

MINUTES OF THE COUNCIL MEETING  
SEPTEMBER 22, 2014

The City Council of the City of Brewton, Alabama met in regular session at the Municipal Complex in said City on Monday evening, September 22, 2014 at 4:30 P.M. The meeting was called to order by Mayor Yank Lovelace, who presided as Chairman of the meeting. A Workshop was held in the afternoon at 3:00 P.M. with the Council Members present at roll call. Jerry Kelly was present to further discuss a parcel of property he is attempting to be rezoned and several Agenda items were discussed. It was noted that Steve Yuhasz, Community Development Director and City Clerk/Treasurer In Training was conducting the meeting in the absence of John F. P. Angel.

Councilman Watson then led the City Council and guests in the Pledge of Allegiance to the flag.

At roll call, the following persons were found to be present: Councilmen Pat Poole, Frank Cotten, Joe Watson, Fred Barton and Mayor Yank Lovelace. Absent was Councilman Bill Littles.

Stephen R. Yuhasz, City Clerk In Training, was also present and acted as clerk of the meeting. A quorum being present, Mayor Lovelace announced that the meeting was open for transaction of business.

When Mayor Lovelace asked if there were any corrections to the minutes of September 8, 2014, there were none mentioned. As there was no discussion or changes to the minutes, Mayor Lovelace then asked if the Council would accept the September 8, 2014 minutes as presented.

A motion was made by Councilman Watson and seconded by Councilman Barton to approve the minutes of the last Council Meeting as presented. Passed Una.

Mayor Lovelace then welcomed the visitors in the audience.

The Mayor then asked if the Council Meeting Agenda presented by the Clerk required any additions or deletions. As there were no items added or deleted, nor any discussion about the Agenda, a vote to approve the Agenda, as presented, was taken. Passed Una.

The first item under Old Business was a discussion of the following, which had its first presentation at a previous meeting.

**ORDINANCE NO. 14-0825**

**AN ORDINANCE TO AMEND THE ZONING MAP OF ORDINANCE NO. 92-0414, LAND USE AND DEVELOPMENT ORDINANCE**

A motion was immediately made by Councilman Barton and seconded by Councilman Poole to Introduce Ordinance No. 14-0825 as presented. It was noted that Mayor Lovelace had recused himself from the discussion and vote of this item; the following vote was taken.

YEAS: Councilmen Poole, Watson, Barton

NAYS: Councilman Cotten

The motion passed by majority. As the Mayor had recused himself, Immediate Consideration was not possible; the Council would not have an opportunity for further discussion until the Regular Meeting of Monday, October 13, 2014.

Recommendations for two (2) appointments to Brewton Development Authority (BDA) vacancies by the Committee of Councilmen Cotton and Poole were carried over to the next Regular Meeting as above.

That was the last item under Old Business.

The first item under New Business was a discussion concerning a Public Hearing which would grant public funds as an appropriation to a business for its startup. Steve Yuhasz stated that the Constitution of Alabama's Section 94 and 94.01 allow for such appropriations, but part of the process requires that a Public Hearing be held stating the benefits to be gained and how much the appropriation would be (and to whom), allowing the public to state their opposition to, or the agreement with, such an appropriation. The following was generated by this action (date added for clarity).

**RESOLUTION NO. 14-0922**

**WHEREAS**, §94.01, Constitution of Alabama states that it is possible for a municipality to grant taxpayer funds to a small business for the public good, i.e., to maintain infrastructure and promote growth; and

**WHEREAS**, a local organization has a desire to open a thrift store in the former True Value Hardware building, located at 118 St. Joseph Avenue, but is requesting help with startup funds; and

**WHEREAS**, the City Council of the City of Brewton, Alabama is willing to provide these funds, based on the outcome of a Public Hearing to determine all of the details.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREWTON, ALABAMA**, as follows:

1. That said Public Hearing notice be published two (2) consecutive times in the Brewton Standard (9/24 and 10/1), showing the date as October 27, 2014, 4:30 P.M., at the Regular Meeting that evening.
2. That a determination on the approval and the amount of any appropriation will also be made that evening.

**ADOPTED AND APPROVED** this the 22nd day of September, 2014.

\_\_\_\_\_  
Yank Lovelace, Mayor

ATTEST:

\_\_\_\_\_  
John F. P. Angel, CMC, City Clerk

A motion was made by Councilman Poole and seconded by Councilman Barton to approve Resolution No. 14-0922 and the Public Hearing as stated. Passed Una.

