SPECIAL CITY COUNCIL MEETING

MONDAY, NOVEMBER 23, 2009 at 5:30 P.M.

R. Bruce Boyer, Mayor
Richard Zapata, Councilmember (District 1)
Mark Goodner, Councilmember (District 2)
Mike Ybarra, Councilmember (District 3)

Sandy Nolte, Councilmember (District 4)
Kathleen Krueger, Mayor Pro Tem (District 5)
Steven Digges, Councilmember (District 6)
Michael Morrison, City Manager

MISSION STATEMENT
The City of New Braunfels will add value to our community
by planning for the future, providing quality services, encouraging
Community involvement and being responsive to those we serve.

AGENDA

CALL TO ORDER: November 9, 2009 @ 5:30 P.M.

CALL OF ROLL: City Secretary

In accordance with Texas Government Code, Subchapter D, the City Council will convene in
a closed session to discuss the following item; any final action or vote taken will be in public.

1. Deliberate and consider the purchase, exchange, lease or value of real property, in
   accordance with Section 551.072, of the Texas Government Code.
   (A. Wayland, City Attorney)

ADJOURNMENT

CERTIFICATION

I hereby certify that a Notice of Meeting was posted on the Bulletin Board at the New Braunfels
Municipal Building on November 19, 2009 at 4:30 p.m.

Michael A. Resendez, City Secretary

NOTE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services
such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to
contact the City Secretary’s office at 221-4010 at least two (2) work days prior to the meeting so that
appropriate arrangements can be made.
R. Bruce Boyer, Mayor
Richard Zapata, Councilmember (District 1)
Mark Goodner, Councilmember (District 2)
Mike Ybarra, Councilmember (District 3)

Sandy Nolte, Councilmember (District 4)
Kathleen Krueger, Mayor Pro Tem (District 5)
Steven Digges, Councilmember (District 6)
Michael Morrison, City Manager

MISSION STATEMENT
The City of New Braunfels will add value to our community by planning for the future, providing quality services, encouraging community involvement and being responsive to those we serve.

AGENDA

CALL TO ORDER: November 23, 2009 @ 6:00 P.M.

CALL OF ROLL: City Secretary

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

INVOCATION: Council Member Sandy Nolte

PROCLAMATIONS: Wassailfest Day Page 1

RECOGNITIONS: Ravenstar Environmental Honoree – Nathan Pence
Main Street Award

REQUEST ALL PAGERS AND PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL.

1. MINUTES

Consider approving the minutes of the special meeting of November 9, 2009, and the regular meeting of November 9, 2009. Pages 3-14
(M. Resendez, City Secretary)

2. CITIZENS' COMMUNICATIONS

This time is for citizens to address the City Council on issues and items of concern, not on this agenda. There will be no City Council action at this time.
Mayor Boyer Page 15
3. **CONSENT AGENDA**  *Pages 17-18*

All items listed below are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a councilmember or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.

(A) Approval of the second and final reading of an ordinance annexing 2670 FM 1101, described as a 57.268 acre tract of land situated in Subdivision No. 59 and 60, A.M. Esnaurizar Eleven League Grant, Comal County, Texas. *(S. Mattingly, Planning and Community Development Director)*  *Pages 19-26*

(B) Approval of the second and final reading of an ordinance zoning 57.268 acres located at 2670 FM 1101 to “MU-B High Intensity Mixed Use District.” *(S. Mattingly, Planning and Community Development Director)*  *Pages 27-31*

(C) Approval of the second and final reading of an ordinance rezoning Lot 40A, River Acres Subdivision, located at 1260 River Acres Drive, from “C-1 Local Business District” and “R-1 Single Family District” to “C-O Commercial Office District.” *(S. Mattingly, Planning and Community Development Director)*  *Pages 33-35*

(D) Approval of the second and final reading of an ordinance rezoning 343 Cross Street, from “SND-1 Special Neighborhood District No. 1” to “C-1A Neighborhood Business District.” *(S. Mattingly, Planning and Community Development Director)*  *Pages 37-38*

(E) Approval of the second and final reading of an ordinance rezoning of 226 S. Hill Avenue from “SND-1 Special Neighborhood District No. 1” to “C-1A Neighborhood Business District.” *(S. Mattingly, Planning and Community Development Director)*  *Pages 39-40*

(F) Approval of the second and final reading of an ordinance designating 148 Ferguson Avenue, to be known as the “Beinhauer-Forres House” as a historic landmark. *(S. Mattingly, Planning and Community Development Director)*  *Pages 41-42*

(G) Authorization for the city manager to enter into contracts with Koontz Mccombs and Kimley-Horn Associates regarding construction of Goodwin Lane. *(M. Morrison, City Manager)*  *Pages 43-44*

(H) Approval of a fire and/or emergency medical services mutual aid agreement between the City Of New Braunfels and neighboring emergency service agencies. *(D. Wrenn, Assistant Fire Chief)*  *Pages 45-49*
(I) Approval to authorize the City Manager to execute an agreement with Schultz Engineering Inc. for design of Water Lane Street Reconstruction.  
(J. Klein, City Engineer) Pages 51-55

(J) Approval of a resolution to cast sixty eight (68) votes toward the election of members of the Guadalupe Appraisal District Board of Directors.  
(R. Camarena, Assistant City Manager) Pages 57-59

(K) Approval to cancel the December 28, 2009 regular City Council meeting.  
(M. Resendez, City Secretary) Page 61

(L) Approval of a resolution for the purchase of 478 S. Castell Avenue, New Braunfels, Texas, in the amount of $221,500.00 plus other acquisition costs and authorizing the City Manager to execute all necessary documents.  
(A. Wayland, City Attorney) Pages 63-65

(M) Approval of the purchase of services from Dausin Electric for the Main Plaza electrical upgrade. Page 67  
(S. Laird Dicke, Parks and Recreation Director/M. Quinones, Purchasing Manager)

(N) Approval of a resolution supporting the restoration of the Comal County Courthouse. Pages 69-71  
(S. Mattingly, Planning and Community Development Director)

(O) Approval of the first reading of an ordinance amending Chapter 86 “Parks And Recreation," Article III “Landa Park Golf Course Advisory Board” to change the composition of the board and to revise the role of the Parks and Recreation Department. Pages 73-78  
(S. Laird Dicke, Parks and Recreation Director)

4. PRESENTATIONS

(A) Presentation by the Greater New Braunfels Chamber Of Commerce on the semi-annual report regarding economic development activities. Page 79  
(M. Meek, President of the Greater New Braunfels Chamber of Commerce)

5. INDIVIDUAL ITEMS FOR CONSIDERATION

(A) Discuss and consider action authorizing completion of bid documents for the construction of Walnut Avenue Segments 1, 2, and 3 as one project.  
(O. Garza, Assistant City Engineer) Pages 81-82

(B) Public hearing and a resolution of the City of New Braunfels, Texas, amending the Future Land Use Plan for 0.669 acres, located at 1260 River Acres Drive, and also know as Lot 40A River Acres Subdivision, by changing the designation from “Residential Low Density” to “Commercial.” Pages 83-86  
(S. Mattingly, Planning and Community Development Director)
(C) Discussion and possible approval of the process for amending the City's Home Rule Charter. *Page 87*  
(M. Morrison, City Manager/ A. Wayland, City Attorney)

6. **EXECUTIVE SESSIONS** *Page 89*

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

(A) Deliberate and consider the purchase, exchange, lease or value of real property, in accordance with Section 551.072, of the Texas Government Code.  
(A. Wayland, City Attorney) *Page 89*

(B) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code.  
(A. Wayland, City Attorney) *Page 89*

(C) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client-information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code.  
(A. Wayland, City Attorney) *Page 89*

**NOTE:** The City Council reserves the right to retire into executive session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act (Chapter 551 of the Texas Government Code).

**ADJOURNMENT**

**CERTIFICATION**

I hereby certify that the amended Notice of Meeting was posted on the Bulletin Board at the New Braunfels Municipal Building on November 19, 2009 at 4:30 p.m.

Michael A. Resendez, City Secretary

**NOTE:** Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 221-4010 at least two (2) work days prior to the meeting so that appropriate arrangements can be made.
WHEREAS, Wassailfest, which began in 1992, as a festival, to capture the small town holiday spirit of New Braunfels, will be held in downtown New Braunfels on Thursday, December 3, 2009, from 6:00 p.m. to 9:00 p.m.; and

WHEREAS, each year downtown New Braunfels' merchants and community groups open their doors offering wassail to drink, special treats to eat and lots of holiday cheer; and

WHEREAS, over 350,000 lights in downtown and on the Plaza transform the area into a holiday wonderland; the centuries-old Christmas Carol “Here We Go A-Wassailing” takes on new and special meaning in this beautiful setting; the community is welcomed to sample a wide variety of wassail, a drink whose very name means... “To Your Health;” the juice and spice mixture has been served as far back as the time of Robin Hood and his merry men; and

WHEREAS, approximately 55 Wassail Stops and Open Houses go to great length preparing their special wassail, enough to serve several thousand revelers; with awards for the best wassail being presented based on the People’s Choice, and three “Wassail Meisters” will be selected; and

WHEREAS, entertainment is located throughout the historic downtown district with talented musical and dancing groups, featuring many children from our community, performing during the event, several Wassail Stops are “Kinder Wassail” Stops showcasing activities and refreshments for children.

NOW, THEREFORE, I, R. BRUCE BOYER, Mayor of the City of New Braunfels, Texas, do hereby proclaim, Thursday, December 3, 2009, as

“WASSAILFEST DAY”

In New Braunfels and urge all citizens to participate in and enjoy the activities planned for the occasion, and extend our appreciation to all who have worked so hard to make this festival one of the highlights of the New Braunfels’ holiday season.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 23rd day of November, 2009.

CITY OF NEW BRAUNFELS, TEXAS

R. BRUCE BOYER, MAYOR
MINUTES
SPECIAL CITY COUNCIL MEETING
NOVEMBER 9, 2009

The City Council of the City of New Braunfels, Texas, met in Special Session on November 9, 2009.

City Councilmembers present were: Mayor Bruce Boyer, presiding; Mayor Pro-tem Kathleen Krueger, and Councilmembers Richard Zapata, Mark Goodner, Mike Ybarra, Sandy Nolte, and Steven Digges.

The meeting was called to order by Mayor Boyer in the New Braunfels Municipal Building Conference Room B at 5:05 p.m. All Councilmembers were present.

Executive Session to deliberate the evaluation and duties of a public officer or employee, in accordance with Section 551.074, of the Texas Government Code, personnel matters: Mayor Boyer read the above and foregoing caption.

At 5:06 p.m., Mayor Boyer announced that City Council would go into executive session in Conference Room B to discuss the above mentioned items.

City Council returned into public session at 5:44 p.m., with no action being taken by City Council during the closed session or public session.

Adjournment: This Special meeting adjourned at 5:45 p.m.

Date Approved: November 23, 2009

By: R. BRUCE BOYER, MAYOR

Attest:

MICHAEL A. RESENDEZ,
CITY SECRETARY
MINUTES
REGULAR CITY COUNCIL MEETING
NOVEMBER 9, 2009

The City Council of the City of New Braunfels, Texas, met in Regular Session on November 9, 2009.

City Councilmembers present were: Mayor Bruce Boyer, presiding; Mayor Pro-tem Kathleen Krueger, and Councilmembers Richard Zapata, Mark Goodner, Mike Ybarra, Sandy Nolte, and Steven Digges.

City Staff present were: City Manager Michael E. Morrison, Assistant City Manager Robert Camarena, City Attorney Alan C. Wayland, City Secretary Michael A. Resendez, Fire Chief John Robinson, Planning and Community Development Director Shannon Mattingly, Public Works Director Steven Ramsey, Parks and Recreation Director Stacey Laird-Dicke, Human Resources Director Julie O'Connell, Purchasing Manager Mary Quinones, Intergovernmental Services Manager Victoria Brown, Airport Director Vinicio Llerena, River Activities Manager Nathan Pence, and Information and Technology Specialist Woody Bagnall.

Public communications: Sharon Levett, Stacey Graupner, Don Forres, and Brent Forte.

The meeting was called to order by Mayor Boyer in the New Braunfels Municipal Building City Council Chambers at 6:05 p.m. All Councilmembers were present. Mayor Boyer led the Pledge of Allegiance and the Salute to the Texas Flag and Councilmember Ybarra gave the invocation.

Proclamations: Mayor Boyer read a proclamation that proclaimed November 11, 2009 as “Veterans Day” which gave recognition to the Comal County Veterans for their continued devotion and adherence to the highest ideals of citizenship in peacetime as well as in time of war. The last proclamation read by Mayor Boyer proclaimed November, 2009 as “National Hospice Month” and encouraged all citizens to increase their awareness of the importance and availability of hospice services and to observe November with appropriate activities and programs.

RAVENSTAR ENVIRONMENTAL HONOREE – NATHAN PENCE: City Manager Morrison noted that the presentation to Mr. Pence would occur on another evening.

Minutes: Councilmembers considered approval of the minutes of the Special Meeting of October 14, 2009, the Special Meeting of October 26, 2009, and the Regular Meeting of October 26, 2009.

