



COUNCIL AGENDA ITEM MEMORANDUM

12/11/07
Item #1
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance authorizing the voluntary annexation of three tracts of land in the vicinity of Witter Lane and Forrester Road, known as the Witter Lane Voluntary Annexation:

- (A) Central Texas Christian School tract—approximately 39.2 acres
- (B) H. A. Johnson tract—approximately 22.3 acres
- (C) VB Connected, LTD. tract—approximately 44.5 acres

STAFF RECOMMENDATION: Conduct public hearing, adopt ordinance on first reading and schedule second reading and final adoption for December 12, 2007.

ITEM SUMMARY: Central Texas Christian School filed a petition on October 24, 2007, seeking voluntary annexation of approximately 39.2 acres into the City of Temple. On October 26, 2007, VB Connected, LTD filed a petition seeking voluntary annexation of 44.5 acres, and H. A. Johnson filed a petition seeking voluntary annexation of 22.3 acres. These petitions meet the statutory requirements for voluntary annexation and were granted by the City Council on November 1, 2007.

Public hearings were conducted on November 15 (regular meeting) and November 19th (special meeting). No comments were made at either hearing.

FISCAL IMPACT: Future tax revenue.

ATTACHMENTS:

[Service Plan](#)
[Map](#)
[Ordinance](#)

**CITY OF TEMPLE
ANNEXATION SERVICE PLAN
LAND OWNER INITIATED**

For approximately 256± acres situated in the County of Bell, Texas, located south of FM 93 HWY, and east of Witter Lane, and abutting the city limits, and being more particularly described an Exhibit "A" and depicted as Tract 1 on Exhibit "B" of the Annexation Ordinance.

SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

The City of Temple, Texas will provide protection to the newly annexed tract at the same or similar of service now being provided to other areas of the City of Temple, Texas, with similar topography, land use and population within the newly annexed area.

2. FIRE PROTECTION AND AMBULANCE SERVICE

The City of Temple, Texas will provide fire protection from Station 7 to the newly annexed tract at the same or similar level of service now being provided to other areas of the City of Temple, Texas, with similar topography, land use and population with the City. The City of Temple, Texas will provide ambulance service from Scott & White Hospital System.

3. SOLID WASTE COLLECTION

Upon payment of any required deposits and the agreement to pay lawful service fees and charges, solid waste collection will be provided to citizens in the newly annexed area to the extent that the City's contractor has access to the area to be serviced.

4. MAINTENANCE OF WATER AND WASTE WATER FACILITIES

Any and all water or waste water facilities owned or maintained by the City of Temple, Texas, at the time of the proposed annexation shall continue to be maintained by the City of Temple, Texas. Any and all water or waste water facilities which may be acquired subsequent to the annexation of the proposed area shall be maintained by the City of Temple, Texas, to the extent of its ownership. Any and all water or waste water facilities outside the extent of the ownership of the City of Temple, Texas, and owned by other water or waste water providers shall continue to be allowed to provide those services to the newly annexed tract.

5. MAINTENANCE OF ROADS AND STREETS

Any and all public roads, streets or alleyways which have been dedicated to the City of Temple, Texas, or which are owned by the City of Temple, Texas, shall be maintained to the same degree and extent that other roads, streets and alleyways are maintained in areas with similar topography, land use and population density. Any and all lighting of roads, streets and alleyways which may be positioned in a right-of-way, roadway or utility company easement shall be maintained by the applicable utility company servicing the City of Temple, Texas, pursuant to the rules, regulations and fees of such utility.

6. MAINTENANCE OF PARKS, PLAYGROUNDS AND SWIMMING POOLS

The City Council of the City of Temple, Texas, is not aware of the existence of any parks, playgrounds or swimming pools now located in the area proposed for annexation. In the event any such parks, playgrounds or swimming pools do exist and are public facilities, the City of Temple, Texas, will maintain such areas to the same extent and degree that it maintains parks, playgrounds and swimming pools and other similar areas of the City now incorporated in the City of Temple, Texas.

7. MAINTENANCE OF MUNICIPALLY OWNED FACILITY, BUILDING OR MUNICIPAL SERVICE

The City Council of the City of Temple, Texas, is not aware of the existence of any municipally owned facility, building or other municipal service now located in the area proposed for annexation. In the event any such municipally owned facility, building or municipal service does exist and are public facilities, the City of Temple, Texas, will maintain such areas to the same extent and degree that it maintains publicly owned facilities, buildings or municipal services of the City now incorporated in the City of Temple, Texas.

8. CONSTRUCTION SAFETY

The City of Temple, Texas will provide building inspection services upon approved building permits from the City of Temple to the newly annexed tract at the same or similar level of service now being provided to other areas of the City of Temple, Texas, with similar topography, land use and population with the City.

9. CODE ENFORCEMENT

The City of Temple, Texas will provide code enforcement services to the newly annexed tract at the same or similar level of service now being provided to other areas of the City of Temple, Texas, with similar topography, land use and population with the City.

CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

The City Council of the City of Temple, Texas finds and determines it to be unnecessary to acquire or construct any capital improvements for the purposes of providing police protection, fire protection, or emergency medical services. The City Council finds and determines that it has at the present time adequate facilities to provide the same type, kind and level of protection and service which is presently being administered to other areas already incorporated in the City of Temple, Texas, with the same or similar topography, land use and population density, without reducing by more than a negligible amount the level of fire, police and emergency services provided within the corporate limits of the City.

2. ROADS AND STREETS

The City of Temple, Texas will undertake to provide the same degree of road and street lighting as is provided in areas of similar topography, land use and population density

within the present corporate limits of the City of Temple, Texas. Maintenance of properly dedicated roads and streets will be consistent with the maintenance provided by the City to other roads and streets in areas of similar topography, land use and sub development of the annexed property. Developers will be required, pursuant to the ordinances of the City of Temple, Texas, to provide internal and peripheral streets and to construct those streets in accordance with the specifications required by the City of Temple, Texas, for the properly dedicated street. City participation in capital expenditures will be in accordance with city policies.

3. WATER AND WASTEWATER FACILITIES

When water and waste water services are installed, they will be available for point of service extension in accordance with the city's utility policies and ordinances.

4. CAPITAL IMPROVEMENTS

Notwithstanding any other provision of this service plan, a landowner within the newly annexed area will not be required to fund capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 of the Local Government Code, unless otherwise agreed to by the landowner.

SPECIFIC FINDINGS

The City Council of the City of Temple, Texas finds and determines that this proposed Service Plan will not provide any fewer services, and it will not provide a lower level of service in the area proposed to be annexed than were in existence in the proposed area at the time immediately preceding the annexation process.

Because of the differing characteristics of topography, land utilization and population density, the service levels which may ultimately be provided in the newly annexed area may differ somewhat from services provided in other areas of the City of Temple, Texas. These differences are specifically dictated because of differing characteristics of the property and the City of Temple, Texas will undertake to perform consistent with this contract so as to provide the newly annexed area with the same type, kind and quality of service presently enjoyed by the citizens of the City of Temple, Texas who reside in areas of similar topography, land utilization and population.

APPROVED ON THIS _____ DAY OF _____, 2007.