Mayor Lovelace then presented the following (date added for clarity).

**ORDINANCE NO. 14-0922**

**AN ORDINANCE TO AMEND CHAPTER 9 – FINANCE; TAXATION;  
LICENSES AND BUSINESS REGULATIONS, ARTICLE II – BUSINESS LICENSES, OF THE CODE  
OF ORDINANCES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREWTON, ALABAMA**, that Chapter 9 – Finance; Taxation; Licenses and Business Regulations, Article II – Business Licenses, of the Code of Ordinances is hereby amended by adding thereto Sec. 9-26.01 as follows:

**ARTICLE II. – BUSINESS LICENSES**

\* \* \* \* \*

Sec. 9-26.01. – Waiver of License Taxes.

The City Council is authorized to waive, in whole or in part, the license taxes for any business under the classifications of Amusement or Entertainment; Carnival or Street Fairs; or Circus provided that such business at all times during any operations within the municipal police jurisdiction is directly sponsored by an organization whose principal purposes and objectives for doing so are to raise money to financially support academic, athletic, or bona fide extracurricular activities or programs conducted within the Brewton City School System.

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

**ADOPTED AND APPROVED** this the 22nd day of September, 2014.

CITY OF BREWTON, ALABAMA

BY: \_\_\_\_\_  
Yank Lovelace, Mayor

ATTESTED:

By: \_\_\_\_\_  
John F. P. Angel, CMC, City Clerk

Steve Yuhasz stated that, occasionally, groups have come forward for either a modification or waiver of business license fee(s) as it could diminish the total use of proceeds for worthy causes. This document would clarify the Council's position and give them the opportunity to modify or waive these fees by vote.

A motion was made by Councilman Watson and seconded by Councilman Barton to Introduce Ordinance No. 14-0922 as recommended. The following vote was recorded.

YEAS: Councilmen Poole, Cotten, Watson, Barton  
NAYS: None

The motion passed by majority.

A motion was made by Councilman Watson and seconded by Councilman Barton for the Immediate Consideration of Ordinance No. 14-0922 as recommended. The following vote was recorded.

YEAS: Councilmen Poole, Cotten, Watson, Barton, Mayor Lovelace  
NAYS: None

The motion passed unanimously.

A motion was made by Councilman Poole and seconded by Councilman Cotten to Approve Ordinance No. 14-0922 as recommended. Councilman Poole asked if the Circus of October 6, 2014 would fall into this category of the waiver; the answer was 'yes'. As there was no further discussion on the motion, the following vote was recorded.

YEAS: Councilmen Poole, Cotten, Watson, Barton  
NAYS: None

The motion passed by majority.

Ed Hines, City Attorney, then took the floor, stating that the next Ordinance actually amends a Franchise Ordinance granted South Alabama Gas last year. Mr. Hines stated that both parties have worked well together to make the Franchise work; the Franchise was actually extended to ten (10) years last year. This document would extend it out an additional fourteen (14) years, with the immediate benefit to the City being that the South Alabama gas District would allow the removal of its high pressure gas lines in the vicinity of D. W. McMillan Memorial Hospital. They would also pave Strandell Street and Poplar Avenue in their entirety. A long term benefit would be the sale of gas from its excess to the City, should the need arise. The following was then presented and was recommended for approval by Mr. Hines.

#### **ORDINANCE NO. 14-0922-1**

#### **AN ORDINANCE TO AMEND ORDINANCE NO. 13-0408 GRANTING A NON-EXCLUSIVE FRANCHISE TO THE SOUTH ALABAMA GAS DISTRICT FOR THE TRANSPORT OF NATURAL GAS THROUGH THE CITY OF BREWTON, ALABAMA**

**WHEREAS**, by Ordinance No. 13-0408, the City of Brewton ("City") granted to South Alabama Gas District ("SAGD") a non-exclusive franchise to occupy a portion of its rights of way for a period of ten years from July 1, 2013, for the purpose of transporting natural gas through the City of Brewton; and

**WHEREAS**, SAGD has requested the City to extend the term of said franchise for an additional fourteen years in consideration of its performance of certain obligations and services the nature of which will be more specifically described in a separate Agreement hereinafter referenced.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREWTON, ALABAMA**, that Paragraphs 13, 14, and 37 of Ordinance No. 13-0408 are amended so that the same shall now read as follows:

\*\*\*\*\*

#### **COMPENSATION**

13. As compensation for the rights granted herein, SAGD shall perform certain construction services and supply natural gas to the City on the terms and conditions set forth in the Agreement attached as Exhibit C.