Councilmember Digges moved to approve the minutes as presented. Councilmember Nolte seconded the motion which was unanimously approved by City Council.
CITIZENS' COMMUNICATIONS:

Sharon Levett of 2379 Oak Pebble, New Braunfels, Texas, informed City Council that the New Braunfels Outer Loop Study would be complete in several months. She provided City Council with a DVD that contained maps, minutes and public input from meetings held by the New Braunfels Outer Loop Study Task Force and commented on an issue recently addressed by the Task Force regarding the route.

Stacey Graupner of 188 Quarry Point, New Braunfels, Texas, encouraged City Council to read the New Braunfels Outer Loop Study when completed and become well informed with the views and concerns of their constituents.

CONSENT AGENDA:

Mayor Boyer read the Consent Agenda as listed below. After the reading of the Consent Agenda, Councilmember Digges moved to approve the Consent Agenda as listed below. Councilmember Nolte seconded the motion which was approved by the following roll call vote; AYES: Councilmembers Zapata, Goodner, Ybarra, Nolte, Krueger, Digges, and Mayor Boyer; NAYS: None.

(A) Approval of the second and final reading of an ordinance amending ordinance number 75-10 dated April 28, 1975 to approve installation of the traffic control devices (no through trucks) on Hunter Road between FM 306 and Gruene Road and on Gruene Road between Hanz Drive and New Braunfels Street within the corporate limits of the City of New Braunfels.

Ordinance No. 2009-75

(B) Approval of the second and final reading of an ordinance amending Ordinance Number 75-10 dated April 28, 1975 to approve installation of the traffic control devices (stop signs) at certain intersections on the southeast corner of Fair Lane at River Terrace; the northeast corner of W. Coli Street at Magazine Avenue; the southwest corner of W. Coli Street at Magazine Avenue; southwest corner of N. Liberty Avenue at W. Torrey Street; the northeast corner of Allison Drive at Pahmeyer Road; and the northeast corner of Devin Drive at Pahmeyer Road.

Ordinance No. 2009-76

(C) Approval of the second and final reading of an ordinance repealing Chapter 138 "Vehicles for Hire," Article V. "Wrecker Service," and adopting a new Article V. "Vehicle Storage Facilities and Towing of Vehicles."

Ordinance No. 2009-77
(D) Approval of a resolution to cast three hundred and eighty (380) votes toward the election of a member of the Comal Appraisal District Board Of Directors.

Resolution No. 2009-R63

(E) Approval of the renewal of contracts with Texas Fleet Fuel for City-wide fuel services and Ameripride Linen and Apparel Services for uniform services. As noted in the agenda packet, the contract with Texas Fleet Fuel expires December 31, 2009, with an option to renew, in one year increments, for a combined total of five years. At the end of the first contract term, Texas Fleet Fuel had accepted the option to renew. As further noted in the agenda packet, the contract with Ameripride Linen expires November 30, 2009, with an option to renew, in one year increments, for a combined total of five years. At the end of the first contract term, Ameripride Linen also accepted the option to renew.

(F) Approval of a resolution authorizing the city manager to accept a FY2009 homeland security grant in the amount of $217,165, from the Texas Division of Emergency Management, Department Of Public Safety.

Resolution No. 2009-R64

(G) Approval of a resolution authorizing the City Manager to execute an agreement with TXDOT for the temporary closure of streets for the 2009 Wassailfest Celebration which will be held on December 3, 2009 from 5:00 p.m. to 12:00 a.m.

Resolution No. 2009-R65

Discuss and Consider approval to authorize City Manager to enter into a contract with Terra Design Group for design of the improvements to the Landa Park Municipal Golf: Mayor Boyer read the above and foregoing caption.

Parks and Recreation Director Laird-Dicke presented this item to City Council noting that staff was requesting approval to authorize the City Manager to enter into a contract with the Terra Design Group for design of the improvements to the Landa Park Municipal Golf Course. She stated that in November of 2007, the Landa Park Golf Course Master Plan was completed and presented to City Council. She added that in May of 2009, a work group was formed to review the financial analysis from the Master Plan.

Parks and Recreation Director Laird-Dicke stated that in August of 2009, City Council directed staff to approach the 4B Board regarding funding for construction drawings. She further stated that in August of 2009, the 4B Board unanimously approved using previously designated funds for construction drawings.
Next, Parks and Recreation Director Laird-Dicke informed City Council of the breakdown for proposed contract with Terra Design Group as follows:

- Archeology and Environmental = $162,532
- Engineering, Construction Documents, Bidding = $305,185
- Construction Administration = $204,275
- Contract Total = 671,992
  * with a 10% contingency = $739,191 (funding from 4B)

Parks and Recreation Director Laird-Dicke then provided City Council with the following project timeline:

- Notice to proceed, November 2009
- Advertise for Bids, July 2010
- Construction commencement, October 2010
- Final Inspection, October 2011
- Estimated cost of construction, $5.6 million

Councilmembers then took the opportunity to express their views and concerns on the contract for the design work on the project. Comments made by Councilmembers mostly related to the expensive price of the contract and ways to possibly cut costs associated with it. During the discussion, staff made explanations as to the selection process for the firm and aspects regarding the negotiation of the contract. Comments were also made by staff with regards to the longevity of the plan, proposed green fee rates, and the manner in which the debt service for the $5.6 million project could be subsidized by the 4B Board.

The item ended with City Council taking no action at this time, but clear direction was given to staff to re-evaluate the contract before moving forward with the project.

**Discuss and consider approval of the first reading of an ordinance annexing 2670 FM 1101, described as a 57.268 acre tract of land situated in Subdivision No. 59 and 60, A.M. Esnurizar Eleven League Grant, Comal County, Texas:** Mayor Boyer read the above and foregoing caption.

Planning and Community Development Director Mattingly noted that two public hearings had been held with regards to this matter and that no individuals had spoken at either hearing. She stated that this was a voluntary annexation request and also the first reading of this ordinance for this 57.268 acre tract.

Mayor Boyer then opened the floor to public input.

Following no public input, Councilmember Digges moved to approve the first reading of this ordinance as presented. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.
Public hearing and first reading of an ordinance zoning 57.268 acres located at 2670 FM 1101 to “MU-B High Intensity Mixed Use District”: Mayor Boyer read the above and foregoing caption.

Planning and Community Development Director Mattingly provided City Council with background information on this item noting that the subject property was currently outside the city limits and currently had no zoning. She stated that the owner had petitioned for annexation and was requesting MU-B zoning on the entire tract. Planning and Community Development Director Mattingly added that the property was located within one-half mile of the Municipal Airport and continued by noting the uses allowed in an MU-B zoning.

Planning and Community Development Director Mattingly informed City Council that MU-B zoning allowed buildings, 120 feet in height and that the property was in line with one of the airport runways, so new development would need to be reviewed to ensure it meets the Airport Hazard Zoning ordinance and FAA standards. She added that the applicant had agreed to an Avigation Easement which restricted building heights.

Mayor Boyer then opened the floor to public input.

Following no public input, Councilmember Digges moved to close the public hearing. Councilmember Nolte seconded the motion which was unanimously approved by City Council.

Next, Councilmember Digges moved to approve the first reading of this ordinance as presented. Councilmember Nolte seconded the motion.

Following a full and fair discussion and some concerns from Councilmembers regarding limitations on future uses at the airport due to the proposed MU-B zoning designation on this property, City Council unanimously approved the motion proposed by Councilmember Digges to approve the first reading of this ordinance.

Discuss and consider approval of an Avigation Easement on 57.268 acres located at 2670 FM 1101: Mayor Boyer read the above and foregoing caption simultaneously with the previous agenda item caption.

Planning and Community Development Director Mattingly provided background information on this item in conjunction with the prior agenda item.

Councilmember Digges moved to approve an Avigation Easement on the 57.268 acre tract located at 2670 FM 1101. Councilmember Nolte seconded the motion which was unanimously approved by City Council following a full and fair discussion in conjunction with the prior agenda item.
Public hearing and first reading of an ordinance rezoning Lot 40A, River Acres Subdivision, located at 1260 River Acres Drive, from “C-1 Local Business District” and “R-1 Single Family District” to “C-0 Commercial Office District”: Mayor Boyer read the above and foregoing caption.

To commence this item, Planning and Community Development Director Mattingly provided City Council with background information noting that the subject property was developed residentially in 1961. She further noted that when the right-of-way for Loop 337 was obtained in the early 1970s, the City rezoned 300 feet (more or less) on either side of the right-of-way from R-1 to C-1 and as a result, a zoning boundary now ran through the middle of the house at 1260 River Acres.

Planning and Community Development Director Mattingly added that applicants were seeking C-O Commercial Office zoning to relocate their medical office into the existing house.

Mayor Boyer then opened the floor to public input.

Following no public input, Councilmember Digges moved to close the public hearing. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.

Proceeding with the agenda item, Mayor Pro-tem Krueger moved to approve the first reading of this ordinance as presented. Councilmember Digges seconded the motion which was unanimously approved by City Council.

Before moving to the next agenda item, Councilmember Goodner made comments related to possibly refunding the $550 application fee. City Attorney Wayland mentioned that he would need to research this issue further since it could possibly set a precedent. Mayor Boyer noted that it could be addressed at the second and final reading of the ordinance.

Public Hearing and first reading of an ordinance granting a Special Use Permit to allow a wireless telecommunications tower with an overall height of 150 ft. in an “APD Agricultural/Pre-Development District” located at 3570 IH 35 North: Mayor Boyer read the above and foregoing caption.

Planning and Community Development Director Mattingly noted that a request had been made to postpone this item until the December 14, 2009 Regular City Council Meeting.

Mayor Pro-tem Krueger moved to postpone the public hearing and first reading of this ordinance until the December 14, 2009 Regular City Council Meeting. Councilmember Digges seconded the motion which was unanimously approved by City Council.
Public hearing and first reading of an ordinance rezoning 343 Cross Street, from “SND-1 Special Neighborhood District No. 1” to “C-1A Neighborhood Business District”: Mayor Boyer read the above and foregoing caption.

Planning and Community Development Director Mattingly noted that Lynn and Donald Forres proposed to move the house at 364 N. Walnut to 343 Cross Street. She stated that the house would be converted to a bakery but that moving the house to the existing parking lot changed the use, thereby requiring a change in zoning from SND-1 to C-1A. Planning and Community Development Director Mattingly added that moving the building to the parking lot also reduced the number of existing parking spaces.

Planning and Community Development Director Mattingly noted that Council reviewed the Forres’ proposal to purchase the house at 364 N. Walnut and for it to be moved it to 343 Cross Street. She stated that Council agreed on July 27, 2009, to the purchase on the understanding that necessary zoning changes be addressed.

Mayor Boyer then opened the floor to public input.

Don Forres of 477 W. Mill Street made a comment related to increasing the parking spaces downtown.

Following no further public input, Councilmember Digges moved to close the public hearing. Councilmember Nolte seconded the motion which was unanimously approved by City Council.

Proceeding with the agenda item, Councilmember Digges moved to approve the first reading of this ordinance as presented. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.

Public hearing and first reading of an ordinance rezoning of 226 S. Hill Avenue from “SND-1 Special Neighborhood District No. 1” to “C-1A Neighborhood Business District”: Mayor Boyer read the above and foregoing caption simultaneously with the previous agenda item caption.

Planning and Community Development Director Mattingly provided background information on this item in conjunction with the prior agenda item.

Mayor Boyer opened the floor to public input on this item separately.

Following no public input, Councilmember Digges moved to close the public hearing. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.

Proceeding with the agenda item, Councilmember Digges moved to approve the first reading of this ordinance as presented. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.
Public hearing and first reading of an ordinance designating 148 Ferguson Avenue, to be known as the “Beinhauer-Forres House” as a historic landmark: Mayor Boyer read the above and foregoing caption.

Planning and Community Development Director Mattingly noted that it appeared that the subject house was moved to its current lot and location around 1937. She continued by providing City Council with a history of the house, noting that based on internal architectural detail and materials, the house appeared to have been constructed around 1900 and possibly before.

Planning and Community Development Director Mattingly added that Mr. and Mrs. Forres were restoring the house to its 1937 appearance which included but was not limited to removing the non-historic vinyl siding and replacing the metal columns with brackets. She noted that the Historic Landmark Commission had certified the proposed work met the tax relief requirements.

Planning and Community Development Director Mattingly stated that public hearing notices were sent to ten property owners located within 200 feet of the property and that to date, four responses had been received in favor. She stated that staff and the Historic Landmark Commission had recommended approval of the historic designation and tax relief.

Mayor Boyer then opened the floor to public input.

Following no public input, Councilmember Digges moved to close the public hearing. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.

Continuing with the agenda item, Councilmember Nolte moved to approve the first reading of this ordinance as presented. Councilmember Digges seconded the motion which was unanimously approved by City Council.

Discuss and consider approval of a conditional sign permit to allow a proposed sign to be located at 490 S. Business 35: Mayor Boyer read the above and foregoing caption.

The item commenced with Councilmember Zapata announcing that he would be recusing himself from the discussion and vote on this agenda item.

Planning and Community Development Director Mattingly noted that the subject property was located at the corner of Business 35 and Magazine Avenue, and was zoned primarily “C-3” Commercial District.

