



**MEETING OF THE  
TEMPLE CITY COUNCIL**

**MUNICIPAL BUILDING  
2 NORTH MAIN STREET  
TEMPLE, TX**

**THURSDAY, DECEMBER 4, 2008**

**3:30 P.M.**

**3<sup>RD</sup> FLOOR CONFERENCE ROOM**

**WORKSHOP AGENDA**

1. Executive Session: Chapter 551, Government Code, §§551.072 – Real Property – The City Council will enter into executive session to discuss the purchase, exchange, lease or value of real property relating to the South Temple Water System Improvement project and the Temple Parks system, the public discussion of which would have a detrimental effect on negotiations with a third party. No final action will be taken.
2. Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the Municipal Court Judge. No final action will be taken.
3. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, December 4, 2008 as follows:

**5:00 P.M.**  
**CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR**

**TEMPLE CITY COUNCIL**  
**REGULAR MEETING AGENDA**

**I. CALL TO ORDER**

1. Invocation
2. Pledge of Allegiance

**II. PUBLIC APPEARANCES**

3. Receive comments from Mr. Travis Brett regarding [drainage issues](#) on his property at 1002 East Shell Avenue.

**III. PUBLIC COMMENTS**

Citizens who desire to address the Council on any matter may sign up to do so prior to this meeting. Public comments will be received during this portion of the meeting. Please limit comments to 3 minutes. No discussion or final action will be taken by the City Council.

**IV. CONSENT AGENDA**

All items listed under this section, Consent Agenda, are considered to be routine by the City Council and may be enacted by one motion. If discussion is desired by the Council, any item may be removed from the Consent Agenda at the request of any Councilmember and will be considered separately.

4. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions for each of the following:

**Minutes:**

- (A) [November 20, 2008 Special Called Meeting and Regular Meeting](#)

**Contracts, Leases & Bids:**

- (B) [2008-5594-R](#): Consider adopting a resolution authorizing the renewal of a Cooperative Working Agreement (CWA) with Bell County for the Bell County Crime Coalition project that is administered by the Bell County Juvenile Probation Department.

- (C) [2008-5595-R](#): Consider adopting a resolution authorizing an interlocal agreement with the City of Beaumont and any other interested public agencies to allow them to utilize our traffic signal equipment and supplies purchase agreement with Naztec, Inc.
- (D) [2008-5596-R](#): Consider adopting a resolution authorizing an interlocal mutual aid agreement for Fire and EMS Services with Fort Hood Fire Department.
- (E) [2008-5597-R](#): Consider adopting a resolution authorizing a construction contract with Noah's Park and Playgrounds, LLC of Edmond, Oklahoma, for the expansion of the existing splashpad in Ferguson Park utilizing the BuyBoard for this purchase in the amount of \$99,687.50.
- (F) [2008-5598-R](#): Consider adopting a resolution authorizing the purchase of a 5.4 acre tract of land at the end of Runway 33 from Carl Grisham to provide a safety buffer zone for the runway extension project at the Draughon-Miller Central Texas Regional Airport in the amount of \$86,400 plus closing costs.
- (G) [2008-5599-R](#): Consider adopting a resolution authorizing the purchase of three 2008 Crimson Custom 1500 GPM Mid-Ship Pumpers from Metro Fire Apparatus Specialists, Inc. of Houston using the Houston-Galveston Area Council Interlocal Cooperative at a cost not to exceed \$1,585,000 and declaring an official intent to reimburse this expenditure made prior to the issuance of tax-exempt obligations for this purchase.

#### **Misc.**

- (H) [2008-5600-R](#): Consider adopting a resolution authorizing acceptance of additional grant funding in the amount of \$4,563,945 for a total grant of \$7,263,945 from the Texas Department of Transportation, Aviation Division, Airport Project Participation Grant Fund, for a 700' runway extension project at the Draughon-Miller Central Texas Regional Airport, with a total City match of \$807,105.
- (I) [2008-5601-R](#): Consider adopting a resolution ordering a local option election for May 9, 2009 for voters to consider whether to allow the Temple Health and Bioscience Economic Development District to impose an ad valorem tax not to exceed 15 cents per \$100 valuation of all taxable property in the District and issue bonds payable in whole or part from the ad valorem tax.
- (J) [2008-5602-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

## **V. REGULAR AGENDA**

### **Resolutions**

- 5. [2008-5603-R](#): Consider adopting a resolution authorizing a construction contract with Workman Commercial Construction of Austin for the construction of an indoor swimming pool in Sammons Community Park in the amount of \$1,553,183.

## **Ordinances**

6. **2008-4266:** THIRD READING – PUBLIC HEARING - Consider adopting an ordinance renewing the franchise agreement with Atmos Energy Corporation.
7. **2008-4271:** SECOND READING – PUBLIC HEARING – Z-FY-08-32-A: Consider adopting an ordinance authorizing an amendment to the *Choices '08*, Comprehensive Plan to reflect Moderate Density Residential uses on 21.5 ± acres situated in the George Givens Survey, Abstract No. 345, with platted land recorded as Bird Creek Valley VI and Bird Creek Valley Phase 4-Plexes Phase III.
8. **2008-4272:** FIRST READING – PUBLIC HEARING - Z-FY-09-03: Consider adopting an ordinance authorizing a zoning change from General Retail District (GR) to Two Family District (2F) on 15.6 ± acres of land situated partly in the R.M. Williamson Survey, Abstract No. 905 and partly in the George Givens Survey, Abstract No. 345, located along the north side of 205 Loop, east of Duke and Turley Drives.
9. **2008-4273:** FIRST READING – PUBLIC HEARING - Z-FY-09-04: Consider adopting an ordinance authorizing a zoning change from Office One District (O-1) to Single Family One District (SF-1) on 25± acres of land on the west side of Kegley Road, south of Wildflower Lane.
10. **2008-4274:** FIRST READING – PUBLIC HEARING - Z-FY-09-05: Consider adopting an ordinance authorizing a zoning change from Multiple Family Two District (MF-2) to Office One District (O-1) on the West 92 Feet of Lot 2, Block, Barnes Addition, located at 601 North Main Street.
11. **2008-4275:** FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending Chapter 7, “Buildings”, of the Code of Ordinances, to add Landscape Irrigation Ordinance as Article VII consistent with ordinance language complying with Texas Commission on Environmental Quality requirements and City of Temple water protection goals.

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***The City Council reserves the right to discuss any items in executive (closed) session whenever permitted by the Texas Open Meetings Act.***

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I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 11:15 AM, on November 26, 2008.

  
Clydette Entzminger  
City Secretary

I certify that this Notice of Meeting Agenda was removed by me from the outside bulletin board in front of the City Municipal Building on \_\_\_\_\_ day of \_\_\_\_\_ 2008. \_\_\_\_\_





## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #3  
Regular Agenda  
Page 1 of 1

**DEPT./DIVISION SUBMISSION & REVIEW:**

David Blackburn, City Manager

**ITEM DESCRIPTION:** Receive comments from Mr. Travis Brett regarding drainage issues on his property.

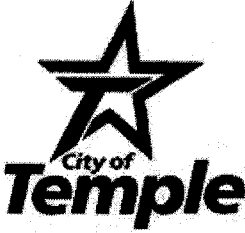
**STAFF RECOMMENDATION:** Receive comments as presented in item description.

**ITEM SUMMARY:** Mr. Travis Brett has filed the attached Request for Placement on the City Council Agenda.

**FISCAL IMPACT:** None

**ATTACHMENTS:**

[Public Appearance Request Form](#)



CITY OF TEMPLE, TEXAS  
CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

\_\_ Priority

NAME OF PRESENTER: Gravis W. Brett

ADDRESS: 1002 EAST SHELL AVE

TELEPHONE NO. 778-0298

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note – The City Council meets the first and third Thursdays of each month.) ~~4-12-08~~

DEC 4, 2008

SUBJECT TO BE PRESENTED: (Your description must identify the subject matter of your appearance in sufficient detail to alert the public what topic you will discuss and what action you are requesting by the Council.) \_\_\_\_\_

DRAINAGE PROBLEMS, CAUSING DAMAGE TO OUR  
PROPERTY BY NOT ENFORCING DRAINAGE RULES

Note: Separate requests must be completed for each subject presented.

I, the above identified presenter, have read the procedures for public appearances before the City Council of the City of Temple, Texas, and will abide by these procedures.

Gravis W. Brett  
SIGNATURE OF PRESENTER

11-25-08  
DATE

RECEIVED

NOV 25 2008

CITY OF TEMPLE, TX  
CITY SECRETARY

For Office Use:

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## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #4(A)  
Consent Agenda  
Page 1 of 1

**DEPT./DIVISION SUBMISSION & REVIEW:**

Clydette Entzminger, City Secretary

**ITEM DESCRIPTION:** Approve Minutes:

(A) November 20, 2008 Special Called Meeting & Regular Meeting

**STAFF RECOMMENDATION:** Approve minutes as presented in item description.

**ITEM SUMMARY:** Copies of minutes are enclosed for Council review.

**FISCAL IMPACT:** N/A

**ATTACHMENTS:**

November 20, 2008 Special Called Meeting & Regular Meeting

## TEMPLE CITY COUNCIL

**NOVEMBER 20, 2008**

The City Council of the City of Temple, Texas Conducted a Special Meeting on Thursday, November 20, 2008 at 3:00pm in the 3rd Floor Conference Room, 2 North Main Street.

**Present:**

Councilmember Marty Janczak  
Mayor Pro Tem Patsy Luna  
Councilmember Russell Schneider  
Mayor William A. Jones, III

**Absent:**

Councilmember Tony Jeter

**1. Discuss solid waste services, to include bulk and brush item services.**

David Blackburn, City Manager, presented information relating to citizen bulk drop-off locations. Two locations currently exist, one at the landfill and one on Jack Baskin Drive behind the Gober Party House. There is the potential to add drop-off locations on the west and south sides of the community and Mr. Blackburn discussed the estimated development costs associated with adding sites. He also presented the results of a survey of surrounding cities relating to bulk drop-off locations. The Texas Commission on Environment Quality classifies these sites as citizen collection stations and requires them to be permitted, as well as regulations for attendants and drainage controls and measures.

Mr. Blackburn recommended that if the Council desires to pursue additional citizen collection sites they be deferred to the next budget process for consideration. If the Council desires to pursue some other course of action, such as special bulk item pick up days, Mr. Blackburn stated he would pursue that direction and return with proposals.

Mayor Jones stated he hears from numerous people in the City regarding recycling. He felt manning any additional collection sites would be necessary if this is pursued.

Mayor Pro Tem Luna stated she felt two drop-off locations were adequate for a City our size.

Councilmember Janczak stated curbside recycling is still too expensive to pursue. He did not support transfer stations and agreed the two existing collection sites were adequate.

Councilmember Schneider agreed with keeping the existing collection sites.

**2. Discuss fourth quarter financial results for fiscal year ended September 30, 2008 and the City's Capital Improvement Program.**

Traci Barnard, Director of Finance, presented the fourth quarter financial reports to the Council. She began with a review of the General Fund, including revenue highlights, sales tax regional comparison, expenditures, and fund balance. Regarding the Water and Wastewater Fund, Mrs. Barnard discussed the revenues, monthly water consumption and rainfall, and fund expenses. Summary information was also provided relating to the City's investments and the Capital Improvement Program. Mrs. Barnard displayed photos of several projects underway. She also provided some detailed information about the proposed Municipal Court/Water Business Office facility, noting some of the key elements in the design and showing proposed floor plans.

David Patrick, Kasberg, Patrick & Associates, LP, provided some construction snapshots of current projects in the Reinvestment Zone No. 1. He discussed the time schedules associated with the completion of these projects.

**4. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 20, 2008 as follows:**

Mayor Jones asked that this item be discussed before beginning the executive session in item 3.

Mr. Blackburn read an excerpt from an e-mail he sent to Council earlier in the day regarding regular agenda item 5. He explained the recommendation for amending the new Comprehensive Plan to reflect suburban residential uses in the Bird Creek Valley VI and Bird Creek Valley Phase 4-plexes Phase III.

Regarding item 4(G), Councilmember Janczak asked what was being provided under this contract.

Mrs. Barnard replied the contract with Western Petroleum Company would be for bulk fuel only.

Mrs. Barnard stated with regard to item 4(I), the electricity contract, she would ask Council for the flexibility to extend the contract for a period of up to 36 months if the prices received are in the City's best interest.

Councilmember Schneider asked that item 4(H) be removed from the Consent Agenda as he would abstain from the vote or discussion on that item.

It was also recommended that item 4(P) be removed from the consent agenda to allow discussion of the changes made since the first reading of this item.

**3. Executive Session: Chapter 551, Government Code, §551.074 - Personnel**

**Matter - The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the Director of Finance. No final action will be taken.**

Mayor Jones announced the City Council would enter into executive session at this time, stating no action would be taken following the executive session.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, November 20, 2008 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

**Present:**

Councilmember Marty Janczak  
Mayor Pro Tem Patsy E. Luna  
Councilmember Russell Schneider  
Mayor William A. Jones, III

**Absent:**

Councilmember Tony Jeter

**I. CALL TO ORDER**

**1. Invocation**

Reverend Tom Henderson, Director of Missions for the Bell Baptist Association, voiced the Invocation.

**2. Pledge of Allegiance**

Joe McMann, Director of Saint Vincent DePaul Pantry, led the Pledge of Allegiance.

**II. PROCLAMATIONS & SPECIAL RECOGNITIONS**

**3. Presentation of Proclamations:**

**(A) Food for Families Day November 21, 2008**

Mayor Jones presented this proclamation to Reverend Tom Henderson, Director of Missions for the Bell Baptist Association, and Mr. Joe McMann, Director of the Saint Vincent DePaul Pantry.

**III. PUBLIC COMMENTS**

Christina McNeill, 2701 Valley Forge, addressed the Council. Over the last year there have been a number of street cuts made on Saulsbury and Lexington that need to be

filled with existing paving and repaired. This is hard on car tires and the areas are continuing to sink. She asked that these be taken care of.

#### **IV. CONSENT AGENDA**

- 4. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions for each of the following:**

**(A) November 6, 2008 Special Called Meeting and Regular Meeting**

**(B) Consider adopting resolutions authorizing:**

- 1. 2008-5575-R: A farm lease with Edward Brenek, Jr. for 8.164 acres east of Wilson Park;**
- 2. 2008-5576-R: A farm lease with Edward Brenek, Jr. for 39 acres on Little Flock Road; and**
- 3. 2008-5577-R: A farm lease with Roy Davis for approximately 170 acres at Pegasus Drive and Moores Mill Road.**

**(C) 2008-5578-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, (KPA) of Temple for engineering services required to replace two influent screw pumps at the Doshier Farm Wastewater Treatment Plant (WWTP) in an amount not to exceed \$44,200.**

**(D) 2008-5579-R: Consider adopting a resolution authorizing a professional services agreement with Clark & Fuller, PLLC of Temple for engineering services including design, surveying, and construction administration required for water and wastewater utility relocations associated with the Texas Department of Transportation IH 35 & Loop 363 Highway Improvement Project in an amount not to exceed \$116,287.68.**

**(E) 2008-5580-R: Consider adopting a resolution authorizing Change Order #5 in the deduct amount of \$52,467.50 to the FM 2305 Utilities Relocation Project construction contract with TTG Utilities, LP, for items related to final quantity reconciliations on the project.**

**(F) 2008-5581-R: Consider adopting a resolution authorizing a construction contract with K & S Backhoe, Inc., of Gatesville for the Ottoway and Calvin Drive Waterline Improvement Project In the amount of \$137,498.60.**

**(G) 2008-5582-R: Consider adopting a resolution authorizing a five year contract with Western Petroleum Company of Greensboro, Georgia, to supply aviation bulk fuels and other business support to operate an**

exclusive fuel dealership at the Draughon-Miller Central Texas Regional Airport.

(H) 2008-5583-R: Consider adopting a guaranteed maximum price construction contract with Vanguard Contractors, LP of Temple for construction of and renovations to the new Municipal Court/Utility Business Office Facility in the amount of \$1,999,557.

(I) 2008-5584-R: Consider adopting a resolution authorizing the City Manager or the Director of Finance to act on behalf of the City to review pricing offers submitted for the supply of electricity using the World Energy Solutions, Inc. platform, and if in the best interest of the City, to enter into a contract with the lowest bidder for a period of 3 to 24 months beginning for electrical meter reads after May 31, 2009.

(J) 2008-5585-R: Consider adopting a resolution authorizing a contract with Scott & White Health Plan and establishing rates for substitute Medicare supplement insurance for City of Temple retirees and the City's contribution thereto for calendar year 2009.

(K) 1. 2008-5586-R: Consider adopting a resolution authorizing the acceptance of a 100% reimbursement grant with no matching funding from the State of Texas Homeland Security Program for the grant year of 2008 in the amount of \$63,399.00 to be used for the purchase of Haz-Mat equipment.

2. 2008-5587-R: Consider adopting a resolution authorizing the purchase of a 2009 Ford F-350 crew cab 4x4 diesel pickup from Philpott Motors using the Houston-Galveston Area Council Interlocal Cooperative at a cost of \$49,650.00.

(L) 2008-4263: SECOND READING - Z-FY-08-37: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to a Planned Development General Retail District (PD-GR) on a 12.2± acre tract of land and a zone change to a Single Family Two District (SF-2) on a 38.5± acre tract of land for a total 50.7± acres on the northeast corner of FM 93 and South 5th Street, out of the Maximo Moreno Survey, Abstract No. 14.

(M) 2008-4267: SECOND READING - Z-FY-08-39: Consider adopting an ordinance authorizing a zoning change from Agricultural (A) District to Commercial (C) District on 1.7 ± acres of Lot 2, Block 4, Green Acres Addition, located at 3411 Dogwood Lane.

(N) 2008-4268: SECOND READING - Z-FY-08-41: Consider adopting an ordinance authorizing a zoning change from General Retail (GR) District to Commercial (C) District on part of Lots 1 and 2, Block 4, Keaton Addition, located at 919 North General Bruce Drive.



**(O) 2008-4269: SECOND READING - Z-FY-09-01: Consider adopting an ordinance authorizing an amendment to the City of Temple Subdivision Ordinance, Sections 33-91 (blocks) and 33-93 (cul-de-sacs), creating subdivision standards for cul-de-sacs and residential blocks to consider using the average daily trips in lieu of distance requirements, to create subdivision access standards, and to relocate these requirements to the City of Temple Design & Development Standards Manual.**

**(P) 2008-4270: SECOND READING - Z-FY-09-02: Consider adopting an ordinance authorizing an amendment to City of Temple Zoning Ordinance Section 7-632 (Major Vehicle Repair), Section 21 (Definitions) and Section 13-102 (Screening Walls/Fences, Screened Refuse Areas, Display for Sale, and Open Storage outside a Building).**

**(Q) 2008-4265: SECOND READING - Consider adopting an ordinance abandoning portions of East Barton Avenue and North Second Street rights-of-way for First United Methodist Church and retaining utility easements in a portion of the abandoned rights-of-way.**

**(R) 2008-4266: SECOND READING - Consider adopting an ordinance renewing the franchise agreement with Atmos Energy Corporation.**

**(S) 2008-5588-R: P-FY-08-72: Consider adopting a resolution approving the Preliminary Plat of Downs First Addition, Phase II, 12 residential lots on 3.5± acres, located south of Downs Avenue, between Calhoun and Barton Avenues with developer requested exceptions to Subdivision Ordinance Sec. 33-93(e)(1), Curve Radius and Sec. 33-93(h), Cul-de-Sac Length.**

**(T) 2008-5589-R: P-FY-09-02: Consider adopting a resolution approving the Final Plat of Havemann Estates, 2 single-family lots on 1.41± acres, located on the south side of FM 93, on the east side of Hartrick Bluff Road in Temple Southeastern ETJ with developer requested exceptions to Subdivision Ordinance Sec. 33-93(p), Perimeter Street Fees and Sec. 33-102(d) Park Fees.**

**(U) 2008-5590-R: P-FY-09-03: Consider a resolution approving the Preliminary Plat of The Ranch at Woodland Trails, 42 single-family lots on 24.01± acres, located south of FM 2305 and West of Northcliffe Subdivision in Temple's Western ETJ with developer requested exceptions to Subdivision Ordinance Sec. 33-93(h), Cul-de-Sac Length and Sec. 33-102(d), Park Fees.**

**(V) 2008-5591-R: Consider adopting a resolution authorizing acquisition of 11 parcels of land and 2 utility easements adjacent to Old Waco Road, for**

**the Outer Loop Phase III project, from approximately 950 feet south of Jupiter Drive to FM 2305; describing the tracts to be acquired; determining that such acquisitions are necessary for public road, drainage and utility purposes, and authorizing exercise of eminent domain if such becomes necessary.**

**(W) 2008-5592-R: Consider adopting a resolution approving fourth quarter financial results for the fiscal year ended September 30, 2008.**

**(X) 2008-5593-R: Consider adopting a resolution authorizing the carry forward of FY 2007-2008 funds to the FY 2008-2009 budget.**

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution approving the Consent Agenda, with exception of items 4 (H), (I) and (P), seconded by Councilmember Russell Schneider.

Motion passed unanimously.

**(H) 2008-5583-R: Consider adopting a guaranteed maximum price construction contract with Vanguard Contractors, LP of Temple for construction of and renovations to the new Municipal Court/Utility Business Office Facility in the amount of \$1,999,557.**

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution, seconded by Councilmember Marty Janczak.