City of _____, Texas

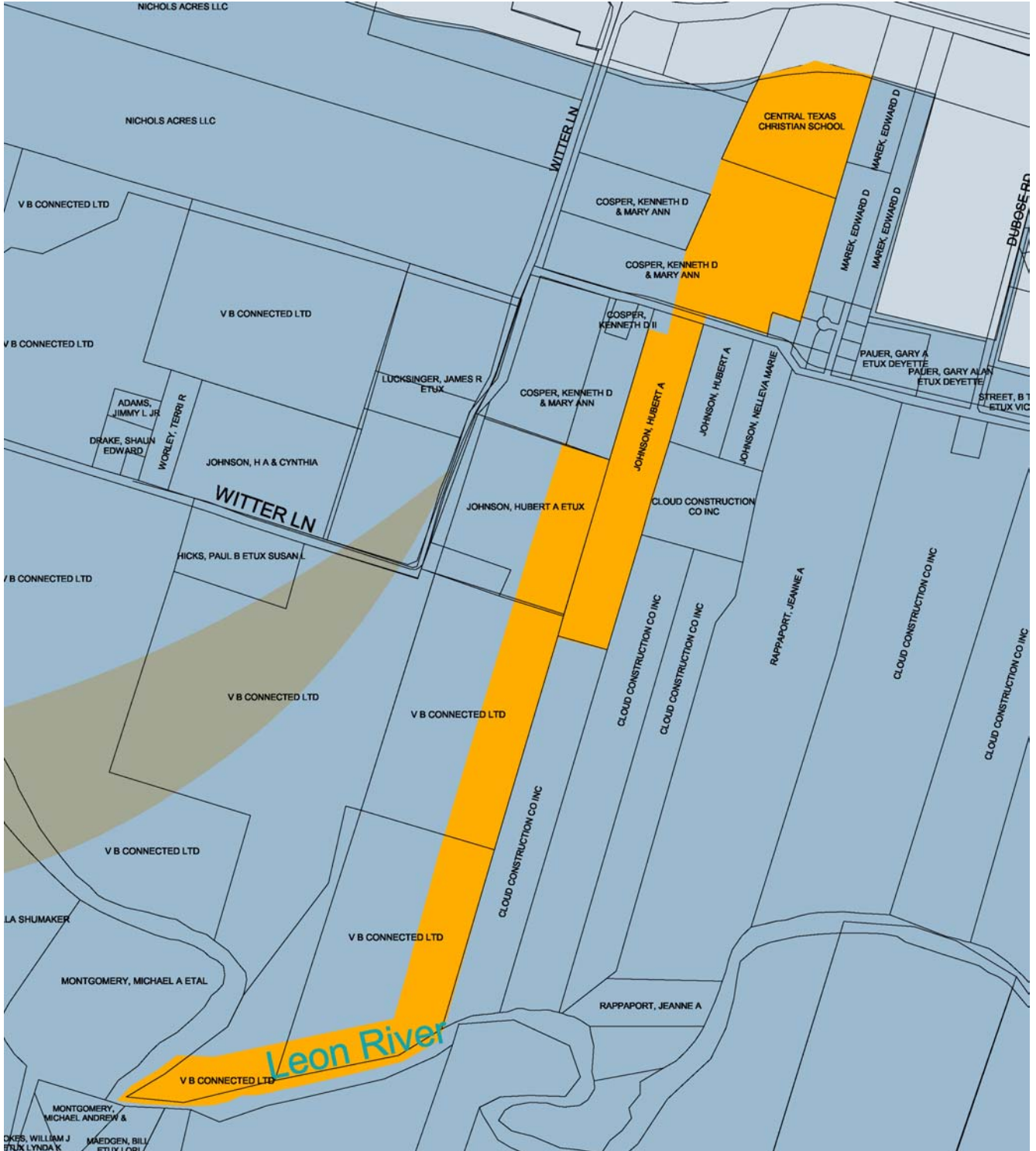
Mayor

ATTEST:

City Secretary



Witter Lane Voluntary Annexation



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ANNEXING ADJACENT AND CONTIGUOUS TERRITORY CONSISTING OF THREE TRACTS OF LAND IN THE VICINITY OF WITTER LANE AND FORRESTER ROAD TO THE CITY OF TEMPLE AND APPROVING A SERVICE PLAN FOR THOSE AREAS PROPOSED TO BE ANNEXED; FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; PROVIDING THAT SUCH AREA SHALL BECOME A PART OF THE CITY AND THAT THE OWNERS AND INHABITANTS THEREOF, IF ANY, SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BE BOUND BY THE ACTS AND ORDINANCES NOW IN EFFECT AND TO BE HEREAFTER ADOPTED; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple is a home-rule city authorized by State law and the City Charter to annex territory lying adjacent and contiguous to the City;

Whereas, two separate public hearings were conducted prior to consideration of this ordinance in accordance with Chapter 43 of the Texas Local Government Code;

Whereas, the hearings were conducted and held not more than forty nor less than twenty days prior to the institution of annexation proceedings;

Whereas, notice of the public hearings was published in a newspaper of general circulation in the City and the territory proposed to be annexed not more than twenty nor less than ten days prior to the public hearings;

Whereas, the property to be annexed is contiguous with and adjacent to the City and not within the boundaries of any other city;

Whereas, there are no dwelling units within the area to be annexed, and no inhabitants; and

Whereas, the City is able to provide all services to the property to be annexed according to the service plan attached hereto.

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

Part 1: All of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Part 2: The property consisting of 39.2 acres (Central Texas Christian School tract), 22.3 acres (H.A. Johnson tract), and 44.5 acres (VB Connected, LTD. tract),

described in Exhibit "A," attached hereto and incorporated herein for all purposes (hereinafter referred to as the "Property"), is hereby annexed and brought within the corporate limits of the City of Temple, Bell County, Texas, and is made an integral part thereof, in accordance with the request in the *Petitions for Annexation* accepted by the City of Temple, Texas, attached hereto and made a part hereof for all purposes as Exhibit "B."

Part 3: The service plan submitted in accordance with Chapter 43 of the Texas Local Government Code is hereby approved as part of this ordinance, made a part hereof and attached hereto as Exhibit "C."

Part 4: The owners and inhabitants of the Property herein annexed shall be entitled to all of the rights and privileges of other citizens and property owners of said City and are hereby bound by all acts, ordinances, and all other legal action now in full force and effect and all those which may be hereafter adopted.

Part 5: The official map and boundaries of the City of Temple, heretofore adopted and amended be and hereby amended so as to include the annexed Property as part of the City of Temple.

Part 6: The annexed Property shall, in compliance with the Zoning Ordinance of the City of Temple, be zoned as "A," *Agricultural District* until permanent zoning is established by the City Council.

Part 7: The annexed Property shall be included in, and become a part of, the City of Temple City Council Election District Number 3.

Part 8: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 9: If the taking of any territory annexed by this ordinance is declared by a court of competent jurisdiction to be invalid and/or illegal, it shall not affect the balance of the property annexed and attempted to be annexed, and that property shall remain as part of the City of Temple, Texas. It is the intent of this ordinance that any territory that is not lawful for the City to incorporate be excluded from this annexation and that such exclusion be documented by having a qualified surveyor correct the property description of the annexed area to conform to the Council's intention and to insure that the boundary description closes.

Part 10: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 11: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **11th** day of **December, 2007**.

PASSED AND APPROVED on Second and Final Reading on the **12th** day of **December, 2007**.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney