parks and Wildlife Department will fund up to \$200,000.00 and the City of Brady has budgeted approximately \$83,000.00 for the project, resulting in a total project budget of \$283,000.00. The total project budget less engineering/construction administration costs currently under contract result in approximately \$241,590.00 remaining for construction. Based on this information, KSA recommends Westar Construction, LLC. be awarded the above referenced project for the Bid Schedule 2 base bid in the amount of \$232,200.00.

If you have any questions, please do not hesitate to call.

Sincerely,

KSA  


Kyle Newton, P.E.  
 Project Engineer

Enclosures

BID NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL PRICE	UNIT	QTY	UNIT PRICE	TOTAL PRICE	UNIT	QTY	UNIT PRICE	TOTAL PRICE
		<b>Bid Schedule 1 Base Bid: 5' Walking Trail</b>												
1.01	---	Mobilization	LS	1	\$14,000.00	\$14,000.00	\$19,000.00	\$19,000.00	\$10,000.00	\$100,000.00	\$20,000.00		\$3,25	
1.02	---	Site Preparation	LF	4,335	\$7.00	\$30,345.00	\$6.83	\$30,041.55	\$8.00	\$34,640.00	\$2,25		\$4,088.75	
1.03	Section 02270	Seeding for Erosion Control	SY	1,025	\$4.00	\$4,100.00	\$6.30	\$4,497.50	\$4.50	\$4,612.50	\$2,306.25			
1.04	Section 03305	Concrete Sidewalk, 4"	SY	2,410	\$49.50	\$119,295.00	\$49.00	\$118,090.00	\$56.25	\$135,562.50	\$192,800.00			
1.05	---	Handrails	LF	475	\$72.00	\$34,200.00	\$69.00	\$32,775.00	\$60.00	\$28,500.00	\$56.00		\$26,125.00	
1.06	---	Rock Rip Rap	SY	25	\$100.00	\$2,500.00	\$160.32	\$4,008.00	\$80.00	\$2,100.00	\$150.00		\$3,750.00	
1.07	---	Temporary Project Sign	LS	1	\$2,000.00	\$2,000.00	\$310.95	\$1,000.00	\$1,000.00	\$500.00	\$500.00			
		<b>Subtotal</b>				\$205,440.00		\$210,631.00		\$215,355.00				\$259,700.00
		<b>Bid Schedule 1 Base Bid: 5' Walking Trail</b>												
		<b>Bid Schedule 1 - Additive Alternate</b>												
A1.01	---	Site Preparation	LF	1,110	\$7.00	\$7,770.00	\$6.93	\$7,692.30	\$8.00	\$8,800.00	\$3,25			
A1.02	Section 02270	Seeding for Erosion Control	SY	350	\$4.00	\$1,400.00	\$6.30	\$2,205.00	\$4.50	\$1,575.00	\$2,25			
A1.03	Section 03305	Concrete Sidewalk, 4"	SY	620	\$49.50	\$30,690.00	\$49.00	\$30,300.00	\$56.25	\$34,875.00	\$80.00		\$49,900.00	
		<b>Subtotal</b>				\$39,460.00		\$40,277.30		\$45,330.00				\$53,995.00
		<b>Bid Schedule 1 - Additive Alternate</b>												
		<b>BID SUMMARY:</b>												
		<b>Subtotal</b>				\$205,440.00		\$210,631.00		\$216,355.00				\$259,700.00
		<b>Bid Schedule 1 Base Bid: 5' Walking Trail</b>												
		<b>Subtotal</b>				\$39,460.00		\$40,277.30		\$45,330.00				\$53,995.00
		<b>Bid Schedule 1 - Additive Alternate</b>												
		<b>BID SCHEDULE 1 BASED BID + ADDITIVE ALTERNATE TOTAL</b>				\$246,300.00		\$250,960.30		\$261,685.00				\$313,565.00

\*Error found and corrected by KSA Engineers, Inc.

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Engineering and corrected by KSA Engineers, Inc.

## ADVERTISEMENT FOR BIDS

SEALED PROPOSALS will be received by the City of Brady at 201 East Main Street, Brady, Texas, 76825 until 2:00 pm on Wednesday, October 28, at which time and place the sealed proposals will be publicly opened and read aloud. Any bids received after the above stated time will be returned unopened. All interested persons may attend.

### Bid/Proposal

#### BRADY CREEK TRAIL PROJECT BRADY, TEXAS

#### THE PROPOSED WORK includes:

- Construct approximately 4335 linear feet of concrete walking trail and associated improvements. Additive alternate includes constructing an additional 1110 linear feet (approximately) of concrete walking trail.

Contract documents, including plans and specifications are available and may be examined without charge at Brady City Hall in Brady, Texas. Contract documents including, bid proposal forms, plans sheets, and specifications for the Project may be viewed and downloaded free of charge (with the option to purchase copies) at [www.civcastusa.com](http://www.civcastusa.com). Scanned plans and specifications (PDF format) are available on CD for a non-refundable price of \$50 from KSA Engineers, Inc., 58 Buick Street, San Angelo, Texas 76901, and Telephone: (325) 947-1555. Printed copies of the contract documents may also be viewed at the Engineer's office.

Please submit questions for this project at least 72 hours prior to bid opening through [www.civcastusa.com](http://www.civcastusa.com) in the Q&A portal or to Kyle Newton, P.E. at [knewton@ksaeng.com](mailto:knewton@ksaeng.com). All addenda issued for this project will be posted on [www.civcastusa.com](http://www.civcastusa.com). You will be notified of addenda automatically through email if you download the plans and specifications via [www.civcastusa.com](http://www.civcastusa.com).

"Contractors must pay workers not less than the general prevailing rate of per diem wages contained in the contract documents for all work performed on this project, in accordance with Texas Government Code Chapter 2258. Contractors must ensure that employees and applicants for employment are not discriminated against because of race, color, religion, sex, age or national origin. HUBs are encouraged to apply."

#### Advertisement Dates:

1 <sup>st</sup> Publication:	<u>September 30, 2015</u>
2 <sup>nd</sup> Publication:	<u>October 7, 2015</u>
Pre-Bid Meeting:	<u>October 14, 2015</u>
Bid Opening:	<u>October 28, 2015</u>

Mayor Anthony Groves  
City of Brady  
Brady, Texas

## Peter Lamont

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**From:** Kyle Newton <knewton@ksaeng.com>  
**Sent:** Wednesday, November 11, 2015 8:36 AM  
**To:** Peter Lamont  
**Subject:** Brady Creek Trail Materials Testing Fee

Good Morning Peter,

You have asked for an estimate for materials testing. We have estimated the cost to be \$2,663.40. This cost includes concrete testing only.

Please let me know if you need any other information.

Thank you.

**Kyle Newton, P.E.** | Project Engineer  
KSA | [www.ksaeng.com](http://www.ksaeng.com)  
Main: 325.947.1555 | Fax: 325.947.1559  
[knewton@ksaeng.com](mailto:knewton@ksaeng.com)

# City Council

## City of Brady, Texas

### Agenda Action Form

<b>AGENDA DATE:</b>	12-1-15	<b>AGENDA ITEM</b>	7.H
<b>AGENDA SUBJECT:</b>	Discussion, consideration and possible action regarding Resolution 2015-047 to adopt revisions to City of Brady Personnel Policy		
<b>PREPARED BY:</b>	K Lenoir	<b>Date Submitted:</b>	11-25-15
<b>EXHIBITS:</b>	Draft redline policy –distributed 11-25-15 – Council Comments – Edits will be presented		
<b>BUDGETARY IMPACT:</b>	<b>Required Expenditure:</b>	\$00.00	
	<b>Amount Budgeted:</b>	\$00.00	
	<b>Appropriation Required:</b>	\$00.00	
<b>CITY MANAGER APPROVAL:</b>			

**SUMMARY:**

The last personnel policy was dated 2003. Staff and the attorney have prepared a draft for your review and comments. If needed, staff can set-up a work session to review in more detail.

**RECOMMENDED ACTION:**

Move to approve Resolution 2015-047 to update/revise City of Brady Personnel Policy

**City Council  
City of Brady, Texas  
Agenda Action Form**

<b>AGENDA DATE:</b>	12-01-2015	<b>AGENDA ITEM</b>	7. I
<b>AGENDA SUBJECT:</b>	Discussion regarding adopting a special event permit policy and procedures and advise Staff as necessary		
<b>PREPARED BY:</b>	K Lenoir	<b>Date Submitted:</b>	11/24/2015
<b>EXHIBITS:</b>	Proposed Special Event Ordinance Proposed Special Event Permit Application		
<b>BUDGETARY IMPACT:</b>	<b>Required Expenditure:</b>	\$0.00	
	<b>Amount Budgeted:</b>	\$0.00	
	<b>Appropriation Required:</b>	\$0.00	
<b>CITY MANAGER APPROVAL:</b>			
<b>SUMMARY:</b> <p>The City is seeing an increase in requests for parades, fun runs and special events. Currently there is a Parade Ordinance but nothing to discuss any other type of event. Staff has been working with the City Attorney the past few weeks to update and expand the current ordinance and streamline the procedures for approving a permit.</p> <p>Please review that attached proposed ordinance and application. Staff will discuss this item and answer any questions.</p>			

**RECOMMENDED ACTION:**

Direct staff as desired

## SPECIAL EVENTS

### ARTICLE I. - GENERAL PROVISIONS

#### Sec. 1 - Purpose.

The purpose of this chapter is to enhance the positive image of the city, to stimulate significant economic growth and promote tourism. To this end, it is the city's intent to encourage and give high priority to established special events that have a record of significantly benefiting the city and to special events that promote commercial film development in the city.

#### Sec. 2. - Definitions.

The following words, terms and phrases when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person, as defined herein.

City means the City of Brady, Texas.

City council means the city council of the City of Brady.

City Manager means the Manager of the City of Brady.

City-sponsored special event means a special event that the city council has:

- (1) Determined to be directly related to a recognized function of city government; and
- (2) Committed the city to significantly sharing in initiating, financing, supporting, and conducting the event.

Committee means a body comprised of representatives from various city departments.

Demonstration means a public display of the attitude of assembled persons toward a person, cause, issue, or other matter.

Police Department means the City of Brady Police Department.

Established special event means a special event that:

- (1) Occurs at least once a year;
- (2) Has an average attendance exceeding 150 participants and spectators for each day of the event or activity; and
- (3) Is open to the general public, with or without an entry fee.

Expressive activity means conduct, the sole or principal purpose of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas.

Facilities means, without limitation, all equipment, materials and apparatus associated with the conduct of the special event, including, without limitation: barriers, cables (electrical or

otherwise), safety equipment and devices, water, sound system and related equipment, fencing, fence covering material, signs, tents, vehicles, fire protection equipment and apparatus, medical equipment and apparatus, seals, wiring, banners, structures and components thereof, furniture, furnishings, special lighting fixtures, trade fixtures and equipment furnished and installed or used in the operation of the event. The quality level, design and appearance of all facilities shall be of high quality appropriate to the circumstances.

Force majeure means and includes fire, casualty, strikes, lockouts, labor trouble, inability to procure materials or supplies, failure of power, governmental authority, inclement weather, acts of God, war or terrorism or the potential or actual threat thereof, public safety or public welfare considerations, riots, or local, national or international emergencies, or other reason of like nature.

. Parade means a public celebration of a special day or event that usually includes many people and groups moving down a street by marching or riding in cars or on special vehicles (floats).

Person means an individual, firm, partnership, corporation, association, organization, or other legal entity.

Special event means a temporary event or gathering of 25 or more persons for a common purpose under the direction or control of a person or entity, including a special event parade, using either private or public property, which involves one or more of the following activities, except when the activity is for construction or house-moving purposes only:

- (1) Closing of a public street;
- (2) Blocking or restriction of public property, including public rights-of-way;
- (3) Sale of merchandise, food, or beverages on public property;
- (4) Sale of alcoholic beverages on public or private property where otherwise prohibited;
- (5) Erection of a tent or canopy on public property;
- (6) Installation of a stage, band shell, trailer, van, portable building, grandstand, or bleachers on public property, or on private property where otherwise prohibited by ordinance; and/or
- (7) Placement of temporary informational signs including, but not limited to: no-parking, directional, or identification, special event signs or banners in or over a public right-of-way, or on private property where otherwise prohibited by ordinance.

