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: MARCH 23, 2009 @ 6:00 P.M.

CALL OF ROLL: CITY SECRETARY

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

INVOCATION: COUNCILMEMBER MARK GOODNER

PROCLAMATIONS: PARKINSON'S DISEASE AWARENESS MONTH Page 1
SEXUAL ASSAULT AWARENESS MONTH Page 3

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

1. MINUTES
   CONSIDER APPROVING THE MINUTES OF (A) THE SPECIAL MEETING OF MARCH 9, 2009, (B) THE REGULAR MEETING OF MARCH 9, 2009, (C) THE SPECIAL MEETING OF MARCH 10, 2009, AND (D) THE SPECIAL MEETING OF MARCH 12, 2009. Pages 5-22

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. Page 23

Mayor Bruce Boyer

3. CONSENT AGENDA Pages 25-26
   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 AMENDING ORDINANCE NUMBER 75-10 DATED APRIL 28, 1975 TO APPROVE INSTALLATION OF THE TRAFFIC CONTROL DEVICES AT OAK RUN PARKWAY AT INDEPENDENCE DRIVE AND HUNTER'S CREEK DRIVE, JERAD STREET AT BENTWOOD DRIVE, AND MAGAZINE AVENUE AT W. JAHN STREET WITHIN THE CORPORATE LIMITS OF THE CITY OF NEW BRAUNFELS. Pages 27-30

S. Ramsey, Public Works Director
(B) APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE ESTABLISHING A SPEED ZONE ON ROSEMARY AVENUE FROM FREDERICKSBURG ROAD TO BELL STREET; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE. Page 31
S. Ramsey, Public Works Director

(C) APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE AMENDING AND REPLACING CHAPTER 130, ARTICLE III, SECTION 130-56, ELECTRIC RATES, SUBSECTION (I) NET METERING SERVICE RATE OF THE CODE OF ORDINANCES RELATING TO RATES FOR THE NEW BRAUNFELS UTILITIES ELECTRIC SYSTEM. P. DiFonzo, Chief Executive Officer for NBU Pages 33-41

(D) APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE ABANDONING 0.1953 ACRES OF RIGHT-OF-WAY LOCATED AT THE TERMINUS OF E. LINCOLN STREET. Pages 43-47
S. Mattingly, Planning and Community Development Director

(E) APPROVAL OF A PURCHASE OF TREE SERVICES IN CITY PARKS FROM KRIEWALDT TREE CARE. Page 49
S. Laird, Parks and Recreation Director/M. Quinones, Purchasing Manager

(F) APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, APPROVING EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF NEW BRAUNFELS AND THE COMAL INDEPENDENT SCHOOL DISTRICT FOR THE MAY 9, 2009 ELECTION AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT. Pages 51-58
M. Resendez, City Secretary

(G) APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, CANCELLING THE CITY COUNCIL GENERAL ELECTION FOR COUNCILMEMBERS, DISTRICT THREE AND DISTRICT FOUR CALLED FOR MAY 9, 2009, AND DECLARING THE CANDIDATES FOR CITY COUNCIL IN DISTRICT THREE AND DISTRICT FOUR ELECTED. Pages 59-62
M. Resendez, City Secretary

(H) APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH COMAL COUNTY TO PROVIDE FOR DELIVERY OF GREEN WASTE BY THE CITY OF NEW BRAUNFELS TO THE COMAL COUNTY RURAL RECYCLING FACILITY. Pages 63-66
S. Ramsey, Public Works Director

(I) APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ADDING FILING LEGISLATION TO ALLOW FOR THE POSSIBLE CREATION OF ONE OR MORE WATER CONTROL AND IMPROVEMENT DISTRICTS TO THE CITY'S LEGISLATIVE PROGRAM WITH REGARD TO THE 81ST TEXAS LEGISLATIVE SESSION; AND DECLARING AN EFFECTIVE DATE. M. Morrison, City Manager Pages 67-70

(J) APPROVAL OF THE FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NUMBER 75-10 DATED APRIL 28, 1975 TO APPROVE INSTALLATION OF THE TRAFFIC CONTROL DEVICES AT THE INTERSECTION OF PAHMeyer ROAD AND COUNTY LINE ROAD WITHIN THE CORPORATE LIMITS OF THE CITY OF NEW BRAUNFELS Pages 71-73
S. Ramsey, Public Works Director
4. **INDIVIDUAL ITEMS FOR CONSIDERATION**

(A) **DISCUSS AND CONSIDER AUTHORIZATION FOR THE CITY MANAGER TO ENTER INTO A CONTRACT WITH R.W. ARMSTRONG TO COMPLETE AN AIRPORT BUSINESS PLAN.** *Page 75*
   
   V. Llerena, Airport Director

(B) **DISCUSS AND CONSIDER ACTION REGARDING AMENDMENTS TO THE FY 2008-09 CAPITAL IMPROVEMENT PROJECTS' ADOPTED BUDGETS.** *Pages 77-86*
   
   D. Korinchock, Support Services Director

(C) **DISCUSS AND CONSIDER APPROVAL OF CREATING AN ASSISTANT FIRE CHIEF POSITION AND ONE ADDITIONAL LIEUTENANT POSITION.** *Pages 87-88*
   
   J. Robinson, Fire Chief

(D) **PUBLIC HEARING AND FIRST READING OF AN ORDINANCE REZONING 0.2786 ACRES, LOCATED AT THE NORTHEAST INTERSECTION OF OLD MCQUEENEY ROAD AND WEST COUNTY LINE ROAD, FROM "R-2 SINGLE AND TWO FAMILY DISTRICT" TO "C-1B GENERAL BUSINESS DISTRICT".** *Pages 89-105*
   
   S. Mattingly, Planning and Community Development Director

(E) **PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING THE DETAIL PLAN FOR GRUENE LEAF SUBDIVISION, PDD, PHASE II.** *Pages 107-121*
   
   S. Mattingly, Planning and Community Development Director

(F) **PUBLIC HEARING AND FIRST READING OF AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW A SINGLE FAMILY DWELLING LOCATED AT 1184 GRUENE ROAD AND ZONED "R-3" MULTI-FAMILY DISTRICT TO BE USED FOR SHORT TERM RENTALS.** *Pages 123-139*
   
   S. Mattingly, Planning and Community Development Director

(G) **PUBLIC HEARING AND FIRST READING OF AN ORDINANCE DESIGNATING ACADEMY AND MAGAZINE STREETS, DEFINED BY CROSS AND JAHN STREETS, TO BE KNOWN AS THE SOPHIEBURG HILL HISTORIC DISTRICT, ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP.** *Pages 141-152*
   
   S. Mattingly, Planning and Community Development Director

(H) **FIRST READING OF AN ORDINANCE GRANTING A TAX RELIEF TO THE OWNER OF THE DESIGNATED LANDMARK LOCATED AT 548 HILL AVENUE, KNOWN AS THE HOFHEINZ HOUSE.** *Pages 153-160*
   
   S. Mattingly, Planning and Community Development Director

(I) **FIRST READING OF AN ORDINANCE GRANTING A TAX RELIEF TO THE OWNER OF THE DESIGNATED LANDMARK LOCATED AT 372 S. MAGAZINE AVENUE, KNOWN AS THE DITTLINGER HOUSE.** *Pages 161-166*
   
   S. Mattingly, Planning and Community Development Director

(J) **FIRST READING OF AN ORDINANCE GRANTING A TAX RELIEF TO THE OWNER OF THE DESIGNATED LANDMARK LOCATED AT 492 E. MAIN, KNOWN AS THE KLOEPPER HOUSE.** *Pages 169-176*
   
   S. Mattingly, Planning and Community Development Director
(K) DISCUSS AND CONSIDER APPROVAL OF A RESOLUTION DETERMINING THE PUBLIC NECESSITY FOR IMPROVING WALNUT AVENUE WITHIN THE CITY BY WIDENING THE SAME BETWEEN SOUTH BUSINESS IH-35 AND KATY STREET; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS FOR FIVE (5) PARCELS OF LAND AND ONE (1) OUTDOOR ADVERTISING SIGN INCLUDING ACQUIRING THE SAME BY THE FILING OF PROCEEDINGS IN EMINENT DOMAIN, IF NECESSARY. Pages 177-180
A. Wayland, City Attorney

5. EXECUTIVE SESSIONS

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

(A) DISCUSS AND CONSIDER THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY, IF THE DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE CITY IN NEGOTIATIONS WITH A THIRD PERSON, IN ACCORDANCE WITH SECTION 551.072, OF THE TEXAS GOVERNMENT CODE. Page 181
A. Wayland, City Attorney

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 the above Notice of Meeting was posted on the Bulletin Board at the New Braunfels Municipal Building on March 20, 2009 at 10:00 a.m.

Michael A. Resendez, City Secretary

NOTE: Persons 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.
Proclamation

THE STATE OF TEXAS §
COUNTY OF COMAL §
CITY OF NEW BRAUNFELS §

WHEREAS, Parkinson's disease is a progressive disorder of the central nervous system, affecting more than one and a half million people in the United States; and

WHEREAS, The American Parkinson Disease Association, Inc., founded in 1961, has sought to "Ease the Burden and Find the Cure" for this disease through research, patient and family services, education and sponsorship of 53 Chapters, 62 Information and Referral Centers, and almost 1,000 support groups throughout the United States.

WHEREAS, The City of New Braunfels recognizes the efforts of the Comal County Parkinson's Disease Support Group to raise funds and promote awareness to fight Parkinson's disease, thereby improving the quality of life for those living with the disease.

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

"PARKINSON'S DISEASE AWARENESS MONTH"

in New Braunfels and recognize and honor those who work with the American Parkinson Disease Association, Inc. and their value to the residents of the City of New Braunfels.

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

CITY OF NEW BRAUNFELS, TEXAS

BY: _________________________
R. Bruce Boyer, Mayor
Proclamation

THE STATE OF TEXAS §
COUNTY OF COMAL §
CITY OF NEW BRAUNFELS §

WHEREAS, Sexual assault is one of the most violent and devastating crimes in society today, affecting men, women, and children of all racial, cultural, and economic backgrounds; and

WHEREAS, The crime of sexual assault violates an individual’s privacy, dignity, security, and humanity; and

WHEREAS, Sexual violence is preventable and speaking out against sexual assault is an important first step to eradicating this devastating crime; and

WHEREAS, We encourage healthy, non-violent interactions and censure aspects of society that promote and support sexual violence; and

WHEREAS, We recognize the compassion and dedication of the individuals who first respond to provide services to survivors --- such as the staff of the Crisis Center, law enforcement officers and emergency medical workers; and

WHEREAS, We recognize that other agencies and individuals --- such as friends & family members of the victim, the judicial system, schools, churches, community organizations, our leaders and other community members strive to work together to prevent sexual violence; and

WHEREAS, It is important that sexual assault is recognized as a problem and important to understand that alerting the public to services that can help victims and loved ones of victims is a crucial component to addressing this issue in our community.

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

"SEXUAL ASSAULT AWARENESS MONTH"

And we encourage everyone to work in partnership supporting local activities and programs that are working toward the elimination of sexual assault.

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

CITY OF NEW BRAUNFELS, TEXAS

BY: R. BRUCE BOYER, Mayor
MINUTES
SPECIAL CITY COUNCIL MEETING
MARCH 9, 2009

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

City Councilmembers present were: Mayor Bruce Boyer, presiding; Mayor Pro-tem Gale Pospisil, and Councilmembers Richard Zapata, Mark Goodner, Pat Wiggins, Kathleen Krueger, and Steven Digges.

City Staff present were: City Manager Michael E. Morrison, Assistant City Manager Robert Camarena, City Attorney Alan C. Wayland, and City Secretary Michael A. Resendez.

Also present were: Paula DiFonzo and Lauren Kalisek.

The meeting was called to order by Mayor Boyer in the New Braunfels Municipal Building City Council Chambers at 5:30 p.m. All Councilmembers were present. Councilmember Krueger arrived at 5:40 p.m.

DISCUSS AND CONSIDER THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY. IF THE DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE CITY IN NEGOTIATIONS WITH A THIRD PERSON, 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 REGARDING NEW BRAUNFELS IH-35 RETAIL ASSOCIATES, L.P. V. CITY OF NEW BRAUNFELS, TEXAS AND A-L CREEKSIDE TOWN CENTER:

EXECUTIVE SESSION TO DELIBERATE ISSUES REGARDING ECONOMIC DEVELOPMENT NEGOTIATION IN ACCORDANCE WITH SECTION 551.087, OF THE TEXAS GOVERNMENT CODE:

At 5:30 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 5:54 p.m., with no action being taken by City Council during the closed session or public session. City staff present during
the executive sessions were City Manager Morrison, Assistant City Manager Camarena, City Attorney Wayland, and City Secretary Resendez. Also present during some of the executive sessions were Paula DiFonzo and Lauren Kalisek.

**ADJOURNMENT**: This Special meeting adjourned at 5:55 p.m.

**Date Approved**: March 23, 2009

**By**: R. BRUCE BOYER, MAYOR

**Attest**: MICHAEL A. RESENDEZ, CITY SECRETARY
The City Council of the City of New Braunfels, Texas, met in Regular Session on March 9, 2009.

City Councilmembers present were: Mayor Bruce Boyer, presiding; Mayor Pro-tem Gale Pospisil, and Councilmembers Richard Zapata, Mark Goodner, Pat Wiggins, Kathleen Krueger, 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, Planning and Community Development Director Shannon Mattingly, Public Works Director Steven Ramsey, Support Services Director Deborah Korinchock, Airport Director Vinicio Llerena, Parks Operations Manager Bojack Jalowy, Information and Technology Specialist Woody Bagnall, and Information and Technology Manager Kern Tilley.

Also present were: Dan Gibbens, Sharon Martin, Fred Stepp, Curtis Bailey, Linda Hoops, Sharon Kleinfelder, Mark Allen, David James, Mark B. Leita, Jay Greene, Linda Ray, Nancy Schulz, Diane Terrell, Lara Tippelt, Judy Ahrens, Don W. Wehring, Brenda Jackson, Jay Brewer, Rodger Mack, Jay Patrick, Sue Cummings, Vladimir Pospisil, Jill Kilford, Ray LaFrey, Bob Krueger, Michael Meek, Paula DiFonzo, Mike Ybarra, and news reporters Noah Westerfield and Chris Cobb.

The meeting was called to order by Mayor Bruce Boyer in the New Braunfels Municipal Building City Council Chambers at 6:00 p.m. All Councilmembers were present. Mayor Boyer led the Pledge of Allegiance and Salute to the Texas Flag and Councilmember Zapata gave the invocation.

PROCLAMATIONS: Mayor Boyer issued a proclamation proclaiming March 13, 2009, as "Arbor Day" and recognized the importance of trees and the benefits derived from them and urged all citizens to support efforts to protect our trees and woodlands.

MINUTES: Councilmembers considered approval of the minutes of the Special Meeting of February 23, 2009, the Regular Meeting of February 23, 2009, and the Special Meeting of February 24, 2009.

Mayor Pro-tem Pospisil moved to approve the minutes as presented. Councilmember Digges seconded the motion which was unanimously approved by City Council.
CITIZENS’ COMMUNICATIONS:

No input was received from the audience under this caption

CONSENT AGENDA:

Mayor Boyer read the Consent Agenda as listed below noting that item (I) had been pulled from it. Councilmember Digges moved to approve the Consent Agenda as listed below minus item (I). Councilmember Wiggins seconded the motion which was approved by the following roll call vote; AYES: Councilmembers Zapata, Goodner, Pospisil, Wiggins, Krueger, Digges, and Mayor Boyer; NAYS: None.

(A) APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS BY MODIFYING SECTIONS 126-136 THROUGH SECTION 126-138 TO DESIGNATE A SPECIFIC TIME AND LOCATION FOR AREA SCHOOL SPEED ZONES; REPEALING ALL ORDINANCES IN CONFLICT.

Ordinance No. 2009-10

(B) APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW A SINGLE-FAMILY RESIDENCE LOCATED AT 846 EWELLING LANE TO BE USED FOR SHORT TERM RENTALS IN THE “R-2 SINGLE AND TWO FAMILY DISTRICT”.

Ordinance No. 2009-11

(C) APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE DESIGNATING THE STRUCTURE LOCATED AT 264 W. MILL STREET, TO BE KNOWN AS “THE REININGER HOUSE”, AS A HISTORIC LANDMARK ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP.

Ordinance No. 2009-12

(D) APPROVAL OF THE FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NUMBER 75-10 DATED APRIL 28, 1975 TO APPROVE INSTALLATION OF THE TRAFFIC CONTROL DEVICES AT OAK RUN PARKWAY AT INDEPENDENCE DRIVE AND HUNTER’S CREEK DRIVE, JERAD STREET AT BENTWOOD DRIVE, AND MAGAZINE AVENUE AT W. JAHN STREET WITHIN THE CORPORATE LIMITS OF THE CITY OF NEW BRAUNFELS.
(E) APPROVAL TO AUTHORIZE THE CITY MANAGER TO EXECUTE A CONTRACT BETWEEN THE CITY OF NEW BRAUNFELS AND THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR A HOME GRANT IN THE AMOUNT OF $375,000 AND ALLOCATION OF THE CASH MATCH FUNDS. As noted in the agenda packet, the grant would be utilized to provide housing rehabilitation grants of up to $25,000 to low-income and moderate-income homeowners within the City limits.

(F) APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH RICHARD J. LEIDL, P.C. FOR FEDERAL LEGISLATIVE SERVICES ON BEHALF OF THE CITY OF NEW BRAUNFELS.

Resolution No. 2009-R11

(G) APPROVAL OF THE RENEWAL OF CONTRACTS FOR GRAPHIC PACKAGING INTERNATIONAL FOR GREEN WASTE BAGS AND POOLSURE FOR POOL CHEMICALS. As noted in the agenda packet, this was the second contract renewal with Graphic Packaging International and the first contract renewal with Poolsure. It was noted that options to renew were available in one year increments, for a combined total of five years.

(H) APPROVAL OF THE PURCHASE OF UNIFORM CLEANING/LAUNDERING SERVICES FROM DAVE’S CLEANERS AND TIP TOP CLEANERS FOR THE POLICE AND FIRE DEPARTMENTS. As noted in the agenda packet, the Police Department would be utilizing Dave’s Cleaners for uniform cleaning services while the Fire Department would be utilizing Tip Top Cleaners due to their more stringent approach to cleaning biohazard fluids out of uniforms.

(J) APPROVAL OF THE PURCHASE OF A TURF TRACTOR FROM LANSDOWNE-MOODY COMPANY, L.P. THROUGH THE BUYBOARD COOPERATIVE FOR THE PARKS AND RECREATION DEPARTMENT. As noted in the agenda packet, the purchase price for tractor was $36,623 with a $4,500 trade in on a Model International 584 for a total net cost of $32,122.56.

(K) APPROVAL OF THE PURCHASE OF AMMUNITION FROM GT DISTRIBUTORS, INC. THROUGH THE BUYBOARD COOPERATIVE FOR THE POLICE DEPARTMENT. As noted in the agenda packet, this annual purchase, in the amount of $41,116.49, for the Police Department, would be utilized for the replacement of all duty ammunition, to provide supplemental ammunition to patrol and tactical officers and to fulfill the officer’s State mandated training requirements.
(L) APPROVAL OF A CONTRACT WITH BUSINESS WORLD CONTRACTORS FOR REMOVAL AND REPLACEMENT OF FENCING AT CAMP COMAL, FREDERICKSBURG FIELDS, AND LANDA PARK BOATHOUSE. As noted in the agenda packet, ten bids were received for this project. Business World Contractors submitted the lowest bid at a cost of $69,379 and references were checked to ensure this company had satisfactorily completed this type of work.

(M) APPROVAL OF THE FIRST READING OF AN ORDINANCE ESTABLISHING A SPEED ZONE ON ROSEMARY AVENUE FROM FREDERICKSBURG ROAD TO BELL STREET; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE.

CONSENT AGENDA ITEM (I) pulled from the Consent Agenda - APPROVAL OF THE PURCHASE OF CONSTRUCTION SERVICES FOR A PAVING PROJECT ON SAN ANTONIO STREET: Mayor Boyer read the above and foregoing caption.

Public Works Director Ramsey presented this item to City Council noting that seven bids were received for this project with J.D. Ramming of Cibolo, Texas, as the lowest bidder at $196,512.75. He stated that the third lowest bid was submitted by the Dean Word Company, a local company, at $202,148.45. Public Works Director Ramsey then made reference to Resolution No. 2007-R12 which stated that the City could award a bid to a local company if the bid submitted was within five percent of the lowest bid. Public Works Director Ramsey stated that whether Council awarded the bid to J.D. Ramming or the Dean Word Company, that a contingency in the amount of $20,000 be allowed for change orders that might occur during construction of the project.

Following comments from Councilmembers, Mayor Pro-tem Pospisil moved to approve a resolution to award the purchase of the services to the Dean Word Company to include a contingency in the amount of $20,000 for change orders. Councilmember Krueger seconded the motion.

Following further discussion on the matter, City Council unanimously approved the motion proposed by Mayor Pro-tem Pospisil.

Resolution No. 2009-R12

PRESENTATION, DISCUSSION, AND ACTION REGARDING THE FY 2007-08 AUDIT PERFORMED BY DAVIS, KINARD AND COMPANY, P.C.: Mayor Boyer read the above and foregoing caption.

Support Services Director Korinchock commenced the presentation on this item by noting some of the high points of the Comprehensive Annual Financial Report. Support Services Director Korinchock noted that the audit was clean and no issues were listed in the management letter. She stated that the ending fund balance for the General Fund was $18,077,560 which was $404,883 more than the amount estimated.
in the budget. Support Services Director Korinchock then noted that the Self Insurance Fund (which pays for all employee insurance costs) had a greater fund balance than expected for the second year in a row – by about $473,800 for FY 2007-08, due to the excellent job that employees had done keeping medical costs from escalating.

Continuing with the agenda item, Diane Terrell of Davis, Kinard and Company, P.C., made reference to the independent auditor’s report which included the issuance of a clean opinion. Ms. Terrell also noted some of the highlights of the audit, with regards to the statement of net assets for the City’s component units, statements of revenue and expenses, internal service funds, cash flow statements, and enterprise funds. In closing, Ms. Terrell mentioned that there were no disagreements with management and that no other auditors needed to be consulted.

Following questions and comments from Councilmembers, Mayor Pro-tem Pospisil moved to accept the audit and Comprehensive Annual Financial Report as presented. Councilmember Digges seconded the motion.

Following no public input on the matter, City Council unanimously approved the motion proposed by Mayor Pro-tem Pospisil.

PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING AND REPLACING CHAPTER 130, ARTICLE III, SECTION 130-56, ELECTRIC RATES, SUBSECTION (I) NET METERING SERVICE RATE OF THE CODE OF ORDINANCES RELATING TO RATES FOR THE NEW BRAUNFELS UTILITIES ELECTRIC SYSTEM: Mayor Boyer read the above and foregoing caption.

Greg Baumbach with New Braunfels Utilities (NBU) gave a presentation to City Council on the Net Metering Rate Change Proposal. Mr. Baumbach’s presentation basically centered on how net metering was necessary to maximize the benefits of customer installed generation, such as solar and wind generation, operating in parallel with the NBU Electric System.

Mr. Baumbach’s presentation commenced with information on the existing net metering rate design which led into the proposed changes allowing for a proposed rate adjustment that would provide an easier approach for NBU to recover costs associated with capital infrastructure and Operations and Management. Mr. Baumbach noted that the proposed rate also increased the allowable generator size from 3 kW to 10 kW, which would expand availability to include small general service customers in addition to residential customers. Mr. Baumbach added that the proposed adjustment would better align the cost recovery with other residential and small general customers and that residential customers with solar generation currently served under the existing Net Metering Rate would see an overall reduction in their monthly bills.

Following Mr. Baumbach’s presentation, Councilmembers took the opportunity to comment on the ordinance and gather further information.

Mayor Boyer then opened the floor to public input.
Following no public input from the audience, Mayor Pro-tem Pospisil moved to close the public hearing. Councilmember Wiggins seconded the motion which was unanimously approved by City Council.

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

**DISCUSS AND CONSIDER A RESOLUTION APPROVING A RECOMMENDATION OF THE NEW BRAUNFELS INDUSTRIAL DEVELOPMENT CORPORATION TO FUND THE OPERATION OF THE AIRPORT CONTROL TOWER AT THE NEW BRAUNFELS MUNICIPAL AIRPORT FROM JANUARY 26, 2009 THROUGH SEPTEMBER 30, 2009:** Mayor Boyer read the above and foregoing caption.

City Manager Morrison provided an introduction to this item by noting that The Air Traffic Control Tower ("ATCT") at the New Braunfels Municipal Airport was being operated by a company that declared bankruptcy in February, 2008. City Manager Morrison noted that the City took over operation of the ATCT with contract labor and issued a request for proposal to acquire a new contractor for the operation of the ATCT. City Manager Morrison stated that Robinson Aviation, Inc. ("RVA") was the successful respondent and the City entered into a contract with RVA to operate the ATCT for two years with three one-year options to renew. City Manager Morrison noted that the annual contract was $303,381 with increasing pay rates and benefits based on the IAW Employment Cost Indicator. He stated that RVA started operating the ATCT on January 26, 2009 and that the New Braunfels Industrial Development Corporation had agreed to fund these costs in the amount of $203,000 for the period of January 26, 2009 through September 30, 2009 and recommended that the Council approve such funding.

Following City Manager Morrison's introduction, Mayor Pro-tem Pospisil moved to approve the resolution as presented. Councilmember Digges seconded the motion.

Mayor Boyer then opened the floor to public input.

Jay Patrick of 1225 Pelican Place, New Braunfels, Texas, stated that he had served on both the City's New Braunfels Industrial Development Corporation and the Airport Advisory Board and expressed his concerns related to the funding recommended by New Braunfels Industrial Development Corporation with regards to operation of the Airport Control Tower.

Councilmembers then took the opportunity to comment on the matter and concluded the item by unanimously approving the motion proposed by Mayor Pro-tem Pospisil.

*Resolution No. 2009-R13*
DISCUSS AND CONSIDER A RESOLUTION APPROVING A RECOMMENDATION OF THE NEW BRAUNFELS INDUSTRIAL DEVELOPMENT CORPORATION TO ENTER INTO A CONTRACT WITH THE SCOOTER STORE WITH REGARD TO PROVIDING A GRANT IN AN AMOUNT UP TO $3,850,000 FOR THE CREATION OF 500 NEW JOBS AND JOB RETENTION: Mayor Boyer read the above and foregoing caption.

To commence this item, Councilmember Krueger and Councilmember Wiggins recused themselves from this matter and noted that they would be abstaining from the discussion or vote on this matter.

Michael Meek, President of the Greater New Braunfels Chamber of Commerce presented this item to City Council. Mr. Meek began his introduction on this item by giving City Council background information and history on The Scooter Store. Mr. Meek noted that The Scooter Store had an operation in New Braunfels, but was planning to expand its operation. Mr. Meek stated that other cities had been attempting to entice The Scooter Store to relocate to their cities but that The Scooter Store had requested that the New Braunfels Industrial Development Corporation grant them monies to stay in New Braunfels and expand their facilities here. Mr. Meek stated that the New Braunfels Industrial Development Corporation had approved a grant up to $3,850,000 based on the following and the representation that The Scooter Store would create up to an additional 500 jobs that would pay at or above $20/hour plus benefits. Mr. Meek elaborated that the grant would be composed of the following components:

1. $4,500 per job up to a total of 500 created for an eighteen month period beginning January 1, 2009 [$2,250,000]. The new jobs must be in addition to a baseline of 1,225 jobs. The Scooter Store has already created an additional 211 jobs since January 1, 2009. The payment for created jobs will be done on a quarterly basis and within 30 days of the end of a quarter. 65% of the jobs must be filled by individuals residing in either Comal or Guadalupe Counties. Jobs must be maintained for a period of nine (9) years on a sliding scale so that employment may be reduced by 1/9 or approximately 11.1% of the total new jobs created for each subsequent year over the nine-year period;

2. Up to $1,250,000 for the retrofitting of an existing "off-campus" building for the expansion; and

3. $350,000 to NBU for electrical upgrades to the The Scooter Store facilities.