Planning and Community Development Director Mattingly stated that Advance Auto Parts was relocating from Walnut and W. San Antonio Street to the new location and that they had two free-standing pole signs at the current store and were planning to keep one of them for the new location. She stated that the sign they were proposing to keep measured 18’x6’-1” (109.5 square feet) and was 25 feet tall.
Planning and Community Development Director Mattingly stated that Section 106.14 allowed for low profile pole signs in the C-3 district to be a maximum of 20 square feet in area and 10 feet tall. She added that the proposed sign was 89 square feet larger than the sign ordinance allowed for a total of 109 square feet and was 15 feet taller, for a total height of 25 feet.

Lastly, Planning and Community Development Director Mattingly stated that staff recommended denial in light of the recent changes to the sign ordinance.

Next, Councilmembers took the opportunity to gather additional information from staff and express their views on the subject.

Mayor Boyer then opened the floor to public comments from the audience.

Brent Forte, an agent with Site Enhancement Services, 6001 Nimtz Parkway, South Bend, Indiana 46628, stated that they were the authorized sign agents for Advance Auto Parts. Mr. Forte said the main reason this sign was being asked for was that Advance Auto Parts was reducing their signage in half. He stated that this larger sign would better provide notice to its customers of its new location and would remain consistent with the company's branding practice.

Based on the information presented, City Council did not proceed with taking any sort of action on the requested conditional sign permit.

**Deliberate and consider the purchase, exchange, lease or value of real property, in accordance with Section 551.072, of the Texas Government Code.**

**Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code.**

At 7:50 p.m., Mayor Boyer announced that City Council would go into executive session in Conference Room B to discuss the above mentioned items.

City Council returned into public session at 8:39 p.m., with no action being taken by City Council during the closed session or public session.

City staff present during the executive session were City Manager Morrison, Assistant City Manager Camarena, City Attorney Wayland and City Secretary Resendez.

**Adjournment:** This Regular meeting adjourned at 8:40 p.m.
Date Approved: November 23, 2009

By: R. BRUCE BOYER, MAYOR

Attest:

MICHAEL A. RESENDEZ,
CITY SECRETARY
City Council Agenda Item Report
November 23, 2009

Agenda Item No. 2
Presenter/Contact – Mayor Boyer

SUBJECT:  CITIZENS’ COMMUNICATIONS

BACKGROUND/RATIONALE:

This time is for citizens to address the City Council on issues and items of concern, not on this agenda. There will be no City Council action at this time.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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</table>

City Plan/Council Priority:

FISCAL IMPACT:

N/A

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

N/A
City Council Agenda Item Report  
November 23, 2009

Agenda Item No. 3(A–O)  
Presenter/Contact – Various

**SUBJECT:**  CONSENT AGENDA

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Source</th>
<th>Status</th>
</tr>
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<tbody>
<tr>
<td>A</td>
<td>Approval of the second and final reading of an ordinance annexing 2670 FM 1101, described as a 57.268 acre tract of land situated in Subdivision No. 59 and 60, A.M. Esnurizar Eleven League Grant, Comal County, Texas.</td>
<td>S. Mattingly</td>
<td>Passed unanimously at the 11/09/09 meeting</td>
</tr>
<tr>
<td>B</td>
<td>Approval of the second and final reading of an ordinance zoning 57.268 acres located at 2670 FM 1101 to “MU-B High Intensity Mixed Use District.”</td>
<td>S. Mattingly</td>
<td>Passed unanimously at the 11/09/09 meeting</td>
</tr>
<tr>
<td>C</td>
<td>Approval of the second and final reading of an ordinance rezoning Lot 40A, River Acres Subdivision, located at 1260 River Acres Drive, from “C-1 Local Business District” and “R-1 Single Family District” to “C-O Commercial Office District.”</td>
<td>S. Mattingly</td>
<td>Passed unanimously at the 11/09/09 meeting</td>
</tr>
<tr>
<td>D</td>
<td>Approval of the second and final reading of an ordinance rezoning 343 Cross Street, from “SND-1 Special Neighborhood District No. 1” to “C-1A Neighborhood Business District.”</td>
<td>S. Mattingly</td>
<td>Passed unanimously at the 11/09/09 meeting</td>
</tr>
<tr>
<td>E</td>
<td>Approval of the second and final reading of an ordinance rezoning of 226 S. Hill Avenue from “SND-1 Special Neighborhood District No. 1” to “C-1A Neighborhood Business District”.</td>
<td>S. Mattingly</td>
<td>Passed unanimously at the 11/09/09 meeting</td>
</tr>
<tr>
<td>F</td>
<td>Approval of the second and final reading of an ordinance designating 148 Ferguson Avenue, to be known as the “Beinhauer-Forres House” as a historic landmark.</td>
<td>S. Mattingly</td>
<td>Passed unanimously at the 11/09/09 meeting</td>
</tr>
<tr>
<td>G</td>
<td>Authorization for the city manager to enter into contracts with Koontz Mccombs and Kimley-Horn Associates regarding construction of Goodwin Lane</td>
<td>M. Morrison</td>
<td>See Briefing Sheet</td>
</tr>
<tr>
<td>H</td>
<td>Approval of a Fire and/or Emergency Medical Services Mutual Aid Agreement between the City Of New Braunfels and neighboring emergency service agencies.</td>
<td>D. Wrenn</td>
<td>See Briefing Sheet</td>
</tr>
<tr>
<td>I</td>
<td>Approval to authorize the City Manager to execute an agreement with Schultz Engineering Inc. for design of Water Lane Street Reconstruction.</td>
<td>J. Klein</td>
<td>See Briefing Sheet</td>
</tr>
<tr>
<td></td>
<td>Approval of a resolution to cast sixty eight (68) votes toward the election of members of the Guadalupe Appraisal District Board of Directors.</td>
<td>R. Camaren</td>
<td>See Briefing Sheet</td>
</tr>
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</tr>
<tr>
<td>K</td>
<td>Approval to cancel the December 28, 2009 regular City Council meeting.</td>
<td>M. Resendez</td>
<td>See Briefing Sheet</td>
</tr>
<tr>
<td>L</td>
<td>Approval of a resolution for the purchase of 478 S. Castell Avenue, New Braunfels, Texas, in the amount of $221,500.00 plus other acquisition costs and authorizing the City Manager to execute all necessary documents.</td>
<td>A. Wayland</td>
<td>See Briefing Sheet</td>
</tr>
<tr>
<td>M</td>
<td>Approval of the purchase of services from Dausin Electric for the Main Plaza electrical upgrade.</td>
<td>S. Laird Dicke/ M. Quinones</td>
<td>See Briefing Sheet</td>
</tr>
<tr>
<td>N</td>
<td>Approval of a resolution supporting the restoration of the Comal County Courthouse.</td>
<td>S. Mattingly</td>
<td>See Briefing Sheet</td>
</tr>
<tr>
<td>O</td>
<td>Approval of the first reading of an ordinance amending Chapter 86 “Parks And Recreation,” Article III “Landa Park Golf Course Advisory Board” to change the composition of the board and to revise the role of the Parks and Recreation Department.</td>
<td>S. Laird Dicke</td>
<td>Non Controversial</td>
</tr>
</tbody>
</table>

**BACKGROUND/RATIONALE:**

N/A

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

<table>
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**FISCAL IMPACT:**

N/A

**BOARD/COMMISSION RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

N/A
ORDINANCE NO. 2009-

AN ORDINANCE ANNEXING 2670 FM 1101, DESCRIBED AS A 57.268 ACRE TRACT OF LAND SITUATED IN SUBDIVISION NO. 59 AND 60, A.M. ESNARIZAR ELEVEN LEAGUE GRANT, COMAL COUNTY, TEXAS BEING PART OF A TRACT OF LAND CALLED 100 ACRES DESCRIBED IN VOLUME 84, PAGES 219-220 OF THE DEED RECORDS OF COMAL COUNTY, TEXAS, TO THE EXISTING CITY LIMITS; GRANTING TO SAID TERRITORY AND TO ALL FUTURE INHABITANTS OF SAID TERRITORY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF THE CITY OF NEW BRAUNFELS; AND ADOPTING A SERVICE PLAN.

WHEREAS, the city is authorized to annex territory in accordance with the Texas Local Government Code, Chapter 43 and the City of New Braunfels, Texas home-rule charter and by statute; and

WHEREAS, said territory proposed to be annexed is within the city's extraterritorial jurisdiction and is contiguous to the corporate limits of city; and

WHEREAS, the City of New Braunfels has prepared a service plan for said territory which is attached as Exhibit "C" to this ordinance; and

WHEREAS, the city has published notice of hearings on said annexation and held hearings as required by state law; now, therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

That the following described territory, shown on a map which is attached as Exhibit "A" and described in Exhibit "B", are hereby annexed into the city, and that the boundary limits of the city are hereby extended to include said territory within the city limits and the same shall hereafter be included within the territorial limits of said city, and said land and the future inhabitants thereof shall hereafter be entitled to all rights and privileges of other citizens of the city and shall be bound by the acts and ordinances of said city:

SECTION 2

That the municipal service plan for the herein annexed territory provided for in Exhibit "C" attached hereto is hereby adopted.
SECTION 3

That the city secretary is hereby directed to file with the county clerk and other appropriate officials and agencies, as required by state and federal law and city annexation procedures, a certified copy of this ordinance.

SECTION 4

This ordinance will take effect upon the second and final reading of same and upon publication as required by law.

This ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 9th day of November, 2009.

PASSED AND APPROVED: Second and Final Reading this the 23rd day of November, 2009.

CITY OF NEW BRAUNFELS, TEXAS

BY: __________________________

R. BRUCE BOYER, MAYOR

ATTEST:

____________________________________

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

____________________________________

ALAN C. WAYLAND, City Attorney

U:\Planning\Annexation\2009 Annexation\Thor 1101 annex.ord.doc
BOUNDARY SURVEY

Being a 37.860 acre tract and a 57.268 acre tract of land situated in Subdivision No. 69 and 70, A. M. Simonton Mesa, Jasper Crand, Coastal County, Texas, being out of a tract of land called 100 acres described in Volume 84, Pages 699-700 of the Deed Records of Coastal County, Texas.

This Survey is certified to:

Sarah Louise Schwab, Christine Watson
Sandra Mauk, Ronald James South, Their Heirs, Leses and Felicity National Title

STATE OF TEXAS
COUNTY OF COASTAL

I hereby state that to the best of my knowledge and belief the herein described property is free and clear of any encumbrances and that the same has been surveyed by me under my supervision.

REVISED 9/11/07 - SCALED FLOOD PLAN
REVISED 6/11/07 - REMOVED ESMT

RECURSE A. GOODWIN, GSPL 14053

Richard A. Goodwin, GSPL 24985
FIELD NOTES
FOR
A 57.268 ACRE TRACT

Being a 57.268 acre tract of land situated in Subdivision No. 59 and 60, A. M. Esnaurizar Eleven League Grant, Comal County, Texas, being part of a tract of land called 100 acres described in Volume 84, Pages 219-220 of the Deed Records of Comal County, Texas, and all bearings referred to in this description are referenced to a bearing of N 47° 13' E between monumentation set along the Southeast line of F.M. Highway No. 1101, said 57.268 acre tract of land surveyed under the supervision of Richard A. Goodwin, RPLS #4069, S. Craig Hollmig, Inc., and being more particularly described as follows:

BEGINNING: At a ½” iron pin found (disturbed and re-set) in the Southeast line of F.M. Highway No. 1101, for the West corner of a tract of land called Tract #1, called 0.490 acres, described in Doc# 9906016022 of the Official Public Records of Comal County, Texas, for the North corner and Point of Beginning of this tract;

THENCE: Leaving said F.M. Highway No. 1101, along the Southwesterly line of said Tract #1, 0.490 acres, S 45° 38’ 25” E 457.91 feet to a ½” iron pin found and S 67° 32’ 04” E 112.37 feet to a ½” iron pin found for the South corner of said Tract #1, 0.490 acres, for a corner of this tract;

THENCE: S 45° 40’ 49” E 205.57 feet to a ½” iron pin found for the North corner of a tract of land called Tract #3, called 0.015 acres, described in Doc #9906016022 of the Official Public Records of Comal County, Texas, for a corner of this tract;

THENCE: S 11° 56’ 58” E 53.11 feet to a ½” iron pin found in the upper Northwest line of a tract of land called 79.593 acres described in Doc# 9906021274 of the Official Public Records of Comal County, Texas, for the Southwest corner of said Tract #3, 0.015 acres, for an Easterly corner of this tract;

THENCE: Along the upper Northwest line of said 79.593 acre tract, S 46° 08’ 39” W 510.03 feet to a ½” iron pin set for the West corner of said 79.593 acre tract, for an interior corner of the above referenced 100 acre tract, for an interior corner of this tract;

THENCE: Along the Southwest line of said 79.593 acre tract, S 42° 45’ 00” E 1980.88 feet to a ½” iron pin found, said point lying in the Northwest line of a tract called Tract Three, called 112.00 acres, described in Volume 604, Page 562 of the Official Public Records of Comal County, Texas, for an East corner of the above tract.
referenced 100 acre tract, for the South corner of said 79.593 acre tract, for an Easterly corner of this tract;

THENCE: Partially along the Northwest line of said Tract Three, 112.00 acres, and partially along the Southeast line of the above referenced 100 acre tract, S 46° 39’ 56” W 740.83 feet to a ½” iron pin set in same, for the most Easterly corner of a tract of land called 1.93 acres described in Volume 90, Pages 302-303 of the Deed Records of Comal County, Texas, for a Southerly corner of this tract;

THENCE: Along the Northeast line of said 1.93 acre tract, N 87° 37’ 41” W 17.00 feet to a ½” iron pin set and N 42° 43’ 06” W 2769.82 feet to a ½” iron pin set in the Northeast line of said 1.93 acre tract, said point lying in the Southeast line of F.M. Highway No. 1101, for the West corner of this tract;

THENCE: Along the Southeast line of said F.M. Highway No. 1101, N 46° 11’ 00” E 373.20 feet to a ½” iron pin set, N 45° 35’ 26” E 499.82 feet to a ½” iron pin set, N 46° 21’ 00” E 199.73 feet to a ½” iron pin set, N 41° 03’ 36” E 54.23 feet to a ½” iron pin set, N 52° 33’ 12” E 46.27 feet to a ½” iron pin set, and N 46° 21’ 00” E 35.24 feet to the Point of Beginning and containing 57.268 acres of land, more or less.