Special event parade means the assembly of 25 or more persons whose gathering is for the common design of traveling or marching in procession from one location to any other location for the purpose of advertising, promoting, celebrating, or commemorating a thing, person, date, or event.

Special event permit or permit means the city's written authorization to hold a special event. The permit may impose terms and conditions, and is subject to the guidelines of the permit.

Director of Community Services means the Director of Community Services, or his/her designee, designated by the City Manager as primarily responsible for managing special events.

Sec. 3. - General authority and duty of Director of Community Services.

- (a) The Director of Community Services shall implement, administer, and enforce the provisions of this chapter.
- (b) The Director of Community Services has authority to issue a special event permit that authorizes one or more of the activities described in this chapter when the requirements of this chapter have been met.
- (c) In addition to other duties designated by this chapter, the Director of Community Services shall provide for the enhancement of commercial film development in the city by assisting the film industry in coordinating traffic and security needs.

Sec. 4. - Chapter cumulative.

- (a) The provisions of this chapter are cumulative of all city ordinances. Except as provided in building permits, electrical permits, food establishment permits, alcoholic beverage licenses, tent permits and all other permits and licenses required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the special event, permits must be applied for separately, in accordance with the applicable ordinance or law. The Director of Community Services must receive any necessary permit or license in addition to the special event application from the applicant in order for an applicant to obtain a special event permit.
- (b) Application for a special event permit authorizes the Director of Community Services to issue permits for the activities described in this chapter in locations where the activity would otherwise be prohibited by ordinance.

Sec. 5. - Exemptions.

The following are exempt from the operation, rules, and regulations of this chapter:

- (1) A private party held on private property and to which the public is not invited, provided such party does not impact public rights-of-way or involve activities or facilities not permitted by applicable zoning regulations;
- (2) An event wholly contained on property specifically designed or suited for the event and that holds a certificate of occupancy for such use including adequate parking (e.g., G. Rollie White Arena);
- (3) Funeral processions;
- (4) Activities under the control of the city park and recreation department conducted on city property that do not affect public rights-of-way;
- (5) Unorganized gatherings;

(6) A demonstration, parade or assembly related to the expression of feelings and beliefs on current political, religious, or social issues at a fixed location other than a public right-of-way (sidewalk or street); and/or

Secs. 6 - 9. - Reserved.

## ARTICLE II. - SPECIAL EVENT PERMITS

Sec. 10. - Permit required.

(a) No special event may be held within the city without first obtaining a special event permit. Special event permits are issued by the Police Department. A special event application form may be obtained from the office of the Director of Community Services or as otherwise provided by the Police Department. All applications shall be reviewed on a case-by-case basis.

(b) Except as otherwise provided in this chapter, a special event application form must be completed and submitted to the Director of Community Services no fewer than:

(1) 30 days prior to a proposed special event, excluding special events for an expressive activity; or

(2) Ten days prior to a proposed special event involving expressive activity.

The Director of Community Services may waive the above requirements if the application can be processed in a shorter time period, taking into consideration the nature and scope of the proposed event and the number and types of permits required to be issued in conjunction with the special event permit.

(c) The issuance of a special event permit grants permission to use public property proposed to be used in connection with the special event and/or authorizes the use of private property in a manner not otherwise permitted by the code in connection with the special event (the "licensed premises"). The use of such licensed premises shall be solely for the purpose of constructing, installing, operating, and maintaining the special event, and for such other purposes consistent with promoting and conducting the special event as the Director of Community Services authorizes in writing.

(d) The issuance of a special event permit authorizes appropriate city departments to issue permits for activities in connection with the authorized event in locations where such activities would otherwise be prohibited by ordinance.

(e) Setup is allowed no earlier than the day immediately preceding the day of the event and must be completely removed before noon on the next succeeding business day after the event, unless otherwise determined. The placement of signs for a special event shall be in compliance with the City of Brady Code of Ordinances.

(f) The city and its officials, officers, employees and agents shall not be liable for any damage to or loss of any such property or facilities sustained during removal or storage of such property, equipment, tents or other facilities and the permittee shall indemnify the city, its officials, officers, employees and agents against all claims for any such damage or loss.

(g) Issuance of a special event permit does not authorize removal or alteration of public property and any such removal or alteration is strictly prohibited except as expressly allowed in writing by the Director of Community Services, or other authorizing official.

(h) In addition to complying with all conditions of the permit and all applicable city ordinances, regulations, rules, policies and guidelines, the permittee must comply with all applicable federal, state, and county laws, rules and regulations.

(i) A permittee may not and shall have no authority to assign, sell, transfer, pledge, encumber or otherwise convey a permit or any rights, duties, responsibilities or obligations thereunder, and any such conveyance shall be null and void and may, in the discretion of the city, result in the revocation of the permit.

(j) No rights granted by a permit shall create rights in anyone other than the permittee.

Sec. 11. - Application process.

(a) The applicant shall contact the Director of Community Services to discuss desired or available dates for the event. An event returning to the city for a successive year (a "returning event") may be given priority consideration for the same time period in which it was held in the previous year(s).