Mr. Meek continued by stating that the contract with The Scooter Store would contain clawback provisions in case the job levels were not maintained. Mr. Meek noted that the New Braunfels Industrial Development Corporation met on March 3, 2009, and approved submitting this recommendation for approval to the City Council.

Continuing with the item, Councilmembers then took the opportunity to gather additional information from Mr. Meek and Doug Harrison, Chief Executive Officer of The Scooter Store.
Next, Mayor Pro-tem Pospisil moved to approve the resolution as presented. Councilmember Zapata seconded the motion.

Mayor Boyer then opened the floor to public input.

Jay Patrick of 1225 Pelican Place, New Braunfels, Texas, expressed his concerns with regards to the New Braunfels Industrial Development Corporation recommending a grant to The Scooter Store.

Following comments from Councilmembers, City Council approved the motion proposed by Mayor Pro-tem Pospisil by a 5/0/2 vote with Councilmembers Krueger and Wiggins abstaining from the vote.

**Resolution No. 2009-R14**

**DISCUSS AND CONSIDER APPROVAL FOR THE CITY MANAGER TO EXECUTE A CONTRACT WITH RPFGA DESIGN GROUP, INC. FOR DESIGN SERVICES OF FIRE STATION #2 AND #4, AND APPROVAL OF A BUDGET ADJUSTMENT:** Mayor Boyer announced that this item had been pulled from the agenda and would not be considered at this evening’s meeting.

**DISCUSS AND CONSIDER THE FIRST READING OF AN ORDINANCE ABANDONING 0.1953 ACRES OF RIGHT-OF-WAY LOCATED AT THE TERMINUS OF E. LINCOLN STREET:** Mayor Boyer read the above and foregoing caption.

To commence this item, Councilmember Krueger recused herself from this matter and noted that she would be abstaining from the discussion or vote on this matter.

Planning and Community Development Director Mattingly noted that the applicant in this case was Bob Krueger of 298 E. Lincoln Street, New Braunfels, Texas, and that the subject property was located at the end of East Lincoln Street, approximately 500’ east of the public tuber take-out on the Comal River. She noted that there was no planned extension of East Lincoln Street shown on the Comprehensive Master Thoroughfare Plan. It was noted that applicant had been paying property taxes on the parcel since 1943.

Planning and Community Development Director Mattingly stated that staff’s concern was the adjacent property would no longer have frontage on a public street if the property was abandoned and that an access easement would be required to provide access for the adjacent property to East Lincoln Street.

Continuing with the item, Planning and Community Development Mattingly noted that two appraisals of the property had been completed with the first appraisal being in the amount of $9,500 and the applicant’s appraisal from his own appraiser coming in at $3,000.
Planning and Community Development Director Mattingly mentioned that the Planning Commission had recommended approval and that staff was recommending approval with the following conditions: that the property be platted by the applicant prior to any development of the property; that access easements be provided to the adjacent property without public road frontage at the time of a property transaction; and, that any required utility and/or drainage easements be provided.

Following comments from Councilmembers, Mayor Boyer opened the floor to public input.

Following input from Bob Krueger of 298 E. Lincoln Street, New Braunfels, Texas, and Jay Patrick of 1225 Pelican Place, New Braunfels, Texas, Mayor Pro-tem Pospisil moved to approve the first reading of the ordinance as presented taking into consideration the appraised value of $3,000 for the parcel of land. Councilmember Digges seconded the motion which was approved by City Council by a 6/0/1 vote with Councilmember Krueger abstaining from the vote.

**ADJOURNMENT:** This Regular meeting adjourned at 8:00 p.m.

**Date Approved:** March 23, 2009

By: R. BRUCE BOYER, MAYOR

Attest:

MICHAEL A. RESENDEZ,
CITY SECRETARY
MINUTES  
SPECIAL CITY COUNCIL MEETING  
MARCH 10, 2009

The City Council of the City of New Braunfels, Texas, met in Special Session on March 10, 2009.

City Councilmembers present were: Mayor Bruce Boyer, presiding; Mayor Pro-tem Gale Pospisil, and Councilmembers Pat Wiggins, Kathleen Krueger, 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, Planning and Community Development Director Shannon Mattingly, Public Works Director Steven Ramsey, City Engineer Jim Klein, Assistant City Engineer Octavio Garza, Support Services Director Deborah Korinchock, City Urban Forester Kelly Eby, and Parks Operations Manager Bojack Jalowy.

Also present were: Kirk Brumley, John Phelan, Tom Tabler, Sharon Levett, Kevin Johnson, Cheryl Gilpin, Roger Biggers, Greg Baumbach, and news reporter Noah Westerfield.

The meeting was called to order by Mayor Boyer in the New Braunfels Municipal Building City Council Chambers at 4:04 p.m. All Councilmembers were present except Councilmembers Zapata and Goodner.

PRESENTATION, DISCUSSION, AND CONSIDER ACTION REGARDING DESIGN ALTERNATIVES ON THE WALNUT AVENUE WIDENING PROJECT (SEGMENT 1) AND AMENDING HDR/CLAUNCH & MILLER’S CONTRACT FOR PRELIMINARY ENGINEERING DESIGN SERVICES FOR THE RECONSTRUCTION OF WALNUT AVENUE SEGMENT 3 (KATY STREET TO LANDA STREET) AND WALNUT AVENUE SEGMENT 2 (IH-35 TO BUSINESS 35), AND ANY NECESSARY BUDGET ADJUSTMENT: Mayor Pro-tem Pospisil read the above and foregoing caption.

This item commenced with Public Works Director Ramsey stating that this matter would cover Segment 1, which was the original project, with its scope defined from Elliott Knox Boulevard to Katy Street and would also possibly include Segment 2 (IH-35 to Business 35) and Segment 3 (Katy Street to Landa Street) which were included in the Capital Improvement Plan as new projects. Public Works Director Ramsey stated that the property acquisition was continuing with some 26 parcels that were defined as needing to be purchased. He stated that to date, 21 parcels had been secured with three commercial parcels and two private parcels still needing to be acquired.

Public Works Director Ramsey then made reference to the schedule for Segment 1 for Right-of-Way acquisition, relocation and demolition and utility and project design as well as utility relocation and construction. Mr. Ramsey then touched on how there...
would be basic utility upgrades by NBU, AT&T, Time Warner Cable, and CenterPoint Energy at their own expenses. Public Works Director Ramsey also touched on the possibility of an underground conversion for electrical and utility lines at an estimated cost of $1,250,000, and elaborated on the advantages and disadvantages of the conversion.

Next, Chris Miller, a landscape architect with HDR/Claunch & Miller, informed City Council of the portal concept which basically created important entry and connection points or gateways to the downtown area serving both commercial and open space interests at the proposed locations of Katy Street, W. San Antonio Street and Elliott Knox Boulevard. Mr. Miller elaborated on the portal concepts and continued his presentation by making reference to the setbacks and existing oak and pecan trees in the right-of-way of Section A through Section F of the project.

Public Works Director Ramsey returned to the podium and read a chart that described three different options that took into account costs related to right-of-Way acquisition, design and construction. The first option totaling $12,952,970 was referred to as the budget option with minimal landscaping. The second option totaling $13,616,714 accounted for an additional $65,000 for design costs and an additional $598,744 for construction costs for the option with full right-of-Way and landscaping. The third option totaling $15,268,073 took into account an additional $192,000 for design costs and an additional $2,143,103 for construction costs for the option with full right-of-Way, landscaping plus the proposed portals. Public Works Director Ramsey noted that the underground conversion at a price of $1,250,000 had not been included in the cost estimates for the three options noted hereinabove.

Continuing with his presentation, Public Works Director Ramsey described Segment 2 as a project to reconstruct Walnut Avenue from IH-35 to Elliott Knox (approximately 1,300 linear feet) to a five lane facility with curb and gutter and sidewalks within existing right-of-way. He described Segment 3 as a project to reconstruct Walnut Avenue from Katy Street to Landa Street (approximately 3,300 linear feet) to a four lane facility with a turn lane, curb and gutter, and sidewalks within existing right-of-way.

Public Works Director Ramsey added that the estimated project costs for Segment 2 was $1,625,300 and the estimated project costs for Segment 3 was $4,506,700. Mr. Ramsey noted that if Council desired Segments 2 and 3 to coincide with Segment 1 that there would need to be some sort of authorization at this meeting and he suggested that preliminary engineering phase services begin immediately at a cost of $202,896.

Following several comments from Councilmembers, Public Works Director Ramsey laid out the following steps that would need to occur for the Segment 1 Project as follows: for Council to decide on commercial parcel right-of-way; for Council to decide on landscaping option (bid alternates); for Council to decide on underground conversion of aerial facilities ($1,250,000); continue right-of-way acquisition; continue coordination with NBU and other utility providers; finalize design; secure construction
funding; and, bid and construct.

Public Works Director Ramsey then covered the next steps in the process for the Walnut Avenue Reconstruction (Segments 2 and 3) as follows: for Council to approve amending HDR/Claunch & Miller contract ($202,896 – initial engineering services with appropriate budget transfer); initiate preliminary engineering design; initiate coordination with NBU and other utility providers; authorize and finalize design; secure construction funding; and, bid and construct.

Following comments from Councilmembers, Greg Baumbach of New Braunfels Utilities provided City Council with information on issues related to the underground conversion.

At the request of City Manager Morrison, Mayor Boyer announced that City Council would go into executive session in Conference Room B to discuss the following mentioned item.

**DISCUSS AND CONSIDER THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY, IF THE DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE CITY IN NEGOTIATIONS WITH A THIRD PERSON, IN ACCORDANCE WITH SECTION 551.072, OF THE TEXAS GOVERNMENT CODE.**

Mayor Boyer read the above and foregoing caption at 5:05 p.m.

City Council returned into public session at 5:18 p.m., with no action being taken by City Council during the closed session. City staff present during the executive session was City Manager Morrison, Assistant City Manager Camarena, City Attorney Wayland, City Secretary Resendez, and Public Works Director Ramsey.

After returning to the public session, Councilmember Wiggins moved to direct staff to move forward on the full purchases of the remaining three commercial parcels. Councilmember Digges seconded the motion which was unanimously approved by City Council.

There was also a consensus among Council that staff move forward with the additional design work of all three alternatives with regards to right-of-way, landscaping and portals at an additional cost of $192,000 to allow Council an opportunity to choose the best option at a later time.

Proceeding with the meeting, Mr. Miller addressed questions related to the underground conversion with regards to the older homes. Following a discussion and input from Mr. Baumbach, Mr. Miller stated that additional information would be brought to City Council in the future for a determination on the conversion.

Following a discussion on Segments 2 and 3, Mayor Pro-tem Pospisil moved that
a budget adjustment of approximately $394,000 be made to fully fund the increase in the HDR/Claunch & Miller contract out of the 2008 Certificates of Obligation Capital Improvement Fund. Councilmember Digges seconded the motion which was unanimously approved by City Council. It was noted that the $394,000 increase in the HDR/Claunch & Miller contract would allow for additional design work on Segments 1, 2 and 3.

**ADJOURNMENT:** This Special meeting adjourned at 5:38 p.m.

**Date Approved:** March 23, 2009

**By:**

BRUCE BOYER, MAYOR

Attest:

MICHAEL A. RESENDEZ,
CITY SECRETARY
MINUTES
SPECIAL CITY COUNCIL MEETING
MARCH 12, 2009

The City Council of the City of New Braunfels, Texas, met in Special Session on March 12, 2009.

City Councilmembers present were: Mayor Bruce Boyer, presiding; Mayor Pro-tem Gale Pospisil, and Councilmembers Mark Goodner, Pat Wiggins, and Kathleen Krueger.

City Staff present were: City Manager Michael E. Morrison, Assistant City Manager Robert Camareno, City Attorney Alan C. Wayland, City Secretary Michael A. Resendez, and Support Services Director Deborah Korinchock.

Also present were: Rick Tobias, Paula DiFonzo, Greg Baumbach, John Dierksen, Roger Biggers, Guadalupe Castillo, Dawn Butrym, Gretchen Reuwer, Robert Dransfield, Duane Westerman, and news reporter Chris Cobb.

The meeting was called to order by Mayor Boyer in the New Braunfels Municipal Building City Council Chambers at 4:30 p.m. All Councilmembers were present except Councilmembers Zapata and Digges.

DISCUSSION AND CONSIDERATION OF AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF NEW BRAUNFELS, TEXAS UTILITY SYSTEM REVENUE AND REFUNDING BONDS, SERIES 2009 AND RESOLVING OTHER MATTERS INCIDENT AND RELATED THERETO: Mayor Boyer read the above and foregoing caption.

This item commenced with Rick Tobias, Chief Financial Officer for New Braunfels Utilities (NBU) updating City Council on its preparation for an issuance of bonds (“Series 2009 Bonds”) to finance a portion of the first year of NBU’s five year Capital Improvement Program for 2009-2013. Mr. Tobias noted that he was very pleased to report that NBU had received upgrades from two of the rating agencies and that these upgrades would be beneficial to the community and NBU’s customers as they would lead to lower borrowing costs for NBU in this and future bond sales.

Chief Financial Officer Tobias continued his presentation by mentioning that $10,200,000 had been issued in bonds over a 25 year period and that about $6,000,000 would be used to fund water and wastewater treatment facilities and also to relocate the Rio lift station out of the floodway to the other side of the Guadalupe River, next to the existing water treatment plants off Kuehler Avenue. Mr. Tobias added that about $4,800,000 was used to refund the “Series 1999 Bonds”, and based on current interest rates, NBU projected that an average of approximately $50,000 per year could be saved through 2019. Mr. Tobias further added that because NBU was able to decrease the required bond reserve fund by about $510,000 that it was able to be applied to the
refunding itself, therefore reducing the refund from $4,800,000 to about $4,200,000.

Chief Financial Officer Tobias acknowledged the underwriters and covered information related to the interest rates on the bonds and stated that earlier in the day, the NBU Board of Trustees had passed a resolution authorizing the issuance of the “Series 2009 Bonds” and recommended that City Council approve the ordinance authorizing the issuance of the “Series 2009 Bonds” and also authorize the execution of all related documents.

City Attorney Wayland commented that he had reviewed the ordinance and that it was in line with what had been presented at this meeting and that the ordinance would only need to be approved by one reading.

Next, Mayor Pro-tem Pospisil moved to approve the reading of the ordinance as presented. Councilmember Wiggins seconded the motion which was approved by the following roll call vote; AYES: Councilmembers Goodner, Pospisil, Wiggins, Krueger, and Mayor Boyer; NAYS: None.

**Ordinance No. 2009-13**

**ADJOURNMENT:** This Special meeting adjourned at 4:40 p.m.

**Date Approved:** March 23, 2009

By: __________

R. BRUCE BOYER, MAYOR

Attest:

MICHAEL A. RESENDEZ,
CITY SECRETARY
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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<td>City Plan/Council Priority:</td>
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FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A
### City Council Agenda Item Report
#### March 23, 2009

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

**SUBJECT:** CONSENT AGENDA

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<th>Item</th>
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<tr>
<td>A</td>
<td>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 AT OAK RUN PARKWAY AT INDEPENDENCE DRIVE AND HUNTER'S CREEK DRIVE, JERAD STREET AT BENTWOOD DRIVE, AND MAGAZINE AVENUE AT W. JAHN STREET WITHIN THE CORPORATE LIMITS OF THE CITY OF NEW BRAUNFELS.</td>
<td>S. Ramsey</td>
<td>Approved unanimously at the 03/09/09 meeting.</td>
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<td>B</td>
<td>APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE ESTABLISHING A SPEED ZONE ON ROSEMARY AVENUE FROM FREDERICKSBURG ROAD TO BELL STREET; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE.</td>
<td>S. Ramsey</td>
<td>Approved unanimously at the 03/09/09 meeting.</td>
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<td>C</td>
<td>APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE AMENDING AND REPLACING CHAPTER 130, ARTICLE III, SECTION 130-56, ELECTRIC RATES, SUBSECTION (I) NET METERING SERVICE RATE OF THE CODE OF ORDINANCES RELATING TO RATES FOR THE NEW BRAUNFELS UTILITIES ELECTRIC SYSTEM.</td>
<td>P. DiFonzo</td>
<td>Approved unanimously at the 03/09/09 meeting.</td>
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<td>D</td>
<td>APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE ABANDONING 0.1953 ACRES OF RIGHT-OF-WAY LOCATED AT THE TERMINUS OF E. LINCOLN STREET.</td>
<td>S. Mattingly</td>
<td>Approved by a 6/0/1 vote at the 03/09/09 meeting. (Councilmember Krueger abstained)</td>
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<td>E</td>
<td>APPROVAL OF A PURCHASE OF TREE SERVICES IN CITY PARKS FROM KRIEWALDT TREE CARE.</td>
<td>S. Laird/M. Quinones</td>
<td>See briefing sheet.</td>
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<tr>
<td>APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH COMAL COUNTY TO PROVIDE FOR DELIVERY OF GREEN WASTE BY THE CITY OF NEW BRAUNFELS TO THE COMAL COUNTY RURAL RECYCLING FACILITY.</td>
<td>S. Ramsey</td>
<td>See briefing sheet.</td>
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<td>APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ADDING FILING LEGISLATION TO ALLOW FOR THE POSSIBLE CREATION OF ONE OR MORE WATER CONTROL AND IMPROVEMENT DISTRICTS TO THE CITY'S LEGISLATIVE PROGRAM WITH REGARD TO THE 81ST TEXAS LEGISLATIVE SESSION; AND DECLARING AN EFFECTIVE DATE.</td>
<td>M. Morrison</td>
<td>See briefing sheet.</td>
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**BACKGROUND/RATIONALE:**
N/A

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

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**FISCAL IMPACT:**
N/A

**BOARD/COMMISSION RECOMMENDATION:**
N/A

**STAFF RECOMMENDATION:**
N/A
ORDINANCE NO. 2009-____

AN ORDINANCE AMENDING ORDINANCE NUMBER 75-10 DATED APRIL 28, 1975 TO APPROVE INSTALLATION OF THE TRAFFIC CONTROL DEVICES AT OAK RUN PARKWAY AT INDEPENDENCE DRIVE AND HUNTER’S CREEK DRIVE, JERAD STREET AT BENTWOOD DRIVE, AND MAGAZINE AVENUE AT W. JAHN STREET WITHIN THE CORPORATE LIMITS OF THE CITY OF NEW BRAUNFELS

WHEREAS, after engineering and field investigation, the Public Works Department has recommended that traffic control signs be installed on certain streets, avenues, thoroughfares and boulevards within the corporate limits of the City of New Braunfels in order to protect the health, safety and welfare of the citizens.

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

I.

THAT Ordinance Number 75-10 dated April 28, 1975, is hereby amended to authorize the installation of additional Traffic Control signs at the following locations in the corporate limits of the City of New Braunfels, Texas:

STOP SIGNS:

1012 On the NE corner of INDEPENDENCE DRIVE at OAK RUN PARKWAY to stop traffic prior to entering OAK RUN PARKWAY.

1013 On the NW corner of OAK RUN PARKWAY at INDEPENDENCE DRIVE to stop traffic prior to entering INDEPENDENCE DRIVE.

1014 On the SE corner of OAK RUN PARKWAY at INDEPENDENCE DRIVE to stop traffic prior to entering INDEPENDENCE DRIVE.

1015 On the SW corner of HUNTERS CREEK DRIVE at OAK RUN PARKWAY to stop traffic prior to entering OAK RUN PARKWAY.

1016 On the NW corner of OAK RUN PARKWAY at HUNTERS CREEK DRIVE to stop traffic prior to entering HUNTERS CREEK DRIVE.

1017 On the SE corner of OAK RUN PARKWAY at HUNTERS CREEK DRIVE to stop traffic prior to entering HUNTERS CREEK DRIVE.

1018 On the NW corner of BENTWOOD DRIVE at JERAD STREET to stop traffic prior to entering JERAD STREET.
1019 On the SE corner of BENTWOOD DRIVE at JERAD STREET to stop traffic prior to entering JERAD STREET.

1020 On the NE corner of JERAD STREET at BENTWOOD DRIVE to stop traffic prior to entering BENTWOOD DRIVE.

1021 On the SW corner of JERAD STREET at BENTWOOD DRIVE to stop traffic prior to entering BENTWOOD DRIVE.

1022 On the NW corner of MAGAZINE AVENUE at W JAHN STREET to stop traffic prior to entering W JAHN STREET.

1023 On the SE corner of MAGAZINE AVENUE at W JAHN STREET to stop traffic prior to entering W JAHN STREET.

1024 On the NE corner of W JAHN STREET at MAGAZINE AVENUE to stop traffic prior to entering MAGAZINE AVENUE.

II.

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

III.

THAT all provisions as set forth in Ordinance Number 75-10 dated April 28, 1975, will be and remain in full force and effect as though written in full in this ordinance.

IV.

THAT all provisions hereof are hereby declared to be severable and if any provisions hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.
V.

This Ordinance shall take effect after its second and final reading and ten days after publication pursuant to city charter.

PASSED AND APPROVED: First reading this the day of March 9, 2009.

PASSED AND APPROVED: Second reading this the day of March 23, 2009.

CITY OF NEW BRAUNFELS, TEXAS

R. BRUCE BOYER, MAYOR

ATTEST:

MICHAEL A. RESENDEZ, CITY SECRETARY

APPROVED AS TO FORM:

ALAN C. WAYLAND, CITY ATTORNEY
ORDINANCE NO. 2009-____

AN ORDINANCE ESTABLISHING A SPEED ZONE ON ROSEMARY AVENUE FROM FREDERICKSBURG ROAD TO BELL STREET; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE

WHEREAS, in the City of New Braunfels, Texas, engineering and traffic investigations have been conducted in order to determine reasonable and prudent speeds on portions of Rosemary Avenue within the corporate limits of the City of New Braunfels; and

WHEREAS, Rosemary Avenue from Fredericksburg Road to Bell Street, for a total distance of 0.117 miles approximately; and

WHEREAS, it has been determined by said engineering and traffic investigations, that the traffic speed as described below is the maximum reasonable and prudent speed on said section of roadway.

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

THAT the maximum reasonable and prudent speed limit on said roadway to be reduced from 30 mph to 20 mph.

FURTHER that if any of the provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other part of the same which are not held void or unconstitutional shall remain in full force and effect. All other ordinances or parts of ordinances in conflict herewith are repealed to the extent that they are in conflict.

FURTHER, this Ordinance shall become adopted and effective ten (10) days after the date of publication in a newspaper pursuant the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this the day of March 9, 2009.

PASSED AND APPROVED: Second reading this the day of March 23, 2009.

CITY OF NEW BRAUNFELS, TEXAS

R. BRUCE BOYER, MAYOR

ATTEST:

MICHAEL A. RESENDEZ, CITY SECRETARY

APPROVED AS TO FORM:

ALAN C. WAYLAND, CITY ATTORNEY
ORDINANCE NO. __________

AN ORDINANCE AMENDING AND REPLACING CHAPTER 130, ARTICLE III, SECTIONS 130-56. ELECTRIC RATES, SUBSECTION (I) NET METERING SERVICE RATE, CODE OF ORDINANCES, CITY OF NEW BRAUNFELS, TEXAS; RELATING TO RATES FOR THE NEW BRAUNFELS UTILITIES ELECTRIC SYSTEM; REPEALING ALL OTHER ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; CONTAINING A SAVINGS CLAUSE; AND HAVING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels, Texas, owns and operates by and through New Braunfels Utilities its own electric system in accordance with the laws of the State of Texas and the charter of said City; and

WHEREAS, the Council of the City of New Braunfels has established an ordinance containing the rules, regulations, policies, and rate provisions affecting the New Braunfels Utilities electric system and its sale of electrical services, fixing rates and providing for collection thereof and the operation of said system, and which ordinance has been codified as Chapter 130, Article III, Code of Ordinances of the City of New Braunfels; and

WHEREAS, the City's sewer system is managed and operated by and through the duly appointed Board of Trustees of New Braunfels Utilities, a body created pursuant to Section 1502.070 of the Texas Government Code; and

WHEREAS, the Board of Trustees of New Braunfels Utilities has reviewed the current schedule of rates and charges and has determined that the rates and charges for the net metering service rate should be adjusted and has submitted its recommendations to the City Council; and

WHEREAS, in making its recommendations, the Board of Trustees considered applicable rate making standards and policy service considerations; and

WHEREAS, the City Council hereby finds that Section 130-56(1) should be repealed in its entirety and a new Section 130-56(1) be adopted as recommended by the Board of Trustees of New Braunfels Utilities to provide for the continued preservation of the public health, safety and welfare of the people;

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.
SECTION 2. That Section 130-56, Subsection (l) “Net Metering Service Rate” of the Code of Ordinances, City of New Braunfels as it currently exists is repealed and a new Section 130-56(l) “Net Metering Service Rate” is adopted which subsection shall hereinafter read as shown on Exhibit “A” attached hereto and incorporated herein.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. 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 5. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 6. In accordance with the provisions of Section 3.10 of Article III of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 7. This Ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

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

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

CITY OF NEW BRAUNFELS, TEXAS

By: ________________________________

Bruce Boyer, Mayor

ATTEST:

Michael A. Resendez, City Secretary
APPROVED AS TO FORM:

Alan C. Wayland, City Attorney
A RESOLUTION BY THE BOARD OF TRUSTEES OF THE NEW BRAUNFELS UTILITIES APPROVING PROPOSED AMENDMENTS TO THE ELECTRIC ORDINANCE, AND AUTHORIZING THE PRESENTATION OF SAME TO THE CITY COUNCIL OF NEW BRAUNFELS FOR ITS CONSIDERATION AND PASSAGE

WHEREAS, the Council of the City of New Braunfels has heretofore established an ordinance containing the rules, regulations, and policies and rate provisions affecting the New Braunfels Utilities electric system and its furnishing of services, fixing rates, deposits and providing for collection procedures therefore and the operations of said systems, and which ordinance has been codified in Chapter 130, Article III, Code of Ordinances of said City;

WHEREAS, the Board of Trustees of the New Braunfels Utilities is of the opinion that it is now necessary and advisable that certain sections of such chapter of the Code of Ordinances be amended;

WHEREAS, the Board of Trustees has reviewed the proposed amendments, and is of the opinion that the same should be approved, and submitted to the City Council of New Braunfels, for its consideration and passage;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF NEW BRAUNFELS UTILITIES:

SECTION 1.: That the proposed amendments to Chapter 130, Article III of the Code of Ordinances of the City of New Braunfels as set forth in "Exhibit A" attached hereto are hereby approved and should be approved by the City Council.

SECTION 2.: That the Chief Executive Officer of New Braunfels Utilities is hereby authorized and directed to present forthwith said proposed ordinance amendments in ordinance form to the City Council of New Braunfels for its consideration and passage of same, as provided by law.

PASSED AND APPROVED this the 29th day of January, 2009.

GUADALUPE CASTILLO, C.F.E.
President Board of Trustees
New Braunfels Utilities

ATTEST:

PAULA J. DIFONZO
Secretary to the Board
New Braunfels Utilities
ARTICLE III. ELECTRICAL SERVICE

DIVISION 1. RATES*


Sec. 130-56. Electric rates.

(1) Net metering service rate.

(1) Availability. The net metering service rate is available in the electric service area of NBU under the rules, regulations, and policies as provided for in this article, at the rates set forth in this section. Service under this rate may be subject to additional connection charges and specifications contained in New Braunfels Utilities Electrical Connection Policy.

(2) Applicability. The net metering service rate is available to residential customers and small general service customers with grid connected solar or wind generation of ten kilowatts or less where the customer's load profile exceeds the generating capacity.

(3) Service conditions. Service will be provided only by contract approved by the board of trustees of New Braunfels Utilities. Any power generated by the customer may be used to offset the amount of power purchased from NBU. NBU will not purchase excess generation.