The foregoing field notes represent the results of an on-the-ground survey made under my supervision, April 9, 2007. Reference plat prepared of this 57.268 acre tract.

Richard A. Goodwin, RPLS #4069

Job #07-302 (57.268)
Upon annexation of the area described below and as identified on Exhibit A, the City of New Braunfels will provide City services utilizing methods by which it extends services to any other equivalent area of the City.

57.268 acre tract of land situated in Subdivision No. 59 and 60, A.M. Esnaurizar Eleven League Grant, Comal County, Texas being part of a tract of land called 100 acres described in Volume 84, Pages 219-220 of the Deed Records of Comal County, Texas.

SERVICES PROVIDED BY THE EFFECTIVE DATE OF ANNEXATION

1. Police Protection
   The City of New Braunfels, Texas and its Police Department will provide police protection to newly annexed areas at the same or similar level of service now being provided to other areas of the City with like topography, land use and population density as those found within the newly annexed areas. The Police Department will have the responsibility to respond to all dispatched calls for service or assistance within the newly annexed areas.

2. Fire Protection and Emergency Medical Services
   The City of New Braunfels, Texas and its Fire and Rescue Department will provide fire protection and EMS to newly annexed areas at the same or similar level of service now being provided to other areas of the City with like topography, land use and population density as those found within the newly annexed areas. The Fire and Rescue Department will have the responsibility to respond to all dispatched calls and requests for service or assistance within the newly annexed areas.

3. Maintenance of Water and Wastewater Facilities
   Any and all water or wastewater facilities owned or maintained by New Braunfels Utilities (NBU) at the time of the proposed annexation shall continue to be maintained by NBU. Any and all water and wastewater facilities which may be acquired subsequent to the annexation of the proposed areas shall be maintained by NBU to the extent of its ownership. The now existing water and wastewater mains at existing locations shall be available for the point of use extension based upon the NBU standard extension policy now existing or as may be amended. On-site sewerage systems may be maintained in accordance with Chapter 130 of the City Code of Ordinances.

4. Solid Waste Collection
   The City of New Braunfels, Texas collects solid waste and refuse within the corporate limits of the City. Solid waste collection and residential recycling will be provided to citizens in the newly annexed areas at the same or similar level of service now being provided to other areas of the City with like topography, land use and density as those found within the newly annexed areas. The City may negotiate with annexed areas to allow continued services with an existing solid waste management provider. After the second anniversary of the annexation date, the City will impose fees and provide the service.

   If areas with private roads and/or gates are arranged so that garbage may be collected without creating a safety hazard, the City, at its discretion, may collect the garbage provided proper indemnification is received from the community association or individual property owners. The City will then impose fees and provide the service. Garbage collection locations shall be subject to the approval of the Sanitation Manager. In the event the City does not collect garbage within the areas with private roads and/or gates, residents of these areas will not be billed for service after the two-year date.
5. **Maintenance of Roads and Streets**
   Any and all public roads, streets or alleyways shall be maintained to the same degree and extent that other public roads, streets, and alleyways are maintained in areas of the City with like topography, land use and density as those found within the newly annexed areas. Private roads will remain under the ownership of the homeowners association and as such maintained by the association.

6. **Maintenance of Parks, Playgrounds, and Swimming Pools**
   The City of New Braunfels, Texas is not aware of the existence of any publicly owned parks, playgrounds or swimming pools now located in the proposed areas of annexation. In the event any such parks, playgrounds, or swimming pools do exist and are public facilities, the City will maintain such areas and facilities to the extent and degree and to the same or similar level of service now being provided to other such areas and facilities within the corporate limits of the City with like topography, land use and density as those found within the newly annexed areas. Private facilities will remain under the ownership of the homeowners association and as such maintained by the association.

7. **Maintenance of any Publicly Owned Facility, Building or Municipal Service**
   The City of New Braunfels, Texas is not aware of the existence of any publicly owned facility, building, or other municipal service now located in the proposed areas of annexation. In the event any publicly owned facility, building, or other municipal service does exist and are public facilities, the City will maintain such areas and facilities to the extent and degree and to the same or similar level of service now being provided to other such areas and facilities within the corporate limits of the City with like topography, land use and density as those found within the newly annexed areas.

8. **Other Services**
   The City of New Braunfels, Texas finds and determines that such services as planning, code enforcement, animal control, library, parks and recreation, court and general administration will be made available after the effective date of annexation at the same or similar level of service now being provided to other areas of the City with similar topography, land use and density as those found within the newly annexed areas.

**CONSTRUCTION OF ANY CAPITAL IMPROVEMENTS TO BE COMPLETED WITHIN 2 ½ YEARS**

1. **Police and Fire Protection and Solid Waste Collection**
   The City of New Braunfels, Texas, finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed areas for the purpose of providing police protection, fire protection, emergency medical services or solid waste collection. The City finds and determines that it has at the present time adequate facilities and other resources to provide the same type, kind and level of service and protection which is presently being administered to other areas already incorporated in the City of New Braunfels, Texas with like topography, land use and population density as those found within the newly annexed areas.

2. **Water and Wastewater Facilities**
   For the next 2 ½ years, New Braunfels Utilities finds and determines that there is sufficient capacity for water and wastewater to provide services to the annexed areas pursuant to NBU's extension policies. The construction of any capital improvements necessary to extend water and wastewater services to an annexed area will be completed pursuant to Chapter 43 of the Texas Local Government Code, as amended and Chapter 130 of the City Code of Ordinances.

3. **Roads and Streets**
   The City of New Braunfels, Texas, finds and determines it is not necessary to acquire or construct any
capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed areas.

4. Maintenance of Parks, Playgrounds, and Swimming Pools and Any Other Publicly Owned Facility, Building, or Service

The City of New Braunfels, Texas, finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed areas for the purpose of parks maintenance, playgrounds, swimming pools and other publicly owned facility, building or service.

SPECIFIC FINDINGS

The City of New Braunfels, Texas, finds and determines that this proposed service plan will not provide any fewer services and will not provide a lower level of service in the areas being considered for annexation that were in existence in the proposed areas at the time immediately preceding the annexation process. Given the proposed annexation areas' topography, land utilization and population density, the service levels to be provided in the newly annexed areas will be equivalent to those provided to other areas of the City with similar characteristics.

TERMS

This plan shall be valid for a term of ten (10) years. Renewal of the Service Plan is at the discretion of the City of New Braunfels.

LEVEL OF SERVICE

Nothing in this plan shall require the City to provide a uniform level of full municipal services to each area of the City, including the annexed areas, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.

AMENDMENTS

The plan shall not be amended unless public hearings are held in accordance with Chapter 43 of the Texas Local Government Code.
ORDINANCE NO. 2009-

AN ORDINANCE ZONING 57.268 ACRES LOCATED AT 2670 FM 1101 TO "MU-B HIGH INTENSITY MIXED USE DISTRICT"; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of the "MU-B High Intensity Mixed Use District", the City Council has given due consideration to all components of said district; and

WHEREAS, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

WHEREAS, the City Council desires to amend the Zoning Map by changing 57.268 acres located at 2670 FM 1101 from unzoned to "MU-B High Intensity Mixed Use District;" now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT Sections 1.2-1 and 1.2-2, Chapter 144, of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are amended by changing the following described tract of land from unzoned to "MU-B High Intensity Mixed Use District":

"57.268 acres, located at 2670 FM 1101, and as delineated on Exhibit 'A' and described on Exhibit 'B', attached."

SECTION 2

THAT all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 3

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.
SECTION 5

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 9th day of November, 2009.
PASSED AND APPROVED: Second and Final Reading this the 23rd day of November, 2009.

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney
FIELD NOTES
FOR
A 57.268 ACRE TRACT

Being a 57.268 acre tract of land situated in Subdivision No. 59 and 60, A. M. Esnaurizar Eleven League Grant, Comal County, Texas, being part of a tract of land called 100 acres described in Volume 84, Pages 219-220 of the Deed Records of Comal County, Texas, and all bearings referred to in this description are referenced to a bearing of N 47° 13' E between monumentation set along the Southeast line of F.M. Highway No. 1101, said 57.268 acre tract of land surveyed under the supervision of Richard A. Goodwin, RPLS #4069, S. Craig Hollmig, Inc., and being more particularly described as follows:

BEGINNING: At a ½" iron pin found (disturbed and re-set) in the Southeast line of F.M. Highway No. 1101, for the West corner of a tract of land called Tract #1, called 0.490 acres, described in Doc# 9906016022 of the Official Public Records of Comal County, Texas, for the North corner and Point of Beginning of this tract;

THENCE: Leaving said F.M. Highway No. 1101, along the Southwesterly line of said Tract #1, 0.490 acres, S 45° 38' 25" E 457.91 feet to a ½" iron pin found and S 67° 32' 04" E 112.37 feet to a ½" iron pin found for the South corner of said Tract #1, 0.490 acres, for a corner of this tract;

THENCE: S 45° 40' 49" E 205.57 feet to a ½" iron pin found for the North corner of a tract of land called Tract #3, called 0.015 acres, described in Doc #9906016022 of the Official Public Records of Comal County, Texas, for a corner of this tract;

THENCE: S 11° 56' 58" N 53.11 feet to a ½" iron pin found in the upper Northwest line of a tract of land called 79.593 acres described in Doc# 9906021274 of the Official Public Records of Comal County, Texas, for the Southwest corner of said Tract #3, 0.015 acres, for an Easterly corner of this tract;

THENCE: Along the upper Northwest line of said 79.593 acre tract, S 46° 08' 39" W 510.03 feet to a ½" iron pin set for the West corner of said 79.593 acre tract, for an interior corner of the above referenced 100 acre tract, for an interior corner of this tract;

THENCE: Along the Southwest line of said 79.593 acre tract, S 42° 45' 00" E 1980.88 feet to a ½" iron pin found, said point lying in the Northwest line of a tract called Tract Three, called 112.00 acres, described in Volume 604, Page 562 of the Official Public Records of Comal County, Texas, for an East corner of the above

EXHIBIT "B"
Page 2: 57.268 Acre Tract

referenced 100 acre tract, for the South corner of said 79.593 acre tract, for an Easterly corner of this tract;

THENCE: Partially along the Northwest line of said Tract Three, 112.00 acres, and partially along the Southeast line of the above referenced 100 acre tract, S 46° 39' 56" W 740.83 feet to a ½" iron pin set in same, for the most Easterly corner of a tract of land called 1.93 acres described in Volume 90, Pages 302-303 of the Deed Records of Comal County, Texas, for a Southerly corner of this tract;

THENCE: Along the Northeast line of said 1.93 acre tract, N 87° 37' 41" W 17.00 feet to a ½" iron pin set and N 42° 43' 06" W 2769.82 feet to a ½" iron pin set in the Northeast line of said 1.93 acre tract, said point lying in the Southeast line of F.M. Highway No. 1101, for the West corner of this tract;

THENCE: Along the Southeast line of said F.M. Highway No. 1101, N 46° 11' 00" E 373.20 feet to a ½" iron pin set, N 45° 35' 26" E 499.82 feet to a ½" iron pin set, N 46° 21' 00" E 199.73 feet to a ½" iron pin set, N 41° 03' 36" E 54.23 feet to a ½" iron pin set, N 52° 33' 12" E 46.27 feet to a ½" iron pin set, and N 46° 21' 00" E 35.24 feet to the Point of Beginning and containing 57.268 acres of land, more or less.

The foregoing field notes represent the results of an on-the-ground survey made under my supervision, April 9, 2007. Reference plat prepared of this 57.268 acre tract.

Richard A. Goodwin, RPLS #4069

Job #07-302 (57.268)
ORDINANCE NO. 2009-

AN ORDINANCE REZONING LOT 40A RIVER ACRES SUBDIVISION, LOCATED AT 1260 RIVER ACRES DRIVE, FROM "C-1 LOCAL BUSINESS DISTRICT" AND "R-1 SINGLE-FAMILY DISTRICT" TO "C-0 COMMERCIAL OFFICE DISTRICT"; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of the "C-O Commercial Office District", the City Council has given due consideration to all components of said district; and

WHEREAS, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

WHEREAS, the City Council desires to amend the Zoning Map by changing Lot 40A River Acres Subdivision, located at 1260 River Acres Drive, from "C-1 Local Business District" and "R-1 Single-family District" to "C-O Commercial Office District," now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT Sections 1.2-1 and 1.2-2, Chapter 144, of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are amended by changing the following described tract of land from "C-1 Commercial District" and "R-1 Single-family District" to "C-O Commercial Office District":

"0.669 acres, being Lot 40A River Acres Subdivision, located at 1260 River Acres Drive, and as delineated on Exhibit 'A' attached."