(b) At minimum, and in addition to the information required in this Article II, the application must contain the following information, with a few exceptions, all of which is public information subject to the Texas Public Information Act and other applicable law:

- (1) Applicant information. Applicant's name, organization name, type of organization; a representation that the applicant and organization are in good standing under the laws of the State and the United States; address, including city, state, zip code, e-mail address and web site address; mobile telephone number; telephone number; facsimile number; and on-site contact name and mobile telephone number. If the applicant is a corporation, copies of a current certificate of account status issued by the State Comptroller's office and a current certificate of existence issued by the Secretary of State's office, or, if the corporation is not incorporated in or holding a certificate of authorization in the State, copies of similar current certificates from the state in which the corporation is incorporated;
- (2) Event information. Event name; dates and times requested; type of event; any previous dates such event has been held; previous attendance; expected attendance; whether the event will be open to the public; admission fee; proposed event area; setup dates; teardown dates; event sponsors; and event beneficiaries;
- (3) Event special features. Plans for sound amplification; stage; dance floor; food and beverage service, including participating concessionaires and caterers; sale or distribution of alcohol; open flames; cooking; road closures; tents or canopies; temporary fencing; restrooms; sinks; dumpsters; trash containers; trash collection; electrical service; rentals; professional parking/valet; carnival or amusement rides or attractions; climate control;

pyrotechnics; seating; animals; barricades; bicycles; decorations; golf carts; inflatables; security; transportation; signage; ticket sales; and any other special features planned for or in conjunction with the event;

(4) Insurance. The permittee shall, at its own expense, procure, pay for and maintain the following insurance written by companies approved by the State and acceptable to the city. The permittee shall furnish to the city certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the special event and be addressed as follows:

City of Brady, Texas  
Attn.: Director of Community Services  
P.O. Box 351  
Brady, Texas 76825

Or you may email to: [plamont@bradytx.us](mailto:plamont@bradytx.us)

- a. Commercial general liability insurance, including, but not limited to premises/operations, personal and advertising injury, products/completed operations, independent contractors and contractual liability, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$2,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.
- b. Liquor liability insurance, either endorsed onto the above policy or written on a "stand alone" basis, if any of the following applies:
  - 1. The applicant is in the business of manufacturing, selling, or distributing alcoholic beverages;
  - 2. The applicant serves or furnishes alcoholic beverages for a charge, whether or not such activity requires a license or is for the purpose of financial gain or livelihood; or
  - 3. The applicant serves or furnishes alcoholic beverages without a charge, if a license is required for such activity.
- c. Business automobile liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.

The applicant shall endorse applicable insurance policies as follows:

- a. The city, its officials, employees and officers shall be named as additional insureds on the commercial general liability policy, by using endorsement CG2026 or broader.

- b. The city, its officials, employees and officers shall be named as additional insureds on any required liquor liability policy.
- c. All insurance policies shall be endorsed to the effect that the city will receive at least 30 days' notice prior to cancellation, non-renewal, termination, or material change of the policies.

All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

An applicant may request an exception from this insurance requirement, if the applicant:

- a. Executes a written agreement to indemnify the city and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the special event; or
- b. Agrees to redesign or reschedule the proposed event to respond to specific risks, hazards and dangers to the public health and safety identified by the committee as being reasonably foreseeable consequences of the proposed event.

The insurance requirements for special events involving expressive activity which enjoy protection under the United States or Texas Constitutions may be waived by the committee if the special event involving expressive activity poses no substantial risk of public liability or property damage.

- (5) References. List of four organizations an applicant has done business with in connection with the proposed event;
- (6) Advertising and promotion. Listing of types of advertising and promotion, including radio, television, print ads, press releases, fliers, posters, direct mail, etc.; and
- (7) Application fee. A non-refundable application fee of \$25.00, plus any costs incurred by the city, must be submitted with the application and is required for each permit or renewal of a permit, which permit shall extend only to those dates requested in the application and which are approved by the committee.

- (c) Fees must be in the form of a check, money order or credit card (as directed by the Director of Community Services) in the name of the organization stated on the application and shall be made payable to the city. Any amounts invoiced by the city must be paid within 30 days from the date of the invoice. Amounts not paid within 30 days shall incur a late fee of one (1) percent of the outstanding balance for each month payment is not received.
- (d) A 501(c)3 Non-profit organizations may request, in writing, a waiver of the application fee.
- (e) The committee shall review the application and make its determination within:

- (1) 14 days after a complete application for a special event, including all required fees and licenses and/or permits, has been submitted to the Director of Community Services, unless the application is for a special event involving expressive activity; or
- (2) Five days after a complete application for a special event involving expressive activity, including all required fees and licenses and/or permits, has been submitted to the Director of Community Services;

If the Director of Community Services determines that clarification or additional information is necessary for proper consideration of an application, this time period may be extended an additional ten days from the date clarification or additional information is provided. The committee may approve, approve with conditions, or deny an application. The Director of Community Services, or his designee, may also revoke a permit if he/she determines at any time after approval that the event is not in compliance with the permit or with this chapter.

In making a final determination to approve an application, each of the following factors shall be considered:

- (1) Whether the application establishes that there will be ample opportunity to properly plan and prepare for the event;
- (2) Whether the proposed dates or location conflict with another event or activity;
- (3) Whether the applicant has previous professional experience with hosting an event of the nature or scope proposed;
- (4) Whether the proposed event has been held within the city on a previous occasion;
- (5) Whether police, fire, or other city services will be unduly burdened or adversely affected by the event;
- (6) Whether the event is reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance; and
- (7) Such other factors as the committee may deem necessary or important in evaluating an application.
- (8) The following additional factors may be considered:
  - a. Whether the event is likely to promote tourism by attracting tourists; and/or
  - b. Whether the event is likely to have a positive economic impact by generating revenue for Brady hotels, restaurants, and other merchants of the city.

(e) The Director of Community Services shall notify an applicant in writing of the committee's decision to deny or approve an event. If an application is approved, the notification must advise the applicant of the minimum staffing levels for the event, any specific requirements imposed pursuant to Article III of this chapter, and the time frame for completing such requirements.

(f) A special event cancelled or postponed by the city on public property due to a force majeure may be rescheduled within 90 days following its original date subject to availability of the scheduled location. There shall be no charge for such rescheduling.

Sec. 12. - Directives of Director of Community Services or other authorizing official.

The permittee shall comply with the printed guidelines and with all other reasonable rules, regulations, and directives of the Director of Community Services or his/her designee as may be issued from time to time.

Sec. 13. - Force majeure.

(a) The city may, in its sole discretion, postpone, cancel, suspend or close any special event or revoke a permit for any force majeure event.

(b) The city shall have no liability for such postponement, cancellation, suspension, or closing. Further, the city shall have no liability for failure to postpone, cancel, suspend, or close a special event for a force majeure event or any other reason.

Sec. 14. - Cancellation and revocation.

(a) The Director of Community Services may deny a special event permit if:

(1) A special event permit has been granted for another special event at the same place and time;

(2) An established special event is customarily held at the same place and time as the proposed special event;

(3) The proposed special event will occupy any part of a freeway, expressway, or toll road;

(4) The proposed special event will unreasonably disrupt the orderly flow of traffic, and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;

(5) The applicant fails to adequately plan for:

a. The protection of special event participants and spectators;

b. Maintenance of public order in and around the special event location;

c. Crowd security, taking into consideration the size of the event;

d. Emergency vehicle access; or

e. Portable restroom facilities for the special event as required by the special event committee.

(6) The applicant fails to comply with or the proposed special event will violate a city ordinance or other applicable law, unless the prohibited conduct or activity would be allowed under this chapter;

- (7) The applicant makes a false statement of material fact on an application for a special event permit or fails to properly complete an application for a special event permit;
- (8) The applicant fails to provide proof that the applicant possesses or is able to obtain a license or permit required by another city ordinance or other applicable law for the conduct of all activities included as part of the special event;
- (9) The applicant has had a special event permit revoked within the preceding 14 months;
- (10) The applicant has committed, within the preceding 14 months, two or more violations of a provision of a special event permit of this chapter;
- (11) The applicant fails to pay any outstanding fees assessed under this chapter for the proposed special event or for a past special event;
- (12) The applicant has conducted or sponsored one or more special event(s) within the city on at least 30 days of the same calendar year during which the proposed special event is to be held, except that this 30-day limitation does not apply to a special event that involves a commercial movie production;
- (13) The chief of the police department, the chief of the fire department, or the Director of Community Services determines that the special event would pose a serious threat to the public health, safety, or welfare;
- (14) The applicant or any other person responsible for the conduct or sponsorship of the special event is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or other person;
- (15) The applicant has a history of conducting or sponsoring special events in a disorderly, unsafe, unsanitary, or fiscally irresponsible manner;
- (16) An event has been previously scheduled for the same time on property described in this chapter that is adjacent to the location of the proposed special event; or
- (17) The applicant, if it is a corporation, fails to provide copies of a current certificate of account status and current certificate of existence as required by section 87-11(b)(1).

(b) The Director of Community Services shall revoke a special event permit if:

- (1) the permittee fails to comply with or the special event is in violation of any provision of the special event permit, a city ordinance, or any other applicable law;
- (2) The permittee made a false statement of material fact on an application for a special event permit or failed to properly complete an application for a special event permit;
- (3) The chief of the police department, the chief of the fire department, or the Director of Community Services determines that the special event poses a serious threat to the public health, safety, or welfare;

- (4) The permittee failed to pay any outstanding fees assessed under this chapter for the proposed special event or for a past special event;
- (5) The permittee or any other person responsible for the conduct of the special event is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the permittee or such other person;
- (6) The permittee, if it is a corporation, failed to provide copies of a current certificate of account status and current certificate of existence as required by section 7-11(b)(1); or
- (7) The permittee is found guilty or pleads guilty or no contest to a citation alleging a violation of this chapter.

Sec. 15. - Appeal from denial or revocation of a special event permit.

If the Director of Community Services denies the issuance of a permit or revokes a permit, the Director of Community Services shall issue written notice of the denial or revocation and of the right to an appeal. The applicant or permittee may appeal the decision of the Director of Community Services to the City Manager within five days after the date of the denial or revocations. If such appeal is not made within this five-day period, the decision of the Director of Community Services and/or committee shall be final. The appeal shall be decided by the City Manager within ten days after the date of a timely filed appeal.

Sec. 16. - Appeal of permit conditions.

A permittee who disagrees with the requirements imposed by the committee on a permit issued under this chapter may appeal to the Chief of Police setting forth the specific condition contested and the basis for the appeal within five days of the date of permit approval. The Chief of Police shall issue his/her decision within ten days and the decision of the Chief of Police shall be final.

Sec. 17. - Right of entry.

The city through its officials, employees, agents, and representatives shall have the right at all reasonable times to enter upon all permitted premises for the purpose of inspecting the permitted premises, for observing the performance of obligations under this chapter, and for the doing of any act or thing which the city may be obligated to or have the right to do under the permit, this chapter, or other applicable city ordinance, rule or regulation.

Sec. 18. - Site plan.

- (a) A conceptual site plan of the premises to be used for the event must be submitted at the time of the filing of an application for a permit.
- (b) A final site plan, which must be approved by the Director of Community Services or other reviewing official, must be submitted a minimum of ten days prior to the event.
- (c) The final site plan must be detailed and drawn to scale. It must show the location of all facilities. It must show the location and orientation of loudspeakers, locations for electricity and water, and any other relevant elements.

(d) Once the final site plan is approved, it cannot be altered without the prior written consent of the city; however, non-substantial on-site adjustments to the conceptual or final site plan may be made in consultation with the Director of Community Services.

Secs. 19 - 24. - Reserved.

### ARTICLE III. - SPECIAL PROVISIONS AND REQUIREMENTS

Sec. 25. - City services.

To best serve the safety and welfare of the public, the following services shall be provided by the city when required (as determined by the special event committee) in conjunction with a special event.

- (1) Police protection, security and crowd control.
- (2) Fire protection, emergency medical services, and emergency management services.
- (3) Park maintenance.
- (4) Public works: street closures and water services.
- (5) Traffic and parking control.
- (6) Development services: building inspections, environmental health compliance, code, et al.

Sec. 26. - Street closure plan.

Certain streets within the city may be temporarily closed to limit or exclude vehicular or pedestrian traffic prior to, during or after a special event. An applicant requesting street closure(s) for a special event shall submit for approval a traffic control plan approved by the committee showing the layout of all barricades and signs at the time of application. The committee shall consider such request in evaluating the application and may recommend additional or fewer street closures. Some street closures may require consent of businesses and property owners in the adjacent area. Should street closures be approved, the city street department shall supervise the placement of all barricades and signs placed on public streets or on any public rights-of-way.