(4) Monthly rates. Monthly net metering service rates are as follows:

a. Customer charge, per month . . . . As specified in the appropriate RE or SGS rate

b. Delivery charge, per kWh . . . . As specified in the appropriate RE or SGS rate plus a fixed cost per type of installed kW as shown below:

<table>
<thead>
<tr>
<th>Service Type</th>
<th>Rate per installed kW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential (RE) solar</td>
<td>$1.37</td>
</tr>
<tr>
<td>Residential (RE) wind</td>
<td>$0.54</td>
</tr>
<tr>
<td>Small general service (SGS)</td>
<td></td>
</tr>
<tr>
<td>Solar</td>
<td>$0.75</td>
</tr>
<tr>
<td>Wind</td>
<td>$0.35</td>
</tr>
</tbody>
</table>

c. Cost of power charge:

October–May billing period, per kWh . . . As defined in the appropriate RE or SGS rate
June–September billing period, per kWh. . . As defined in the appropriate RE or SGS rate.

d. Minimum monthly bill. The minimum monthly bill shall be the customer charge plus the delivery charge per installed kW of generation, and any special charges or adjustments.

(5) Determination of delivery charge kWh. Customer's monthly delivery charge kWh shall equal the customer’s kWh purchased from NBU less any kWh generated into the NBU delivery system, but never less than zero.

(6) Determination of power charge kWh. Customer's monthly power charge kWh shall equal the actual kWh purchased from NBU.
EXHIBIT A

ARTICLE III. ELECTRICAL SERVICE

DIVISION 1. RATES*


Sec. 130-56. Electric rates.

(a) Net metering service rate.

(1) Availability. The net metering service rate is available in the electric service area of NBU under the rules, regulations, and policies as provided for in this article, at the rates set forth in this section. Service under this rate may be subject to additional connection charges and specifications contained in New Braunfels Utilities Electrical Connection Policy.

(2) Applicability. The net metering service rate is available to residential customers and small general service customers with grid connected solar or wind generation of ten kilowatts or less where the customer's load profile exceeds the generating capacity.

(3) Service conditions. Service will be provided only by contract approved by the board of trustees of New Braunfels Utilities. Any power generated by the customer may be used to offset the amount of power purchased from NBU. NBU will not purchase excess generation.

(4) Monthly rates. Monthly net metering service rates are as follows:

a. Customer charge, per month . . . As specified in the appropriate RE or SGS rate

b. Delivery charge, per kWh . . . As specified in the appropriate RE or SGS rate plus a fixed cost per type of installed kW as shown below:

   Residential (RE) solar ... $1.37 per installed kW
   Residential (RE) wind ... $0.64 per installed kW
   Small general service (SGS) solar ... $0.75 per installed kW
   Small general service (SGS) wind ... $0.35 per installed kW

c. Cost of power charge:

   October--May billing period, per kWh . . . As defined in the appropriate RE or SGS rate
June--September billing period, per kWh . . . As defined in the appropriate RE or SGS rate

d. Minimum monthly bill. The minimum monthly bill shall be the customer charge plus the delivery charge per installed kW of generation, and any special charges or adjustments.

(5) **Determination of delivery charge kWh.** Customer's monthly delivery charge kWh shall equal the customer's kWh purchased from NBU less any kWh generated into the NBU delivery system, but never less than zero.

(6) **Determination of power charge kWh.** Customer's monthly power charge kWh shall equal the actual kWh purchased from NBU.
ORDINANCE NO. 2009 - _____

AN ORDINANCE ABANDONING 0.1953 ACRES OF RIGHT-OF-WAY LOCATED AT THE TERMINUS OF E. LINCOLN STREET.

WHEREAS, the City of New Braunfels, Texas, has street rights to a 0.1953 acre tract of land, more or less, being the terminus of East Lincoln Street, located adjacent to 298 East Lincoln Street, and said street being in the City of New Braunfels, Texas; and

WHEREAS, the City of New Braunfels, having received a request from Robert C. Krueger, petitioning the City of New Braunfels to consider the abandonment of said street; and

WHEREAS, after determining that there is no need for the City of New Braunfels or any other surrounding property owners to retain the street, it is the decision of the City Council of the City of New Braunfels that action be taken to release same to Robert C. Krueger in the proper and legal manner; and

WHEREAS, there will be a need to retain easements for utility providers and easements will be retained in the quit claim deed and shown on a replat of the property under the ownership of said owner; and

WHEREAS, Patricia Ball has been appointed as the Appraiser to appraise the value of the interests of the City of New Braunfels in said property, the interest being in only the rights to the right-of-way and not to the fee simple title of the land; and

WHEREAS, the said appraiser has determined the fair market value of the rights to the land and thus by making the sale of the land to the abutting property owners, the City of New Braunfels will be complying with all sections of said Chapter 253, Section 253.001 and that the sale of said land in this particular instance has been determined to be the fair market value thereof; now, therefore;

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

SECTION 1

That the City of New Braunfels, acting by and through its City Manager shall execute a quit claim deed to Robert C. Krueger, conveying all of its right, title and interest in and to the public right-of-way and all rights in and to a 0.1953 acre tract of land, more or less, being the terminus of East Lincoln Street, located adjacent to 298 East Lincoln Street, and said street being in the City of New Braunfels, Texas. A survey of the property to be conveyed is attached and marked Exhibit "A" and a metes and bounds description is attached and marked.
Exhibit "B". If said quit claim deed is not executed within one hundred and twenty (120) days of the second and final reading of this ordinance, this ordinance shall become null and void and a new application for abandonment shall be required.

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 ordinance 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 March, 2009.

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

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney
PROPOSED ABANDONMENT OF A PORTION OF E. LINCOLN STREET

METES AND BOUNDS DESCRIPTION OF 0.1953 ACRE OF LAND IN THE J.M. VERAMENDI TWO LEAGUE SURVEY, A-2 COMAL COUNTY, TEXAS

All that certain 0.1953 acre of land, out of the 0.49 acre tract described in the deed from J.W. Karbach and H.E. Karbach to City of New Braunfels recorded under Volume 72, Page 110, in the Deed Records of Comal County, Texas, which is the existing 60' right-of-way of the northeast end of E. Lincoln Street, in the J. M. Veramendi Two League Survey, A-2, Comal County, Texas, and more particularly described by metes and bounds as follows: (All bearings are based on the southeast line of said 0.49 acre tract)

BEGINNING at a railroad spike found for the east corner of said 0.49 acre tract, common to the north corner of the 95/100 acre tract described in the deed from Arlene F. Krueger Seales to Robert C. Krueger recorded under Document No. 9906011193, in the Official Records of Comal County, Texas, an angle corner of the 0.655 acre tract described in the deed from Pat Lewis Hoff to Robert Krueger and Arlene K. Seales recorded under Volume 331, Page 78, in the Deed Records of Comal County, Texas, the most easterly corner of said E. Lincoln Street, and common to the east corner of the herein described tract;

THENCE South 46°18’00” West - 142.19’, along the southeast right-of-way line of said E. Lincoln Street, common to the southeast line of said 0.49 acre tract and the northwest line of said 95/100 acre tract, to a 1/2” iron rod set for the south corner of the herein described tract, common to the west corner of said 95/100 acre tract and the north corner of the 1.495 acre tract described in the deed from Luther M. Mathews, et ux to Orie L. Forbis, Jr., et ux recorded under Volume 174, Page 736, in the Deed Records of Comal County, Texas, from which point a 1/2” iron rod found for the west corner of said 1.495 acre tract, common to an angle corner of said 0.49 acre tract, bears South 46°18’00” West - 205.28’, and also from said point, a 1/2” iron rod found on the common line between said 95/100 acre tract and said, 1.495 acre tract bears South 31°02’08” East - 10.72’;

THENCE North 31°02’08” West - 61.50’, across said 0.49 acre tract and E. Lincoln Street, to a 1/2” iron rod set for the west corner of the herein described tract, in the northwest right-of-way line of said E. Lincoln Street, common to the northwest line of said 0.49 acre tract and the southeast line of the 3.74 acre tract described in the deed from Arlene Faye Krueger Seales to Robert Charles Krueger recorded under Document No. 9806021107, in the Official Records of Comal County, Texas, and further described in the deed from Ross Cribbs, et ux to Arion E. Krueger recorded under Volume 85, Page 179, in the Deed Records of Comal County, Texas, from which point a 1/2” iron rod found for the south corner of said 3.74 acre tract, common to the west corner of said 0.49 acre tract bears South 46°18’00” West - 212.44’;

EXHIBIT “B”
THENCE North 46°18'00" East – 141.42', along said common line, to a 1/2" iron rod set for the north corner of the herein described tract, common to the east corner of said 3.74 acre tract, the north corner of said 0.49 acre tract, and an angle corner of aforesaid 0.655 acre tract;

THENCE South 31°44'29" East – 61.33', along a southwesterly line of said 0.655 acre tract, common to the northeast line of said 0.49 acre tract and the northeast end of aforesaid E. Lincoln Street, to the POINT OF BEGINNING of the herein described tract and containing 0.1953 acre of land.

Prepared by:
Kołodzie Surveying Company
Job No. 1026-003-08-530

THIS LEGAL DESCRIPTION IS ISSUED AS "PART TWO", IN CONJUNCTION WITH THE SURVEY BY KOŁODZIE SURVEYING COMPANY LAST CERTIFIED MAY 9, 2008. REFERENCE IS HEREBY MADE TO THE SURVEY AS "PART ONE".
City Council Agenda Item Report
March 23, 2009

Agenda Item No. 3E
Presenter/Contact – Stacey Laird/Mary Quinones
(830) 221-4389 – mquinones@nbtexas.org

Subject: APPROVAL OF A PURCHASE OF TREE SERVICES IN CITY PARKS FROM KRIEWALDT TREE CARE.

Background/Rationale:
The Parks and Recreation Department requested quotes for tree services consisting of: removing marked dead and dying trees, removing existing and woody debris from the tree removals; raising, reducing or cleaning dead limbs from specified trees over trails and picnic areas; pruning to improve tree structures; and removing designated trees in the cemetery.

This service will be provided in Haymarket Plaza, Torrey Street Park, Hinman Island Park, Landa Park, Landa Golf Course, Main Plaza, the Tube Chute and Prince Solms Park.

This contract is a one-time service at a total cost of $29,000.

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

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<td>Yes</td>
<td>City Plan/Council Priority:</td>
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Fiscal Impact:
The FY 2008-09 Adopted Budget includes $33,000 in funding for this project in the Parks and Recreation Department. The contract cost is $29,000. Therefore, sufficient funds are available for this service.

Board/Commission Recommendation:
N/A

Staff Recommendation:
Approval of a purchase of tree services in City parks from Kriewaldt Tree Care
City Council Agenda Item Report
March 23, 2009

Agenda Item No. 3F
Presenter/Contact – Michael A. Resendez, City Secretary
Ph. 830-221-4006 / E-mail: mresendez@nbtx.org


BACKGROUND/RATIONALE:

Pursuant to Section 271.002 of the Texas Election Code, political subdivisions of the State of Texas are authorized to hold elections jointly in voting precincts that can be served by common polling places if elections are ordered by the authorities of two or more political subdivisions to be held on the same day. A new provision of the Texas Education Code, Section 11.0581, requires School Districts to hold their general trustee elections jointly with a municipality located wholly or partially within the boundaries of the District on the May uniform election date. These steps have been taken to encourage greater voter participation and offer convenience to the voters of the School Districts and Cities.

The attached resolution will allow the Comal Independent School District to utilize the City's District 4 polling location at Faith United Church of Christ on 970 North Loop 337 on Election Day, May 9, 2009, from 7:00 a.m. to 7:00 p.m. Since the City will be canceling its Regular Election for City Councilmembers on May 9, 2009, due to unopposed candidates in each Councilmember District race for Districts 3 and 4, the Comal Independent School District will absorb all costs associated with the rental of Faith United Church of Christ and will be responsible for conducting its own respective election, including but not limited to providing their own ballots, election workers, election training, supplies, equipment, forms, and early voting location.

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

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<tr>
<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 City Council approve the attached resolution authorizing the City Manager to enter into an agreement with the Comal Independent School District to allow the School District use of the City's District 4 polling place on Election Day, May 9, 2009.
RESOLUTION NO. 2009-R____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, APPROVING AN AGREEMENT BETWEEN THE CITY OF NEW BRAUNFELS AND THE COMAL INDEPENDENT SCHOOL DISTRICT FOR THE MAY 9, 2009 ELECTION.

WHEREAS, the City of New Braunfels and the Comal Independent School District have lawfully ordered elections to be held on May 9, 2009, a uniform election date; and

WHEREAS, Section 271.002 of the Texas Election Code states that political subdivisions of the State of Texas are authorized to hold elections jointly in voting precincts that can be served by common polling places if elections are ordered by the authorities of two or more political subdivisions to be held on the same day in all or part of the same territory; and

WHEREAS, a new provision of the Texas Education Code, Section 11.0581, requires the District to hold its general trustee elections jointly with a municipality located wholly or partially within the boundaries of the District on the May uniform election date; and

WHEREAS, these provisions encourage greater voter participation and convenience to the voters of the District and the City by utilizing common polling places insofar as possible.

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

THAT pursuant to Section 271.002 of the Texas Election Code and Section 11.0581 of the Texas Education Code that the agreement attached hereto as "Exhibit A" is approved and entered into by and between the City of New Braunfels and the Comal Independent School District and the City Manager is hereby authorized to execute the same on behalf of the City.

PASSED AND APPROVED THIS 23RD DAY OF March, 2009.

CITY OF NEW BRAUNFELS, TEXAS

By: __________________________
R. BRUCE BOYER, Mayor
ATTEST:

MICHAEL A. RESENDEZ, City Secretary
WHEREAS:

1. The Comal Independent School District and the City of New Braunfels will lawfully order and hold a joint election on May 9, 2009; and

2. Texas Government Code, Chapter 791, authorizes local governments to contact with one another and with agencies of the state for various governmental functions including those in which the contracting parties are mutually interested; and

3. Pursuant to Section 271.002, Texas Election Code, political subdivisions of the State of Texas are authorized to hold elections jointly in voting precincts that can be served by common polling places if elections are ordered by the authorities of two or more political subdivisions to be held on the same day in all or part of the same territory; and

4. A new provision of the Texas Education Code, Section 11.0581, requires the District to hold its general trustee elections jointly with a municipality located wholly or partially within the boundaries of the District on the May uniform election date, or jointly with the county(ies) in which the District is located on the November uniform election date effective with the November 7, 2006 general trustee election; and

5. It would encourage greater voter participation and be convenient to the voters for the District and the City, (collectively referred to hereinafter as the Entities or Participating Entities), to hold a joint election in the election precincts that can be served by common polling places insofar as possible.

NOW, THEREFORE, pursuant to Sections 271.002, and 271.003, Texas Election Code, Texas Education Code Section 11.0581 and Chapter 791 of the Texas Government Code, the Joint Election Agreement set forth below is entered into by and between the Participating Entities acting by and through their respective governing bodies, agree as follows:
I. **Scope of the Election Agreement**

A. The District and the City will share a common election day polling location for the May 9, 2009 joint election as follows:

   Faith United Church of Christ  
   970 North Loop 337  
   New Braunfels, Texas  
   (Serves voters in single-member district 1 and 2)

   Each entity will have separate ballots.

B. Each of the Entities shall be individually responsible for the preparation and/or publication of election ballots, orders, resolutions, notices and other pertinent documents for adoption or execution by its own respective governing board as required by law.

C. Each of the Entities shall be individually responsible for obtaining appropriate pre-clearance, if necessary, from the United States Department of Justice. Each of the Entities shall be individually responsible for posting and publishing its election notices.

II. **Election Judge, Officer, and Clerks**

A. Each Entity shall appoint its own Election Judge, Alternate Election Judge, and Election Clerks.

III. **Early Voting**

A. The District and the City will share a common early voting polling location for the May 9, 2009 joint election as follows:

   Comal County Courthouse  
   150 North Seguin Street  
   New Braunfels, Texas  
   (Serves voters in single-member districts 1, 2, 5)

   Each entity will have separate ballots.

B. The District and the City will each contract individually with early voting personnel.
IV. **Election Day**

A. The entities will share the common election-day voting locations as provided in this Agreement. Each Entity will conduct its own respective election at the Joint Election-Day Polling Location and shall be responsible for compliance with all state and federal laws applicable to their respective elections.

V. **Joint Election Costs: Payment**

A. **Costs.** The District and the City will each be responsible for all costs associated with their respective elections.

All funds expended by each Entity will be from current revenues.

B. **Cancellation.** In the event any of the Participating Entities cancels their election because of unopposed candidates under Subchapter C of Title I of the Texas Election Code, the remaining Entity shall be responsible for 100% of the election costs incurred after the date of cancellation.

In the event of cancellation of the City’s election, the District will continue to administer its early voting through the early voting personnel appointed by the District pursuant to Paragraph III.B. but the District shall be allowed to use the early voting location designated in paragraph III.A. In the absence of such cancellation by the City, the City agrees that it will remain responsible for all early voting duties and responsibilities and the District shall pay its proportionate cost as agreed by the Parties.

VII. **General Provisions**

A. **Communications.** Throughout the term of this Agreement, the Participating Entities will engage in ongoing communications concerning the conduct of the Joint Election and discuss and resolve any problems which might arise regarding the Joint Election.

B. **Effective Date.** This Agreement takes effect upon the complete execution of this Agreement by all Participating Entities.

C. **Custodian of Records.** Each Participating Entity will serve as their individual custodian for purposes of election records as required by law. Each Participating Entity shall appoint a qualified person to act as Custodian of Records for the Entity to perform the duties imposed by the Election Code on the custodian of records for its respective entity.
VIII. Miscellaneous Provisions

A. Venue and Choice of Law. The Entities agree that venue for any dispute arising under this Agreement will lie in the appropriate courts of Comal County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America.

B. Entire Agreement. This Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed and supersedes all prior agreements, including prior election services contracts relating to each Entity’s May 9, 2009 election. Any prior agreements, promises, negotiations, or representations not expressly contained in this Agreement are of no force and effect. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing as provided herein.

C. Severability. If any provision of this Agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Agreement; and, parties to this Agreement shall perform their obligations under this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions of this Agreement.

D. Breach. In the event that any Participating Entity or County breaches any of its obligations under this Agreement, the non-breaching party shall be entitled to pursue any and all rights and remedies allowed by law. Nothing in this Agreement shall be construed as a waiver of any immunity or defense to which any Participating Entity is entitled under statutory or common law.

E. Other Instruments. The Entities agree that they will execute other and further instruments or any documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.

F. Mediation. When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.023 of the Texas Civil Practice and Remedies Code unless both parties agree, in writing, to waive the confidentiality. Notwithstanding the foregoing, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable.
The term confidential as used in this Agreement has the same meanings as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act.

G. **Amendment/Modification.** Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing, duly executed by the parties hereto. No official, representative, agent, or employee of any Participating Entity has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the governing body of the respective Participating Entity.

H. **Counterparts.** This Agreement may be executed in multiple counterparts, all of which shall be deemed originals and with the same effect as if all parties hereto had signed the same document. All of such counterparts shall be construed together and shall constitute one and the same Agreement.

IN TESTIMONY WHEREOF, the Participating Entities have executed this Agreement in multiple copies, each of equal dignity, on this _____ day of ________, 2009.

Dr. Marc Walker, Superintendent
on behalf of Comal ISD

Date

__________________________

on behalf of the City of New Braunfels

Date
City Council Agenda Item Report
March 23, 2009

Agenda Item No. 3G
Presenter/Contact – Michael A. Resendez, City Secretary
Ph. 830-221-4006 / E-mail: mresendez@nbtxsas.org

SUBJECT: APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, CANCELLING THE CITY COUNCIL GENERAL ELECTION FOR COUNCILMEMBER, DISTRICTS THREE AND FOUR CALLED FOR MAY 9, 2009, AND DECLARING THE CANDIDATES FOR CITY COUNCIL IN DISTRICT THREE AND FOUR ELECTED.

BACKGROUND/RATIONALE:

By Resolution Number 2009-R07, dated February 9, 2009, City Council ordered an election to be held on May 9, 2009, for the election of a Councilmember for Districts Three and Four. The filing process allowed for applications to be submitted from February 9, 2009 to March 9, 2009. During that period, Mike Ybarra was the sole applicant for Councilmember District Three and Sandy Nolte was the sole applicant for Councilmember District Four. The deadline for declaring a write-in candidacy has expired and certificates have been attached to certify that Mike Ybarra and Sandy Nolte were unopposed in their respective election races.

Attached for City Council's consideration is a resolution cancelling the election for Councilmember District Three and Councilmember District Four.

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

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

Cancellation of the election races in District Three and District Four will translate into a cost savings of approximately $7,000 for the City of New Braunfels.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends that City Council approve the attached resolution cancelling the Regular City Council Election on May 9, 2009, for Councilmember District Three and Councilmember District Four and declare Mike Ybarra elected as Councilmember District Three and Sandy Nolte as Councilmember District Four.
CERTIFICATION OF UNOPPOSED CANDIDATE
by the City Secretary

TO: Mayor Bruce Boyer and Members of City Council:

I, Michael A. Resendez, certify that I am the City Secretary of the City of New Braunfels, Texas and the authority responsible for preparing the ballot for the May 9, 2009 Regular Election to fill the term of Councilmember District Three. I further certify that no proposition is to appear on the ballot at the election, no person has made a declaration of write-in candidacy, and the following candidate is unopposed:

Mike Ybarra

Signed on this the 17th day of March, 2009.

MICHAEL A. RESENDEZ,
City Secretary,
City of New Braunfels, Texas
CERTIFICATION OF
UNOPPOSED CANDIDATE
by the City Secretary

TO: Mayor Bruce Boyer and Members of City Council:

I, Michael J. Resendez, certify that I am the City Secretary of the City of New Braunfels, Texas and the authority responsible for preparing the ballot for the May 9, 2009 Regular Election to fill the term of Councilmember District Four. I further certify that no proposition is to appear on the ballot at the election, no person has made a declaration of write-in candidacy, and the following candidate is unopposed:

Sandy Nolte

Signed on this the 17th day of March, 2009.

MICHAEL A. RESENDEZ,
City Secretary,
City of New Braunfels, Texas
RESOLUTION NO. 2009-R____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, CANCELLING THE CITY COUNCIL GENERAL ELECTION FOR COUNCILMEMBER, DISTRICTS THREE AND FOUR CALLED FOR MAY 9, 2009, AND DECLARING THE CANDIDATES FOR CITY COUNCIL IN DISTRICT THREE AND DISTRICT FOUR ELECTED.

WHEREAS, by Resolution Number 2009-R07 dated February 9, 2009, the New Braunfels City Council called an election to be held on May 9, 2009, for the election of Councilmembers from District Three and District Four, for terms ending May, 2012; and

WHEREAS, the deadline for filing an application for a place on the ballot for the election to held on May 9, 2009, for the offices of Councilmembers from District Three and District Four was March 9, 2009, and the deadline for declaring a write-in candidacy for the election on May 9, 2009 for the offices of Councilmembers from District Three and District Four was on March 16, 2009; and

WHEREAS, pursuant to Section 2.052 of the Election Code of the State of Texas, the City Secretary has certified to City Council that Mike Ybarra is the one candidate for the office of District Three Councilmember and that Sandy Nolte is the one candidate for the office of District Four Councilmember; and

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

THAT pursuant to Section 2.053 of the Election Code of the State of Texas, Mike Ybarra is hereby declared elected to the office of District Three Councilmember and that Sandy Nolte is hereby declared elected to the office of District Four Councilmember for the terms beginning May 26, 2009 and which shall expire in May 2012; and

FURTHER THAT the election called for May 9, 2009 to elect Councilmembers from District Three and District Four is hereby cancelled.

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

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary
SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH COMAL COUNTY TO PROVIDE FOR DELIVERY OF GREEN WASTE BY THE CITY OF NEW BRAUNFELS TO THE COMAL COUNTY RURAL RECYCLING FACILITY.

BACKGROUND/RATIONALE:
Comal County currently administers a Green Waste Recycling Program. Two years ago the County and the City entered into an Interlocal Agreement that permitted the City and New Braunfels Utilities vehicles to drop off green waste at the Comal County Rural Recycling Facility at no charge. At the time, the City donated five rear load collection vehicles to the County. The agreement expires on March 22, 2009. Both the City and the County wish to renew the agreement for a period of two years. The Interlocal Agreement sets-out this agreement.

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

<table>
<thead>
<tr>
<th>2006 New Braunfels Comprehensive Plan Goal 56: Promote recycling and reuse of resources through the provision of accessible collection locations, opportunities for reuse of materials, (e.g. mulch) and education.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>X</strong></td>
</tr>
</tbody>
</table>

FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends approval of the Resolution.
RESOLUTION NO. 2009-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH COMAL COUNTY FOR THE DELIVERY OF GREEN WASTE BY THE CITY OF NEW BRAUNFELS TO THE COMAL COUNTY RURAL RECYCLING FACILITY.

WHEREAS, Comal County (the "County") operates a rural recycling facility for green waste (the "facility");

WHEREAS, Comal County and the City of New Braunfels (the "City"), on March 22, 2007, entered into a two-year agreement to allow the City and New Braunfels Utilities to drop off green waste at the County's rural recycling facility at no charge; and

WHEREAS, the County and the City wish to continue to encourage the recycling of green waste within the City and throughout the County by renewing the agreement;

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

THAT, the City of New Braunfels City Council authorizes its City Manager to enter into a two-year Interlocal Agreement with Comal County for the purpose of continuing the Green Waste Recycling Program.

ADOPTED AND APPROVED this the _______ day of ____________, 2009.

CITY OF NEW BRAUNFELS, TEXAS

BY: ______________________________

R. BRUCE BOYER, MAYOR

ATTEST:

MICHAEL A. RESENDEZ, CITY SECRETARY
Interlocal Cooperation Agreement
By and Between
The City of New Braunfels and Comal County
Regarding Green Waste Recycling Program

I. Parties
This Interlocal Cooperation Agreement ("Agreement") is entered into by and between the City of New Braunfels ("City") and Comal County, Texas ("County") under the authority of Chapter 791 of the Texas Government Code and becomes effective upon execution by all of the parties.

II. Purpose
The purpose of this Agreement is to increase the efficient and effective use of taxpayer dollars through a consolidated green waste recycling program between the City and the County.

III. Agreement
NOW, THEREFORE, for and in consideration of the premises and the mutual promises, covenants, and agreements set forth in this Agreement, City and County agree as follows:

A. Definitions
1. Green waste - means and includes cuttings and trimming from trees and shrubs, plants, grass cutting, or removed or discarded branches, shrubs, plants, leaves and other forms of organic waste generated from landscapes or gardens and does not include solid waste.

B. County
1. The County will administer a Green Waste Recycling Program out of current revenues of the County.

2. The County agrees to permit the City and New Braunfels Utilities vehicles to drop off Green Waste at the Comal County Rural Recycling Facility at no charge.

C. City
1. Contractors employed by the City or NBU will be required to pay the appropriate drop off fees.

2. The City or NBU may submit a request for reimbursement from the County for fees paid by their contractors for City or NBU projects within Comal County.
IV. Term

This Agreement shall remain in full force and effect for a period of two (2) years to begin on the date of the last signature of this Agreement.

V. Notice

1. The designated representatives of the Parties shall be the following, who shall be fully authorized by their respective governmental entities to receive notification required under this Agreement:
   a) County - County Judge
   b) City - City Manager

VI. Hold-Harmless

County and City agree that both County and City, each through the public officials, employees, and agents, shall each be responsible for their own negligent acts or omissions or other tortuous conduct in the course of performance of this Agreement, without waiving any sovereign or governmental immunity available to either County or City under Texas law and without waiving any available defenses under Texas law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities.

VII. Execution

The County executes this Agreement by and through the County Judge acting under the authorization of the Commissioners Court of Comal County, Texas. City executes this Agreement by and through the City Manager acting under the authorization of the City. This Agreement shall not become effective until executed by all parties.

COUNTY OF COMAL, TEXAS

EXECUTED on this the ____ day of ____________, 2009.

By: ____________________________________________
     DANNY SCHEEL
     Comal County Judge

Attest:

By: ____________________________________________
     Joy Streater, Comal County Clerk

CITY OF NEW BRAUNFELS, TEXAS

EXECUTED on this the ____ day of ____________, 2009.

By: ____________________________________________
     MICHAEL MORRISON
     City Manager

Attest:

By: ____________________________________________
     Michael Resendez, City Secretary
SUBJECT: APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ADDING FILING LEGISLATION TO ALLOW FOR THE POSSIBLE CREATION OF ONE OR MORE WATER CONTROL AND IMPROVEMENT DISTRICTS TO THE CITY’S LEGISLATIVE PROGRAM WITH REGARD TO THE 81ST TEXAS LEGISLATIVE SESSION; AND DECLARING AN EFFECTIVE DATE.