Councilmember Russell Schneider abstained. The other Councilmembers voted aye. The motion passed.

**(I) 2008-5584-R: Consider adopting a resolution authorizing the City Manager or the Director of Finance to act on behalf of the City to review pricing offers submitted for the supply of electricity using the World Energy Solutions, Inc. platform, and if in the best interest of the City, to enter into a contract with the lowest bidder for a period of 3 to 24 months beginning for electrical meter reads after May 31, 2009.**

Traci Barnard, Director of Finance, stated staff is requesting the time period be extended from 3 to 36 months, as discussed in the work session. If the market conditions are favorable, staff would like the flexibility to enter into a contract up to 36 months.

Motion by Councilmember Marty Janczak to adopt resolution with recommended change, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

**(P) 2008-4270: SECOND READING - Z-FY-09-02: Consider adopting an ordinance authorizing an amendment to City of Temple Zoning Ordinance Section 7-632 (Major Vehicle Repair), Section 21 (Definitions) and Section 13-102 (Screening Walls/Fences, Screened Refuse Areas, Display for Sale, and Open Storage outside a Building).**

Tim Dolan, Planning Director, stated Council asked that several items be amended for second reading of this ordinance, as a result of meetings with various stakeholders. Mr. Dolan reviewed the six items being recommended for change which relate to sight visibility, location of refuse containers in commercial areas, the addition of criteria for dumpster pads and aprons to the Design Standards Manual, and the addition of auto rental leasing and outdoor patio furniture for outdoor sales. Most of the discussion at the first reading of this ordinance related to the open storage of commodities outside of a building. Mr. Dolan read the language that staff is recommending, which would permit the open storage in NS, GR, O-1, O-2 and CA where the storage area is situated behind the principle building in the rear area and is screened from public view by a solid wooden or masonry fence at least one foot higher than the stored material. Staff recommended the changes to this ordinance as presented.

Although not posted for a public hearing, Mayor Jones asked if there was anyone present who wished to comment on the proposed changes.

There being no comments, Mayor Jones closed the public hearing.

Motion by Councilmember Russell Schneider to adopt ordinance on second and final reading, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

## **V. REGULAR AGENDA**

- 5. 2008-4271: FIRST READING - FY-08-32-A: Consider adopting an ordinance authorizing an amendment to the Choices '08, Comprehensive Plan to reflect Moderate Density Residential uses on 21.5 ± acres situated in the George Givens Survey, Abstract No. 345, with platted land recorded as Bird Creek Valley VI and Bird Creek Valley Phase 4-Plexes Phase III.**

Tim Dolan, Planning Director, presented this item to the Council. He displayed an aerial photo of this property, as well as surrounding properties. The staff is seeking Council approval to amend the new Comprehensive Plan, Choices '08, to reflect suburban residential uses for this property which would allow only single family uses. Suburban residential is for mid-size single family lots and allows greater separation between dwellings and more emphasis on green

spaces. The current zoning for this area includes Commercial, General Retail and Multiple Family 2 although the land use chart remains unchanged. Mr. Dolan explained the need to update the land use charts to eliminate residential uses from those zoning districts but emphasized that the Comprehensive Plan is not zoning. The staff recommendation is to amend the Comprehensive Plan to reflect suburban residential uses on the 21.5 acre tract as proposed.

Motion by Councilmember Marty Janczak adopt ordinance, with second reading and public hearing set for December 4, 2008, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

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William A. Jones, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #4(B)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Gary O. Smith, Chief of Police

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the renewal of a Cooperative Working Agreement (CWA) with Bell County for the Bell County Crime Coalition project that is administered by the Bell County Juvenile Probation Department.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** This agreement will allow Temple Police Officers assigned to investigate juvenile crimes to work with Bell County Juvenile Probation Officers in making home visits of children on court ordered probation within the City of Temple. This program has been in place for a number of years. The program provides reimbursement for the overtime pay incurred by officers performing home visits after normal business hours.

The goal of this program is to team Juvenile Police Officers with Juvenile Probation Officers to monitor and reduce technical violations of court imposed sanctions through home visits, curfew checks, and drug screening for juveniles on court ordered probation.

The term of this contract will commence on August 1, 2008 and will end on July 31, 2009.

**FISCAL IMPACT:** This program is funded through the Federal Juvenile Accountability Block Program, JB 98 JOC 13623. Bell County will receive \$12,865.55 in grant funds and will provide a cash match of \$1,429.51. There is no requirement upon the City of Temple to provide any funding to this program. All expenditures with regard to the payment of Temple Police Officers will be reimbursed by Bell County. Should the grant funds be exhausted prior to the end date of the agreement, Bell County agrees to continue full reimbursement for the personnel costs incurred by the City of Temple.

### **ATTACHMENTS:**

[Resolution](#)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE RENEWAL OF A COOPERATIVE WORKING AGREEMENT BETWEEN THE CITY OF TEMPLE AND BELL COUNTY FOR THE BELL COUNTY CRIME COALITION PROJECT THAT IS ADMINISTERED BY THE BELL COUNTY JUVENILE PROBATION DEPARTMENT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** the Bell County Crime Coalition project is administered by the Bell County Juvenile Probation Department – the goal of the program is to team juvenile police officers with juvenile probation officers to monitor and reduce technical violations of court imposed sanctions through home visits, curfew checks, and drug screening for juveniles on court ordered probation;

**Whereas,** the City is required to enter into a cooperative working agreement with Bell County to participate in this program;

**Whereas,** the City will not be required to provide any funding for the program, and all expenditures with regard to the payment of Temple police officers will be reimbursed by Bell County; and

**Whereas,** the City Council has considered the matter and deems it in the public interest to authorize this action.

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

**Part 1:** The City Manager, or his designee, is authorized to execute a Cooperative Working Agreement between the City of Temple, Texas, and Bell County, after approval as to form by the City Attorney, for the Bell County Crime Coalition project.

**Part 2:** It is hereby officially found and determined that the meeting at which this Resolution 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 this the 4<sup>th</sup> day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #4(C)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing an interlocal agreement with the City of Beaumont and any other interested public agencies to allow them to utilize our traffic signal equipment and supplies purchase agreement with Naztec, Inc.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** Council authorized an annual purchase agreement with Naztec, Inc on September 18, 2008. The City of Beaumont wishes to piggyback onto this annual purchase agreement, and Naztec, Inc has agreed to extend these contracted prices to the City of Beaumont as well as any other Municipality that may be interested in using the agreement.

The ability to do this is made possible through the use of an interlocal agreement. The use of the interlocal agreement for these purchases facilitates a cooperative attitude among public agencies. We can help other entities and also receive the benefit of such reciprocities when available.

Staff recommends Council authorize the interlocal agreement in order to facilitate purchases of traffic signal equipment and supplies for the City of Beaumont and other entities that are interested as well. The City of Beaumont and any other interested entities would be responsible for the ordering and payment of their supplies directly to Naztec, Inc.

**FISCAL IMPACT:** The execution of any related interlocal agreements related to allowing the purchase of traffic signal equipment and supplies by other public agencies will not have any direct financial impact on the City of Temple.

### **ATTACHMENTS:**

[Resolution](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE CITY OF BEAUMONT AND ANY OTHER INTERESTED PUBLIC AGENCIES TO ALLOW THEM TO UTILIZE THE CITY'S TRAFFIC SIGNAL EQUIPMENT AND SUPPLIES PURCHASE AGREEMENT WITH NAZTEC, INC.; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on September 18, 2008, the City Council authorized an annual purchase agreement with Naztec, Inc., for traffic signal equipment and supplies, and the City of Beaumont has requested approval to utilize the agreement;

**Whereas**, the use of the interlocal agreement for these purchases facilitates a cooperative attitude among the municipalities and allows the City of Temple to help other entities and also to receive the benefit of such reciprocities when available;

**Whereas**, the City of Beaumont and any other interested public agencies will be responsible for the ordering and payment of their traffic signal equipment and supplies; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute an interlocal agreement between the City of Temple, Texas, and the City of Beaumont and any other interested public agencies, after approval as to form by the City Attorney, to allow them to utilize the City of Temple's traffic signal equipment and supplies purchase agreement with Naztec, Inc.

**Part 2:** It is hereby officially found and determined that the meeting at which this Resolution 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 this the 4<sup>th</sup> day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #4(D)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Lonzo Wallace, Jr., Fire Chief

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing an interlocal mutual aid agreement for Fire and EMS Services with Fort Hood Fire Department.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description

**ITEM SUMMARY:** Temple Fire and Rescue desires to enter into a formal mutual aid agreement with the Fort Hood Fire Department. The laws now specify that written agreements be in place to outline responsibilities and liabilities of all parties. Each party agrees to provide assistance for fire suppression services, Hazmat, and/or emergency medical services in the event of an emergency outside of their respective jurisdictional limits. Each party's Fire Chief or their designee shall be the sole judge of the type and amount of equipment and manpower dispatched in response to a request for assistance. The service to each party's own area of responsibility shall always remain the primary function of that party's department.

Any civil liability related to furnishing of services is the responsibility of the requesting party. The requesting party agrees to indemnify and hold the responding party harmless for any damages or injuries to persons or property.

Requesting parties agrees to reimburse the other party for medical supplies, chemical agents or any other supplies used by the responding party.

This agreement shall terminate December 31, 2009 provided that it shall automatically be renewed for a one year period unless any party hereto shall give all of the other parties written notice on or before ninety (90) days prior to the renewal date.

This Agreement will replace any previous Fire and EMS Services Mutual Aid Agreements currently in place.

**FISCAL IMPACT:** None

### **ATTACHMENTS:**

[Resolution](#)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,  
AUTHORIZING A MUTUAL AID AGREEMENT WITH FORT HOOD FIRE  
DEPARTMENT FOR FIRE AND EMS SERVICES; AND PROVIDING AN OPEN  
MEETINGS CLAUSE.

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**Whereas**, the Fire Department desires to enter into a formal mutual aid agreement for fire and EMS services with the Fort Hood Fire Department;

**Whereas**, State law specifies that written agreements be in place to outline responsibilities and liabilities of all entities – each entity agrees to provide assistance for fire suppression services and/or emergency medical services in the event of an emergency outside of their respective jurisdictional limits; however, the service to each entity's own area of responsibility will always remain the primary function of that party's department;

**Whereas**, the requesting entity also agrees to reimburse other responding entities for medical supplies, chemical agents, or any other supplies used by the responding department; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a Mutual Aid Agreement with the Fort Hood Fire Department, after approval as to form by the City Attorney, for fire and emergency medical services.

**Part 2:** It is hereby officially found and determined that the meeting at which this Resolution 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 this the 4<sup>th</sup> day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydetta Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #4(E)  
Consent Agenda  
Page 1 of 2

### **DEPT. /DIVISION SUBMISSION & REVIEW:**

Ken Cicora, Director of Parks and Leisure Services

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a construction contract with Noah's Park and Playgrounds, LLC of Edmond, Oklahoma, for the expansion of the existing splashpad in Ferguson Park utilizing the BuyBoard for this purchase in the amount of \$99,687.50.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** On December 14 and 17, 2007 public hearings were held by the Community Development staff for comments to amend the annual CDBG action plan to allow the Parks and Leisure Services Department to expand the splash pad at Ferguson Park instead of constructing a roller hockey court at Wilson park. No comments were received at either hearing.

On January 17, 2008 the City Council authorized amending the 2006-2007 CDBG Annual Action Plan to reallocate \$100,000 from the proposed project in Wilson Park to expanding the splash pad in Ferguson Park.

This splash pad project will add approximately 1,250 square feet (or an approximate 50% increase in size) to the existing splash pad and add 8 additional spray elements. Another aspect of this addition will be to enclose the existing pump room and the new pump room into a more secure building to protect the pumps, filters, sanitizing equipment and computer controllers from the elements, vandalism and theft.

A Request for Qualifications (RFQ) for the design-build of this project was issued in June 2008. However, no responses were received to the RFQ. After approaching various vendors regarding the lack of response, staff concluded that the lack of response was due to the relatively small project size. Accordingly, staff pursued design-build options available through the BuyBoard, and identified Noah's Park and Playgrounds as a qualified vendor for this project.

This will be the first project the Department has done with Noah's Parks and Playgrounds. References on prior projects completed by Noah's Park and Playgrounds were provided and checked. All references were positive.

**FISCAL IMPACT:** This \$99,687.50 project is to be funded through \$100,000 of CDBG Block Grant funds. The funds for this purchase have been identified in account 260-6100-571-65-16. The project number is 100370.

**ATTACHMENTS:**  
[Resolution](#)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS AUTHORIZING A CONSTRUCTION CONTRACT WITH NOAH'S PARK AND PLAYGROUNDS, LLC, OF EDMOND, OKLAHOMA, FOR THE EXPANSION OF THE EXISTING SPLASHPAD IN FERGUSON PARK UTILIZING THE BUYBOARD FOR THIS PURCHASE OF \$99,687.50; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on January 17, 2008, the City Council authorized amending the 2006-2007 CDBG Annual Action plan to provide for the expansion of the existing splashpad in Ferguson Park;

**Whereas**, this splash pad project will add approximately 1,250 square feet (or an approximate 50% increase in size) to the existing splash pad and add 8 additional spray elements – another aspect of this addition will be to enclose the existing pump room and the new pump room into a more secure building to protect the pumps, filters, sanitizing equipment and computer controllers from the elements, vandalism and theft;

**Whereas**, this project will be funded through CDBG Block Grant funds in Account No. 260-6100-571-6516, project number 100370; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a construction contract, for a cost not to exceed \$99,687.50, between the City of Temple, Texas, and Noah's Park and Playgrounds, LLC, of Edmond, Oklahoma, after approval as to form by the City Attorney, for the expansion of the existing splashpad in Ferguson Park utilizing the Buy Board for this purchase.

**Part 2:** It is hereby officially found and determined that the meeting at which this Resolution 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 this the 4<sup>th</sup> day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #4(F)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Sharon Rostovich, Airport Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the purchase of a 5.4 acre tract of land at the end of Runway 33 from Carl Grisham to provide a safety buffer zone for the runway extension project at the Draughon-Miller Central Texas Regional Airport in the amount of \$86,400 plus closing costs.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** As part of the land acquisition process for the runway extension grant project, the Texas Department of Transportation, Aviation Division, purchased 28.74 acres from Carl Grisham in the amount of \$459,840 for the runway protection zone at the southeast end of Runway 33. The remainder (5.4 acres) of Mr. Grisham's tract was not needed by TxDOT, but the City is interested in acquiring this tract to give us an additional buffer zone—we already own the property north of Mr. Grisham's tract, and with this purchase and the acquisition by TxDOT we will have a buffer zone around the end of our main runway.

While TxDOT is not participating in the acquisition of the 5.4 acre tract, TxDOT arranged and paid for surveying the property in conjunction with their purchase of the adjoining 28.74 acres and arranged for closing.

**FISCAL IMPACT:** A budget adjustment is presented for Council's approval reallocating remaining funds from the 2005 Taxable Revenue Bond funds issued to build the AMCOM hangar in the amount of \$86,400 to account 351-3600-560-6110, project # 100475, for the purchase of the 5.4 acre tract. TxDOT has agreed to pay all closing costs associated with the purchase of the land since this transaction will occur with the purchase of the 28.74 acres needed for the Runway Extension Grant project.

### **ATTACHMENTS:**

[Budget Adjustment  
Resolution](#)

FY **2009****BUDGET ADJUSTMENT FORM**

Use this form to make adjustments to your budget. All adjustments must balance within a Department.

**Adjustments should be rounded to the nearest \$1.**

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
351-3600-560-61-10	100475	Land Acquisition	\$ 86,400			
351-3600-560-63-41	100376	Airport Improvements			74,560	
351-3600-560-65-23	360002	T Hangars			11,840	
<b>TOTAL.....</b>			<b>\$ 86,400</b>		<b>\$ 86,400</b>	

**EXPLANATION OF ADJUSTMENT REQUEST-** Include justification for increases AND reason why funds in decreased account are available.

To reallocate remaining 2005 Taxable Revenue Bond funds issued to build a hangar for AMCOM in November 2005 to fund the purchase of the 5.4 acres of land to provide a safety buffer zone for the runway extension project at the Draughon-Miller Central Texas Regional Airport.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

12/4/2008

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

Disapproved

Finance

Date

☐

Approved

Disapproved

City Manager

Date

☐

Approved

Disapproved



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A 5.4 ACRE TRACT OF LAND AT THE END OF RUNWAY 33 FROM CARL GRISHAM TO PROVIDE A SAFETY BUFFER ZONE FOR THE RUNWAY EXTENSION PROJECT AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT, IN THE AMOUNT OF \$86,400 PLUS CLOSING COSTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** as part of the land acquisition process for the runway extension grant project, the Texas Department of Transportation, Aviation Division, purchased 28.74 acres from Carl Grisham in the amount of \$459,840 for the runway protection zone at the southeast end of Runway 33 – the remainder (5.4 acres) of Mr. Grisham’s tract was not needed by TxDOT, but the City is interested in acquiring this tract as an additional buffer zone;

**Whereas,** while TxDOT is not participating in the acquisition of the 5.4 acre tract, TxDOT arranged and paid for surveying the property in conjunction with their purchase of the adjoining 28.74 acres and arranged for the closing;

**Whereas,** funds are available for the acquisition but an amendment to the FY2008-09 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

**Whereas,** the City Council has considered the matter and deems it in the public interest to authorize this action.

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

**Part 1:** The City Council authorizes the acquisition of a 5.4 acre tract of land at the end of Runway 33 from Carl Grisham, in the amount of \$86,400 plus closing costs, to provide a safety buffer zone for the runway extension project at the Draughon-Miller Central Texas Regional Airport.

**Part 2:** The City Council authorizes the City Manager, or his designee, to execute any documents, after approval by the City Attorney, that may be necessary for this purchase.

**Part 3:** The City Council approves an amendment to the FY2008-2009 budget, substantially in the form of the copy attached as Exhibit A, for this acquisition.

**Part 4:** It is hereby officially found and determined that the meeting at which this Resolution 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 this the **4<sup>th</sup>** day of **December** 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #4(G)  
Consent Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Lonzo Wallace, Fire Chief

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the purchase of three 2008 Crimson Custom 1500 GPM Mid-Ship Pumpers from Metro Fire Apparatus Specialists, Inc. of Houston using the Houston-Galveston Area Council Interlocal Cooperative at a cost not to exceed \$1,585,000 and declaring an official intent to reimburse this expenditure made prior to the issuance of tax-exempt obligations for this purchase.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** On May 10, 2008, the citizens of Temple chose to support Temple Fire & Rescue's bond package in a General Election. The complete bond package was composed of replacing Temple Fire & Rescue's Central Fire Station #1, building a new Fire Station #8 / Training Center / Emergency Operations Center combined facility with an Engine Company #8, and replacing Engine #1 and Engine #4.

The fire engines at Fire Station #1 and #4 are both 1995 model fire engines and are due for replacement based upon the National Fire Protection Association's (NFPA) recommendation guidelines for normal front line engine life expectancy of 10-15 years. The current engines would remain within the fleet as "reserve engines" after replacement. The anticipated delivery date of replacement Engine #1 and Engine #4 would be in December 2009. In order to better coordinate with the approximate final completion time table of Fire Station #8, a 6 month delivery delay will be factored into the production of Engine #8 from Metro Fire which will delay delivery until June 2010.

The Engines will be Crimson Custom Pumpers: Spartan full tilt cabs, stainless steel bodies, 450 HP Cummings motors with 1500 gallon per minute pumps and will be outfitted with equipment upon delivery. Engines #1 and #4 will be equipped with 750 gallon water tanks while Engine #8 will be equipped with a 1,000 gallon water tank in order to provide additional water to the remote sections of west Temple.

Temple Fire & Rescue's Engine #1 is located in the downtown district and is the busiest fire company in the city. Engine #4 is located at 504 Water Dairy Road and provides service coverage to the southern part of Temple. Fire Engine #8 will be located in west Temple and will provide fire and EMS coverage to the western section of Temple including a large section of the newly annexed part of the City.

**FISCAL IMPACT:** This item declares an official intent to reimburse the purchase price of three Crimson Custom Pumpers from the 2009 General Obligation bonds to be issued in the summer of 2009. The General Obligation bond issue was approved by voters on May 10, 2008. Funds for the purchase will be available in the following accounts:

Engine #8, account # 363-2200-522-6852, project # 100408 (budget for Engine #8 includes the purchase of air packs)	\$565,000
Engine #1, account # 363-2200-522-6852, project # 100409	\$540,000
Engine #4, account # 363-2200-522-6852, project # 100410	<u>\$540,000</u>

Total available for the purchase of three fire engines including equipment	<u>\$1,645,000</u>
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- Additional miscellaneous equipment needed to fully equip each engine would be purchased from various vendors.
- Staff is exploring various prepayment options that could result in a budgetary savings in the overall purchase.