#### **TERM**

14. The term of this franchise shall be deemed to have commenced on July 1, 2013, and the franchise shall end twenty-four (24) years thereafter, unless extended on a month to month basis at the request of the City.

\*\*\*\*\*

**ACCEPTANCE; EFFECTIVE DATE**

37. This Franchise, as amended, shall take effect and be in force upon its approval by the City Council and the Franchisee’s compliance with the following within thirty (30) days thereafter:

(a) The franchisee shall file with the City a written acceptance promising to abide by all of the provisions, terms and conditions of this franchise in the form attached as Exhibit B; and

(b) Shall file with the City all payments, certificates of insurance, all fees then due and perform all other requirements relating to the commencement of this franchise.

\*\*\*\*\*

**IT IS FURTHER ORDAINED** that each and every provision of Ordinance No. 13-0408, and of the Exhibits thereto attached, that are not hereby specifically amended shall remain in full force and effect.

**ADOPTED AND APPROVED** this the 22nd day of September, 2014.

**CITY OF BREWTON, ALABAMA**

BY: \_\_\_\_\_  
Yank Lovelace, Mayor

ATTESTED:

BY: \_\_\_\_\_  
John F. P. Angel, CMC, City Clerk

**ACCEPTANCE OF AMENDED FRANCHISE ORDINANCE**

SOUTH ALABAMA GAS DISTRICT (“SAGD”) a corporation formed under the authority of Alabama Code Section 11-50-390 et seq. hereby files its acceptance to the Amendment to Ordinance No. 13-0408, adopted on September 22, 2014, as follows:

Recitals:

1. SAGD and the City of Brewton (“City” or “Brewton”) negotiated a franchise authorizing SAGD to use the rights of way within the City for the purpose of transporting natural gas through the City.
2. The City adopted the Franchise Ordinance subject to SAGD’s written acceptance of the Franchise Ordinance as provided for in the terms thereof.
3. The City has amended the Franchise Ordinance previously adopted.

**NOW, THEREFORE**, pursuant to the terms and requirements of the Franchise Ordinance, as amended, and the City’s approval of SAGD’s franchise, SAGD hereby accepts the Franchise Ordinance as originally adopted and the amendment thereto and represents and warrants to the City as follows:

Acceptance:

1. SAGD agrees to be bound by the Franchise Ordinance as originally adopted and the amendment thereto and to timely and fully perform all of the duties and obligations of the Franchisee thereunder.
2. SAGD represents and warrants that it is able to provide, and agrees to provide to the City all of the goods and services set forth in the Franchise Ordinance and the amendment thereto, including the matters addressed in the Agreement attached thereto as Exhibit C.
4. SAGD acknowledges and agrees that it is, and shall be, subject to the regulatory authority of the City as set forth in the Franchise Ordinance and the amendment thereto, other applicable ordinances of the City and state and federal law, including all such ordinances and laws as may be enacted or amended from time to time hereafter.
5. SAGD agrees to cooperate fully with the City and obtain from City and any governmental agency all licenses, permits, and other authority necessary for lawful construction, operation and maintenance of its System under the Franchise Ordinance and the amendment thereto.

6. SAGD represents and warrants as follows:

a. That it is a corporation duly organized, validly existing, and in good standing under the laws of the State of Alabama and has all right and authority necessary to enter into and fully perform all of the duties and obligations of the Grantee under this written acceptance and the Franchise Ordinance;

b. That it has taken all action necessary to authorize the execution and delivery of this written acceptance and the full performance of all the duties and obligations of the Grantee under the Franchise Ordinance and amendment thereto;

c. That it has the legal, technical, and financial ability to construct, operate and maintain the System pursuant to the terms of the Franchise Ordinance and amendment thereto and the legal, technical, and financial ability to perform all obligations addressed in the Agreement attached thereto as Exhibit C.

7. SAGD agrees that all representations, warranties, and agreements contained herein and in the Franchise Ordinance as originally adopted and as amended shall survive the execution of this written acceptance and shall be binding upon SAGD's permitted successors and assigns.

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF )  
 ) ss.  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public within and for \_\_\_\_\_ County, appeared \_\_\_\_\_, who stated that she/he was the of \_\_\_\_\_, a \_\_\_\_\_ corporation, and that she/he executed the foregoing document as her/his free act and deed on behalf of said corporation.

NOTARY PUBLIC

(S E A L)

My Commission Expires: \_\_\_\_\_

**AGREEMENT**

This Agreement is made between the South Alabama Gas District, an Alabama public corporation ("the District") and the City of Brewton, an Alabama municipal corporation ("Brewton") as follows:

1. Within 60 days of the date of this Agreement, the District shall do all things necessary to remove and relocate its gas lines presently in place at or around D.W. McMillan Memorial Hospital.

2. The District shall, at its expense, repave in their entirety Poplar Avenue and Strandell Street within Brewton, and the District shall perform such work according to the standards and with the material specified and/or approved by the City Engineer.

3. In addition, and for the initial ten (10) years of the term of the franchise granted to the District by Brewton pursuant to Ordinance No. 13-0408 and the amendment thereto, the District agrees to supply and sell to Brewton not less than 1000 MMBTU per day of the excess natural gas of the District. For the purposes of this Agreement, the term "excess natural gas" means:

- (a) that volume of natural gas which is produced from wells within the state of Alabama;
  - (b) which is purchased by the district at the wellhead or at the tailgate of the natural gas processing facility;
- and
- (c) which is not needed by the district to supply the reasonable and ordinary consumption requirements of the District's customers on its distribution system.

4. The District shall, at least 6 days prior to the beginning of each calendar month, make a nomination to Brewton of the amount of such excess gas which the District reasonably anticipates will be available for sale during the upcoming month. Within 24 hours of such notice, Brewton shall advise the District of the amount of such nominated volume which it agrees to purchase. All such natural gas sold by the District to Brewton shall be priced in accordance with the following formula:

Henry Hub spot gas price less \$0.08, as published in the first issue of each month in Inside FERC Gas Market Report.

5. Brewton agrees to pay to the District on a monthly basis for such volume of gas delivered, plus any applicable state or local taxes.

6. The District shall read the meter on the first of the month, or the last normal working day prior to the first of the month. On or before the 10th day of each calendar month, the District shall render to Brewton a written bill for the preceding month's sales, which shall clearly disclose the manner in which the bill is computed. Brewton Agrees to pay all such bills within 15 days after receipt of such bills.

7. Any bill which is rendered and paid by the parties, and to which no specific objection to accuracy is made in writing within 12 months from the date thereof, shall be deemed final, correct and conclusive as to its accuracy between the parties.

8. The District agrees that all gas that is delivered to Brewton shall be pipeline-quality natural gas. The district shall use due care to furnish gas hereunder at such uniform pressure as Brewton may require, up to but not exceeding 600 pounds p.s.i.a. at the point of delivery.

9. The parties recognize and agree that at times of peak consumption the District may not have excess gas available to meet such daily minimum volume; and the District shall not incur any penalty or charge in such event. Provided, however, that whenever a sufficient volume of excess gas becomes available thereafter, Brewton shall be allowed to purchase such additional excess gas necessary to make up or cover any prior shortage of delivery of excess gas by the District.

10. In no event shall Brewton be required to pay for any natural gas hereunder unless and until such gas is actually taken by Brewton.

11. The parties further recognize and agree that the supply of excess gas to the District by its producers is dependent upon factors not within the control of the District (including but not necessarily limited to natural depletion of Wells, equipment failure, and pipeline failure), and if such gases not made available for purchase by the District the District shall have no obligation to Brewton hereunder for such failure or shortage of delivery.

12. For the purpose of determining the accuracy of any bill or billing computation made under this Agreement, Written shall upon reasonable notice and at reasonable times have access to the District's non-privileged books, records, ledgers, and accounts, and to the facilities of the District related to the supplying of gas to Brewton for the purpose of inspecting same.

SOUTH ALABAMA GAS DISTRICT

CITY OF BREWTON, ALABAMA

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Attest: City Clerk

A motion was made by Councilman Barton and seconded by Councilman Watson to Introduce Ordinance No. 14-0922-1 as recommended. The following vote was recorded.

YEAS: Councilmen Poole, Cotten, Watson, Barton  
NAYS: None

The motion passed by majority.

A motion was made by Councilman Watson and seconded by Councilman Poole for the Immediate Consideration of Ordinance No. 14-0922-1 as recommended. The following vote was recorded.