BACKGROUND/RATIONALE:

The Texas Legislative Session began on January 13, 2009. The City has engaged Lauren Kalisek of Lloyd Gosselink to assist with the drafting and introduction of legislation for the creation of one or more Water Control and Improvement Districts, as well as Susan Rocha and Randy Cain as legislative representatives and to assist in the passage of legislation, that would be beneficial to the City and its citizens and to oppose legislation that would be harmful to the City and its citizens. The City’s legislative representatives have requested that the City Council adopt a resolution establishing the City’s authorization for the filing of the legislation for the 81st Legislative Session so that they have specific authority to act and/or testify on behalf of the City with regard to certain legislative proposals. The resolution does not commit the City to consent to the creation of any Water Control and Improvement District. The proposed resolution addresses the following legislative matter:

1. Support Legislation to allow for the possible creation of one or more Water Control and Improvement Districts:

   The owners of a large ranch adjoining the City of New Braunfels City Limits has requested that the City consider supporting legislation that would allow for the creation of one or more Water Control and Improvement Districts (“WCID”) within the City’s extra-territorial jurisdiction. A WCID would allow a developer of the ranch to build necessary public infrastructure. The WCID would have taxing authority to issue bonds and repay the debt issuance by taxes levied within the District. The legislation requires that a Development Agreement with the City and New Braunfels Utility must be agreed to by all parties, and the City must consent to creation of the WCID prior to actual creation of the WCID. Agreeing to support the filing of the legislation allows for further exploration of determining whether creation of a WCID would be beneficial to the City.

   In addition, the resolution authorizes the Mayor, Councilmembers, City Manager, City Attorney, City staff members, and the City’s legislative representatives to testify in opposition to any legislation that would limit or erode that City’s power to self-govern, or in any way be of detriment to the City’s authority to exercise the powers prescribed by the citizens of the City in their elected officials and oppose the imposition of any state mandates that do not provide for a commensurate level of state funding.

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

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

FISCAL IMPACT:

N/A

BOARD/COMMISSION RECOMMENDATION:

N/A
STAFF RECOMMENDATION:

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ADDING FILING LEGISLATION TO ALLOW FOR THE POSSIBLE CREATION OF ONE OR MORE WATER CONTROL AND IMPROVEMENT DISTRICTS TO THE CITY’S LEGISLATIVE PROGRAM WITH REGARD TO THE 81ST TEXAS LEGISLATIVE SESSION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the 81st Texas Legislative Session began on January 13, 2009; and

WHEREAS, the City Council of the City of New Braunfels (“City”) has received a request to support the passage of legislation allowing for the possible creation of one or more water control & improvement districts in the City’s extraterritorial jurisdiction; and

WHEREAS, the City is interested in maintaining the option of allowing for the creation of such districts as final plans for the development of the property to be included in such districts are prepared; and

WHEREAS, the City is, therefore, supportive of the passage of such legislation provided that such support is not deemed to be its final consent to the creation of such districts.

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

That the Mayor, Councilmembers, City Manager, City Attorney, City staff members, and the City’s legislative representatives be authorized to testify on behalf of the City in support of the following proposal:

Legislation to Allow for the Possible Creation of one or more Water Control and Improvement Districts within Comal County;

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

That neither support of the above-referenced proposal nor this resolution shall be interpreted as evidence of the City’s consent to the creation of the districts and is limited to support of the passage of the legislation only.

PASSED AND APPROVED this 23rd day of March, 2009.

CITY OF NEW BRAUNFELS, TEXAS

By: ______________________

R. BRUCE BOYER, MAYOR
ATTEST:

Michael A. Resendez, City Secretary

BACKGROUND/RATIONALE:

In general, based on the Transportation and Traffic Advisory Board discussion, the board feels that installation of stop signs at the following intersection would be beneficial to the residents of New Braunfels:

- NE corner of W. County Line Road at Pahmeyer Road
- SW corner of W. County Line Road at Pahmeyer Road
- NW corner of Pahmeyer Road at W. County Line Road
- SE corner of Pahmeyer Road at W. County Line Road

ADDRESS 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></td>
<td>2006 Comprehensive Plan: Transportation Goal 21: Provide a system of convenient and safe transportation facilities through comprehensive, cooperative and continuing transportation system planning and development.</td>
</tr>
</tbody>
</table>

FISCAL IMPACT:

None.

BOARD/COMMISSION RECOMMENDATION:

The Transportation and Traffic Advisory Board has recommended amending the ordinance to include stop signs at the above location.

STAFF RECOMMENDATION:

Staff recommends the installation of the stop signs at the location indicated in the attached ordinance.
ORDINANCE NO. 2009-____

AN ORDINANCE AMENDING ORDINANCE NUMBER 75-10 DATED APRIL 28, 1975 TO APPROVE INSTALLATION OF THE TRAFFIC CONTROL DEVICES AT THE INTERSECTION OF PAHMeyer ROAD AND COUNTY LINE ROAD WITHIN THE CORPORATE LIMITS OF THE CITY OF NEW BRAUNFELS

WHEREAS, after engineering and field investigation, the Public Works Department has recommended that traffic control signs be installed on certain streets, avenues, thoroughfares and boulevards within the corporate limits of the City of New Braunfels in order to protect the health, safety and welfare of the citizens.

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

I.

THAT Ordinance Number 75-10 dated April 28, 1975, is hereby amended to authorize the installation of additional Traffic Control signs at the following locations in the corporate limits of the City of New Braunfels, Texas:

STOP SIGNS:

1025 On the NE corner of W. COUNTY LINE ROAD at PAHMeyer ROAD to stop traffic prior to entering PAHMeyer ROAD.

1026 On the SW corner of W. COUNTY LINE ROAD at PAHMeyer ROAD to stop traffic prior to entering PAHMeyer ROAD.

1027 On the NW corner of PAHMeyer ROAD at W. COUNTY LINE ROAD to stop traffic prior to entering W. COUNTY LINE ROAD.

1028 On the SE corner of PAHMeyer ROAD at W. COUNTY LINE ROAD to stop traffic prior to entering W. COUNTY LINE ROAD.

II.

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.
III.

THAT all provisions as set forth in Ordinance Number 75-10 dated April 28, 1975, will be and remain in full force and effect as though written in full in this ordinance.

IV.

THAT all provisions hereof are hereby declared to be severable and if any provisions hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

V.

This Ordinance shall take effect after its second and final reading and ten days after publication pursuant to city charter.

PASSED AND APPROVED: First reading this the day of March 23, 2009.

PASSED AND APPROVED: Second reading this the day of April 13, 2009.

CITY OF NEW BRAUNFELS, TEXAS

R. BRUCE BOYER, MAYOR

ATTEST:

MICHAEL A. RESENDEZ, CITY SECRETARY

APPROVED AS TO FORM:

ALAN C. WAYLAND, CITY ATTORNEY
City Council Agenda Item Report  
March 23, 2009

Agenda Item No. 4

Presenter/Contact – Vinicio Llerena, Airport Director  
(830) 221-4295 – llerena@nbtexas.org

SUBJECT: DISCUSS AND CONSIDER AUTHORIZATION FOR THE CITY MANAGER TO ENTER INTO A CONTRACT WITH R.W. ARMSTRONG TO COMPLETE AN AIRPORT BUSINESS PLAN.

BACKGROUND/RATIONALE:

In recognition of the need for sound planning for the future of the Airport, the Airport Business Plan presents an independent view of short and long-term strategy for the Airport. The Airport Business Plan should serve as a living document that will address such issues as function, aesthetic and economic concerns, market and economic development issues, financial feasibility, land use, airfield planning, transportation infrastructure, and phasing.

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

<table>
<thead>
<tr>
<th></th>
<th>Strategic Priorities:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Objective 1b) - Identify facility needs in anticipation of increasing service demands</td>
</tr>
<tr>
<td></td>
<td>(Objective 1c) – Seek opportunities for co-location of city facilities within the organization and with other public entities</td>
</tr>
<tr>
<td></td>
<td>(Objective 2a) Review user fees and update as appropriate</td>
</tr>
</tbody>
</table>

FISCAL IMPACT:

$155,000 for the Airport Business Plan will come from the 2007 Certificate of Obligation Capital Improvement Fund. Council is considering amendments to all capital improvement budgets at the March 23, 2009 meeting. Those amendments include full funding for these services.

BOARD/COMMISSION RECOMMENDATION:

The Airport Advisory Board supports unanimously.

STAFF RECOMMENDATION:

Staff recommends approval for the City Manager to enter into a contract with RW Armstrong.
City Council Agenda Item Report  
March 23, 2009

Agenda Item No. 4B  
Presenter/Contact – Deborah Korinchock, Support Services Director  
(830) 221-4385 – dkorinchock@nbtexas.org

SUBJECT: DISCUSS AND CONSIDER ACTION REGARDING AMENDMENTS TO THE FY 2008-09 CAPITAL IMPROVEMENT PROJECTS' ADOPTED BUDGETS

BACKGROUND/RATIONALE:

The Council adopts the capital improvement funds' budgets annually along with the operating budget. For FY 2008-09, the City has eight active capital improvement funds. The recommended amendments shown on the attached spreadsheets revise seven of those funds. Only the Parks Improvements Fund has no changes. This fund is currently used to account for and expend proceeds from the Parks Development Fees.

The proposed amendments to the capital improvement funds have several objectives as well as requirements that must be met when managing these funds. The following are the parameters under which staff developed the proposed amendments.

- Each debt issuance has a list of the types of projects that can be funded with the proceeds. The City cannot go outside these commitments that were made to those that purchased the debt. For the 2003 and 2004 certificates of obligation (C of O), the only projects that can be funded are streets and drainage improvements. For the 2007 certificates of obligation, debt proceeds can be used for streets and drainage improvements, fire station construction and equipment, airport improvements, and parks improvements. The 2007 C of O's are the only debt currently outstanding that includes airport and parks improvements. The 2008 certificates of obligation proceeds can be used for streets and drainage improvements, land for municipal facilities and professional services related to these types of projects. Project funding must be done within these stipulations.

- The City must spend (not just encumber) all the proceeds from a debt issuance within three years of the issue date or risk arbitrage penalties from the Internal Revenue Service. The only exception is the 2004 certificates of obligation. When the City issued these, we received permission to expense the funds over a five year period. Arbitrage penalties can occur if the interest earned on the debt proceeds while the funds are held and invested by the City exceeds the interest payments on the money. These regulations are designed to keep governmental entities from issuing debt just to make money on interest earnings.

For New Braunfels, the 2003 certificates of obligation have been entirely expensed. The 2004 funds must be spent by May 2009 to avoid any arbitrage risk. The 2007 debt proceeds still have one more year before incurring any risk (late summer 2010). The proposed budget amendments work to move all streets and drainage projects that will expend funds quickly over the next several months into the 2004 C of O's fund to reduce as much as possible any arbitrage problems.

- Projects that the Council prioritized through the capital improvement five year plan are funded in these amendments.
Only projects that staff expects to complete in the next twelve to eighteen months are included for funding, following the parameters established by Council to only fund those projects that will move forward in the short term. The Council has been approving reimbursement resolutions to help facilitate this process. This approach avoids, as much as possible, future arbitrage risk and ensures that debt is issued only for projects that will need funding in the very short term.

The attached spreadsheets show the proposed amended capital improvement budgets for eight funds: the Streets and Drainage Fund (which will be closed out this fiscal year), the 2003 Certificates of Obligation Fund (which will be closed out with this action), the 2004 Certificates of Obligation Fund, the 2007 Certificates of Obligation Fund, the 2008 Certificates of Obligation Fund, the 2009 Certificates of Obligation Fund, and the Civic Center Capital Improvement Project Fund (which will be closed out this fiscal year). The spreadsheets themselves have some “color coding” to help identify projects that have been adjusted and/or moved between funds as well as additional projects identified in the capital improvement five year plan. Projects shown in blue lettering are those that have been changed and/or moved. This includes some revenue line items. Projects highlighted in blue are those that have been added.

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>X</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**City Plan/Council Priority:** Strategic Priorities: Effective Management – Objective 7: Maintain fiscal stability of City operations

**Fiscal Impact:**

The proposed amended budgets make the most effective use of available capital improvement project funding, allocating funds to projects as needed. This action allows projects to move forward. It leaves approximately $714,000 in contingencies in the 2008 Certificates of Obligation that can be used to fund additional streets and drainage projects or land and professional services for municipal improvements. It also will close out three funds this fiscal year – the Streets and Drainage Fund, the Civic Center Capital Improvements Fund and the 2003 Certificates of Obligation Capital Improvement Fund. All three will have all available funds fully expended by the end of this fiscal year.

**Board/Commission Recommendation:**

N/A

**Staff Recommendation:**

Adoption of amended FY 2008-09 Capital Improvement Projects funds’ budgets
# City of New Braunfels

**Streets and Drainage - Capital Improvement Fund**  
Fiscal Year Ending September 30, 2009

<table>
<thead>
<tr>
<th>Available Funds</th>
<th>Project Revenue/ Expenditures</th>
<th>Activity to Date As of 9/30/08</th>
<th>FY 2008-10 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Beginning Balance</strong></td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Intergovernmental (including CDBG)</td>
<td>$ 61,070</td>
<td>$ 61,070</td>
<td>$</td>
</tr>
<tr>
<td>Interest Income</td>
<td>262,324</td>
<td>262,324</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>189,644</td>
<td>189,644</td>
<td></td>
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<tr>
<td>Residual Equity Transfer</td>
<td>2,875,321</td>
<td>2,635,055</td>
<td>240,266</td>
</tr>
<tr>
<td>Interfund Transfers</td>
<td>794,522</td>
<td>794,522</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL AVAILABLE FUNDS</strong></td>
<td>$ 4,182,881</td>
<td>$ 3,942,615</td>
<td>$ 240,266</td>
</tr>
</tbody>
</table>

## APPROPRIATIONS

Projects

<table>
<thead>
<tr>
<th>Project</th>
<th>Revenue/Expenditures</th>
<th>Activity to Date As of 9/30/08</th>
<th>FY 2008-10 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canyon Drive drainage</td>
<td>$ 137,500</td>
<td>$ 137,500</td>
<td>$</td>
</tr>
<tr>
<td>San Antonio Street</td>
<td>138,657</td>
<td></td>
<td>138,657</td>
</tr>
<tr>
<td>Downtown Master Plan</td>
<td>96,000</td>
<td></td>
<td>96,000</td>
</tr>
<tr>
<td>Forest Drive Drainage</td>
<td>71,600</td>
<td>65,991</td>
<td>5,609</td>
</tr>
<tr>
<td>Katy/Mesquite Drainage Engineering</td>
<td>46,000</td>
<td>46,000</td>
<td></td>
</tr>
<tr>
<td>Church Hill watershed project Right of Way</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East Common Street</td>
<td>35,819</td>
<td>35,819</td>
<td></td>
</tr>
<tr>
<td>Gruene Rd. Bridge</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Katy Street drainage (Hackberry to Mesquite)</td>
<td>227,939</td>
<td>227,939</td>
<td></td>
</tr>
<tr>
<td>Orange Avenue drainage (Business 35 to Stonewall)</td>
<td>76,000</td>
<td>76,000</td>
<td></td>
</tr>
<tr>
<td>Ridge Hill Culvert</td>
<td>68,678</td>
<td>68,678</td>
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</tr>
<tr>
<td>San Antonio St.</td>
<td>25,702</td>
<td>25,702</td>
<td></td>
</tr>
<tr>
<td>Safe Routes to Schools</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stonewall Street (Peach to Orange)</td>
<td>38,000</td>
<td>38,000</td>
<td></td>
</tr>
<tr>
<td>Water Lane/Katy Street drainage improvements</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flood Gauges on the Dry Comal</td>
<td>28,750</td>
<td>28,750</td>
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</tr>
<tr>
<td>Woodland Avenue repairs</td>
<td>15,496</td>
<td>15,496</td>
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<tr>
<td>Branch Lane</td>
<td>11,693</td>
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</tr>
<tr>
<td>Caddell Lane</td>
<td>62,888</td>
<td>62,888</td>
<td></td>
</tr>
<tr>
<td>Church Hill/Wright Ave. Phase 1</td>
<td>747,555</td>
<td>747,555</td>
<td></td>
</tr>
<tr>
<td>Churchill/Wright Drainage</td>
<td>91,487</td>
<td>91,487</td>
<td></td>
</tr>
<tr>
<td>Comal Ave. Drainage</td>
<td>370,755</td>
<td>370,755</td>
<td></td>
</tr>
<tr>
<td>County Line Rd.</td>
<td>78,707</td>
<td>78,707</td>
<td></td>
</tr>
<tr>
<td>District 1 Sidewalks</td>
<td>4,000</td>
<td>4,000</td>
<td></td>
</tr>
<tr>
<td>Gardenia &amp; Sunrise Dr.</td>
<td>2,000</td>
<td>2,000</td>
<td></td>
</tr>
<tr>
<td>Gardenia Dr.</td>
<td>88,010</td>
<td>88,010</td>
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</tr>
<tr>
<td>Gardenia Dr./Sunrise</td>
<td>99,512</td>
<td>99,512</td>
<td></td>
</tr>
<tr>
<td>Groos Project</td>
<td>6,971</td>
<td>6,971</td>
<td></td>
</tr>
<tr>
<td>Gruene Rd.</td>
<td>42,356</td>
<td>42,356</td>
<td></td>
</tr>
<tr>
<td>Gruene Rd. Drainage</td>
<td>31,651</td>
<td>31,651</td>
<td></td>
</tr>
<tr>
<td>Gruene Rd./Overlay</td>
<td>24,638</td>
<td>24,638</td>
<td></td>
</tr>
</tbody>
</table>
**City of New Braunfels**

**Streets and Drainage - Capital Improvement Fund**  
Fiscal Year Ending September 30, 2009

<table>
<thead>
<tr>
<th>Available Funds</th>
<th>Project Revenue/Expenditures</th>
<th>Activity to Date As of 9/30/08</th>
<th>FY 2008-10 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hidalgo Ave.</td>
<td>94,976</td>
<td>94,976</td>
<td>-</td>
</tr>
<tr>
<td>Impact Fee Drainage Master Plan Study</td>
<td>844,587</td>
<td>844,587</td>
<td>-</td>
</tr>
<tr>
<td>La Mesa Drive drainage (Mission to Twin Oaks)</td>
<td>35,770</td>
<td>35,770</td>
<td>-</td>
</tr>
<tr>
<td>Lone Star Ave.</td>
<td>47,148</td>
<td>47,148</td>
<td>-</td>
</tr>
<tr>
<td>McGaugh Ave.</td>
<td>44,263</td>
<td>44,263</td>
<td>-</td>
</tr>
<tr>
<td>Merriweather St.</td>
<td>40,193</td>
<td>40,193</td>
<td>-</td>
</tr>
<tr>
<td>Mission Dr.</td>
<td>29,562</td>
<td>29,562</td>
<td>-</td>
</tr>
<tr>
<td>Oakland Water Main</td>
<td>35,823</td>
<td>35,823</td>
<td>-</td>
</tr>
<tr>
<td>Peach Ave.</td>
<td>46,817</td>
<td>46,817</td>
<td>-</td>
</tr>
<tr>
<td>Rhine Terrace</td>
<td>4,663</td>
<td>4,663</td>
<td>-</td>
</tr>
<tr>
<td>Schmidt Ave.</td>
<td>900</td>
<td>900</td>
<td>-</td>
</tr>
<tr>
<td>Schmidt Ave. Extension</td>
<td>300</td>
<td>300</td>
<td>-</td>
</tr>
<tr>
<td>Seville Dr.</td>
<td>4,892</td>
<td>4,892</td>
<td>-</td>
</tr>
<tr>
<td>Southland Ave.</td>
<td>17,959</td>
<td>17,959</td>
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</tr>
<tr>
<td>Starcrest Dr.</td>
<td>28,928</td>
<td>28,928</td>
<td>-</td>
</tr>
<tr>
<td>Veramendi Street and Drainage</td>
<td>169,936</td>
<td>169,936</td>
<td>-</td>
</tr>
<tr>
<td>Waterway Improvement</td>
<td>17,750</td>
<td>17,750</td>
<td>-</td>
</tr>
<tr>
<td>West End Ave.</td>
<td>40,552</td>
<td>40,552</td>
<td>-</td>
</tr>
<tr>
<td><strong>Miscellaneous</strong></td>
<td><strong>$ 9,519</strong></td>
<td><strong>$ 9,519</strong></td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Projects</strong></td>
<td><strong>$ 4,182,881</strong></td>
<td><strong>$ 3,942,615</strong></td>
<td><strong>$ 240,266</strong></td>
</tr>
<tr>
<td><strong>Interfund Transfers</strong></td>
<td><strong>$ -</strong></td>
<td><strong>$ -</strong></td>
<td><strong>$ -</strong></td>
</tr>
<tr>
<td><strong>Contingencies</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
</tr>
<tr>
<td><strong>TOTAL APPROPRIATIONS</strong></td>
<td><strong>$ 4,182,881</strong></td>
<td><strong>$ 3,942,615</strong></td>
<td><strong>$ 240,266</strong></td>
</tr>
</tbody>
</table>
City of New Braunfels
2003 Certifications of Obligation Capital Improvement Fund
Fiscal Year Ending September 30, 2009

<table>
<thead>
<tr>
<th>Project Revenue/Expenditures</th>
<th>Activity to Date</th>
<th>FY 2008-09 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Available Funds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proceeds from Debt Issuance</td>
<td>$ 6,270,000</td>
<td>$ 6,270,000</td>
</tr>
<tr>
<td>Interest Income</td>
<td>380,207</td>
<td>380,207</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>37,500</td>
<td>37,500</td>
</tr>
<tr>
<td>Interfund Transfers</td>
<td>865,038</td>
<td>865,038</td>
</tr>
<tr>
<td><strong>TOTAL AVAILABLE FUNDS</strong></td>
<td><strong>$ 7,552,745</strong></td>
<td><strong>$ 7,552,745</strong></td>
</tr>
</tbody>
</table>

**APPROPRIATIONS**

Projects
County Line Road               | $ 947,617         | $ 947,617         | -                |
Hike/Bike Trail                | 208,942           | 208,942           | -                |
Gruene Rd.                     | 6,336,785         | 603,078           | -                |
Professional Services          | 603,078           | 603,078           | -                |
Right of Way                   | 884,524           | 884,524           | -                |
Construction                   | 4,849,183         | 4,849,183         | -                |
Debt Issuance Expense          | 27,750            | 27,750            | -                |

**Total Projects**             | **$ 7,521,094**  | **$ 7,521,094**  | -                |

Contingencies                  | $ -              | - $              | -                |
Interfund Transfer             | $ 31,651          | $ 31,651          | -                |

**TOTAL APPROPRIATIONS**       | **$ 7,552,745**  | **$ 7,552,745**  | -                |
## City of New Braunfels

**2004 Certifications of Obligation Capital Improvement Fund**

**Fiscal Year Ending September 30, 2009**

### Available Funds

<table>
<thead>
<tr>
<th>Fund</th>
<th>Revenue/Expenditures</th>
<th>Activity to Date</th>
<th>FY 2008-09 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceeds from Debt Issuance</td>
<td>$26,000,000</td>
<td>$24,654,619</td>
<td>$1,345,381</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>360</td>
<td>-</td>
<td>360</td>
</tr>
<tr>
<td>Intergovernmental Revenue (pmt from NBU)</td>
<td>12,356</td>
<td>-</td>
<td>12,356</td>
</tr>
<tr>
<td>Interest Income</td>
<td>4,130,740</td>
<td>-</td>
<td>4,130,740</td>
</tr>
<tr>
<td><strong>TOTAL AVAILABLE FUNDS</strong></td>
<td>$30,143,456</td>
<td>$24,654,619</td>
<td>$5,488,837</td>
</tr>
</tbody>
</table>

### Appropriations

#### Projects

- **South Tributary Flood Control**
  - Engineering: $1,235,200
  - Right-of-Way: $1,900,000
  - Construction: $860,000

- **North Tributary**
  - Professional Services: 637,800
  - Churchill Drainage Project: 4,897,661
  - Engineering: 196,426
  - Right-of-Way: 596,423
  - Construction: 3,834,812

- **Katy/Mesquite Drainage - Construction**
  - Engineering: 871,161
  - Right-of-Way: 596,423

- **Churchill Drainage Project**
  - Engineering: 166,997
  - Right-of-Way: 596,423
  - Construction: 3,834,812

- **Alves Lane**
  - Engineering: 637,800
  - Construction: 637,800

- **Gruene Rd. Improvements**
  - Engineering: 196,426
  - Right-of-Way: 596,423
  - Construction: 3,834,812

- **Walnut Ave. Widening - Right of Way**
  - Engineering: 196,426
  - Right-of-Way: 596,423
  - Construction: 3,834,812

- **Walnut Ave. Extension to Klien Rd.**
  - Engineering: 166,997
  - Construction: 166,997

- **Katy/Mesquite Drainage - Construction**
  - Engineering: 871,161
  - Right-of-Way: 596,423

#### Street Maintenance Projects

- **2004 Projects**
  - Phase 1: 298,332
  - Phase 2: 435,559
  - Phase 3: 349,802

- **2005 Projects**
  - Phase 1: 1,130,385
  - Phase 2: 1,520,807
  - Phase 3: 951,411

- **2006 Projects**
  - Phase 1: 1,035,000
  - Phase 2: 811,489
  - Phase 3: 1,140,000

- **2006-2008 Projects**
  - Subtotal - Street Maintenance Projects: $7,472,785

**Total Appropriations**

- **Projects**: $30,143,456
- **Contingencies**: 2,356
- **Interfund Transfers**: 886,038

**TOTAL APPROPRIATIONS**: $30,143,456
# City of New Braunfels
## 2007 Certifications of Obligation Capital Improvement Fund
### Fiscal Year Ending September 30, 2009

### Available Funds

<table>
<thead>
<tr>
<th>Revenue/Expenditures</th>
<th>Activity to Date</th>
<th>FY 2008-09 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceeds from Debt Issuance</td>
<td>$17,654,242</td>
<td>$10,606,763</td>
</tr>
<tr>
<td>Interest Income</td>
<td>572,648</td>
<td>-</td>
</tr>
<tr>
<td>Interfund Transfer</td>
<td>13,282</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL AVAILABLE FUNDS</strong></td>
<td><strong>$18,240,172</strong></td>
<td><strong>$10,606,763</strong></td>
</tr>
</tbody>
</table>

### Appropriations

#### Projects

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Revenue/Expenditures</th>
<th>Activity to Date</th>
<th>FY 2008-09 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gruene Bridge Replacement - ROW and Construction</td>
<td>$544,693</td>
<td>$544,693</td>
<td>-</td>
</tr>
<tr>
<td>Walnut Ave. Widening - Engineering</td>
<td>890,000</td>
<td>863,732</td>
<td>6,268</td>
</tr>
<tr>
<td>Walnut Ave. Extension to Klein Rd. Engineering</td>
<td>2,068,964</td>
<td>864,778</td>
<td>138,444</td>
</tr>
<tr>
<td>Construction</td>
<td>1,075,762</td>
<td>1,075,762</td>
<td>-</td>
</tr>
<tr>
<td>Katy/Mesquite Drainage Engineering</td>
<td>72,000</td>
<td>50,000</td>
<td>21,000</td>
</tr>
<tr>
<td>Right-of-Way</td>
<td>1,000</td>
<td>1,000</td>
<td>-</td>
</tr>
<tr>
<td>Highway 46 Improvements - Right-of-Way Acquisition</td>
<td>181,000</td>
<td>181,000</td>
<td>-</td>
</tr>
<tr>
<td>Gruene Hike and Bike Trail</td>
<td>653,080</td>
<td>458,935</td>
<td>194,145</td>
</tr>
<tr>
<td>Landa Park Bathhouse</td>
<td>229,304</td>
<td>229,304</td>
<td>-</td>
</tr>
<tr>
<td>Landa Park Restrooms Improvements - Construction</td>
<td>36,943</td>
<td>36,943</td>
<td>-</td>
</tr>
<tr>
<td>Park Land Purchases and Improvements (including Camp Comal)</td>
<td>2,774,148</td>
<td>57,625</td>
<td>2,716,523</td>
</tr>
<tr>
<td>Hinman Island Restroom and Renovations - Design</td>
<td>55,000</td>
<td>-</td>
<td>55,000</td>
</tr>
<tr>
<td>Landa Park Archaeological Survey</td>
<td>120,000</td>
<td>-</td>
<td>120,000</td>
</tr>
<tr>
<td>Parks Maintenance Building Improvements</td>
<td>200,000</td>
<td>-</td>
<td>200,000</td>
</tr>
<tr>
<td>Airport Runway/Taxiway Improvements - Engineering</td>
<td>45,000</td>
<td>-</td>
<td>45,000</td>
</tr>
<tr>
<td>Airport Business Plan</td>
<td>155,000</td>
<td>-</td>
<td>155,000</td>
</tr>
<tr>
<td>Airport Hanger Apron and Taxiway (match for TXDOT project)</td>
<td>235,000</td>
<td>-</td>
<td>235,000</td>
</tr>
<tr>
<td>Airport tractors and gator</td>
<td>110,000</td>
<td>-</td>
<td>110,000</td>
</tr>
<tr>
<td>Forest Drive Drainage Improvements</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Eikel Park Skate Park Improvements</td>
<td>175,000</td>
<td>175,000</td>
<td>-</td>
</tr>
<tr>
<td>South Tributary Hike and Bike Trail Improvements</td>
<td>1,100,000</td>
<td>-</td>
<td>1,100,000</td>
</tr>
<tr>
<td>Northridge Park Improvements</td>
<td>50,000</td>
<td>50,000</td>
<td>-</td>
</tr>
<tr>
<td>Fisher Park Land</td>
<td>2,284,077</td>
<td>2,284,077</td>
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<tr>
<td>Fisher Park Master Plan</td>
<td>27,000</td>
<td>27,000</td>
<td>-</td>
</tr>
<tr>
<td>Fire Stations #2 and #4 - Engineering</td>
<td>365,000</td>
<td>-</td>
<td>365,000</td>
</tr>
<tr>
<td>Fire Station #6 - Construction and Equipment</td>
<td>2,687,364</td>
<td>2,687,364</td>
<td>-</td>
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<tr>
<td>Drainage Improvements</td>
<td>640,000</td>
<td>209,532</td>
<td>430,468</td>
</tr>
<tr>
<td>Bleders Creek Drainage Improvement</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>New Braunfels Industrial Development Corp. Funded Projects</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Spring Fed Pool Improvements</td>
<td>44,250</td>
<td>40,310</td>
<td>3,940</td>
</tr>
<tr>
<td>Landa Park River Front Rehabilitation</td>
<td>207,300</td>
<td>197,300</td>
<td>10,000</td>
</tr>
<tr>
<td>Landa Park Irrigation</td>
<td>48,450</td>
<td>39,449</td>
<td>9,001</td>
</tr>
<tr>
<td>Golf Course Irrigation/Greens Improvements</td>
<td>848,000</td>
<td>-</td>
<td>848,000</td>
</tr>
<tr>
<td>Landa Playground Improvements</td>
<td>439,000</td>
<td>27,565</td>
<td>411,435</td>
</tr>
<tr>
<td>HEB Soccer Complex Improvements</td>
<td>620,000</td>
<td>303,436</td>
<td>316,562</td>
</tr>
<tr>
<td>Eikel Park Skate Park Improvements</td>
<td>91,000</td>
<td>91,000</td>
<td>-</td>
</tr>
<tr>
<td>Eikel Field Improvements</td>
<td>102,000</td>
<td>99,377</td>
<td>2,623</td>
</tr>
<tr>
<td>Panther Canyon Improvements</td>
<td>100,000</td>
<td>-</td>
<td>100,000</td>
</tr>
<tr>
<td><strong>Total Projects</strong></td>
<td><strong>$18,238,593</strong></td>
<td><strong>$10,606,184</strong></td>
<td><strong>$7,633,409</strong></td>
</tr>
<tr>
<td>Interfund Transfers</td>
<td>1,579</td>
<td>1,579</td>
<td>-</td>
</tr>
<tr>
<td>Contingencies</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL APPROPRIATIONS</strong></td>
<td><strong>$18,240,172</strong></td>
<td><strong>$10,606,763</strong></td>
<td><strong>$7,633,409</strong></td>
</tr>
</tbody>
</table>
City of New Braunfels
2008 Certifications of Obligation Capital Improvement Fund
Fiscal Year Ending September 30, 2009

<table>
<thead>
<tr>
<th>Project</th>
<th>Revenue/Expenditures</th>
<th>Activity to Date</th>
<th>FY 2008-09 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Available Funds</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proceeds from Debt Issuance</td>
<td>$16,400,409</td>
<td>$3,449,819</td>
<td>$12,950,590</td>
</tr>
<tr>
<td>Interest Income</td>
<td>$244,500</td>
<td>-</td>
<td>$244,500</td>
</tr>
<tr>
<td>Donations</td>
<td>$75,000</td>
<td>-</td>
<td>$75,000</td>
</tr>
<tr>
<td>TOTAL AVAILABLE FUNDS</td>
<td>$16,719,909</td>
<td>$3,449,819</td>
<td>$13,270,090</td>
</tr>
</tbody>
</table>

APPROPRIATIONS

Projects
Fire Apparatus | $2,000,000 | $1,896,081 | $103,919 |
Walnut Avenue Widening - Segment 1 | $876,115 |
Right-of-Way Acquisition | $681,115 |
Engineering Services | $195,000 |
Walnut Ave. Widening Segments 2 & 3 - Engineering | $205,000 |
South Tributary Drainage Improvement - Construction | $3,716,680 |
Walnut Extension to Klien Road | $350,084 |
Right-of-Way Acquisition | $150,084 |
Amenities | $200,000 |
Water Lane Improvements - Design | $100,000 |
Orion Road Improvements - Design | $100,000 |
Gruene Rd. to Post Rd. | $750,000 |
River Road Improvements - Design (in addition to federal) | $370,000 |
Railroad Quiet Zones | $1,200,000 |
Municipal Facilities property acquisition | $1,350,000 |
Goodwin Lane | $300,000 |
Morningside Drive | $946,932 |
Bliekers Creek Drainage Improvement | $300,000 |
Public Works Facility Design | $1,372,000 |
Land | $572,000 | $571,674 | $327 |
Professional Services | $800,000 | $7,500 | $792,500 |
Fire Training Facility Design | $872,000 |
Land | $572,000 | $571,673 | $328 |
Professional Services | $300,000 | $300,000 |
Highway 46 Improvements (ROW) | $634,600 | $156,559 | $478,041 |
Street Improvement Project - Phase 1 - 2006 | $630,000 | - | $630,000 |
Street Improvement Project - Phase 2 - 2005 | $175,000 | - | $175,000 |
Oak Run Bridge | $225,000 | - | $225,000 |
Debt Issuance Expense | $242,811 | $242,811 | |
Total Projects | $16,716,222 | $3,449,819 | $13,266,403 |
Contingencies | $3,687 | - | $3,687 |
TOTAL APPROPRIATIONS | $16,719,909 | $3,449,819 | $13,270,090 |
City of New Braunfels  
2009 Certifications of Obligation Capital Improvement Fund  
Fiscal Year Ending September 30, 2009

| Fund: 309 |

### Available Funds

<table>
<thead>
<tr>
<th>Description</th>
<th>Revenue/Expenditures</th>
<th>Activity to Date</th>
<th>FY 2008-09 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceeds from Debt Issuance</td>
<td>$9,200,000</td>
<td>$66,973</td>
<td>$9,133,027</td>
</tr>
<tr>
<td>Intergovernmental Revenue</td>
<td>289,000</td>
<td>-</td>
<td>289,000</td>
</tr>
<tr>
<td>Interest Income</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL AVAILABLE FUNDS</strong></td>
<td>$9,489,000</td>
<td>$66,973</td>
<td>$9,422,027</td>
</tr>
</tbody>
</table>

### APPROPRIATIONS

#### Projects

<table>
<thead>
<tr>
<th>Description</th>
<th>Revenue/Expenditures</th>
<th>Activity to Date</th>
<th>FY 2008-09 Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Resources/Finance Software System</td>
<td>$1,000,000</td>
<td>-</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Public Works Equipment</td>
<td>185,000</td>
<td>-</td>
<td>185,000</td>
</tr>
<tr>
<td>(pneumatic roller, haul trailer, asphalt paver)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Parks and Recreation Equipment</td>
<td>155,700</td>
<td>20,523</td>
<td>135,177</td>
</tr>
<tr>
<td>(trailer, aerifier, dump truck, soil aerator, tractor 2 gators, pool fencing, pool chemical storage)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Prince Solms Park - Phase 3 and 4</td>
<td>410,000</td>
<td>40,000</td>
<td>370,000</td>
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<tr>
<td>Wayfinding signs - monuments</td>
<td>172,000</td>
<td>-</td>
<td>172,000</td>
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<tr>
<td>Fencing at Camp Comal, Boathouse and</td>
<td>96,400</td>
<td>-</td>
<td>96,400</td>
</tr>
<tr>
<td>Fredericksburg; bleachers at Camp Comal</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Fire apparatus for station #2</td>
<td>600,000</td>
<td>-</td>
<td>600,000</td>
</tr>
<tr>
<td>Radios for Fire Department</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Police Vehicles</td>
<td>125,000</td>
<td>-</td>
<td>125,000</td>
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<tr>
<td>Boathouse improvements and boats</td>
<td>19,950</td>
<td>6,450</td>
<td>13,500</td>
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<td>TXDOT property and improvements</td>
<td>1,300,000</td>
<td>-</td>
<td>1,300,000</td>
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<td>Police Department Facility Improvements</td>
<td>185,000</td>
<td>-</td>
<td>185,000</td>
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<tr>
<td>Fire Station #2 - Construction</td>
<td>3,500,000</td>
<td>-</td>
<td>3,500,000</td>
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<tr>
<td>Property for Municipal Facilities</td>
<td>1,350,000</td>
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<td>1,350,000</td>
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<tr>
<td>Mini Golf Lights replacement</td>
<td>80,000</td>
<td>-</td>
<td>80,000</td>
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<td><strong>Total Projects</strong></td>
<td>$9,179,050</td>
<td>$66,973</td>
<td>$9,112,077</td>
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<tr>
<td>Contingencies</td>
<td>$309,950</td>
<td>-</td>
<td>$309,950</td>
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<td><strong>TOTAL APPROPRIATIONS</strong></td>
<td>$9,489,000</td>
<td>$66,973</td>
<td>$9,422,027</td>
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<tr>
<td>Available Funds</td>
<td>Revenue/Expenditures</td>
<td>Activity to Date</td>
<td>FY 2008-09 Funds</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>----------------------</td>
<td>------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Proceeds from Current Debt Issuance</td>
<td>$8,000,000</td>
<td>$8,000,000</td>
<td>-</td>
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<tr>
<td>Interest Income</td>
<td>563,585</td>
<td>396,385</td>
<td>167,200</td>
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<tr>
<td>Intergovernmental Revenue (IDC)</td>
<td>1,500,000</td>
<td>1,500,000</td>
<td>-</td>
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<tr>
<td>Corporate Donation and Contributions</td>
<td>322,000</td>
<td>322,000</td>
<td>-</td>
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<tr>
<td>Interfund Transfers (Hotel/Motel Fund)</td>
<td>1,828,056</td>
<td>1,828,056</td>
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<tr>
<td>Interfund Transfers (General Fund)</td>
<td>700,000</td>
<td>700,000</td>
<td>-</td>
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<tr>
<td>TOTAL AVAILABLE FUNDS</td>
<td>$12,913,641</td>
<td>$12,746,441</td>
<td>$167,200</td>
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**APPROPRIATIONS**

<table>
<thead>
<tr>
<th>Civic Center Project</th>
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</thead>
<tbody>
<tr>
<td>Professional Services</td>
<td>$920,898</td>
<td>$853,588</td>
<td>$67,310</td>
</tr>
<tr>
<td>Land</td>
<td></td>
<td></td>
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<tr>
<td>Construction</td>
<td>11,130,284</td>
<td>11,115,284</td>
<td>15,000</td>
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<tr>
<td>Parking Lot A</td>
<td>195,844</td>
<td>195,844</td>
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<td>Underground tank removal; storage yard</td>
<td>15,000</td>
<td>15,000</td>
<td>-</td>
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<tr>
<td>Demolition of Police Building</td>
<td>56,425</td>
<td>56,425</td>
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<tr>
<td>Furniture, Fixtures and Equipment</td>
<td>516,690</td>
<td>431,800</td>
<td>84,890</td>
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<tr>
<td>Debt Issuance Costs</td>
<td>78,500</td>
<td>78,500</td>
<td>-</td>
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</tbody>
</table>

| Total Projects                         | $12,913,641          | $12,746,441      | $167,200         |
| Contingencies                          | $-                   | $-               | $-               |

**TOTAL APPROPRIATIONS**

| $12,913,641                             | $12,746,441          | $167,200         |
City Council Agenda Item Report  
March 23, 2009

Agenda Item No. 4C  
Presenter/Contact – John M. Robinson, Fire Chief  
(830) 221-4207 – jrobinson@nbtx.org

SUBJECT: DISCUSS AND CONSIDER APPROVAL OF CREATING AN ASSISTANT FIRE  
CHIEF POSITION AND ONE ADDITIONAL LIEUTENANT POSITION

BACKGROUND/RATIONALE:

Oct 27, 2008 I was appointed by the City Manager and confirmed by City Council to the position  
of Fire Chief, City of New Braunfels. At that time, I expressed my intention to review the  
organizational structure, determine the optimum staffing configuration for the Fire Department,  
and recommend appropriate staffing changes to best serve the department and the city. A  
decision was made to eliminate one Battalion Chief’s position in anticipation of the reorganized  
structure allowing all options for the most effective management of the department to be  
considered, while maintaining compliance with Civil Service requirements.

I communicated to the members of the department directly, and through the command staff, my  
vision for providing the very best possible service to our citizens and guests, while taking the very  
best possible care of the firefighters. This requires an environment in which employees will have  
the opportunity to grow, with an emphasis placed on service, integrity, leadership, succession  
planning, and fiscal responsibility. I then solicited input from the firefighters regarding their  
suggestions for restructuring the organization to achieve these goals. I therefore make the  
following recommendations with significant consensus and input from the command staff and  
other members of the Fire Department.

#1 Combining the Prevention and Training Divisions. These two Divisions will be combined  
to create a Support Services Division. By structuring this division, lead by a Battalion Chief, with  
the transfer of a Captain to the Prevention Branch and creating a Lieutenant position in the  
Training Branch, we provide a rank structure which allows for training, growth, and possible  
succession within the division, and unity of command for all 40 hour uniformed employees.

#2 Creation of an Assistant Fire Chief position. The Assistant Fire Chief will be responsible  
for operational and personnel issues, allowing the Fire Chief to effectively lead the department in  
other issues directly related to achieving the vision previously described as well as addressing  
the City’s Mission. These include, but are not limited to; participating in the City’s Strategic  
Planning efforts, budget planning and management, addressing City-wide growth and  
development issues, and representing the city in local and regional issues regarding  
improvements in emergency services and public education.
### Addresses a Need/Issue in a City Plan or Council Priority:

<table>
<thead>
<tr>
<th>N/A</th>
<th>2008/09 Strategic Priority: Effective Management. Objective 8, Establish ongoing program for improving customer service. Strategy 8a, Review staffing within the context of service demands to determine appropriate staffing levels.</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### Fiscal Impact:

Considering the elimination of the funded Battalion Chief’s position for 11 months of the current fiscal year and the creation of these two previously unfunded positions for less than half of the year, the impact to this year’s budget will be an increase of less than $11,000.

### Board/Commission Recommendation:

N/A

### Staff Recommendation:

Staff recommends the creation of an Assistant Fire Chief’s position and an additional Lieutenant’s position.
City Council Agenda Item Report  
MARCH 23, 2009

Agenda Item No. 4

Presenter / Contact – Shannon Mattingly, Planning Director  
(830) 221-4055 – smattingly@nbtx.org

SUBJECT: PUBLIC HEARING AND FIRST READING OF AN ORDINANCE REZONING 0.2786 ACRES, LOCATED AT THE NORTHEAST INTERSECTION OF OLD MCQUEENEY ROAD AND WEST COUNTY LINE ROAD, FROM “R-2 SINGLE AND TWO FAMILY DISTRICT” TO “C-1B GENERAL BUSINESS DISTRICT”.

APPLICANT/OWNER:  
Iselin Acquisitions, Ltd.  
614 C South Business IH 35, Box 18  
New Braunfels, TX 78130

BACKGROUND/RATIONALE:  
The subject property was acquired by the applicant in a recent land swap with the City. The City needed a portion of the property owner’s land adjacent to the South Tributary for the City’s South Tributary Drainage Project. The applicant owns the property adjacent to the subject tract, which is currently vacant and zoned “C-1B General Business District”. The applicant is proposing C-1B zoning for the 0.2786 acres so that the zoning will be consistent with the remaining commercial property that he owns abutting the subject tract. The applicant has hired an engineering company that has developed a design concept to handle the drainage and elevation concerns.

GENERAL INFORMATION:  
Case no.: PZ03/09-4

Size: 0.2786 acres

Surrounding Zoning and Land Use:  
North – “C-1B General Business District” / Vacant  
South - “R-1 Single Family District” / Vacant  
East - “M-2 Heavy Industrial District” / Industrial  
West - “C-1 Local Business District” / Vacant

Comprehensive Plan/ Future Land Use Designation: Commercial

NOTIFICATION:  
Public hearing notices were sent to 4 property owners located within 200 feet of the property. No responses were received in favor and one response was received in objection from #3.

ADDITIONS 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 1A Evaluate proposed zone changes to Maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live. The proposed zoning is consistent with the adjacent property and the adjacent commercial development. |
Goal 1C  Consider rezoning, as necessary, to ensure existing and future land use compatibility. The proposed zone change is consistent with development in the area. In addition, the property is bound by two arterial roads (County Line and FM 725) and a collector (Old McQueeny Rd.).

Goal 1  Industrial and commercial development should be planned and designed to avoid truck access through residential neighborhoods. The development of the subject property will not require truck access or traffic through any residential neighborhoods.

Goal 2A  Allow differing uses in close proximity to help streets, public spaces and pedestrian-oriented retail become places where people meet, attracting pedestrians back onto the street and helping to revitalize community life. There are several neighborhoods nearby and a City park across Old McQueeney Rd. as well as other adjacent businesses.

Goal 2B  Enable residents to live within walking or a short commuting distance from their work, school, and shopping. There are several neighborhoods in the area that a commercial development could service and that are within walking distance.

Cons:
None.

FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
The Planning Commission held a public hearing on March 3, 2009 and recommended approval. The motion carried (7-0-0).

STAFF RECOMMENDATION:
Staff recommended approval of the rezoning.

ATTACHMENTS:
1. Application
2. Notification Map
3. Existing Land Use and Zoning Map
4. Aerial Map
5. Section 3.4-13, Chapter 144, New Braunfels Code of Ordinances
1. Applicant - If owner(s), so state; if agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

Name:  
Mailing Address: 414 S. SOUTH BUSINESS 35, BOX 13  
Telephone: (830) 788-2826 Fax: (830) 609-5548 Mobile:  
Email:  

2. Property Address/Location: NW CORNER OF FM 715 AND COUNTY LINE RD.  

3. Legal Description:  
Name of Subdivision:  
Lot(s):  
Block(s):  
Acreage:  

4. Existing Use of Property: DRAINAGE  

5. Proposed Use of Property (attach additional or supporting information if necessary): COMMERCIAL  

6. Zoning Change Request: Current Zoning:  
Proposed Zoning:  

For “PDD Planned Development District”, circle whether it is a CONCEPT PLAN or a DETAIL PLAN.  

Reason for request (please explain in detail and attach additional pages if needed):  
ADJACENT TRACT IS C1-B AND SUBJECT TRACT IS BEST BOUND SAME  

7. ATTACHMENTS:  
- Metes and bounds description or survey and map if property is not platted.  
- Location in 100-year floodplain: Please provide a map of the floodplain overlaying the property proposed for zoning or, at a minimum, a copy of the proper FEMA flood map, with panel number. (Current floodplain maps are those most recently adopted by the City Council.)  
- Map of property in relation to City limits/major roadways or surrounding area.  
- If requesting a Special Use Permit, applicant must attach a development/site plan and construction schedule as described on page 2 of this application.  
- If requesting a Planned Development (PD), applicant must provide development standards on the detail plan and/or provide the standards in a separate document as described in the Zoning Ordinance, Section 15A.  

The undersigned hereby requests rezoning of the above described property as indicated.  

Signature of Owner(s)/Agent:  
Date: 2/04/03  

For Office Use Only  
Received By:  
Amount: $0.00  
Receipt No.: N/A  
Date Received: 1/6/03  
Zoning signs issued: Date: PZ-10/03-2  
Cash/Check Number:  Case Number: PZ-03/09-4  

ATTACHMENT 1
Applicant: Iselin Acquisition, Ltd.

Address/Legal Description: 0.2786 acres located at the NE intersection of Old McQueeney Rd. and W. County Line Rd.

Owner: Iselin Acquisition, Ltd.

REQUEST FOR REZONING - CASE #PZ03/09-4

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. “Z” indicates common ownership of properties. The property under consideration is marked as “SUBJECT”.

1. City of New Braunfels
2. Iselin Acquisition, Ltd.
3. Waldrop, Margie
   Smith, Peggy
   Boucher, Nancy
   Klein, Douglas
   Klein, Donald
4. Zaeske, Christopher

SEE MAP ON REVERSE
NOTIFICATION MAP

Planning Commission March 3, 2009
Case PZ03/09-4
Iselin Acquisition, Ltd.
Planning Commission March 3, 2009
Case PZ03/09-4
Iselin Acquisition, Ltd.
3.4-13. "C-1B" general business district.

Purpose. The general business district is established to provide areas for a broad range of office and retail uses. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes generated by general retail uses. The following regulations shall apply in all "C-1B" districts:

(a) Authorized uses. Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

1) Uses permitted by right:

Residential uses:
- Accessory building/structure
- Assisted living facility/retirement home
- Bed and breakfast inn

Non-residential uses:
- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
- All terrain vehicle (ATV) dealer/sales
- Ambulance service (private)
- Amphitheater
- Amusement devices/arcade (four or more devices)
- Amusement services or venues (indoors)
- Amusement services or venues (outdoors)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Armed services recruiting center
- Art dealer/gallery
- Artist or artisan's studio
- Assembly/exhibition hall or areas
- Athletic fields
- Auction sales (non-vehicle)
- Auto body repair, garages (see Sec. 5.10)
- Auto glass repair/tinting (see Sec. 5.10)
- Auto interior shop/upholstery (see Sec. 5.10)
- Auto leasing
- Auto muffler shop (see Sec. 5.10)
- Auto or trailer sales rooms or yards (see Sec. 5.11)
- Auto or truck sales rooms or yards - primarily new (see Sec. 5.11)
- Auto paint shop (see Sec. 5.10)
- Auto repair as an accessory use to retail sales (see Sec. 5.10)
- Auto repair garage (general) (see Sec. 5.10)
- Auto supply store for new and factory rebuilt parts
- Auto tire repair/sales (indoor)
Coffee shop
Commercial amusement concessions and facilities
Communication equipment - installation and/or repair
Computer and electronic sales
Computer repair
Confectionery store (retail)
Consignment shop
Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.9)
Convenience store with gas sales
Convenience store without gas sales
Country club (private)
Credit agency
Curio shops
Custom work shops
Dance hall / dancing facility (see Sec. 5.12)
Day camp
Department store
Drapery shop / blind shop
Driving range
Drug sales/pharmacy
Electrical repair shop
Electrical substation
Exterminator service
Farmers market (produce market - wholesale)
Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.8)
Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.8)
Feed and grain store
Filling station (gasoline tanks must be below the ground)
Florist
Food or grocery store with gasoline sales
Food or grocery store without gasoline sales
Fraternal organization/civic club (private club)
Frozen food storage for individual or family use
Funeral home/mortuary
Furniture sales (indoor)
Garden shops and greenhouses
Golf course (public or private)
Golf course (miniature)
Governmental building or use (state/federally owned and operated)
Greenhouse
Handicraft shop
Hardware store
Health club (physical fitness; indoors only)
Heavy load (farm) vehicle sales/repair (see Sec. 5.13)
Home repair and yard equipment retail and rental outlets
Hospital, general (acute care/chronic care)
Hospital, rehabilitation
Hotel/motel
Hotels/motels - extended stay (residence hotels)
Ice delivery stations (for storage and sale of ice at retail only)
Kiosk (providing a retail service)
Laundromat and laundry pickup stations
Laundry, commercial (w/o self serve)
Laundry/dry cleaning (drop off/pick up)
Laundry/washateria (self serve)
Lawnmower sales and/or repair
Limousine / taxi service
Locksmith
Maintenance/anitorial service
Major appliance sales (indoor)
Martial arts school
Medical supplies and equipment
Micro brewery (onsite manufacturing and sales)
Mini-warehouse/self storage units with outside boat and RV storage
Mini-warehouse/self storage units (no outside boat and RV storage permitted)
Motion picture studio, commercial film
Motion picture theater (indoors)
Motion picture theater (outdoors, drive-in)
Motorcycle dealer (primarily new / repair)
Moving storage company
Municipal use owned or operated by the City of New Braunfels, including libraries
Museum
Needlework shop
Nursing/convalescent home/sanitarium
Offices, brokerage services
Offices, business or professional
Offices, computer programming and data processing
Offices, consulting
Offices, engineering, architecture, surveying or similar
Offices, health services
Offices, insurance agency
Offices, legal services - including court reporting
Offices, medical offices
Offices, real estate
Offices, security/commodity brokers, dealers, exchanges and financial services
Park and/or playground (public or private)
Parking lots (for passenger car only) (not as incidental to the main use)
Parking structure / public garage
Pawn shop
Personal watercraft sales (primarily new / repair)
Pet shop / supplies (10,000 sq. ft. or less)
Pet store (more than 10,000 sq. ft.)
Photographic printing/duplicating/copy shop or printing shop
Photographic studio (no sale of cameras or supplies)
Photographic supply
Plant nursery
Plant nursery (retail sales / outdoor storage)
Plumbing shop
Portable building sales
Public recreation/services building for public park/playground areas
Publishing/printing company (e.g., newspaper)
Quick lube/oil change/minor Inspection
Radio/television shop, electronics, computer repair
Recreation buildings (private)
Recreation buildings (public)
Recycling kiosk
Refreshment/beverage stand
Research lab (non-hazardous)
Restaurant
Restaurant/prepared food sales
Retail store and shopping center (more than 50,000 sq. ft. bldg.)
Retail store and shopping center without drive thru service (50,000 sq. ft. bldg. or more)
Retirement home/home for the aged
RV park
RV/travel trailer sales
School, K-12 (public or private)
School, vocational (business/commercial trade)
Security monitoring company
Security systems installation company (with outside storage)
Shoe repair shops
Shooting gallery - indoor (see Sec. 5.12)
Shopping center

Sign manufacturing/painting plant
Specialty shops in support of project guests and tourists
Storage – exterior storage for boats and RVs
Studio for radio or television (without tower)
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)
Tailor shop
Tattoo or body piercing studio
Taxidermist
Telemarketing agency
Telephone exchange buildings (office only)
Tennis court (commercial)
Theater (non-motion picture, live drama)
Tire sales (outdoors)
Tool rental
Tourist court
Travel agency
Truck garden (no retail sales)
University or college (public or private)
Upholstery shop (non-auto)
Used or second hand merchandise/furniture store
Vacuum cleaner sales and repair
Veterinary hospital (no outside animal runs or kennels)
Video rental / sales
Waterfront amusement facilities – swimming / wading pools / bathhouses
Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system
Wholesale sales offices and sample rooms
Woodworking shop (ornamental)

Any comparable business or use not included in or excluded from any other district described herein.

(2) Conflict. In the event of conflict between the uses listed in the Land Use Matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) Maximum height, minimum area and setback requirements:

(1) Height. 75 feet.

(2) Front building setback. 25 feet.

(3) Side building setback. No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.

(4) Corner lots. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the
adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

Garage setback. Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See illustration 8 in Sec. 5.1-1)

(5) Residential setback. Effective November 8, 2006, where any building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(6) Rear building setback. 20 feet.

(7) Width of lot. 60 feet.

(8) Lot depth. 100 feet.

(9) Parking. See Section 5.1 for permitted uses' parking.
EXEMPLARY FROM PLANNING COMMISSION MINUTES OF MARCH 3, 2009

PUBLIC HEARINGS

Hold a public hearing and make a recommendation to City Council regarding Case #PZ03/09-4, the proposed rezoning of 0.2786 acres located at the northeast intersection of Old McQueeney Road and West County Line Road, from “R-2 Single and Two Family District” to “C-1B General Business District”. (Iselin Acquisitions, Ltd.)

Mr. Greene said the subject property was acquired by the applicant in a recent land swap with the City, who needed the property for the South Tributary Drainage Project. He added that the applicant also owned the property adjacent to the subject tract, which was currently vacant and zoned “C-1B General Business District”. He said an engineering company had been retained to develop a design concept to handle drainage and elevation concerns. Mr. Greene said four notices were sent to property owners within 200 ft. of the subject property; no responses were received in favor and one response was received in opposition (#3). He said staff recommended approval.

Commissioner Myrick asked if water flowing downhill from the pond in Fischer Park would impact the subject tract. Jim Klein, City Engineer, said an open channel currently existed but explained that the applicant’s engineer had designed a large boxed culvert to carry any water from the hill.

Paul Cleveland, 1140 Rivercrest, noted that drainage problems would be taken care of and the zoning was compatible with the zoning of adjacent property.

Chairman Ybarra asked if there was anyone in the audience who wished to speak in favor of the rezoning. No one spoke.

Chairman Ybarra asked if there was anyone in the audience who wished to speak in opposition to the rezoning. No one spoke.

Motion by Commissioner Kotylo, seconded by Commissioner Nolte, to close the public hearing. The motion carried unanimously. (7-0-0)

Chair Ybarra noted that the land swap had occurred at the City’s request and the proposed culvert would allow the applicant to better develop the property.

Motion by Commissioner Heimer, seconded by Commissioner Kotylo, that Case #PZ03/09-4, the proposed rezoning of 0.2786 acres located at the northeast intersection of Old McQueeney Road and West County Line Road, from “R-2 Single and Two Family District” to “C-1B General Business District”, be forwarded to City Council with recommendation to approve. The motion carried unanimously. (7-0-0)
ORDINANCE NO. 2009-

AN ORDINANCE REZONING 0.2786 ACRES, LOCATED AT THE NORTHEAST INTERSECTION OF OLD MCQUEENEY ROAD AND WEST COUNTY LINE ROAD, FROM "R-2 SINGLE AND TWO FAMILY DISTRICT" TO "C-1B GENERAL BUSINESS DISTRICT".

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-1B General 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 a 0.2786 acre tract of land located at the northeast intersection of Old McQueeney Road and West County Line Road, from "R-2 Single and Two Family District" to "C-1B General Business District"; now, therefore;

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

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 "R-2 Single and Two Family District" to "C-1B General Business District":

"A 0.2786 acre tract of land located at the northeast intersection of Old McQueeney Road and West County Line Road, as delineated on Exhibit "A" and described in Exhibit "B".

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 23rd day of March, 2009.

PASSED AND APPROVED: Second and Final Reading this the 13th day of April, 2009.

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney
RESIDUE OF 53.833 ACRES
CAROWEST, LTD.
TO
ISELIN ACQUISITIONS, LTD.
VOL. 995, PG. 599, O.R.C.T.

N 76°30'02" W = 144.06'

WILLIAM P. CLEMENTS, JR., GOVERNOR
OF THE STATE OF TEXAS
TO
CITY OF NEW BRAUNFELS, TEXAS
VOL. 578, PG. 249, O.R.C.T.

Δ=16° 1' 4" E
R=390.00'
L=105.08'
RB=S62°31'32"W

N 27° 34' 05" W = 50.18'

Δ=00° 32' 58" E
R=10959.60'
L=105.03'
RB=S25°58'26"E

0.2786 ACRE

POC
FND. TYPE I
TXDOT MON.

POB
FND. TYPE I
TXDOT MON.

POB

0.2786 ACRE
MLDA S. FISCHER SCHLAMUS, ET AL.
TO
CITY OF NEW BRAUNFELS, TEXAS
VOL. 578, PG. 342, O.R.C.T.

BEARING CONVENTION NOTE:
The bearing convention used on this survey is based on:
Texas State Plane Coordinate System, South Central Zone.

I hereby certify that this survey was made on the ground and that
this plat correctly represents the facts found at the time of survey.

July 22, 2008
Certificate Date
D. Keith Pevoto, R.P.L.S. No. 5960

Klodzie Surveying Company
117 East Main Street- New Braunfels, TX 78130 PHONE: 830-625-4847 FAX: 830-622-5421
0.2786 ACRE
IN THE
John Thompson Survey No. 21, A-608
COMAL COUNTY, TEXAS

Symbol Legend

- 1/2" Iron Rod Found
- 1/2" Iron Rod Set

Job No.: 1026-002-07-630
METES AND BOUNDS DESCRIPTION
OF 0.2786 ACRE OF LAND
IN THE JOHN THOMPSON SURVEY NO. 21, A-608
COMAL COUNTY, TEXAS

All that certain 0.2786 acre of land, which is the 0.279 acre tract described in the deed from Milda S. Fischer Schlameus, et al to City of New Braunfels, Texas recorded under Volume 579, Page 342, in the Deed Records of Comal County, Texas in the John Thompson Survey No. 21, A-608, Comal County, Texas, and more particularly described by metes and bounds as follows:
(All bearings are based on the Texas State Plane Coordinate System, South Central Zone)

COMMENCING at a Texas Department of Transportation Type I concrete monument found for the northeast corner of the called 0.730 acre tract described in the deed from William P. Clements, Jr., Governor of the State of Texas to City of New Braunfels recorded under Volume 677, Page 249, in the Deed Records of Comal County, Texas, common to the southeast corner of the 53.933 acre tract described in the deed from Carowest, Ltd. to Iselin Acquisitions, Ltd. recorded under Volume 995, Page 599, in the Deed Records of Comal County, Texas, in the west right-of-way line of F.M. 725 (R.O.W. Varies), from which a Texas Department of Transportation Type I concrete monument found for an angle corner of said 53.933 acre tract bears North 05°48'20" West - 71.51'; THENCE South 02°32'58" East - 105.03', along said west right-of-way line, to a 1/2" iron rod set for the east corner and POINT OF BEGINNING of the herein described tract, common to east corner of said 0.279 acre tract and the southeast corner of said called 0.730 acre tract, at the intersection of said west right-of-way line and the northwest right-of-way line of County Line Road (80' R.O.W.);

THENCE South 63°48'57" West - 43.07', along said northwest right-of-way line, to a 1/2" iron rod set for a point on a curve to the left, having a central angle of 00°32'58", a radius of 10,959.60', and from which point the center of the circle of said curve bears South 25°58'26"West;

THENCE along said curve to the left, along said northwest right-of-way line, in a southwesterly direction, an arc distance of 105.08' to a 1/2" iron rod set for the south corner of the herein described tract, common to the south corner of said 0.279 acre tract, at the intersection of said northwest right-of-way line and the northeast right-of-way line of McQueeney Road (80' R.O.W.), from which point a 60d Nail found at the intersection of said northwest right-of-way line and the southwest right-of-way line of said McQueeney Road bears South 63°59'52" East - 80.03';

THENCE North 27°34'05" West - 50.18', along said northeast right-of-way line, to a 1/2" iron rod set for a point on a curve to the left, having a central angle of 16°01'04", a radius of 390.00', and from which point the center of the circle of said curve bears South 62°31'32" West;

THENCE along said curve to the left, continuing along said northeast right-of-way line, in a northwesterly direction, an arc distance of 109.03' to a 1/2" iron rod set for the west corner of the herein described tract, common to the west corner of aforesaid 0.279 acre tract and the southwest corner of aforesaid called 0.730 acre tract;
Page 2 – 0.2786 Acre

**THENCE** South 81°28'57" East - 66.21', along the north line of said 0.279 acre tract, common to the south line of said called 0.730 acre tract, to a 1/2" iron rod set for an angle corner;

**THENCE** South 69°25'52" East - 164.19', continuing along said common line, to the POINT OF BEGINNING of the herein described tract and containing 0.2786 acre of land.

Prepared by:
Kolodzie Surveying Company
Job No. 1026-002-07-530

Certification Date
July 22, 2008

THIS LEGAL DESCRIPTION IS ISSUED IN CONJUNCTION WITH THE FIELDWORK CONDUCTED BY KOLODZIE SURVEYING COMPANY DATED JULY 22, 2008.
City Council Agenda Item Report
MARCH 23, 2009

Agenda Item No. 4E

Presenter / Contact – Shannon Mattingly, Planning Director
(830) 221-4055 – smattingly@nbtexas.org

SUBJECT: PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING THE DETAIL PLAN FOR GRUENE LEAF SUBDIVISION, PDD, PHASE II.

APPLICANT: Brian Mendez, M & S Engineering
6477 FM 311
Spring Branch, TX 78070

OWNER: S. H. Leggitt, Co.
1000 Civic Center LP
San Marcos, TX 78666

BACKGROUND/RATIONALE:
The subject property was rezoned from C-1B to PDD for single-family residential development in 2006. The infrastructure is in place but no dwellings have been constructed at this time. The development standards for the existing PDD include 25’ front setbacks, 20’ rear setbacks and 5’ side setbacks. The owners are pursuing the construction of products on the lots that will require reduced setbacks.

One of the products is very similar to the “casitas” that are developed in the Gruene Garden zero lot line home subdivision, approximately 850’ away from the subject area. The owners have identified 11 lots within Gruene Leaf Phase II for which the side setbacks would be changed from 5’ on both sides to 0’ on one side and 10’ on the other side, which is the standard in zero lot line home zoning districts. Lots 16, 21-26, and 30-33 are to be designated the zero lot line home lots.

The applicant is also requesting to reduce the front and rear setbacks for all lots within Gruene Leaf Phase II. Front setbacks are to be reduced from 25’ to 20’ and rear setbacks from 20’ to 15’. Most of the lots are approximately 100’ in depth. Only a change to the setbacks is being requested. No lot lines or streets will be altered from their existing configuration.

GENERAL INFORMATION:
Case No.: PZ03/09-1
Size: 5.10 acres

Surrounding Zoning and Land Use:
North - ”R-1A 6.6 Single Family District” / Single Family & Vacant
South - ”R-2 Single & Two-Family District” / Single Family
East - “C-1B General Business District” / Vacant
West - ”R-2 Single & Two-Family District” / Vacant

Comprehensive Plan/ Future Land Use Designation: The current designation is commercial. The Future Land Use Map should be amended to show the future land use designation for this subdivision as low density residential, which is the current land use of the property.
Improvement(s): Infrastructure only

NOTIFICATION: Public hearing notices were sent to 4 property owners located within 200 feet of the property. No responses were received in favor or objection. One response was received from #15 stating that there is a need for a 6' to 8' privacy fence between the subdivision and the adjacent property.

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

<table>
<thead>
<tr>
<th>Pros:</th>
<th>Cons:</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan</td>
<td></td>
</tr>
</tbody>
</table>

**Pros:**

**Goal 1A** Evaluate proposed zone changes to Maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live. The proposed amendments to the detail plan are consistent with other residential developments in the immediate area.

**Goal 1C** Consider rezoning, as necessary, to ensure existing and future land use compatibility. The proposed amendment to the PDD detail plan is consistent with development in the area. In addition, only the setbacks will be changing. The current approved use as single-family residential is not changing and there are no changes to the existing streets or lot boundaries.

**Cons:** Does not comply with the 2006 Future Land Use Plan.

FISCAL IMPACT: N/A

BOARD/COMMISSION RECOMMENDATION: The Planning Commission held a public hearing on March 3, 2009, and recommended approval. The motion carried (7-0-0).

STAFF RECOMMENDATION: Staff recommended approval of the amended detail plan.

ATTACHMENTS:

1. Application
2. Notification Map
3. Existing Land Use and Zoning Map
4. Aerial Map
5. Section 3.5, Chapter 144, New Braunfels Code of Ordinances
1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

<table>
<thead>
<tr>
<th>Name</th>
<th>Brian Mendez (M.S. Engineering)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address</td>
<td>6477 FM 311 Spring Branch, Tx. 78070</td>
</tr>
<tr>
<td>Telephone:</td>
<td>(830) 228-4135</td>
</tr>
<tr>
<td>Fax:</td>
<td>(830) 885-2170</td>
</tr>
<tr>
<td>Mobile:</td>
<td>N/A</td>
</tr>
</tbody>
</table>

2. Property Address/Location:  
Gruene Leaf Subdivision off Gruene Rd.

3. Legal Description:
(Note: if property is not platted, a metes and bounds description or survey and map shall be attached to the application.)

<table>
<thead>
<tr>
<th>Subdivision</th>
<th>Gruene Leaf Subdivision Phase II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot(s):</td>
<td>14-16, 21-26</td>
</tr>
<tr>
<td>Block(s):</td>
<td>N/A</td>
</tr>
<tr>
<td>Acreage:</td>
<td>1.826</td>
</tr>
</tbody>
</table>

4. Existing Use of Property:  
PDD

5. Proposed Use of Property (attach additional or supporting information called for in Sec. 3.5 of the Zoning Ordinance)

| Proposed Use of Property | PDD - see detail plan for revised set backs to the 13 lots; 14-16, 21-26 and 30-33. |

All applications are due by the date on the chart attached, 30 days before the next Planning Commission meeting. Applications will be reviewed for completeness by Planning staff the day following the due date. Applicants shall have one week to provide additional requested information. If information is not provided, application will be processed for the next meeting of the Planning Commission.

The undersigned hereby requests rezoning of the above described property as indicated.

<table>
<thead>
<tr>
<th>Signature of Owner(s)/Agent</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brian Mendez</td>
<td>1-29-09</td>
</tr>
</tbody>
</table>

For Office Use Only

<table>
<thead>
<tr>
<th>Date Received:</th>
<th>1/29/09</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Planning Commission meeting:</td>
<td>3/3/09</td>
</tr>
</tbody>
</table>
Applicant: Brian Mendez/M&S Engineering
Address/Legal Description: Gruene Leaf Subdivision, Phase 2, PDD
Owner: Leggitt S H Co.

AMENDED DETAIL PLAN – CASE #PZ03/09-1

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. "Z" indicates common ownership of properties. The property under consideration is marked as "SUBJECT".

1. Hanz, Alton Albert
2. S H Leggitt Co.
3. Stanley, James
4. Nifong, Craig and Wendy
5. Ballard, William
6. Milner, Sheila
7. Maneri, John and Sherra
8. CEOSA Investments, LLC.
10. Colson, Gordon and Arrington, Darcy
11. Flume, Michael
12. Gruene Road Investment GP, LLC.
13. New Braunfels Canyon Lake Association of Realtors
14. Sole Fide Ltd.
15. Anderson, Alan H and Mary A Tr.

SEE MAP ON REVERSE
Planning Commission March 3, 2009
Case PZ03/09-1
Leggitt S H Co.
Planning Commission March 3, 2009
Case PZ03/09-1
Leggi* & H Co.
3.5 Planned Development Districts.

3.5-1 Purpose: The planned development district is a free-standing district designed to provide for the development of land as an integral unit for single or mixed uses in accordance with a plan that may vary from the established regulations of other zoning districts. It is the intent in such a district to insure compliance with good zoning practices while allowing certain desirable departures from the strict provisions of specific zoning classifications.

3.5-2 Application: An application for a planned development district shall be processed in accordance with this Chapter. A pre-planning conference is required between the applicant and the Planning Director prior to the actual filing of the application.

3.5-3 Base District. A base zoning district shall be specified. The regulations in the base zoning district shall control unless specifically stated otherwise in the PD.

3.5-4 District plans and requirements: There are two types of plans that may be used in the planned development process. The general purpose and use of each plan is described as follows:

(a) Concept plan. This plan is intended to be used as the first step in the planned development process. It establishes the most general guidelines for the district by identifying the land use types, development standards, approximate road locations and project boundaries and illustrates the integration of these elements into a master plan for the whole district.

(b) Detail plan. The detail plan is the final step of the planned development process. It contains the details of development for the property. For smaller tracts or where final development plans are otherwise known, the detail plan may be used to establish the district and be the only required step in the planned development process.

3.5-5 Concept plan requirements: Said concept plan shall include the following:

(a) Relation to the comprehensive plan. A general statement setting forth how the proposed district will relate to the city's comprehensive plan and the degree to which it is or is not consistent with that plan and the proposed base zoning district.

(b) Acreage. The total acreage within the proposed district.

(c) Survey. An accurate survey of the boundaries of the district.

(d) Land uses. Proposed general land uses and the acreage for each use, including open space. For residential development, the total number of units and the number of units per acre.

(e) General thoroughfare layout. Proposed streets, as a minimum to arterial street level. (Showing collector and local streets is optional.)

(f) Development standards. Development standards, if different from the base zoning district, for each proposed land use, as follows:

(1) Minimum lot area.

(2) Minimum lot width and depth.

(3) Minimum front, side, and rear building setback areas.
(4) Maximum height of buildings.

(5) Maximum building coverage.

(6) Maximum floor to area ratios for nonresidential uses.

(7) Minimum parking standards for each general land use.

(8) Other standards as deemed appropriate.

(g) Existing conditions. On a scaled map sufficient to determine detail, the following shall be shown for the area within the proposed district.

(1) Topographic contours of ten feet or less.

(2) Existing streets.

(3) Existing 100-year floodplain, floodway and major drainage ways.

(4) City limits and E.T.J. boundaries.

(5) Zoning districts within and adjacent to the proposed district.

(6) Land use.

(7) Utilities, including water, wastewater and electric lines.

3.5-6 Detail plan requirements: The application for a planned development district shall include a detail plan consistent with the concept plan. Said detail plan shall include the following:

(a) Acreage. The acreage in the plan as shown by a survey, certified by a registered surveyor.

(b) Land uses. Permitted uses, specified in detail, and the acreage for each use.

(c) Off-site information. Adjacent or surrounding land uses, zoning, streets, drainage facilities and other existing or proposed off-site improvements, as specified by the department, sufficient to demonstrate the relationship and compatibility of the district to the surrounding properties, uses, and facilities.

(d) Traffic and transportation. The location and size of all streets, alleys, parking lots and parking spaces, loading areas or other areas to be used for vehicular traffic; the proposed access and connection to existing or proposed streets adjacent to the district; and the traffic generated by the proposed uses.

(e) Buildings. The locations, maximum height, maximum floor area and minimum setbacks for all nonresidential buildings.

(f) Residential development. The numbers, location, and dimensions of the lots, the minimum setbacks, the number of dwelling units, and number of units per acre (density).

(g) Water and drainage. The location of all creeks, ponds, lakes, floodplains or other water retention or major drainage facilities and improvements.

(h) Utilities. The location and route of all major sewer, water, or electrical lines and facilities necessary to serve the district.
(i) **Open space.** The approximate location and size of greenbelt, open, common, or recreation areas, the proposed use of such areas, and whether they are to be for public or private use.

(j) **Sidewalks and bike paths.** Sidewalks or other improved ways for pedestrian or bicycle use.

(k) If multifamily or non-residential development, a landscape plan.

A detailed plan, with all of the information required of a concept plan, may be submitted in lieu of a concept plan.

3.5-7 **Phasing schedule:** PD districts larger than 350 acres shall provide a phasing schedule depicting the different construction phases.

3.5-8 **Approval of district:** The City Council may, after receiving a recommendation from the Planning Commission, approve by Ordinance the creation of a district based upon a concept plan or a detail plan. The approved plan shall be made part of the ordinance establishing the district. Upon approval said change shall be indicated on the zoning maps of the city.

The development standards and requirements including, but not limited to, maximum height, lot width, lot depth, floor area, lot area, setbacks and maximum off-street parking and loading requirements for uses proposed shall be established for each planned development district based upon the particular merits of the development design and layout. Such standards and requirements shall comply with or be more restrictive than the standards established in the base zoning district for the specific type uses allowed in the district, except that modifications in these regulations may be granted if it shall be found that such modifications are in the public interest, are in harmony with the purposes of this Chapter and will not adversely affect nearby properties.

3.5-9 **Planning Commission approval of detail plan:** The Planning Commission is authorized to approve a detail plan or the amendment of a detail plan for property for which a concept plan has been approved by the City Council. If the City Council initially approved a detail plan in establishing the district, the detail plan may only be amended by the City Council. The approved detail plan shall be permanently filed in the Planning Department. The Planning Commission shall approve the detail plan if it finds that:

(a) **Compliance.** The plan complies with the concept plan approved for that property and the standards and conditions of the PD district;

(b) **Compatibility.** The plan provides for a compatible arrangement of buildings and land uses and would not adversely affect adjoining neighborhood or properties outside the plan; and

(c) **Circulation of vehicular traffic.** The plan provides for the adequate and safe circulation of vehicular traffic.

If no detail plan has been approved for the property within ten years of the date of approval of a concept plan, the detail plan must be approved by the City Council, after receiving a recommendation from the Planning Commission, after notice and hearing.

3.5-10 **Expiration of detail plan:** A detail plan shall be valid for five years from the date of its approval. If a building permit has not been issued or construction begun on the detail plan within the five years, the detail plan shall automatically expire and no longer be valid. The Planning Commission may, prior to expiration of the detail plan, for good cause shown, extend for up to 24 months the time for which the detail plan is valid.
3.5-11 Appeals from Planning Commission action: If the Planning Commission disapproves a detail plan over which it has final approval authority, or imposes conditions, or refuses to grant an extension of time for which a detail plan is valid, the applicant may appeal the decision to the City Council by filing a written request with the Planning Director within ten days of the decision.

3.5-12 Changes in detail plan: Changes in the detail plan shall be considered the same as changes in the zoning ordinance and shall be processed as required in Section 2.3. Those changes which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, floor area ratio, height, or coverage of the site, or which do not decrease the off-street parking ratio or reduce the yards provided at the boundary of the site, as indicated on the approved detail plan, may be authorized by the Planning Director. Any applicant may appeal the decision of the Planning Director to the Planning Commission for review and decision as to whether an amendment to the Planned Development District ordinance shall be required.

3.5-13 Minimum development size: The total initial development of any Planned Development District shall not be less than two acres for nonresidential developments and five acres for residential developments.

3.5-14 Deviation from code standards: The City Council may approve a PD concept plan with deviations from any provision in the Code of Ordinances. Such deviations shall be listed or shown as part of the Ordinance that approves the concept plan.
EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 3, 2009

PUBLIC HEARINGS
Hold a public hearing and make a recommendation to City Council regarding Case #PZ03/09-1, the proposed Detail Plan Amendment for Gruene Leaf Subdivision PDD, Phase II. (S.H. Leggitt, Co.)

Mr. Greene said the current development standards included 25' front setbacks, 20' rear setbacks and 5' side setbacks; however, the developer was pursuing the construction of products on the lots that would require reduced setbacks on 11 lots within Phase II. He said the side setbacks for Lots 16, 21-26, and 30-33 would be changed from 5' on both sides to 0' on one side and 10' on the other side, which was the standard in zero lot line home zoning districts. He added that those lots would be designated zero lot line home lots. In addition, the developers were requesting to reduce the front setbacks from 25' to 20' and rear setbacks from 20' to 15' on all lots in Phase II. He noted that no lot lines or streets would be altered from the existing configuration. Mr. Greene said 15 notices were sent to property owners within 200 ft. of the subject property; no responses in favor or in opposition were received, however a response from #15 on the notification map requested a 6-8 ft. privacy fence be constructed on the common property line. He added that staff recommended approval of the amended Detail Plan.

Chairman Ybarra asked the applicants or their agent to address the Commission.

Brian Mendez of M & S Engineering asked that Lots 14-35 be included in the request. Ms. Mattingly stated that the Commission could not consider additional lots since adjacent residents were not notified of the change.

Vikki Leggitt, 2285 Waterford Grace, showed photographs of the homes proposed to be built in the subdivision. She said the total amount of each home's side setback would be unchanged and the change in the rear setback would allow for an improved patio space.

Chairman Ybarra asked if a fence would be constructed around the perimeter of the subdivision. Ms. Leggitt replied affirmatively.

Chairman Ybarra asked if there was anyone in the audience who wished to speak in favor of the Detail Plan amendment. No one spoke.

Chairman Ybarra asked if there was anyone in the audience who wished to speak in opposition to the Detail Plan amendment. No one spoke.

Motion by Commissioner Kotylo, seconded by Commissioner Nolte, to close the public hearing. The motion carried unanimously. (7-0-0)

Motion by Vice Chair Casteel, seconded by Commissioner Heimer, that Case #PZ03/09-1, the proposed Detail Plan Amendment for Gruene Leaf Subdivision PDD, Phase II, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (7-0-0)
ORDINANCE NO. 2009-

AN ORDINANCE AMENDING THE DETAIL PLAN FOR GRUENE LEAF SUBDIVISION, PDD, PHASE II.

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 "Planned Development 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 amending the Detail Plan of Gruene Leaf Subdivision PDD, Phase II; now, therefore;

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

SECTION 1

THAT The Detail Plan adopted August 28, 2006, Ordinance Number 2006-81, is hereby amended by adopting the following described Detail Plan:

"Being Gruene Leaf Subdivision, PDD, Phase II as shown on Exhibit "A", consisting of one page".

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 23rd day of March, 2009.

PASSED AND APPROVED: Second and Final Reading this the 13th day of April, 2009.
CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney
City Council Agenda Item Report
MARCH 23, 2009

Agenda Item No. 4

Presenter – Shannon Mattingly, Planning Director
(830) 221-4050 smattingly@nbtexas.org

SUBJECT: PUBLIC HEARING AND FIRST READING OF AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW A SINGLE FAMILY DWELLING LOCATED AT 1184 GRUENE ROAD AND ZONED “R-3” MULTI-FAMILY DISTRICT TO BE USED FOR SHORT TERM RENTALS.

APPLICANT:
Becky Wood
803 Riverforest Dr.
New Braunfels TX 78130

PROPERTY OWNER:
Mary Ann Kapidian
2171 Stonehaven
New Braunfels TX 78130

BACKGROUND/RATIONALE:
This request is to allow short term rentals at 1184 Gruene Road. Rental for less than one month is a permitted use in the R-3 zoning. However, because the structure is considered a "one or two unit dwelling,” a Special Use Permit is required. (Sec. 5-16) The current use of the structure is retail and office space; neither are a permitted use in R-3. A zone change to “C-1B” was submitted in 2008, but the property owner requested postponement and the request was never considered by the Commission.

The property has a Future Land Use designation of Mixed Use, and surrounding zoning is a mixture of commercial and residential. It is located just over a quarter-mile from the Gruene shopping and entertainment areas. Special Use Permits were granted across Gruene Road for Gruene Cliff Bed & Breakfast and Van Horn Lodge.

A Special Use Permit may be granted to allow compatible and orderly development which may be suitable only under certain conditions. The request should be evaluated on the extent to which the proposed use:

• is consistent with policies of the Comprehensive Plan;
• is consistent with the purpose and intent of zoning district regulations;
• meets all supplemental standards (see below); and
• preserves the character and integrity of adjacent development and neighborhoods.

Supplemental standards for short term rental SUPs are:
• at least one off-street parking space, not including the garage, for each bedroom; and
• only one advertising sign with a maximum area of 4 square feet.

GENERAL INFORMATION:
Case No.: PZ03/09-2
Size: Approximately 23,000 sq ft (0.53 acres)
Surrounding Zoning and Land Use:
North – C-1A, ZHA (Zero Lot Line) / Vacant
South - R-3 Multifamily, ZHA / Vacant, Single-family residential
East – R-3L Multifamily / Multifamily residential
West - R-2 Single & Two-Family Residential / Bed & Breakfast
Comprehensive Plan/ Future
Land Use Designation: Mixed Use
Improvement(s): Residential structure

NOTIFICATION:
Public hearing notices were sent to 11 property owners located within 200 feet of the property. One response in favor was received (#9).

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

<table>
<thead>
<tr>
<th>Yes</th>
<th>City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pros: <strong>Objective 1A</strong>: Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live. Short term rentals are permitted in the R-3 zoning, and compatible with the overall character of Gruene. Lodging within close proximity of shopping and entertainment may encourage pedestrian traffic. <strong>Goal 2</strong>: Encourage the mixing of land uses to create a sense of community in the neighborhoods. The request would continue the existing mix of land uses in the area.</td>
</tr>
</tbody>
</table>

FISCAL IMPACT:
N/A

STAFF RECOMMENDATION:
Staff recommended approval with the following conditions:
1. The property will be used in its current state with no building improvements or additions without an amendment to the Special Use Permit.
2. Parking is maintained for at least one space per bedroom.
3. Signage is limited to one sign with a maximum area of 4 square feet.

BOARD/COMMISSION RECOMMENDATION:
The Planning Commission held a public hearing on March 3, 2009 and recommended approval of the SUP by a vote of 7-0.

ATTACHMENTS:
1. Application
2. Future Land Use
3. Zoning Map
4. Aerial Map
5. Notification Map
6. Sec. 3.3-3(a) of the Zoning Ordinance "R-3" Multifamily District
7. Sec. 5-16 "Short Term Rental"

Z:\CCagenda\ZoneChgs&SUP\Wood SUP 3-09.doc
APPLICATION FOR SPECIAL USE PERMIT
424 S. CASTELL AVENUE
NEW BRAUNFELS TX 78130
E-MAIL: planning@nbtx.org
PHONE: (830) 221-4050 FAX: (830) 608-2109

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

   Name: Becky Woods
   Mailing Address: 803 Riverfront Dr, New Braunfels, TX 78132
   Telephone: (830) 620-8179 Fax: (830) 620-8179 Mobile: (830) 620-8179

2. Property Address/Location: 1184 Gruene Rd

3. Legal Description:
   Name of Subdivision: Gruene Cliff
   Lot(s): 38 Block(s): 2 Acreage: .331

4. Existing Use of Property: Retail Use

5. Current Zoning: R-2

6. Check if Proposed Special Use Permit is: Type 1 OR Type 2

   Proposed Use of Property and/or Reason for request (attach additional or supporting information if necessary):

   I would like to use this property for short term vacation rentals. It is almost surrounded by Gruene Brook from Gruene downtown and a mall across the street on the proposed site.

8. ATTACHMENTS:
   Metes and bounds description or survey and map if property is not platted.
   Map of property in relation to City limits/major roadways or surrounding area.
   If requesting a Type 2 Special Use Permit, applicant must attach a development/site plan as described on pages 2 and 3 of this application.

   The undersigned hereby requests rezoning of the above described property as indicated.

   Signature of Owner(s)/Agent
   Date 1/23/09

For Office Use Only

 Fee Received By: ?? Amount: $15 Receipt No.: 12852
 Fee Received: 1/29/09 Zoning signs issued: Date: No.
 Cash/Check Number: 3/14 Case Number: PZ 03/09-2

ATTACHMENT 1
Letter of Intent for

1184 Gruene Rd.
New Braunfels, Tx 78130

City of New Braunfels and City Council,
The purpose for us acquiring a Special Use Permit is to use the property as an Overnight Vacation Rental.
It is currently used as Retail and called "The Yellow House"
It is a 4 bedroom 3 bath house with a 2 car carport and large circular driveway
See Addendum A
We believe this property would only Compliment all the other overnight establishments on Gruene Rd you can see on Addendum B and B-1. Which is a total of 8 properties.
Your consideration and approval would be greatly appreciated.

Sincerely,

Becky Wood
Future Land Use Map

Legend
- Subject Property
- Future Land Use
  - Commercial
  - Mixed use
  - Open-parks
  - Res low den
  - Res med high

1184 Gruene Road
SUP for Short Term Rental

March 3, 2009
Legend

Subject Property
Special Use Permits

PZ03/09-2
1184 Gruene Road
SUP for Short Term Rental

March 3, 2009
Subject Property

1184 Gruene Road
SUP fr- Short Term Rental

March 3, 2009
Applicant: Becky Wood
Address/Legal Description: 1184 Gruene Road / Lot 3B, Block 2, Gruene Cliff Subdivision, Unit 1
Owner: Mary Ann and George Kapidian

REQUEST FOR SPECIAL USE PERMIT – CASE #PZ03/09-2

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. “Z” indicates common ownership of properties. The property under consideration is marked as “SUBJECT”.

1. Katherine Thornton Camarena, etal.
2. Gruene River Inn, Ltd.
3. Bookout, Brad and Amy
4. Henefey, Jennifer A.
5. Scott, Clayton
6. Blesser, Karl and Scott, Deanna
7. Smith, Cheryl L.
8. Augusta at Gruene Apartments, LP
9. Salome, Robert J.
10. Gruene Commons, Ltd.
11. City of New Braunfels

SEE MAP ON REVERSE
CITY OF NEW BRAUNFELS – ZONING ORDINANCE

3.3-3. "R-3" multifamily district. The following regulations shall apply in all "R-3" districts:

(a) Authorized uses. Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) Uses permitted by right:

Residential uses:
- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Boardinghouse/lodging house
- Community home (see definition)
- Duplex/two-family/duplex condominiums
- Family home adult care
- Family home child care
- Home occupation (see Sec. 5.4)
- Hospice
- Multi-Family (apartments/condominiums)
- One family dwelling, detached
- Rental or occupancy for less than one month (see Sec. 5.16)
- Single family or two-family industrialized home (see Sec. 5.7)

Non-residential uses:
- Adult daycare (with overnight stay)
- Art dealer/gallery
- Assisted living facility/retirement home
- Barns and farm equipment storage (related to agricultural uses)
- Cemetery and/or mausoleum
- Church/place of religious assembly
- Club (private)
- Community building (associated with residential uses)
- Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.9)
- Country club (private)
- Day camp
- Electrical substation
- Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.8)
- Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.8)
- Fraternal organization/civic club (private club)
- Golf course, public or private
- Governmental building or use (state/federally owned and operated)
- Hospital, general (acute care/chronic care)
- Hospital, rehabilitation
- Hotel/motel
- Hotels/motels – extended stay (residence hotels)
- Municipal use owned or operated by the City of New Braunfels, including libraries, museum
- Nursing / convalescent Home / sanitarium
- Park and/or playground (public or private)
- Plant nursery (growing for commercial purposes but no retail sales on site)
- Public recreation/services building for public park/playground areas
- Recreation buildings (private)
- Recreation buildings (public)
5.16. Short term rental or occupancy in one and two unit dwellings.

(a) Occupancy of a one or two unit dwelling for less than 30 consecutive days in any zoning district except C-4, C-4A, C-4B, C-2, and C-2A is not permitted except by special use permit and is subject to the following requirements:

(1) Parking. There shall be at least one off-street parking space, not including the garage, for each bedroom in the dwelling.

(2) Signs. A maximum 4 square foot advertising sign is permitted on the property to be used for short term occupancy.

(b) Occupancy of a unit of a one or two unit dwelling by more than five persons not a family and not related by blood, marriage, or guardianship is not permitted in the R-1, R-2, R-3, C-1, C-3, M-1, R-1A-43.5, R-1A-12, R-1A-8, R-1A-6.6, R-3L, R-3H, MU-A, or MU-B zoning districts.

(c) A building constructed as a one or two unit dwelling may not be used as a lodging or boarding house with occupancy by one or more persons for less than 30 days in the R-1, R-2, R-3, C-1, C-3, M-1, R-1A-43.5, R-1A-12, R-1A-8, R-1A-6.6, R-3L, R-3H, MU-A, or MU-B.

(d) Registration. Owners of property or their agents shall register and receive a certification of legal non-conforming rights ("Certificate") to continue to use a one or two family dwelling which is not in conformance with Section 5.16(a), above.

(1) Registration and requests for the certificate shall be made to the Planning Director on forms provided by his office.

(2) The Planning Director shall issue a certificate if he finds, after consultation with the City Attorney, the property was legally conforming to the zoning ordinance at the time the short-term rental or multiple household occupancy began.

(3) The burden of proof of legal non-conforming rights is on the applicant/registrant.

(4) Appeal of a denial of the certification may be made to the Zoning Board of Adjustment in accordance with the appeal process in this Chapter.
EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 3, 2009

PUBLIC HEARINGS

Hold a public hearing and make a recommendation to City Council regarding Case #PZ03/09-2, the proposed Special Use Permit to allow a single family residence located at 1184 Gruene Road and zoned “R-3 Multifamily District” to be used for short term rentals. (Mary Ann Kapidian)

Ms. Mullins noted that the current use of the structure was retail and office space, neither of which were permitted uses in R-3. She said the property had a Future Land Use designation of Mixed Use, and surrounding zoning was a mix of commercial and residential. She said the property was located just over a quarter-mile from the Gruene shopping and entertainment areas and Special Use Permits were granted across Gruene Road for Gruene Cliff Bed & Breakfast and Van Horn Lodge. She reported that 11 notices were sent to property owners within 200 ft. of the subject property; no responses were received. She said staff recommended approval since the property was not in a residential neighborhood, but subject to the following conditions: 1) The building must be used in its current state with no improvements or additions without an amendment to the Special Use Permit; 2) Parking is maintained for at least one space per bedroom; and 3) Signage is limited to one sign with a maximum area of four square feet.

Chairman Ybarra asked the applicant or her agent to address the Commission.

Becky Wood, 803 Riverforest Drive, said she and her family had the property under contract and wanted to turn it into a vacation rental. She added that she intended to keep the historic charm of the building and would improve the front and rear landscaping in addition to performing minor repairs. She further added that she had no plans to enclose the existing carport.

Chairman Ybarra asked if there was anyone in the audience who wished to speak in favor of the Special Use Permit.

Vikki Leggitt, 2285 Waterford Grace, said she owned property to the side and rear of the subject property and felt that the proposal would be good for Gruene.

Chairman Ybarra asked if there was anyone in the audience who wished to speak in opposition to the Special Use Permit. No one spoke.

Motion by Commissioner Nolte, seconded by Commissioner Kotylo, to close the public hearing. The motion carried unanimously. (7-0-0)

Motion by Commissioner Heimer, seconded by Commissioner Kotylo, that Case #PZ03/09-2, the proposed Special Use Permit to allow a single family residence located at 1184 Gruene Road and zoned “R-3 Multifamily District” to be used for short term rentals, be forwarded to City Council with a recommendation to approve, subject to staff’s recommendation. The motion carried unanimously. (7-0-0)
ORDINANCE NO. 2009-

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW A SINGLE-FAMILY DWELLING LOCATED AT 1184 GRUENE ROAD TO BE USED FOR SHORT TERM RENTALS IN AN “R-3” MULTI-FAMILY DISTRICT.

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 a Special Use Permit, the City Council has given due consideration to all components of said permit; and

WHEREAS, the City also recognizes that granting such a permit is possible while promoting the health, safety, and general welfare of the public, by providing harmony between existing zoning districts and land uses; and

WHEREAS, it is the intent of the City to ensure for the health, safety and general welfare of the public by providing compatibility and orderly development, which may be suitable only in certain locations in a zoning district through the implementation of a Special Use Permit meeting those requirements cited in Sections 3.6-2 and 3.6-3, Chapter 144, of the New Braunfels Code of Ordinances; and

WHEREAS, the City Council desires to grant a "Special Use Permit" for Lot 3B Block 2 Gruene Cliff Unit 1 Subdivision, located at 1184 Gruene Road, to allow a single-family dwelling to be used for short term rentals in an “R-3” Multi-Family District; now therefore,

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

SECTION 1

THAT Sections 3.6-2 and 3.6-3, Chapter 144 of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are revised by adding the following described tract of land as a "Special Use Permit" for the uses and conditions herein described:

"Being Lot 3B, Block 2, Gruene Cliff Unit 1 Subdivision, located at 1184 Gruene Road, to allow a single-family dwelling to be used for short term rentals in an "R-3" Multi-Family District."

SECTION 2

THAT the following conditions are herewith adopted as part of the Special Use Permit:

1. The property will be used in its current state with no building improvements or additions without an amendment to the Special Use Permit;
2. Parking shall be maintained for at least one space per bedroom; and
3. Signage is limited to one sign with a maximum area of 4 square feet.

SECTION 3

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 4
THAT all other ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 5
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 6
THIS ordinance will take effect upon the second and final reading of same.
PASSED AND APPROVED: First Reading this the 23rd day of March, 2009.
PASSED AND APPROVED: Second Reading this the 13th day of April, 2009.

CITY OF NEW BRAUNFELS

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney

R. BRUCE BOYER, Mayor
City Council Agenda Item Report
MARCH 23, 2009

Agenda Item No. 4

Presenter – Shannon Mattingly, Planning Director
(830) 221-4050 smattingly@nbtexas.org

SUBJECT: PUBLIC HEARING AND FIRST READING OF AN ORDINANCE DESIGNATING ACADEMY AND MAGAZINE STREETS, DEFINED BY CROSS AND JAHN STREETS, TO BE KNOWN AS THE SOPHIENBURG HILL HISTORIC DISTRICT, ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP.

APPLICANT: Historic Preservation Officer on behalf of Sophienburg Hill Historic District
424 S. Castell Avenue
New Braunfels TX 78130

OWNERS:
Multiple

BACKGROUND/RATIONALE:
In 2007, the Neighborhood, defined by the streets of Hill, Walnut, Nacogdoches and San Antonio rezoned to "SND-1 Special Neighborhood District", which added additional restrictions to these lots.

In February 2008, property owner, Jay Brewer, asked if a historic structures survey could be done to see if Academy and Magazine Streets qualified for historic designation.

On August 20, 2008, a neighborhood meeting was held on the results of the survey with a smaller area deemed eligible for historic designation.

On January 2, 2009, an application with signed petitions representing over 51% of the property owners was received. The Historic Landmark Commission unanimously recommended approval of historic designation with the submitted name of Sophienburg Hill Historic District.

The Planning Commission held a public hearing on March 3, 2009 and recommended denial of the historic district by a vote of 6-1-0.

GENERAL INFORMATION:
Size: Approximately 24.9 acres; 84 lots

Surrounding Zoning and Land Use:
North – SND-1
South – School
West – SND-1 and C-2 Commercial
East – SND-1

Comprehensive Plan Future Land Use Designation: Low Density Residential, Residential

Improvement(s): Single-family homes.

NOTIFICATION:
Public hearing notices were sent to 148 property owners located inside the proposed district and within 200 feet of the property. 30 responses were received in favor; 14 responses were received in opposition;
1 notice was returned by the Post Office as undeliverable (#139) and a response from #124 did not check whether they were for or against.

**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 74A. Creation of historical or conservation districts. |
| Goal 69. Enhance the heritage image of the City by designating historic areas and structures that should be preserved, restored and used for adaptive reuse. |
| Goal 64. Using the historic inventory/survey of cultural assets, propose historic districts or areas. |
| Goal 65. Increase historic preservation efforts in New Braunfels. |
| Goal 20. Protect character and boundaries of existing neighborhoods. |
| Goal 1. Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community’s unique qualities. |
| Goal 2B. Enable residents to live within walking or a short commuting distance from their work, school, and shopping. |
| Goal 7. Ensure zoning is compatible with historic properties. |
| Goal 5B. Maintain an attractive and lively downtown area that creates a deep sense of community. |

**Pros:**

**Cons:**

Property owners within a Historic District receive a 20 percent tax exemption from City property taxes. This will be a loss in revenue for the City.

**Fiscal Impact:**

- 2008 Taxable value per Comal County Appraisal District: $7,194,555
- City of New Braunfels 2008 Tax Rate: .0049862
- Historic District tax credit: 20% off city taxes
- 7,194,555 X .0049862 = 29,488 X .20 = $5,898
- Annual tax revenue reduction to the City: approximately $6,000

**Staff Recommendation:**

Staff recommended approval. The Sophienburg Hill Historic District meets many goals of the City's Master Plan, plus meets the eligibility requirements as set forth in Article III, Section 66-56 for historic districts.

1. Possesses significance in history, architecture, archeology, or culture: Sophienburg is an archeological site.
2. Embodies the distinctive Characteristics of a type, period, or method of construction: The different style of houses show the change of housing styles in America.
3. Represents an established and familiar visual feature of the neighborhood or city.

**Attachments**

1. Application
2. Map of proposed district
3. Zoning Notification Map
5. Ordinance
APPLICATION FOR HISTORIC DESIGNATION
City of New Braunfels, Planning and Community Development Department
424 S. Castell Avenue, New Braunfels TX 78130 (830) 221-4057

1. Name of proposed Historic District: Sophienburg Hill Historic District

2. Boundaries of District: Academy Cross to John Magazine Cole to River

3. Applicant’s Name: J.W. “Jay” Brewer Polly Barnes

4. Applicant’s Address: 475 So. Academy 510 So. Academy

5. Contact information: 830-832-0619

6. HISTORY: a brief history is required and should be attached to this application. The following information should be included, if known:
   - Plats, Sanborn maps and development history
   - Example photographs of resources
   - General description of the resources

7. Ballots – must represent 51 percent of the property or 51 percent of the property owners

8. Map of proposed district boundaries

9. Legal addresses of all lots located within proposed boundaries

9. Application fee of $25.00

10. I hereby request consideration of the above area as a historic district according to the provisions of the New Braunfels Historic Landmark Preservation Ordinance.

   Signature: [Signature] Date: 1-2-09

FOR OFFICE USE ONLY
Application received by: [Signature] Date: 1-2-09

RECOMMENDATIONS FOR APPROVAL
HISTORIC LANDMARK COMMISSION: Date:

Revised 9-4-08

ATTACHMENT 1
August 26, 2008

Cherise Bell
Historic Preservation Officer/Neighborhood Planner
City of New Braunfels
424 South Castell
New Braunfels, TX 78130

Ref: Historic District Designation

Ms. Bell,

Based on the information shared during our neighborhood meeting of August 20th, and the interest expressed by those in attendance, we are requesting the petition form(s) required and other information necessary to begin the historic district designation process.

It would be helpful, as we begin the "communication process" with property owners in the proposed district boundaries and gathering the required signatures, to have a copy of the relevant information contained in your presentation.

Thank you for your interest in our community and our neighborhood! We sincerely appreciate your support.

J. W. "Jay" Brewer
475 South Academy
830-625-5358

Polly Barnes
510 South Academy
830-608-0661
Sophienburg Hill
Proposed Historic District

Legend
- 200' Notification Area
- Favor
- Object
- Proposed District

City of New Braunfels

ATTACHMENT 3

March 3, 2009
EXEMPLARY FROM PLANNING COMMISSION MINUTES OF MARCH 3, 2009

PUBLIC HEARINGS
Hold a public hearing and make a recommendation to City Council regarding Case #HLC03/09-1, the proposed Historic Overlay District for Sophienburg Hill. (Historic Preservation Officer on behalf of the Sophienburg Hill Historic District)

Ms. Bell explained that Mr. Jay Brewer contacted her in early 2008 to ask if a historic structure survey could be performed to determine if Academy and Magazine Streets qualified for historic designation. She then briefed the Commission by means of a slide presentation that highlighted the research and analysis performed by staff, the contributing and non-contributing structures, dates of neighborhood meetings and mailings, and the number of petitions received. She explained that the area for historic designation recommended by staff was smaller than that originally requested by property owners. She added that petitions for historic designation were received from 51% of property owners, covering 58% of the area. She said 148 notices were sent to property owners located inside the proposed district and within 200 feet of the property. 26 responses were received in favor; 8 responses were received in opposition; 1 notice was returned by the Post Office as undeliverable (#139) and a response from #124 did not check whether they were for or against. Ms. Bell said staff recommended approval because The Sophienburg Hill Historic District met many goals of the City’s Master Plan, and met the following eligibility requirements as set forth in Article III, Section 66-56 for historic districts: 1) Possesses significance in history, architecture, archeology, or culture: Sophienburg is an archeological site; 4) Embody the distinctive Characteristics of a type, period, or method of construction: The different style of houses show the change of housing styles in America; and 6) Represents an established and familiar visual feature of the neighborhood or city.

Chairman Ybarra asked how staff determined the boundaries. Ms. Bell said she looked at the development pattern of the neighborhood, determined contributing structures and used streets to define the boundaries.

Commissioner Myrick asked why the homes on Hill Street were not included. Ms. Bell explained that Hill Street was not included in the survey area requested by the neighborhood; however, she recommended Hill Street be surveyed separately in her neighborhood presentation.

Commissioner Heimer asked if New Braunfels had any other historic districts. Ms. Bell replied that there were no local districts; however, Gruene was a nationally designated district. She then distributed handouts containing frequently asked questions as well as the 10 criteria contained in the Secretary of the Interior’s Standards for the Rehabilitation of Historic Buildings.

Commissioner Myrick asked who determined and enforced the guidelines. Ms. Bell said the Secretary of the Interior’s standards were adopted by City Council and were part of the City’s historic preservation ordinance. She said the ordinance allowed the Historic Preservation Officer (HPO) to enforce the standards and the Historic Landmark Commission would authorize the HPO’s decisions.

Commissioner LaRochelle asked if a structure was part of a Historic District but did not meet the criteria to allow for historic designation, would the property owner have to meet the guidelines? Ms. Bell said they would. She then proceeded to show photographs of homes constructed in various styles that would be permitted under the current zoning standards for SND-1 but would not necessarily fit into the character of the neighborhood.

Chairman Ybarra asked how the neighborhood would establish the guidelines. Ms. Bell explained that a steering committee had been formed to establish specific guidelines, which could include paint color, number of stories, exterior façade and design aesthetics. She said basic “repair and maintenance” permits could be approved by the HPO, but changes in finish/material would have to go to the Historic Landmark Commission.

Commissioner LaRochelle asked if the guidelines would include landscaping. Ms. Bell replied that they would.

Vice Chair Casteel asked if the purpose of the district was to protect the neighborhood. Ms. Bell said it was. She added that the SND-1 zoning was the first step taken to protect the area and the historic district would be the next level of protection.
Vice Chair Casteel asked who made up the steering committee. Ms. Bell said Mr. Jay Brewer invited some of his neighbors to make up the committee. She noted that when the committee determined the guidelines, they would have to be approved by the Historic Landmark Commission, Planning Commission and City Council.

Commissioner Myrick asked if the City’s properties would have to comply with the standards. Ms. Bell said they would.

Chairman Ybarra invited audience members in favor of the historic district to address the Commission.

Barron Casteel, 372 Magazine, said his home had a local historic designation and he received a tax incentive after the restoration of his home was complete. He said the City was easy to work with and the regulations and extra costs were minimal.

Jay Brewer, 475 S. Academy, said he initiated the process for historic district designation with Ms. Bell early in 2008. He explained that many neighborhood meetings were held since that time and it was noted that the majority in attendance were in favor of pursuing the district. He said the neighbors themselves, with the assistance of the steering committee, would determine their own guidelines. He added that these guidelines were not intended to be onerous but designed to protect the neighborhood. He asked the Commission to recommend to City Council the approval of the City’s first historic district.

Jon Cooper, 1231 Huisache Avenue, said he purchased a vacant lot in the neighborhood with the intent of building a home. He said he hoped to participate in the guideline development process and was very much in favor of the district.

Joan Pasquali, 146 Magazine, hoped that her block would be part of the next district. She noted that San Marcos had seven historic districts.

Carola Davis, 2802 SH 46 West, said she restored the structure at 388 Comal Avenue and favored preservation. She added that she was a member of the Historic Landmark Commission as well as the Comal County Historical Commission. She noted that new communities had guidelines and restrictions and it was no different for the subject area. She said the designation continued the uniqueness of the area as well as protected neighborhoods from “McMansions”.

Chairman Ybarra invited audience members opposed to the historic district to address the Commission.

John Conder, 452 S. Academy, said he was originally in favor of the district but wanted to withdraw his vote because no specific guidelines had been established. He said the City’s zoning ordinance required overlay districts to include “standards or uses in addition to those of the underlying base zoning district”. He said the Commission should table the request until such time that the standards were in place.

Shawn Jurica, 1121 Tuscan Ridge, said he was opposed only because the design guidelines had not been established. He also suggested that property owners be allowed to opt-out of the district if they chose to do so.

Cappy Felger Adams said she owned the property at 323 S. Academy. She approved of preservation but on an individual level. She thought the historic district designation might encourage some property owners to neglect their properties because of having to meet new regulations, while others may be priced out of the neighborhood due to higher taxes and home appraisals.

Cindy Pace, 455 S. Magazine, said she wanted to maintain the integrity of the neighborhood but everyone had to agree to the criteria. She too asked the Commission to table the item.

Stanley Slater, 531 S. Academy, said he was not comfortable giving up his property rights. He said the 10 criteria mentioned at the meeting were too restrictive and he would not be able to keep up his home.

Beth Owens, 506 Magazine, said she was originally in favor of the designation. She said many of the homes had already been improved but many could not be considered historically correct. She asked if taxes would be increased before the commencement of the tax freeze. She wondered if it would be more difficult to sell homes in historic districts.
Motion by Commissioner Nolte, seconded by Commissioner LaRochelle, to close the public hearing. The motion carried unanimously. (7-0-0)

Commissioner LaRochelle asked if CDBG funds could be used to fix homes and if the City had any plans to maintain the area. Ms. Bell said CDBG funds could be used if the applicant owned their home outright and if they were considered low income. She added that Code Enforcement was responsible for enforcing the City's Code of Ordinances. Ms. Mattingly said that enforcement could also fall under the Property Maintenance Code, adopted by the Building Department.

Various Commissioners discussed their concerns that guidelines had not yet been determined. Ms. Bell said specific district guidelines did not have to be adopted before approval of a historic district. She added that out of the 27 historic districts in the City of San Antonio, only two had design guidelines.

Commissioner Nolte said she liked historic districts but wanted the details to be spelled out so that the neighbors, Planning Commission and City Council knew what they were approving.

Commissioner Kotylo was concerned that maybe not all in the neighborhood were fully aware of all the details.

Vice Chair Casteel asked if a historic district could be approved without any additional restrictions other than those outlined by the Secretary of the Interior. Ms. Bell said it could but some districts preferred to have specific standards.

Commissioner Myrick did not think the Planning Commission should decide whether or not a district should have guidelines. He said the neighbors should decide on the rules as a group so that all were comfortable, or at the very least, there had to be an affirmation of interest by the neighborhood regarding such guidelines.

Vice Chair Casteel said opting out of the district would defeat the purpose of the district which was to protect the neighborhood.

Ms. Mattingly agreed, noting that the neighbors themselves, not the City, initiated the request for historic district. She also agreed that the neighbors should set their own criteria in addition to the 10 criteria in the ordinance.

Motion by Vice Chair Casteel, that Case #HLC03/09-1, the proposed Historic Overlay District for Sophienburg Hill, be forwarded to City Council with a recommendation to approve, subject to staff's recommendation. There being no second, the motion died.

Commissioner Myrick asked if the Commission had the discretion to table the matter until the neighborhood decided on additional guidelines. Ms. Mattingly said Sec. 2.1-2(b) of the Zoning Ordinance did not give the Commission that option.

Motion by Commissioner Myrick, seconded by Commissioner LaRochelle, that Case #HLC03/09-1, the proposed Historic Overlay District for Sophienburg Hill, be forwarded to City Council with a recommendation to deny.

Commissioner Heimer moved to amend the motion by requiring future notices relating to historic districts to include the criteria contained in the Secretary of the Interior’s Standards for the Rehabilitation of Historic Buildings. The motion was seconded by Commissioner Nolte and carried, with Vice Chair Casteel voting "no". (6-1-0)

The motion, as amended, carried, with Vice Chair Casteel voting "no". (6-1-0)
ORDINANCE NO. 2009-
AN ORDINANCE DESIGNATING ACADEMY AND MAGAZINE STREETS, DEFINED BY CROSS AND JAHN STREETS, TO BE KNOWN AS THE SOPHIENBURG HILL HISTORIC DISTRICT, ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP.

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

WHEREAS, the City Council wishes to protect this area 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 “HO” 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 area is hereby designated as a Historic District in accordance with the provisions of Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels, Texas:

"The area to be known as The Sophienburg Hill" (Academy Avenue bounded by Cross Street and Jahn Street; Magazine Avenue, bounded by Coll Street and Jahn Street). See attached map, Exhibit A.

SECTION 2

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

The Secretary of Interior guidelines as defined in Article III, Historic Landmark Preservation. Sec. 66-58, will be the guidelines that apply to this District and adoption of any specific guidelines beyond those identified at the adoption of this ordinance will require public hearings and approvals as currently outlined in Sec. 66-55. Designation of Historic Districts.

SECTION 3

THAT the above described properties are 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 all tracts as defined in Exhibit A to add "HO".

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 23rd day of March, 2009.

PASSED AND APPROVED: Second Reading this the 13th day of April, 2009.

CITY OF NEW BRAUNFEELS

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney

R. BRUCE BOYER, Mayor
City Council Agenda Item Report  
MARCH 23, 2009  

Agenda Item No. 47  
Presenter – Shannon Mattingly, Planning Director  
(830) 221-4050  smattingly@nbtexas.org

**SUBJECT:** FIRST READING OF AN ORDINANCE GRANTING A TAX RELIEF TO THE OWNER OF THE DESIGNATED LANDMARK LOCATED AT 548 HILL AVENUE, KNOWN AS THE HOFHEINZ HOUSE.

**APPLICANT:**  
William and Bonnie Leitch  
548 Hill Avenue  
New Braunfels, TX 78130

**OWNERS:**  
William and Bonnie Leitch  
548 Hill Avenue  
New Braunfels TX 78130

**BACKGROUND/RATIONALE:**  
This building was designated a local landmark per Ordinance 2003-14. Approval of the historic tax incentive was given per Ordinance 2004-85.  

On March 10, 2009 the Historic Landmark Commission unanimously approved the proposed tax relief renewal as they meet the criteria set forth in the Code of Ordinance, Article III, Section 66-57.1.

**GENERAL INFORMATION:**  

| Case # | HLC03/09-4a |
| Size | 15,250 sq feet |
| Surrounding Zoning and Land Use: | North – M-1 Light Industrial  
South – SND-1 Special Neighborhood District  
West – SND-1 Special Neighborhood District  
East – SND-1 Special Neighborhood District |
| Comprehensive Plan/ Future Land Use Designation: | Special Neighborhood District |
| Improvement(s): | N/A |

**Notification:**  
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 HP3 Preserve the unique character of downtown and historic New Braunfels. Renovation of buildings adds to the economic vitality of downtown. |

Page 1 of 2
| **Goal HP4** | Improve the level of understanding regarding historic preservation, resulting in a climate more respectful of New Braunfels' heritage. Historic buildings can be remodeled for modern day use and receive a tax credit. |
| **Goal HP10** | Establish a multi-faceted incentive program to improve and broaden historic preservation efforts. The rehabilitation tax incentive is part of the incentive programs. |
| **Goal HP11** | Provide financial incentives to those wanting to undertake historic preservation or restoration projects. This incentive provides a tax reduction for property owners. |

**Cons:**
A tax incentive results in a reduction of tax revenue to the City for a minimum of five years and a maximum of ten.

**Fiscal Impact:**
2008 Comal Appraisal District with City tax rate of 0.40982
Current Value $177,680 x rate = 728.24
Tax Relief Value 92,935 x rate = 380.91
$347.33 x 5 years = $1,736.65 reduction of tax revenue

**Staff Recommendation:**
Staff recommends approval of the tax relief renewal as it meets the criteria set forth in the Code of Ordinance, Article III, Section 66-57.1 Tax Incentive. The applicant has turned in the required renewal documentation and the house has retained its historic architectural integrity.

**Attachments:**
1. Application
2. Zoning Map
3. Photographs
4. Excerpts from minutes of February 10, 2009 Historic Landmark Commission Meeting
APPLICATION FOR Tax Relief - Renewal

City of New Braunfels, Planning and Environmental Department
424 S. Colonial Avenue, New Braunfels TX 78130 (830) 221-4057

1. Name of Landmark: Hofheinz House
2. Address of Landmark: 548 Hill Avenue
3. Legal Description: Lots 10112, Block 1024
4. Owner Name: Bonnie Leitch
5. Owner Address: 548 Hill Avenue
6. Contact information: bleitch@earthlink.net
7. Current photos required showing all facades of building.
8. $25.00 application fee

I hereby request consideration for tax relief of the City of New Braunfels taxes on the above landmark for an additional five years. The Landmark continues to meet the requirements set forth in Article III, Section 66-57. This application shall be considered my written permission as owner of the above described property for continued tax relief by the New Braunfels City Council.

Owner Signature: [Signature]
Date: 2/18/09

FOR OFFICE USE ONLY
Application received by: [Signature]
Date: 2/25/09

City Council ordinance approving Tax Relief: ________________________________
First year Tax Relief in dollars by County: 2005

RECOMMENDATIONS FOR APPROVAL

STAFF RECOMMENDATION: [Recommendation]
HISTORIC LANDMARK COMMISSION: Date: 3-10-2009

ATTACHMENT 1
Front facade

Rear facade
DISCUSSION AND ACTION ITEMS

Tax Incentive Renewal for 548 Hill Avenue a/k/a Hofheinz Building.
Ms. Bell said the applicant met the requirements for tax relief renewal and was petitioning the Commission to consider and recommend to City Council the extension of Tax Relief for an additional five year period.

Chair Hartmann noted that the owners had done an outstanding restoration.

Motion by Vice Chair Davis, seconded by Commissioner Kossick, that the Tax Incentive Renewal for 548 Hill Avenue a/k/a Hofheinz Building, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)

Tax Incentive Renewal for 372 S. Magazine a/k/a Dittlinger House.
Ms. Bell said the applicant met the requirements for tax relief renewal and was petitioning the Commission to consider and recommend to City Council the extension of Tax Relief for an additional five year period.

Chair Hartmann commented it was a wonderful home.

Motion by Commissioner Dietert, seconded by Commissioner Stafford, that the Tax Incentive Renewal for 372 S. Magazine a/k/a Dittlinger House, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)

Tax Incentive Renewal for 492 E. Main Street a/k/a Kloepper House.
Ms. Bell said the applicant met the requirements for tax relief renewal and was petitioning the Commission to consider and recommend to City Council the extension of Tax Relief for an additional five year period.

Motion by Commissioner Stafford, seconded by Vice Chair Davis, that the Tax Incentive Renewal for 492 E. Main Street a/k/a Kloepper House, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)
ORDINANCE NO. 2009-

AN ORDINANCE GRANTING THE RENEWAL OF A TAX RELIEF TO THE OWNER OF THE DESIGNATED HISTORIC LANDMARK LOCATED AT 548 HILL AVENUE, KNOWN AS THE HOFHEINZ HOUSE, FOR AN ADDITIONAL PERIOD OF FIVE YEARS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the State of Texas has enacted legislation empowering municipalities to preserve and protect historic places, structures, buildings, and sites of historic and cultural importance and significance; and

WHEREAS, the City Council is aware of the numerous places, structures, buildings and sites having historic and cultural importance and significance which reflect the heritage of the City, State and its people, and is committed to promote and protect the heritage of New Braunfels for the future and;

WHEREAS, the City Council, on September 14, 1998, adopted an ordinance to provide a tax relief/incentive for the stabilization, rehabilitation and renovation of properties and/or structures designated as historic landmarks, by the City of New Braunfels;

WHEREAS, the property owner has met all the requirements set forth in the ordinance adopted September 14, 1998, and the application has been approved by the Historic Landmark Commission of the City of New Braunfels; now, therefore;

WHEREAS, the City Council approved the initial tax relief per Ordinance 2003-11 on February 24, 2003,

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

SECTION 1

THAT, the property owner of the designated historic structure on Lot 8 and NE 100 ft. of Lots 10 and 12, NCB 1024, located at 548 Hill Avenue and known as the Hofheinz House, be granted the tax relief as outlined in Section 66-57.1, Historic Preservation, of the New Braunfels Code of Ordinances, City of New Braunfels, Texas.

SECTION 2

THAT, should any paragraph, sentence, clause, phrase or word of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of this ordinance, and any portions in conflict are hereby repealed.
SECTION 3

THAT, the City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

SECTION 4

THAT, this ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First reading this the 23rd day of March, 2009.
PASSED AND APPROVED: Second reading this the 13th day of April, 2009.

CITY OF NEW BRAUNFELS

BY: BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN WAYLAND, City Attorney
City Council Agenda Item Report
MARCH 23, 2009

Agenda Item No. 4

Presenter – Shannon Mattingly, Planning Director
(830) 221-4050 smattingly@nbtexas.org

SUBJECT: FIRST READING OF AN ORDINANCE GRANTING A TAX RELIEF TO THE OWNER OF THE DESIGNATED LANDMARK LOCATED AT 372 S. MAGAZINE AVENUE, KNOWN AS THE DITTLINGER HOUSE.

APPLICANT: Barron and Michele Casteel
372 South Magazine Avenue
New Braunfels, TX 78130

OWNERS: Barron and Michele Casteel
372 S. Magazine Avenue
New Braunfels TX 78130

BACKGROUND/RATIONALE:
This building was designated a local landmark per Ordinance 2005-08. Approval of the historic tax incentive was given per Ordinance 2005-35.

On March 10, 2009 the Historic Landmark Commission unanimously approved the proposed tax relief renewal as they meet the criteria set forth in the Code of Ordinance, Article III, Section 66-57.1.

GENERAL INFORMATION:
Case #: HLC03/09-4b
Size: 69,806 sq. feet
Surrounding Zoning and Land Use:
North – SND-1 Light Industrial
South – SND-1 Special Neighborhood District
West – SND-1 Special Neighborhood District
East – SND-1 Special Neighborhood District

Comprehensive Plan/ Future Land Use Designation:
R-3 - Residential District
Improvment(s): N/A

Notification: N/A

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

| Yes | City Plan/Council Priority: 2006 Comprehensive Plan Pros: Goal HP3 Preserve the unique character of downtown and historic New Braunfels. Renovation of buildings adds to the economic vitality of downtown. | Pros and Cons Based on Policies Plan |

Page 1 of 2
Goal HP4: Improve the level of understanding regarding historic preservation, resulting in a climate more respectful of New Braunfels' heritage. Historic buildings can be remodeled for modern day use and receive a tax credit.

Goal HP10: Establish a multi-faceted incentive program to improve and broaden historic preservation efforts. The rehabilitation tax incentive is part of the incentive programs.

Goal HP11: Provide financial incentives to those wanting to undertake historic preservation or restoration projects. This incentive provides a tax reduction for property owners.

Cons:
A tax incentive results in a reduction of tax revenue to the City for a minimum of five years and a maximum of ten.

FISCAL IMPACT:

2008 Comal Appraisal District with City tax rate 0.40982

Current Value $536,920 x rate = 2,200.63
Tax Relief Value 173,286 x rate = 710.23
$1,490.04 x 5 years = $7,452.00 reduction of tax revenue

STAFF RECOMMENDATION:

Staff recommends approval of the tax relief renewal as it meets the criteria set forth in the Code of Ordinance, Article III, Section 66-57.1 Tax Incentive. The applicant has turned in the required renewal documentation and the house has retained its historic architectural integrity.

ATTACHMENTS:

1. Application
2. Zoning Map
3. Photographs
4. Excerpts from minutes of February 10, 2009 Historic Landmark Commission Meeting

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APPLICATION FOR Tax Relief - Renewal

City of New Braunfels, Planning and Environmental Department
434 S. Castell Avenue, New Braunfels TX 78130 (830) 221-4061

1. Name of Landmark: Ditlinger House
2. Address of Landmark: 372 S. Magazine Ave
3. Legal Description: City Block 400
4. Owner Name: Barron + Michele Castel
5. Owner Address: 372 S. Magazine Ave
6. Contact Information: Barron Castel (830) 832-6899
7. Current photos required showing all facades of building.
8. $25.00 application fee

I hereby request consideration for tax relief of the City of New Braunfels taxes on the above landmark for an additional five years. The Landmark continues to meet the requirements set forth in Article III, Section 66-57. This application shall be considered by written permission of the owner of the above described property for continued tax relief by the New Braunfels City Council.

Owner Signature: __________________________ Date: 3-2-09

FOR OFFICE USE ONLY

Application received by: __________ Date: 3-3-09

City Council order approving Tax Relief: __________

First year Tax Relief initiated by Council: 2005

RECOMMENDATIONS FOR APPROVAL

STAFF RECOMMENDATION: Approve

HISTORIC LANDMARK COMMISSION: Date: 3-10-09
Front facade

Rear facade
DISCUSSION AND ACTION ITEMS
Tax Incentive Renewal for 548 Hill Avenue a/k/a Hofheinz Building.
Ms. Bell said the applicant met the requirements for tax relief renewal and was petitioning the Commission to consider and recommend to City Council the extension of Tax Relief for an additional five year period.

Chair Hartmann noted that the owners had done an outstanding restoration.

Motion by Vice Chair Davis, seconded by Commissioner Kossick, that the Tax Incentive Renewal for 548 Hill Avenue a/k/a Hofheinz Building, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)

Tax Incentive Renewal for 372 S. Magazine a/k/a Dittlinger House.
Ms. Bell said the applicant met the requirements for tax relief renewal and was petitioning the Commission to consider and recommend to City Council the extension of Tax Relief for an additional five year period.

Chair Hartmann commented it was a wonderful home.

Motion by Commissioner Dietert, seconded by Commissioner Stafford, that the Tax Incentive Renewal for 372 S. Magazine a/k/a Dittlinger House, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)

Tax Incentive Renewal for 492 E. Main Street a/k/a Kloepper House.
Ms. Bell said the applicant met the requirements for tax relief renewal and was petitioning the Commission to consider and recommend to City Council the extension of Tax Relief for an additional five year period.

Motion by Commissioner Stafford, seconded by Vice Chair Davis, that the Tax Incentive Renewal for 492 E. Main Street a/k/a Kloepper House, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)
ORDINANCE NO. 2009-

AN ORDINANCE GRANTING THE RENEWAL OF A TAX RELIEF TO THE OWNER OF THE DESIGNATED HISTORIC LANDMARK LOCATED AT 372 S. MAGAZINE AVENUE, KNOWN AS THE DITTLINGER HOUSE, FOR AN ADDITIONAL PERIOD OF FIVE YEARS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the State of Texas has enacted legislation empowering municipalities to preserve and protect historic places, structures, buildings, and sites of historic and cultural importance and significance; and

WHEREAS, the City Council is aware of the numerous places, structures, buildings and sites having historic and cultural importance and significance which reflect the heritage of the City, State and its people, and is committed to promote and protect the heritage of New Braunfels for the future and;

WHEREAS, the City Council, on September 14, 1998, adopted an ordinance to provide a tax relief/incentive for the stabilization, rehabilitation and renovation of properties and/or structures designated as historic landmarks, by the City of New Braunfels;

WHEREAS, the property owner has met all the requirements set forth in the ordinance adopted September 14, 1998, and the application has been approved by the Historic Landmark Commission of the City of New Braunfels; now, therefore;

WHEREAS, the City Council approved the initial tax relief per Ordinance 2003-11 on February 24, 2003,

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

SECTION 1

THAT, the property owner of the designated historic structure on part of Lot D, Block 4060, located at 372 S. Magazine Avenue and known as the Dittlinger House, be granted the tax relief as outlined in Section 66-57.1, Historic Preservation, of the New Braunfels Code of Ordinances, City of New Braunfels, Texas.

SECTION 2

THAT, should any paragraph, sentence, clause, phrase or word of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of this ordinance, and any portions in conflict are hereby repealed.
SECTION 3

THAT, the City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

SECTION 4

THAT, this ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First reading this the 23rd day of March, 2009.
PASSED AND APPROVED: Second reading this the 13th day of April, 2009.

CITY OF NEW BRAUNFELS

BY: BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN WAYLAND, City Attorney

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City Council Agenda Item Report
MARCH 23, 2009

Agenda Item No. 4J

Presenter – Shannon Mattingly, Planning Director
(830) 221-4050 smattingly@nbtexas.org

SUBJECT: FIRST READING OF AN ORDINANCE GRANTING A TAX RELIEF TO THE OWNER OF THE DESIGNATED LANDMARK LOCATED AT 492 E. MAIN, KNOWN AS THE KLOEPPER HOUSE.

APPLICANT:
Gregg and Bette Bell
492 E. Main
New Braunfels, TX 78130

OWNERS:
Gregg and Bette Bell
492 E. Main
New Braunfels TX 78130

BACKGROUND/RATIONALE:
This building was designated a local landmark per Ordinance 2002-32. Approval of the historic tax incentive was given per Ordinance 2005-33.

On March 10, 2009 the Historic Landmark Commission unanimously approved the proposed tax relief renewal as they meet the criteria set forth in the Code of Ordinance, Article III, Section 66-57.1.

GENERAL INFORMATION:
Case #:
HLC03/09-4c

Size:
Approximately 1661.0 square feet

Surrounding Zoning and Land Use:
North – R2 Residential
South – R2 Residential
West – R2 Residential
East – R2 Residential

Comprehensive Plan/ Future Land Use Designation:
R2 - Residential District

Improvement(s):
N/A

NOTIFICATION:
N/A

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

<table>
<thead>
<tr>
<th>Yes</th>
<th>City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan</th>
</tr>
</thead>
</table>

Prosp:
Goal HP3 Preserve the unique character of downtown and historic New Braunfels. Renovation of buildings adds to the economic vitality of downtown.
Goal HP4: Improve the level of understanding regarding historic preservation, resulting in a climate more respectful of New Braunfels' heritage. Historic buildings can be remodeled for modern day use and receive a tax credit.

Goal HP10: Establish a multi-faceted incentive program to improve and broaden historic preservation efforts. The rehabilitation tax incentive is part of the incentive programs.

Goal HP11: Provide financial incentives to those wanting to undertake historic preservation or restoration projects. This incentive provides a tax reduction for property owners.

Cons:
A tax incentive results in a reduction of tax revenue to the City for a minimum of five years and a maximum of ten.

**Fiscal Impact:**
2008 Comal Appraisal District with City tax rate 0.40982
Current Value $156,360 x rate = 640.79
Tax Relief Value 64,975 x rate = 266.31
$374.48 x 5 years = $1,872.40 loss of tax revenue

**Staff Recommendation:**
Staff recommends approval of the tax relief renewal as it meets the criteria set forth in the Code of Ordinance, Article III, Section 66-57.1 Tax Incentive. The applicant has turned in the required renewal documentation and the house has retained its historic architectural integrity.

**Attachments:**
1. Application
2. Zoning Map
3. Photographs
4. Excerpts from minutes of February 10, 2009 Historic Landmark Commission Meeting
APPLICATION FOR Tax Relief - Renewal

City of New Braunfels, Planning and Environmental Department
424 S. Castell Avenue, New Braunfels TX 78130 (830) 221-0057

1. Name of Landmark: Perkins F and Eliza Arden House
2. Address of Landmark: 422 E. Main
3. Legal Description: Blk 906, Lt 15, E. Main Street, New Braunfels, Addition
4. Owner Name: Greg and Betty Hall
5. Owner Address: 422 E. Main - New Braunfels, TX 78130
6. Contact Information: (830) 608-9893
7. Current photos required showing all facades of building.
8. $25.00 application fee (pictures attached)

I hereby request consideration for tax relief of the City of New Braunfels taxes on the above landmark for an additional five years. The Landmark continues to meet the requirements set forth in Article III, Section 38-57. This application shall be considered my written permission as owner of the above described property for continued tax relief by the New Braunfels City Council.

[Owner Signature]
Date: Feb 30, 2009

FOR OFFICE USE ONLY
Application received by: Choir Date: 2-3-09

City Council ordinance approving Tax Relief:

First year Tax Relief initiated by County: 2005

RECOMMENDATIONS FOR APPROVAL

STAFF RECOMMENDATION: Approve

HISTORIC LANDMARK COMMISSION: Date: 3-10-09

Revised 05-23-2009

ATTACHMENT 1
DISCUSSION AND ACTION ITEMS

Tax Incentive Renewal for 548 Hill Avenue a/k/a Hofheinz Building.
Ms. Bell said the applicant met the requirements for tax relief renewal and was petitioning the Commission to consider and recommend to City Council the extension of Tax Relief for an additional five year period.

Chair Hartmann noted that the owners had done an outstanding restoration.

Motion by Vice Chair Davis, seconded by Commissioner Kossick, that the Tax Incentive Renewal for 548 Hill Avenue a/k/a Hofheinz Building, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)

Tax Incentive Renewal for 372 S. Magazine a/k/a Dittlinger House.
Ms. Bell said the applicant met the requirements for tax relief renewal and was petitioning the Commission to consider and recommend to City Council the extension of Tax Relief for an additional five year period.

Chair Hartmann commented it was a wonderful home.

Motion by Commissioner Dietert, seconded by Commissioner Stafford, that the Tax Incentive Renewal for 372 S. Magazine a/k/a Dittlinger House, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)

Tax Incentive Renewal for 492 E. Main Street a/k/a Kloepper House.
Ms. Bell said the applicant met the requirements for tax relief renewal and was petitioning the Commission to consider and recommend to City Council the extension of Tax Relief for an additional five year period.

Motion by Commissioner Stafford, seconded by Vice Chair Davis, that the Tax Incentive Renewal for 492 E. Main Street a/k/a Kloepper House, be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)
AN ORDINANCE GRANTING THE RENEWAL OF A TAX RELIEF TO THE OWNER OF THE DESIGNATED HISTORIC LANDMARK LOCATED AT 492 E. MAIN STREET, KNOWN AS THE KLOEPPER HOUSE, FOR AN ADDITIONAL PERIOD OF FIVE YEARS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the State of Texas has enacted legislation empowering municipalities to preserve and protect historic places, structures, buildings, and sites of historic and cultural importance and significance; and

WHEREAS, the City Council is aware of the numerous places, structures, buildings and sites having historic and cultural importance and significance which reflect the heritage of the City, State and its people, and is committed to promote and protect the heritage of New Braunfels for the future and;

WHEREAS, the City Council, on September 14, 1998, adopted an ordinance to provide a tax relief/incentive for the stabilization, rehabilitation and renovation of properties and/or structures designated as historic landmarks, by the City of New Braunfels;

WHEREAS, the property owner has met all the requirements set forth in the ordinance adopted September 14, 1998, and the application has been approved by the Historic Landmark Commission of the City of New Braunfels; now, therefore;

WHEREAS, the City Council approved the initial tax relief per Ordinance 2003-11 on February 24, 2003,

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

SECTION 1

THAT, the property owner of the designated historic structure on part of Lots 5 and 6, City Block 5061, located at 492 E. Main Street and known as the Kloepper House, be granted the tax relief as outlined in Section 66-57.1, Historic Preservation, of the New Braunfels Code of Ordinances, City of New Braunfels, Texas.

SECTION 2

THAT, should any paragraph, sentence, clause, phrase or word of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of this ordinance, and any portions in conflict are hereby repealed.
SECTION 3

THAT, the City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

SECTION 4

THAT, this ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First reading this the 23rd day of March, 2009.

PASSED AND APPROVED: Second reading this the 13th day of April, 2009.

CITY OF NEW BRAUNFELS

BY: BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN WAYLAND, City Attorney

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City Council Agenda Item Report  
March 23, 2009  

Agenda Item No. __  
Presenter/Contact – Alan C. Wayland, City Attorney  
(830) 221-4284 – awayland@nbtx.org

SUBJECT: DISCUSS AND CONSIDER APPROVAL OF A RESOLUTION DETERMINING THE PUBLIC NECESSITY FOR IMPROVING WALNUT AVENUE WITHIN THE CITY BY WIDENING THE SAME BETWEEN SOUTH BUSINESS IH-35 AND KATY STREET; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS FOR FIVE (5) PARCELS OF LAND AND ONE (1) OUTDOOR ADVERTISING SIGN INCLUDING ACQUIRING THE SAME BY THE FILING OF PROCEEDINGS IN EMINENT DOMAIN, IF NECESSARY.

BACKGROUND/RATIONALE:
City staff has been acquiring properties along Walnut Avenue in order to reconstruct and widen the street between South Business IH-35 and Katy Street including utility relocation, landscaping and other improvements in connection with the reconstruction and widening project. Originally, the City identified 26 parcels that needed to be acquired for the Walnut Avenue Widening Project including the leasehold interest in the outdoor advertising sign. The City has purchased or has contracts to purchase 20 parcels so that six (6) parcels remain. Those six consist of three (3) commercial tracts, two (2) residential tracts, and the outdoor advertising sign. The proposed resolution authorizes the City Manager to acquire those properties consistent with the appraised values and also authorizes the City Attorney to file condemnation proceedings against the property owners in the event that an acquisition cannot be completed through negotiation. Since the acquisition of commercial properties has characteristics different from the acquisition of residential properties, the resolution also authorizes the City Attorney to engage the services of an outside law firm to assist with the acquisition by condemnation of the commercial properties.

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

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<td>Objective 3: Implement ongoing program for</td>
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FISCAL IMPACT:
Monies have been appropriated in the Walnut Avenue Widening Capital Improvement Project for right-of-way acquisition.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:
Staff recommends approval of the Resolution 2009-__.
RESOLUTION NO. 2009-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, DETERMINING THE PUBLIC NECESSITY FOR IMPROVING WALNUT AVENUE WITHIN THE CITY BY WIDENING THE SAME BETWEEN SOUTH BUSINESS IH-35 AND KATY STREET; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS FOR FIVE (5) PARCELS OF LAND AND ONE (1) OUTDOOR ADVERTISING SIGN INCLUDING ACQUIRING THE SAME BY THE FILING OF PROCEEDINGS IN EMINENT DOMAIN, IF NECESSARY; AND DECLARING AN EFFECTIVE DATE.

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 improve Walnut Avenue between South Business IH-35 and Katy Street within the City by widening and landscaping the same; 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 along with a leasehold interest in an outdoor advertising sign; and

WHEREAS, the property to be acquired for such purpose consists of five (5) parcels of real property and one (1) leasehold interest in an outdoor sign, the owners of which are listed in Exhibit “A” attached hereto and made a part hereof by reference (the “Properties”); 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 or leasehold interest to the Properties for right-of-way and associated municipal purposes for the widening of Walnut Avenue between South Business IH-35 and Katy Street, including utility relocation, landscaping, and other improvements in connection with the reconstruction project.

SECTION 2: The City Manager, or his designee, is hereby authorized on behalf of the City to attempt to agree on damages and compensation to be paid to owners of the Properties. If the City Manager or his designee determines that an agreement as to damages and compensation cannot be reached with any particular property owner, then the City Attorney, or his designee, is hereby authorized to file or cause to be filed, against the owners and interested parties of the particular property, proceedings in eminent domain to acquire fee simple title to that property. The City Attorney is further
authorized to engage the services of an outside law firm to assist in the acquisitions of the non-residential Properties.

SECTION 3: It is the intent of the City Council that this Resolution authorizes the condemnation of all property required to reconstruct and widen Walnut Avenue between South Business IH-35 and Katy Street and to complete the other public improvements with regard to the reconstruction and widening project. If it is later determined that there are errors in the descriptions of the parcels or if later surveys contain more accurate revised descriptions, the City Attorney or his designee is authorized to have such errors corrected or revisions made without the necessity of obtaining a new City Council resolution authorizing the condemnation of the corrected or revised Property.

SECTION 4: 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 March, 2009.

CITY OF NEW BRAUNFELS, TEXAS

R. Bruce Boyer, Mayor

ATTEST:

Michael A. Resendez, City Secretary
EXHIBIT “A”

J.P. Champion Ranch, Ltd. (Brake Check), 1096 S. Business IH-35  
Commercial

John Gannon, Inc., 611 S. Walnut Ave  
Leasehold, Outdoor Sign

Alton L. & Vicki L. Brannan, 1093 W. Coll Street  
Residential

Merle L. Easton (Advanced Auto Parts, 1093 W. San Antonio Street  
Commercial

Warren Realty Ltd. (Valero), 118 N. Walnut Avenue  
Commercial

Ronald D. & Arlene Turner, 1092 W. Mill Street  
Residential
City Council Agenda Item Report
March 23, 2009

Agenda Item No. 5 (A)
Presenter/Contact – Alan C. Wayland

SUBJECT: EXECUTIVE SESSIONS
(A) DISCUSS AND CONSIDER THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY, IF THE DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE CITY IN NEGOTIATIONS WITH A THIRD PERSON, IN ACCORDANCE WITH SECTION 551.072, OF THE TEXAS GOVERNMENT CODE.

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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FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A