**ATTACHMENTS:**

[Resolution](#)

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF 3 2008 CRIMSON CUSTOM 1500 GPM MID-SHIP PUMPERS FROM METRO FIRE APPARATUS SPECIALISTS, INC., FROM HOUSTON, TEXAS, USING THE HOUSTON-GALVESTON AREA COUNCIL INTERLOCAL COOPERATIVE AT A COST NOT TO EXCEED \$1,585,000; DECLARING AN OFFICIAL INTENT TO REIMBURSE THIS EXPENDITURE MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS FOR THIS PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on May 10, 2008, the citizens of Temple chose to support Temple Fire & Rescue's Bond Package in a general election – the package included replacement of fire engines at 2 stations;

**Whereas**, the Staff recommends purchasing 3 2008 Crimson Custom 1500 GPM Mid-Ship Pumpers from Metro Fire Apparatus Specialists, Inc., of Houston, Texas, using the Houston-Galveston Area Council Interlocal Cooperative at a cost not to exceed \$1,585,000;

**Whereas**, funds are available for this purchase in Account Nos. 363-2200-522-6852, Project #100408; 363-2200-522-6852, Project #100409, and 363-2200-522-6852, Project #100410;

**Whereas**, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

**Whereas**, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations;

**Whereas**, the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution;

**Whereas**, upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

**Whereas**, Section 1.150-2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

**Part 1:** The City Council authorizes the purchase of 3 2008 Crimson Custom 1500 GPM Mid-Ship Pumpers from Metro Fire Apparatus Specialists, Inc., of Houston, Texas, using the Houston-Galveston Area Council Interlocal Cooperative at a cost not to exceed \$1,585,000.

**Part 2:** The City Council authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for this purchase.

**Part 3:** The findings, determinations and certifications contained in the preamble hereof are incorporated herein for all purposes.

**Part 4:** This Resolution is a declaration of official intent under Section 1.150.2 of the Treasury Regulations by the City that it reasonably expects to reimburse the expenditures described in Part 4 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after the date of (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

**Part 5:** The following is a general functional description of the Project for which the expenditures to be reimbursed are paid and a statement of the maximum principal amount of debt expected to be issued for the purpose of paying the costs of the Project.

<b><u>Project Description</u></b>	<b><u>Debt To Be Issued</u></b>
Purchase of 3 2008 Crimson Custom 1500 GPM Mid-Ship Pumpers	\$1,585,000

**Part 6:** The expenditures described in Part 5 is a capital expenditure under general Federal income tax principles or a cost of issuance.

**Part 7:** Except for the proceeds of the Obligations, no funds are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the City or by any member of the same controlled group to pay for the expenditures described in Part 4.

**Part 8:** It is hereby officially found and determined that the meeting at which this Resolution 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 this the **4<sup>th</sup>** day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #4(H)  
Consent Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Sharon Rostovich, Airport Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing acceptance of additional grant funding in the amount of \$4,563,945 for a total grant of \$7,263,945 from the Texas Department of Transportation, Aviation Division, Airport Project Participation Grant Fund, for a 700' runway extension project at the Draughon-Miller Central Texas Regional Airport, with a total City match of \$807,105.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** The City requested funding assistance through U.S. Representative Chet Edwards on March 26, 2002 for a runway extension project for the Draughon-Miller Central Texas Regional Airport. The City was notified by the Texas Department of Transportation, Aviation Division, that the City's project request was earmarked for \$2 million dollars, but not funded in the Omnibus Spending Bill. In an effort to get the necessary funding required to accomplish the runway extension, City Leaders and TxDOT officials agreed to postpone the project until the State could program the project into their CIP program.

The runway extension project will increase the primary precision approach runway from 6,301' to 7,000' at an estimated cost of \$8,071,050 (90-10). This project includes the relocation of the navigational aids; extending the taxiway, lighting, and signage to the new runway end; and land acquisition of 28.74 acres for the runway protection zone. In addition, another 5.4 acre tract of land will be purchased from the same land owner at 100% City expense at a cost of \$86,400.

Before TxDOT Aviation will apply for these additional grant funds from the Transportation Commission on December 18, 2008, a Resolution from the City must be forwarded to TxDOT.

**FISCAL IMPACT:** The grant amount approved on September 2, 2004 was \$2,700,000 with a City match of \$300,000 for a total project of \$3,000,000. This item will increase the grant amount to \$7,263,945 with a City match of \$807,105 for a total project of \$8,071,050.

Engineering, survey, and acquisition costs have been previously appropriated at a total of \$1,071,050. Acquisition costs are not final at this time. An agenda item to increase the grant and City match will be presented to Council if the final acquisition costs are more than the current budgeted amount.



A budget adjustment is now submitted for your approval appropriating \$7,000,000 for the construction phase of the project. \$692,895 of the City's share is already designated for this grant. \$7,105 of the City's share is proposed to come from Designated Capital Projects – Unallocated. If the actual construction costs are more than \$7,000,000, an agenda item to increase the grant and City match will be presented to Council at that time. The City's share for the construction phase estimated at \$700,000 will be due January 26, 2009.

**ATTACHMENTS:**

[Budget Adjustment  
Resolution](#)

FY **2009****BUDGET ADJUSTMENT FORM**

Use this form to make adjustments to your budget. All adjustments must balance within a Department.

**Adjustments should be rounded to the nearest \$1.**

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
260-3600-560-65-24	100190	FAA Runway Rehabilitation	\$ 7,000,000	
260-0000-490-25-88		Transfer In - Airport Grant Match	700,000	
260-0000-431-01-63		Federal Grants	6,300,000	
110-9100-591-81-60		Transfer Out - Grant Fund	700,000	
110-0000-352-13-45		Designated Cap Proj-Airport Grant		692,895
110-0000-352-13-45		Designated Cap Proj-Unallocated		7,105
<b>TOTAL.....</b>			<b>\$14,700,000</b>	<b>\$ 700,000</b>

**EXPLANATION OF ADJUSTMENT REQUEST-** Include justification for increases AND reason why funds in decreased account are available.

Appropriate grant funds and City matching funds for construction costs for the Airport Runway Extension Project grant. The grant is administered by the State.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes☐ No

DATE OF COUNCIL MEETING

12/4/2008

WITH AGENDA ITEM?

☒ Yes☐ No

Department Head/Division Director

Date

☐ Approved  
☐ Disapproved

Finance

Date

☐ Approved  
☐ Disapproved

City Manager

Date

☐ Approved  
☐ Disapproved

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING ACCEPTANCE OF ADDITIONAL GRANT FUNDING IN THE AMOUNT OF \$4,563,945 FOR A TOTAL GRANT OF \$7,263,945 FROM THE TEXAS DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION, AIRPORT PROJECT PARTICIPATION GRANT FUND FOR A 700 FOOT RUNWAY EXPANSION PROJECT AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT, WITH A TOTAL CITY MATCH OF \$807,105; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the City requested funding assistance through U.S. Representative Chet Edwards on March 26, 2002, for a runway extension project for the Draughon-Miller Central Texas Regional Airport, and was notified by the Texas Department of Transportation, Aviation Division, that the City's project request was earmarked for \$2 million dollars, but not funded in the Omnibus Spending Bill;

**Whereas**, in an effort to get the necessary funding required to accomplish the runway extension, City leaders and TxDOT officials agreed to postpone the project until the State could program the project into their CIP program;

**Whereas**, the runway extension project will increase the primary precision approach runway from 6,301 feet to 7,000 feet at an estimated cost of \$8,071,050 (90-10) – this project includes the relocation of the navigational aids; extending the taxiway, lighting, and signage to the new runway end; and land acquisition of 28.74 acres for the runway protection zone;

**Whereas**, before TxDOT Aviation will apply for these additional grant funds, they have requested that the City pass a resolution authorizing acceptance of the additional funds;

**Whereas**, the grant amount approved on September 2, 2004, was \$2,700,000 with a City match of \$300,000 for a total project of \$3,000,000. – this additional funding will increase the grant amount to \$7,263,945 with a City match of \$807,105 for a total project of \$8,071,050;

**Whereas**, an amendment to the FY2008-09 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

**Part 1:** The City Council hereby authorizes acceptance of additional grant funding in the amount of \$4,563,945 for a total grant of \$7,263,945 from the Texas Department of Transportation, Aviation Division, Airport Project Participation Grant Fund for a 700 foot runway extension project at the Draughon-Miller Central Texas Regional Airport, with a total City match of \$807,105. Further, the City Council directs the City Manager, or his designee, to execute on behalf of the City of Temple, at the appropriate time, and with the appropriate authorizations of the City of Temple, all contracts and agreements with the Texas Department of Transportation, and such other parties as shall be necessary and appropriate, after approval as to form by the City Attorney, for the implementation of the improvements to the Draughon-Miller Central Texas Regional Airport.

**Part 2:** The City Council approves an amendment to the FY2008-09 budget, substantially in the form of the copy attached as Exhibit A, for this purpose.

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution 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 this the 4<sup>th</sup> day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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Consent Agenda  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

Clydette Entzminger, City Secretary

**ITEM DESCRIPTION:** Consider adopting a resolution ordering a local option election for May 9, 2009 for voters to consider whether to allow the Temple Health and Bioscience Economic Development District to impose an ad valorem tax not to exceed 15 cents per \$100 valuation of all taxable property in the District and issue bonds payable in whole or part from the ad valorem tax.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** The Temple Health and Bioscience Economic Development District (the 'District') was created in November 2003 as the result of a local option election held in the City and authorized by enabling legislation passed during the 78<sup>th</sup> legislative session. The District is governed by Chapter 3831, Subchapter F, Special District Local Laws Code.

In accordance with Section 3831.251 of this statute, an application and petition was requested by the District which would authorize the City of Temple to order a Local Option Election to determine whether the District may be enabled to impose an ad valorem tax not to exceed 15 cents per \$100 valuation of all taxable property in the District and issue bonds payable in whole or part from the ad valorem tax.

The petition was filed with the City Secretary on November 3, 2008 and certified to contain 183 valid signatures of registered voters in the District. Section 3831.254 of the Special District Local Laws Code requires the petition to contain the signatures of a number of registered voters of the City of Temple equal to at least 10 percent of the registered voters of the City who voted in the most recent general election in the City. There were 1447 voters in the last City general election conducted on May 10, 2008, therefore 145 valid signatures were required for the petition to be valid.

Since the petition has been certified as containing 183 valid signatures, the City Council is required to order a Local Option Election to be held to allow voters to determine whether the District is authorized to impose an ad valorem tax and issue bonds as indicated on the petition. This resolution orders the election for the next uniform election date, which is May 9, 2009, and sets forth other procedures relating to the conduct of this election.

**FISCAL IMPACT:** None at this time.

**ATTACHMENTS:**

[Resolution](#)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ORDERING AN ELECTION TO BE HELD WITHIN THE CITY TO DECIDE WHETHER THE TEMPLE HEALTH AND BIOSCIENCE ECONOMIC DEVELOPMENT DISTRICT MAY IMPOSE AN AD VALOREM TAX NOT TO EXCEED 15 CENTS PER \$100 VALUATION OF ALL TAXABLE PROPERTY IN THE DISTRICT AND ISSUE BONDS PAYABLE IN WHOLE OR PART FROM THE AD VALOREM TAX; MAKING PROVISION FOR THE CONDUCT OF SAID ELECTION; CONTAINING OTHER PROVISIONS INCIDENT AND RELATED TO THE PURPOSE OF THIS RESOLUTION.

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**Whereas**, Chapter 3831 of the Special District Local Laws Code, Temple Health and Bioscience Economic Development District (District), authorized the creation of the District and provides the enabling legislation to accomplish the public purposes stated in the Chapter;

**Whereas**, Subchapter F of Chapter 3831, "Election to Allow Taxing or Related Obligation Authority", provides that the City Council shall order a local option election not later than the second regular session of the City Council convened after a petition is filed and verified by the City in accordance with Section 3831.253;

**Whereas**, the District filed the petition with the City of Temple on November 3, 2008 and the petition was verified by the City Secretary on November 10, 2008 as containing 183 valid signatures of registered voters in the City of Temple and meeting the requirements of Section 3831.254 requiring the City Council to order a local option election to be held on the next uniform election date, May 9, 2009;

**Whereas**, the District's boundaries are coextensive with the boundaries of the City of Temple and Chapter 3831 provides that the election shall be held within those boundaries;

**Whereas**, the laws of the State of Texas and the City of Temple further provide that the Election Code of the State of Texas is applicable to said election, and, in order to comply with said Code, an order should be passed establishing the procedure to be followed in said election and designating the voting places for said election; and

**Whereas**, the City Council finds and determines that it is necessary and advisable to call and hold an election within the City of Temple for the issue described above and presented in the petition filed by the District and verified by the City of Temple.

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

**Part 1:** It is hereby ordered that a local option election be held on Saturday, May 9, 2009, for the purpose of allowing voters to consider whether to allow the Temple Health and

Bioscience Economic Development District to impose an ad valorem tax not to exceed 15 cents per \$100 valuation of all taxable property in the District and issue bonds payable in whole or part from the ad valorem tax.

**Part 2:** Optical scan paper ballots shall be used for early voting, voting by mail and election day voting in each polling place, in conjunction with the ES&S Model Precinct Ballot Counter. The ES&S AutoMARK Voter Assist Terminal, which is Help America Vote Act (HAVA) compliant, will also be used for early voting and in each polling place on election day. Both systems of voting shall provide privacy for voters while casting their votes in accordance with Section 51.032 of the Texas Election Code. The vote for single proposition on the ballot shall be recorded in such a manner as will permit the voters to cast one vote either for or against the proposition.

**Part 3:** The election shall be held at the following places in the City for the election called by this resolution:

<b><i>City Council District No. 1</i></b>	Frank Mayborn Civic and Convention Center, 3303 North 3rd Street
<b><i>City Council District No. 2</i></b>	Meridith-Dunbar Elementary School 1717 East Avenue J
<b><i>City Council District No. 3</i></b>	Thornton Elementary School 2900 Pin Oak Drive
<b><i>City Council District No. 4</i></b>	Vineyard Christian Fellowship Church 7425 West Adams Avenue (FM 2305)
<b><i>Early Voting Location</i></b>	Municipal Building, 2 North Main Street (between Central and Adams)

**Part 4:** (a) **Early voting by personal appearance.** Any registered voter is eligible to vote early by personal appearance on weekdays, beginning on April 27, 2009, and ending on May 5, 2009, outside the City Secretary's Office, Room 103 (First Floor), Municipal Building, Temple, Texas. Early Voting will be conducted from 8:00 a.m. to 5:00 p.m. April 27, 2009 through May 1, 2009. During the time period of May 4 and May 5, 2009 Early Voting will be conducted from 7:00 a.m. to 7:00 p.m.

(b) **Early voting by mail.** A registered voter is eligible to vote early *by mail* if (1) the voter expects to be absent from the county on election day, and during the regular hours for conducting early voting at the main early voting polling place for the part of the period for early voting by personal appearance remaining after the voter's early voting ballot application is submitted to the early voting clerk, (2) the voter is under a disability that would prevent them from appearing at the polling place on election day, (3) the voter will be 65 years of age or older on election day, or



(4) the registered voter is confined in jail at the time the early voting ballot application is submitted.

(1) Applications for ballot by mail shall be mailed to Clydette Entzminger, City Secretary, P.O. Box 207, Temple, Texas 76503, and must be received no later than May 1, 2009, provided that if the sole ground for voting early by mail is that the voter will be out of the county on election day, the application must be received by April 24, 2009, unless the voter is out of the county when the application is made, in which case the application must still be received by May 1, 2009.

**Part 5:** Clydette Entzminger, the City Secretary, is hereby appointed Clerk for early voting, and authorized to appoint by written order one or more persons to assist her as deputy early voting clerks. The early voting clerk shall maintain a roster listing each person who votes early by personal appearance and for each person to whom an early ballot to be voted by mail is sent in accordance with Section 87.121 of the Texas Election Code. The early voting clerk shall perform all other duties required by him by the Texas Election Code.

**Part 6:** The Mayor shall make proclamation of the May 9, 2009 election and issue, or cause to be issued, all necessary orders, writs and notices for said election and returns of said election shall be made to this the City Council immediately after the closing of the polls. The City Secretary shall cause notice of this election, in both English and Spanish, to be published and posted in compliance with Texas Election Code Section 4.003(a)(1) and 4.003(b) and Special District Local Laws Code Section 3831.255.

**Part 7:** Immediately after said election is held, the officers holding the same shall make returns on the result thereof to the Mayor of this City as required by the Election Code of this State.

**Part 8:** A copy of this order shall also serve as a Writ of Election which shall be delivered to the Presiding Judges for said election along with the Election Judge's Certificate of Appointment.

**Part 9:** The City Secretary is hereby authorized and instructed to provide and furnish all necessary election supplies to conduct said election and to comply with Federal, State, and local law and in the conduct thereof.

**Part 10:** If any section or part of any section, paragraph, or clause of this resolution is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this resolution.

**Part 11:** This resolution shall take effect immediately from and after its passage, and it is accordingly so ordained.

**Part 12:** 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 the **4th** day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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**DEPT./DIVISION SUBMISSION & REVIEW:**

Traci Barnard, Director of Finance

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** This item is to recommend various budget amendments, based on the adopted FY 2008-2009 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

**FISCAL IMPACT:** The total amount of budget amendments is \$352,866.

**ATTACHMENTS:**

Budget amendments  
Resolution

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2009 BUDGET**  
**December 4, 2008**

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
110-1100-513-1110		Administrative (City Manager's Office)	\$ 19,754	
110-1100-513-1115		Skilled	\$ 8,447	
110-1100-513-1126		Longevity	\$ 45	
110-1100-513-1220		Retirement/Pension	\$ 1,299	
110-1100-513-1221		Social Security (FICA)	\$ 410	
110-1100-513-1222		Health Insurance	\$ 1,530	
110-1100-513-1223		Workers Compensation	\$ 54	
110-1100-513-1224		Unemployment Insurance	\$ 149	
110-1100-513-1225		Dental Insurance	\$ 53	
110-1100-513-1226		Life Insurance	\$ 43	
110-1100-513-1227		AD&D Insurance	\$ 8	
110-1100-513-1228		Long Term Disability	\$ 65	
<b>110-0000-315-1900</b>		<b>Fund Balance Reserved/Designated Public Education Government (PEG) Access Channel</b>		<b>\$ 31,857</b>
<p>Two positions in the City Manager's Office are partially funded from fund balance reserve for the monies collected from prior years for Public Education Government Access Channel (PEG). The PEG funds are designated from the Time Warner 1% franchise funds for PEG Channel and are restricted to funding our government access channel. The Director of Communication position is funded 30% from PEG funds and the Administrative Assistant II position is funded 25% from the PEG funds.</p>				
110-1400-511-1118		Extra Help/Seasonal (City Secretary's Office)	\$ 13,734	
110-1400-511-1220		Retirement/Pension	\$ 2,051	
110-1400-511-1221		Social Security (FICA)	\$ 200	
110-1400-511-1223		Workers Compensation	\$ 13	
110-1400-511-1224		Unemployment Insurance	\$ 270	
<b>110-0000-318-0000</b>		<b>Fund Balance Reserved/Vital Statistic Preservation Fund</b>		<b>\$ 16,268</b>
<p>Increase personnel expenditure accounts to cover the cost of a Records Assistant part-time position for October 1, 2008 thru September 30, 2009. Funds are available from fund balance reserve for the monies collected from prior years for Vital Statistic Preservation.</p>				
110-1900-519-1113		Technical (ITS)	\$ 14,481	
110-1900-519-1220		Retirement/Pension	\$ 2,162	
110-1900-519-1221		Social Security (FICA)	\$ 210	
110-1900-519-1223		Workers Compensation	\$ 31	
110-1900-519-1224		Unemployment Insurance	\$ 162	
<b>110-0000-315-1900</b>		<b>Fund Balance Reserved/Designated Public Education Government (PEG) Access Channel</b>		<b>\$ 17,046</b>
<p>Increase personnel expenditure accounts to cover the cost of a Communication Specialist position for October 1, 2008 thru September 30, 2009. This position will be funded 40% from the ITS Operating budget and 60% from fund balance reserve for the monies collected from prior years for Public Education Government Access Channel (PEG). The PEG funds are designated from the Time Warner 1% franchise funds for PEG Channel and are restricted to funding for our government access channel.</p>				
110-1900-519-1113		Technical (ITS)	\$ 66,524	
110-1900-519-1126		Longevity	\$ 234	
110-1900-519-1220		Retirement/Pension	\$ 9,967	
110-1900-519-1221		Social Security (FICA)	\$ 968	
110-1900-519-1222		Health Insurance	\$ 1,500	
110-1900-519-1223		Workers Compensation	\$ 134	
110-1900-519-1224		Unemployment Insurance	\$ 270	
110-1900-519-1225		Dental Insurance	\$ 96	
110-1900-519-1226		Life Insurance	\$ 105	