Sec. 27. - Outdoor activities.

- (a) Any outside area to be occupied by persons attending the event must be completely enclosed by a temporary (during the term of the event only) interlocking fence if alcohol is served or allowed to be consumed in such area as required by the Texas Alcoholic Beverage Commission (TABC). If required fencing crosses a fire lane, a 20-foot wide emergency gate must be utilized and kept closed. The gate must be kept closed, but unlocked, at all times to accommodate public safety vehicles and provide an emergency exit. The fencing set-up must ensure that customers are not forced to re-enter an adjacent structure, if any, in order to vacate the licensed premises in case of an emergency.

- (b) All outdoor activities and entertainment must be confined to the area within the licensed premises (and if fencing is required by paragraph (A) of this section, then such activities and entertainment must be confined to the area within the fencing).
- (c) All fire lanes throughout the property on which the event takes place must be kept completely unobstructed by vehicular traffic.
- (d) Any portion of the licensed premises where alcohol is served, if less than the entire licensed premises is utilized for alcohol service, must be covered by a roof.

Sec. 28. - Parking.

- (a) If parking needs for the event are expected to exceed the area(s) owned by or assigned to the host establishment(s), appropriate parking arrangements must be made with affected properties or establishments.
- (b) Any required handicapped parking space affected by the outdoor fencing for the event must be temporarily replaced using a space(s) outside the fenced area that is as close as practicable to the entrance to the establishment. Such temporary space must meet all requirements for handicapped spaces including the required "clear zone" on the driver's side of the vehicle and appropriate signage.

Sec. 29. - Alcoholic beverages.

- (a) Sales or service of alcoholic beverages must be in compliance with Alcoholic Beverage Section of this Code. [ See Alcoholic Beverage Section below].
- (b) Access points into the licensed premises must be constantly manned to prevent patrons from entering or exiting with alcoholic beverages.
- (c) A copy of the permit to use public property must be provided to the Texas Alcoholic Beverage Commission ("TABC") or its successor agency.
- (d) Any required permit or letter of approval from the TABC and the city must be posted on the premises where the event takes place.
- (e) An alcoholic beverages permit must be applied for with the city secretary 30 days in advance of special event where alcohol will be sold or served, in accordance with the requirements of the Alcoholic Beverages Section of this Code. [ See Alcoholic Beverage Section below].
- (f) A copy of a current permit from TABC authorizing the permittee to sell, dispense or otherwise serve alcohol at the location must be submitted 10 working days prior to the event.

Sec. 30. - Electrical work.

Any electrical work performed in connection with the event must be performed by a licensed electrician registered with the building inspection department to do work within the city.

Sec. 31. - Tents and canopies.

A flame-spread certificate must be obtained from the tent or canopy supplier for each tent and/or canopy used at the event. Such certificate(s) must be readily accessible for inspection by city fire department personnel.

Sec. 32. - Outdoor food handling and food service area.

- (a) A ten-foot separation must be provided between the grill or other cooking device and any structure or any materials that may burn.
- (b) Food handling must be in accordance with the Texas Department of State Health Services (TDSHS).
- (c) At least one chemical fire extinguisher rated at 2A-10BC or larger shall be provided in the cooking area and in each tent in accordance with the requirements of the city fire code. In addition, if charcoal or wood is used for cooking, an approved water fire extinguisher of at least two and one-half gallons must be provided.

Sec. 33. - Concessions.

- (a) Concessionaires and caterers must be approved by the city. Where otherwise required by law, concessionaires and caterers must obtain a health permit from TDSHS a minimum of 72 hours prior to the event and pay any required fees for temporary food service licenses.
- (b) A certified bartender shall be used for the service of alcohol when required by the Director of Community Services or another authorizing official, or when otherwise required by law.
- (c) The permittee shall ensure that participants, spectators, and patrons do not carry alcoholic beverages into or out of the licensed premises, per TABC regulations.

Sec. 34. - Noise.

No loud, excessive or unusual noise is allowed between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday, and 1:00 a.m. and 7:00 a.m. Friday and Saturday during setup, operation, or teardown of an event. Failure to comply with a request from the department concerning noise may result in the immediate revocation of the special event permit. Outdoor music must be provided at a volume level that is not distracting to drivers on adjacent or nearby streets and that is not disturbing to residents or adjacent businesses.

The Director of Community Services shall have the authority to waive sound restrictions if in the opinion of the committee, the noise will not produce a nuisance in the surrounding area.

Sec. 35. - Signs.

- (a) All signs used in connection with a special event shall be professionally executed and must comply with all applicable ordinances, rules, and regulations of the city, and be approved in writing by the Director of Community Services.
- (b) Written permission from the city must be obtained prior to placing signs on public property. The design and content of signs placed on public property must be approved by the

city. Signs placed on public property must be designed and constructed such that they do not leave adhesive residue on property when removed. Inflated signs anchored to the ground, a building, or other structure are prohibited.

- (c) Permanent, existing signs on public property may not be removed or covered.
- (d) The city street department shall supervise the placement of all directional or promotional signs placed on public streets. The rental cost of directional signs is the responsibility of the applicant and payment is required in advance of the event.

Secs. 36 - 49. - Reserved.

#### ARTICLE IV. - PARADES

Sec. 50. - Standards for issuance.

The Director of Community Services shall issue a permit under Article II of this chapter for a special event parade when, from a consideration of the application and from such other information as may otherwise be obtained, the special event committee finds that:

- (1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route or substantially interrupt the safe and orderly movement of other pedestrians on the sidewalk;
- (2) The conduct of the parade will not require the diversion of so great a number of police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;
- (3) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;
- (4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;
- (5) The conduct of such parade will not interfere with the movement of firefighting equipment en route to a fire;
- (6) The conduct of the parade is not reasonably likely to cause injury to persons or property, or create a disturbance; and
- (7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

Sec. 51. - Alternate permit.

The City, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within seven days after notice of the action of the committee, file a written notice of acceptance with the Director of Community Services. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under this article.

Sec. 52. - Conduct of participants during parade.

- (a) Parade participants shall not throw any articles, such as candy, toys, beads, etc., to spectators during the conduct of the parade.
- (b) Parade participants shall not engage in any conduct that may endanger other participants or spectators.
- (c) Parade participants will register with the parade chairman, who will present a list of participants and related information to the chief of police.

Sec. 53. - Public conduct during parade.

- (a) No person shall unreasonably hamper, obstruct, impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
- (b) No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade, unless as directed by uniformed law enforcement personnel.
- (c) The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along any street or highway or part hereof constituting a part of the route of a parade. The chief of police shall post signs to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

Secs. 54 -59. - Reserved.

## ARTICLE V. - ENFORCEMENT

Sec. 87-60. - Offenses.

- (a) A person commits an offense if the person commences or conducts a special event:
  - (1) Without a special event permit; or
  - (2) In violation of any provision of a special event permit, this chapter, or any other city ordinance or applicable law, rule, standard, or regulation.
- (b) A culpable mental state is not required for the commission of an offense under this section.

Sec. 61. - Penalty.

- (a) A person who violates a provision of this chapter or a requirement of a special event permit is guilty of a separate offense for each day or part of a day during which the violation is committed or continues.
- (b) Each offense is punishable by a fine not to exceed:
  - (1) \$2,000.00 for a violation of a provision of this chapter or a requirement of a special event permit governing fire safety, zoning, or public health and sanitation, including dumping or refuse; or
  - (2) \$500.00 for all other violations of this chapter or requirements of a special event permit."

## ALCOHOLIC BEVERAGE SECTION

### ARTICLE . - LAWFUL SALE OF ALCOHOLIC BEVERAGES

#### Sec. 1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic beverage* means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

*Ale* means a malt beverage containing more than four percent of alcohol by weight.

*Beer* means a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight, and does not include a beverage designated by label or otherwise by a name other than beer.

*Malt liquor* means a malt beverage containing more than four percent of alcohol by weight.

*Mixed beverage* means one or more servings of a beverage composed in whole or in part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit, the holder of a daily temporary mixed beverage permit, the holder of a caterer's permit, the holder of a mixed beverage late hours permit, the holder of a private club registration permit, or the holder of a private club late hours permit.

*Off-premises* means locations other than those described in the definition of "premises" in this section.

*Premises* means the grounds and all buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

*Wine and vinous liquor* means the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, berries or honey, and includes wine coolers.

Sec. 2. - Permit required; procedures.

(a) It shall be unlawful for any person to manufacture, distill, brew, import, transport, store for purposes of sale, distribute or sell any beer, wine or mixed beverages within the city unless such person has obtained a city permit from the office of the city secretary.

(b) Any person wishing to manufacture, distill, brew, import, transport, store for purposes of sale, distribute or sell any beer, wine or mixed beverages must complete a city permit application and pay the application fee as set forth by the city.

(c) The city secretary shall submit each application to the appropriate city departments, as determined by the city manager, to ensure that the application complies with all city ordinances and regulations, including this article.

(d) After approval by all necessary city departments, the application shall be deemed approved and the city secretary shall issue a city permit upon payment by the applicant of the initial permit fee as set forth in by the city.

(e) Applications and permits shall be kept on file in the city secretary's office.

Sec. 3. - Application fee; initial permit fee.

(a) An application fee as determined from time to time by city council shall be charged by the city secretary for accepting any permit application or permit renewal application. No permit application or permit renewal application may be accepted unless accompanied by the application fee.

(b) The city initial permit fee shall be equal to one-half of the state fee required by the Texas Alcoholic Beverage Commission of every person that may be issued any state permit or license for the manufacture, distilling, brewing, importing, transporting, storing, distributing or sale of any beer, wine or mixed beverage, unless a different fee is allowed or required by state law. No city permit may be issued unless the initial permit fee is received.

(c) The city secretary shall issue a receipt for the application fee and initial permit fee and keep a record of the same in the city secretary's office.

Sec. 4. - Permit renewal; permit renewal fee.

- (a) All permits shall be renewed annually. All permits shall terminate at midnight on the day before the anniversary date of their issuance and no permit shall be issued covering a term longer than one year.
- (b) The city shall require payment of an annual permit renewal fee by all establishments selling alcoholic beverages within the city. The permit renewal fee shall be equal to one-half of the state fee required by the state alcoholic beverage commission of every person that may be issued any state permit or license for the manufacture, distilling, brewing, importing, transporting, storing, distributing or sale of any beer, wine or mixed beverage, unless a different fee is allowed or required by state law.
- (c) The city secretary may cancel a permit if a permittee fails to pay the permit renewal fee. The city secretary shall send notice of such cancellation to the address on file with the permit application.
- (d) A permittee who sells an alcoholic beverage without first having paid the permit renewal fee under this section commits a misdemeanor punishable by a fine of up to \$200.00.

Sec. 5. - Hours of operation.

The hours of sales of alcoholic beverages in the city shall comply with state law provisions regarding the hours of sale of alcoholic beverages.

Sec. 6. - Development standards.

- (a) *Beer and wine for off-premises consumption only.* The sale of beer and wine is permitted only in a zoning district where retail sales are allowed. The minimum distance between retail stores that offer the sale of beer and wine for off-premises consumption and the following uses are:
  - (1) *Schools (public and private):* 300 feet. As allowed by state law, a school may petition for 1,000 feet. All measurements of distances are as provided for in state law (property line to property line and in a direct line across intersections). Day cares, universities and colleges are not included in the definition of schools.
  - (2) *Churches:* 300 feet. All measurements of distances are as provided for in state law (along the property lines of the street fronts and from front door to front door, and in a direct line across intersections).
  - (3) *Hospitals:* 300 feet. All measurements of distances are as provided for in state law (along the property lines of the street fronts and from front door to front door, and in a direct line across intersections).

(b) *Mixed beverages in a restaurant by food and beverage certificate holders only.* The sale of mixed beverages in a restaurant by food and beverage certificate holders is allowed in any zoning district where restaurants are allowed. The holder of a permit under this subsection shall not be required to meet distance requirements as set forth in subsection (a) of this section.

Sec. 7. - Exemption.

Specific events approved by the Director of Community Services for permitted special events shall be exempt from the permit provisions of this article.

Sec. 8. - On public places.

It shall be unlawful for any person to consume any alcoholic beverage on any public place adjacent to any street or alley in the city. However, such consumption shall be lawful if:

- (1) *Private club.* The public place is a permitted private club holding a valid Texas Alcoholic Beverage Commission (TABC) liquor permit and city alcoholic beverage permit;
- (2) *Special Event.*
  - a. The alcoholic beverage is sold or dispensed by the holder of a valid state alcoholic beverage commission alcoholic beverage permit and applicable city permit;
  - b. The alcoholic beverage is sold or dispensed in conjunction with a properly permitted special event; and
  - c. The area designated for alcohol dispensing and consumption is provided within an enclosure (barrier or sides) with secured ingress and egress. Additionally, the area so designated for the dispensing or service of alcohol shall be covered by a roof;



## Application for Parade/Special Event Block Party Permit

### City of Brady

#### Required Documents:

- Description of proposed route or location (Include start and finish locations, maps, etc)
- Description of event (Include timeline of event setup, activity and cleanup as well as participants.)

#### Please complete the following:

Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Email: \_\_\_\_\_ Phone (\_\_\_\_\_) \_\_\_\_\_

Name of Sponsoring Organization: \_\_\_\_\_

Proposed Date of Event: \_\_\_\_\_ Proposed Assembly Area: \_\_\_\_\_

Proposed Termination Area: \_\_\_\_\_

Proposed Parking Arrangements: \_\_\_\_\_

Time of Assembly: \_\_\_\_\_ Time of Start: \_\_\_\_\_ Time of Dispersal: \_\_\_\_\_

#### Please Complete if Applicable:

Individual Participants: \_\_\_\_\_ Floats: \_\_\_\_\_

Marching Units: \_\_\_\_\_ Bands: \_\_\_\_\_ Vehicles: \_\_\_\_\_

Sound Amplification Equipment: \_\_\_\_\_

Street Crossing Assistance: \_\_\_\_\_

Note: If assistance is requested, off duty officers may need to be hired, Police and Fire Department may require street closures to be staffed

Cleanup Provisions: \_\_\_\_\_

**Applicant or Authorized Person's Signature** \_\_\_\_\_

By Signing above, Applicant agrees to comply with all provisions of the permit

### Parade/Special Event – City Staff Review

Police Chief: \_\_\_\_\_ Date: \_\_\_\_\_

City Support requirements and rates if any: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fire Chief: \_\_\_\_\_

Date: \_\_\_\_\_

City Support requirements and rates if any: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Community Services: \_\_\_\_\_ Date: \_\_\_\_\_

City Support requirements and rates if any: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Public Works (Streets): \_\_\_\_\_ Date: \_\_\_\_\_

City Support requirements and rates if any: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Building Official: \_\_\_\_\_ Date: \_\_\_\_\_

City Support requirements and rates if any: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_



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October 29, 2015

Mr. Mehdi Taheri  
Water Enforcement Branch (6EN-W)  
U.S. EPA Region 6  
1445 Ross Avenue, Ste. 1200  
Dallas, TX 75202 – 2733

*via email* [taheri.mehdi@epa.gov](mailto:taheri.mehdi@epa.gov)

Re: PWS ID Number: TX1540001  
Docket Number: SDWA-06-2012-1238  
Quarterly Report on Project – Radium Reduction Job

Mr. Taheri,

The City of Brady (TX) respectfully submits this October 2015 quarterly report in response to the above-mentioned docket. The following work items have been accomplished and/or initiated since the July 2015 quarterly report:

- The city's design engineer, Enprotec / Hibbs & Todd (e-HT) of Abilene, fulfilled a Texas Water Development Board administrative requirement concerning the public notification that an Environmental Information Document was available for inspection at city hall. In accordance with the public notification requirement a public meeting was properly advertised and held on Monday September 14, 2015.
- City of Brady staff members and e-HT of Abilene held a joint work session on Thursday August 13, 2015 for the "start up" of the final design work effort. Discussion topics included:
  - ➔ Basis of Design Reports for treatment, transmission, distribution and storage
  - ➔ Field survey coordination and needs including aerial photogrammetry
  - ➔ Operational scenarios for groundwater versus surface water
  - ➔ Pressure control valve interconnects
  - ➔ SCADA criteria for control software including 'open source' platforms

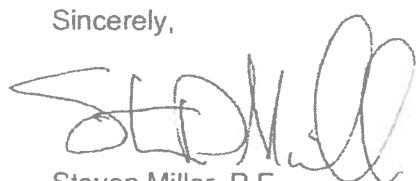
- Target Milestones:

Fall 2015 - TWDB Acceptance of Environmental Information Document and Engineering Feasibility Report

December 2015 - Basis of Design Reports: Treatment, Transmission & Storage and Review of OPCC for EDAP Funding Application

The City of Brady in association with e-HT of Abilene is implementing continuous professional due diligence in all engineering work efforts in solving the complex and expensive problem of Radium reduction in drinking water.

Sincerely,



Steven Miller, P.E.  
Project Manager

cc: Kim Lenoir, City Mgr.  
Gary Jacobson, W/WW Supt.  
Loye Young, Env. Compl. Op.

Jesse Milonovich, P.E. TWDB

*via email* [jesse.milonovich@twdb.texas.gov](mailto:jesse.milonovich@twdb.texas.gov)

Joshua Berryhill, P.E. e-HT  
Keith Kindle, P.E. e-HT

*via email* [joshua.berryhill@e-h.com](mailto:joshua.berryhill@e-h.com)  
*via email* [keith.kindle@e-h.com](mailto:keith.kindle@e-h.com)

Melissa Cordell, TCEQ  
Vera Poe, TCEQ

*via email* [melissa.cordell@tceq.texas.gov](mailto:melissa.cordell@tceq.texas.gov)  
*via email* [vera.poe@tceq.texas.gov](mailto:vera.poe@tceq.texas.gov)

Project Files