SECTION 2

THAT all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 3

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.
SECTION 5

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 9th day of November, 2009.

PASSED AND APPROVED: Second and Final Reading this the 23rd day of November, 2009.

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney

Z:\Ordinances\Zone Changes\Bartoy River Acres.doc
ORDINANCE NO. 2009-

AN ORDINANCE REZONING 343 CROSS STREET, FROM “SND-1 SPECIAL NEIGHBORHOOD DISTRICT ONE” TO “C1-A NEIGHBORHOOD BUSINESS DISTRICT”; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of the "C1-A Neighborhood Business District", the City Council has given due consideration to all components of said district; and

WHEREAS, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

WHEREAS, the City Council desires to amend the Zoning Map by changing 343 Cross Street, from “SND-1 Special Neighborhood District One” to “C1-A Neighborhood Business District;” now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT Sections 1.2-1 and 1.2-2, Chapter 144, of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are amended by changing the following described tract of land from “SND-1 Special Neighborhood District One” to “C1-A Neighborhood Business District”:

"0.3316 acres, being City Block 1002, Lot 2, located at 343 Cross Street.

SECTION 2

THAT all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 3

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.
SECTION 5
THIS ordinance will take effect upon the second and final reading of same.
PASSED AND APPROVED: First Reading this the 9th day of November, 2009.
PASSED AND APPROVED: Second and Final Reading this the 23rd day of November, 2009.

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney
ORDINANCE NO. 2009-

AN ORDINANCE REZONING 226 S. HILL AVENUE, FROM “SND-1 SPECIAL NEIGHBORHOOD DISTRICT ONE” TO “C1-A NEIGHBORHOOD BUSINESS DISTRICT”; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of the “C1-A Neighborhood Business District”, the City Council has given due consideration to all components of said district; and

WHEREAS, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

WHEREAS, the City Council desires to amend the Zoning Map by changing 226 S. Hill Avenue, from “SND-1 Special Neighborhood District One” to “C1-A Neighborhood Business District,” now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT Sections 1.2-1 and 1.2-2, Chapter 144, of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are amended by changing the following described tract of land from “SND-1 Special Neighborhood District One” to “C1-A Neighborhood Business District”:

“0.1641 acres, being City Block 1002, Lot N 50 of Lot 3 (K), located at 226 S. Hill Avenue.

SECTION 2

THAT all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 3

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.
SECTION 5

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 9th day of November, 2009.
PASSED AND APPROVED: Second and Final Reading this the 23rd day of November, 2009.

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney
ORDINANCE NO. 2009-

AN ORDINANCE DESIGNATING THE STRUCTURE LOCATED 148 FERGUSON AVENUE, TO BE KNOWN AS THE BEINHAUER-FORRES HOUSE, AS A HISTORIC LANDMARK ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, this structure has been recommended for historic designation by the owner, the Historic Landmark Commission, and the Planning Commission; and

WHEREAS, the City Council wishes to protect this structure as a part of the heritage of New Braunfels for future generations; and

WHEREAS, the City Council desires to amend the Zoning Map by designating the suffix "HL" in addition to the conventional zoning designation established by the zoning ordinance; now, therefore;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS:

SECTION 1

THAT the following described structure is hereby designated as a Historic Landmark in accord with the provisions of Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels, Texas:

"The structure located at 148 Ferguson Avenue and known as the Beinhauer-Forres House".

SECTION 2

THAT the above structure is hereby restricted as to the amount or method of change, construction, or demolition that can take place in accord with Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels.

SECTION 3

THAT the above described structure is hereby entitled to all rights and privileges that are accorded to historically designated structures or sites, or which may be accorded those structures or sites in the future.
SECTION 4

THAT, the zoning map is amended by designating the tract the subject structure is located upon, to add "HL".

SECTION 5

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 6

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 7

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 9th day of November, 2009.

PASSED AND APPROVED: Second Reading this the 23rd day of November, 2009.

CITY OF NEW BRAUNFELS

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney

R. BRUCE BOYER, Mayor
**SUBJECT:** Authorization for the City Manager to enter into contracts with Koontz McCombs and Kimley-Horn Associates regarding construction of Goodwin Lane

**BACKGROUND/RATIONALE:**

In July, 2006, the City Council approved a recommendation from the New Braunfels Industrial Development Corporation ("IDC") to approve a grant in the amount of $965,553 for the improvement of a portion of Goodwin Lane in return for the construction of an approximate 100,000 square foot building on property owned by Koontz McCombs on Goodwin Lane. Goodwin Lane was to be improved from its intersection with FM 306 approximately 3,000 linear feet to the northern boundary of a proposed industrial park owned by Koontz McCombs. That grant and agreement was modified two times, once in July, 2007, and once in October, 2007. The agreement, as modified, provided for a grant in the amount of $1,040,553 in return for the building being under construction by July 17, 2008. Koontz McCombs returned to the IDC Board at its meeting on September 4, 2008, and requested that the parties enter into a new contract that would provide for the $1,040,553 grant for the improvement of Goodwin Lane conditioned on (1) the improvement of Goodwin Lane being completed within five (5) years; (2) that a 95,000 square foot building be constructed on land owned by Koontz McCombs within the five-year period; and (3) that the grant or monies not be paid to Koontz McCombs until both the improvement to Goodwin Lane and the construction of the building had occurred. The IDC recommended and the City Council approved this request on September 22, 2008. Because of the downturn in the economy, Koontz McCombs is not interested in pursuing the agreement at this time. Goodwin Lane remains in need of upgrading to promote the continued growth of industrial development in the City.

Koontz McCombs previously engaged Kimley-Horn and Associates, Inc. ("KHA") to provide certain professional services with regard to the Project and KHA previously prepared a design for the Goodwin Lane improvements and adjacent development owned by Koontz McCombs. The proposed agreement with Koontz McCombs will allow the City to possess the plans previously developed, and Koontz McCombs will pay the engineering costs for the revisions of the plans which are approximately $25,500 plus expenses. The proposed contract with KHA is for $55,000 plus expenses and the City will be responsible for approximately $26,000 plus expenses of that contract. $6,000 of the $26,000 will be services in connection with the bids and $20,000 will be services related to the actual construction. Once construction bids have been received, the City will request that IDC fund the construction costs as well as the engineering costs incurred during construction. The IDC has previously indicated that it would consider transferring this grant to the City in order to accelerate the construction of Goodwin Lane. The proposed agreement with Koontz McCombs is conditioned upon the IDC’s approval of the transfer of the grant previously designated for Goodwin Lane improvements from Koontz McCombs to the City. The proposed agreement with KHA will involve the work for revising the plans (which will be reimbursed to the City by Koontz McCombs), the services in connection with review of bids and preparing a
recommendation to the Council on the successful bidder, and services during the construction phase of the project.

**Addresses a Need/Issue in a City Plan or Council Priority:**

<table>
<thead>
<tr>
<th></th>
<th>N/A</th>
<th>City Plan/Council Priority:</th>
<th>City Council Strategic Priorities – Objective 3: Implement ongoing program of infrastructure construction and maintenance</th>
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<tr>
<td>X</td>
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**Fiscal Impact:** None.

**Board/Commission Recommendation:** None

**Staff Recommendation:** Staff Recommends Approval
SUBJECT: Approval of a Fire and/or Emergency Medical Services Mutual Aid Agreement between the City of New Braunfels and neighboring emergency service agencies.

BACKGROUND/RATIONALE:

Staff requests a Mutual Aid Agreement between Canyon Lake Fire Department (F.D.), Geronimo Volunteer Fire Department (V.F.D), Guadalupe County, Hays County EMS, Lake Dunlap V.F.D, McQueeney V.F.D, Marion V.F.D, San Marcos F.D., Seguin F.D., South Hays V.F.D., Schertz Fire and EMS and York Creek V.F.D. and the City of New Braunfels. In order to reduce liability and to have a clear set of roles and responsibilities, every organization must have specific, signed agreements.

ADDRESS A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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City Plan/Council Priority: Objective 8 Establishing an ongoing program to ensure that the City of New Braunfels will be able to continue to respond efficiently to large scale incidents. By having these agreements in place the community will have less negative impact from these infrequent large scale emergencies.

FISCAL IMPACT:

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the Mutual Aid Agreement.
FIRE AND/OR EMERGENCY MEDICAL SERVICES
MUTUAL AID AGREEMENT

THIS AGREEMENT (the “Agreement”) is made by and between the CITY OF NEW BRAUNFELS, TEXAS, a municipal corporation of the State of Texas providing fire and emergency medical services (EMS”) to its citizens and others, and ________________, a municipal corporation of the State of Texas/emergency services district/emergency medical service agency/volunteer fire department, providing fire and/or EMS to its citizens and others. The parties enter into this Agreement for the purpose of securing to each the benefits of mutual aid in fighting major fires and/or during times of peak overload of emergency medical calls.

SCOPE OF AGREEMENT

1. The parties agree that a request for Mutual Aid will be made only when an emergency occurs in the area within the jurisdiction of any party hereto and local fire and/or EMS resources may be inadequate to control or respond to the emergency. This Agreement is for the provision of firefighting assistance, emergency medical assistance, rescue assistance, hazardous materials assistance or other emergency assistance as needed to protect the health, life and property of the inhabitants of the respective jurisdictions.

2. The parties agree that one party (the “Responding Party”) will provide, upon request of the other party (the “Requesting Party”), such equipment and trained personnel as may be requested, unless such action would prevent or disrupt adequate service and/or protection to its own area of jurisdiction and responsibility. Any request for aid hereunder shall include a statement of the number of personnel and the amount and type of equipment requested, and shall specify the location to which the personnel and equipment are to be dispatched. The Responding Party shall be the sole judge of determining the number of personnel and the amount and type of equipment to be devoted to any given incident in response to the Requesting Party’s request for assistance, and neither party is in any manner liable to the other party or to any other person, firm, corporation, or entity for the determination to supply, or not to supply, or to limit or terminate the amount of assistance supplied upon the request of the Requesting Party.

3. If Mutual Aid resources are being requested to supplement a Requesting Party’s resources already on the scene such as a major fire event or multi-casualty incident, the Responding Party shall report to the Staging Officer or Incident Commander (or his/her designee) of the Requesting Party and shall coordinate from the time of arrival to the time of departure at the emergency scene until the termination of participation.
4. The parties will use the National Incident Management Systems ("NIMS") as the command framework for the coordination of responses at incidents or events when the Responding Party is responding to a request from the Requesting Party.

5. A Responding Party shall be released by the Requesting Party when the services of the Responding Party are no longer required or when the Responding Party's services are needed within its own jurisdiction.

POLICIES

Each party hereto agrees:

1. To maintain the personnel level and equipment sufficient to respond and control emergency calls of the type and magnitude which are likely to occur in its jurisdiction;

2. To provide and maintain an emergency action plan for activating its personnel and resources within its jurisdiction;

3. To establish procedures for responding to and controlling emergencies within its jurisdiction;

4. To be responsible for its own costs and expenses including those incurred as a result of participation in this Agreement. The Responding Party under this Agreement may bill customers or citizens serviced as a result of this Agreement their usual and customary charges for such services as applicable by law;

5. To be responsible and liable for only the actions of its own personnel and resources while responding to a request for services from the Requesting Party pursuant to this Agreement. It is expressly understood and agreed that, in the execution of this Agreement and the providing of services hereunder, neither party waives, nor shall be deemed to have waived, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its powers and duties;

6. That the personnel of each party shall continue to be officials and employees of their respective organizations and shall be entitled to the same wages and benefits from their respective organization as if responding within their own jurisdiction;

7. The expenses of repairing or replacing equipment or vehicles which may be damaged or destroyed while responding to, operating at, or returning from an emergency in a Requesting Party's jurisdiction shall be at the expense of the Responding Party unless caused in whole or in part by the negligent act of the Requesting Party or any other responding party;
8. A Requesting Party shall reimburse the Responding Party the cost of expendable materials and supplies, i.e. foam, absorbents, disposable protective suits, etc., used by the Responding Party while providing assistance pursuant to this Agreement; and

9. No term or provision of this Agreement is intended to, or shall, prevent any party to this Agreement from seeking reimbursement from the State of Texas or the United States for the cost of supplies, services, equipment, or personnel costs that are available under any other mutual aid, disaster aid, or memorandum of agreement if an event that a Responding Party participates in pursuant to this Agreement becomes a declared disaster or becomes eligible for reimbursement of costs and expenses by either the State of Texas or the United States.

**TERM OF AGREEMENT**

This Agreement shall be for a term of three (3) years commencing on the date that it becomes effective unless cancelled in writing by either party with at least thirty (30) days written notice to the other party. This Agreement will automatically renew for three-year terms unless either party gives notice to the other party of its desire to cancel this Agreement.

**COMPLIANCE WITH APPLICABLE LAWS**

The parties hereto agree to observe and comply with all Federal, State, and local laws, rules, ordinances and regulations that in any manner affect or are applicable to the services herein provided.

**MISCELLANEOUS PROVISIONS**

This Agreement will be interpreted according to the Constitution and laws of the State of Texas.

It is not intended by this Agreement to create, and nothing contained in this Agreement shall create any partnership, joint venture or similar arrangement among the parties thereto.

It is understood that no party to this Agreement by the execution of said Agreement or by the requesting or providing of assistance under this Agreement has assumed any binding legal responsibility to provide resources, equipment, facilities, or personnel outside its geographic area of jurisdiction, either in the instance of the initial request for assistance or any future request for assistance.

**ENTIRE AGREEMENT**

This Agreement supersedes any and all other agreements, either oral or in writing between the parties hereto with respect to the subject matter hereof, and no other
agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid and binding. This Agreement can be amended provided that the amendment is in writing and signed by all parties.

**EFFECTIVE DATE**

This Agreement shall become effective from and after the date that the last party to execute the Agreement executes the same.

EXECUTED by the parties on the dates shown.

CITY OF NEW BRAUNFELS, TEXAS

By: ____________________________
   Michael E. Morrison, City Manager
   Date: __________________________

ATTEST:

_______________________________
Michael A. Resendez, City Secretary

_______________________________
By: ____________________________
Its: ____________________________
Date: __________________________

ATTEST:
SUBJECT: Approval to authorize the City Manager to execute an agreement with Schultz Engineering Inc. for design of Water Lane Street Reconstruction

BACKGROUND/RATIONALE:

The City of New Braunfels recently acquired property at IH 35 and Water Lane from TxDOT. The property will be utilized to support Public Works and Parks Maintenance activities and the relocation of the fire station on Loop 337 at Altgelt. Water Lane from IH 35 to San Antonio Street (approximately 1170 feet) is currently a 20 foot wide paved road with open ditch drainage on either side. The street condition assessment indicates the street needs to be reconstructed. The street is to be reconstructed to provide improved drainage and travel lanes in accordance with City Ordinances requiring local streets serving multifamily, commercial or industrial property to have a 40 foot pavement width. The City will also need to improve the water and waste water infrastructure within the road way to accommodate the above mentioned future development.

The attached scope of work from Schultz Engineering Inc. details the proposed scope and estimated fee of $94,407.50.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<table>
<thead>
<tr>
<th>N/A</th>
<th>X</th>
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<td>City Council Strategic Priorities – Objective 3: Implement ongoing program of infrastructure construction and maintenance</td>
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</table>

FISCAL IMPACT:

The FY 2009-10 Adopted Budget includes a total of $100,000 in the 2007 Certificates of Obligation under the 307 fund for engineering services of the Water Lane Improvement project.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Approval for City Manager to execute the contract with Schultz Engineering Inc. for the design of the Water Lane Street Reconstruction Project.
1. **Scope of Services**

The overall scope of this Contract is to provide professional engineering services for the reconstruction of Water Lane from San Antonio Street to IH-35 Frontage. This scope generally includes the preparation of design drawings, construction documents, geo-technical testing, and pavement recommendations through to the bidding stage of the project for the excavation of the existing Water Lane Street section and its replacement with a standard CONB Commercial Street Section to include Water and Sewer Extensions as needed by the City.

1.1. **Research and Data Collection**
SGI will review any plans that the City has on record, background information submitted by any other parties, and any other information as deemed relevant by the City. SGI also will review available boundary surveys, right-of-way data, aerial topography and NBU utility maps. In addition SGI will contact all other pertinent utilities companies and establish points of contact to obtain the most current available records showing the locations of each utility.

1.2. **Geo Technical Investigation**
SGI will subcontract with Terracon. Terracon will prepare a geo-technical analysis and provided the City with pavement recommendations.

1.3. **Design Survey**
SGI will review existing right-of-way maps and documents to determine existing right-of-way. SGI will perform street cross-sections every 100 feet to determine ground topography within the existing right-of-way limits and establish two bench marks; one at each intersection (i.e. West San Antonio and IH 35 frontage road). SGI will tie down utility marks from utility locators and contact utility companies to determine the depth of existing utilities. SGI will also perform random elevation shots to determine watershed flows through this area.

1.4. **60% Design Submittal**
SGI will complete for City review and comment 60% plans, quantities, pavement recommendations, utility recommendations, drainage recommendations and a budget level estimate of probable construction costs. The plans will included only major elements of the project and will not include detailed grading information and or all required details.

1.4.1. **Deliverables:** 60% complete plans, quantities and a budget level estimate of probable cost.

1.5. **95% Design Submittal**
Upon receipt of City comments SGI will complete for the City and NBU review, comment and approval 95% set of construction documents, including specifications, and quantities with an engineer’s estimate of probable construction costs.

1.5.1. **Deliverables:** 90% complete plans, specifications, quantities and an engineer’s estimate of probable construction cost.

1.6. **Final Design Submittal**
Submit to the City a complete set of construction documents, including specifications, as required for bidding, along with an adjusted engineer’s estimate of probable construction costs.

1.6.1 Deliverables: 100% complete plans, specifications, and an engineer’s estimate of probable construction cost.

1.7. Offsite Drainage Conveyance Design
SGI will prepare storm drain design plans for the conveyance of offsite drainage collected upstream of the proposed street section to the downstream discharge points.

1.8. Fiber Optic Conduit Design
SGI will prepare plans showing the location of 2-3-inch fiber optic conduits for the City’s use.

2. Additional Services

2.1. Bidding Services
Attend pre-bid meeting if deemed necessary by the City. Prepare and assist in the distribution of bidding documents to Contractors and appropriate plan holders. Assist the City at the bid opening and tabulate all received bids. Evaluate all bids, prepare bid tabulations and make a recommendation of acceptance to the City.

2.1.1. Deliverables: Final bid tabulations and recommendation.

2.2. Construction Services
Perform general construction observations to insure the Contractor is accomplishing the design intent. Provide progress reports every other week throughout the project’s construction schedule. Perform and coordinate geo-technical testing to ensure the project is installed per design. SGI will coordinate any utility conflicts that arise during construction. All services will be provided as needed to help ensure a good final product. SGI will assist the City in negotiating any change orders and will prepare change orders when authorized by the City. SGI will complete the final walk through of the project and will provide a letter to the City recommending or rejecting the final project. SGI will also provide a plan of record to the city for all the proposed improvements.

1.7.1 Deliverables: Testing data, plan of record, progress reports and final acceptance letter.

2.3. The above additional services and services outside of the above scope can be requested by the City and will be performed by SGI for a mutual agreed-upon fee or in accordance with the rate schedule shown on Exhibit B.

3. Reimbursable Expenses

3.1. Reimbursable expenses and costs shall be directly passed to the City without markup.

3.2. Reimbursable expenses and costs include but shall not be limited to:
3.2.1. Graphic supplies, reproduction, printing, display mounting, and scanning.
3.2.2. Courier and mail costs.
3.2.3. Mileage incurred as a direct relation to the project.

4. Project Assumptions

4.1. The fee basis for the project is “Time and Materials with a Not to Exceed” for specific authorized tasks. The project will be invoiced to the City monthly based upon the effort expended on behalf of the project the previous month.
4.2. Both parties recognize that the nature of this project means that the scope can change based upon citizen input and changes in the circumstances surrounding the project. Pursuant to instructions by the City, SGI is to proceed with the scope of work, and keep the City informed as to progress and fee expended. When appropriate, the fee or scope will be amended to the satisfaction of both parties.

4.3. Utilities, except for Storm Drains and City Water and Sewer Extensions, will not be designed as part of this Contract. Acquisition of Right-of-Way or Right-of-Way determination is not included in this scope. This scope assumes no additional easements or Right-of-Way will be needed.

5. Responsibilities of the City

5.1. City will provide a list of the key stakeholders/stakeholder groups that it wants included in this process.

5.2. The City will absorb any costs for advertising meetings through local media outlets.

5.3. The City will provide the latest digital mapping.

6.4. The City will provide all plans, records, or digital information associated with the project including any right-of-way and easement information on file at the City.
EXHIBIT B
PAYMENT SCHEDULE
WATER LANE STREET RECONSTRUCTION

For all professional engineering services included in EXHIBIT A, Scope of Services, the CITY agrees to pay the ENGINEER on a reimbursable basis. The total amount of the Contract shall not be exceeded without a modification to this Agreement.

<table>
<thead>
<tr>
<th>WORK STAGE SUBMITAL OR COMPLETION</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td><strong>Basic Services</strong></td>
<td></td>
</tr>
<tr>
<td>1. Research &amp; Data Collection</td>
<td>$8,856.50</td>
</tr>
<tr>
<td>2. Geo Technical Investigation</td>
<td>$6,550.00</td>
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<tr>
<td>3. Design Survey</td>
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<td>4. 60% Design</td>
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<td>5. 95% Design</td>
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<tr>
<td>6. Final Design</td>
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<tr>
<td>7. Offsite Storm Drainage Design</td>
<td>$21,825.00</td>
</tr>
<tr>
<td>8. Fiber Optic Design</td>
<td>$2,548.80</td>
</tr>
<tr>
<td><strong>Total Fee for Basic Services</strong></td>
<td>$94,407.50</td>
</tr>
</tbody>
</table>

| **Additional Services**           |       |
| 9. Bidding Services               | TBD   |
| 10. Construction Services        | TBD   |

Monthly statements for reimbursable services will be based on time directly chargeable to the Project in accordance with the rate schedule (Attachment D).
SUBJECT: Approval of a resolution to cast sixty eight (68) votes toward the election of members of the Guadalupe Appraisal District Board Of Directors.

BACKGROUND/RATIONALE:
Sec. 6.03(k) of the Texas Tax Code requires that each taxing unit eligible to vote for an appraisal district’s board of directors adopt a resolution to cast a ballot for the candidate(s) of its choice. In 2007 the City Council split its votes evenly between Greg Gilcrease (27 votes) and Paul Soto (26 votes), both of whom were subsequently elected to the board. Both Mr. Gilcrease and Mr. Soto have been nominated again this year, and the attached resolution casts thirty four (34) of the City’s sixty eight (68) votes for each of them toward their election to the Guadalupe Appraisal District Board of Directors.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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<tr>
<td></td>
<td>City Plan/Council Priority:</td>
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</table>

FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends that the City Council approve the resolution.
RESOLUTION NO. 2009-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS TO CAST SIXTY EIGHT (68) VOTES TOWARD THE ELECTION OF A MEMBER OF THE GUADALUPE APPRAISAL DISTRICT BOARD OF DIRECTORS.

WHEREAS, the City Council of the City of New Braunfels has been advised by the Chief Appraiser of the Guadalupe Appraisal District that the City has been allocated a total of SIXTY EIGHT (68) votes which may be cast, all or in part, for their candidate(s) of choice for the Board of Directors, Guadalupe Appraisal District.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

THAT the City of New Braunfels, Texas hereby casts a total of SIXTY EIGHT (68) votes toward the election of member(s) of the Guadalupe Appraisal District Board of Directors as follows:

<table>
<thead>
<tr>
<th>CANDIDATE</th>
<th>VOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greg Gilcrease</td>
<td>34</td>
</tr>
<tr>
<td>Tavie Murphy</td>
<td></td>
</tr>
<tr>
<td>Lesley Pedde</td>
<td></td>
</tr>
<tr>
<td>Sylvia Schlather</td>
<td></td>
</tr>
<tr>
<td>Dean Schneider</td>
<td></td>
</tr>
<tr>
<td>Cecil Schulze</td>
<td></td>
</tr>
<tr>
<td>George Slover</td>
<td></td>
</tr>
<tr>
<td>Paul Soto</td>
<td>34</td>
</tr>
</tbody>
</table>

FURTHER, that the City Council of the City of New Braunfels submits the Official Ballot, attached hereto, as issued by the Chief Appraiser, stating the vote for candidates for the election of the Board of Directors for the Guadalupe Appraisal District for 2009-2010.

PASSED, ADOPTED AND APPROVED this 23\textsuperscript{rd} day of November, 2009.

CITY OF NEW BRAUNFELS

BY: ____________________________

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary
OFFICIAL BALLOT TO ELECT
BOARD OF DIRECTORS FOR THE GUADALUPE APPRAISAL DISTRICT
FOR 2010-2011

Issued to: CITY OF NEW BRAUNFELS

Directions: Please enter the number of votes cast on the blank space opposite the name of the candidate. You may cast all of your votes for one candidate, or divide those votes among any number of the candidates. You have 68 total available votes.

CANDIDATES
(listed alphabetically)

1. Greg Gilcrease
2. Tavie Murphy
3. Lesley Pedde
4. Sylvia Schlather
5. Dean Schneider
6. Cecil Schulze
7. George Slover
8. Paul Soto

Issued under my hand this 30th day of October, 2009.

Jamie Osborne, R.P.A.
Chief Appraiser
Guadalupe Appraisal District

RESOLUTION OF VOTES CAST TO ELECT DIRECTORS FOR THE GUADALUPE APPRAISAL DISTRICT FOR THE 2010-2011 TERM

WHEREAS, Section 6.03(k), of the Texas Property Tax Code, as amended by HB2043, requires that each taxing unit entitled to vote cast their vote by Resolution and submit results of that vote to the Chief Appraiser of the Guadalupe Appraisal District on or before December 15, 2009.

THEREFORE, THE submits the above Official Ballot, as issued by the Chief Appraiser, stating the vote for candidates for the election of the Board of Directors of the Guadalupe Appraisal District for 2010-2011.

ACTION TAKEN this _____day of ____________, 2009, in ____________ Session of the governing body of the above mentioned taxing unit; as authorized under Section 6.03 of the Texas Property Tax Code, and amended by HB2043, for the purpose of casting votes to elect the Board of Directors of the Guadalupe Appraisal District.

Signature of Presiding Officer

ATTEST:

Title
City Council Agenda Item Report
November 23, 2009

Agenda Item No. 3-K
Presenter/Contact – Michael A. Resendez, City Secretary
(830) 221-4010 – mresendez@nbtexas.org

SUBJECT: Approval to cancel the December 28, 2009 regular City Council meeting.

BACKGROUND/RATIONALE:
Historically, City Council has cancelled the second regular City Council meeting in December to accommodate seasonal travel by Staff and Council.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<table>
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<tr>
<th></th>
<th>N/A</th>
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<tbody>
<tr>
<td>City Plan/Council Priority:</td>
<td></td>
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</tbody>
</table>

FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends that City Council approve the cancellation of the second regular City Council meeting in December (December 23, 2009).
Subject: Approval of a resolution for the purchase of 478 S. Castell Avenue, New Braunfels, Texas, in the amount of $221,500.00 plus other acquisition costs and authorizing the City Manager to execute all necessary documents.

Background/Rationale:
This property is adjacent to New Braunfels City Hall and Administrative offices.

Addresses a Need/Issue in a City Plan or Council Priority:

<table>
<thead>
<tr>
<th>N/A</th>
<th>Yes</th>
<th>City Plan/Council Priority:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td>Strategic Priority: Infrastructure</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Objective 1c: Seek opportunities for co-location of City facilities</td>
</tr>
</tbody>
</table>

Fiscal Impact:
Approximately $234,900.00

Board/Commission Recommendation:
N/A

Staff Recommendation:
Staff recommends approval of the Resolution.
RESOLUTION NO. 2009R-__


WHEREAS, the City Council of the City of New Braunfels, Texas, upon consideration of the matter, has determined that there is a public necessity for the welfare of the City of New Braunfels and the public-at-large, to acquire additional property for use and expansion of the City Hall; and

WHEREAS, in accordance with the above, the City Council of the City of New Braunfels, Texas, hereby finds that it is in the public interest to acquire fee simple title to real property for the above stated municipal purpose; and

WHEREAS, the real property to be acquired for such purpose consists of a tract of land of approximately .202 acres of land being parts of Lots No. Four (4) and Five (5) in New City Block No. 1016, City of New Braunfels, Comal County, Texas, and known as 478 South Castell Avenue, New Braunfels, Texas; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1: The City Council hereby finds and determines that it is necessary for the welfare of the City and its citizens and is in the public interest to acquire fee simple title to approximately .202 acres of land being parts of Lots No. Four (4) and Five (5) in New City Block No. 1016, City of New Braunfels, Comal County, Texas, and known as 478 South Castell Avenue, in order to provide additional property for the use and expansion of the New Braunfels City Hall.

SECTION 2: The City Manager, or his designee, is hereby authorized on behalf of the City to execute the Purchase Agreement which is attached hereto as Exhibit "A" and incorporated herein, and to execute on behalf of the City all documents necessary to complete the purchase of the property.

SECTION 3: The findings of fact, recitations and provisions set out in the preamble of this Resolution are adopted and made a part of the body of this Resolution, as fully as if the same were set forth herein.
PASSED AND APPROVED this the 23rd day of November, 2009.

CITY OF NEW BRAUNFELS, TEXAS

R. Bruce Boyer, Mayor

ATTEST:

Michael A. Resendez, City Secretary
Subject: Approval of the purchase of services from Dausin Electric for the Main Plaza electrical upgrade.

**Background/Rationale:**
An Invitation for Bid (IFB) was sent out on September 24, 2009 for services to replace and upgrade the existing electrical infrastructure within Main Plaza to accommodate the normal continuous loads (tree lighting, bandstand and other general purpose loads) and also the seasonal demand for the Christmas lights. This bid was sent to 47 different companies. The City received 4 bids on October 23, 2009.

The low bidder, Masters Electrical, did not bid on the entire project. They excluded general contractor work, which is vital to the upgrades required for this project.

Staff is recommending Dausin Electrical for the purchase of these services for the Main Plaza. Their pricing is $191,750.00.

This project is scheduled to begin January 2010 (after the Christmas season) and is scheduled to be completed no later than June 2010. This project will also include closing the traffic lane closest to the work site.

**Addresses a Need/Issue in a City Plan or Council Priority:**

<table>
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<th>N/A</th>
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<tr>
<td>X Yes</td>
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**Fiscal Impact:**
The FY 2009-10 Adopted Budget for the 2007 Certificates of Obligation Capital Improvement Fund includes $325,000 for the Main Plaza electrical work project; therefore, sufficient funds are available in this project to fully fund this expenditure.

**Board/Commission Recommendation:**
N/A

**Staff Recommendation:**
Approval of the purchase of services from Dausin Electric for the Main Plaza electrical upgrade.
City Council Agenda Item Report  
NOVEMBER 23, 2009  

Agenda Item No. \( \frac{3}{N} \)  
Presenter – Shannon Mattingly, Planning Director  
(830) 221-4055 smattingly@nbtx.org

**SUBJECT:** Approval of a resolution supporting the restoration of the Comal County Courthouse.

**APPLICANT/OWNER:**  
Comal County  
199 Main Plaza  
New Braunfels, TX 78130

**BACKGROUND/RATIONALE:**  
The Comal County Courthouse is a focal point for our downtown both visually and economically. In support of the restoration of the Courthouse, the City applied for and received a “Save America’s Treasures” grant for $150,000. Both the City Manager and City’s Historic Preservation Officer are on the 2009 Courthouse Preservation Committee and assisting in writing the grant application. Comal County is applying for a grant from the Texas Historic Commission. Part of the grant application requirements is “Evidence of Local Support.” A Resolution passed by the City Council will aid Comal County in completing the grant application.

**General Information:**  
N/A

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

| Yes | City Plan/Council Priority:  
2006 Comprehensive Plan  
Pros and Cons Based on Policies Plan | **Pros:**  
**Goal UD1** An attractive city with a lively downtown that results in an improved sense of community. I. Preserve the Comal County Courthouse as a recognizable county complex.  
**Goal HP1** Increase historic preservation efforts in New Braunfels  
**Goal HP3** Preserve the unique character of downtown and historic New Braunfels.

| Cons:  
N/A |

**FISCAL IMPACT:**
STAFF RECOMMENDATION:
Staff recommends approval.

COMMISSION RECOMMENDATIONS:
N/A

ATTACHMENTS:
1. Resolution

U:\Planning\CCagenda\HistoricLandmarkComm\courthouse resolution agenda sheet.docx
RESOLUTION 2009 R-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, SUPPORTING RESTORATION OF THE COMAL COUNTY COURTHOUSE.

WHEREAS, the City Council of New Braunfels created Article III, Historic Landmark Preservation, of the Code of Ordinances for the protection, enhancement and perpetuation of historic properties; and

WHEREAS, the City Council continues to support historic preservation through the City Master Plan, the Downtown Implementation Plan, Main Street, and local historic designations; and

WHEREAS, the Comal County Courthouse is a historic and architectural focal point for downtown New Braunfels; and

WHEREAS, the purpose of historic preservation is to encourage stabilization and restoration of historic properties for the economic vitality of the city: and

WHEREAS, county courthouse restoration projects in Texas are serving as a catalyst in economic revitalization in business districts surrounding courthouses throughout the state; and

WHEREAS, Comal County Courthouse is on the National Register of Historic Places and a State Archeological Landmark; and

WHEREAS, the Texas Historical Commission is accepting applications for grant funding for the Texas Historic Courthouse Preservation Program Round VI; therefore

BE IT RESOLVED the City Council of New Braunfels, Comal County, Texas, does support the Comal County Courthouse Grant Application for Round VI of the Texas Courthouse Preservation Grant Program.

PASSED, ADOPTED AND APPROVED this the 23rd day of November, 2009.

CITY OF NEW BRAUNFELS, TEXAS

BY: ________________________________
   R. BRUCE BOYER, Mayor

ATTEST:

Michael A. Resendez, City Secretary
Agenda Item No. 3-O
Presenter/Contact – Stacey Laird-Dicke, Parks and Recreation Director
(830) 221-4350 – slaird@nbtexas.org

SUBJECT: Approval of first reading of an ordinance amending Chapter 86 “Parks and Recreation,” Article III “Landa Park Golf Course Advisory Board” to change the composition of the board and to revise the role of the Parks and Recreation Department

BACKGROUND/RATIONALE:
The Landa Park Golf Course Advisory Board voted in July 2009 to accept a request from the Landa Legends Golf Association to change their designated seat on the board to an at-large position which would increase the at-large positions from four (4) to five (5).

In addition, the ordinance reflects a change from the Landa Men’s Golf Association to the Landa Golf Association, and also updates language to include the Parks and Recreation Department in various sections of the ordinance.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

| Yes | City Plan/Council Priority: Effective Management |

FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
Approved by the Landa Park Golf Course Advisory Board on July 14, 2009.

STAFF RECOMMENDATION:
Staff recommends approving the changes.
ARTICLE III. LANDA PARK GOLF COURSE ADVISORY BOARD*

*Cross references: Administration, ch. 2.

Sec. 86-66. Created; composition; terms; appointments; compensation.

There is hereby created the Landa Park Golf Course Advisory Board of the city, which shall be called the golf course advisory board and shall be composed of seven members, five of whom must reside within the city limits. The remaining two may reside within the city limits or the extraterritorial jurisdiction of the city. All members shall serve without compensation. Members shall be appointed by the majority of the city council for three-year staggered terms. All appointments shall be for the appointed term and until their successors are appointed and qualified. Appointments shall be as follows:

(1) Four Five members of such board shall be appointed at-large and the only qualification for these members shall be that they will be residents of the city or the extraterritorial jurisdiction of the city and do not hold membership in a local golf association such as the Landa Park men's golf association, the Landa Park ladies golf association, or the Landa Legends Golf Association.

(2) One member of the board shall be a resident of the city or the extraterritorial jurisdiction of the city and a member of a Landa Park men's golf association, if such an association or organization is active. The member of the Landa a-men's golf association must submit an application and be recommended by the Landa a-men's golf association. If the Landa a-men's golf association or organization is not active, such member's only qualifications will be that he be a resident of the city or the extraterritorial jurisdiction of the city.

(3) One member of the board shall be a resident of the city or the extraterritorial jurisdiction of the city and a member of a Landa Park ladies' golf association, if such an association or organization is active. The member of the Landa ladies' golf association must submit an application and be recommended by the ladies' golf association. If the Landa ladies' golf association is not active, such female member's only qualification will be that she be a resident of the city or the extraterritorial jurisdiction of the city.

(4) One member of the board shall be a resident of the city or the extraterritorial jurisdiction of the city and a member of the Landa Legends Golf Association, if such an association or organization is active. The member of the Landa Legends Golf Association must submit an application and be recommended by the Landa Legends Golf Association. If the Landa Legends Golf Association is not active, such member's only qualifications will be that he or she be a resident of the city or the extraterritorial jurisdiction of the city.

The Parks and Recreation Director or designee Landa Park Municipal Golf Course golf professional/manager shall serve in an advisory capacity to the board. (Code 1961, § 14A-33; Ord. No. 95-43, 11-27-95; Ord. No. 98-2, § I, 1-26-98; Ord. No. 99-61, § I, 8-23-99)
Sec. 86-67. Filling of vacancies.
All vacancies in the golf course advisory board occurring prior to the expiration of a member's term shall be filled in the manner set forth in this article for initial appointments.
(Code 1961, § 14A-34)

Sec. 86-68. Officers; rules and regulations.
The golf course advisory board shall select from its members a chairman, a vice-chairman and a secretary, and such board shall adopt, subject to the approval of the city council, such rules and regulations governing its proceedings as it may deem proper. Such rules and regulations shall not be inconsistent with the ordinances of the city. Such officers shall hold office for terms of one year or until their successors are elected.
(Code 1961, § 14A-35)

Sec. 86-69. Vacancy in membership due to absenteeism.
If any member of the golf course advisory board should be absent from three consecutive regular meetings without formal consent from the board, such member's place on the board shall be deemed to be vacated and the city council shall appoint a successor.
(Code 1961, § 14A-36)

Sec. 86-70. Minutes, filing of copies.
One copy of all minutes of the golf course advisory board as prepared by the secretary and approved by the board shall be filed with the Parks and Recreation Department city secretary, and one copy with the city manager.
(Code 1961, § 14A-37)

Sec. 86-71. Duties and responsibilities.
The golf course advisory board shall not exercise any executive authority or power, but it shall act in an advisory capacity to the parks and recreation department, the city council and the city manager in matters pertaining to the golf course, including fees and fee structures, and shall cooperate with other agencies and civic groups in the advancement of sound golf course operations, activities, planning and programming.

Secs. 86-72–86-90. Reserved.
ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING CHAPTER 86 “PARKS AND RECREATION,” ARTICLE III. “LANDA PARK GOLF COURSE ADVISORY BOARD” TO CHANGE THE COMPOSITION OF THE BOARD AND TO REVISE THE ROLE OF THE PARKS AND RECREATION DEPARTMENT; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1: (A) That Chapter 86 “Parks and Recreation,” Article III. “Landa Park Golf Course Advisory Board,” Section 86-66 “Created; composition; terms; appointments; compensation” is hereby amended as follows:

a. Subsection (1) shall hereinafter read as follows:

(1) Five members of such board shall be appointed at-large and the only qualification for these members shall be that they will be residents of the city or the extraterritorial jurisdiction of the city and do not hold membership in a local golf association such as the Landa Park Golf Association or the Landa Park Ladies Golf Association.

b. Subsection (2) shall hereinafter read as follows:

(2) One member of the board shall be a resident of the city or the extraterritorial jurisdiction of the city and a member of the Landa Park Golf Association, if such an association or organization is active. The member of the Landa Park Golf Association must submit an application and be recommended by the Landa Park Golf Association. If the Landa Park Golf Association or organization is not active, such member’s only qualifications will be that he/she be a resident of the city or its extraterritorial jurisdiction.

c. Subsection (4) shall be deleted in its entirety.

d. The last sentence of the Section shall hereinafter read as follows:

The Parks and Recreation Director or his/her designee shall serve in an advisory capacity to the Board.

(B) That Chapter 86 “Parks and Recreation,” Article III. “Landa Park Golf Course Advisory
Board,” Section 86.70 “Minutes. filing of copies” shall be amended to hereinafter read as follows:

One copy of all minutes of the Golf Course Advisory Board as prepared by the secretary and approved by the Board shall be filed with the Parks and Recreation Department.

(C) That Chapter 86 “Parks and Recreation,” Article III. “Landa Park Golf Course Advisory Board,” Section 86-71 “Duties and responsibilities” shall be amended to hereinafter read as follows:

The Golf Course Advisory Board shall not exercise any executive authority or power, but it shall act in an advisory capacity to the Parks and Recreation Department, the City Council and the City Manager in matters pertaining to the golf course, including fees and fee structures, and shall cooperate with other agencies and civic groups in the advancement of sound golf course operations, activities, planning and programming.

SECTION 2: This Ordinance shall be and is hereby declared to be cumulative to all other ordinances of the City of New Braunfels relating to the Landa Park Golf Course Advisory Board, and same shall not operate to repeal or affect any such ordinance or ordinances except insofar as the provisions of such ordinance or ordinances are inconsistent or in conflict with the provisions of this Ordinance, in which instance or instances those provisions shall be and they are hereby repealed.

SECTION 3: That if any provisions of this Ordinance shall be held void, illegal, or unconstitutional, it is hereby provided that all other parts of the same which are not held void, illegal or unconstitutional shall remain in full force and effect.

SECTION 4: This Ordinance shall take effect upon the second and final reading of the same.

PASSED AND APPROVED: First reading this ___ day of __________, 2009.
PASSED AND APPROVED: Second reading this __ day of __________, 2009.

CITY OF NEW BRAUNFELS, TEXAS

__________________________________________
R. Bruce Boyer, Mayor
ATTEST:

__________________________
Michael A. Resendez, City Secretary

APPROVED AS TO LEGAL FORM:

__________________________
Alan C. Wayland, City Attorney
SUBJECT: Presentation by the Greater New Braunfels Chamber Of Commerce on the semi-annual report regarding economic development activities.

BACKGROUND/RATIONALE:

Mr. Meek will present the Chamber of Commerce's Semi Annual Report.

ADDRESS A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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FISCAL IMPACT:

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A
City of New Braunfels
City Council Agenda Item Report
November 23, 2009
Agenda Item No. 5-A
Presenter/Contact – Octavio Garza, Assistant City Engineer
(830) 221-4025 – ogarza@nbtexas.org

SUBJECT: Discuss and consider action authorizing completion of bid documents for the construction of Walnut Avenue Segments 1, 2, and 3 as one project.

BACKGROUND/RATIONALE:
The Walnut Avenue Projects currently consist of Segment 1 from Business 35 to Katy Street, Segment 2 from IH-35 to Business 35, and Segment 3 from Katy Street to Landa Street. The projects were developed as three individual projects with 60% design completed in October 2009. Staff is currently reviewing the option to bid and construct the three projects as one project to take advantage of current favorable construction market conditions. Advantages to constructing the projects as one are as follow:

- Minimum construction disruption (optimized construction schedule)
- Single source of contractor responsibility
- Natural transition between segments for entire corridor
- Favorable construction market
- Reduced construction administration
- NBU goal of upgrading water and wastewater infrastructure from Landa St. to IH-35 met
- Deferred maintenance backlog reduced

The total projected project cost to the City is $25.2 million. New Braunfels Utilities will also spend $3.2 million to upgrade water and sewer lines through the project area for a total project cost of $28.4 million. The City’s portion of that cost breaks down as follows:

<table>
<thead>
<tr>
<th></th>
<th>Funded</th>
<th>Unfunded</th>
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</thead>
<tbody>
<tr>
<td><strong>Segment 1</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ROW</td>
<td>$7,477,000</td>
<td>$0</td>
</tr>
<tr>
<td>Design</td>
<td>$1,085,000</td>
<td>$0</td>
</tr>
<tr>
<td>Construction</td>
<td>$0</td>
<td>$7,822,000</td>
</tr>
<tr>
<td><strong>Segment 2</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ROW</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Design</td>
<td>$103,000</td>
<td>$0</td>
</tr>
<tr>
<td>Construction</td>
<td>$0</td>
<td>$1,436,000</td>
</tr>
<tr>
<td><strong>Segment 3</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ROW</td>
<td>$80,000</td>
<td>$0</td>
</tr>
<tr>
<td>Design</td>
<td>$581,000</td>
<td>$0</td>
</tr>
<tr>
<td>Construction</td>
<td>$0</td>
<td>$6,652,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$9,326,000</td>
<td>$15,910,000</td>
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</tbody>
</table>
As this table shows, the City has funded the design and right-of-way portions of this project. The estimated construction costs of $15.9 million have not yet been funded. This amount represents a major expenditure for the City. However, even if the project is bid and awarded as one contract, the cost of the project can be spread out over several fiscal years, reducing the impact in any one year. This can be accomplished through the use of a reimbursement resolution, as Council has approved in the past for capital improvement projects. The reimbursement resolution allows the City to use available cash reserves to fund construction costs in advance of the actual debt issuance. Three major criteria must be met to be able to use this funding mechanism.

- The City must have cash on hand (from any source) equal to the reimbursement resolution amount.
  - Currently, the City has at least $16 million in reserves from all sources.
- The City must issue all the debt to fully fund the project by EITHER
  - Three years after the first expenditures is made on the project OR
  - 18 months after the project is completed – whichever occurs first.
  - The construction timeline for all three projects is three years, so this criteria can also be met.

**Addresses a Need/Issue in a City Plan or Council Priority:**

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<th>N/A</th>
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<tr>
<td>✓  Yes</td>
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</table>

| Strategic Priorities: (Infrastructure) |
| Continue an ongoing program of infrastructure construction and maintenance |

**Fiscal Impact:**

The construction timeline calls for work to begin in June 2010. Therefore, the City has until June 2013 to issue all the debt needed for this project. The funding can be issued over several fiscal years to mitigate the impact on the tax rate in any of the three years. The current projected debt issuance timeline is:

- FY 2009-10: Reimbursement resolution
- FY 2010-11: $6.5 million debt issuance
- FY 2011-12: $6.5 million debt issuance
- FY 2012-13: $3.0 million debt issuance

The tax rate impact of the debt issuance generally occurs in the fiscal year after the debt is issued.

**Board/Commission Recommendation:**

N/A

**Staff Recommendation:**

Staff recommends approval to authorize completion of bid documents for the construction of Walnut Avenue Segments 1, 2, and 3 as one project.
SUBJECT:
Public hearing and a resolution of the City of New Braunfels, Texas, amending the Future Land Use Plan for 0.669 acres, located at 1260 River Acres Drive, and also known as Lot 40A River Acres Subdivision, by changing the designation from Low Density Residential to Commercial.

APPLICANT/OWNERS:
James and Patricia Bartay
26 Quail Creek
New Braunfels TX 78130

BACKGROUND/RATIONALE:
This property has a land use designation of Low Density Commercial, but was zoned half R-1 and half C-1. The property owners requested the entire property be rezoned C-O Commercial Office, to accommodate a professional medical office.

At the first reading on November 9, 2009, City Council approved the first reading of the rezoning of this property from "R-1" Single-Family Residential and "C-1" Local Business Districts to "C-O" Commercial Office District. The second reading was considered as part of tonight's consent agenda. Approval of the proposed amendment to the Future Land Use Map will conform to the proposed use and new zoning designation.

GENERAL INFORMATION:
Size:               Approximately 0.669 acres

Surrounding Zoning and Land Use:
North - R-1, C-1A / Residential, Commercial
South - R-2, C-1 / Residential, Commercial
East - C-1 / Commercial
West - R-1 / Residential

Comprehensive Plan Future Land Use Designation:
Low Density Residential
**Addresses a Need/Issue in a City Plan or Council Priority:**

<table>
<thead>
<tr>
<th>No</th>
<th>City Plan/Council Priority:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2006 Comprehensive Plan</td>
</tr>
</tbody>
</table>

**Goal 1C** Consider rezoning, as necessary, to ensure existing and future land use compatibility. Approval of this amendment will maintain compatibility between the zoning and future land use plan.

**Fiscal Impact:**

N/A

**Board/Commission Recommendation:**

The Planning Commission held a public hearing on October 13, 2009, and recommended approval of the zone change and land use map amendment by a vote of 6-0-0.

**Staff Recommendation:**

Staff recommends approval of the amendment to the Future Land Use Map.

**Attachments:**

Resolution
RESOLUTION NO. 2009R-

A RESOLUTION OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING THE FUTURE LAND USE PLAN FOR 0.669 ACRES, LOCATED AT 1260 RIVER ACRES DRIVE, ALSO KNOWN AS LOT 40A, RIVER ACRES SUBDIVISION, BY CHANGING THE DESIGNATION FROM LOW DENSITY RESIDENTIAL TO COMMERCIAL.

WHEREAS, the property owner of 0.669 acres, located at 1260 River Acres Drive, also known as Lot 40A River Acres Subdivision, requested a zoning change from "R-1 Single-Family District" and "C-1" Local Business District" to "C-O" Commercial-Office District; and

WHEREAS, the Planning Commission held a public hearing and made recommendations to approve the zoning change and amend the Future Land Use Plan on October 13, 2009; and

WHEREAS, a medical professional office is proposed on the property; now, therefore;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

THAT, the amended document titled 2006 Future Land Use Plan are hereby adopted as part of the City of New Braunfels Official Comprehensive Plan. A copy of said Plans along with a copy of this resolution shall be maintained in the permanent records of the City of New Braunfels;

THAT, said document shall be used as a guide to facilitate other development and master plans that the City deems necessary for systematic growth and development;

THAT, said document shall depict generalized locations of land uses which are subject to modifications to fit local conditions and are subject to refinement as development occurs;

BE IT FURTHER RESOLVED that all recommendations to amend the New Braunfels Future Land Use Plan shall be first submitted to the New Braunfels Planning Commission for study and a recommendation prior to being presented to the New Braunfels City Council for consideration.

ADOPTED AND APPROVED this the 23rd day of November, 2009.

CITY OF NEW BRAUNFELS, TEXAS

BY: ______________________
R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary
City Council Agenda Item Report
November 23, 2009

Agenda Item No. 5C
Presenter/Contact – Michael E. Morrison, City Manager/Alan C. Wayland, City Attorney
(830) 221-4280 – mmorrison@nbtx.org; awayland@nbtx.org

SUBJECT: Discussion and Possible Approval of the process for Amending the City’s Home Rule Charter

BACKGROUND/RATIONALE:

The City Charter needs to be amended in order to incorporate changes in state law since the last time the Charter was amended. In addition, the City Council may want to submit additional substantive changes to the voters. There are two procedural methods by which a set of proposed amendments can be developed. The first is for the Council to work with staff to develop the proposed amendments so that they could be submitted to the electorate in May, 2010. The other method is for the Council to create a City Charter Review Committee that would review the Charter and submit proposed recommendations for changes to the Council. If a Committee is created to review the Charter, it is anticipated that any proposed amendments would be submitted for a vote in November, 2010.

This item seeks direction from the Council as to how it desires to proceed with the Charter Review process.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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<td>City Plan/Council Priority:</td>
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FISCAL IMPACT:

N/A

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends City Council approve the process for amending the City’s Home Rule Charter.
City Council Agenda Item Report
November 23, 2009

Agenda Item No. 6 (A – C)
Presenter/Contact – Alan C. Wayland

SUBJECT: EXECUTIVE SESSIONS

(A) Deliberate and consider the purchase, exchange, lease or value of real property, in accordance with Section 551.072, of the Texas Government Code.
(A. Wayland, City Attorney)

(B) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code.
(A. Wayland, City Attorney)

(C) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code.
(A. Wayland, City Attorney)

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session. After the Executive Session discussion on the above noted item, any final action or vote taken will be in public.

BACKGROUND/RATIONALE:
N/A

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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City Plan/Council Priority:

FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A