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2009 BUDGET**  
**December 4, 2008**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-1900-519-1227		AD&D Insurance	\$ 20	
110-1900-519-1228		Long Term Disability	\$ 150	
110-0000-441-0813		W&S Reimbursement		\$ 22,391
110-0000-351-0943		<b>Desg for Capital Projects - Tech Replacement Funds [72% of salary]</b>		<b>\$ 57,577</b>
520-5000-535-2627		Intergovernmental Expense	\$ 22,391	
520-0000-373-0412		<b>Water &amp; Wastewater Fund - Unreserved [28% of salary]</b>		<b>\$ 22,391</b>
<p>Transfer funding for H.T.E. Project Manager position - 72% of salary &amp; benefits from Designated for Technology Replacement Funds and 28% of salary &amp; benefits from Water &amp; Wastewater Fund - Unreserved to fund this position from October 1, 2008 thru September 30, 2009.</p>				
110-2000-521-2533		DARE Expenses (Police)	\$ 2,980	
110-0000-442-0723		DARE Donations - Unrestricted		\$ 2,980
<p>Transfer DARE donations to the expense account in order to purchase items for the DARE Program.</p>				
110-2000-521-2516		Judgments & Damages (Police)	\$ 1,300	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		<b>\$ 1,300</b>
<p>Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City by Debbie Cecchine seeking reimbursement for damage to a vehicle after it was involved in an accident with a Police vehicle on September 2, 2008.</p>				
110-2000-521-2516		Judgments & Damages (Police)	\$ 570	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		<b>\$ 570</b>
<p>Attorney fees for lawsuit filed against City - - Steven Taylor v. City of Temple</p>				
110-2320-540-2516		Judgments & Damages (Solid Waste - Brush/Bulk)	\$ 150	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		<b>\$ 150</b>
<p>Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City seeking reimbursement for damage to a vehicle and personal injuries to the driver/passenger (Kendria Duncan &amp; Byron Moore) when the vehicle was struck by a Solid Waste Dept. vehicle on May 21, 2008.</p>				
110-3700-524-2516		Judgments & Damages (Construction Safety)	\$ 828	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		<b>\$ 828</b>
<p>Attorney fees for lawsuit filed against the City by Leah Martinson</p>				
110-3700-524-2516		Judgments & Damages (Construction Safety)	\$ 49	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		<b>\$ 49</b>
<p>Attorney fees for lawsuit filed against the City -- Centex Investments v. City of Temple</p>				
260-3200-551-1118		Extra Help/Seasonal (Recreation Grant)	\$ 28,644	
260-3200-551-1221		Social Security (FICA)	\$ 2,356	
260-3200-551-2110		Office Supplies	\$ 3,723	
260-0000-431-0163		Federal Grants		\$ 34,723

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2009 BUDGET**  
**December 4, 2008**

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
<p>Appropriate funds to be received from Temple ISD to fund the after-school programs. TISD has received federal funding from the Texas Education Agency for the 21st Century Learning Center Program. The local name for this project is the Family FOCUS Project. This is the fifth year of a five year grant.</p>				
561-5000-535-1112		Professional (Water Admin - UR Bonds)	\$ 39,072	
561-5000-535-1126		Longevity	\$ 63	
561-5000-535-1220		Retirement/Pension	\$ 5,856	
561-5000-535-1221		Social Security (FICA)	\$ 569	
561-5000-535-1222		Health Insurance	\$ 1,939	
561-5000-535-1223		Workers Compensation	\$ 143	
561-5000-535-1224		Unemployment Insurance	\$ 203	
561-5000-535-1225		Dental Insurance	\$ 72	
561-5000-535-1226		Life Insurance	\$ 61	
561-5000-535-1227		AD&D Insurance	\$ 12	
561-5000-535-1228		Long Term Disability	\$ 93	
561-0000-461-0111		Interest Income		\$ 48,083
<b>75% of salary &amp; benefits for the CIP Project Manager - funding from UR Bonds</b>				
361-1500-515-1112		Professional (Special Services - CO's)	\$ 13,024	
361-1500-515-1126		Longevity	\$ 21	
361-1500-515-1220		Retirement/Pension	\$ 1,952	
361-1500-515-1221		Social Security (FICA)	\$ 190	
361-1500-515-1222		Health Insurance	\$ 646	
361-1500-515-1223		Workers Compensation	\$ 48	
361-1500-515-1224		Unemployment Insurance	\$ 68	
361-1500-515-1225		Dental Insurance	\$ 24	
361-1500-515-1226		Life Insurance	\$ 20	
361-1500-515-1227		AD&D Insurance	\$ 4	
361-1500-515-1228		Long Term Disability	\$ 31	
361-0000-461-0111		Interest Income		\$ 16,028
<b>25% of salary &amp; benefits for the CIP Project Manager - funding from CO's</b>				
<p>Funding for the CIP Project Manager position. This position is being funded with interest earnings from bond proceeds issued for the FY 2007 CIP projects. 75% of the salary and benefits for the CIP Project Manager is being funded from the Series 2006 Utility Revenue Bonds and 25% of the salary and benefits is being funded from the Series 2006 Certificates of Obligation.</p>				
561-5000-535-6912		Capitalized Administrative Costs	\$ 48,375	
561-0000-461-0111		Interest Income		\$ 48,375
<b>75% of salary &amp; benefits for the Senior Accountant -funding from UR Bonds</b>				
361-9100-591-8110		Transfer Out - General Fund	\$ 16,125	
361-0000-461-0111		Interest Income		\$ 16,125
110-0000-490-2582		Transfer In - Bond Fund (361)		\$ 16,125
110-0000-352-1345		<b>Designated Capital Projects-Unallocated</b>	<b>\$ 16,125</b>	
<b>25% of salary &amp; benefits for the Senior Accountant -funding from CO Bonds</b>				
<p>Funding for the Senior Accountant position. This position is being funded with interest earnings from bond proceeds issued for the FY 2007 CIP projects. 75% of the salary and benefits for the Senior Accountant is being funded from the Series 2006 Utility Revenue Bonds and 25% of the salary and benefits is being funded from the Series 2006 Certificates of Obligation.</p>				
<b>TOTAL AMENDMENTS</b>			<b>\$ 352,866</b>	<b>\$ 352,866</b>

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2009 BUDGET**  
**December 4, 2008**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
GENERAL FUND				
		Beginning <b>Contingency</b> Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		Beginning <b>Judgments &amp; Damages</b> Contingency	\$	70,000
		Added to Contingency Judgments & Damages from Council Contingency	\$	-
		Taken From Judgments & Damages	\$	(12,805)
		Net Balance of Judgments & Damages Contingency Account	\$	57,195
		Beginning <b>SAFER Grant Match</b> Contingency	\$	46,821
		Added to Master Plan Implementation Contingency	\$	-
		Taken From Master Plan Implementation Contingency	\$	-
		Net Balance of Master Plan Implementation Contingency Account	\$	46,821
		Beginning <b>Compensation</b> Contingency	\$	184,700
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	184,700
		<b>Net Balance Council Contingency</b>	\$	<b>288,716</b>
		Beginning Balance <b>Budget Sweep</b> Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
WATER & SEWER FUND				
		Beginning <b>Contingency</b> Balance	\$	174,121
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	174,121
		Beginning <b>Compensation</b> Contingency	\$	34,334
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	34,334
		Beginning <b>Approach Mains</b> Contingency	\$	500,000
		Added to Approach Mains Contingency	\$	-
		Taken From Approach Mains Contingency	\$	-
		Net Balance of Approach Mains Contingency Account	\$	500,000
		Beginning <b>T-BRSS Future Plant Expansion</b> Contingency	\$	450,000
		Added to T-BRSS Future Plant Expansion Contingency	\$	-
		Taken From T-BRSS Future Plant Expansion Contingency	\$	-
		Net Balance of T-BRSS Future Plant Expansion Contingency	\$	450,000
		<b>Net Balance Water &amp; Sewer Fund Contingency</b>	\$	<b>1,158,455</b>
HOTEL/MOTEL TAX FUND				
		Beginning <b>Contingency</b> Balance	\$	75,221
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	75,221

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2009 BUDGET**  
**December 4, 2008**

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
		Beginning <b>Compensation</b> Contingency	\$	5,401
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	5,401
		<b>Net Balance Hotel/Motel Tax Fund Contingency</b>	<b>\$</b>	<b>80,622</b>
		<b>DRAINAGE FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		Beginning <b>Compensation</b> Contingency	\$	4,631
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	4,631
		<b>Net Balance Drainage Fund Contingency</b>	<b>\$</b>	<b>4,631</b>
		<b>FED/STATE GRANT FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	7,962
		Carry forward from Prior Year	\$	99,254
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	<b>\$</b>	<b>107,216</b>



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,  
TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2008-2009  
CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

---

**Whereas**, on the 28<sup>th</sup> day of August, 2008, the City Council approved a budget for the 2008-2009 fiscal year; and

**Whereas**, the City Council deems it in the public interest to make certain amendments to the 2008-2009 City Budget.

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

**Part 1**: The City Council approves amending the 2008-2009 City Budget by adopting the budget amendments which are more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

**Part 2**: It is hereby officially found and determined that the meeting at which this Resolution 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 this the 4<sup>th</sup> day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clydette Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
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### **DEPT. /DIVISION SUBMISSION & REVIEW:**

Ken Cicora, Director of Parks and Leisure Services

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a construction contract with Workman Commercial Construction of Austin, for the construction of an indoor swimming pool in Sammons Community Park in the amount of \$1,553,183.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** One of the projects approved in the Parks bond package last fall was the construction of an indoor swimming pool to serve the residents of Temple. This facility will be constructed in Sammons Community Park adjacent to the Sammons Park Community Center. Features of this facility will include a heated pool that will be 75 feet long and 4 swimming lanes wide and the depth of the pool will range from 3½ feet to 6 feet. There will be several ways to access the pool including a ramp, stairs, ladders and a handicap lift. The rest of the building will house a lobby, a check-in area, office, pool storage, pump/filter room, and men's and women's changing rooms and restroom/shower facilities.

The City employed Kimley-Horn and Associates to develop the plans and specifications for this facility. Kimley-Horn is very well known and respected in the industry and they developed a package for bidding purposes that was comprised of a base bid and three alternates. The two add alternates are (1) a 10 car parking area and (2) an ultraviolet water treatment system. The deductive alternate would replace the metal roof of the building with a shingle roof.

Bids were opened on November 18, 2008 with 7 bidders responding. Bids ranged from a low of \$1,553,183.00 to a high of \$1,664,940.00 for the base bid plus the two add alternates. The low bid of \$1,553,183.00 was submitted by Workman Commercial Construction of Austin, Texas.

In his letter of recommendation on the bid, Adam Brewster of Kimley-Horn stated, "Workman's relevant experience includes two pool projects for Kimley-Horn; for the City of Saginaw, Texas and North Richland Hills, Texas. They performed in an acceptable manner on both of these projects and they are familiar with the scheduling of this type of work."

Workman has indicated that, if awarded the bid, they plan on utilizing Temple based sub-contractors whenever possible and purchasing supplies from Temple businesses.

The second low bidder, Chaney-Cox is located in Temple. Their bid (base bid, 2 add alternates and 1 deductive alternate) exceeds the low bid amount by \$40,373.00 (\$1,593,556.00) which is **2.6% higher than the low bid.**

**The City of Temple has the ability to award the work to a local contractor if the bid is within 5% of the low bid through the local preference legislation adopted by the State of Texas and the City of Temple.**

We are recommending awarding the base bid and alternates #1 and #2 and rejecting the deductive alternate for a total of \$1,553,183.00 to Workman Commercial Construction of Austin.

**FISCAL IMPACT:** Total project cost for the Sammons Indoor Aquatic Center is \$1,900,000, which is funded in account 362-3500-552-68-39, project #100357. In December 2008, Kimley-Horn was awarded the design contract in the amount of \$156,800. In addition, there were miscellaneous costs related to the project incurred leaving a current balance of \$1,734,288 available to fund the construction contract in the amount of \$1,533,183. After funding this contract, \$181,105 remains available to complete this project.

**ATTACHMENTS:**

[Recommendation Letter](#)  
[Bid Tabulation](#)  
[Resolution](#)



November 19, 2008

■  
Suite 275  
2201 West Royal Lane  
Irving, Texas  
75063-3206

Mr. Val Roming  
City of Temple  
Parks and Leisure Services  
2727 West Adams Ave.  
Temple, TX 76504

**RE: Sammon's Park Indoor Aquatic Center- Bid Recommendation Letter  
City of Temple, Texas**

Dear Mr. Roming:

As requested, we have reviewed the bid proposal forms, bonds, and references for the above referenced project.

The bids were publicly opened and recorded by the City on Tuesday, November 18, 2008 at 2:00 PM. A total of seven (7) bids were received for this project and the bid spread for this project was very tight, only \$111,757.00 difference (7%) between the low bidder and high bid bidder. Additionally, we understand that all seven (7) bids are within the available funding for this project. The average base bid plus the two add alternates was \$1,616,372.00.

The apparent low bidder for the project was Workman Commercial Construction with offices in Austin, Dallas-Fort Worth, and Houston, Texas. Their low base bid plus the two add alternates is \$1,553,183.00. Workman's relevant experience includes two pool projects for Kimley-Horn; for the City of Saginaw, Texas and North Richland Hills, Texas. They performed in an acceptable manner on both of these projects and they are familiar with the scheduling of this type of work.

Sunbelt Pools was listed as Workman's pool subcontractor for this project. We have worked with Sunbelt Pools before on similar projects in Lewisville, TX; McKinney, TX; Saginaw, TX; and Fort Worth, TX. They are also an approved swimming pool subcontractor for work of this type and have a very good reputation. They have performed in an acceptable manner on many projects for both Kimley-Horn and Counsilman-Hunsaker.

As you are aware, the City of Temple has, by State law, the ability to award the work based upon local preference if there is a local contractor's bid within 5% of the low bidder and they can demonstrate the benefits of using their local firm to the City.

■  
TEL 214 420 5600  
FAX 214 420 5680

The second low bidder, Chaney-Cox (located in Temple, Texas), did not check the local preference box on this bid. However, they did write in a brief explanation of their value in being located in the City of Temple. Chaney-Cox is the contractor on the South Temple Family Aquatic Center project and they (and their pre-approved pool contractor Aqua Artists) are performing in a timely and acceptable manner to date on that project. The second low bid (base bid plus both add alternates) from Chaney-Cox was in the amount of \$1,593,556.00. This bid exceeds the low bid amount by \$40,373.00.

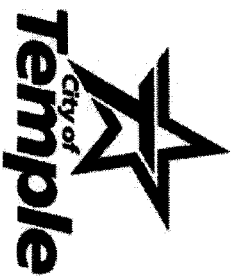
Based on the above, we can find no reason why the City should not award the project to the low bidder, Workman Commercial. However, if the City deems that Chaney-Cox meets the requirements for local preference as defined by State Law, then, the City may choose to award the project to the second low bidder, Chaney-Cox.

Very truly yours,

**KIMLEY-HORN AND ASSOCIATES, INC.**

A handwritten signature in black ink, appearing to read "Adam Brewster". The signature is fluid and cursive, with the first name "Adam" being more prominent than the last name "Brewster".

Adam Brewster, RLA, ASLA  
Project Manager



**PROJECT:** Sammon's Indoor Aquatic Center  
**LOCATION:** Temple, Texas  
**BID LOCATION:** City of Temple, Purchasing Dept.  
**BID DATE/TIME:** 11/18/08 2:00 PM



**Kimley-Horn  
and Associates, Inc.**

## BID TABULATION FORM

Bidder's Name	Credit Check	Bid Bond, Insurance, Etc.	Local Preference	Add No. 1 Received	Add No. 2 Received	Total Base Bid	Add Alternate Bid Items		Deduct Alternate Bid Item	Base Bid Plus AA#1 and AA#2
							Parking	UV System	Roofing	
1 S&G Contracting Inc	X	X	No	X	X	\$1,587,000.00	AA # 1 \$7,000.00	AA # 2 \$34,850.00	DA # 1 \$23,000.00	\$1,628,850.00
2 Workman Commercial Construction	X	X	No	X	X	\$1,514,183.00	\$12,000.00	\$27,000.00	\$11,000.00	\$1,553,183.00
3 Vanguard Contractors, LP	X	X	(1) Yes	X	X	\$1,559,000.00	\$13,000.00	\$27,400.00	\$41,400.00	\$1,599,400.00
4 Alpha Constructors	X	X	No	X	X	\$1,619,250.00	\$15,100.00	\$30,590.00	\$39,000.00	\$1,664,940.00
5 Chaney-Cox Construction, Inc.	X	X	(1) Yes	X	X	\$1,553,459.00	\$14,028.00	\$26,069.00	\$39,000.00	\$1,593,556.00
6 JL Construction (3)	X	(4) X	(2) No	X	X	\$1,569,375.00	\$12,800.00	\$30,500.00	\$30,000.00	\$1,612,675.00
7 Stewart Builders	X	X	No	X	X	\$1,624,000.00	\$12,000.00	\$26,000.00	\$39,500.00	\$1,662,000.00
Notes:							City Budget			\$1,730,000.00
(1) Local company but box in bid form was not checked.							Bid Spread			\$111,757.00
(2) Local preference claimed but did not meet criteria.							Average Bid			\$1,616,372.00
(3) Bid included Exclusions for Atmos Fees incurred										
(4) Bond information not on correct form										

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS AUTHORIZING A CONSTRUCTION CONTRACT WITH WORKMAN COMMERCIAL CONSTRUCTION OF AUSTIN, TEXAS, FOR THE CONSTRUCTION OF AN INDOOR SWIMMING POOL IN SAMMONS COMMUNITY PARK IN THE AMOUNT OF \$1,553,183.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on November 18, 2008, the City received 7 bids for the construction of an indoor swimming pool in Sammons Community Park;

**Whereas**, the Staff recommends accepting the bid (\$1,553,183.00) from Workman Commercial Construction of Austin, Texas, for this project;

**Whereas**, funds are available for this project in Account No. 362-3500-552-6839; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a construction contract, for a cost not to exceed \$1,553,183.00, between the City of Temple, Texas, and Workman Commercial Construction of Austin, Texas, after approval as to form by the City Attorney, for the construction of an indoor swimming pool in Sammons Community Park.

**Part 2:** It is hereby officially found and determined that the meeting at which this Resolution 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 this the 4<sup>th</sup> day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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Item #6  
Regular Agenda  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** THIRD READING – PUBLIC HEARING - Consider adopting an ordinance renewing the franchise agreement with Atmos Energy Corporation.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on third and final reading.

**ITEM SUMMARY:** The current franchise agreement with Atmos expires January 19, 2009. Staff is proposing the franchise be renewed for a period of 15 years with the same terms and conditions in existing franchise.

Staff is currently in discussion with Atmos representatives and if changes to the franchise agreement are proposed they will be presented at second reading of the ordinance on November 20<sup>th</sup>.

**FISCAL IMPACT:** Franchise fees received from Atmos Energy Corporation in FY 2007-2008 totaled \$819,535. In the FY 2008-2009 operating budget, \$800,000 is budgeted for the receipt of gas franchise fees.

### **ATTACHMENTS:**

Ordinance- to be provided





## COUNCIL AGENDA ITEM MEMORANDUM

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### **DEPT. /DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** SECOND READING – PUBLIC HEARING – Z-FY-08-32-A: Consider adopting an ordinance authorizing an amendment to the *Choices '08*, Comprehensive Plan to reflect Moderate Density Residential uses on 21.5 ± acres situated in the George Givens Survey, Abstract No. 345, with platted land recorded as Bird Creek Valley VI and Bird Creek Valley Phase 4-Plexes Phase III.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** The Planning and Zoning Commission voted 8/0 to recommend approval of moderate density residential uses amending the Temple Comprehensive Plan at its meeting on August 4, 2008.

**STAFF RECOMMENDATION:** Staff recommends approval of the future land use map amendment from Commercial, Retail, High Density Residential and Moderate Density Residential to Moderate Density Residential because:

1. Medium density residential is compatible with surrounding uses of property and for the general locality;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities will serve the site.

**The public hearing will be conducted on the second reading of this item, December 4<sup>th</sup>, due to legal notice requirements.**

**ITEM SUMMARY:** The City Council denied a related zoning case and took no action (motion failed for lack of a second) on this item amending the City's South Temple Comprehensive Plan at its August 21<sup>st</sup> meeting. The vote on the Plan amendment followed the discussion of the zoning case to build duplexes at this location, and the City Council may not have fully appreciated that amending the City's Comprehensive Plan would provide further protection for the neighborhood.

While the zoning case was withdrawn by the applicant at the same meeting, amending the Comprehensive Plan will limit the area into conformance for medium density residential uses recommended by Staff. Since this item was considered in August, the City Council adopted the *Choices '08* Comprehensive Plan, which while repealing the South Temple Comprehensive Plan,

allows a variety of future land use categories for the subject property, including: Commercial, Retail, High Density Residential and Moderate Density Residential. Given the uses of adjacent properties, the Staff feels that medium density residential is a more appropriate future use designation.

Councilmember Tony Jeter requested the item be placed back on the agenda for reconsideration by the City Council.

For background purposes, we are attaching the Staff Report and minutes from case Z-FY-08-32 from the Planning and Zoning meeting, August 4, 2008. In that zoning case (since withdrawn, the applicant proposed a duplex development on both sides of Battle Drive.

**FISCAL IMPACT:** None

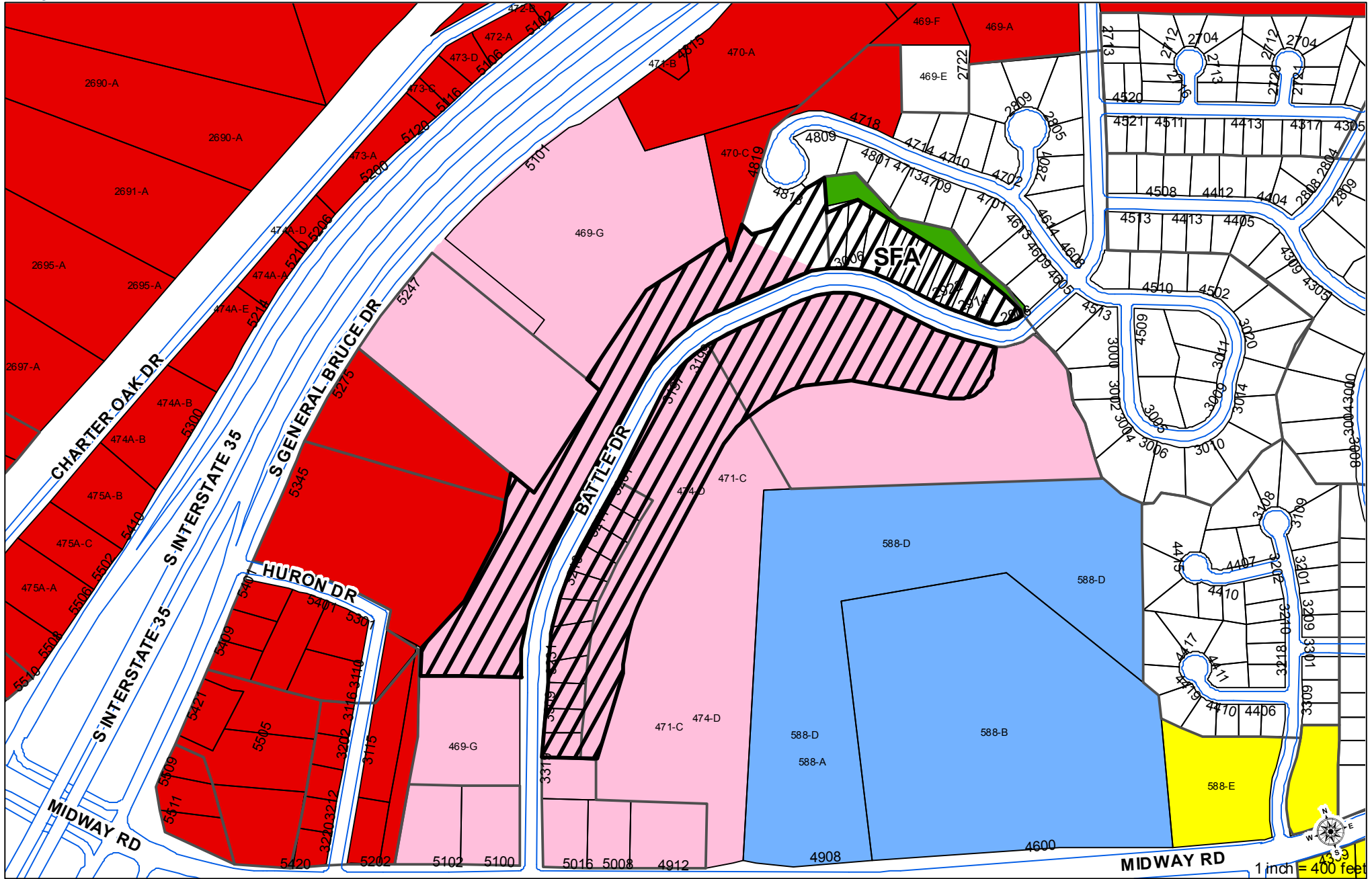
**ATTACHMENTS:**

Land Use Map  
P&Z Staff Report (Z-FY-08-32-A)  
P&Z Minutes (08/04/08)  
Ordinance



Z-FY-08-32

## 21.49 Acres of Proposed Residences at Bird Creek



C, GR, SFA & MF2 to 2F Zoning

Neighborhood Conservation	Auto-urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public/Institutional	ZFY0832
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks and Open Space	Temple Boundary
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business park	Agricultural/Rural	J Stone 07.21.08



# PLANNING AND ZONING COMMISSION AGENDA ITEM

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**APPLICANT / DEVELOPMENT:** Central Texas Interests

**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION:** Z-FY-08-32-A Hold a public hearing to consider an amendment to the South Temple Comprehensive Plan to reflect Moderate Density Residential uses on 21.49 ± acres situated in the George Givens Survey, Abstract No. 345, with platted land recorded as Bird Creek Valley VI and Bird Creek Valley Phase 4-Plexes Phase III.

**BACKGROUND:** The applicant proposes a duplex development on both sides of Battle Drive. The property is located within the boundaries of the South Temple Plan. The South Temple Plan was adopted in 1998. The future land use map shows a variety of future land use categories for the subject property, including: Commercial, Retail, High Density Residential and Moderate Density Residential.

**Future Land Use Plan**

The portions of the subject property designated High and Moderate Density Residential accommodate the requested zoning district. The portions of the property designated Commercial and Retail do not. Since the plan was adopted in 1998, no nonresidential development has occurred on portions of the subjected property designated Commercial or Retail, so an amendment to the Future Land Use Map is warranted.

**Thoroughfare Plan**

Battle Drive is designated as collector road on the Thoroughfare Plan. The South Temple Plan says that residential uses may be appropriate to front on collectors provided that access is managed. Staff is working with the applicant through the platting process to provide rear lot access for many of the lots in the proposed subdivision. The request complies with the Thoroughfare Plan.

**Adequacy of Public Facilities**

The platting process will ensure that adequate public water and sewer lines will be provided for those portions of the property that do not currently have such services.

**STAFF RECOMMENDATION:** Staff recommends approval of the future land use map amendment from Commercial, Retail, High Density Residential and Moderate Density Residential to Moderate Density Residential because:

1. Lack of nonresidential development on the subject property warrants an amendment to the Future Land Use Map;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities will serve the site.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:** Land Use Map

**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING**

**MONDAY, AUGUST 4, 2008**

**ACTION ITEMS**

4. **Z-FY-08-32-A** Hold a public hearing to consider an amendment to the South Temple Comprehensive Plan to reflect Moderate Density Residential uses on 21.5 ± acres situated in the George Givens Survey, Abstract No. 345, with platted land recorded as Bird Creek Valley VI and Bird Creek Valley Phase 4-Plexes Phase III. (Applicant: Central Texas Instruments).

Mr. Tim Dolan, Planning Director, presented this item on behalf of Mr. Brian Mabry. Mr. Dolan presented a detailed Powerpoint and explained the area is being planned for a 2-Family or duplex subdivision and there's a preliminary plat that has been submitted which shows 52 residential lots, essentially a doubled lot subdivision, double loaded on the street with 26 lots either way. The applicant is also aware of the soil condition settling in that area.

The aerial photograph shows some of the pictures around the area and the condition of Battle Drive, along with some of the gabions or rock retaining wall along the area. Currently, three-fourths of the zoning already allows duplexes. Staff recommended to the applicant to consider cleaning this up because in the Commercial, General Retail and MF2 Zoning it already allows duplexes and the only area that is not is the area zoned SFA.

21 notices were mailed to area property owners and the notice was advertised in the local paper as required by Local Ordinance and State Law. Out of the 21 notices, two (2) notices agreed to it and at least three (3) recommended opposition to this zoning case.

There are some existing sewer and water lines that would either be extended through the area as they did come enforce some type of subdivision platting. The Battle Drive is designated on the thoroughfare plan as a collector road which is a minimum of 55 feet of right-of-way and the 36 feet of pavement. Staff reviewed the zoning request and has recommended approval to combine the zoning from the MF2, Commercial, General Retail, Single Family Attached to 2-Family, subject to the request complying with the Future Land Use Plan, the Thoroughfare Plan and adequate public facilities to serve the site.

Vice-Chair Pope opened the public hearing asking anyone wishing to speak in favor or opposition to this item to address the Commission.

Mr. Wayne Pope, resident of 4713 Arrowhead Drive, addressed the Commission. Mr. Pope pointed out three (3) specific concerns: 1) he purchased the lot knowing he would be in a single family neighborhood and his back door neighbor in the future would be a single family home as well and he would like to keep it that way.

The rest of Battle is undeveloped. Mr. Pope would prefer just to look back on single family houses versus a duplex or anything else that should go up and keep the neighborhood from becoming a transient neighborhood like duplexes and apartments tend to be and to keep it an established neighborhood like single family homes normally are.

2) Battle is one of the worst roads in town. It collects water in areas that aren't suppose to hold water and creates one lane traffic which has to swerve around. Hopefully, if this is approved, the road is approved as well.

3) Mr. Pope indicated where it says SFA, it is the low spot of the neighborhood and becomes a holding area for water when it rains. It slopes from the lower right hand corner back up to the left. The street is higher than where the houses are going to be built and the creek is higher than where the houses are going to be built. The houses would be built some number of feet below street level and below creek level which concerns Mr. Pope since he backs up to it. Where are they going to put that water? If it knocks the dirt down going into the creek, it's going upstream from where it enters the creek at this point.

Mr. Pope stressed again these issues are a big concern. There are a lot of street water issues on this side of town already and it wouldn't be fair to the 10 homeowners or so that live right next to it.

Mr. Howard Burkholtz, 4709 Arrowhead Drive, also spoke. Mr. Burkholtz is Mr. Wayne Pope's neighbor and built his home there in 1976. Mr. Burkholtz echoed the same complaints Mr. Pope did. His main concern is also the water. About a year ago, the City dug a ditch between their two houses to control water from a subdivision that was built uphill and now runs down the street, down the hill, and into their front yards. With all the construction on the Loop, the new mall, and the shopping area going on the Loop, there will be a lot more water coming down on us. The gabions that were shown on the pictures were put there about 20 years ago and really helped the erosion problem but will the City make sure to keep that area cleaned up. If something were to be done downstream, there should be something to improve the drainage in Bird Creek. When it gets just

past Arrowhead, the cul-de-sac down there, where the gabions and the concrete ends, it's just water and trees. If something could be done with that, it would probably help control the water.

Mr. Burkholtz said there has been progress made, and things have to be built, but it is his feeling that it's endangering the homes by doing all this without taking anything else into consideration like the flood control.

Mr. Dolan defers this issue to the Engineering Department for any clarification.

Mr. Michael Newman responds that they anticipate there would be some kind of mitigation, including possibly channel work downstream along the property where the creek is, to help get water to go through there and then whether or not there's detention is required, that still remains to be seen and would be a study associated with the final plat.

Mr. Newman explains they just implemented the Flood Damage Prevention Ordinance and actually had drainage criteria that allowed to require one foot above, now we've got a Flood Plain Ordinance that's up to date with that and with the current FEMA standards and is one foot above the base foot elevation or the 100 year.

Commissioner Talley inquires about Battle Drive?

Mr. Newman responds that they've looked at the Ordinance and typically, there's a section that talks about upgrading roadways and that's usually when they're not of the right proportion but we can require developments contiguous to roadways to actually put up fiscal or do physical improvements to widen those roadways. Since Battle Drive is already collector size in width street, it's really on our list of projects that needs attention and Public Works is aware of its condition as well as other streets in the City. Currently, we do not have funding for any projects or will and/or maintenance of that street.

Vice-Chair Pope closes the public hearing.

Commissioner Secrest asks if the applicant is in attendance. Mr. Dolan responds they tried to contact the applicant to attend today's meeting and have not heard anything that would have prevented applicant from attending. Mr. Dolan responds that the applicant's name is Cy Long who submitted the project on behalf of the owners.

Commissioner Kjelland clarifies that it was City Staff who recommended clean up and not the applicant. Mr. Dolan confirms this statement. Mr. Dolan also comments that the Ordinance that is currently written allows a

lot of residential development of any type and here is the case for the 2-Family, the duplex that can already occur in the GR, the Commercial, and the Multi-family. The applicant was asked as they were going through the process, to go ahead and look at the zoning for residential only and there's still plenty of commercial area for the non-residential area for that area adjacent to General Bruce.

Vice Chair Pope asks Mr. Dolan if the Commission is being asked to approve an amendment to reflect a Moderate Density Residential use of the entire 21 ± acres, but the Commission could exclude, if they chose to do so, part of the acreage that are 2-Family or Single Family in the Comprehensive Plan and leave the rest alone. Mr. Dolan confirms that yes, if the Commission chose to do so.

Trudi Dill, Assistant City Attorney, brought up the fact that the Moderate Density Residential would still hold for the Single Family Attached.

Motion to recommend approval of Z-FY-08-32-A to amend the South Temple Comprehensive Plan to reflect Moderate Density Residential by Commissioner Secrest; seconded by Commissioner Martin.

Motion passed. (7/0)



ORDINANCE NO. \_\_\_\_\_

[PLANNING. Z-FY-08-32(A)]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING AN AMENDMENT TO THE *CHOICES '08*, COMPREHENSIVE PLAN TO REFLECT MODERATE DENSITY RESIDENTIAL USES ON APPROXIMATELY 21.5 ACRES SITUATED IN THE GEORGE GIVENS SURVEY, ABSTRACT NO. 345, WITH PLATTED LAND RECORDED AS BIRD CREEK VALLEY VI AND BIRD CREEK VALLEY PHASE 4-PLEXES PHASE III; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves an amendment to the *Choices '08*, Comprehensive Plan to reflect moderate density residential uses on approximately 21.5 acres situated in the George Givens Survey, Abstract No. 345, with platted land recorded as Bird Creek Valley VI and Bird Creek Valley Phase 4-Plexes Phase III, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

**Part 2:** The City Council directs the Director of Planning to make the necessary changes to the Future Land Use Map accordingly.

**Part 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 4:** 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 5:** 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 on the **20<sup>th</sup>** day of **November**, 2008.

PASSED AND APPROVED on Second Reading and Public Hearing on the **4<sup>th</sup>** day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
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Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-03: Consider adopting an ordinance authorizing a zoning change from General Retail District to Two Family District on 15.6 ± acres of land situated partly in the R.M. Williamson Survey, Abstract No. 905 and partly in the George Givens Survey, Abstract No. 345, located along the north side of 205 Loop, east of Duke and Turley Drives.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** At its November 17, 2008 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zoning change from GR to 2F for the following reasons:

1. The requested district allows the same uses as the existing district, but prohibits potentially incompatible nonresidential uses;
2. The placement of the district complies with the purpose statement of the zoning district;
3. The request complies with the Thoroughfare Plan; and
4. Adequate public facilities will serve the property.

Commissioner Barton was absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 18, 2008.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-03, from the Planning and Zoning meeting, November 17, 2008.

At its November 3, 2008 meeting, the Planning and Zoning Commission voted 9/0 to table this case to the November 17<sup>th</sup> meeting due to objections from surrounding property owners and uncertainties regarding the plat for the property. These issues have been addressed in the plat to the satisfaction of the applicant, surrounding property owners and City staff. The P&Z approved the plat for the subdivision, The Greens on 205 Loop, at this meeting.

The applicant proposes a subdivision with 49 two-family lots for a total of 98 dwelling units. While two-family dwellings are already permitted in the GR zoning district, the new Comprehensive Plan recommends that the zoning district that most closely matches the proposed use be applied to the property.

Eight notices of the P&Z public hearing were sent out. As of Wednesday, October 29 at 5 PM, two notices were returned in favor of and two notices were returned in opposition to the request. The newspaper printed notice of the P&Z public hearing on Saturday, October 25, 2008 in accordance with state law and local ordinance.

Concerns of the Planning and Zoning Commission are shown in the draft minutes. The Commission did not raise any issues requiring additional staff attention.

**FISCAL IMPACT:** None

**ATTACHMENTS:**

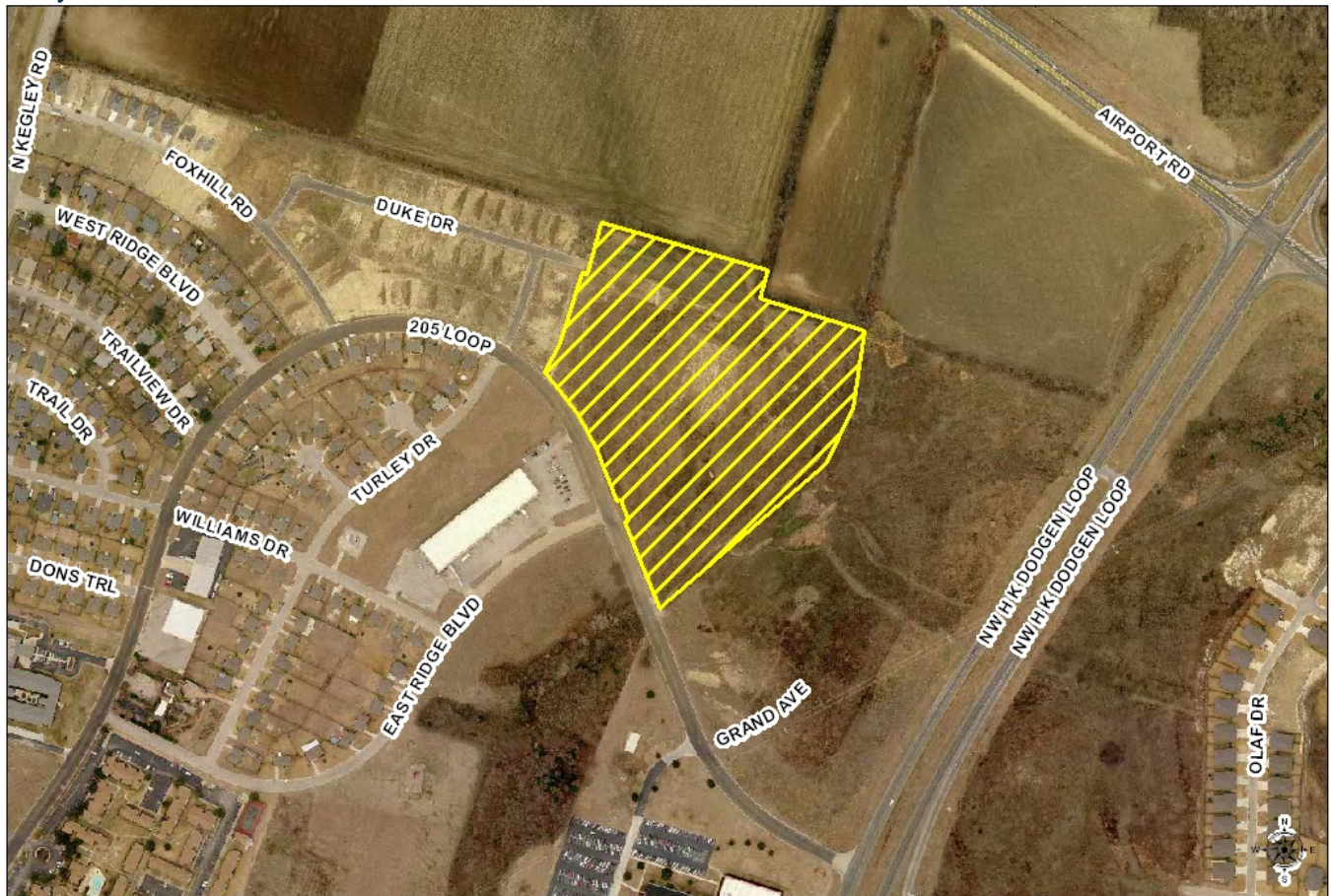
Aerial  
Zoning Map  
Land Use and Character Map  
Notice Map  
P&Z Staff Report (Z-FY-09-03)  
P&Z Minutes (November 17, 2008)  
Ordinance