YEAS: Councilmen Poole, Cotten, Watson, Barton, Mayor Lovelace  
NAYS: None

The motion passed unanimously.

A motion was made by Councilman Barton and seconded by Councilman Cotten to Approve Ordinance No. 14-0922-1 as recommended. The following vote was recorded.

YEAS: Councilmen Poole, Cotten, Watson, Barton  
NAYS: None

The motion passed by majority.

Mayor Lovelace then stated that Madeleine Hildreth had resigned her position on the Tree & Beautification Board when she retired; the Mayor appointed Kelly Billingsley to fulfill Ms. Hildreth's term (11/13/2015). This is a Mayoral appointment.

Mayor Lovelace continued that the second Regular Meeting in November falls on the Monday of Thanksgiving week; the Mayor recommended that the meeting be moved back one (1) week and presented the following.

**RESOLUTION NO. 14-0922-1**

**A ONE TIME DATE CHANGE FOR A REGULAR COUNCIL MEETING**

**WHEREAS**, a recommendation has been made to change the meeting time for a Regular Meeting of the City Council, lawfully being held on the 2nd and 4th Mondays of each month.

**THEREFORE, BE IT RESOLVED** by the City Council of the City of Brewton, Alabama, that the Regular Meeting scheduled for Monday, November 24, 2014 at 4:30 P.M. is hereby rescheduled on the Monday a week prior, that being Monday, November 17, 2014 at 4:30 P.M.

**ADOPTED AND APPROVED** this the 22nd day of September, 2014.

\_\_\_\_\_  
Yank Lovelace, Mayor

ATTEST:

\_\_\_\_\_  
John F. P. Angel, CMC, City Clerk

A motion was made by Councilman Watson and seconded by Councilman Barton to approve Resolution No. 14-0922-1 as recommended. Passed Una.

There were no Announcements.

There were three (3) Comments, the first being from Clay Lisenby on behalf of the Greater Brewton Area Chamber of Commerce. Mr. Lisenby requested the use of O'Bannon Park for a rodeo they will be sponsoring from November 5 – 9, 2014. Scott Pate, Recreation Department, has been consulted to make sure there is no conflict of activity at O'Bannon; there would be no impact or damage to the property. It was also requested that small banners and signs be put up several weeks before the event for promotion.

Mayor Lovelace stated he also spoke with Scott Pate and agrees that there would be no impact to the property, in fact, a rodeo would be a crowd pleaser. Councilman Watson asked about the time frame; the actual performances would be Friday, November 7 and Saturday, November 8, 2014, from 8:00 PM to 10:00 PM.

A motion was made by Councilman Cotten and seconded by Councilman Barton to approve the use of O'Bannon Park for a rodeo, and the concept for the rodeo, as presented. Councilman Barton asked if the cleanup after the event was scheduled; the answer was 'yes'. As there was no further discussion on the motion, the vote was taken. Passed Una.

Chris Fields then took the floor on behalf of Low Country Adventures and asked permission, in conjunction with the Brewton Music Festival, to use a portion of Jennings Park SW of their building on Persimmon Street for the second annual version of the Twin Creek Combine, with one (1) returning band, and additional bands from New York and Louisiana (one (1) each). The expectation is between 300 and 400 attendees; that particular area of the park is sufficient to support that number. A small, homemade wooden stage would also be set up at that location. The event would be scheduled for October 25, 2014, from 6:00 PM to 10:00 PM.

A motion was made by Councilman Barton and seconded by Councilman Cotten to approve the use of a parcel SW of Low Country Adventures in Jennings Park for the Twin Creek Combine, and the concept for the Twin Creek Combine, as presented. Passed Una.

Leza Nelson then took the floor to give the Council an update as to her meeting with the School Board; her main point was that she sent Lynn Smith, Superintendent of Schools, a letter requesting the original founding legislation for the Brewton City Board of Education (Brewton City Schools), as well as any amendments, revisions or corrections. Further, a copy of all policies and procedures for the Brewton City School Board (Brewton City Schools) was also requested and a list of all those affected (teachers, employees, volunteers, students, etc). A copy of this letter was presented to the Council.

There being neither any further comments from the floor nor any further business to come before the Council, the meeting was then adjourned.

ADOPTED

SEPTEMBER 22, 2014

APPROVED

SEPTEMBER 22, 2014

---

Stephen R. Yuhasz, City Clerk In Training

---

Yancey E. Lovelace, Mayor