**Z-FY-09-03**

Outblocks 1086-A and 707-A

15.595 acres



 Area of Proposed Zoning

**GR to 2F Zoning**

1 inch = 400 feet  
J Stone 10.16.08

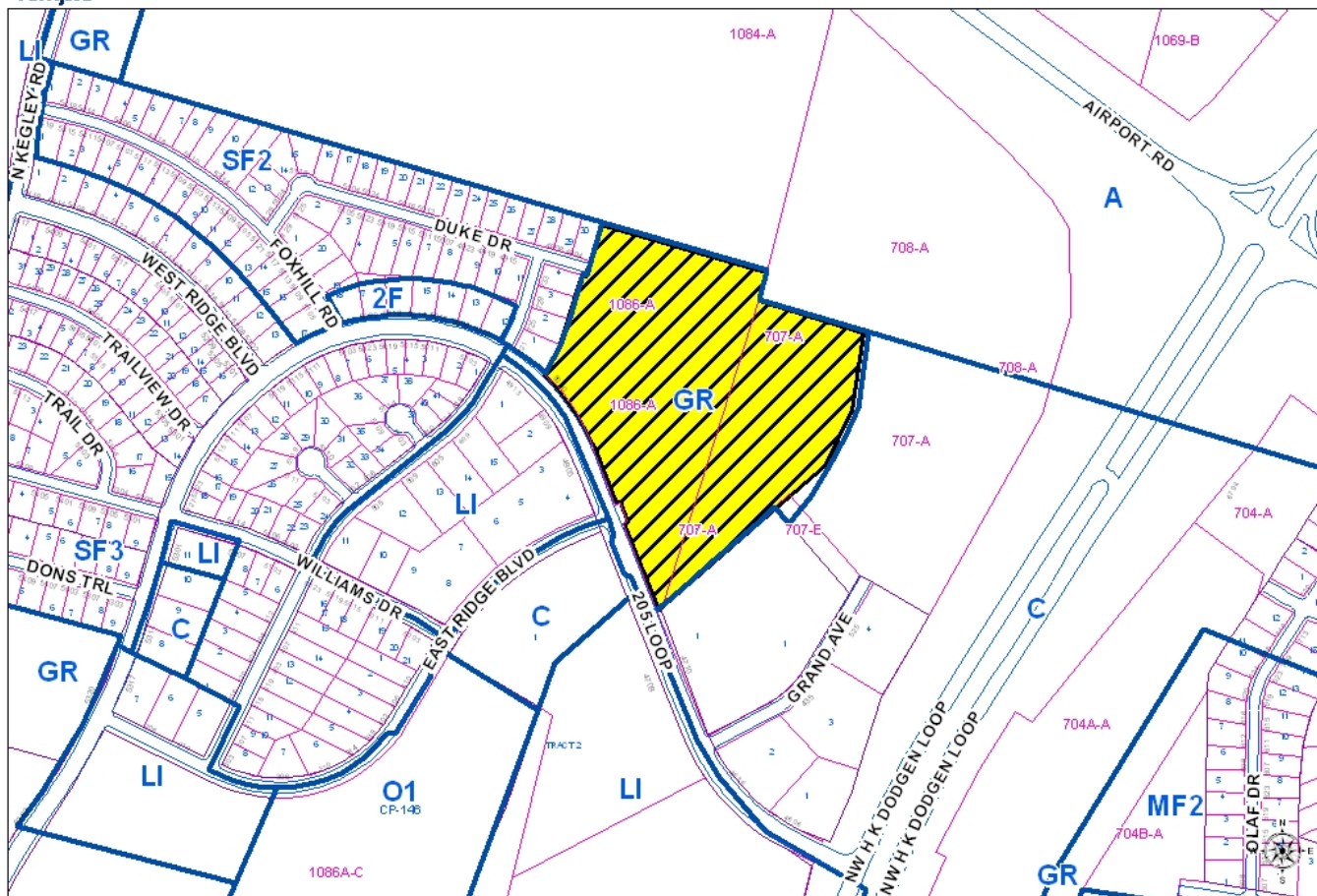





**Z-FY-09-03**

Outblocks 1086-A and 707-A

15.595 acres



 Area of Proposed Zoning

GR to 2F Zoning

1 inch = 400 feet  
J Stone 10.16.08

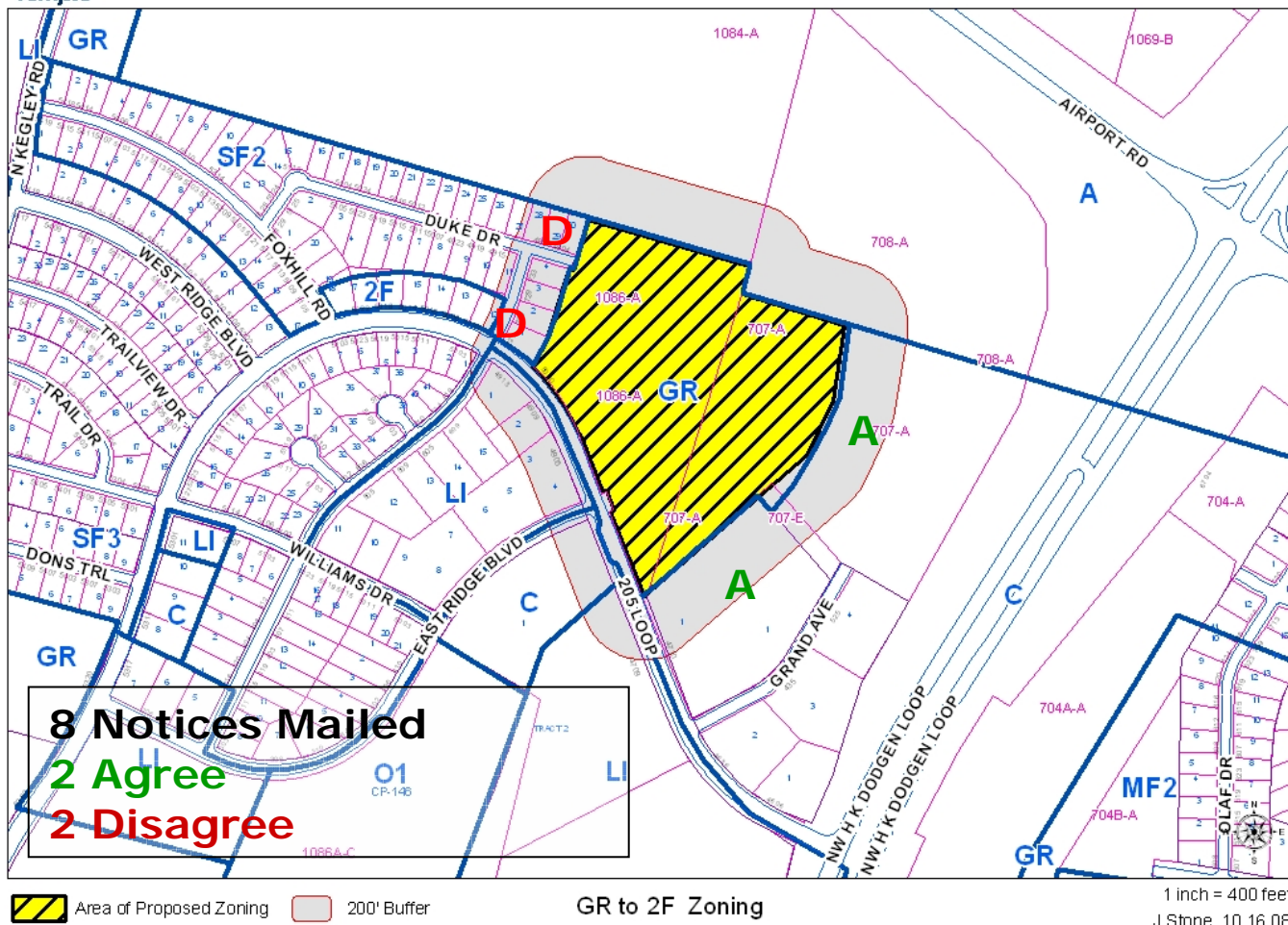




**Z-FY-09-03**

Outblocks 1086-A and 707-A

15.595 acres







# PLANNING AND ZONING COMMISSION AGENDA ITEM

11/17/08  
Item #4  
Regular Agenda  
Page 1 of 3

**APPLICANT / DEVELOPMENT:** City of Temple

**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION:** Z-FY-09-03 Hold a public hearing to discuss and recommend action on a zone change from General Retail District (GR) to Two Family District (2F) on 15.6 ± acres of land situated partly in the R.M. Williamson Survey, Abstract No. 905 and partly in the George Givens Survey, Abstract No. 345, located along the north side of 205 Loop, east of Duke and Turley Drives.

**BACKGROUND:** At its November 3, 2008 meeting, the Planning and Zoning Commission voted 9/0 to table this case due to objections from surrounding property owners and uncertainties regarding the accompanying plat, P-FY-08-67 for The Greens on Loop 205. These issues have been addressed in the plat to the satisfaction of the applicant, surrounding property owners and City staff.

The City of Temple has initiated this zone change in order to accommodate the proposed two-family subdivision, The Greens on Loop 205. The use table in the zoning ordinance has a cumulative structure, meaning that uses allowed in less intensive use districts – including residential uses – frequently carry over into more intensive zoning districts. The new Comprehensive Plan recommends that the use table in the zoning ordinance be modernized. One of the ways to modernize the use table is to move away from the cumulative structure so that each zoning district has its own ‘flavor’ with a predictable set of permitted uses. Although two-family dwellings are currently permitted by right in the GR zoning district, the property should be rezoned in the event that two-family dwellings become prohibited in this nonresidential zoning district. Otherwise, the development could become a nonconforming use in GR. Applying the 2F zoning district to the property would also prohibit potentially incompatible nonresidential uses from being established in the subdivision. In addition, the 2F zoning district requires a 25’ minimum front yard setback rather than the 15’ minimum front yard setback required in GR.

## Surrounding Property and Uses

The following table shows the existing zoning and current land uses abutting the subject property:

Direction	Zoning	Current Land Use
North	A	Vacant
East	C	Vacant
South	LI	Construction supplies wholesales
	C	Vacant
West	SF-2	Developing subdivision (West Ridge IX)

A zoning request should be reviewed for compliance with the Comprehensive Plan.

**Double Sided**

### Future Land Use and Character

The Future Land Use and Character map designates the subject property as Business Park. Chapter 3 of the Comprehensive Plan states that the Business Park designation is for areas already developed as, or envisioned for office, service and research and technology-related uses in a campus-like environment. In the future, the Future Land Use and Character map should be amended so that the frontage of 205 Loop in the area of the subject property has the Auto-Urban Residential character designation with the Business Park designation remaining on property fronting on HK Dodgen Loop 363 and Airport Road to the rear.

### Thoroughfare Plan

205 Loop is designated as a collector street on the Thoroughfare Plan and is already built to such standard. The zone change request complies with the Thoroughfare Plan.

### Adequacy of Public Facilities

Upon approval of the preliminary plat for The Greens on Loop 205, adequate public facilities including water and sewer will be scheduled to be extended to the property.

### Development Regulations

The purpose statement of the 2F zoning district is:

The 2F, two-family dwelling district is designed to accommodate single family and duplex dwellings as an intermediate classification allowing an orderly transition from single-family neighborhoods to higher densities of residential use.

Considering the single-family and two-family development to the west and assuming that the properties fronting on HK Dodgen Loop 363 to the east will develop as business parks or some other nonresidential use, then the application of the 2F zoning district to the subject property is in agreement with the purpose of the district.

Typical permitted uses in the 2F zoning district include, but are not limited to: single-family detached dwellings two-family dwellings and various supporting nonresidential uses such as churches and schools. Some uses allowed in the existing GR zoning district that are not allowed in the requested 2F district include many auto-service related uses and most retail uses.

The following table shows the dimensional requirements for the 2F zoning district for a two-family dwelling.

<b>2F, Two-Family</b>	
<b>Min. Lot Area (sq. ft.)</b>	4,000
<b>Min. Lot Width (ft.)</b>	60
<b>Min. Lot Depth (ft.)</b>	
<b>Max. Height (stories)</b>	2 ½
<b>Min. Yard (ft)</b>	
Front	25
Side	5
Side (street)	15
Rear	10

### Public Notice

Eight notices were sent out. As of Wednesday, October 29 at 5 PM, two notices was returned in favor of and two notices were returned in opposition to the request. The newspaper printed notice of the public hearing on Saturday, October 25, 2008 in accordance with state law and local ordinance.

Planning Staff has contacted the two opposing land owners to see if they want to revise their opinions, but at the time of this writing, Staff has not heard back from them.

**STAFF RECOMMENDATION:** Staff recommends approval of the zone change from GR, General Retail to 2F, Two-Family zoning district for the following reasons:

1. The requested district allows the same uses as the existing district, but prohibits potentially incompatible nonresidential uses;
2. The placement of the district complies with the purpose statement of the zoning district;
3. The request complies with the Thoroughfare Plan; and
4. Adequate public facilities will serve the property.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Zoning Map  
Land Use and Character Map  
Aerial  
Notice Map

**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING**

**MONDAY, NOVEMBER 17, 2008**

**ACTION ITEMS**

- 4. Z-FY-09-03:** Hold a public hearing to discuss and recommend action on a zone change from General Retail District (GR) to Two Family District (2F) on 15.6± acres of land situated partly in the R.M. Williamson Survey, Abstract No. 905 and partly in the George Givens Survey, Abstract No. 345, located along the north side of 205 Loop, east of Duke and Turley Drives. (Applicant: City of Temple)

Mr. Brian Mabry, Senior Planner presented details of the zone request to the Commission which was originally presented at the November 3, 2008 meeting and tabled.

Staff recommended approval of this zone change from GR to 2F because the request allows the same uses currently in the existing district but prohibits potentially non-compatible non-residential uses allowed in GR.

Commissioner Martin made a motion to approve this request and Commissioner Hurd seconded the motion.

Motion approved. (8:0)

ORDINANCE NO. \_\_\_\_\_

[PLANNING NO. Z-FY-09-03]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM GENERAL RETAIL DISTRICT TO TWO FAMILY DISTRICT ON APPROXIMATELY 15.6 ACRES OF LAND SITUATED PARTLY IN THE R.M. WILLIAMSON SURVEY, ABSTRACT NO. 905 AND PARTLY IN THE GEORGE GIVENS SURVEY, ABSTRACT NO. 345, LOCATED ALONG THE NORTH SIDE OF 205 LOOP EAST OF DUKE AND TURLEY DRIVES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves a zoning change from General Retail District to Two Family District on approximately 15.6 acres of land situated partly in the R.M. Williamson Survey, Abstract No. 905 and partly in the George Givens Survey, Abstract No. 345, located along the north side of 205 Loop, east of Duke and Turley Drives, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

**Part 2:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

**Part 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 4:** 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 5:** 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 **4<sup>th</sup>** day of **December**, 2008.

PASSED AND APPROVED on Second Reading on the **18<sup>th</sup>** day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #9  
Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-04: Consider adopting an ordinance authorizing a zoning change from Office One (O-1) to Single Family One (SF-1) on 25± acres of land on the west side of Kegley Road, south of Wildflower Lane.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** At its November 17, 2008 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zoning change from O-1 to SF-1 for the following reasons:

1. The request complies the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities will serve the site.

Commissioner Barton was absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 18, 2008.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-04, from the Planning and Zoning meeting, November 17, 2008.

The developer proposes a subdivision with 79 single-family lots. While single-family dwellings are already permitted in the O-1 zoning district, the new Comprehensive Plan recommends that the zoning district that most closely matches the proposed use be applied to the property. The developer does not object to the city initiated zone change.

Seven notices of the P&Z hearing were sent out. As of Wednesday, November 12 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the P&Z public hearing on November 8, 2008 in accordance with state law and local ordinance

Concerns of the Planning and Zoning Commission are shown in the draft minutes. The Commission did not raise any issues requiring additional staff attention.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

Aerial  
Zoning Map  
Land Use and Character Map  
Notice Map  
P&Z Staff Report (Z-FY-09-04)  
P&Z Minutes (11/17/08)  
Ordinance

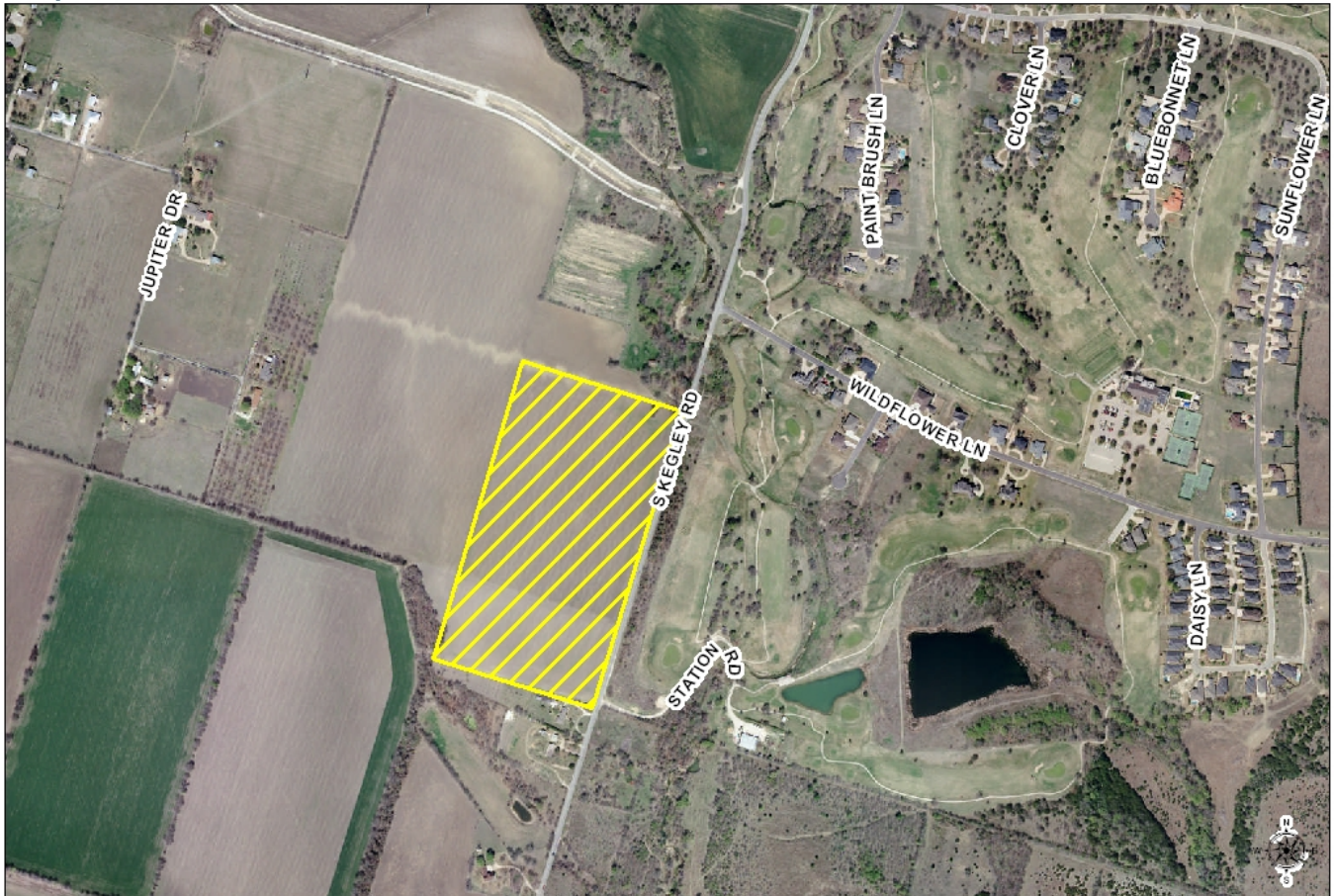




**Z-FY-09-04**

Outblocks 2565-A & 2564-A

25.585 acres



 Area of Proposed Zoning

**O1 to SF1 Zoning**

1 inch = 600 feet  
J Stone 10.27.08



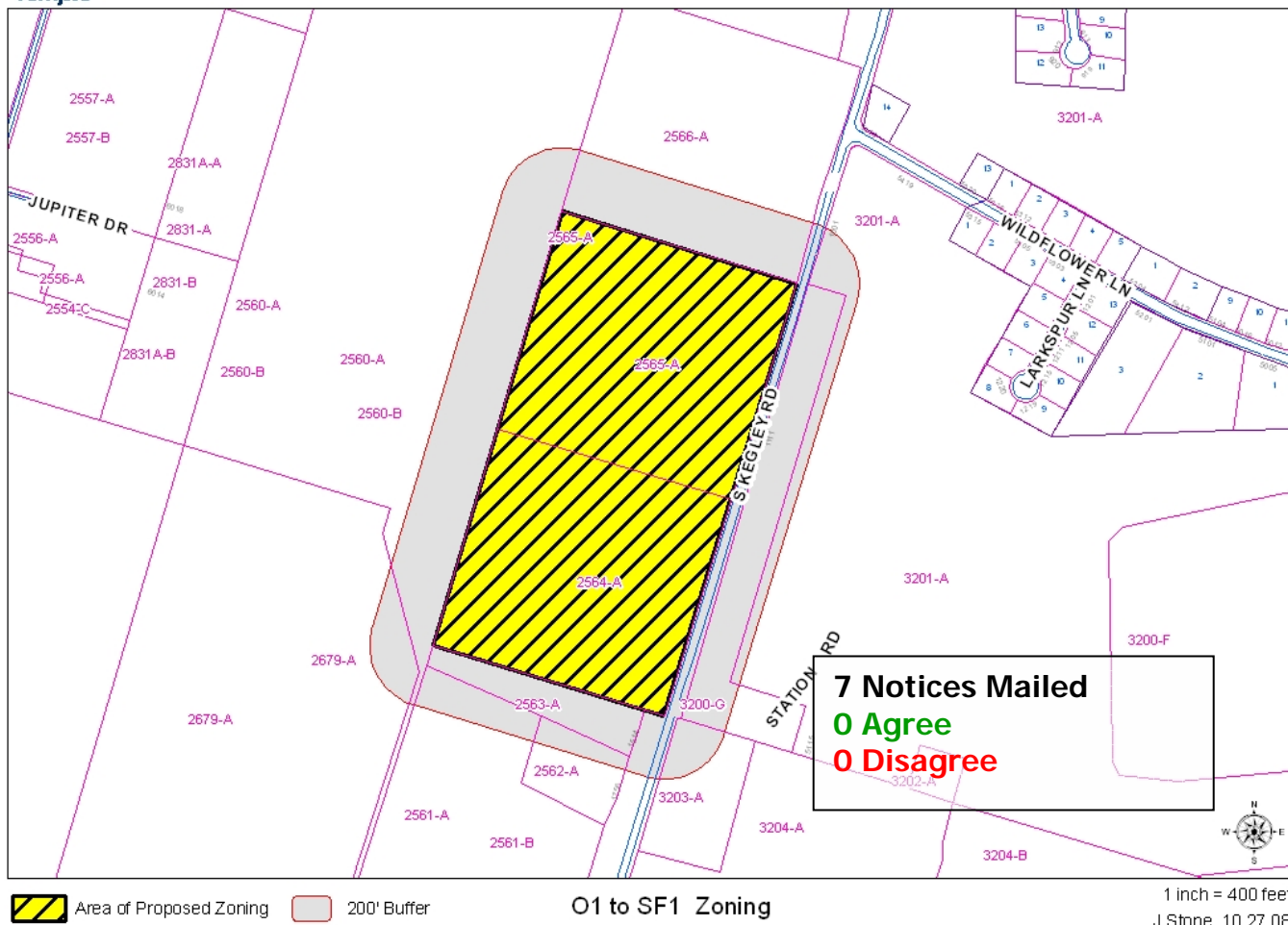




**Z-FY-09-04**

Outblocks 2565-A & 2564-A

25.585 acres







# PLANNING AND ZONING COMMISSION AGENDA ITEM

11/17/08  
Item #5  
Regular Agenda  
Page 1 of 2

**APPLICANT / DEVELOPMENT:** City of Temple

**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION:** Z-FY-09-04 Hold a public hearing to discuss and recommend action on a zone change from Office One (O-1) to Single Family One (SF-1) on 25± acres of land (Applicant: City Initiated)

**BACKGROUND:** The case tracks with Preliminary Plat P-FY-08-43 for the Wildflower Meadows Subdivision. The property was speculatively rezoned in 2006 and 2007 from the A, Agriculture zoning district to the O-1, Office 1 zoning district. The property has since changed hands and the owner plans to develop a single-family subdivision.

The use table in the zoning ordinance has a cumulative structure, meaning that uses allowed in less intensive use districts – including residential uses – frequently carry over into more intensive zoning districts. The new Comprehensive Plan recommends that the use table in the zoning ordinance be modernized. One of the ways to modernize the use table is to move away from the cumulative structure so that each zoning district has its own ‘flavor’ with a predictable set of permitted uses. Although single-family dwellings are currently permitted by right in the O-1 zoning district, the property should be rezoned in the event that single-family dwellings become prohibited in this nonresidential zoning district. Otherwise, the development could become a nonconforming use in O-1.

## Surrounding Property and Uses

The following table shows the existing zoning and current land uses abutting the subject property:

Direction	Zoning	Current Land Use
North	A	Vacant
East	PD-“Mixed”	Single-Family Subdivision & Golf Course
South	A	Single-Family Dwelling
West	A	Vacant

A zoning request should be reviewed for compliance with the Comprehensive Plan.

## Future Land Use and Character

The Future Land Use and Character Map designates the subject property as suburban residential. The request complies with the Future Land Use and Character Map.

## Thoroughfare Plan

Kegley Road is a minor arterial road on the Thoroughfare Plan map. The accompanying preliminary plat for the property shows no direct access from the lots in the subdivision onto this road. The request complies with the Thoroughfare Plan.

**Double Sided**

### Adequacy of Public Facilities

Upon approval of the Preliminary Plat for Wildflower Meadows, adequate public facilities including water and sewer will be scheduled to be extended to the property.

### Development Regulations

The purpose of the SF-1 zoning district is to allow average or standard single-family lots and to serve as a transition between larger and smaller lot single-family districts.

Typical permitted uses include but are not limited to single-family homes and nonresidential support uses such as schools and places of worship.

The following table shows the dimensional requirements for the SF-1 zoning district for a residential use.

<b>SF-1, Single-Family 1</b>	
<b>Min. Lot Area (sq. ft.)</b>	7,500
<b>Min. Lot Width (ft.)</b>	75
<b>Min. Lot Depth (ft.)</b>	100
<b>Max. Height (stories)</b>	2 ½
<b>Min. Yard (ft)</b>	
Front	25
Side	10% lot width
Side (street)	15
Rear	10

All of the lots on the corresponding Preliminary Plat are in compliance with the dimensional requirements for SF-1.

### Public Notice

Seven notices were sent out. As of Wednesday, November 12 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the public hearing on November 8, 2008 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of the zone change from O-1, Office 1 zoning district to SF-1, Single-Family 1 zoning district for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities will serve the property.

**FISCAL IMPACT:** Not Applicable

### **ATTACHMENTS:**

Zoning Map  
Land Use and Character Map  
Aerial  
Notice Map

**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING**

**MONDAY, NOVEMBER 17, 2008**

**ACTION ITEMS**

- 5. Z-FY-09-04:** Hold a public hearing to discuss and recommend action on a zone change from Office One (O1) to Single Family One (SF1) on 25± acres of land on the west side of Kegley Road, south of Wildflower Lane. (Applicant: City Initiated)

Mr. Brian Mabry, Senior Planner gave a PowerPoint presentation of the details of this request to the Commission and explained the City initiated the zone change so whatever gets built on this undeveloped land matches the zoning for the property.

Staff recommended approval of this zone change from O1 to SF1 because it complied with the Future Land Use and Character map, the Thoroughfare Plan and adequate public facilities will serve the site. The applicant also stated he had no objections to this zone request change.

Commissioner Luck made a motion to approve the zone change and Commissioner Secrest seconded the motion.

Motion approved. (8:0)

ORDINANCE NO. \_\_\_\_\_

[PLANNING NO. Z-FY-09-04]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM OFFICE ONE DISTRICT (O-1) TO SINGLE FAMILY ONE DISTRICT (SF-1) ON APPROXIMATELY 25 ACRES IN OUTBLOCKS 2565-A AND 2564-A; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves a zoning change from Office One District (O-1) to Single Family One District (SF-1) on approximately 25 acres in Outblocks 2565-A and 2564-A, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

**Part 2:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

**Part 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 4:** 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 5:** 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 **4<sup>th</sup>** day of **December**, 2008.

PASSED AND APPROVED on Second Reading on the **18<sup>th</sup>** day of **December**, 2008.



THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/04/08  
Item #10  
Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-05: Consider adopting an ordinance authorizing a zoning change from Multiple Family Two District (MF-2) to Office One District (O-1) on the West 92 Feet of Lot 2, Block, Barnes Addition, located at 601 North Main Street.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** At its November 17, 2008 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zoning change from MF-2 to O-1 for the following reasons:

1. The request complies the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities serve the site.

Commissioner Barton was absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 18, 2008.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-05, from the Planning and Zoning meeting, November 17, 2008.

The applicant requests this zoning change because he wants to erect a new freestanding sign on the property. The sign permit application that has been submitted indicates a sign that is four feet in height and 12 square feet in area. Such signs are not permitted in residential zoning districts such as MF-2. In addition, an office is a nonconforming use in MF-2 and as such, it would not be allowed to expand or be rebuilt in the future without a change in zoning.

Ten notices of the P&Z public hearing were sent out. As of Wednesday, October 29 at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the P&Z public hearing on Saturday, October 25, 2008 in accordance with state law and local ordinance.

Concerns of the Planning and Zoning Commission are shown in the draft minutes. The Commission did not raise any issues requiring additional staff attention.

**FISCAL IMPACT:** None

**ATTACHMENTS:**

Aerial  
Zoning Map  
Land Use and Character Map  
Notice Map  
P&Z Staff Report (Z-FY-09-05)  
P&Z Minutes (November 17, 2008)  
Ordinance



**Z-FY-09-05**

W 92' of Lot 2, Blk 1, Barnes Addition

601 N Main St



 Area of Proposed Zoning

**MF2 to O1 Zoning**

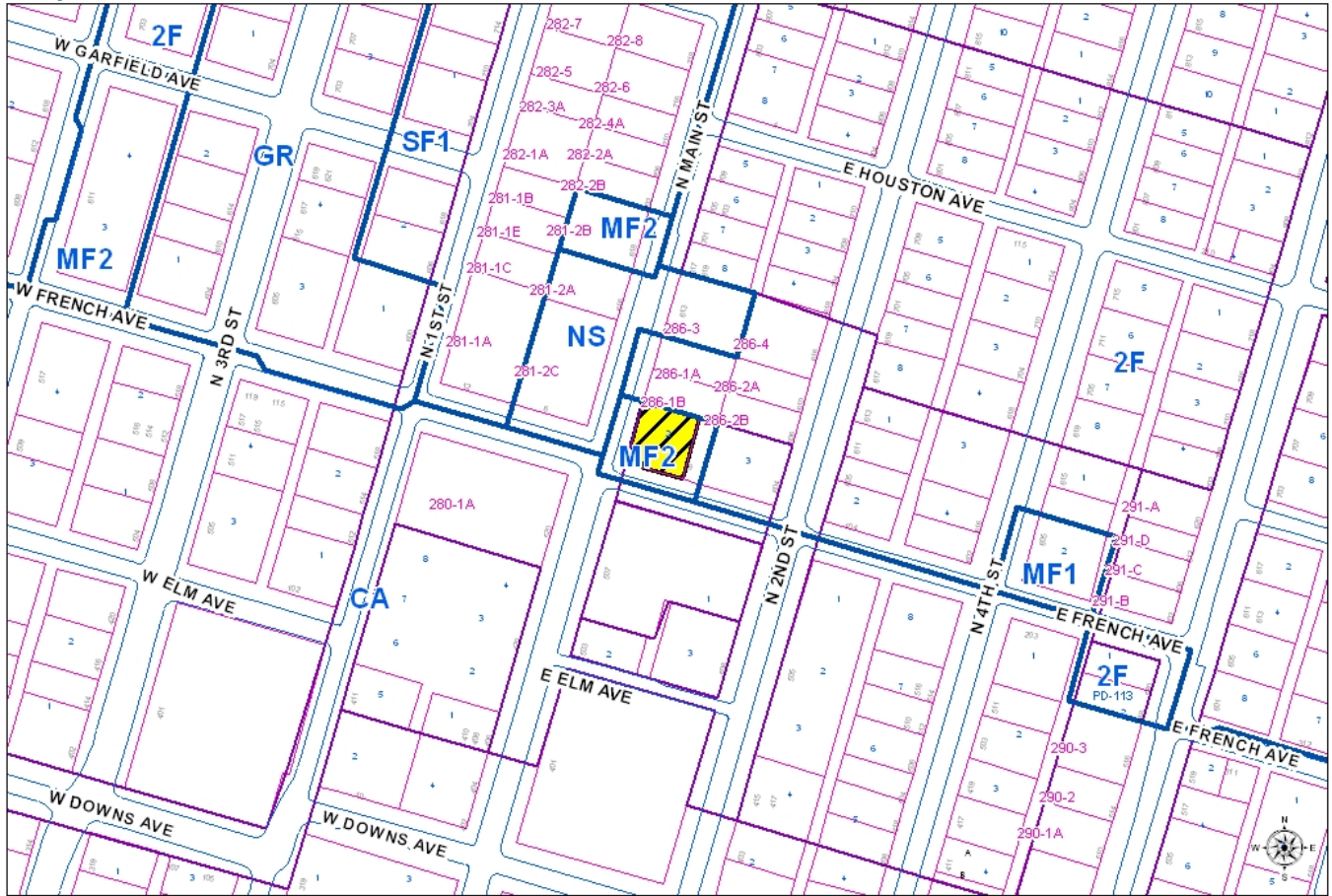
1 inch = 100 feet  
J Stone 10.27.08



**Z-FY-09-05**

W 92' of Lot 2, Blk 1, Barnes Addition

601 N Main St



 Area of Proposed Zoning

**MF2 to O1 Zoning**

1 inch = 200 feet  
J Stone 10.27.08

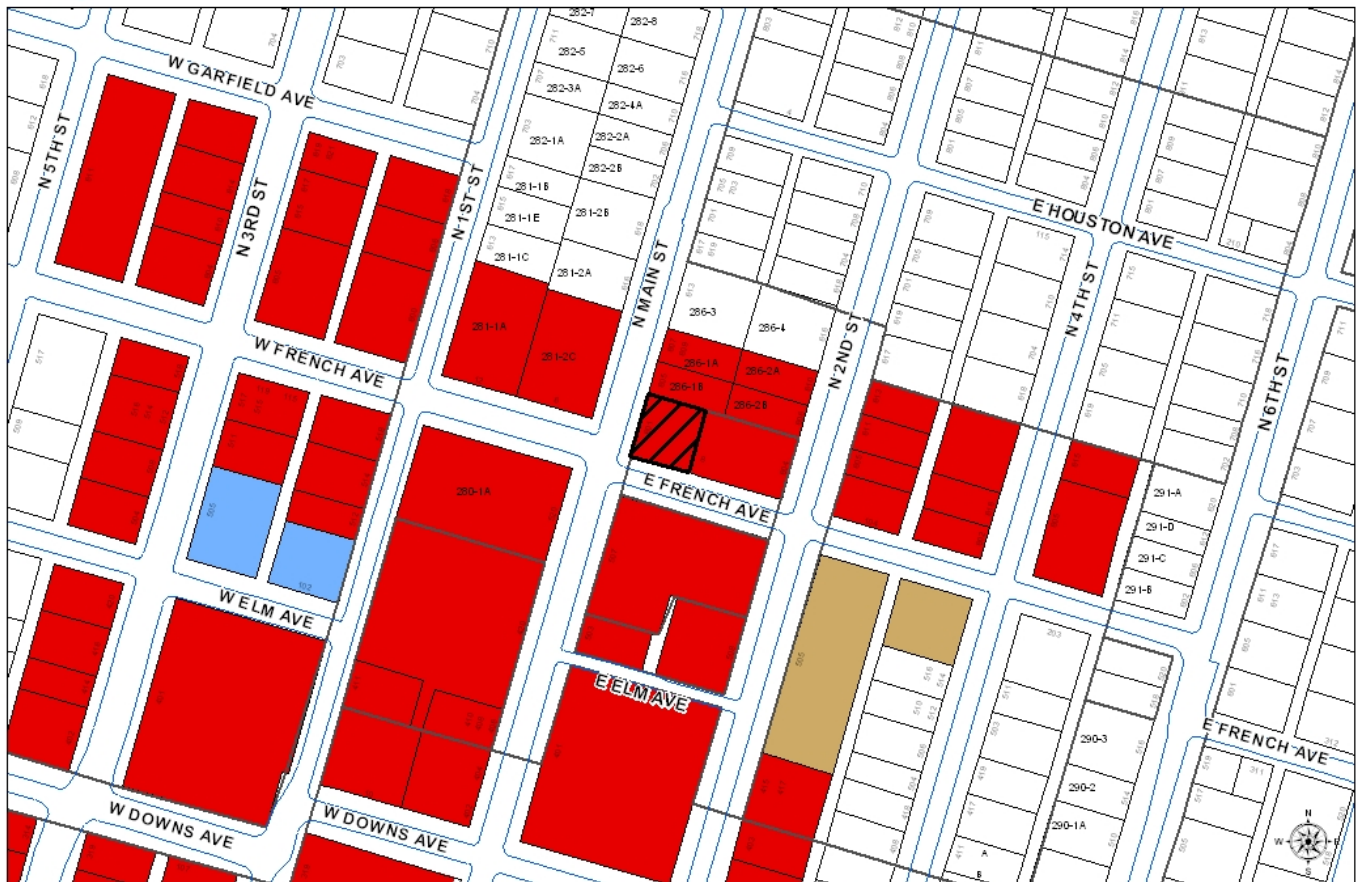




Z-FY-09-05

W 92' of Lot 2, Blk 1, Barnes Addition

601 N Main St



	Area of Proposed Zoning		Estate Residential		Auto-Urban Multi-Family		Suburban Commercial		Industrial		Parks and Open Space
	Temple Boundary		Suburban Residential		Auto-Urban Mixed Use		Urban Center		Business park		Agricultural/Rural
	Neighborhood Conservation		Auto-urban Residential		Auto-Urban Commercial		Temple Medical Education District		Public/Institutional		GR to 2F

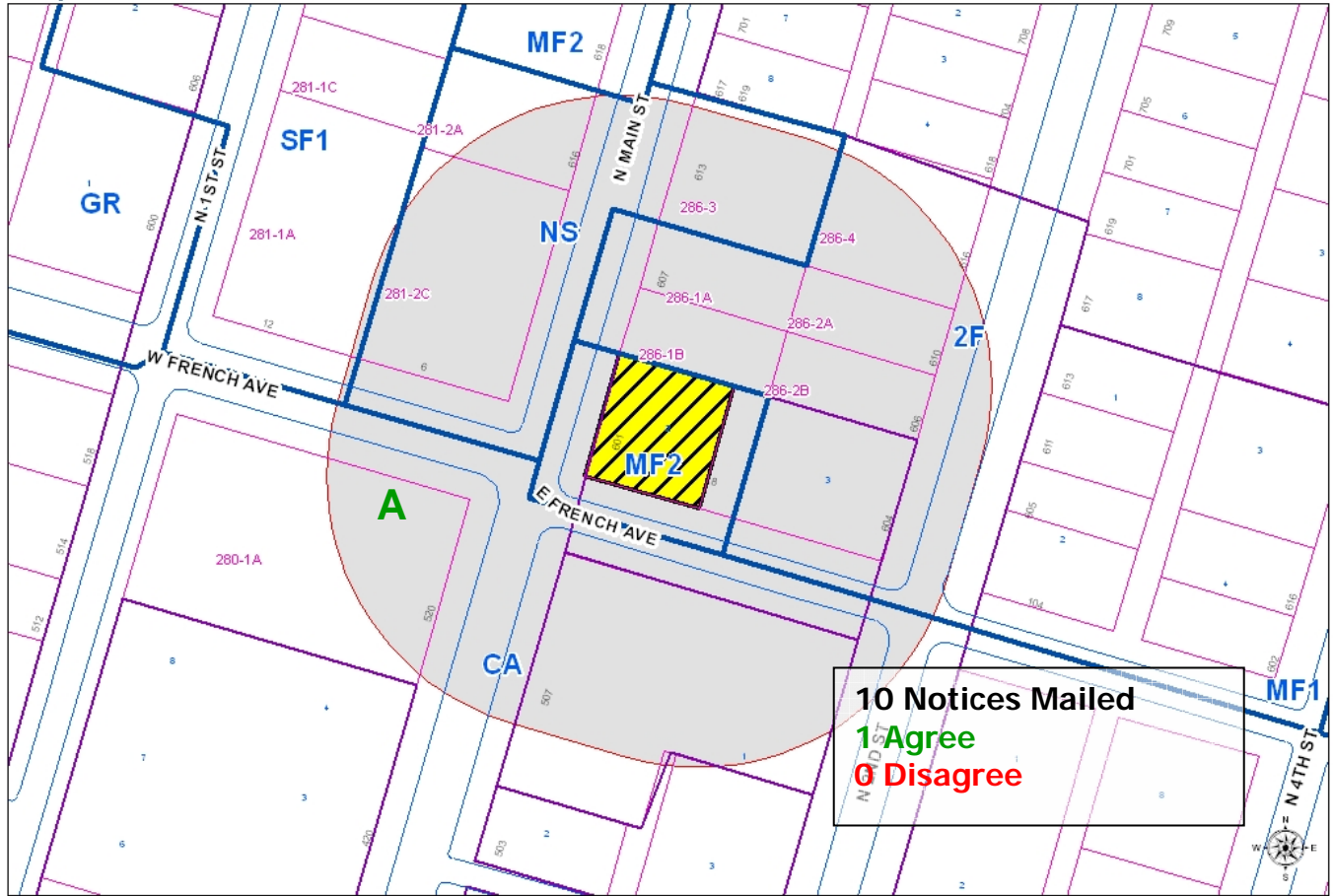
1 inch = 200 feet  
J Stone 10.27.08



**Z-FY-09-05**

W 92' of Lot 2, Blk 1, Barnes Addition

601 N Main St



Area of Proposed Zoning



200' Buffer

**MF2 to O1 Zoning**

1 inch = 100 feet  
J Stone 10.27.08



# PLANNING AND ZONING COMMISSION AGENDA ITEM

11/17/08  
Item #6  
Regular Agenda  
Page 1 of 2

**APPLICANT / DEVELOPMENT:** Moody Barrett

**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION:** Z-FY-09-05 Hold a public hearing to discuss and recommend action on a zone change from Multiple Family Two District (MF2) to Office One District (O1) on the West 92 Feet of Lot 2, Block 1, Barnes Addition, located at 601 North Main Street. (Applicant: Moody Barrett)

**BACKGROUND:** The purpose of this request is to allow a new freestanding sign on the subject property. On October 21, 2008 the applicant submitted a sign permit application for a new freestanding sign advertising his law office. Although an office has been on the property since the late 1980s, the zoning is MF-2, Multiple-Family 2. Freestanding signs are not permitted in residential zoning districts so a change in zoning is necessary. In addition, an office is a nonconforming use in MF-2 and as such, it would not be allowed to expand or be rebuilt in the future without a change in zoning.

## Surrounding Property and Uses

The following table shows the existing zoning and current land uses abutting the subject property:

Direction	Zoning	Current Land Use
North	2F	Single-Family Dwelling
East	2F	Single-Family Dwelling
South	CA	Social Security Office
West	NS	Offices

A zoning request should be reviewed for compliance with the Comprehensive Plan.

## Future Land Use and Character

The Future Land Use and Character Map designates the property Auto Urban Commercial. The request complies with the Future Land Use and Character Map.

## Thoroughfare Plan

East French Avenue and North Main Street are designated as local streets on the Thoroughfare Plan. The Thoroughfare Plan says that local streets allow direct property access within residential and commercial areas. The request complies with the Thoroughfare Plan.

## Adequacy of Public Facilities

The property is served by an 8" water line and a 6" sewer line. Adequate public facilities serve the property.

**Double Sided**



### Development Regulations

The purpose of the O-1, Office 1 zoning district is to allow low rise garden-type office development providing professional, financial, medical, and other office services to residents in nearby neighborhoods. The O-1 zoning district should be located convenient to residential areas and should be complimentary to the character of the residential neighborhood served.

Typical permitted uses include but are not limited to: bank or savings and loan office, general business and professional office, medical or dental office, decorator, artist or photographer studio, music, dance or drama studio and veterinarian office only without an animal hospital.

Prohibited uses include but are not limited to: car wash, gas station, major vehicle repair, minor vehicle servicing and other more intense uses such as commercial and industrial uses.

The following table shows the dimensional requirements for the O-1 zoning district for a nonresidential use.

<b>O-1, Office 1</b>	
<b>Min. Lot Area (sq. ft.)</b>	NA
<b>Min. Lot Width (ft.)</b>	NA
<b>Min. Lot Depth (ft.)</b>	NA
<b>Max. Height (stories)</b>	3
<b>Min. Yard (ft)</b>	
Front	25
Side	5
Side (street)	15
Rear	10

### Public Notice

Ten notices were sent out. As of Wednesday, November 12 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the public hearing on November 8, 2008 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of the zone change from MF-2, Multiple-Family 2 to O-1, Office 1 zoning district for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities serve the property.

**FISCAL IMPACT:** Not Applicable

### **ATTACHMENTS:**

Zoning Map  
Land Use and Character Map  
Aerial  
Notice Map  
Response Letters

**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING**

**MONDAY, NOVEMBER 17, 2008**

**ACTION ITEMS**

**6. Z-FY-09-05:** Hold a public hearing to discuss and recommend action on a zone change from Multiple Family Two District (MF2) to Office One District (O1) on the West 92 Feet of Lot 2, Block 1, Barnes Addition, located at 601 North Main Street. (Applicant: Moody Barrett)

Mr. Brian Mabry, Senior Planner presented a brief overview of the request to the Commission and stated the request was for an erection of a free standing business sign.

Staff recommended approval of this zone change and Mr. Moody Barrett, owner of the building, stated this request was for a correction of the zoning designation and was in support of the request.

Commissioner Secrest made a motion to approve the zone change request and Commissioner Talley seconded the motion.

Motion approved. (8:0)

ORDINANCE NO. \_\_\_\_\_

[PLANNING NO. Z-FY-09-05]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM MULTIPLE FAMILY TWO DISTRICT (MF-2) TO OFFICE ONE DISTRICT (O-1) ON THE WEST 92 FEET OF LOT 2, BLOCK 1, BARNES ADDITION, LOCATED AT 601 NORTH MAIN STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves a zoning change from Multiple Family Two District (MF-2) to Office One District (O-1) on the west 92 feet of Lot 2, Block 1, Barnes Addition, located at 601 North Main Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

**Part 2:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

**Part 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 4:** 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 5:** 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 **4<sup>th</sup>** day of **December**, 2008.

PASSED AND APPROVED on Second Reading on the **18<sup>th</sup>** day of **December**, 2008.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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Regular Agenda  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending Chapter 7, “Buildings”, of the Code of Ordinances, to add Landscape Irrigation Ordinance as Article VII consistent with ordinance language complying with Texas Commission on Environmental Quality requirements and City of Temple water protection goals.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 18, 2008.

**ITEM SUMMARY:** House Bill 1656, adopted during the 80<sup>th</sup> Legislative Session, added § 401.006 to the Local Government Code which directs municipalities with populations of 20,000 or more to adopt ordinances that require irrigation system installers to be licensed by TCEQ and to obtain a permit from the municipality before installing an irrigation system. This is mandatory for municipalities with populations of 20,000 or more. A sample landscape irrigation ordinance was released at the end of September by TML. The statute requires the ordinance to be in effect by January 1, 2009.

This ordinance will require irrigation system installers to be licensed by the TCEQ and will require someone who inspects an irrigation system for a municipality to be licensed by the TCEQ. The ordinance also includes standards and specifications for designing, installing, and operating irrigation systems, and must include any rules adopted by TCEQ that are related to landscape irrigation.

The ordinance anticipates both permitting fees for licensed irrigators and inspection fees. We may employ or contract with a licensed plumbing inspector or licensed irrigation inspector to enforce the ordinance and may recover costs for implementing and enforcing the landscape irrigation ordinance by charging a fee for the installer of the irrigation system for obtaining or renewing an irrigation permit. Our current Construction Permit Fees lists a basic plumbing permit as \$15.00 and a lawn sprinkler up to 5 heads at \$5.00 (with \$0.50 for each additional head). In order to modify these fees for permitting, a rate resolution will be brought before the Council. In the current draft of the ordinance, the fee structure is undefined.

The ordinance exempts on-site sewage systems, agricultural irrigation systems, and irrigation systems connected to a well and used by the property owner for domestic use.

**FISCAL IMPACT:** No fiscal impact to City funds. The permit fees should cover the inspection expenses.

**ATTACHMENTS:**

[Ordinance](#)

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 7, "BUILDINGS," OF THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE VII, ENTITLED, "LANDSCAPE IRRIGATION STANDARDS," ESTABLISHING THE MINIMUM STANDARDS FOR INSTALLATION OF IRRIGATION SYSTEMS WITHIN THE CORPORATE LIMITS OF THE CITY AND THE EXTRATERRITORIAL JURISDICTION; PROVIDING FOR A CRIMINAL PENALTY, CLASS C MISDEMEANOR NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR VIOLATION OF THE CODE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**WHEREAS**, the City Council of the City of Temple has determined that water conservation and environmental protection are important issues and concerns affecting the City;

**WHEREAS**, properly-installed irrigation systems will conserve water, help avoid wasteful use, and improve the overall quality of life for the citizens of Temple;

**WHEREAS**, during the 2007 legislative session, the Texas Legislature adopted House Bill 1656;

**WHEREAS**, House Bill 1656 amended Chapter 401 of the Texas Local Government Code to require a city with a population of 20,000 or more to regulate the installation of irrigation systems within the corporate limits of the city as well as the city's extraterritorial jurisdiction; and

**WHEREAS**, the provisions herein are necessary to promote and protect the health, safety, and welfare of the public by creating an urban environment that is protective of the City's water supply and provides an enhanced quality of life for the citizens of the City of Temple.

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

**Part 1:** The City Council amends Chapter 7, "Buildings," of the Code of Ordinances of the City of Temple, Texas, by adding Article VII, entitled, "Landscape Irrigation Standards," adopting the following minimum standards for the installation of irrigation systems.

**ARTICLE VII. LANDSCAPE IRRIGATION STANDARDS**

**Section 7-100. Definitions.**

The following words and terms, when used in this ordinance, have the following meanings, unless the context clearly indicates otherwise.

- (1) **Air gap**--A complete physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.
- (2) **Atmospheric Vacuum Breaker**--An assembly containing an air inlet valve, a check seat, and an air inlet port. The flow of water into the body causes the air inlet valve to close the air inlet port. When the flow of water stops the air inlet valve falls and forms a check against back-siphonage. At the same time it opens the air inlet port allowing air to enter and satisfy the vacuum. Also known as an Atmospheric Vacuum Breaker Back-Siphonage Prevention Assembly.
- (3) **Backflow prevention**--The mechanical prevention of reverse flow, or back siphonage, of nonpotable water from an irrigation system into the potable water source.
- (4) **Backflow prevention assembly**--Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition.
- (5) **Completion of irrigation system installation**--When the landscape irrigation system has been installed, all minimum standards met, all tests performed, and the irrigator is satisfied that the system is operating correctly.
- (6) **Consulting**--The act of providing advice, guidance, review or recommendations related to landscape irrigation systems.
- (7) **Cross-connection**--An actual or potential connection between a potable water source and an irrigation system that may contain contaminants or pollutants or any source of water that has been treated to a lesser degree in the treatment process.
- (8) **Design**--The act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.
- (9) **Design pressure**--The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.
- (10) **Double Check Valve**--An assembly that is composed of two independently acting, approved check valves, including tightly closed resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. Also known as a Double Check Valve Backflow Prevention Assembly.
- (11) **Emission device**--Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, and drip irrigation emitters.
- (12) **Employed**--Engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or



service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, 26 United States Code Service, §3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.

(13) **Head-to-head spacing**--The spacing of spray or rotary heads equal to the manufacturers published radius of the head.

(14) **Health hazard**--A cross-connection or potential cross-connection with an irrigation system that involves any substance that may, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects.

(15) **Hydraulics**--The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

(16) **Inspector**--A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.

(17) **Installer**--A person who actually connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

(18) **Irrigation inspector**--A person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

(19) **Irrigation plan**--A scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.

(20) **Irrigation services**--Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.

(21) **Irrigation system**--An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by Texas Agricultural Code, §251.002.

(22) **Irrigation technician**--A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

(23) **Irrigation zone**--A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.

(24) **Irrigator**--A person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

(25) **Irrigator-in-Charge**--The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.

(26) **Landscape irrigation**--The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

(27) **License**--An occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30 to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.

(28) **Mainline**--A pipe within an irrigation system that delivers water from the water source to the individual zone valves.

(29) **Maintenance checklist**--A document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to: checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.

(30) **Major maintenance, alteration, repair, or service**--Any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.

(31) **Master valve**--A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

(32) **Matched precipitation rate**--The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.

(33) **New installation**--An irrigation system installed at a location where one did not previously exist .

(34) **Pass-through contract**--A written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.

(35) **Potable water**--Water that is suitable for human consumption.

(36) **Pressure Vacuum Breaker**--An assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. Also known as a Pressure Vacuum Breaker Back-siphonage Prevention Assembly.

(37) **Reclaimed water**--Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.

(38) **Records of landscape irrigation activities**—The irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.

(39) **Reduced Pressure Principle Backflow Prevention Assembly**--An assembly containing two independently acting approved check valves together with a hydraulically operating mechanically independent pressure differential relief valve located between the two check valves and below the first check valve.

(40) **Static water pressure**--The pressure of water when it is not moving.

(41) **Supervision**--The on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair or service an irrigation system.

(42) **Water conservation**--The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.

(43) **Zone flow**--A measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.

(44) **Zone valve**--An automatic valve that controls a single zone of a landscape irrigation system.

## **Section 7-101. Valid License Required.**

Any person who connects an irrigation system to the water supply within the City or the City's extraterritorial jurisdiction, commonly referred to as the ETJ, must hold a valid license, as defined by Title 30, Texas Administrative Code, Chapter 30 and required by Chapter 1903 of the Texas Occupations Code, or as defined by Chapter 365, Title 22 of the Texas Administrative Code and required by Chapter 1301 of the Texas Occupations Code.

### ***Exemptions***

A property owner is not required to be licensed in accordance with Texas Occupations Code, Title 12, §1903.002(c)(1) if he or she is performing irrigation work in a building or on a premises owned or occupied by the person as the person's home. A home or property owner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344 regarding spacing, water pressure, spraying water over impervious materials, rain or moisture shut-off devices or other technology, backflow prevention and isolation valves. The City may, at any point, adopt more stringent requirements for a home or property owner who installs an irrigation system. See Texas Occupations Code §1903.002 for other exemptions to the licensing requirement.

## **Section 7-102. Permit Required.**

Any person installing an irrigation system within the territorial limits or extraterritorial jurisdiction of the City is required to obtain a permit from the City. Any applicant must submit a plan with the application demonstrating that the plan and irrigation system meet the requirements of this chapter. Any plan approved for a permit must be in compliance with the requirements of this chapter. Construction Safety administers the permit program in conjunction with the Water Department's approval of tested systems. Permit formats and processes are amended from time to time by the Construction Safety Department.

### ***Exemptions***

- (1) An irrigation system that is an on-site sewage disposal system, as defined by Section 355.002, Health and Safety Code; or
- (2) An irrigation system used on or by an agricultural operation as defined by Section 251.002, Agriculture Code; or
- (3) An irrigation system connected to a groundwater well used by the property owner for domestic use.

## **Section 7-103. Backflow Prevention Methods and Devices.**

(a) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by the American Society of Sanitary Engineers; or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or the Uniform Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.

(b) If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow;

(1) An air gap may be used if:

- a. there is an unobstructed physical separation; and flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.
- b. the distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.

(2) Reduced pressure principle backflow prevention assemblies may be used if:

- a. the device is installed at a minimum of 12 inches above ground location that will ensure that the assembly will not be submerged; and
- b. drainage is provided for any water that may be discharged through the assembly relief valve.

(3) Pressure vacuum breakers may be used if:

- a. no back-pressure condition will occur; and
- b. the device is installed at a minimum of 12 inches above any sprinklers are measured from the retracted position from the top of the sprinkler.

(4) Atmospheric vacuum breakers may be used if:

- a. no back-pressure will be present;
- b. there are no shutoff valves downstream from the atmospheric vacuum breaker;
- c. the device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;
- d. there is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and
- e. a separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve, between the valve and all the emission devices that the valve controls.

(c) Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.

(d) If an irrigation system is connected to a potable water supply through a pressure vacuum breaker or reduced pressure principle backflow assembly and includes an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.

(e) The irrigator shall ensure the backflow prevention device is tested by a licensed Backflow Prevention Assembly Tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device

#### **Section 7-104. Specific Conditions and Cross-Connection Control.**

(a) Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.

(b) Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly or an air gap.

(c) Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.

(d) If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285, then:

(1) all irrigation piping and valves must meet the separation distances from the On-Site Sewage Facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);

(2) any connections using a private or public potable water source that is not the City's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and

(3) any water from the irrigation system that is applied to the surface of the area utilized by the On-Site Sewage Facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the On-Site Sewage Facilities system from operating effectively.

## **Section 7-105. Water Conservation.**

All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in the Definitions section of this ordinance.

## **Section 7-106. Irrigation Plan Design: Minimum Standards.**

(a) An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:

- (1) diminish the operational integrity of the irrigation system;
- (2) violate any requirements of this ordinance; and
- (3) go unnoted in red on the irrigation plan.

(b) The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.

(c) All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:

- (1) the irrigator's seal, signature, and date of signing;
- (2) all major physical features and the boundaries of the areas to be watered;
- (3) a North arrow;
- (4) a legend;
- (5) the zone flow measurement for each zone;
- (6) location and type of each:
  - a. controller; and
  - b. sensor (for example, but not limited to, rain, moisture, wind, flow, or freeze);
- (7) location, type, and size of each:
  - a. water source, such as, but not limited to a water meter and point(s) of connection;
  - b. backflow prevention device;

- c. water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;
- d. valve, including but not limited to, zone valves, master valves, and isolation valves;
- e. pressure regulation component; and
- f. main line and lateral piping.

(8) the scale used; and

(9) the design pressure.

#### **Section 7-107. Design and Installation: Minimum Requirements.**

(a) No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.

(b) Spacing.

(1) The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.

(2) New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, such as, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.

(3) Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.

(c) Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.

(d) Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.



(e) Irrigation Zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.

(f) Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.

(g) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.

(h) Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.

(i) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a colored primer prior to applying the PVC cement in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

(j) Rain or moisture shut-off devices or other technology. All new automatically controlled irrigation systems must include sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall. Rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall.

(k) Isolation valve. All new irrigation systems must include an isolation valve between the water meter and the backflow prevention device.

(l) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.

(1) If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.

(2) If a utility, man-made structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.

(3) All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.

(m) Wiring irrigation systems.

(1) Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.

(2) Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.

(3) Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.

(4) Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.

(n) Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, such as, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box and the hose bib and any hoses connected to the bib must be labeled "non potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.

(o) Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not onsite, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.

**Section 7-108. Completion of Irrigation System Installation.**

Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:

(1) a final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system;

(2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include but are not limited to:

- a. the manufacturer's manual for the automatic controller, if the system is automatic;
- b. a seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;
- c. a list of components, such as the nozzle, or pump filters, and other such components; that require maintenance and the recommended frequency for the service; and
- d. the statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."

(3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink and include:

(4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.

#### **Section 7-109. Maintenance, Alteration, Repair, or Service of Irrigation Systems.**

(a) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.

(b) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.

(c) Colored PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

(d) When maintenance, alteration, repair or service of an irrigation system involves excavation work at the water meter or backflow prevention device, an isolation valve shall be installed, if an isolation valve is not present.

## **Section 7-110. Reclaimed Water.**

Reclaimed water may be utilized in landscape irrigation systems if:

- (1) there is no direct contact with edible crops, unless the crop is pasteurized before consumption;
- (2) the irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;
- (3) the irrigation system is installed using purple components;
- (4) the domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with Title 30, Texas Administrative Code, Section 290.47(i) (relating to Appendices);
- (5) a minimum of an eight inch by eight inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER – DO NOT DRINK" and "AGUA DE RECUPERACIÓN – NO BEBER"; and
- (6) backflow prevention on the reclaimed water supply line shall be in accordance with the regulations of the City's water provider.

## **Section 7-111. Advertisement Requirements.**

(a) All vehicles used in the performance of irrigation installation, maintenance, alteration, repair, or service must display the irrigator's license number in the form of "LI \_\_\_\_\_" in a contrasting color of block letters at least two inches high, on both sides of the vehicle.

(b) All forms of written and electronic advertisements for irrigation services must display the irrigator's license number in the form of "LI \_\_\_\_\_." Any form of advertisement, including business cards, and estimates which displays an entity's or individual's name other than that of the licensed irrigator must also display the name of the licensed irrigator and the licensed irrigator's license number. Trailers that advertise irrigation services must display the irrigator's license number.

(c) The name, mailing address, and telephone number of the commission must be prominently displayed on a legible sign and displayed in plain view for the purpose of addressing complaints at the permanent structure where irrigation business is primarily conducted and irrigation records are kept.

## **Section 7-112. Contracts.**

(a) All contracts to install an irrigation system must be in writing and signed by each party and must specify the irrigator's name, license number, business address, current business telephone numbers, the date that each party signed the agreement, the total agreed price, and must contain the statement, "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's website is: [www.tceq.state.tx.us](http://www.tceq.state.tx.us)." All contracts must include the irrigator's seal, signature, and date.

(b) All written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) must include the irrigator's name, license number, business address, current business telephone number(s), and the statement: "Irrigation in Texas is regulated by the Texas Commission On Environmental Quality (TCEQ)

(MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: [www.tceq.state.tx.us](http://www.tceq.state.tx.us)."

(c) An individual who agrees by contract to provide irrigation services as defined in Title 30, Texas Administrative Code, Section 344.30 (relating to License Required) shall hold an irrigator license issued under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations) unless the contract is a pass-through contract as defined in Title 30, Texas Administrative Code, Section 344.1(36) (relating to Definitions). If a pass-through contract includes irrigation services, then the irrigation portion of the contract can only be performed by a licensed irrigator. If an irrigator installs a system pursuant to a pass-through contract, the irrigator shall still be responsible for providing the irrigation system's owner or through contract, the irrigator shall still be responsible for providing the irrigation system's owner or owner's representative a copy of the warranty and all other documents required under this chapter. A pass-through contract must identify by name and license number the irrigator that will perform the work and must provide a mechanism for contacting the irrigator for irrigation system warranty work.

(d) The contract must include the dates that the warranty is valid.

#### **Section 7-112. Warranties for Systems.**

(a) On all installations of new irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative with a written warranty covering materials and labor furnished in the new installation of the irrigation system. The irrigator shall be responsible for adhering to terms of the warranty. If the irrigator's warranty is less than the manufacturer's warranty for the system components, then the irrigator shall provide the irrigation system's owner or the owner's representative with applicable information regarding the manufacturer's warranty period. The warranty must include the irrigator's seal, signature, and date. If the warranty is part of an irrigator's contract, a separate warranty document is not required.

(b) An irrigator's written warranty on new irrigation systems must specify the irrigator's name, business address, and business telephone number(s), must contain the signature of the irrigation system's owner or owner's representative confirming receipt of the warranty and must include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 130897, Austin, Texas 78711-3087. TCEQ's website is: [www.tceq.state.tx.us](http://www.tceq.state.tx.us)."

(c) On all maintenance, alterations, repairs, or service to existing irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative a written document that identifies the materials furnished in the maintenance, alteration, repair, or service. If a warranty is provided, the irrigator shall abide by the terms. The warranty document must include the irrigator's name and business contact information.

#### **Section 7-113. Duties and Responsibilities of City Irrigation Inspectors.**

A licensed irrigation inspector shall enforce the ordinance of the City, and shall be responsible for:

(1) verifying that the appropriate permits have been obtained for an irrigation system and that the irrigator and installer or irrigation technician, if applicable, are licensed;

(2) inspecting the irrigation system;

(3) determining that the irrigation system complies with the requirements of this chapter;

(4) determining that the appropriate backflow prevention device was installed, tested, and test results provided to the City;

(5) investigating complaints related to irrigation system installation, maintenance, alteration, repairs, or service of an irrigation system and advertisement of irrigation services; and

(6) maintaining records according to this chapter.

#### **Section 7-114. Items not covered by this ordinance.**

Any item not covered by their ordinance and required by law shall be governed by the Texas Occupations Code, the Texas Water Code, Title 30 of the Texas Administrative Code, and any other applicable state statute or Texas Commission on Environmental Quality rule.

#### **Section 7-115. Fees.**

The City Council may create a schedule of fees for obtaining and renewing an irrigation permit. These fees will be in amounts sufficient to cover the City's costs in issuing and renewing the permits, including, but not limited to, staff time and other overhead costs. The City Council shall adopt by resolution a schedule of the permit fees required or authorized. This schedule of fees is entitled Construction Permit Fees and is updated from time to time by Resolution. It is kept at City offices and also available online.

#### **Section 7-116. Enforcement.**

(a) The City shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.

(b) Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding \$2000.00. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a Class C misdemeanor, punishable by a fine of up to \$2000.00.

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

- (1) Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and
- (2) Other available relief.

**Part 2:** 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 3:** 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 4:** The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**Part 5:** 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 4<sup>th</sup> day of December, 2008.

PASSED AND APPROVED on Second Reading on the 18<sup>th</sup> day of December, 2008.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clydette Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney