



**MEETING OF THE
TEMPLE CITY COUNCIL
MUNICIPAL BUILDING
2 NORTH MAIN STREET
TEMPLE, TX**

THURSDAY, FEBRUARY 19, 2009

1:00 P.M.

3RD FLOOR CONFERENCE ROOM

WORKSHOP AGENDA

1. The Temple City Council will conduct a work session to discuss the current 2009 budget, the anticipated FY 2010 budget, and the City's Strategic Plan.
2. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, February 19, 2009.
3. Discuss the Comprehensive Annual Financial Report (CAFR) for fiscal year ending September 30, 2008.
4. Discuss alternate project delivery method options and the City's current local preference policy regarding the purchase of goods and services.

5:00 P.M.
CITY COUNCIL CHAMBERS – 2ND FLOOR

TEMPLE CITY COUNCIL
REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. Presentation of Proclamations:

- | | | |
|-----|--|-----------------------------------|
| (A) | Healthy Marriage Day | February 14, 2009 |
| (B) | Children of the Republic Of Texas' 80th Anniversary | March 2, 2009 |
| (C) | Adopt-A-Street Program | |

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. REPORTS

4. Receive the [City of Temple Comprehensive Annual Financial Report](#) for fiscal year ended September 30, 2008.
5. Receive a report from the Temple Police Department as required by the [Racial Profiling Statute](#) contained in the Texas Code of Criminal Procedure.

V. PUBLIC HEARINGS

6. PUBLIC HEARING – Conduct a public hearing to receive comments on the possible voluntary [annexation of a 176.534 acre tract](#) located west of Airport Road (SH 36) just northwest of the intersection of SH 317 and Airport Road (SH 36).

VI. 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.

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

Minutes:

- (A) [February 5, 2009 Special Called Meeting and Regular Meeting](#)

Contracts, Leases & Bids:

- (B) [2009-5642-R](#): Consider adopting a resolution authorizing joint election agreements with Temple Independent School District and the Temple Health and Bioscience Economic Development District for the May 9, 2009 election.
- (C) [2009-5643-R](#): Consider adopting a resolution authorizing a change order to a construction contract with Ranger Excavating, LP, for construction activities required to build the Rail Park Detention Pond between northwest H.K. Dodgen Loop and the future outer loop in an amount not to exceed \$41,112.50.
- (D) 1. [2009-5644-R](#): Consider adopting a resolution authorizing an agreement with David Blackburn, City Manager, regarding terms of employment consistent with State law and the City Charter.
2. [2009-5645-R](#): Consider adopting a resolution setting the compensation for certain Council-appointed employees.

Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council may meet in executive session to discuss the employment, evaluation, duties and work plan of the City Manager, City Attorney, Director of Finance, City Secretary and Municipal Court Judge.

Misc.

- (E) [2009-5646-R](#): Consider adopting a resolution authorizing the acceptance of funding from the Children's Justice Act (CJA), a federal award granted to develop, establish, and operate programs designed to improve the investigation, prosecution, and judicial handling of cases of child abuse and neglect, in the amount of \$2,312.
- (F) [2009-5647-R](#): Consider adopting a resolution approving first quarter financial results for Fiscal Year 2009.
- (G) [2009-5648-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

VII. REGULAR AGENDA

Ordinances

8. [2009-4282](#): SECOND READING – PUBLIC HEARING - Z-FY-09-09: Consider adopting an ordinance authorizing a zoning change from Single Family Two District (SF-2) to Planned Development Single Family Two District (PD-SF-2) and Planned Development Single Family Three District (PD-SF-3) on 50.3± acres located on the south side of Tarver Drive and the north side of Hogan Road 506± feet east of State Highway 317, being a part of the Baldwin Robertson Survey, Abstract No. 17 and including The Village of Sage Meadows Phase II, Section 1.
9. (A) [2009-4283](#): SECOND READING – Consider adopting an ordinance designating a tract of land consisting of approximately 66.561 acres located on Moore's Mill Road west of Wendland Road, as City of Temple Tax Abatement Reinvestment Zone Number Fourteen for commercial/industrial tax abatement.

(B) [2009-5649-R](#): Consider adopting a resolution authorizing a tax abatement agreement with HEB Grocery Company, L.P., for property consisting of approximately 66.561 acres located on Moore's Mill Road west of Wendland Road.
10. [2009-4284](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending the City's Economic Development Policy ordinance by establishing new criteria and guidelines for tax abatement in the Avenue H Strategic Investment Zone to promote local economic development and to stimulate business and commercial activity.
11. [2009-4286](#): FIRST READING – PUBLIC HEARING - Consider adopting an ordinance designating the Avenue H corridor as Tax Abatement Reinvestment Zone Number 15 and authorizing tax abatement agreements and certain other economic development incentives therein.
12. [2009-4285](#): FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending Ordinance Number 2008-4218, adopted June 5, 2008, by amending Part 3 therein to revise the economic incentive matching grants offered by the City in the South 1st Street Strategic Investment Zone.
13. [2009-4287](#): FIRST & FINAL READING – PUBLIC HEARING – Consider adopting an ordinance setting out the civil service classifications and setting the number of positions in each classification in the Temple Fire Department, to be considered on an emergency basis.

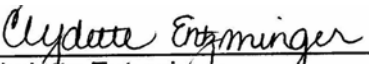
Board Appointments

14. [2009-5650-R](#): Consider adopting a resolution appointing members to the following City boards and commissions:
 - (A) Building & Standards Commission – two regular members and three alternate members to fill expiring terms through March 1, 2011
 - (B) Building Board of Appeals – two members to fill expiring terms through March 1, 2013
 - (C) Development Standards Advisory Board – three members to fill expiring terms through March 1, 2012

- (D) Electrical Board – one member to fill expiring term through March 1, 2012
- (E) Library Board – one member to fill unexpired term through September 1, 2009
- (F) Parks and Leisure Services Advisory Board – four members to fill expiring terms through March 1, 2012
- (G) Tree Board – two members to fill expiring terms through March 1, 2012
- (H) Zoning Board of Adjustment – two regular members and two alternate members to fill expiring terms through March 1, 2011

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 1:45 PM, on February 13, 2009.


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 _____ 2009.



COUNCIL AGENDA ITEM MEMORANDUM

02/19/09
Item #3(A)-(C)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamations:

- | | | |
|-----|---|-------------------|
| (A) | <i>Healthy Marriage Day</i> | February 14, 2009 |
| (B) | <i>Children of the Republic Of Texas' 80th Anniversary</i> | March 2, 2009 |
| (C) | <i>Adopt-A-Street Program</i> | |

STAFF RECOMMENDATION: Present proclamations as presented in item descriptions.

ITEM SUMMARY:

- (A) This proclamation was requested by Richard Welch with the Lutheran Social Services of the South, Inc. It will be received by **Patricia Polega from Lutheran Social Services.**
- (B) This proclamation was requested by Suzanne Steeves on behalf of the Elizabeth Lawrence Aldrich Chapter of the Children of the Republic of Texas. **Ms. Steeves, along with several other members of the chapter**, will be present to receive the proclamation.
- (C) This proclamation was requested by Tanya Gray with Keep Temple Beautiful. It will be received by **Tanya Gray.**

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

02/19/09
Item #4
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Receive the City of Temple Comprehensive Annual Financial Report for fiscal year ended September 30, 2008.

STAFF RECOMMENDATION: Receive the audit report as presented in item description.

ITEM SUMMARY: According to the City Charter of the City of Temple, an annual independent audit is required to be made of the financial records of the City by a Certified Public Accountant selected by the City Council. The City of Temple engaged the firm of Brockway, Gersbach, Franklin & Niemeier, P.C.

The City of Temple Comprehensive Annual Financial Report (CAFR) for fiscal year ending September 30, 2008 will be presented by Steve Niemeier, CPA. Mr. Niemeier is a partner with the accounting firm of Brockway, Gersbach, Franklin and Niemeier, P.C. and will be available to address the Councilmembers' questions.

In the previous year's financial statements, the City implemented a dramatic change in governmental financial reporting. We believe this new presentation provides better information to users of the comprehensive annual financial report. The new reporting model issued by the Governmental Accounting Standards Board requires that the management provide a narrative introduction, overview, and analysis to accompany the basic financial statements in the form of Management's Discussion and Analysis (MD&A). The City's MD&A can be found immediately following the independent auditors' report.

The comprehensive annual financial report is presented in four sections: introductory, financial, statistical and compliance. The introductory section includes this transmittal letter, the City's organizational chart and a list of principal officials. The financial section includes the MD&A, Government-wide and Major Fund presentations, notes to the financial statements, Required Supplementary Information, Combining Individual Fund Statements, as well as the independent

auditors' report on the financial statements and schedules. The statistical section includes selected financial and demographic information, generally presented on a multiyear basis.

Fiscal year 2008 was the first year new risk-based auditing standards were implemented by the auditors. These new auditing standards changed the audit approach. Some of these changes included expanding the quality and depth of the auditor's required understanding of the city and its environment, including internal control, requiring the auditor to assess the risks of material misstatements at the financial statement level and at the assertion level on all audits based on the understanding obtained, eliminating the "default to maximum" for control risk, which should encourage testing of controls, emphasizing the importance of the City's risk assessment process, strengthening the linkage between assessed risks and the auditor's responses to those risks, clarifying the auditor's ability to rely on audit evidence gathered in prior audits, strengthening guidance for testing disclosures, clarifying and expanding guidance on evaluating audit findings, and expanding documentation requirements.

The new auditing standard, *Communicating Internal Control Related Matters Identified in an Audit*, made some significant changes. Some of these changes included segregating deficiencies into three categories – control deficiencies, significant deficiencies, and material weaknesses. Significant deficiencies replaces the old term previously used as "reportable conditions." The terms "significant deficiency" and "material weakness" have been redefined. The auditor is now required to evaluate our organization's internal control deficiencies and to determine which deficiencies rise to the level of a significant deficiency or material weakness. Although an audit is not designed to identify internal control deficiencies, the auditor will be required to evaluate the design and implementation of our internal controls and deficiencies may be noted. The auditor must communicate in writing to management and those charged with governance both significant deficiencies and material weaknesses, including those already communicated to you in prior periods, even if we chose not to correct them. However, they will not be expressing an opinion on the effectiveness of our internal control. This new standard will significantly increase the number of management letters issued compared to the past.

FISCAL IMPACT: The fee for the FY 2008 annual audit is \$42,700 plus the cost of implementing the new risk based standards estimated at \$6,400. The audit fee is proportionally allocated to each fund.

ATTACHMENTS:

Management Letter (Hard Copy)
Auditor's Letter (Hard Copy)
Audit (Hard Copy)



COUNCIL AGENDA ITEM MEMORANDUM

02/19/09
Item #5
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police

ITEM DESCRIPTION: Receive a report from the Temple Police Department as required by the Racial Profiling Statute contained in the Texas Code of Criminal Procedure.

STAFF RECOMMENDATION: Receive report as presented in item description.

ITEM SUMMARY: The Code of Criminal Procedure requires a report to the governing body of the municipality that details the department's activities related to traffic stops that result in citations, arrests, and searches of persons and/or vehicles. The statute requires the head of the agency to use comparative data to make a determination as to the possible presence of racial profiling within the agency.

The report includes the totals for each category mentioned above. Census data for Temple and Bell County are used for comparisons where appropriate.

It is recommended that the Council receive this report. No other action is required.

FISCAL IMPACT: None

ATTACHMENTS:

Report (Hard Copy)



COUNCIL AGENDA ITEM MEMORANDUM

02/19/09
Item #6
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: PUBLIC HEARING – Conduct a public hearing to receive comments on the possible voluntary annexation of a 176.534 acre tract located west of Airport Road (SH 36) just northwest of the intersection of SH 317 and Airport Road (SH 36).

STAFF RECOMMENDATION: Receive staff presentation on the Municipal Service Plan, as required by State law, hold public hearing and take no action at this time. The second required public hearing will be held on Friday, February 20, 2009, at 8:00 a.m., at a special meeting of the City Council.

ITEM SUMMARY: On February 5, 2009, the Council accepted petition for voluntary annexation from Woods Robins Trust (Paul Mark Woods), the owner of a 176.534 acre tract located contiguous to the existing City limits and northwest of the intersection of Airport Road and SH 317. The Council directed the staff to prepare a municipal services plan for this tract.

The annexation schedule calls for two public hearings—this being the first, with the second scheduled for a February 20th special meeting of the City Council. The public hearing today is to receive public comments on the proposed annexation and proposed service plan from anyone that might wish to speak. There are no residents on the 176.534 acre tract.

FISCAL IMPACT: Future tax revenue. Need to provide police and fire services to the area. The Municipal Service Plan doesn't propose any extension of water or wastewater services to the area, or any other new physical facilities to serve this small tract.

ATTACHMENTS:

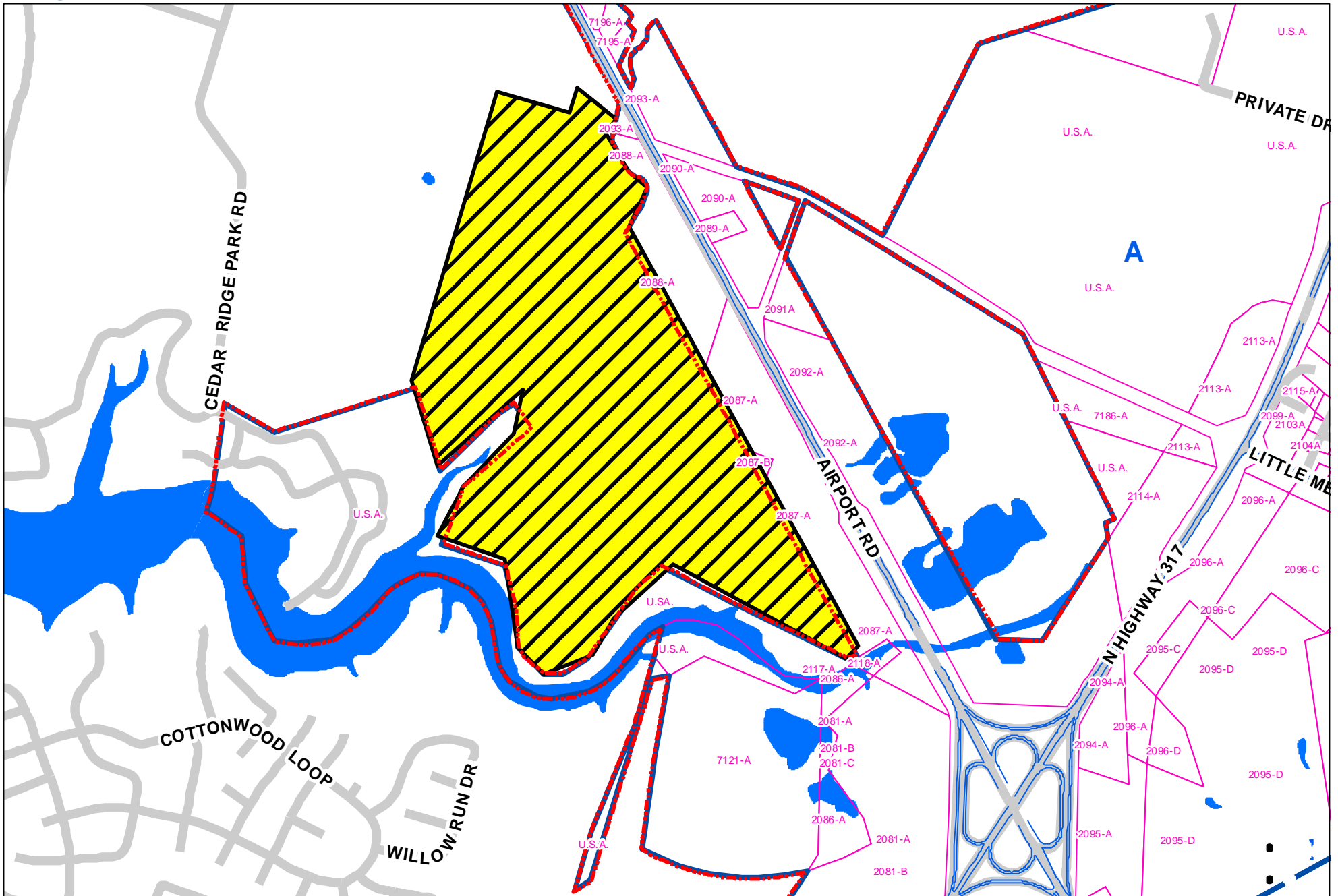
[Voluntary Annexation Area Map](#)
[Service Plan](#)



Proposed Annexation

SWC of N Hwy 317 & Airport Rd

176.534 Acres



 Current City Boundary  Proposed Annexation Area

Voluntary Annexation

1 inch = 1,000 feet
J Stone 2.12.9



**CITY OF TEMPLE
ANNEXATION SERVICE PLAN—VOLUNTARY ANNEXATION –
WOODS ROBINS FAMILY TRUST**

For approximately 0.04 square miles situated in Bell County, Texas, located west and north of the current City limits in the proximity of Airport Road (SH 36), north of SH 317, and abutting the City limits, and being more particularly described an Exhibit “A” and depicted as Exhibit “B” of the Annexation Ordinance (2009-_____).

SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

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

2. FIRE PROTECTION AND AMBULANCE SERVICE

The City will provide fire protection from Station 7 to the newly-annexed area at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density. The City will provide First Responder services through its Fire Department and contract for emergency medical services (EMS) through the Scott & White Hospital System.

3. SOLID WASTE COLLECTION

Upon payment of any required deposits and the agreement to pay lawful service fees and charges, solid waste collection will be provided to citizens in the newly-annexed area to the extent that the City has access to the area to be serviced. Private contractors currently providing sanitation collecting services in the area, if any may continue to do so for up to two years.

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

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

5. MAINTENANCE OF ROADS AND STREETS

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

6. MAINTENANCE OF PUBLIC PARKS, PLAYGROUNDS AND SWIMMING POOLS

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

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

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

8. CONSTRUCTION SAFETY

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

9. CODE ENFORCEMENT

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

CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

The City Council finds and determines it to be unnecessary to acquire or construct any capital improvements for the purposes of providing police protection, fire protection, or emergency medical services. The City Council finds and determines that it has at the present time adequate facilities to provide the same type, kind and level of protection and service which is presently being administered to other areas already incorporated in the City with the same or similar topography, land use and population density.

2. ROADS AND STREETS

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

3. WATER AND WASTEWATER FACILITIES

The City of Temple has no water facilities within the boundaries of the voluntary annexation which is served by a rural water corporation, Moffat WSC. In areas served by a rural water supply corporation, which is providing service meeting state standards, no extension of City of Temple water service is planned, and the rural water supply corporation will continue to provide water service.

In areas not served by a rural water supply corporation, the City of Temple proposes no extension of water facilities to the area, taking into consideration existing service providers, the existing land use, and topography and population density relative to areas within the existing City Limits which do not have water services.

The City of Temple has no wastewater providers within the boundaries of the voluntary annexation and property owners rely on septic tank systems. The City of Temple proposes non extensions of wastewater facilities to the boundaries of the voluntary annexation taking into consideration existing service providers, the existing land use, and topography and population density relative to areas within the existing City Limits which do not have water services.

4. CAPITAL IMPROVEMENTS

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

SPECIFIC FINDINGS

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

Because of the differing characteristics of topography, land utilization and population density, the service levels which may ultimately be provided in the newly annexed area may differ

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

APPROVED ON THIS _____ DAY OF _____, 2009.

City of Temple, Texas

Mayor

ATTEST:

City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

02/19/09
Item #7(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) February 5, 2009 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:

February 5, 2009 Special Called Meeting & Regular Meeting

TEMPLE CITY COUNCIL

FEBRUARY 5, 2009

The City Council of the City of Temple, Texas Conducted a Special Meeting on Thursday, February 5, 2009 at 4:00pm in the 3rd Floor Conference Room, 2 North Main Street.

Present:

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

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, February 5, 2009.

Agenda item 4: Jonathan Graham, City Attorney, stated the Atmos franchise ordinance is ready for Council approval. The most significant change from the previous franchise is that Atmos will now make quarterly payments instead of one annual payment.

Mayor Jones noted that items 3(B) and (O) will be removed from the Consent Agenda to allow for abstentions.

2. Discuss alternate project delivery method options and the City's current local preference policy regarding the purchase of goods and services.

Belinda Mattke, Purchasing Director, presented this item to the City Council. She stated the purpose of the material presented is to inform the Council of alternative procurement delivery methods that are available and obtain direction from Council on the staff approach used when competitive sealed bids are not desirable. The staff is also looking for feedback from the Council regarding the Local Preference Policy.

Mrs. Mattke reviewed the various procurement delivery methods including competitive sealed bids, competitive sealed proposals, construction manager-at-risk, design-build contracts for facilities and job order contracts for facilities construction or repair. Competitive sealed bids have historically been used for public works construction projects and contracted purchases greater than \$25,000. Competitive sealed proposals, often referred to as Requests for Proposals (RFP), must be used to procure certain services such as architectural or engineering services and they may be used for services where unique skills are needed and when factors other than price are important. The City has used this method for procuring various consultant services, t-shirt designs, health care services and office supplies to obtain the best value at a fair price with the most qualified vendor. We also have the opportunity to use RFPs for public works projects less than \$1.5 million or construction of a facility for any amount. The advantage of using this procurement method is that the City could consider more than price in the bid evaluation and the final cost would be negotiable. Mrs. Mattke explained how this type of RFP could be applied to various projects, such as the new Central Fire Station.

Councilmember Schneider stated he would be opposed to negotiating a price for public

works projects and construction under the RFP process.

Next, Mrs. Mattke reviewed the construction manager-at-risk method (CMAR), which has been used by the City in the past for the police station and several fire stations, and is currently being used for the Municipal Court/Utility Business Office and Library renovations. This method cannot be used for public works projects, only construction and rehab of a facility.

The City has also used the design-build method for projects such as the new spray parks, Mrs. Mattke explained. The advantage of this type of procurement is that it is a single source responsibility and the price is established in the RFP. However, these projects can be challenging to manage and the project must be clearly defined in the RFP to avoid problems.

Councilmember Schneider asked if the subcontractor bids are public information under the CMAR method.

Mrs. Mattke stated the City is provided with these bids so she would assume they are public but she would need to verify that. CMAR projects are advertised but the bids are not sealed.

Councilmember Jeter stated it was his understanding the CMAR process is not bound by the same rules the City must follow when bidding projects.

Councilmember Schneider asked that staff verify whether CMAR bids are public information, including subcontractor bids. If not, can that stipulation be added to the contract, as well as other stipulations identified by the City?

Mrs. Mattke asked for Council direction concerning procurements other than low bids. Currently, the staff selects the desired method of procurement but with these new alternatives, Council can authorize use of all the new methods, delegate that responsibility to the City Manager or authorize a combination approach.

Mayor Jones asked if staff anticipates utilizing these alternative methods in the future. He preferred these projects be brought to Council on a case-by-case basis for direction. He did not feel Council was ready to give direction today since these types of projects would be infrequent and we have no experience in determining which would be the best for the City at this time.

Jonathan Graham, City Attorney, recapped the types of procurement methods currently being used by the City, including invitations to bid, requests for proposals for engineering, architectural and similar services, and best value bids where factors other than price need to be considered. The staff will continue to use these methods but if an alternative method, such as CMAR or requests for proposals for construction contracts or public works projects is desirable, staff will bring these projects to Council to adopt a resolution establishing the procurement method to be used for that project. Mr. Graham felt the best value procurement method could be used by staff without specific Council authorization but indicated he would verify that.

Mrs. Mattke continued with a discussion of the local preference policy, providing background information about the State law that was adopted in 1999 and the amendments made in 2005. In May 2008 the City Council adopted a resolution implementing this

authority. Mrs. Mattke discussed two recent local option contract awards, the Sammons Indoor Aquatic Center and the Wastewater Treatment Plant Chemical Tanks. She explained the staff policy is to recommend award to the lowest responsible bidder meeting specifications. Staff then validates the residency of the vendor claiming local preference and requests subcontractor lists from both the low bidder and any local vendor within 5% of the lowest bid. Council then evaluates the economic development opportunities of awarding to the local vendor versus the low bidder.

Councilmember Jeter asked what criteria is to be used to determine the local economic benefit. He stated he is uncomfortable with the Council's current practice of invoking the local preference option.

Councilmember Schneider stated most of the subcontractors are the same for these jobs so what is the economic benefit, a dollar amount?

Mr. Graham replied that Council has considerable discretion in making the finding of a local economic benefit. It is not a mathematical calculation. It is a statement that is made part of the public record regarding the benefit to local jobs, materials, or the economy.

Councilmember Jeter asked if the 5% window can be used to get the local vendor to match the low bid. He also asked who are considered local subcontractors, those from Temple only, or Belton, Killeen, Waco? This is important to his decision-making process and it is very ambiguous now.

Councilmember Schneider stated that would be bid shopping and he would prefer to just do away with the local preference policy instead of doing that. The majority of the general contractors are getting the same bids from the same subcontractors.

Councilmember Jeter stated if the subcontractor list is requested at the time it comes down to two vendors, then they can start re-working their subcontractor list to include more local vendors - is that good?

Councilmember Janczak stated all of these cases are unique and need to be looked at individually. He did not feel criteria should be established.

David Blackburn, City Manager, stated since we have now received two local preference bids for construction projects, staff has established a routine to collect the subcontractor information, which will be included in the agenda packet in the future.

Councilmember Jeter stated he felt it was inappropriate for local contractors to contact the Councilmembers and lobby for the contract award. He would like to provide them with some direction on how the Council will proceed with deciding local preference options in the future

The Councilmembers continued with a discussion on the possible loss of competition by utilizing the local preference option.

Mr. Blackburn stated he felt the question is whether the Council feels there is any value to local preference.

Councilmember Janczak stated he supported the Council's recent actions regarding local preference. He felt the Legislature would not have approved this law, two times, if there

was no value to be derived.

Councilmember Jeter stated he was just not comfortable with the ambiguous way the Council is looking at the local preference option, particularly when we need to manage every penny with the uncertainty of the economy. He asked if there was a creative way to use economic development incentive dollars to make up the difference when awarding a local preference option.

Mr. Blackburn stated this item would be placed on the work session agenda for the next Council meeting to continue the local preference option discussion and answer questions raised today regarding the alternative procurement methods.

3. Discuss upcoming appointments to the following City boards and commissions:

(A) Building & Standards Commission - two regular members and three alternate members to fill expiring terms through March 1, 2011

(B) Building Board of Appeals - two members to fill expiring terms through March 1, 2013

(C) Development Standards Advisory Board - three members to fill expiring terms through March 1, 2012

(D) Electrical Board - one member to fill expiring term through March 1, 2012

(E) Library Board - one member to fill unexpired term through September 1, 2009

(F) Parks and Leisure Services Advisory Board - four members to fill expiring terms through March 1, 2012

(G) Tree Board - two members to fill expiring terms through March 1, 2012

(H) Zoning Board of Adjustment - two regular members and two alternate members to fill expiring terms through March 1, 2011 5:00 P.M. CITY COUNCIL CHAMBERS - 2ND FLOOR

There was no discussion regarding this item.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, February 5, 2009 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

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

I. CALL TO ORDER

1. **Invocation**
2. **Pledge of Allegiance**

Gary Smith, Chief of Police, voiced the Invocation and led those present in reciting the Pledge of Allegiance to the United States flag.

II. PUBLIC COMMENTS

There were no public comments made at this meeting.

III. CONSENT AGENDA

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

(A) January 15, 2009 Special Called Meeting and Regular Meeting

(B) 2009-5630-R: Consider adopting a resolution authorizing a construction contract with Bell Contractors, Inc., of Belton for construction of the 27th Street Waterline Improvement Project in the amount of \$746,953.16.

(C) 2009-5631-R: Consider adopting a resolution authorizing a contract with Pall Advanced Separation Systems of Cortland, New York for the purchase of Flow Meter Differential Transmitters and Manifolds for the Water Treatment Plant in the amount of \$58,352.16.

(D) 2009-5632-R: Consider adopting a resolution authorizing a contract with Water Utility Chemical, Inc., of Caldwell, Texas for installation of new filter units at the Membrane Water Treatment Plant (Filter Trak 660 Laser Nephaelometer Sensors with a SC100 controller), replacing existing obsolete filter units in the amount of \$30,626.89.

(E) 2009-5633-R: Consider adopting a resolution authorizing a 5 year lease agreement with Temple Community Free Clinic, Inc., for lease of space in the Jeff Hamilton Community Center for continued operation of a free clinic.

(F) 2009-5634-R: Consider adopting a resolution authorizing a one year lease agreement with Wings Over Texas Aviation, Inc., for the rental of a hangar for the purpose of operating a flight training and aircraft rental service business at the Draughon-Miller Central Texas Regional Airport.

(G) 2009-4276: SECOND READING - Z-FY-09-12: Consider adopting an ordinance authorizing the zoning change from Light Industrial District (LI) to Central Area District (CA) on the West 25 Feet of Lot 11, the East 25 Feet of the West 50 Feet of Lot 12, and 17, Block 34, Original Town, located at 11, 13 and 17 East Avenue B.

(H) 2009-4277: SECOND READING - Z-FY-09-06: Consider adopting an ordinance authorizing a Conditional Use Permit to allow the sale of beer and

wine on Lot 11, Block 34 of Original Town Addition, located at 13 East Avenue B.

(I) 2009-4278: SECOND READING - Z-FY-09-07: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family Two District (SF-2) on 62.87 ± acres of land out of the Maximo Moreno Survey, Abstract Number 14, located on the east side of South 5th Street, south of Echo Village Phase I and Echo Vista Subdivisions.

(J) 2009-4279: SECOND READING - Z-FY-09-08: Consider adopting an ordinance authorizing a Conditional Use Permit for a warehouse addition on Lot 1, Block 1, Moores Railroad Addition, located at 810 West Calhoun Avenue.

(K) 2009-4280: SECOND READING - Z-FY-09-10: Consider adopting an ordinance authorizing the zoning change from Agricultural District (A) to Single Family Two District (SF-2) on 95.6 ± acres of land being part of the John J. Simmons Survey, Abstract Number 737 and described as Windmill Farms Phases II & III.

(L) 2009-4281: SECOND READING - Z-FY-09-11: Consider adopting an ordinance authorizing the zoning change from Two Family District (2F) and Light Industrial District (LI) to Commercial District (C) on Lots 2 and 3, Block 13, Addition, located at 707 South 6th Street and 704 South Martin Luther King Jr. Drive.

(M) 2009-5635-R: Consider adopting a resolution authorizing acceptance of a Texas Department of Transportation, Aviation Division, Routine Airport Maintenance Grant, to assist with airfield crack filling and runway/taxiway pavement markings at the Draughon-Miller Central Texas Regional Airport in the amount of \$100,000 with a City match of \$50,000.

(N) 2009-5636-R: Consider adopting a resolution authorizing acceptance of an Economic Development Initiative-Special Project grant for downtown redevelopment/Performing Arts Center in the amount of \$137,200.

(O) 1. 2009-5637-R: Consider granting a petition to institute voluntary annexation proceedings, known as the Woods Robins Trust Voluntary Annexation for a 192.831 acre tract of land located in the vicinity of Airport Road and SH317.

2. 2009-5638-R: Consider adopting a resolution directing the City Manager to develop a municipal services plan and calling public hearings to consider the petition.

(P) 2009-5639-R: Consider adopting a resolution abandoning a 20' wide utility easement traversing from north to south, 380+ linear feet (7,600 square feet), west of Lot 2 in the Subramanian Subdivision for the Hindu Temple located at 4309 Midway Drive.

(Q) 2009-5640-R: Consider adopting a resolution authorizing budget

amendments for fiscal year 2008-2009.

Motion by Councilmember Marty Janczak to adopt resolution approving the Consent Agenda, with the exception of items 3(B) and 3(O), seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

(B) 2009-5630-R: Consider adopting a resolution authorizing a construction contract with Bell Contractors, Inc., of Belton for construction of the 27th Street Waterline Improvement Project in the amount of \$746,953.16.

Mayor Jones stated this item was removed from the consent agenda for voting purposes.

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.

(O) 1. 2009-5637-R: Consider granting a petition to institute voluntary annexation proceedings, known as the Woods Robins Trust Voluntary Annexation for a 192.831 acre tract of land located in the vicinity of Airport Road and SH317.

2. 2009-5638-R: Consider adopting a resolution directing the City Manager to develop a municipal services plan and calling public hearings to consider the petition.

Mayor Pro Tem Luna introduced these items for Council consideration, which were removed from the consent agenda for voting purposes.

Motion by Councilmember Marty Janczak to adopt resolutions, seconded by Councilmember Russell Schneider.

Mayor William A. Jones, III abstained. The other Councilmembers voted aye. The motion passed.

IV. REGULAR AGENDA

4. 2008-4266: FIFTH READING - PUBLIC HEARING - Consider adopting an ordinance renewing the franchise agreement with Atmos Energy Corporation.

Jonathan Graham, City Attorney presented this item to the City Council. He stated for some time staff has been negotiating a franchise renewal with Atmos Energy, the successor of a franchise that was originally entered into with Lone Star Gas, then TXU Gas. The terms of this franchise are very similar to those in the expiring franchise. The term will remain at 15 years, as will the compensation of 4%. One change is that Atmos will now make quarterly payments to the City instead of one annual payment. Mr. Graham expressed his appreciation to Mr. Doug Hill, Atmos

representative, for his assistance in negotiating this franchise renewal.

Mayor Jones reconvened the public hearing which was suspended at the December 18, 2008 Council meeting and asked if anyone wished to address this item.

Mr. Doug Hill, Atmos Energy Corporation, 1500 West Loop 340, Waco, addressed the City Council. He, too, expressed his appreciation to Mr. Graham and the City of Temple for considering this franchise renewal. He noted this is not an exclusive franchise. By retaining the 4% franchise fee, the City should be able to attract new businesses and retain current ones.

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

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance on fifth and final reading, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

5. **2009-4282: FIRST READING - PUBLIC HEARING - Z-FY-09-09: Consider adopting an ordinance authorizing a zoning change from Single Family Two District (SF-2) to Planned Development Single Family Two District (PD-SF-2) and Planned Development Single Family Three District (PD-SF-3) on 50.3± acres located on the south side of Tarver Drive and the north side of Hogan Road 506± feet east of State Highway 317, being a part of the Baldwin Robertson Survey, Abstract No. 17 and including The Village of Sage Meadows Phase II, Section 1.**

Brian Mabry, Senior Planner, presented this zoning case to the City Council, providing some background information regarding this project. The developer has met with the surrounding property owners and the numerous conditions in the ordinance are an attempt to address the neighborhood concerns. Mr. Mabry showed an aerial photograph of the property, noting surrounding developments, including Phase 1 of this development. He also showed the zoning map for the surrounding properties, indicating the new General Retail zoning along SH 317. Next, Mr. Mabry displayed the site plan for this development which shows 6.9 acres of open space, more than is normally required. Adequate public facilities serve the property. The plat shows the right-of-way dedication for Tarver and Hogan. There will be no access to Hogan Road until the subdivision is built out. Mr. Mabry reviewed the fourteen conditions being recommended in the Planned Development Ordinance.

Councilmember Jeter questioned condition 7, which states that houses shall be designed in the Craftsman style and the exterior siding shall be composed of fibrous cement. He asked if that is the only product that could be used or if it was the minimum requirement.

Mr. Mabry replied that the Council recommendation could be that fibrous cement is the minimum standard and that other masonry products would be allowed.

Councilmember Schneider noted that the open area is fenced outside of the subdivision. He asked if this is property the Parks Department wants to maintain.

Mr. Mabry replied that the applicant will maintain all open areas, even those outside the fence.

Councilmember Jeter questioned what maintenance standards the HOA will be accountable for.

Jonathan Graham, City Attorney, stated the HOA will have the same responsibility as any property owner in the City.

Councilmember Jeter stated he would like to require standards for the fences, required in PD conditions 9 and 10, to be maintained by the HOA in their original condition, considering normal wear and tear.

Some of the issues raised at the Planning and Zoning Commission included the previous right-of-way dedications along Hogan Road, which Mr. Mabry reviewed. He also showed the elevation of this property to address its effect on any screening being required. Residents in the area also questioned what could happen to the property if the rezoning was disapproved. Mr. Mabry explained that 66 lots could still be developed without any PD conditions, even without the rezoning. He also addressed the comments made during the Planning and Zoning Commission public hearing that the property owner notification of the hearing was insufficient.

Councilmember Schneider asked if the perimeter street improvements should be required or just the fees.

Mr. Mabry replied that in some cases the fees are paid and sometimes they are waived. Sometimes off-site easements are given in exchange for fees or improvements.

Councilmember Schneider stated he felt the fee should be required instead of widening the road just along this property, which could create an unsafe condition.

Michael Newman, Assistant Director of Public Works, stated they would prefer this section of the road be widened as it would provide better ingress/egress to the subdivision. It could be done to provide a transition until Hogan is improved. The level of Hogan is fairly constant to SH 317 and the portion widened would be close to final grade when the rest of the road is improved. It would cost about \$50,000 to widen this portion of the road.

David Blackburn, City Manager, stated that the City's current street improvement fees are inadequate to effectively cost share between the City and the developer. He asked if a condition can be added to indicate the developer will pay the fee at the discretion of the City if it is more feasible than constructing that portion of the road.

Mr. Graham replied that the issue needs to be decided now so the developer will know his costs.

Councilmember Schneider asked if the developer could just construct a turn-out lane.

Mr. Blackburn stated he would expect that Hogan Road will be improved before the construction of Phase 7 of this development.

Mr. Graham stated the street improvements could be deferred and addressed at the preliminary/final plat phase.

Mayor Jones declared the public hearing open with regards to agenda item 5 and asked if anyone wished to address this item.

John Zinsmier, representing KB Homes, the developer, addressed the City Council. He stated they have been working on this development since last August and it has been a pleasure to work with the City staff. He added they are flexible regarding the issues being discussed by the Council. The 9-foot section added to Hogan Road will be awkward and Mr. Zinsmier indicated he is okay with conveying the perimeter street improvement fees to the City now so they can be applied to pre-construction work such as surveying. He felt this would be a better use of funds but added he would be happy to work with the City Attorney before the second reading of this item to accomplish what the Council desires. Mrs. Zinsmier noted that all of the PD conditions will run with the property and the HOA, which will have mandatory membership requirements, will be responsible for maintaining all common areas.

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

Mayor Pro Tem Luna asked if it would be appropriate to approve the item on first reading and allow staff to work through these remaining issues with the developer before the second reading.

Mr. Mabry stated he has noted the items that need further review or revision and they will be addressed on second reading.

Mr. Graham suggested the public hearing be suspended instead of closed to allow for comments at the second reading.

Mayor Jones concurred and stated the public hearing on item 5 would be suspended until the second reading of this item.

Councilmember Schneider stated another possibility is to not allow any connections to Hogan Road until it is ready to be built out.

Mr. Mabry noted other items to be included or clarified in the PD conditions for second reading are the maintenance of the fences and green area by the HOA, expanding the options for exterior siding to include all masonry products and providing alternatives regarding the improvements to Hogan Road.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, with second reading set for February 19, 2009, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

6. **2009-4283: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance designating a tract of land consisting of approximately 66.561 acres located on Moore's Mill Road west of Wendland Road, as City of Temple Tax Abatement Reinvestment Zone Number Fourteen for commercial/industrial tax abatement.**

Jonathan Graham, City Attorney, presented this item to the City Council. He stated the City acquired this property last year and conveyed up to 180 acres to the Temple Economic Development Corporation for economic development purposes. This tract, containing just over 66 acres, is being designated as a tax abatement reinvestment zone which makes tax abatement available. It is anticipated a tax abatement agreement will be presented to the Council for consideration on second reading of this ordinance. Mr. Graham reviewed the criteria and findings the Council must consider when creating this tax abatement reinvestment zone, which will have a term of five years.

Mayor Jones declared the public hearing open with regards to agenda item 6 and asked if anyone wished to address this item. There being no comments, Mayor Jones closed the public hearing.

Motion by Councilmember Marty Janczak to adopt ordinance, with second reading set for February 19, 2009, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

7. 2009-5641-R: Consider adopting a resolution appointing one member to the Hill Country Transit District Board of Directors.

Mayor Jones stated Mayor Pro Tem Luna has been serving on the Hill Country Transit District Board of Directors. Her term expired in January and she is willing to serve another term on that board if appointed by the Council.

Motion by Councilmember Tony Jeter to adopt resolution appointing Mayor Pro Tem Patsy Luna to the Hill Country Transit District Board of Directors, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

02/19/09
Item #7(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution authorizing joint election agreements with Temple Independent School District and the Temple Health and Bioscience Economic Development District for the May 9, 2009 election.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple does not have a general election scheduled for May 9, 2009. However, the City did order a special local option election for the second Saturday in May, 2009, in accordance with Section 3831.254 of the Special District Local Laws Code, 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 in part from the ad valorem tax.

The Temple Independent School District Board of Trustees has ordered its general election for May 9, 2009 for the election of Trustee Districts 3, 4, and 5. Since TISD shares the majority of the voting districts of the City of Temple, it is their desire to conduct a joint election with the City of Temple on May 9, 2009.

Specific agreements each entity, TISD and the Bioscience District, will be executed. The City will be responsible for all duties associated with conducting the election and the costs will be shared equally between TISD and the Bioscience District.

FISCAL IMPACT: No funds are allocated in account 110-1400-511-25-17, Election Expense, as no special elections were anticipated for 2009. The two entities participating in this joint election will reimburse the City their pro rata share of all election expenses incurred by the City for conducting this election. These election expenses are estimated to be \$10,000. A budget adjustment is attached appropriating the funds to be received from the participating entities.

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.

			+	-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE	
110-1400-511-25-17		Election Expense	\$ 10,000		
110-0000-461-08-65		Miscellaneous Reimbursements	10,000		
TOTAL.....			\$ 20,000	\$ -	

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

This budget adjustment recognizes the reimbursement to be received from Temple Independent School District and the Temple Health and Bioscience Economic Development District for costs to be incurred related to the May 9, 2009, joint election.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

2/19/2009

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 CITY MANAGER TO EXECUTE JOINT
ELECTION AGREEMENTS WITH THE TEMPLE INDEPENDENT SCHOOL
DISTRICT AND TEMPLE HEALTH & BIOSCIENCE ECONOMIC
DEVELOPMENT DISTRICT, FOR THE MAY 9, 2009, SPECIAL ELECTION;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, State law authorizes two or more political subdivisions to enter into an agreement to hold elections jointly when the political subdivisions are holding elections on the same day in all or part of the same territory or when State law makes holding a joint election mandatory;

Whereas, the City of Temple does not have a general election scheduled for the second Saturday in May, 2009;

Whereas, the City of Temple ordered a special local option election for the second Saturday in May, 2009, in accordance with Section 3831.254 of the Special District Local Laws Code, 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 in part from the ad valorem tax;

Whereas, the Temple Independent School District ordered a general election for the second Saturday in May, 2009 for the election of Trustee Districts 3, 4 and 5;

Whereas, the Temple Independent School District and Temple Health and Bioscience Economic Development District share all or part of the voting districts of the City of Temple and desire to conduct joint elections with the City of Temple; 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 *Joint Election Agreements*, after approval as to form by the City Attorney, authorizing a joint election between the City of Temple, Temple Independent School District, and Temple Health & Bioscience Economic Development District on May 9, 2009.

Part 2: If any entity declares the May 9, 2009 election to be canceled, in compliance with Section 2.051 through Section 2.054 of the Texas Election Code, because the candidates' names that are to appear on the ballot are unopposed and there are no propositions on the ballot, the agreement with that particular entity will become void.

Part 3: The City Council authorizes 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 **19th** day of **February**, 2009.

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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Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Bruce A. Butscher, P.E., Director of Public Works

Michael Newman, P.E., Assistant Director of Public Works/City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing a change order to a construction contract with Ranger Excavating, LP, for construction activities required to build the Rail Park Detention Pond between northwest H.K. Dodgen Loop and the future outer loop in an amount not to exceed \$41,112.50.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Storage capacity is required to detain increased stormwater runoff generated by future development in the Industrial Rail Park within the TIF Reinvestment Zone #1.

On September 20, 2007, Council authorized a professional services agreement with Kasberg, Patrick & Associates, LP, (KPA) in the amount of \$104,500 for services required to design the detention pond. On November 15, 2007, Council authorized an amendment to the professional services agreement with KPA in the amount of \$223,500 for services required to incorporate underground stormwater conveyance into the design of the detention pond.

The infrastructure built with this project will consist of approximately 375,000 cubic yards of detention pond excavation, 1600 linear feet of reinforced concrete box culverts, and 108 linear feet of reinforced concrete pipe. On July 3, 2008, Council authorized a construction contract with Ranger Excavating, LP, in the amount of \$3,201,991.00. Construction time allotted for this project is 300 days.

The construction activities associated with this change order are required to modify a section of the reinforced concrete box culverts to accommodate Gulf States Toyota site development plans. Gulf States Toyota has agreed to reimburse the City for the entire cost of this change order. This change order increases the construction contract amount to \$3,243,103.50 and allots an additional 21 days to the construction time.

FISCAL IMPACT: The cost of this change order is \$41,112.50. Gulf States Toyota will reimburse the City for this cost.

ATTACHMENTS:

RZ Rail Park Detention Pond - Change Order Proposal
Resolution

CHANGE ORDER

PROJECT: **Rail Park Detention Pond**
 OWNER: **City of Temple**
 CONTRACTOR: **Ranger Excavating, LP**
 ENGINEER: **Kasberg, Patrick & Associates, LP**
 CHANGE ORDER #: **1**

Make the following additions, modifications or deletions (circle those that apply) to the work described in the Contract Documents:

- For providing a concrete collar to reinforce the box culvert to allow rail loading for Gulf States Toyota. The costs will be reimbursed by Gulf States Toyota

Item	Description	Quantity	Unit	Cost	Total
CO1-1	Culvert Concrete Collar	1	LS	\$ 41,112.50	\$ 41,112.50
				Total Add	\$ 41,112.50

The compensation agreed upon in this Change Order is full, complete and final payment for all costs the Contractor may incur as a result of or relating to this change whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Change Order.

Original Contract Amount	\$ 3,201,991.00
Previous Net Change in Contract Amount	\$ -
Net Change in Contract Amount	\$ 41,112.50
Revised Contract Amount	\$ 3,243,103.50
Original Contract Time	300 days
Previous Net Change in Contract Time	N/A
Net Change in Contract Time	21 days
Revised Contract Time	321 days
Original Final Completion Date	June 7, 2009
Revised Final Completion Date	June 28, 2009

Recommended By Engineer:

Approved By Contractor:

By *[Signature]* 1/27/09
Date

By: *[Signature]* 1/29/09
Date

Approved by City of Temple:

Approved as to Form:

By: *[Signature]*
Feb. 3

By: _____
City Attorney's Office Date

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CHANGE ORDER TO A CONSTRUCTION CONTRACT WITH RANGER EXCAVATING, LP, FOR CONSTRUCTION ACTIVITIES REQUIRED TO BUILD THE RAIL PARK DETENTION POND AND UNDERGROUND STORMWATER CONVEYANCE SYSTEM BETWEEN NORTHWEST H.K. DODGEN LOOP AND THE FUTURE OUTER LOOP, IN AN AMOUNT NOT TO EXCEED \$41,112.50; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on July 3, 2008, the City Council authorized a construction contract with Ranger Excavating, LP, of Austin, Texas, for construction activities required to build the Rail Park Detention Pond and Underground Stormwater Conveyance system between Northwest H.K. Dodgen Loop and the future Outer Loop;

Whereas, additional construction activities are required to modify a section of the reinforced concrete box culverts to accommodate Gulf States Toyota site development plans – Staff recommends approving Change Order #1 to the contract in the amount of \$41,112.50 for this purpose;

Whereas, Gulf States Toyota will reimburse the City for this cost; 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 Change Order #1, not to exceed \$41,112.50, to the construction contract with Ranger Excavating, LP, of Austin, Texas, after approval as to form by the City Attorney, for additional construction activities required to build the Rail Park Detention Pond and Underground Stormwater Conveyance system between Northwest H.K. Dodgen Loop and the future Outer Loop.

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 **19th** day of **February**, 2009.

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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DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution authorizing an agreement with David Blackburn, City Manager, regarding terms of employment consistent with State law and the City Charter.

Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council may meet in executive session to discuss the employment, evaluation, duties and work plan of the City Manager, City Attorney, Director of Finance, City Secretary and Municipal Court Judge.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Evaluations and work plan reviews were recently conducted with all Council appointed employees. During the City Manager's review, the Council and City Manager discussed several amendments to a proposed employment agreement. Some of the terms are still being reviewed but we anticipate having an agreement ready for Council consideration before the February 19th meeting.

FISCAL IMPACT: Not available at this time.

ATTACHMENTS:

Employment Agreement – to be provided prior to Council meeting
[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AGREEMENT WITH DAVID BLACKBURN, CITY MANAGER, REGARDING TERMS OF EMPLOYMENT CONSISTENT WITH STATE LAW AND THE CITY CHARTER; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, evaluations and work plan reviews were recently conducted by all City Council appointed employees;

Whereas, during the City Manager's review, the City Council and the City Manager discussed several amendments to a proposed employment agreement;

Whereas, the City Council authorizes an agreement with David Blackburn, City Manager; 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 an agreement with David Blackburn, City Manager, substantially in the form of the copy attached hereto as Exhibit A, after approval as to form by the City Attorney, regarding terms of employment consistent with State law and the City Charter.

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 19th day of **February**, 2009.

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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Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Mayor Jones and City Councilmembers

ITEM DESCRIPTION: Consider adopting a resolution setting the compensation for certain Council-appointed employees.

Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council may meet in executive session to discuss the employment, evaluation, duties and work plan of the City Manager, City Attorney, Director of Finance, City Secretary and Municipal Court Judge.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City Council has conducted annual evaluations of the City Manager, City Attorney, Director of Finance, City Secretary and Municipal Court Judge. The proposed resolution sets the compensation for these Council-appointed employees.

City Attorney
Director of Finance
City Secretary
Municipal Court Judge

FISCAL IMPACT: For fiscal year 2009, the total estimated cost to implement the recommended pay adjustments proposed to be effective February 20, 2009, is \$12,742. \$14,430 is available in the salary and benefit accounts for each respective position.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SETTING COMPENSATION FOR THE CITY ATTORNEY, DIRECTOR OF FINANCE, CITY SECRETARY, AND MUNICIPAL COURT JUDGE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City Council sets the base salaries for the City Attorney, Director of Finance, City Secretary, and Municipal Court Judge on an annual basis, and recently conducted performance evaluations of personnel in these positions.

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

Part 1: The City Council sets the following salaries for the City Attorney, Director of Finance, City Secretary, and Municipal Court Judge:

City Attorney	_____
Director of Finance	_____
City Secretary	_____
Municipal Court Judge	_____

The salaries will be effective on February 20, 2009.

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 **19th** day of **February**, 2009.

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

02/19/09
Item #7(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police Department

ITEM DESCRIPTION: Consider adopting a resolution authorizing the acceptance of funding from the Children's Justice Act (CJA), a federal award granted to develop, establish, and operate programs designed to improve the investigation, prosecution, and judicial handling of cases of child abuse and neglect, in the amount of \$2,312.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Texas Center for the Judiciary has been designated by the Governor's Office to administer CJA funds in Texas. Available funds should be used to support the training of child-protection professionals in an effort to improve the investigation, prosecution, administrative and judicial handling of cases of child abuse and neglect. The Temple Police Department would like to use funds to send the 2 Officers who investigate crimes against children to the Crimes Against Children Conference in Dallas, Texas in August of 2009. The cost to send these 2 officers to the conference for registration, hotel and meal per diem will be approximately \$2,312.

FISCAL IMPACT: The maximum amount eligible for reimbursement is \$2,312. There is no city match required. A budget adjustment is presented for Council's approval appropriating the grant funds in the amount of \$2,312 to the FY 2008-2009 operating budget.

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.

+

-

ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
260-2000-521-25-14		Travel/Training	\$ 2,312			
260-0000-431-01-63		Federal Grants	2,312			
TOTAL.....			\$ 4,624		\$ -	

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

Appropriate funds to recognize the receipt of Children's Justice Act (CJA) funds. This federal award is granted to develop, establish, and operate programs designed to improve the investigation, prosecution, and judicial handling of cases of child abuse and neglect. The Temple Police Department will use these funds to send 2 officers who investigate crimes against children to the Crimes Against Children Conference in Dallas, Texas in August 2009.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

19-Feb-09

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 ACCEPTANCE OF FUNDING FROM THE CHILDREN'S JUSTICE ACT (CJA), A FEDERAL AWARD GRANTED TO DEVELOP, ESTABLISH, AND OPERATE PROGRAMS DESIGNED TO IMPROVE THE INVESTIGATION, PROSECUTION, AND JUDICIAL HANDLING OF CASES OF CHILD ABUSE AND NEGLECT, IN THE AMOUNT OF \$2,312; AND PROVIDING AN OPEN MEETINGS CLAUSE.

—

Whereas, The Texas Center for the Judiciary has been designated by the Governor's Office to administer Children's Justice Act (CJA) funds in Texas to support the training of child-protection professionals in an effort to improve the investigation, prosecution, administrative and judicial handling of cases of child abuse and neglect;

Whereas, the Temple Police Department is eligible to receive \$2,312 in CJA funds and would like to use the funds to send 2 officers who investigate crimes against children to the Crimes Against Children Conference in Dallas, Texas, in August, 2009;

Whereas, there is no City match required for this grant – a budget amendment needs to be approved to appropriate the grant funds; 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 acceptance of funds in the amount of \$2,312 from the Children's Justice Act, and 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 grant.

Part 2: The City Council approves an amendment to the FY 2008-2009 budget, substantially in the form of the copy attached as Exhibit A, to appropriate the funds.

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 **19th** day of **February**, 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

02/19/09
Item #7(F)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution approving first quarter financial results for Fiscal Year 2009.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item will present in detail the first quarter ending December 31, 2008, for the General, Water & Sewer, Drainage and Hotel/Motel Tax Funds.

Included with these first quarter results will be various schedules detailing grants, sales tax, capital projects and investments.

FISCAL IMPACT: N/A

ATTACHMENTS:

Quarterly Financial Statements (Hard Copy)
[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE FIRST QUARTER FINANCIAL RESULTS FOR THE FISCAL YEAR 2008-2009; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the first quarter 2008-2009 fiscal year financial results need to be approved by the City Council;

Whereas, included in the first quarter results are various schedules detailing construction contracts, grants, sales tax, capital projects and investments; and

Whereas, the City Council 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 approves the first quarter 2008-2009 fiscal year financial results, 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 **19th** day of **February**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

02/19/09
Item #7(G)
Consent Agenda
Page 1 of 1

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 \$189,038.

ATTACHMENTS:

Budget amendments
Resolution

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
February 19, 2009

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-1400-511-1118		Extra Help/Seasonal (City Secretary's Office)	\$ 398	
110-1400-511-1220		Retirement/Pension	\$ 60	
110-1400-511-1221		Social Security	\$ 6	
110-1400-511-1223		Workers Compensation	\$ 18	
110-0000-318-0000		Fund Balance Reserved/Vital Statistic Preservation Funds		\$ 482
<p>This budget adjustment appropriates additional funds to cover the performance pay increase for the Records Assistant part-time position for January 23, 2009 thru September 30, 2009. Funds are available from fund balance reserve for the monies collected from prior years for Vital Statistic Preservation.</p>				
110-2350-540-2516		Judgments & Damages (Solid Waste - Frontload)	\$ 1,104	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 1,104
<p>Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City by David Tatum seeking reimbursement for damage to a vehicle after it was struck by a Solid Waste frontload truck on August 8, 2008.</p>				
260-6000-515-6532		Contingency (Community Development)		\$ 13,338
260-6100-571-2641		Public Service Agencies		\$ 5,322
260-6100-571-6317	100178	Streets/Alleys		\$ 139
260-6100-571-6516	100485	Park Improvements - Jones Park	\$ 60,430	
260-6100-571-6532		Contingency		\$ 41,631
<p>Adjust the amounts carried forward for CDBG to reflect the approved annual action plan. Some funds were reallocated and program income from prior years (in the Contingency account) was programmed.</p>				
520-5400-535-2516		Judgments & Damages (Sewer Collection)	\$ 1,000	
520-5400-535-6532		Contingency		\$ 1,000
<p>Settlement of claim filed against the City by Bobby R. Specks seeking reimbursement for money paid to plumbers for services related to drainage and sewer problems at his house at 3018 Antelope during April-May, 2008.</p>				
520-5400-535-2516		Judgments & Damages (Sewer Collection)	\$ 800	
520-0000-443-3054		Insurance Claims		\$ 800
<p>A citizen hit a Public Works Utilities dump truck (asset #12805). The citizen was found to be a fault. The dump truck was repaired and paid for out of account 520-5400-535-2516. The citizen's insurance company paid for the damage to the dump truck. The Public Works Utility Division is requesting the funds be placed back into the Judgments & Damages account.</p>				
561-5000-535-1112		Professional (UR Bonds)	\$ 1,026	
561-5000-535-1220		Retirement/Pension	\$ 153	
561-5000-535-1221		Social Security (FICA)	\$ 15	
561-5000-535-1223		Worker Compensation	\$ 5	
561-5000-535-1226		Life Insurance	\$ 2	
561-5000-535-1227		AD&D Insurance	\$ 2	
561-5000-535-1228		Long Term Disability	\$ 4	
561-0000-461-0111		Interest Income		\$ 1,207
75% of salary & benefits for the CIP Project Manager - funding from UR bonds				

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
February 19, 2009

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
361-1500-515-1112		Professional (CO's)	\$ 342	
361-1500-515-1220		Retirement/Pension	\$ 51	
361-1500-515-1221		Social Security (FICA)	\$ 5	
361-1500-515-1223		Worker Compensation	\$ 2	
361-1500-535-1226		Life Insurance	\$ 1	
361-1500-535-1227		AD&D Insurance	\$ 1	
361-1500-535-1228		Long Term Disability	\$ 1	
361-0000-461-0111		Interest Income		\$ 403
25% of salary & benefits for the CIP Project Manager - funding from CO's				
<p>This budget adjustment appropriates additional funds to cover the performance pay increase effective January 23, 2009 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 is being funded from the Series 2006 Utility Revenue Bonds and 25% of the salary and benefits is being from the Series 2006 Certificates of Obligation.</p>				
110-xxxx-5xx-1xxx		General Fund - Performance Pay	\$ 98,395	
110-1500-515-6536		Contingency - Performance Pay		\$ 98,395
520-xxxx-535-1xxx		Water & Wastewater Fund - Performance Pay	\$ 20,094	
520-5000-535-6536		Contingency - Performance Pay		\$ 20,094
240-4400-551-1xxx		Hotel/Motel Tax Fund - Performance Pay	\$ 3,222	
240-4400-551-6536		Contingency - Performance Pay		\$ 3,222
292-2900-534-1xxx		Drainage Fund - Performance Pay	\$ 1,901	
292-2900-534-6536		Contingency - Performance Pay		\$ 1,901
<p>To appropriate funds for performance pay for eligible employees that received a Meets Expectations + (ME+) or Exceeds Expectations (EE) score on their annual performance review. The performance review period covered the 12-month period from October 2007 to September 2008. The performance pay was effective January 23, 2009.</p>				
TOTAL AMENDMENTS			\$ 189,038	\$ 189,038
GENERAL FUND				
Beginning Contingency Balance			\$ -	
Added to Contingency Sweep Account			\$ -	
Carry forward from Prior Year			\$ -	
Taken From Contingency			\$ -	
Net Balance of Contingency Account			\$ -	
Beginning Judgments & Damages Contingency			\$ 70,000	
Added to Contingency Judgments & Damages from Council Contingency			\$ -	
Taken From Judgments & Damages			\$ (22,445)	
Net Balance of Judgments & Damages Contingency Account			\$ 47,555	
Beginning SAFER Grant Match 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	

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
February 19, 2009

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning Compensation Contingency	\$	184,700
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(98,395)
		Net Balance of Compensation Contingency Account	\$	86,305
		Net Balance Council Contingency	\$	180,681
		Beginning Balance Budget Sweep Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
		WATER & SEWER FUND		
		Beginning Contingency Balance	\$	174,121
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(4,000)
		Net Balance of Contingency Account	\$	170,121
		Beginning Compensation Contingency	\$	34,334
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(20,094)
		Net Balance of Compensation Contingency Account	\$	14,240
		Beginning Approach Mains Contingency	\$	500,000
		Added to Approach Mains Contingency	\$	-
		Taken From Approach Mains Contingency	\$	(11,730)
		Net Balance of Approach Mains Contingency Account	\$	488,270
		Beginning T-BRSS Future Plant Expansion 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
		Net Balance Water & Sewer Fund Contingency	\$	1,122,631
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	75,221
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	75,221
		Beginning Compensation Contingency	\$	5,401
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(3,222)
		Net Balance of Compensation Contingency Account	\$	2,179
		Net Balance Hotel/Motel Tax Fund Contingency	\$	77,400
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		Beginning Compensation Contingency	\$	4,631
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(1,901)
		Net Balance of Compensation Contingency Account	\$	2,730
		Net Balance Drainage Fund Contingency	\$	2,730

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
February 19, 2009

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	7,962
		Carry forward from Prior Year	\$	99,254
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(54,969)
		Net Balance of Contingency Account	\$	52,247

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 28th 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 19th day of **February**, 2009.

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

02/19/09
Item #8
Regular Agenda
Page 1 of 4

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: SECOND READING – PUBLIC HEARING - Z-FY-09-09: Consider adopting an ordinance authorizing a zoning change from Single Family Two District (SF-2) to Planned Development Single Family Two District (PD-SF-2) and Planned Development Single Family Three District (PD-SF-3) on 50.3± acres located on the south side of Tarver Drive and the north side of Hogan Road 506± feet east of State Highway 317, being a part of the Baldwin Robertson Survey, Abstract No. 17 and including The Village of Sage Meadows Phase II, Section 1.

PLANNING & ZONING COMMISSION RECOMMENDATION: At its January 20, 2009 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zoning change from SF-2 to PD-SF-2 and PD-SF-3 with the following stipulations:

1. All lots shall be developed according to the SF-2 zoning district regulations for the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hog Pen Creek, including the area across from the lots platted as Stonebrook Estates.
2. All other lots shall be developed according to the SF-3 zoning district regulations.
3. Houses shall be limited to a maximum building height of one story for all lots adjacent to the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hogpen Creek, including the area across from the Stonebrook Estates subdivision.
4. One hardwood evergreen tree a minimum of five feet in height and two inches in caliper shall be planted in the back yard of all lots that back to Stonebrook Estates.
5. All garages shall be set back 20 feet from the front property line.
6. A Home Owners Association (HOA) with mandatory membership and deed restrictions shall be put in place for the subdivision.
7. Houses shall be designed in the Craftsman style and the exterior siding shall be composed of fibrous cement **with optional brick or stone accents**.
8. All single-family lots shall have sod, five five-gallon shrubs planted along the base of the home and one two-inch caliper tree in the front yard.
9. A privacy fence six feet in height shall be installed along Hogan Road, Tarver Drive, Hog Pen drainage area and the Stonebrook Estates subdivision. The fence shall have metal posts and pressure treated rails and cedar stained pickets and shall be owned and maintained by the HOA. The fence shall be built prior to any house being permitted in the adjacent area.
10. In addition to the privacy fence in stipulation 9 above, the south side of Tarver Drive and north side of Hogan Road shall have a three- split rail cedar fence and cedar posts similar to Village of Sage Meadows Phase 1 **and shall be owned and maintained by the HOA**.

11. The south side of Tarver Drive and north side of Hogan Road shall have the following minimum plantings per 100 linear feet of frontage: two three-inch caliper live oaks a minimum of five feet in height, one 10-gallon dwarf yaupon holly and twenty five-gallon shrubs of some other variety.
12. The area described as Tract J, next to the Hog Pen drainage area shall contain a crushed granite trail and play area, containing equipment similar in design used in Village of Sage Meadows Phase 1.
13. Access from Hogan Road shall be limited to Phase 7 of the development.
14. When a final plat for Phase 6 is approved, the developer shall pay the proportionate perimeter street fee for the share of the development's frontage on Hogan Road for Phase 6. The remainder of the perimeter street fee shall be paid at the time that a final plat for Phase 7 is approved. All perimeter street fees shall be based on the surveying, engineering and construction costs required to bring the development's one-half of Hogan Road to collector street standards at the time of final platting of the relevant phase.

Commissioner Martin 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 February 19, 2009.

ITEM SUMMARY: At its February 5, 2009 meeting the City Council approved this item on first reading as recommended by Staff. The Council directed Staff to modify recommendations #7, 10 and 14 above to: (1) allow the proposed houses to be built with more than just fibrous cement as an exterior material, (2) specify that the privacy and split rail fences along Tarver Drive and Hogan Road would be owned and maintained by the Homeowners Association and (3) make Hogan Road a safer thoroughfare for the additional traffic that the proposed subdivision will generate upon completion.

Please refer to the Staff Report and draft minutes of case Z-FY-09-09, from the Planning and Zoning meeting, January 20, 2009. The applicant's request is to accommodate a single-family subdivision, the Village of Sage Meadows Phases 2 through 7. The applicant agrees with the Planned Development stipulations which exceed the requirements of the Zoning Ordinance and the Subdivision Regulations and which are listed in the staff and P&Z recommendation above.

Staff conducted further research on several topics that came up at the Planning and Zoning meeting on January 20th. These topics are presented below.

Right-of-Way Dedication Along Hogan Road

During the public hearing, a citizen asked if other subdivisions had dedicated right-of-way along Hogan Road. The following table shows the amount of land that subdivisions along Hogan Road have dedicated for right-of-way. The subject area was annexed in 1997, so Bell County reviewed and approved any subdivision platted before that time.

Subdivision	Date Platted	ROW Dedication (ft)	Perimeter Street Fees Paid	Approx. Adjacent Paved Width (ft)
Stonebrook Estates	June 2005	13	NA	19
Reid	Dec. 2003	12	\$66	21
Westwood Development III	Replat with sufficient ROW existing			
Westwood Development II	May 2002	20	NA	23
Lisenbe Estates	Nov. 1999	20	NA	25
Oak Hills Sec. II Phase I	Feb 1984	10	NA	23
The Oaks at Westwood I	April 2000	NA	NA	23
Village of Sage Meadows, Ph. 2-7	Feb 2009	20	Widening ½ of street to Collector standards and providing curb and gutter in lieu of fee	18

Planning's records indicate that perimeter street fees were not paid for the subdivisions above because more right-of-way was dedicated than would have normally been required. The plat for Village of Sage Meadows, Phases 2-7, that was approved at the January 20th P&Z meeting, shows a right-of-way dedication of 20 feet along Hogan Road and the commitment to widen Hogan Road for that portion of the road adjacent to the subdivision.

Elevation of Subject Property

During the public hearing, a citizen claimed that surrounding properties are higher in elevation than the subject property and that newly planted trees and a 6' privacy fence would not be effective screening devices. The applicant has produced an elevation map (see attached) that shows that the subject property is, for the most part, higher in elevation than its surroundings. While rooftops of the proposed development may be visible to surrounding property owners, in no instance would a neighbor be looking down into the back yards of homes in the proposed development. Photographs of the property support this conclusion.

Mailed Notice

During the public hearing, citizens claimed that the public notification mailings were insufficient and that the results were misleading. Notice of the public hearing for the Planned Development was mailed and published in the newspaper two different times. In addition, notice was mailed and published for the original public hearing in 2008 which was withdrawn before review by the City Council, for a total of three public notifications. A citizen wanted to know how many individuals (rather than schools, home builders that still owned platted lots, etc.) received notice of the rezoning. Planning's records indicate that 26 notices for the second P&Z meeting for the Planned Development were mailed out. These notices went to 22 households and four institutions or businesses (Belton Independent School District, Homebuilders, Inc., Village of Sage Meadows HOA and KB Home). As of January 20th at 5 PM, prior to the P&Z public hearing, four individuals recommended denial and two individuals recommended approval. The newspaper printed notice of the second P&Z public hearing on January 10, 2009 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial

Zoning Map

Land Use and Character Map

PD Development Plan

Elevation Map

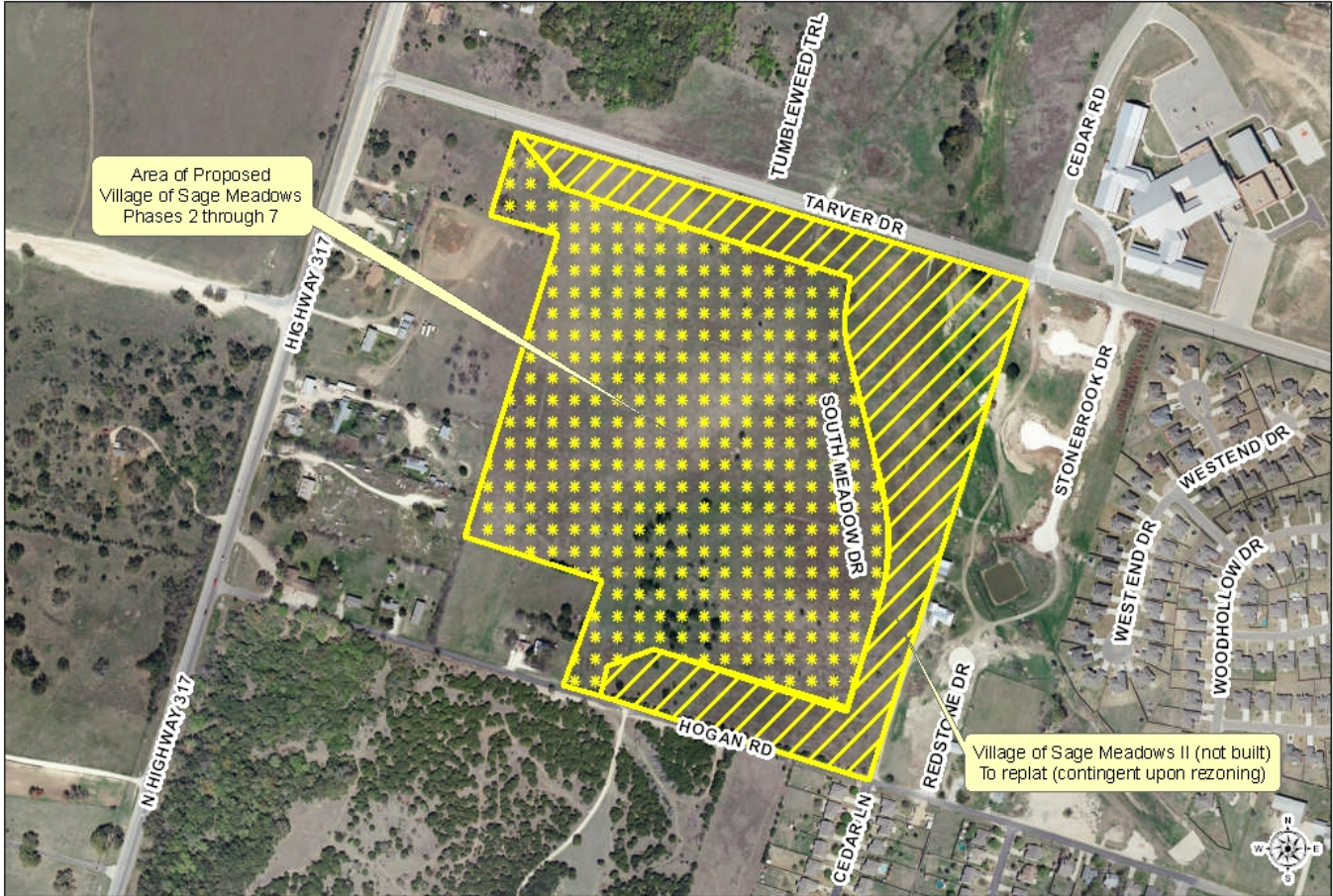
P&Z Staff Report (Z-FY-09-09)

P&Z Minutes (January 20, 2009)

Ordinance



Z-FY-09-09 Village of Sage Meadows, Ph II, Sect 1 & OB 2506-A & 2507-A 50.26 Acres



Proposed (PD)SF3



Proposed (PD)SF2

SF-2 to SF-3 Zoning

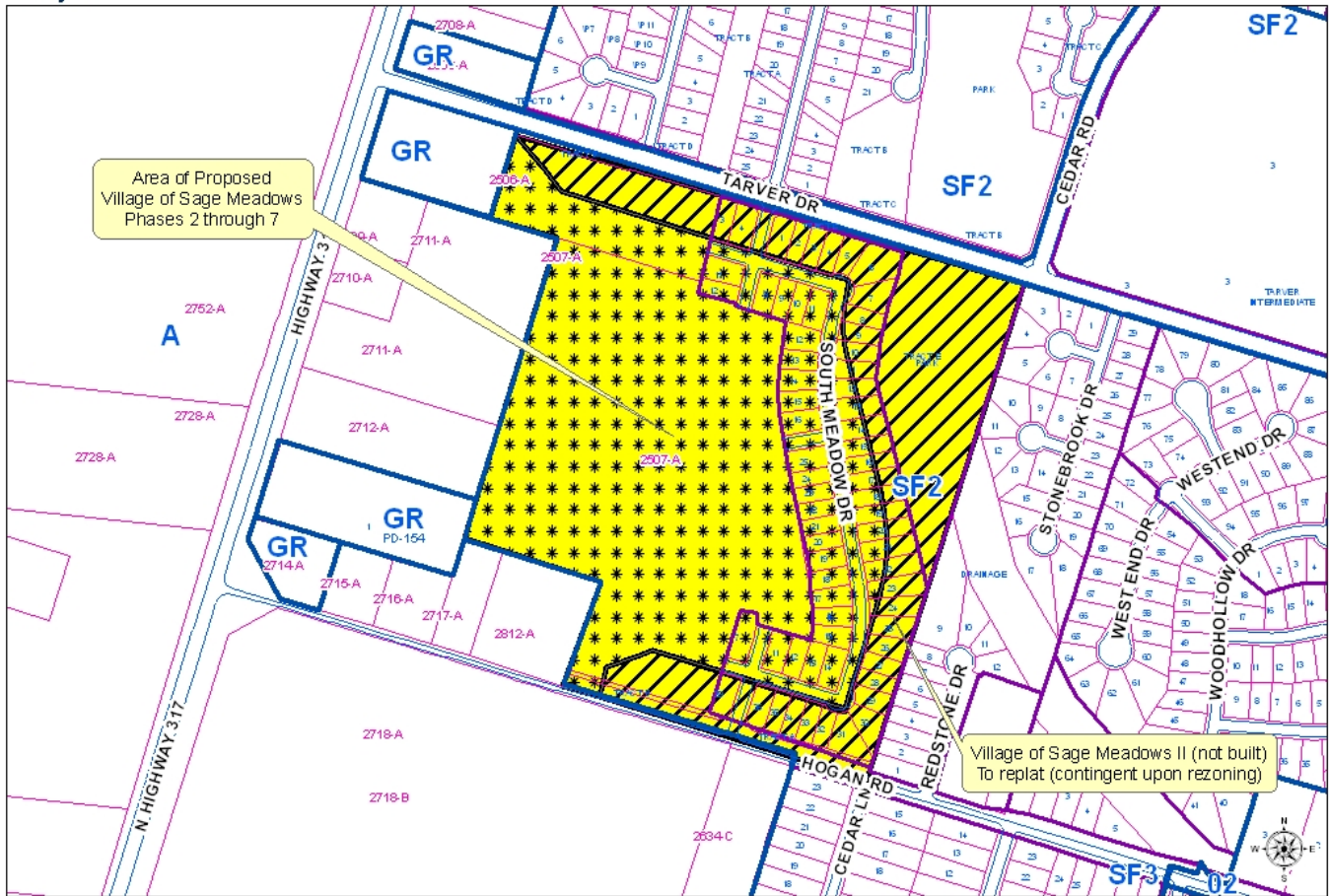
1 inch = 400 feet
J Stone 10.02.08



Z-FY-09-09

Village of Sage Meadows, Ph II, Sect 1 & OB 2506-A & 2507-A

50.26 Acres



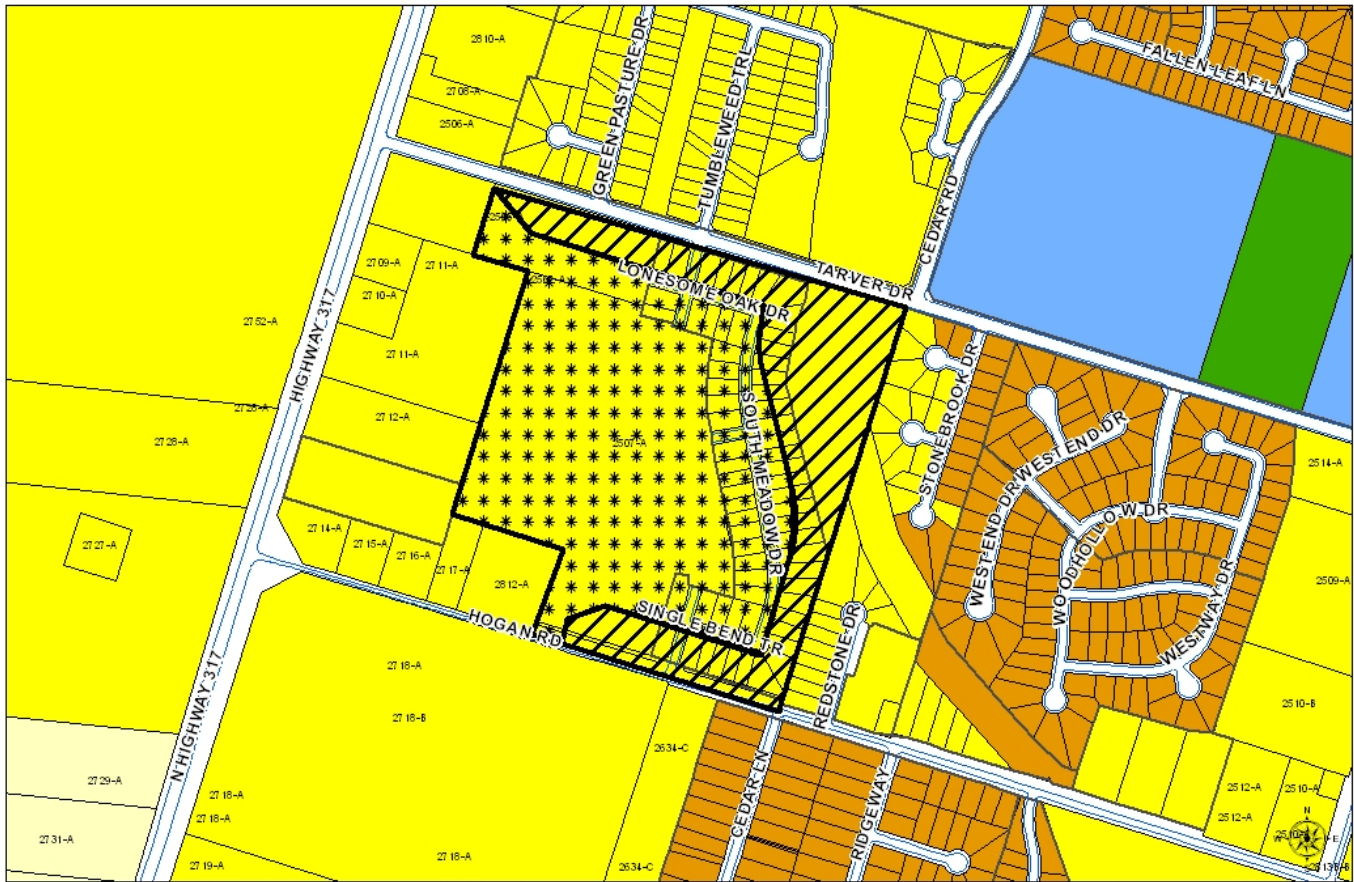
Proposed (PD)SF3 Proposed (PD)SF2

SF-2 to SF-3 Zoning

1 inch = 400 feet
J Stone 10.02.08



Z-FY-09-09 Village of Sage Meadows, Ph II, Sect 1 & OB 2506-A & 2507-A 50.26 Acres

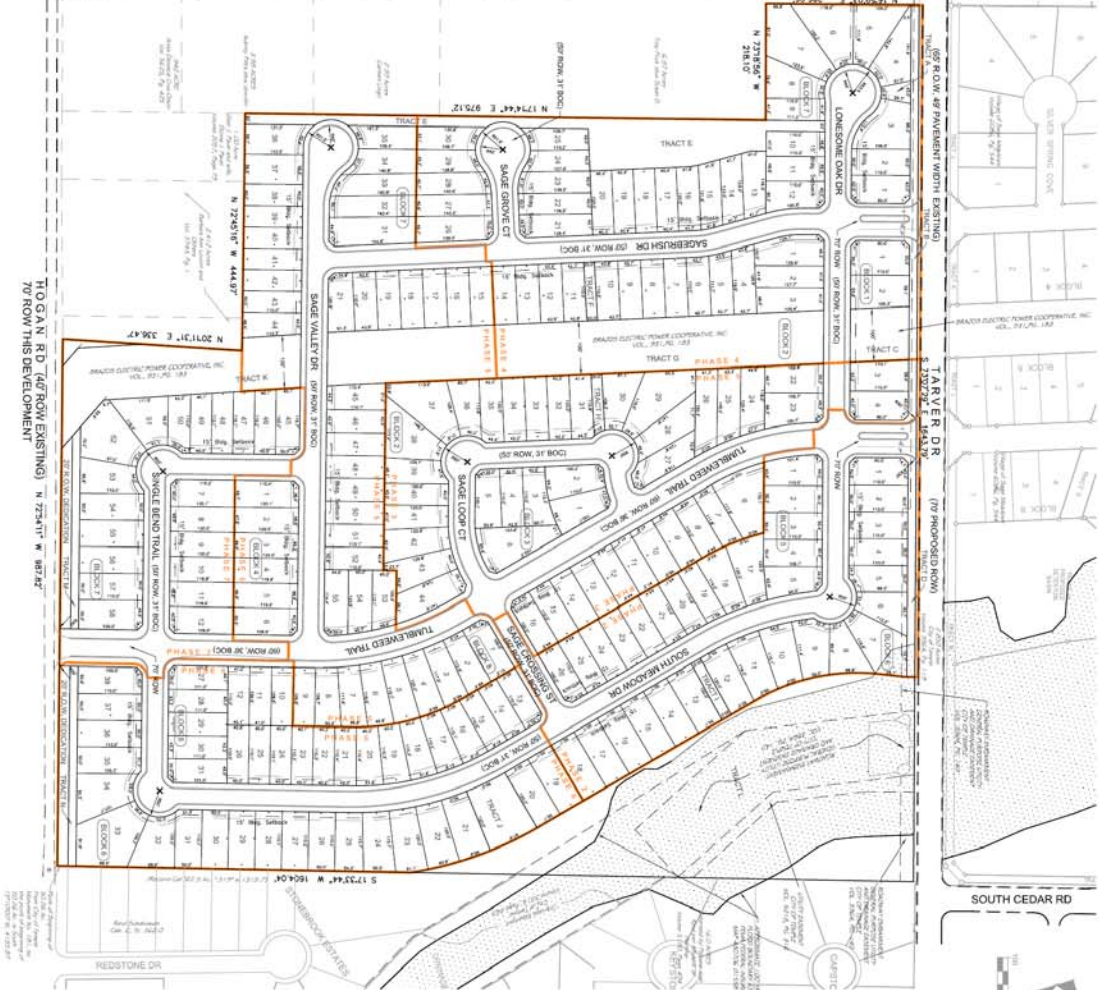


	Proposed (PD)SF3		Neighborhood Conservation		Auto-urban Residential		Auto-Urban Commercial		Temple Medical Education District		Public/Institutional
	Proposed (PD)SF2		Estate Residential		Auto-Urban Multi-Family		Suburban Commercial		Industrial		Parks and Open Space
	Temple Boundary		Suburban Residential		Auto-Urban Mixed Use		Urban Center		Business park		Agricultural/Rural

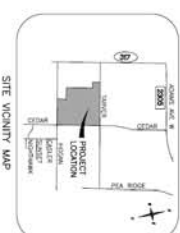
1 inch = 500 feet
J Stone 12.11.08

PLANNED DEVELOPMENT NOTES:

- [illegible]



SOL



Qin

KB HOME LONESTAR LP

REGISTERED PROFESSIONAL ENGINEER

TOTAL DERIVED DIFFERENTIALS: 236

© 2005 Blackwell Publishing Ltd, *Journal of Internal Medicine* 258: 105–112

BEEN GIVEN THIS PLAT.

Anthony D. Duell

COUNTY OF BELL

ALL NECESSARY SURVEY MONUMENTS ARE CORRECTLY SHOWN THEREON.

DATE SUBMITTED: October

Recommended for Preliminary Approval:

Chairman, Planning and Zoning Commission

Boundary of Planning and Zoning

372

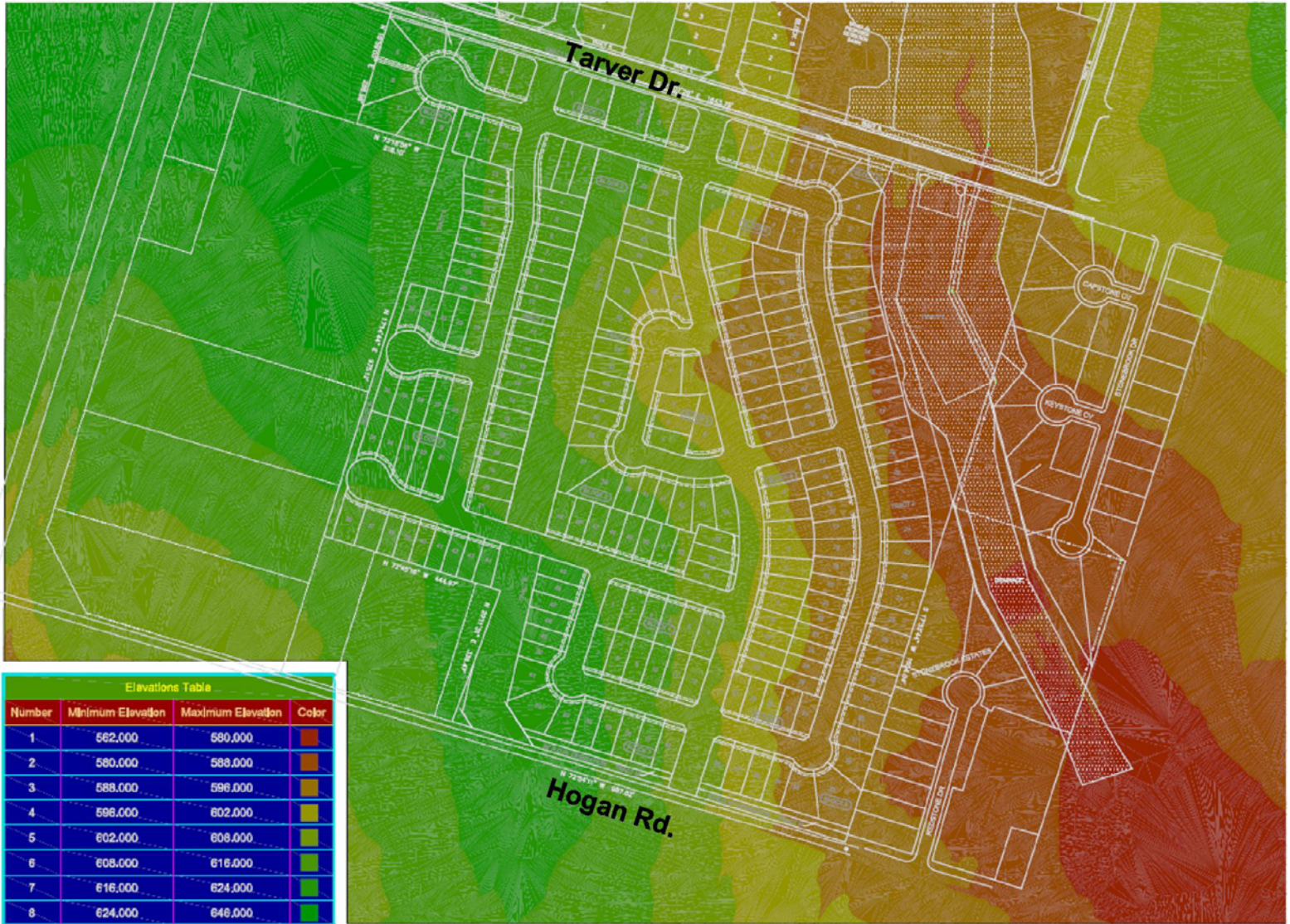
VILLAGE OF SAGE MEADOWS
PHASES 2 through 7
 Being a replat of Village of Sage Meadows,
 Phase II, Section 1
Samuel Davis



Z-FY-09-09

Village of Sage Meadows, Ph II, Sect 1 & OB 2506-A & 2507-A

50.26 Acres





PLANNING AND ZONING COMMISSION AGENDA ITEM

01/05/09
Item #2
Regular Agenda
Page 1 of 5

APPLICANT / DEVELOPMENT: Applicant: Anthony Beach c/o KB Home for Thomas Hoherd

CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: **Z-FY-09-09:** Hold a public hearing to discuss and recommend action on a zone change from Single Family Two District (SF-2) to Planned Development Single Family Two District (PD-SF-2) and Planned Development Single Family Three District (PD-SF-3) on 50.3 ± acres located on the south side of Tarver Drive and the north side of Hogan Road approximately 506 feet east of State Highway 317, being a part of the Baldwin Robertson Survey, Abstract No. 17 and including The Village of Sage Meadows Phase II, Section 1. Zoned SF-2.

BACKGROUND: The applicant's request is for a Planned Development and zone change from SF-2, Single-Family Two zoning district to PD-SF-2, Planned Development Single Family Two zoning district and PD-SF-3, Planned Development Single Family Three zoning district to allow for a single-family subdivision, the Village of Sage Meadows Phases 2 through 7.

History

On October 20, 2008, the Planning and Zoning Commission recommended denial on a rezoning case for the subject property in which the applicant requested a zone change from SF-2 to SF-3 for the entire property. The applicant withdrew the item before City Council review. Due to concerns from surrounding property owners in addition to uncertainty regarding whether the property would be developed in a suburban style as recommended by the Future Land Use and Character Map, the Planning and Zoning Commission recommended a Planned Development, noting concern with Tarver Drive and Hogan Road.

Prior to the January 5, 2009 Planning and Zoning Commission meeting, the applicant requested withdrawal from the agenda to allow more time to meet with adjacent property owners and to reschedule the case for the meeting on January 20.

On Tuesday, January 13, the applicant met with surrounding property owners at the KB Home model home in the Village of Sage Meadows Phase 1. The conditions below address the concerns the property owners expressed at that meeting and at the October Planning and Zoning Commission meeting.

Current

The applicant wishes to provide more certainty regarding how the property will be developed by submitting Planned Development and base zone change request for a combined SF-2 and SF-3. The applicant agrees that the following items, which go beyond the base requirements of the Zoning Ordinance and Subdivision Regulations, will be binding and part of the planned development ordinance:

1. All lots shall be developed according to the SF-2 zoning district regulations for the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hog Pen Creek, including the area across from the lots platted as Stonebrook Estates.
2. All other lots shall be developed according to the SF-3 zoning district regulations.
3. Houses shall be limited to a maximum building height of one story for all lots adjacent to the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hogpen Creek, including the area across from the Stonebrook Estates subdivision.
4. One evergreen tree a minimum of five feet in height and two inches in caliper shall be planted in the back yard of all lots that back to Stonebrook Estates.
5. All garages shall be set back 20 feet from the front property line.
6. A Home Owners Association (HOA) with mandatory membership and deed restrictions shall be put in place for the subdivision.
7. Houses shall be designed in the Craftsman style and the exterior siding shall be composed of fibrous cement.
8. All single-family lots shall have sod, five five-gallon shrubs planted along the base of the home and one two-inch caliper tree in the front yard.
9. A privacy fence six feet in height shall be installed along Hogan Road, Tarver Drive and Hog Pen drainage area and the Stonebrook Estates subdivision. The fence shall have metal posts and pressure treated rails and cedar stained pickets and shall be owned and maintained by the HOA. The fence shall be built prior to any house being permitted in the adjacent area.
10. The south side of Tarver Drive and north side of Hogan Road shall have the following minimum plantings per 100 linear feet of frontage: two three-inch caliper live oaks, one 10-gallon dwarf yaupon holly and twenty five-gallon shrubs of some other variety.
11. The south side of Tarver Drive adjacent to the Hog Pen drainage channel shall have a three-split rail cedar fence and cedar posts similar to Village of Sage Meadows Phase 1.
12. The area described as Tract J, next to the Hog Pen drainage area shall contain a crushed granite trail and play area, containing equipment similar in design used Village of Sage Meadows Phase 1.
13. Access from Hogan Road shall be limited to Phase 7 of the development.
14. Prior to issuance of the first building permit for Phase 7, the developer shall install the pavement width of 36 feet with curb and gutter for the portion of Hogan Road adjacent to the subject property.

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	SF-2	Tarver Drive / Single-family subdivision
East	SF-2	Single-family subdivision
South	SF-2	Hogan Road / Single-family subdivision
	A	Vacant
West	GR	Single-family dwellings
	A	Single-family dwellings

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 suburban residential. The Plan states that the suburban residential character district is for mid-size single family lots, allowing for greater separation between dwellings and more emphasis on green spaces versus the streets and driveways that predominate in an auto-urban setting.

The development plan and preliminary plat for the subdivision also shows privately maintained open space. The central and western portions of the subject property are suitable for the more dense SF-3 zoning because the fact that the property is adjacent to GR-zoned property to the west and would serve as a transitional area between this nonresidential area and the SF-2 property to the east, and its close proximity to State Highway 317. Apartments are unsuitable for this area.

Thoroughfare Plan

The Thoroughfare Plan map shows Tarver Drive as a minor arterial and Hogan Road as a collector street. The preliminary plat (Next Agenda Item) for the property shows right-of-way dedication for the widening of Hogan Road up to collector street standards. The Assistant City Engineer has completed a study of Hogan Road and determined that although it is currently narrow (18'-22' in width), the road is in good shape in regard to maintenance and materials. As stated above, the subdivision will not have direct access to Hogan Road until the final phase (Phase 7) of the development. As indicated in the staff recommendation, the paved width of Hogan Road will be required to be increased prior to houses being permitted in the final phase of the development. The request complies with the Thoroughfare Plan.

Adequacy of Public Facilities

Upon approval of the preliminary plat for the Village of Sage Meadows Phases II through IV, adequate public facilities including water and sewer will be scheduled to be extended to the property.

Development Regulations

The purpose of the SF-2 zoning district is to provide for smaller single family lots. This district may also be used as a zone of transition from the more restrictive single family district to lesser restrictive or denser residential districts.

The purpose of the SF-3 zoning district is to provide single family development at urban densities in locations well served by public utilities and roadways. This district should have adequate thoroughfare access and be relatively well connected with community and neighborhood facilities such as schools, parks, and shopping areas and transit services.

Typical permitted uses in the SF-2 and SF-3 zoning districts include, but are not limited to: single-family detached dwellings and various supporting nonresidential uses such as churches and schools.

The following table shows the dimensional requirements for the PD-SF-2 and PD-SF-3 in the proposed development compared to the requirements in the SF-2 and SF-3 zoning districts.

Dimensions	PD-SF-2 & PD-SF-3	SF-2, Single-Family 2	SF-3, Single-Family 3
Min. Lot Area (sq. ft.)	5,000 and 4,000	5,000	4,000
Min. Lot Width (ft.)	50-40	50	40
Min. Lot Depth (ft.)	100	100	100
Max. Height (stories)	1 story for lots next to Tarver Drive, Hogan Road, and the area adjacent to the Stonebrook Estates subdivision; 2 ½ stories for the remainder	2 ½	2 ½
Min. Yard (ft)			
Garages	20		
Front	15	25	15
Side	5	5	5
Side (street)	15	15	10
Rear	10	10	10

The development plan (which is also the Preliminary Plat) for the property shows a number of the lots in the PD-SF-2 and PD-SF-3 zoning district will be larger than the minimum of 4,000 square feet.

Public Notice

Twenty seven notices were sent out January 9, 2009. As of Thursday, January 14 at noon, three notices were returned in favor of the request and four notices were returned in opposition. The newspaper printed notice of the public hearing on January 10, 2009 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff requests the Commission recommend approval of the zone change request from SF-2 to PD-SF-2 and PD-SF-3 with the following stipulations:

1. All lots shall be developed according to the SF-2 zoning district regulations for the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hog Pen Creek, including the area across from the lots platted as Stonebrook Estates.
2. All other lots shall be developed according to the SF-3 zoning district regulations.
3. Houses shall be limited to a maximum building height of one story for all lots adjacent to the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hogpen Creek, including the area across from the Stonebrook Estates subdivision.
4. One hardwood evergreen tree a minimum of five feet in height and two inches in caliper shall be planted in the back yard of all lots that back to Stonebrook Estates.
5. All garages shall be set back 20 feet from the front property line.
6. A Home Owners Association (HOA) with mandatory membership and deed restrictions shall be put in place for the subdivision.
7. Houses shall be designed in the Craftsman style and the exterior siding shall be composed of fibrous cement.
8. All single-family lots shall have sod, five five-gallon shrubs planted along the base of the home and one two-inch caliper tree in the front yard.
9. A privacy fence six feet in height shall be installed along Hogan Road, Tarver Drive and Hog Pen drainage area and the Stonebrook Estates subdivision. The fence shall have metal posts and pressure treated rails and cedar stained pickets and shall be owned and maintained by the HOA. The fence shall be built prior to any house being permitted in the adjacent area.

10. The south side of Tarver Drive and north side of Hogan Road shall have the following minimum plantings per 100 linear feet of frontage: two three-inch caliper live oaks, one 10-gallon dwarf yaupon holly and twenty five-gallon shrubs of some other variety.
11. The south side of Tarver Drive adjacent to the Hog Pen drainage channel shall have a three- split rail cedar fence and cedar posts similar to Village of Sage Meadows Phase 1.
12. The area described as Tract J, next to the Hog Pen drainage area shall contain a crushed granite trail and play area, containing equipment similar in design used Village of Sage Meadows Phase 1.
13. Access from Hogan Road shall be limited to Phase 7 of the development.
14. Prior to issuance of the first building permit for Phase 7, the developer shall install the pavement width of 36 feet with curb and gutter for the portion of Hogan Road adjacent to the subject property.

Staff requests the Commission recommend approval because:

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
PD Development Plan
Proposed Lots and Zoning
Notice Map
Response Letter

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

MONDAY, JANUARY 20, 2009

ACTION ITEMS

Z-FY-09-09: Hold a public hearing to discuss and recommend action on a zone change from Single Family Two District (SF-2) to Planned Development Single Family Two District (PD-SF-2) and Planned Development Single Family Three District (PD-SF-3) on 50.3 ± acres located on the south side of Tarver Drive and the north side of Hogan Road approximately 506 feet east of State Highway 317, being a part of the Baldwin Robertson Survey, Abstract No. 17 and including the area platted as The Village of Sage Meadows Phase II, Section 1. (Applicant: Anthony Beach c/o KB Home for Thomas Hoherd)

Mr. Brian Mabry, Senior Planner presented the request to the Commission and stated this request is for a Planned Development and zone change from SF-2, Single-Family Two zoning district to PD-SF-2, Planned Development Single Family Two zoning district and PD-SF-3, Planned Development Single Family Three zoning district to allow for a single-family subdivision, the Village of Sage Meadows Phases 2 through 7.

Mr. Mabry stated the applicant wishes to provide more certainty regarding how the property will be developed by submitting Planned Development and base zone change request for a combined SF-2 and SF-3. The applicant agrees that the following items, which go beyond the base requirements of the Zoning Ordinance and Subdivision Regulations, will be binding and part of the planned development ordinance:

1. All lots shall be developed according to the SF-2 zoning district regulations for the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hog Pen Creek, including the area across from the lots platted as Stonebrook Estates.
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4. One evergreen tree a minimum of five feet in height and two inches in caliper shall be planted in the back yard of all lots that back to Stonebrook Estates.

5. All garages shall be set back 20 feet from the front property line.
6. A Home Owners Association (HOA) with mandatory membership and deed restrictions shall be put in place for the subdivision.
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12. The area described as Tract J, next to the Hog Pen drainage area shall contain a crushed granite trail and play area, containing equipment similar in design used Village of Sage Meadows Phase 1.
13. Access from Hogan Road shall be limited to Phase 7 of the development.
14. Prior to issuance of the first building permit for Phase 7, the developer shall install the pavement width of 36 feet with curb and gutter for the portion of Hogan Road adjacent to the subject property.

Staff recommended approval of the zone change request from SF-2 to PD-SF-2 and PD-SF-3 with the following stipulations:

1. All lots shall be developed according to the SF-2 zoning district regulations for the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hog Pen Creek, including the area across from the lots platted as Stonebrook Estates.
2. All other lots shall be developed according to the SF-3 zoning district regulations.

3. Houses shall be limited to a maximum building height of one story for all lots adjacent to the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hogpen Creek, including the area across from the Stonebrook Estates subdivision.
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12. The area described as Tract J, next to the Hog Pen drainage area shall contain a crushed granite trail and play area, containing equipment similar in design used Village of Sage Meadows Phase 1.
13. Access from Hogan Road shall be limited to Phase 7 of the development.
14. Prior to issuance of the first building permit for Phase 7, the developer shall install the pavement width of 36 feet with curb and gutter for the portion of Hogan Road adjacent to the subject property.

Chair Pope opened the public hearing.

Mr. Wayne Elkins 1401 Cedar Lane asked the Commission to deny this request. The request would be changing an SF2 suburban neighborhood into an urban density. The SF dwelling District 3 is designed to provide single family development at urban densities. He also stated this development would add 73 additional houses which would create more stress on schools and city services and lower the quality of life for the people who have already invested in Temple and live there. Mr. Elkins said if this request were approved more and more density would show up as time goes on. Mr. Elkins also stated this request does not resolve numerous problems with Hogan Road.

Mr. Tom Hughes of 1228 Redstone stated he enjoyed the open space currently available and was also in agreement with Mr. Elkins' comments. He also made mention of a traffic light at Tarver and 317.

Commissioner Barton asked for clarification on this traffic light. It was Commissioner Barton's understanding there would be no traffic light at that location.

Mr. Michael Newman, City Engineering gave clarification on this matter and stated a warrant study was done for that location and was determined that a light is warranted, however, this traffic light has not been budgeted by City Council and is not in this year's budget.

Mr. Steven Barney of Tract No. 23 stated there was a flood area right across the street from his property and every time it rains over a half of an inch, the water runs down the side of his home like a river, goes out into the road and down the street onto Hogan, runs across the street due to all the culverts being completely full, and then forms a large pond and was quite concerned about how this issue would be solved before more building started. Mr. Barney was also in agreement with the poor conditions and numerous comments made regarding Hogan Road.

Ms. Mary Elkins of 1401 Cedar Lane stated she and her husband enjoyed the quiet suburban atmosphere of the area and it would be irresponsible to change from SF2 to SF3 and there would be a negative impact on the neighborhood and quality of life if an additional 73 homes were added.

Ms. Sharon Hughes of 528 Redstone was concerned about homes being built with hardi-plank materials nor did the material fit in with the current aesthetics of the neighborhood. She also stated South Pea was in serious need of clean up since there were all types of rubbish and trash along the road.

Mr. John Zinsmeyer with KB Homes addressed each of the concerns voiced, including photographs to substantiate his comments.

Chair Pope closed the public hearing.

Commissioner Pilkington made a motion to approve the zone change from SF-2, Single-Family Two zoning district to PD-SF-2, Planned Development Single Family Two zoning district and PD-SF-3, Planned Development Single Family Three zoning district including the 14 recommended Staff provisions with the appropriate changes to Stipulation No. 11 regarding the split rail fence; Commissioner Hurd seconded the motion.

Motion approved. (8:0)

ORDINANCE NO. 2009-4282

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM SINGLE FAMILY TWO DISTRICT (SF-2) TO PLANNED DEVELOPMENT SINGLE FAMILY TWO DISTRICT (PD-SF-2) AND PLANNED DEVELOPMENT SINGLE FAMILY THREE DISTRICT (PD-SF-3) ON APPROXIMATELY 50.3 ACRES LOCATED ON THE SOUTH SIDE OF TARVER DRIVE AND THE NORTH SIDE OF HOGAN ROAD APPROXIMATELY 506 FEET EAST OF STATE HIGHWAY 317, BEING A PART OF THE BALDWIN ROBERTSON SURVEY, ABSTRACT NO. 17 AND INCLUDING THE VILLAGE OF SAGE MEADOWS PHASE II, SECTION 1, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the owner of the property consisting of approximately 50.3 acres located on the south side of Tarver Drive and the north side of Hogan Road approximately 506 feet east of State Highway 317, being a part of the Baldwin Robertson Survey, Abstract No. 17 and including the Village of Sage Meadows Phase II, Section 1, has requested that the property be rezoned from Single Family Two District (SF-2) to Planned Development Single Family Two District (PF-SF-2) and Planned Development Single Family Three District (PD-SF-3); and

Whereas, the City Council, after notice and a public hearing, finds that it is in the public interest to authorize this action.

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

Part 1: The City Council approves a zoning change from Single Family Two District (SF-2) to Planned Development Single Family Two District (PF-SF-2) and Planned Development Single Family Three District (PD-SF-3) approximately 50.3 acres located on the south side of Tarver Drive and the north side of Hogan Road approximately 506 feet east of State Highway 317, being a part of the Baldwin Robertson Survey, Abstract No. 17 and including the Village of Sage Meadows Phase II, Section 1, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: In accordance with Sections 7-500 through 7-509 of the Comprehensive Zoning Ordinance of the City of Temple, Texas, Ordinance No. 91-2101, is amended by changing the zoning classification of the property described in Part 1 above, to Planned

Development Single Family Two District (PF-SF-2) and Planned Development Single Family Three District (PD-SF-3), and shall comply with all applicable sections of the Code of Ordinances of the City of Temple, Texas, and all local, State and Federal laws and regulations as they may now read or hereafter be amended, including but not limited to the following conditions:

- (a) All lots shall be developed according to the SF-2 zoning district regulations for the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hog Pen Creek, including the area across from the lots platted as Stonebrook Estates.
- (b) All other lots shall be developed according to the SF-3 zoning district regulations.
- (c) Houses shall be limited to a maximum building height of one story for all lots adjacent to the area south of Tarver Drive, north of Hogan Road, and the area adjacent to Hogpen Creek, including the area across from the Stonebrook Estates subdivision.
- (d) One hardwood evergreen tree a minimum of five feet in height and two inches in caliper shall be planted in the back yard of all lots that back to Stonebrook Estates.
- (e) All garages shall be set back 20 feet from the front property line.
- (f) A Home Owners Association (HOA) with mandatory membership and deed restrictions shall be put in place for the subdivision.
- (g) Houses shall be designed in the Craftsman style and the exterior siding shall be composed of fibrous cement with optional brick or stone accents.
- (h) All single-family lots shall have sod, five five-gallon shrubs planted along the base of the home and one two-inch caliper tree in the front yard.
- (i) A privacy fence six feet in height shall be installed along Hogan Road, Tarver Drive and Hog Pen drainage area and the Stonebrook Estates subdivision. The fence shall have metal posts and pressure treated rails and cedar stained pickets and shall be owned and maintained by the HOA. The fence shall be built prior to any house being permitted in the adjacent area.
- (j) In addition to the privacy fence in stipulation (i) above, the south side of Tarver Drive and north side of Hogan Road shall have a three- split rail cedar fence and cedar posts similar to Village of Sage Meadows Phase 1 and shall be owned and maintained by the HOA.
- (k) The south side of Tarver Drive and north side of Hogan Road shall have the following minimum plantings per 100 linear feet of frontage: two three-inch caliper live oaks a minimum of five feet in height, one 10-gallon dwarf yaupon holly and twenty five-gallon shrubs of some other variety.
- (l) The area described as Tract J, next to the Hog Pen drainage area shall contain a crushed granite trail and play area, containing equipment similar in design used Village of Sage Meadows Phase 1.
- (m) Access from Hogan Road shall be limited to Phase 7 of the development.
- (n) ~~Prior to issuance of the first building permit for Phase 7, the developer shall build its one half of Hogan Road to collector street standards by adding nine additional feet of pavement width and six inch raised curb and gutter for the portion of Hogan Road adjacent to the subject property.~~
When a final plat for Phase 6 is approved, the developer shall pay the proportionate perimeter street fee for the share of the development's frontage on

Hogan Road for Phase 6. The remainder of the perimeter street fee shall be paid at the time that a final plat for Phase 7 is approved. All perimeter street fees shall be based on the surveying, engineering and construction costs required to bring the development's one-half of Hogan Road to collector street standards at the time of final platting of the relevant phase.

These conditions shall be expressed conditions of any building permit issued for construction on the property which may be enforced by the City of Temple by an action either at law or in equity, including the right to specifically enforce the requirements of the ordinance, and these requirements shall run with the land.

Part 4: Development of the property shall be in accordance with the site plan, attached hereto as Exhibit B.

Part 5: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 6: 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 7: 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 8: 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 5th day of February, 2009.

PASSED AND APPROVED on Second Reading on the 19th day of February, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

02/19/09
Item #9(A)
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance designating a tract of land consisting of approximately 66.561 acres located on Moore's Mill Road west of Wendland Road, as City of Temple Tax Abatement Reinvestment Zone Number Fourteen for commercial/industrial tax abatement.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on second and final reading.

ITEM SUMMARY: The proposed ordinance designates the area consisting of approximately 66.561 acres located on Moore's Mill Road west of Wendland Road as a commercial/industrial tax abatement reinvestment zone. The designation of a tax abatement reinvestment zone lasts for five years and is a prerequisite for entering into a tax abatement agreement with a future economic development prospect.

Chapter 312 of the Texas Tax Code requires that property be within a tax abatement reinvestment zone (or an enterprise zone) to be eligible for tax abatement. The designation of a tax abatement reinvestment zone requires an ordinance, two readings and a public hearing. We are also required to give seven days prior notice to the other taxing entities before final approval of the ordinance, which will be done.

The proposed tax abatement reinvestment zone covers approximately 66.561 acres, and is proposed for commercial or industrial tax abatement (the property is currently zoned Commercial). Chapter 312 requires that the City make the following findings when it adopts an ordinance creating a tax abatement reinvestment zone: (1) that the creation of the tax abatement reinvestment zone will result in benefits to the City and to the land included in the zone after the term of any agreement, and that the improvements being sought are feasible; and (2) that the tax abatement reinvestment zone meets the criteria for creation of a zone under State law and the City's own criteria and guidelines for tax abatement. I have reviewed both the State law and our criteria and guidelines, and believe that the creation of the proposed reinvestment zone and subsequent approval of a tax abatement agreement with the property owner will lead to the retention of primary employment in the area, and the creation

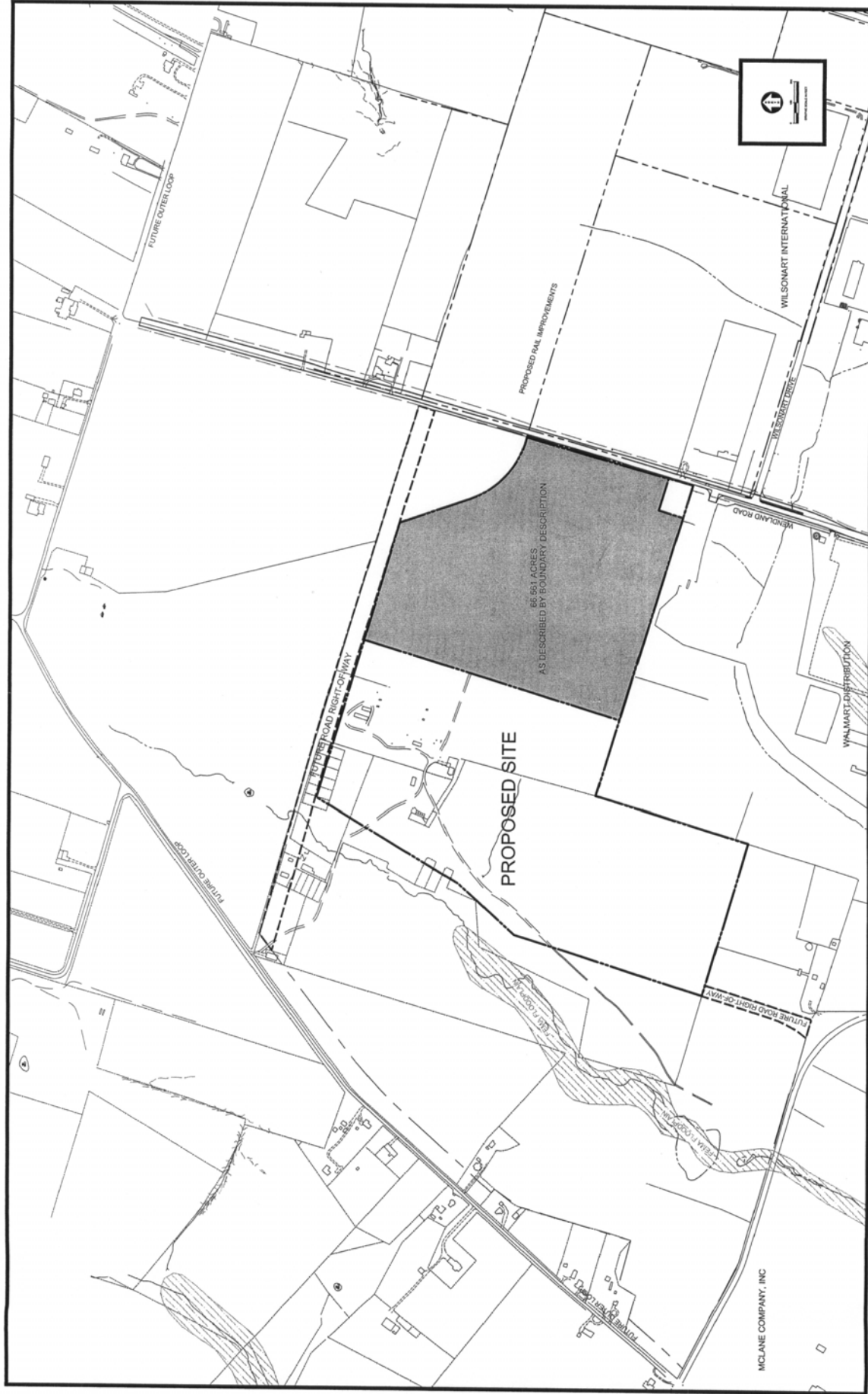
of new real and personal property improvements in the area—as contemplated by our State and local criteria. The Staff recommends approval of the ordinance for the above reasons.

FISCAL IMPACT: None at this time.

ATTACHMENTS:

[Map](#)

[Ordinance](#)



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DESIGNATING A CERTAIN AREA AS TAX ABATEMENT REINVESTMENT ZONE NUMBER FOURTEEN FOR COMMERCIAL/INDUSTRIAL TAX ABATEMENT; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the City Council of the City of Temple, Texas (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by Section 312.201 of the Texas Tax Code (hereinafter the "Code");

WHEREAS, the City held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed reinvestment zone;

WHEREAS, the City at such hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the ordinance calling such public hearing should be included in such proposed reinvestment zone, the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and opponents of the reinvestment zone appeared to contest creation of the reinvestment zone.

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

Part 1: The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

Part 2: The City, after conducting such hearings and having heard such evidence and testimony, has made the following findings and determinations based on the testimony presented to it:

A. That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone;

B. That the boundaries of the reinvestment zone (hereinafter "REINVESTMENT ZONE NUMBER FOURTEEN") should be the **66.561 acre tract of land** as described in the survey attached as Exhibit "A."

C. That creation of REINVESTMENT ZONE NUMBER FOURTEEN will result in benefits to the City and to the land included in the zone after the term of any agreement executed hereunder, and the improvements sought are feasible and practical;

D. That REINVESTMENT ZONE NUMBER FOURTEEN meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Code in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City;" and

E. That REINVESTMENT ZONE NUMBER FOURTEEN meets the criteria for the creation of a reinvestment zone as set forth in the City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones.

Part 3: Pursuant to Section 312.201 of the Code, the City hereby creates a reinvestment zone for commercial/industrial tax abatement encompassing the 66.561 acre tract described by the survey in Exhibit "A" attached hereto and such REINVESTMENT ZONE is hereby designated and shall hereafter be officially designated as Tax Abatement Reinvestment Zone Number Fourteen, City of Temple, Texas.

Part 4: The REINVESTMENT ZONE shall take effect on February 19, 2009, or at an earlier time designated by subsequent ordinance.

Part 5: To be considered for execution of an agreement for tax abatement the commercial/industrial project shall:

A. Be located wholly within the Zone as established herein;

B. Not include property that is owned or leased by a member of the City Council of the City of Temple, Texas, or by a member of the Planning and Zoning Commission;

C. Conform to the requirements of the City's Zoning Ordinance, the CRITERIA governing tax abatement previously adopted by the City, and all other applicable laws and regulations; and

D. Have and maintain all land located within the designated zone, appraised at market value for tax purposes.

Part 6: Written agreements with property owners located within the zone shall provide identical terms regarding duration of exemption and share of taxable real property value exempted from taxation.

Part 7: Written agreements for tax abatement as provided for by Section 312.205 of the Code shall include provisions for:

A. Listing the kind, number and location of all proposed improvements of the property;

B. Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreements;

C. Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

D. Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement.

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

Part 9: 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 10: Sunset provision. The designation of Tax Abatement Reinvestment Zone Number Fourteen shall expire five years from the effective date of this ordinance. The designation of a tax abatement reinvestment zone may be renewed for periods not exceeding five years. The expiration of a reinvestment zone designation does not affect an existing tax abatement agreement authorized by the City Council.

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

PASSED AND APPROVED on First Reading and Public Hearing on the **5th** day of **February**, 2009.

PASSED AND APPROVED on Second Reading on the **19th** day of **February**, 2009.

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

02/19/09
Item #9(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a tax abatement agreement with HEB Grocery Company, L.P., for property consisting of approximately 66.561 acres located on Moore's Mill Road west of Wendland Road.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The proposed resolution authorizes the City Manager to execute an agreement with HEB Grocery Company, L.P. (HEB), which if approved gives HEB ten years of 100% tax abatement on the increased taxable value of real property improvements located on Moore's Mill Road west of Wendland Road. The tax abatement applies only to *new* real property improvements with a useful life of ten or more years.

HEB timely filed an application to receive tax abatement on improvements to real property proposed for a new facility located on Moore's Mill Road. The City Council will concurrently consider approving with this item, an ordinance designating the property on which the improvements will be located as a tax abatement reinvestment zone. Tax abatement is being sought for improvements consisting of construction of a new approximately 400,000 square foot regional distribution center. The taxable value of real property with a useful life of ten or more years at the facility will be increased by an estimated \$28,000,000.

The City's Economic Development Policy sets out the criteria and guidelines for granting tax abatement. The renovations proposed meet the minimum criteria established for tax abatement consideration. The proposed improvements fall within the definition of "eligible facilities" in the criteria. The application indicates real property improvements which meet the criteria for granting a 100% tax abatement for ten years.

The Staff has provided the other taxing entities involved with notice and a copy of the proposed agreement. Under State law, the other taxing entities will have 90 days to elect to enter into an agreement with identical terms. The proposed agreement is drafted for the signature of each taxing entity, but will be effective between HEB and any of the taxing entities which sign the agreement even if not all sign. Under State law, taxes on supplies and inventory are not eligible for tax abatement.

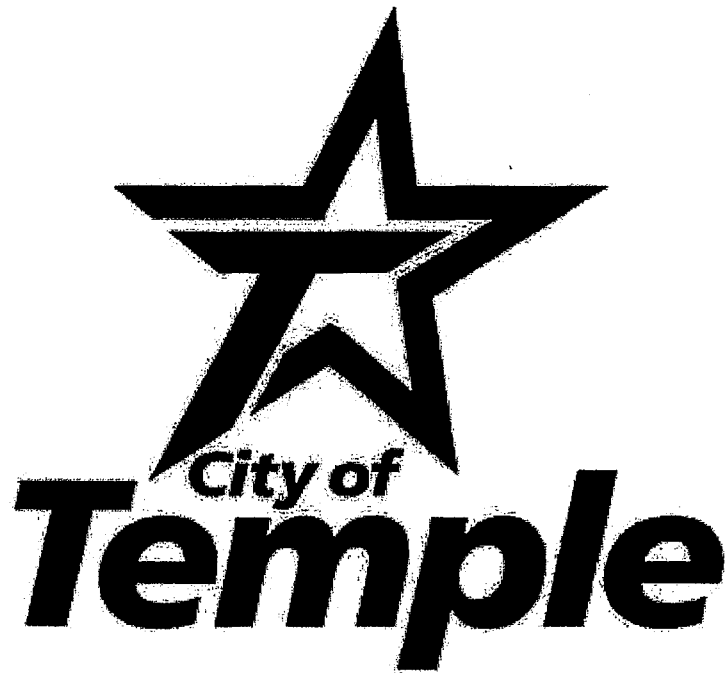
Additionally, the agreement has all of the other terms required by Chapter 312 of the Texas Tax Code for tax abatement agreements, including provisions: (1) listing the kind and number of improvements; (2) providing for inspections of the facility by the taxing entities; (3) requiring compliance with State and local laws; (4) recapturing abated taxes in the event of a default under the agreement; and (5) requiring HEB to annually certify to all the taxing entities that it is in compliance with all of the terms and conditions of the agreement.

HEB's application meets the standards for granting tax abatement on the increase in real property improvements established by the City's Criteria and Guidelines for tax abatement. The City Council has discretion whether to approve an application for tax abatement and to increase the percentage of tax abatement over the recommended percentage specified in the matrix in the City's Criteria and Guidelines for tax abatement. The agreement should add to the continued development of the City's industrial growth, which would not have occurred in the absence of tax abatement.

FISCAL IMPACT: The tax abatement agreement would have the potential of abating approximately \$1,566,600 in City taxes over the 10 year life of the Agreement using the current year tax rate of \$0.5595 per \$100 value.

ATTACHMENTS:

[Application](#)
[Resolution](#)



Application for

City of Temple

Tax Abatement Program

Instructions for Completing the Application Form

1. The application form consists of three parts: (1) general information regarding your proposal and the property in question; (2) the objective criteria worksheet; and (3) questions relating to minimum standards. **Please complete all three parts.** Please review the City of Temple's *Guidelines and Criteria* for tax abatement prior to completing the application form.

2. **Part One:** Questions 1-9 request basic information relating to your proposal.

Questions 3 & 4 are applicable only if you are not the current owner of the property. If you are leasing property for which you are requesting tax abatement, the City of Temple will also require your lessor to execute a tax abatement agreement.

Question 7: Describe in detail, the long term improvements you will make to the property, the proposed use you will make of the property, and your long range plans for the property.

Question 9: Tax abatement is available only on the increase in ad valorem taxes attributable to the improvements to the property you propose to make. Please indicate the percentage of abatement you are requesting, and the number of years of abatement you are requesting.

3. **Part Two:** Questions 1-14 relate to the objective criteria established by the City of Temple for granting tax abatement. Answer each question as fully as possible using additional sheets of paper where necessary. The City Staff will review your responses to assist them in making a recommendation to the City Council on whether tax abatement *should* be granted, and if so, under what terms.

Question 2: Note that under the City's *Guidelines & Criteria*, the City will grant tax abatement only on permanent improvements to real property and personal property with a useful life of at least ten years (e.g., buildings, permanently installed equipment, site improvements, fixtures, equipment). Specifically excluded from tax abatement are inventory, supplies, and the underlying real property. Personal property already on the property prior to the execution of a tax abatement agreement or transferred from another site owned or operated by the applicant are also excluded from tax abatement.

Question 3: Eligible personal property must have a useful life of ten years to be eligible.

Question 9: Note that the City of Temple has established a minimum threshold of \$500,000 (\$25,000 in the Downtown Development Area) in permanent improvements (w/ 10 year useful life) before tax abatement will be considered.

4. **Part 3:** To be eligible for consideration under the tax abatement program, the applicant must satisfy at least two of the minimum standards. We recommend that you provide detail information regarding each of the minimum standards that may apply to your proposed project.

Part One -- General Information

1. Applicant: HEB Grocery Company, L.P.
 Mailing Address: 646 South Main Street, San Antonio TX 78204

 E-mail Address: www.heb.com
 Telephone Number: 210-938-8000
 Fax Number: 210-938-7788
2. Contact Person or Agent: (if different) Michael M Mims
 Mailing Address: PO Box 839999, San Antonio TX 78283

 E-mail Address: mims.mike@heb.com
 Telephone Number: 210-938-8260
 Fax Number: 210-938-7553
3. Current Property Owner: Temple Economic Development Corporation
 Mailing Address: 1 South First Street; Temple TX 76501

 Telephone Number: 254-773-8332
4. Property Owner's Representative: (if different) Benjamin Scott
 Mailing Address: 646 South Main Street, San Antonio TX 78204

 Telephone Number: 210-938-8766
 Fax Number: 210-938-7788
5. Property Street Address: Moore's Mill Road @ West of Wendland Road

(Please also attach a legal description and a map/plat of the property for which you seek abatement.) Site plan attached

6. Is the property located within City of Temple? Yes G No G
In the City=s extraterritorial jurisdiction (ETJ)? Yes G No G
Inside the City=s Tax Increment Financing Reinvestment Zone Yes No

Temple ISD? ☒ Yes No Belton ISD? Yes ☒ No Troy ISD? Yes ☒ No

7. Description of Project. (Describe the *kind* of business (e.g., manufacturing or distribution) that will be created or expanded. For purposes of drafting an agreement we will need a detailed description of the proposed real and personal property improvements that you expect to make (including **square footage, construction materials, etc.**) Regional Distribution Center, 400,000sf, structural building with exterior insulated metal siding and customized fixed in-place racking.

8. Date projected for (a) initiation of project: (m/d/y) June 2009
(b) completion of project: Sept 2010

9. Percentage and duration of tax abatement requested: (See Section I.D.2(b) of the City=s Criteria and Guidelines for Tax Abatement) Note: that tax abatement is generally limited to 5 years except for very large projects.

Percentage: 100%; Duration: 10-years, beginning January 1, 2011 and ending December 31, 2020

Part Two -- Objective Criteria

1. What is the existing appraised value of the real property and improvements? (Contact the Bell County Appraisal District at (254) 939-5841.)

Est \$8,800 assessment [160 acres @ \$55/acre (ag-value)]

2. What are the type and value of proposed improvements (broken down to separately show the kind and dollar value of real and personal property improvements)? See Below - Tax abatement applies to building and

	<u>Type</u>	<u>Estimated Expenditure</u>	<u>Useful Life</u>
Real Property	Building & Site 30-years	\$ 24,200,000	
Personal Property	Equipment to 15-years	\$ 3,000,000	8

3. How many existing jobs, if any, will be *retained* by proposed improvements?
New project, no existing jobs

4. What number, job type, and estimated payroll of *new* jobs will be created by the proposed project?

<u>Job Type</u>	<u># of Jobs</u>	<u>Wages and benefits</u>	<u>Total</u>
Management	3	\$65,340	\$196,020
Administrative	1	\$40,786	\$40,786
Distribution Partner III	2	\$40,786	\$81,572
Distribution Partner II	101	\$39,172	\$3,956,332
Distribution Partner I	5	\$27,004	\$135,020

5. Will the newly created jobs be filled by persons residing or projected to reside within the City? ☒ Yes ☐ No ☐ ___% Temple/Belton/Troy (circle one) Independent

HEB will recruit locally for approximately 85% of the newly created positions

School District? Yes ☐ No ☐ ____% Bell County? Yes ☐ No ☐ ____%

6. What is the estimated amount of annual local sales taxes for the City of Temple to be generated directly? (Assume a 12% city sales tax on applicable purchases within the City)

None

7. By what amount do you estimate the valuation of the affected property increase after your real and personal property improvements are completed? Will the increase in appraised value attributable to your improvements be at least \$500,000 (\$25,000 in the Downtown Development Area)?

Yes, the increase in appraised value will be in excess of \$500,000. Owner estimates the real and personal property value increase will be about

\$40,000,000 over the property's current appraised value. See Exhibit 2 –

8. What expenditures, if any, will you request be incurred by the City of Temple to provide facilities or services to your proposed improvements?

None by the City of Temple. EDC represented utilities, rail service and expansion of Wendland Road to be completed in the Tax

9. What is the amount of ad valorem taxes to be paid the City of Temple during the Abatement period considering: (a) the existing values; (b) your proposed real and personal property improvements; and (c) the percentage of new value abated; and (c) the Abatement period (assume a City tax rate of .5745).

Projected ad valorem taxes to be collected by the City of Temple are [see Exhibit 3]:

Annually – real: \$6,900; personal: \$68,900; total annual - \$75,800.

10. What population growth, if any, in the City of Temple do you expect to occur as a direct result of your proposed improvement?

Project will add to City of Temple base for attracting persons, families seeking full-time employment with benefits

11. What, if any, are the types and values of public improvements (e.g., streets, railroad spurs) you intend to make?

None anticipated at this time.

12. Will the proposed improvements compete with existing businesses to the detriment of the local economy? Which businesses, if any, are likely to be impacted?

N/A

13. Is your proposed use of the underlying real property in compliance with the City's Comprehensive Zoning and Subdivision Ordinances? Have you discussed your plans with the City's Planning or Engineering Departments?

Yes

Part Three -- Minimum Standards

1. Will the project involve a minimum increase in property value of 300% for construction of a new facility; 50% for expansion of existing facility; or an investment of at least \$1 million in taxable assets? (If outside the Downtown Area) Explain.

Yes, project will increase property value by at least 300%, and Applicant will investment more than \$1 million in taxable assets

2. Will the project make a substantial contribution to redevelopment efforts or special area plans by enhancing either functional or visual characteristics, e.g., historical structures, traffic circulation, parking, facades, materials, signs, etc.? Explain.

Yes, project will put land to it's highest and best use

3. Will the project have high visibility, image impact, or is it a significantly higher level of development quality? Explain.

State of the art construction with energy efficient features

4. Is the project an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.? Explain.

Project enabled City of Temple to retain of the property for other uses

5. Will the project serve as a prototype and catalyst for other development of a higher standard? Explain.

Subject is Phase I of a Master Plan development that will support future growth of jobs, capital investment and taxable property

6. Will the project stimulate desirable concentrations of employment or commercial activity? Explain.

Project contributes to the ongoing synergy for the area as desired by City of Temple

7. Will the project generate greater employment than would otherwise be achieved, e.g., commercial/industrial versus residential or manufacturing versus warehousing? Explain.

Project will provide good, stable employment that is superior to residential and/or warehousing facilities

EXHIBIT 2
Assessment and Tax Projections

2/11/2009

Property Type	Description	Acres or Sq Ft	Tax Year: 2010	Base Taxes Per Year		
				City of Temple	Bell County & Road	Temple JCD
REAL PROPERTY						
Land Acquisition		160.00	\$1,200,000			
New Building Improvements with Racking		400,000	\$28,000,000			
REAL PROPERTY TOTALS			\$29,200,000	\$167,754	\$118,961	\$61,320
PERSONAL PROPERTY						
			\$12,000,000	\$68,940	\$48,888	\$25,200
Total Real & Personal Property Taxes by Jurisdictions				\$236,694	\$167,849	\$86,520

EXHIBIT 3
Abatement Tax Projections

2/11/2009

Description	Assessed Value	City Base Taxes @ \$0.5745 rate	Abatement Percent	City Tax collections, with abatement
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REAL ESTATE				
Land Acquisition	\$ 1,200,000	\$ 6,894	0%	\$ 6,894
New Building Improvements with Racking	\$ 28,000,000	\$ 160,860	100%	\$ -
Real Property Tax Collections, annually		\$ 167,754		\$ 6,894
Real Property Tax Collections, 10-yr abatement term				68,940

PERSONAL PROPERTY				
Business Personal property	\$ 12,000,000	\$ 68,940	0%	\$ 68,940
Personal Property Tax Collections, annually		\$ 68,940		\$ 68,940
Personal Property Tax Collections, 10-yr abatement term				\$ 689,400

TOTAL CITY OF TEMPLE TAX COLLECTIONS				
Annually				\$ 75,834
Total Abatement 10-yr term				\$ 758,340

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A TAX
ABATEMENT AGREEMENT WITH HEB GROCERY COMPANY, L.P.,
FOR PROPERTY CONSISTING OF APPROXIMATELY 66.561 ACRES
LOCATED ON MOORE'S MILL ROAD WEST OF WENDLAND ROAD;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City adopted a Resolution dated June 15, 1989, stating that it elects to be eligible to participate in tax abatement;

Whereas, on May 15, 2008, the City Council adopted Ordinance No. 2008-4219, establishing a comprehensive economic development policy for the City of Temple, which policy includes criteria and guidelines for granting tax abatement within the City of Temple in accordance with Chapter 312 of the Tax Code;

Whereas, HEB Grocery Company, L.P., is the owner of property within the City's Tax Abatement Reinvestment Zone Number Fourteen, and has requested that the City consider granting tax abatement for proposed improvements to said property;

Whereas, the contemplated use by HEB Grocery Company, L.P., of the property, as hereinafter described, and the contemplated improvements to said property in the form and amounts set forth in the agreement, are consistent with encouraging economic development, and in accordance with the criteria and guidelines for tax abatement in the City's Economic Development Policy;

Whereas, as required by law the City has notified the other taxing entities of its intent to enter into the agreement; and

Whereas, the City Council has considered the matter and finds that the proposed tax abatement with HEB Grocery Company, L.P., is in compliance with State law and the City's *Guidelines and Criteria* governing tax abatement, and that the proposed improvements by HEB Grocery Company, L.P., are feasible and likely to attract major investment and expand employment within the City.

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 tax abatement agreement on eligible property between the City of Temple and HEB Grocery Company, L.P., substantially in the form of the copy attached hereto as Exhibit A, after approval as to form by the City Attorney, governing property consisting of approximately 66.561 acres located on Moore's Mill Road west of Wendland Road in Temple, Bell County, Texas.

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 **19th** day of **February**, 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

02/19/09
Item #10
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending the City's Economic Development Policy ordinance, by establishing new criteria and guidelines for tax abatement in the Avenue H Strategic Investment Zone to promote local economic development and to stimulate business and commercial activity.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for March 5, 2009.

ITEM SUMMARY: The proposed ordinance amends the City's comprehensive economic development ordinance to add new criteria and guidelines for authorizing tax abatement agreements in the proposed tax abatement reinvestment zone for the Avenue H Strategic Investment Zone. This is a companion item to the ordinance creating the Avenue H Strategic Investment Zone—which designates the Avenue H corridor (roughly Avenue F, G, H & I from South 1st Street to South 25th Street) as a tax abatement reinvestment zone and also authorizes other match grant incentives from the City.

The matrix proposed for to be considered for 5 year, 100% tax abatement on the increase value of eligible real and personal property (useful life of at least 10 years) in the Avenue H Strategic Investment Zone Corridor is as follows:

Percentage of increased value To be abated	Inside the Avenue H Strategic Investment Zone Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation
100%	\$35,000 or more	\$60,000 or more	5-25 jobs

Under the proposed amendment, projects involving an investment in real property in excess of \$250,000, more than \$1,000,000 in eligible personal property, or the creation of more than 25 new full time jobs would be individually negotiated.

FISCAL IMPACT: N/A

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING A COMPREHENSIVE ECONOMIC DEVELOPMENT POLICY FOR THE CITY OF TEMPLE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple is committed to establishing long-term economic vitality, an essential key to the growth of any community, by responding and preparing for challenges and changes in an environment characterized by ongoing competition for sustained economic advantage and identity;

Whereas, in an effort to enrich an already substantial diversity of economic activity, the City of Temple desires to establish an *Economic Development Policy* consolidating the City's existing and newly-proposed economic development policies into one comprehensive document;

Whereas, the City has established criteria and guidelines governing tax abatement within the City pursuant to Chapter 312 of the Tax Code, and by ordinance has designated two tax abatement reinvestment zones;

Whereas, the City has by ordinance created a tax increment financing reinvestment zone pursuant to Chapter 311 of the Tax Code, and used the tax increments accrued in said zone to construct public improvements intended to spur economic development of the zone;

Whereas, the City has nominated an area of the City for designation by the State, acting through its Department of Commerce, as an enterprise zone pursuant to Tex. Rev. Civ. Stat. Ann. art 5190.7;

Whereas, Article 3, Section 52-a of the State Constitution, authorizes the Legislature to provide for the creation of programs for the making of loans and grants of public money for the public purposes of development and diversification of the economy of the State;

Whereas, the Legislature, in Tex. Rev. Civ. Stat. Ann. art. 835s, has authorized home rule cities to acquire land and buildings for the purpose of leasing the land or improvements thereto to private companies for use in manufacturing or other commercial activity;

Whereas, the Legislature, in Chapter 380 of the Local Government Code, has authorized home rule cities to establish programs for making loans and grants of public money to promote State or local economic activity within their boundaries; and

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

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

Part 1: That a comprehensive *Economic Development Policy* is hereby adopted by the City of Temple, Texas, to read as follows:

ECONOMIC DEVELOPMENT POLICY

FOR THE CITY OF TEMPLE, TEXAS

ADOPTED MAY 15, 2008

I. Criteria and Guidelines Governing Tax Abatement.

A. Definitions.

1. "**Abatement**" means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated by the City for economic development purposes.

2. "**Agreement**" means a contract between a property owner or lessee and the City.

3. "**Base year value**" means the assessed value of eligible property on January 1st of the year of the execution of the tax abatement Agreement, plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the Agreement.

4. "**Deferred Maintenance**" means those improvements necessary for continued operation but which do not improve productivity or alter any process technology. Exterior improvements (e.g., painting, installing, repairing, removing or replacing a facade) to the exteriors of buildings in the Downtown Development Area which are designed to improve visual appearance of property are not deferred maintenance.

5. "**Downtown Development Area**" is an approximately 43 block area of downtown Temple as shown by the map and description attached hereto as Exhibit "A."

6. "**Eligible Facilities**" means those new, expanded or modernized buildings and structures, including fixed machinery and equipment, which are reasonably likely as a result of granting abatement, to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the City Eligible Facilities in all commercial/industrial tax abatement reinvestment zones include manufacturing, distribution and storage facilities, office buildings, transportation facilities, and entertainment complex. Additional Eligible Facilities in reinvestment zones established in the Downtown Development Area include retail stores, apartment buildings, restaurants and entertainment facilities (excluding sexually oriented businesses) facilities.

7. "**Expansion**" means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.

8. "**Facility**" means property improvements completed or in the process of construction which together comprise an integral whole.

9. **"Modernization"** means a complete or partial demolition of Facilities and the complete or partial reconstruction or installation of a Facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment, or both. Modernization in the Downtown Development area includes painting of exterior walls, restoring, removing or installing a facade and related exterior improvements designed to visually improved the exterior of a building or block.

10. **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion and Modernization.

11. **"Productive Life"** means the number of years a property improvement is expected to be in service for a facility.

12. **"South 1st Street Corridor"** is an area comprised of approximately a 74 block area, which includes South 1st Street from Adams Avenue to South Loop 363 and portions of several adjacent streets including portions of South 2nd Street, South 3rd Street and South 5th Street, as shown by the map and description attached hereto as Exhibit "B."

13. **"Avenue H Strategic Investment Zone"** is an area consisting of Avenue F, G, H & I from South 1st Street to South 25th Street, as shown by the map and description attached hereto as Exhibit "C."

B. Statement of Purpose.

The City is committed to the promotion of high quality commercial and industrial development in all parts of the City, and an ongoing improvement of the quality of life of its citizens. These objectives may be served by the enhancement and expansion of the local economy. The City will consider, on a case-by-case basis granting property tax abatement as a stimulus for economic development in accordance with the criteria and guidelines established herein. Nothing herein shall imply or suggest that the City is under any obligation to provide tax abatement to any applicant, that any applicant has a property right or interest in tax abatement, or that the City is precluded from considering other options which may be in the best interest of the City.

C. Designation of Tax Abatement Reinvestment Zones.

The City will consider designating areas within the City limits or extraterritorial jurisdiction of the City as commercial-industrial tax abatement reinvestment zones which meet one or more of the criteria for designation of a reinvestment zone under Section 312.202 of the Tax Code, and where the property owner meets the minimum qualifications to qualify for a tax abatement under Part I.D. 1.b. of this Policy. Designation of an area as a tax abatement reinvestment zone is a prerequisite to entering into a tax abatement agreement with the owner of the property in a particular area. Property located within a City created (and State-approved) Enterprise Zone is eligible for consideration for tax abatement agreements without the necessity of separate designation as a tax abatement reinvestment zone.

D. Abatement Authorized.

1. Eligible Facilities. Upon application, the City will consider granting tax abatement on Eligible Facilities as hereinafter provided.

a. Creation of New Value. The City will consider granting tax abatement only for the additional value of eligible property improvements made subsequent to, and specified in, an abatement agreement between the City and the property owner or lessee, subject to such limitations as the City may require.

b. New and Existing Eligible Facilities. The City will consider granting abatement for new Eligible Facilities and for improvements to existing Eligible Facilities for purposes of Modernization and Expansion.

c. Eligible Property. The City will consider granting abatement to the value of real property improvements (buildings, structures, fixed [permanently attached] machinery and equipment, site improvements, related fixed improvements necessary to the operation and administration of the Facility), and personal property (excluding inventory or supplies) with a Productive Life of ten years or more.

d. Ineligible Property. The following types of property shall remain fully taxable and ineligible for tax abatement: land, supplies, inventory, housing, Deferred Maintenance, property to be rented or leased except as provided in subpart (5) below, and other property which has a Productive Life of less than ten years.

e. Owned/Leased Facilities. If a Leased Facility is granted abatement, the agreement shall be executed with the lessor and the lessee.

2. Standards for Tax Abatement.

a. Minimum Standards. The City will consider tax abatement only on eligible facilities which meet at least two of the following criteria.

(1) The project involves a minimum increase in property value of three hundred percent (300%) for construction of a new facility, or fifty percent (50%) for expansion of an existing facility, with an overall new investment of at least \$1 million in taxable assets. For eligible facilities in any reinvestment zone within the Downtown Development Area or within the South 1st Street Corridor, the project must involve either a minimum increase in property value of one hundred and fifty percent (150%) for construction of a new facility, or twenty-five percent (25%) for expansion of an existing facility, with an overall new investment of at least \$50,000 in taxable assets.

(2) The project makes a substantial contribution to redevelopment efforts, special area plans, or strategic economic development programs by enhancing either functional or visual characteristics, e.g., historical structures, traffic circulation, parking facades, materials, signs.

(3) The project has high visibility, image impact, or is of a significantly higher level of development quality.

(4) The project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.

(5) The project can serve as a prototype and catalyst for other development of a higher standard.

(6) The project stimulates desired concentrations of employment or commercial activity.

(7) The project generates greater employment than would otherwise be achieved, e.g., commercial/industrial versus manufacturing versus warehousing.

(8) For eligible facilities in any reinvestment zone within the Downtown Development Area, the project improves the aesthetic appearance of the neighborhood, brings new jobs to the Downtown area, increases the availability of public parking, or increases the amount of green space (landscaping).

b. Minimum Required Investment. An applicant requesting tax abatement shall agree as a condition of any tax abatement ultimately approved by the City Council to expend a certain minimum amount of funds on real or personal property improvements, or to provide a certain number of jobs, as provided below:

Percentage of increased value to be abated	Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation [†]
25%	\$250,000-\$400,000	\$1,000,000-\$1,600,000	25-30 jobs
30%	400,001-550,000	1,600,001-2,200,000	31-35 jobs
35%	550,001-700,000	2,200,001-2,800,000	36-40 jobs
40%	700,001-850,000	2,800,001-3,400,000	41-45 jobs
45%	850,001-1,000,000	3,400,001-4,000,000	46-50 jobs
50%	1,000,001-1,300,000	4,000,001-5,200,000	51-55 jobs
55%	1,300,001-1,600,000	5,200,001-6,400,000	56-60 jobs
60%	1,600,001-1,900,000	6,400,001-7,600,000	61-65 jobs
65%	1,900,001-2,200,000	7,600,001-8,800,000	66-70 jobs
70%	2,200,001-2,500,000	8,800,001-10,000,000	71-75 jobs

Percentage of increased value to be abated	Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation [†]
75%	2,500,001-3,500,000	10,000,001-14,000,000	76-85 jobs
80%	3,500,001-4,500,000	14,000,001-18,000,000	86-95 jobs
85%	4,500,001-5,500,000	18,000,001-22,000,000	96-105 jobs
90%	5,500,001-6,500,000	22,000,001-26,000,000	106-115 jobs
95%	6,500,001-7,500,000	26,000,001-30,000,000	116-125 jobs
100%	7,500,001-10,000,000	30,000,001-40,000,000	126-175 jobs

Percentage of increased value To be abated	Inside the Downtown Development Area or the South 1 st Street Corridor Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation
100%	\$50,000 or more	\$100,000 or more	5-25 jobs

Percentage of increased value To be abated	Inside the Avenue H Strategic Investment Zone Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation
100%	\$35,000 or more	\$60,000 or more	5-25 jobs

Projects involving an investment in real property in excess of \$10,000,000 (\$250,000 in the Downtown Development Area, or the South 1st Street and Avenue H Strategic Investment Zones) in eligible personal property of more than \$40,000,000 (\$1,000,000 in the Downtown Development Area or the South 1st Street and Avenue H Strategic Investment Zones), or the creation of more than 175 (25 in the Downtown Development Area or the South 1st Street and Avenue H Strategic Investment Zones) new full time jobs, or requests for tax abatement for more than 5 years, will be individually negotiated.

If a request for tax abatement is justified on the basis of the purchase and maintenance of eligible personal property or on the creation of jobs, the applicant must agree to maintain the personal property or jobs for a period of not less than twice the period for which tax abatement is granted. For example, if an applicant requests and receives 75% tax abatement for five years based on the purchase and maintenance of eligible personal property, the applicant must agree in the tax abatement agreement, subject to recapture of all abated taxes, to maintain the personal property on the property tax roll for not less than ten years.

*Personal property with a useful life of less than ten years is not eligible for tax abatement.

Personal property on site prior to the effective date of the tax abatement agreement is not eligible. Supplies and inventory are ineligible for tax abatement under this policy and State law.

[†] As used herein, the creation of jobs refers to the creation of a job paying not less than \$10 per hour, the approximate median salary for employees in Bell County. To qualify for a level of tax abatement, e.g., 25%, based on the creation of a specific number of jobs, you must commit to hiring the required effective number of employees by the end of year 2 of the agreement. To calculate the effective number of jobs created: (1) calculate the total annual payroll created (based on the number of employees you will hire at various annual salaries); (2) divide this annual payroll by \$20,640 (our calculated annual salary for a \$10/hr employee); and (3) round this figure to the nearest whole integer.

c. Additional or Enhancement Factors. In addition to the minimum investment or job creation criteria listed in (2) above, the following factors, among others, shall be considered in determining whether to grant Tax Abatement, and if so, in what percentage of value to be abated and the duration:

- (1) value of land and existing improvements, if any;
- (2) type and value of proposed improvements;
- (3) productive life of proposed improvements;
- (4) number of existing jobs to be retained by proposed improvements;
- (5) number, salary, and type of new jobs to be created by proposed improvements;
- (6) amount of local payroll to be created;
- (7) whether the new jobs to be created will be filled by persons residing or projected to reside within the City;
- (8) amount of local sales taxes to be generated directly;
- (9) the costs, if any, to be incurred by the City to provide facilities or services directly resulting from the new improvements;
- (10) the amount of ad valorem taxes to be paid the City during the Abatement period considering the existing values, the percentage of new value abated, the Abatement period, and the projected property value after expiration of the Abatement period;
- (11) population growth that occurs directly as a result of new improvements;
- (12) the types and value of public improvements, if any, to be constructed and paid for by the applicant seeking Abatement;
- (13) the extent to which the proposed improvements compete with existing businesses;
- (14) the positive or negative impact on the opportunities of existing businesses;
- (15) the attraction of other new businesses to the area;
- (16) the overall compatibility with the City's zoning and subdivision regulations, and over-all comprehensive plan; and
- (17) whether the project is environmentally compatible with the community (no appreciable negative impact on quality-of-life perceptions).

Each Eligible Facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

3. Abatement barred in certain circumstances. Neither a reinvestment zone nor an abatement agreement shall be authorized, if the City Council determines that:

- a. there would be a substantial adverse effect on the provision of government service or tax base;
- b. the applicant has insufficient financial capacity to meet the requirements of the proposed abatement agreement;
- c. planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- d. approval of a reinvestment zone or abatement agreement would violate State or Federal laws or regulations; or
- e. there exists any other valid reason for denial deemed appropriate by the City.

4. Property subject to Taxation. From the execution of an Abatement Agreement to the end of the effective abatement period under the Agreement, taxes shall be payable as follows:

- a. the value of ineligible property (Part I.D.1.d.) shall be fully taxable;
- b. the base year value of existing eligible property as determined each year shall be fully taxable;
- c. the additional value of new eligible property shall be taxed in the manner and for the period provided for in the Abatement Agreement; and
- d. the additional value of new, eligible property shall be fully taxable at the end of the Abatement period.

5. Application for Tax Abatement.

a. Any present or potential owner of taxable property in the City of Temple, Texas, may request the creation of a tax abatement reinvestment zone and tax abatement by filing a written request with the City. The application shall then be forwarded to the City Manager for review. After processing the application, the City Manager shall make a recommendation to the City Council of the City for final disposition.

b. The application shall consist of a completed application form, which shall provide detailed information on the items described in Part I.D.2. above; a map and property description; and a time schedule for undertaking and completing the planned improvements. In the case of Modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately proceeding the application. The application form may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.

c. The City shall give notice as provided by the Tax Code, i.e., written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located, no later than the seventh day before the date the City Council considers approval of a tax abatement agreement.

d. The City shall not establish a reinvestment zone for the purpose of Abatement if it finds that the request for the abatement was filed after the commencement of construction of a New Facility, or alteration, Modernization, Expansion of an existing Facility.

6. Tax Abatement Agreements

a. After preliminary approval of an application, the City shall formally pass a resolution authorizing an Agreement with the owner (and lessee, where applicable) of the Facility, which Agreement shall include, but not be limited to:

- (1) The kind, number, and location of all proposed improvements of the property;
- (2) A provision for access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the Agreement;
- (3) Limits for the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period the property tax exemptions are in effect;
- (4) Provide for recapturing property tax revenue lost as a result of the Agreement if the owner of the property fails to make the improvements or repairs as provided by the Agreement;
- (5) Each term agreed to by the owner of the property;
- (6) A requirement that the owner of the property annually certify to the governing body of each taxing unit that the owner is in compliance with each applicable term of the Agreement;
- (7) Provide that the City Council may cancel or modify the Agreement if the property fails to comply with the Agreement;
- (8) The percentage of value to be abated each year; and
- (9) The commencement date and the termination date of Abatement.

b. To be effective, a tax abatement agreement must be approved by the affirmative vote of a majority of the members of the City Council at a regularly scheduled meeting of the City Council.

c. Agreements shall normally be approved or disapproved within sixty (60) days from the date the applicant filed a properly completion application for tax abatement with the City Manager.

7. Recapture of Abated Taxes Upon Default.

a. In the event that the company or individual:

- (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, or

(2) violates any of the terms and conditions of the Abatement Agreement, and fails to cure during the Cure Period hereinafter described,

(3) the Agreement then may be terminated, and the company or individual whose Agreement is terminated shall repay, as liquidated damages, all taxes previously abated by virtue of the Agreement to the City within thirty (30) days of the termination.

b. Should the City determine that the company or individual is in default according to the terms and conditions of its Agreement, the City shall notify the company or individual of such default in writing at the address stated in the Agreement, and if such is not cured within thirty (30) days from the date of such notice ("Cure Period"), then the Agreement may be terminated.

8. Administration.

a. The Chief Appraiser of the Bell County Appraisal District will annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser will notify the City of the amount of the assessment.

b. An abatement agreement shall stipulate that employees or designated representatives of the City will have access to the reinvestment zone during the term of the Abatement to inspect the Facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction or operation of the Facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

c. Upon completion of construction, the designated representative of the City shall annually evaluate each Facility receiving Abatement to insure compliance with the agreement, and a formal report shall then be made to the City Council of Temple regarding the findings of the evaluation.

9. Assignment of Tax Abatement Agreements.

Abatement may be transferred and assigned by the holder to a new owner or lessee of the same Facility upon the approval by resolution of the City subject to the financial capacity of the assignee and provided that all conditions and obligations in the Abatement Agreement are guaranteed by the execution of a new contractual Agreement with the City. No assignment or transfer shall be approved if the parties to the existing Agreement, the new owner or new lessee, are liable to any jurisdiction for outstanding taxes or other obligations. Approval of assignments will not be unreasonably withheld.

10. Sunset Provision.

These tax abatement criteria and guidelines are effective upon the date of their adoption and will remain in force for two years, unless amended by three-quarters vote of the City Council, at which time all reinvestment zones and tax abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the criteria and guidelines may be modified, renewed or eliminated.

II. Availability of Tax Increment Financing of Public Improvements.

A. Existence of tax increment financing district.

The City of Temple has previously created Tax Increment Financing District Number One. To be designated as a tax increment financing reinvestment zone (TIFRZ), an area must meet the criteria established for reinvestment zones under Section 311.005 of the Tax Code. Designation of an area of the City as an enterprise zone under Tex. Rev. Civ. Stat. Ann. art. 5190.7, the Texas Enterprise Zone Act, qualifies an area automatically for designation as a tax increment financing reinvestment zone.

B. Development agreements.

The City will consider entering into development agreements with the owners of property within a TIFRZ where construction of a public improvement(s), e.g., a street, sewer or water line, bridge, railroad spur, or drainage project, using tax increment funds is likely to result in the significant expansion or modernization of an existing facility, the construction of a major new facility, the creation of a significant number of new jobs, or otherwise accomplishes one of the major goals of Chapter 311 of the Tax Code. The City Council may by ordinance or resolution, with the advise and recommendation of the Board of Directors of Tax Increment Financing Reinvestment Zone Number One, may establish minimum criteria for consideration of development agreements.

III. Additional Economic Incentives within the City

A. Designation of Enterprise Zone.

The City has nominated an area of the City for designation as an enterprise zone by the State of Texas, acting through its Department of Commerce, under Tex. Rev. Civ. Stat. Ann. art. 5190.7 (the Texas Enterprise Zone Act). Pending approval of the area as an enterprise zone by the State, the City will consider granting several types of economic incentives with the enterprise zone.

1. Sales and use tax refunds.

a. Minimum qualifications. To encourage development of the Enterprise Zone, the City will consider granting sales and use tax rebates to businesses within the Enterprise Zone which:

- (1) meet the definition of "qualified businesses" for purposes of Section 3(a)(11) of the Enterprise Zone Act;
- (2) meet the qualifications for, and receive designation by the State as an enterprise project as an enterprise project as provided for in Section 10 of the Enterprise Zone Act.

b. Eligible taxes. The City may agree to a refund of its sales and use taxes paid by qualified business designated as a enterprise project on the purchase, lease, or rental of equipment or machinery for use in an enterprise zone or on the purchase of material for use in remodeling, rehabilitating, or constructing a structure in the Enterprise Zone.

c. Agreement required. The City will, by development agreement, consider refunding up to one-half (1/2) of the *eligible* sales and use tax paid by a qualified business and enterprise project for a period of up to three (3) years.

d. Documentation required. A qualified business and enterprise project entitled to a refund of sales and use tax under this Section by agreement shall pay the entire amount of State and local sales and use taxes at the time of purchase. A qualified business and enterprise project entitled to a refund of sales and use tax by agreement may request a refund once each year in writing. A qualified business and enterprise project entitled to a refund of sales and use tax by agreement must provide documentation necessary to support a refund claim in a form prescribed by the City's Director of Finance.

2. Waiver of permit fees.

By resolution, the City Council may adopt a policy to waive certain building, permit, license or development fees to qualified businesses which have been designated as enterprise projects within the Enterprise Zone.

B. Other economic incentives within the City.

1. Pursuant to authority delegated by the Legislature to cities under Chapter 380 of the Local Government Code, and as authorized by Article 3, Section 52-a of the Texas Constitution, the City will consider making loans or grants of public funds or property, or the selling or leasing City property at or below the fair market value of said property, to promote State or local economic development and to stimulate business and commercial activity within the City.

2. Upon application, the City may consider one or more of the following economic tools to encourage economic development:

- (a) The City may purchase tracts of land in the City to encourage economic development if it determines that assembly of smaller tracts into larger tracts will promote the sale or development of property over the long term. The City may also purchase land to sell or lease to a qualified business in the City, if it determines that a qualified business meets the minimum requirements for additional incentives set out below
- (b) As further authorized by Tex. Rev. Civ. Stat. Ann. art. 5190.7 § 20(b), the City may sell or lease City-owned property to private developers, if the City Council determines that the property is not needed for any other public purpose, and that sale of the property to a private developer will result in capital improvements or the creation of new jobs within the City. The City will generally sell or lease public property at its fair market value, but will consider making a one-time grant to an applicant, or selling or leasing property at less than fair market value, according to the following formula:

Additional Incentives within the City	
Value of grant, or value of reduction in lease payments	To qualify for additional incentive, a qualified business must agree to the following minimum investment in <u>both</u> improvements to real property (new construction or

or sale price	expansion of existing facility) and the creation of new jobs	
Not to exceed \$150,000	Not less than \$7.5 million	Not less than 125 new jobs
Not to exceed \$300,000	Not less than \$15 million	Not less than 250 new jobs
Not to exceed \$450,000	Not less than \$22.5 million	Not less than 375 new jobs
Not to exceed \$600,000	Not less than \$28 million	Not less than 500 new jobs

Incentives under Chapter 380 of the Local Government Code where the investment and number of jobs exceed the chart above will be individually negotiated.

C. Additional economic incentives in Downtown Development Area.

1. Pursuant to authority delegated by the Legislature to cities under Chapter 380 of the Local Government Code, and as authorized by Article 3, Section 52-a of the Texas Constitution, the City will consider making loans or grants of public funds or property, or the selling or leasing City property at or below the fair market value of said property, to promote State or local economic development and to stimulate business and commercial activity in the Downtown Development Area (as shown on Exhibit "A").

2. Upon application, the City of Temple will consider one or more of the following economic tools to encourage economic development in the Downtown Development Area:

- (a) The City may purchase tracts of land in the Downtown Development Area to encourage economic development if it determines that assembly of smaller tracts into larger tracts will promote the sale or development of property over the long term. The City may also purchase land to sell or lease to a qualified business in the Downtown Development Area, if it determines that a qualified business meets the minimum requirements for additional incentives set out below.
- (b) As further authorized by Tex. Rev. Civ. Stat. Ann. art. 5190.7 § 20(b), the City may sell or lease City-owned property to private developers, if the City Council determines that the property is not needed for any other public purpose, and that sale of the property to a private developer will result in capital improvements or the creation of new jobs in the Downtown Development Area. The City will generally sell or lease public property at its fair market value, but will consider making a one-time grant to an applicant, or selling or leasing property at less than fair market value, according to the following formula:

Additional Incentives in the Downtown Development Area	
Value of grant, or value of reduction in lease payments	To qualify for additional incentive, a qualified business must agree to the following minimum investment in either improvements to real property (new construction or

or sale price or surplus property	expansion of existing facility) or the creation of new jobs (25% of the holders of which must be residents of zone or economically disadvantaged).	
Not to exceed \$6,000	Not less than \$70,000	Not less than 3 new jobs
Not to exceed \$8,000	Not less than \$100,000	Not less than 5 new jobs
Not to exceed \$10,000	Not less than \$175,000	Not less than 10 new jobs
Not to exceed \$15,000	Not less than \$225,000	Not less than 15 new jobs
Not to exceed \$18,000	Not less than \$300,000	Not less than 20 new jobs

3. In order for a proposal to be considered for the Additional Incentives under this subsection, an applicant is required to submit a Business Plan detailing sufficient information to evaluate the development and the opportunities for success. A development agreement will provide clauses that insure the return of monetary or real incentives granted for a project in the event that the project is not undertaken within a specified time.

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: 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 **19th** day of **February**, 2009.

PASSED AND APPROVED on Second and Final Reading on the **5th** day of **March**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

02/19/09
Item #11
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Consider adopting an ordinance designating the Avenue H corridor as Tax Abatement Reinvestment Zone Number 15 and authorizing tax abatement agreements and certain other economic development incentives therein.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for March 5, 2009.

ITEM SUMMARY: This ordinance, if adopted, will designate the Avenue H corridor as a tax abatement reinvestment zone and authorize additional incentives to promote redevelopment of commercial and residential property in the area. It is modeled after the South 1st Street incentive ordinance and furthers the purposes of the City's Strategic Investment Zone program.

This ordinance is the second of several planned economic incentive ordinances targeted at encouraging redevelopment in the areas of the City designed by the City Council as Strategic Investment Zones (SIZ). As with the South 1st Street incentive ordinance, this ordinance encourages redevelopment of the Avenue H corridor primarily through two means: (1) the availability of tax abatement on the increased value of eligible real and personal property; and (2) providing "matching" grant incentives where the City participates with dollars or in-kind services to encourage redevelopment. The proposed ordinance creates enabling authority, but is subject to the availability of funds that may be appropriated from year to year by the City Council as part of the annual budget process.

As the SIZ report recommended, the City is employing a 'combined-arms' approach to redevelopment in our Strategic Investment Zones. On one hand we have sought voluntary compliance with existing codes and standards and backed that up with a willingness to require compliance through enforcement proceedings before the City's Building and Standards Commission. We've also tried a "carrot" incentive through a willingness to assist property owners with the demolition of substandard buildings and signs in our corridors. As the report we presented to the City Council in December 2007 showed, we've demolished a number of high profile buildings and signs in the past two years, both within and near our SIZs.

The proposed ordinance continues those efforts by offering tax abatement and economic development incentives. The tax abatement were proposing is similar to what has been successfully offered in the Downtown area for the past decade: 100% tax abatement for five years on the increased value of eligible real and personal property constructed in accordance with a tax abatement agreement. Tax abatement would be available for both commercial and residential redevelopment above a certain threshold.

Eligible property improvements for tax abatement in this SIZ corridor would include a mixture of commercial redevelopment and residential redevelopment given the current nature of this neighborhood. The tax abatement area is essentially Avenues F, G, H and I from South 1st Street to South 25th Street. A detailed map will be provided to the City Council at our meeting. The condition of property within the defined area is likely to substantially arrest or impair sound growth because of the number of deteriorating structures, inadequate streets and sidewalks, lack of accessibility or usefulness of lots, unsanitary and unsafe conditions, the deterioration of site or other improvements, and conditions that endanger life or property by fire or other cause.

The matching grants for economic development and in-kind services include funds or services related to façade replacement or upgrading, sign improvements, landscaping improvements, asbestos surveys and abatements, demolitions and sidewalk replacement. Availability of these matching funds would be on a first-come/first-served basis for eligible projects. A limited amount of funds (approximately \$170,000) are available in the current fiscal year for both the Avenue H corridor and the South 1st Street corridor, and if the City Council approves this ordinance we will seek additional funds in future budget years. A detailed description of the matching grants will be made during our presentation before the City Council.

Other potential candidates for similar ordinances are Martin Luther King, Jr. Boulevard; North 3rd Street; and the Downtown area. Providing adequate funding for the City matching funds will pose a fiscal challenge for the City, but the proposed incentives are tied to private investment in these SIzs that will help the City to recover its investment.

FISCAL IMPACT: In FY 2007-2008, \$ 85,000 was appropriated for the Strategic Investment Zone matching grant incentives. This amount was not spent during the fiscal year and was carried forward to FY 2008-2009. An additional \$ 85,000 was appropriated in the FY 2008-2009 operating budget. Total amount currently available for the Strategic Investment Zone matching grant incentives is \$ 170,000.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

DESIGNATING THE AVENUE H CORRIDOR (FROM SOUTH 1ST STREET TO 25TH STREET AND AVENUE F TO AVENUE I) AS TAX ABATEMENT REINVESTMENT ZONE NUMBER FIFTEEN FOR COMMERCIAL, INDUSTRIAL OR RESIDENTIAL TAX ABATEMENT AND AS THE "AVENUE H STRATEGIC INVESTMENT ZONE;" ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; ESTABLISHING CERTAIN ECONOMIC DEVELOPMENT INCENTIVES IN THE AVENUE H STRATEGIC INVESTMENT ZONE; ESTABLISHING A SUNSET PROVISION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Temple, Texas (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by Section 312.201 of the Texas Tax Code;

WHEREAS, the City held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed reinvestment zone;

WHEREAS, the City at such hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the ordinance calling such public hearing should be included in such proposed reinvestment zone, the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and opponents of the reinvestment zone appeared to contest creation of the reinvestment zone.

WHEREAS, the City finds that the condition of property adjoining Avenue G and Avenue H (from South 1st Street to South 25th Street and from Avenue F to Avenue I) is likely to substantially arrest or impair the sound growth of the municipality, because of the presence of one or more of the conditions: a substantial number of substandard, slum, deteriorated, or deteriorating structures; the predominance of defective or inadequate sidewalks or streets; faulty size, adequacy, accessibility, or usefulness of lots; unsanitary

or unsafe conditions; the deterioration of site or other improvements; or conditions that endanger life or property by fire or other cause;

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

Part 1: The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

Part 2: (a) **Designation of Avenue H Tax Abatement Reinvestment Zone.** Pursuant to Section 312.201 of the Code, the City hereby creates a reinvestment zone for commercial, industrial or residential tax abatement consisting of property within the area described as follows:

BEGINNING at the eastern ROW line of South 25th Street and a point in the south line of the Burlington Northern & Santa Fe Railroad rail yard;

THENCE southerly along the east line of said South 25th street to a point in the south line of Lot 1, Block 62 Freeman Heights Addition;

THENCE easterly along the south line of this and continuing along the southern boundaries of parcels as follows:

Lot 8, Block 62, Freeman Heights Addition;
Lot 1, Block 63, Freeman Heights Addition;
Lot 1, Block 25, Jones & Moore Addition;
North 62.5 feet of Lot 3, Block 25, Jones & Moore Addition;
North 60 feet of Lot 1, Block 26, Jones & Moore Addition;
North 60 feet of Lot 1, Block 27, Jones & Moore Addition;
North 90 feet of Lot 3, Block 27, Jones & Moore Addition;
North 120 feet of Lot 1, Block 28, Jones & Moore Addition;
North 75 feet of Lot 3, Block 28, Jones & Moore Addition;
North 75 feet of Lot 1, Block 29, Jones & Moore Addition;
North 120 feet of Lot 3, Block 29, Jones & Moore Addition;
North 60 feet of Lot 1, Block 30, Jones & Moore Addition;
North 60 feet of Lot 11, Block 9, W.A. Barclay Addition;
North 15 feet of Lot 7, Block 9, W.A. Barclay Addition;
Lot 1, Block 10, W.A. Barclay Addition;
Lot 6, Block 10, W.A. Barclay Addition;
Lot 1, Block 11, W.A. Barclay Addition;
Lot 6, Block 11, W.A. Barclay Addition;
Lot 1, Block 220, Temple Original Addition;
Lot 6, Block 220, Temple Original Addition;
Lot 1, Block 1, Robertson Addition;
Lot 5, Block 1, Robertson Addition;
North 25 feet of Lot 2, Block 2, Robertson Addition;

THENCE easterly along the south line of Lot 5, Block 2, Robertson Addition to a point in the west line of South First Street (Veterans Memorial Drive) for corner;

THENCE northerly along said west line of South First Street to a property line 80 feet north of West Avenue F for corner;

THENCE westerly along the north line of this, and continuing along the northern boundaries of parcels as follows:

Lot 2, Block 53, Temple Original Addition;
South 105 feet of Lot 4, Block 52, Temple Original Addition;
Lot 1, Block 52, Temple Original Addition;
South half of Lot 4, Block 51, Temple Original Addition;
South 90 feet of Lot 2, Block 51, Temple Original Addition;
South 100 feet of Lot 4, Block 50, Temple Original Addition;
Lot 2, Block 50, Temple Original Addition;
South 90 feet of Lot 4, Block 15, Temple Original Addition;
South 90 feet of Lot 2, Block 15, Temple Original Addition;
South 60 feet of Lot 4, Block 18, Temple Original Addition;
South 45 feet of Lot 2, Block 18, Temple Original Addition;
South 45 feet of Lot 2, Block 6, Jones & Moore Addition;
South 51 feet of Lot 4, Block 5, Jones & Moore Addition;
South 40 feet of Lot 2, Block 5, Jones & Moore Addition;
South 50 feet of Lot 4, Block 4, Jones & Moore Addition;
South 58 feet of Lot 2, Block 4, Jones & Moore Addition;
South 43 feet of Lot 4, Block 3, Jones & Moore Addition;
South 90 feet of Lot 2, Block 3, Jones & Moore Addition;
South 40 feet of Lot 4, Block 2, Jones & Moore Addition;
South 40 feet of Lot 2, Block 2, Jones & Moore Addition;

THENCE westerly along the north line of the south 90 feet of Lot 4, Block 1, Jones & Moore Addition to a point in the east line of Lot 2, Block 1, Jones & Moore Addition;

THENCE northerly to the south line of aforementioned Burlington Northern & Santa Fe Railroad rail yard;

THENCE westerly along the south line of this to the POINT OF BEGINNING containing 122 acres of land, more or less, as depicted in Exhibit "A" attached hereto.

Such reinvestment zone is hereby designated and shall hereafter be officially designated as Tax Abatement Reinvestment Zone Number Fifteen, City of Temple, Texas. The City Council specifically finds that the boundaries of the reinvestment zone (hereinafter "AVENUE H STRATEGIC INVESTMENT ZONE") should be as shown in the map attached hereto as Exhibit "A."

(b) **Findings Relative to Creation of Tax Abatement Reinvestment Zone.** The City Council, after conducting a public hearing and hearing evidence and testimony, makes the following findings and determinations based on the testimony presented to it:

1. That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone;

2. That creation of the AVENUE H STRATEGIC INVESTMENT ZONE will result in benefits to the City and to the land included in the zone after the term of any agreement executed hereunder, and the improvements sought are feasible and practical;

3. That the AVENUE H STRATEGIC INVESTMENT ZONE meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Code in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City;" and

4. That the AVENUE H STRATEGIC INVESTMENT ZONE meets the criteria for the creation of a reinvestment zone as set forth in the City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones.

(c): The AVENUE H STRATEGIC INVESTMENT ZONE shall take effect on March 5, 2009, and continue in effect until March 5, 2014.

(d) To be considered for execution of an agreement for tax abatement the commercial/industrial or residential project shall:

1. Be located wholly within the AVENUE H STRATEGIC INVESTMENT ZONE as established herein;

2. Not include property that is owned or leased by a member of the City Council of the City of Temple, Texas, or by a member of the Planning and Zoning Commission;

3. Conform to the requirements of the City's Zoning Ordinance, all other City codes and regulations, City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones previously adopted by the City Council, and all other applicable laws and regulations; and

4. Have and maintain all land located within the AVENUE H STRATEGIC INVESTMENT ZONE, appraised at market value for tax purposes.

(e) Written agreements with property owners located within the AVENUE H STRATEGIC INVESTMENT ZONE shall provide identical terms regarding duration of exemption and share of taxable real property value exempted from taxation.

(f) Written agreements for tax abatement as provided for by Section 312.205 of the Tax Code shall include provisions for:

1. Listing the kind, number and location of all proposed improvements of the property;

2. Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreements;

3. Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the AVENUE H STRATEGIC INVESTMENT ZONE during the period that property tax exemptions are in effect; and

4. Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement.

(g) Applications. Applications for tax abatement in the AVENUE H STRATEGIC INVESTMENT ZONE are available in the City Attorney's Office, Suite 308, Municipal Building, 2 North Main Street, Temple, TX 76504 or from the City's website, ci.temple.tx.us.

Part 3: (a) **Additional Economic Development Incentives for the Avenue H Strategic Investment Zone.** Pursuant to Article 3, Section 52-a of the Texas Constitution, Chapter 380 of the Texas Local Government Code, and Section III.B of the City's Economic Development Policy ordinance, the City will consider offering additional economic incentives for development in the Avenue H Investment Zone as provided below. If property is located within the Avenue H Strategic Investment Zone and another investment zone offering similar incentives by the City, the applicant may apply under either program, subject to the rules of eligibility. *To be eligible for any of the grants in Part 3 of this Ordinance, the applicant must propose and complete real property improvements on property located within the Avenue H Strategic Investment Zone with a minimum investment of not less than \$20,000 for non-residential or \$10,000 for residential.*

(1) **Façade Improvement Grants.** (commercial only) The City will consider making grants of up to **\$10,000** on a 1:1 matching basis for the replacement of an existing façade with an eligible masonry product to an eligible property, or to remove an existing façade to expose the original façade. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS, rough-faced block, fiber cement siding products, such as HardiPlank® and such other materials that the City may approve from time to time. A list of eligible materials for the Avenue H Strategic Investment Zone is maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.

(2) **Sign Improvement Grants.** (commercial only) The City will consider making grants of up to **\$1,500** on a 1:1 matching basis for the installation of new ground-mounted, monument type signs on eligible properties or the

replacement of a dilapidated sign. To be eligible, the base or footing of the sign must be concrete or metal. Sign improvement costs eligible for reimbursement with a sign improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.

- (3) **Landscaping Improvement Grants.** (commercial only) The City will consider making grants of up to **\$2,500** on a 1:1 matching basis for the installation of new or additional landscaping to an eligible property. To be eligible the landscaping must meet or exceed the City's landscaping requirements for the area, as the same may be established from time to time. If an irrigation system is installed, or already exists, and will be maintained by the applicant, the maximum amount of the landscaping grant is **\$3,500** on a 1:1 matching basis. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, shrubs, soil and amendments thereto and other decorative hardscape such as arbors, art, and walls or fences) and material and construction (including labor) costs, but specifically *exclude* design costs. The City will also consider making grants of trees from the City's tree farm if requested by the applicant as part of a landscaping improvement grant application.
- (4) **Asbestos Survey or Abatement Grants.** (commercial only) The City will consider a grant of up to **\$1,000** on a 1:1 matching basis for owner-initiated asbestos survey of a building and up to **\$3,000** on a 1:1 matching basis for asbestos abatement for a building on eligible property. Asbestos survey and abatement grant eligible costs include professional fees, labor costs, and replacement materials.
- (5) **Demolition Grants.** When requested by an applicant the City will consider in its sole discretion, demolishing buildings, signs or parking lots, and disposing of the same at the City's cost, when the City has the capacity and equipment to do so. The City will not demolish buildings where the City in its sole discretion determines that there is a reasonable probability that the building contains asbestos, unless the applicant has obtained an asbestos survey and abated asbestos, where necessary, prior to demolition of the structure. In lieu of doing the demolition work with its own crews, the City will also consider a grant of up to **\$2,500** on a 1:1 matching basis for the demolition of existing buildings, signs, or parking lots on eligible property. Where the applicant is performing the demolition and seeking a demolition grant, eligible costs include the labor and landfill costs, and equipment rental, but exclude any design costs.
- (6) **Sidewalk Improvement Grants.** The City will consider grants of up to **\$5,000** on a 1:1 matching basis for the construction of new sidewalks within the AVENUE H INVESTMENT ZONE, curb and guttering or the replacement of existing sidewalks or curb and guttering on eligible property. Sidewalk improvement costs eligible for reimbursement with a sidewalk improvement grant include demolition costs (where applicable) (including labor), landfill

costs, and material and construction (including labor) costs and equipment rental, but specifically *exclude* design costs.

(7) **Waiver of Platting, Zoning and Permit Fees.** The City will consider waiving up to \$2,000 in platting, zoning, water and wastewater tap fees, and building permit fees for eligible projects.

(8) **Remodeling of residential property to meet City codes.** The City will consider grants of up to **\$5,000** on a 1:1 matching basis for the cost of remodeling residential property to meet City codes within the Avenue H Strategic Investment Zone.

(b) **Eligible Property.** To be eligible for a grant under Part 3(a)(1)-(8) above, the applicant must be the owner or lessee of property lying within the boundaries of the Avenue H Strategic Investment Zone. Eligible property improvements are as described in Part 3(a)(1)-(8) above.

(c) **Application Form.** To be eligible for the grants described in Part 3(a), an applicant must submit an application and received approval from the City prior to commencing the work for which a grant or assistance by the City is sought. Applications must be submitted on a form provided by the City, be fully and accurately completed, and signed by the owner(s) (and the lessee(s), where applicable) of the property. Forms are available in the **City Manager's Office** (c/o of the Assistant City Manager) and in the office of **Keep Temple Beautiful**, 100 West Adams, Suite 302, Temple, TX 76501, and must be submitted to the City Manager's office for review and potential approval by the City. A completed application must contain a rendering of all proposed improvements and a written description of the same. Where the proposed scope of work requires professional work by an engineer or architect, the plans must be sealed by an engineer or architect, as applicable.

(d) **Evaluation of Applications.** In evaluating whether to approve an application for a grant under Part 3(a), the City Council will consider: (1) the extent to which the property for which a grant is sought is blighted or fails to meet City codes or regulations in one or more aspect; (2) whether the proposed redevelopment is at a higher level than which exists on other properties in the Avenue H Strategic Investment Zone at the time of adoption of this ordinance; (3) whether the applicant has the financial resources to complete the described in the application; (4) whether the property is unlikely to redevelop without an incentive by the City; (5) whether the proposed use of the property is in keeping with the future uses of property identified in the City's Comprehensive Plan or a master plan adopted by the City Council. Upon receipt of an application for a grant under Part 3(a), the City Manager shall cause the application to be evaluated using the criteria established in Part 3(d) above, and submit the application and the Staff's recommend to approve or deny the request, in whole or part, to the City Council for their consideration.

(e) **Approval of grants.** The City Council may approve a request for a grant under Part 3(a) in whole or in part, or deny the same.

(f) **No Vested Right to Receive a Grant.** The existence of the grant program established in Section 3(a) does not create any vested rights to receive a grant or convey a property interest to any person to receive a grant. The award or denial of a grant under this Ordinance shall be at the sole discretion of the City Council. The City Council shall annually appropriate funds for the administration of the grant program in this ordinance, and the granting of funds under the programs established by this ordinance are subject to the availability of funds appropriated for that purpose in any given fiscal year.

(g) **Compliance with Terms of a Grant; payment to recipient.** A recipient of a grant from the City must enter into a development agreement with the City prior to receiving any grant funds or in-kind services by the City. The agreement shall provide that the applicant agrees to: (1) complete the work described in the application in a timely fashion; (2) give the City the right to inspect the work described in the development agreement and the financial records associated with the same during reasonable business hours; (3) perform all of the work described in the grant application in accordance with all applicable City codes and regulations; and (4) to maintain those improvements in the future. The failure by an applicant for a grant to satisfy all of the terms and conditions of the development agreement shall relieve the City of any obligation to provide grants funds under this Ordinance or as described in the development agreement. Payment to grantees shall be made within thirty (3) days of the work described in the development agreement being completed, inspected and accepted by the City.

Part 4: Severance clause. 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 5: Effective date. 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 6: Sunset provision. The designation of Tax Abatement Reinvestment Zone Number Fifteen shall expire five years from the effective date of this ordinance. The designation of a tax abatement reinvestment zone may be renewed for periods not exceeding five years. The expiration of a reinvestment zone designation does not affect an existing tax abatement agreement authorized by the City Council.

Part 7: Open Meeting Act. 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 Meeting Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **19th** day of **February**, 2009.

PASSED AND APPROVED on Second and Final Reading on the **5th** day of **March**, 2009.

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

02/19/09
Item #12
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending Ordinance Number 2008-4218, adopted June 5, 2008, by amending Part 3 therein to revise the economic incentive matching grants offered by the City in the South 1st Street Strategic Investment Zone.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for March 5, 2009.

ITEM SUMMARY: This ordinance, if adopted, will amend City Ordinance Number 2008-4218, the South 1st Street incentive ordinance, to increase the dollar amount of matching grant incentives offered by the City in the South 1st Street Strategic Investment Zone.

Since the adoption of the South 1st Street incentive ordinance, which designated the South 1st Street corridor as a tax abatement reinvestment zone and also authorized incentive matching grants to encourage redevelopment on South 1st Street, the City has received applications from a number of property owners on South 1st Street. In the course of those discussions, the Staff has come to believe that the incentives offered under Part 3 of the incentive ordinance need to be revised to provide more of an incentive and to bring the incentive amounts more into line with actual costs. Even with the proposed changes, our 50% matching grant is unlikely in many cases to cover ½ of the cost of the improvements we're seeking to encourage. We anticipate bringing several of the applications to the City Council in the next 30-60 days for consideration.

The attached ordinance revises the City's **matching** grant program in the South 1st Street Strategic Investment Zone as follows:

Façade improvement grants—the limit would be increased from \$10,000 to \$15,000

Sign improvement grants—the limit would be increased from \$1,500 to \$2,500

Landscaping improvement grants—the limit would be increased from \$2,500 to \$5,000 if no irrigation system is installed, and from \$3,500 to \$10,000 if an irrigation system is in place

Sidewalk improvement grants—the limit would be increased from \$2,500 to \$10,000

FISCAL IMPACT: In FY 2007-2008, \$ 85,000 was appropriated for the Strategic Investment Zone matching grant incentives. This amount was not spent during the fiscal year and was carried forward to FY 2008-2009. An additional \$ 85,000 was appropriated in the FY 2008-2009 operating budget. Total amount currently available for the Strategic Investment Zone matching grant incentives is \$ 170,000.

ATTACHMENTS:

[Ordinance](#)

Added Text

~~Deleted Text~~

ORDINANCE NO. _____

AMENDING ORDINANCE NO. 2008-4218, ADOPTED JUNE 5, 2008, BY AMENDING PART 3 THEREIN TO REVISE THE ECONOMIC INCENTIVE GRANTS OFFERED BY THE CITY IN THE SOUTH 1ST STREET STRATEGIC INVESTMENT ZONE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 5, 2008, the City Council adopted Ordinance No. 2008-4218 which created the South 1st Street Strategic Investment Zone;

Whereas, the Staff recommends amending the ordinance to revise the incentive grants offered by the City in the South 1st Street Strategic Investment Zone; and

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

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

Part 1: The City Council approves amending Ordinance No. 2008-4218, adopted June 5, 2008, which created the South 1st Street Strategic Investment Zone, by amending Part 3 therein to revise the economic incentive grants offered by the City, to read as follows:

...

Part 3: (a) **Additional Economic Development Incentives for South 1st Strategic Investment Zone.** Pursuant to Article 3, Section 52-a of the Texas Constitution, Chapter 380 of the Texas Local Government Code, and Section III.B of the City's Economic Development Policy ordinance, the City will consider offering additional economic incentives for development in the South 1st Street Strategic Investment Zone as provided below. *To be eligible for any of the grants in Part 3 of this Ordinance, the applicant must propose and complete real property improvements on property located within the SOUTH 1ST STREET STRATEGIC INVESTMENT ZONE with a minimum investment of not less than \$20,000 for non-residential or \$10,000 for residential.*

- (1) **Façade Improvement Grants.** The City will consider making grants of up to ~~\$10,000~~ **\$15,000** on a 1:1 matching basis for the replacement of an existing façade with an eligible masonry product to an eligible property, or to remove an existing façade to expose the original façade. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS,

rough-faced block, and such other materials that the City may approve from time to time. A list of eligible materials for the South 1st Street Strategic Investment Zone is maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.

- (2) **Sign Improvement Grants.** The City will consider making grants of up to **\$1,500 \$2,500** on a 1:1 matching basis for the installation of new ground-mounted, monument type signs on eligible properties or the replacement of a dilapidated sign. To be eligible, ~~the base or footing of the sign must be concrete or metal~~ the **10% or more of the new or replacement sign must be constructed from the approved masonry material list**. Sign improvement costs eligible for reimbursement with a sign improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.
- (3) **Landscaping Improvement Grants.** The City will consider making grants of up to **\$2,500 \$5,000** on a 1:1 matching basis for the installation of new or additional landscaping to an eligible property. To be eligible the landscaping must meet or exceed the City's landscaping requirements for the area, as the same may be established from time to time. If an irrigation system is installed, or already exists, and will be maintained by the applicant, the maximum amount of the landscaping grant is **\$3,500 \$10,000** on a 1:1 matching basis. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, shrubs, soil and amendments thereto and other decorative hardscape such as arbors, art, and walls or fences) and material and construction (including labor) costs, but specifically *exclude* design costs. The City will also consider making grants of trees from the City's tree farm if requested by the applicant as part of a landscaping improvement grant application.
- (4) **Asbestos Survey or Abatement Grants.** The City will consider a grant of up to **\$1,000** on a 1:1 matching basis for owner-initiated asbestos survey of a building and up to **\$3,000** on a 1:1 matching basis for asbestos abatement for a building on eligible property. Asbestos survey and abatement grant eligible costs include professional fees, labor costs, and replacement materials.
- (5) **Demolition Grants.** When requested by an applicant the City will consider in its sole discretion, demolishing buildings, signs or parking lots, and disposing of the same at the City's cost, when the City has the capacity and equipment to do so. The City will not demolish buildings where the City in its sole discretion determines that there is a reasonable probability that the building contains asbestos, unless the applicant has obtained an asbestos survey and abated asbestos, where necessary, prior to demolition of the structure. In lieu of doing the demolition work with its own crews, the City will also consider a grant of up to **\$2,500** on a 1:1 matching basis for the demolition of existing

buildings, signs, or parking lots on eligible property. Where the applicant is performing the demolition and seeking a demolition grant, eligible costs include the labor and landfill costs, and equipment rental, but exclude any design costs.

- (6) **Sidewalk Improvement Grants.** The City will consider grants of up to **\$2,500** **\$10,000** on a 1:1 matching basis for the construction of new sidewalks with a minimum width of six feet on South 1st Street and five feet (5') on other streets within the SOUTH 1st STREET STRATEGIC INVESTMENT ZONE, curb and guttering or the replacement of existing sidewalks or curb and guttering on eligible property. Sidewalk improvement costs eligible for reimbursement with a sidewalk improvement grant include demolition costs (where applicable) (including labor), landfill costs, and material and construction (including labor) costs and equipment rental, but specifically *exclude* design costs.

- (7) **Waiver of Platting, Zoning and Permit Fees.** The City will consider waiving up to **\$2,000 in** platting, zoning, **water and wastewater tap fees**, and building permit fees for eligible projects

(b) **Eligible Property.** To be eligible for a grant under Part 3(a)(1)-(6) above, the applicant must be the owner or lessee of property lying within the boundaries of the South 1st Street Strategic Investment Zone. Eligible property improvements are as described in Part 3(a)(1)-(7) above.

(c) **Application Form.** To be eligible for the grants described in Part 3(a), an applicant must submit an application and received approval from the City prior to commencing the work for which a grant or assistance by the City is sought. Applications must be submitted on a form provided by the City, be fully and accurately completed, and signed by the owner(s) (and the lessee(s), where applicable) of the property. Forms are available in the **City Manager's Office** (c/o of the Assistant City Manager) and in the office of **Keep Temple Beautiful**, 100 West Adams, Suite 302, Temple, TX 76501, and must be submitted to the City Manager's office for review and potential approval by the City. A completed application must contain a rendering of all proposed improvements and a written description of the same. Where the proposed scope of work requires professional work by an engineer or architect, the plans must be sealed by an engineer or architect, as applicable.

(d) **Evaluation of Applications.** In evaluating whether to approve an application for a grant under Part 3(a), the City Council will consider: (1) the extent to which the property for which a grant is sought is blighted or fails to meet City codes or regulations in one or more aspect; (2) whether the proposed redevelopment is at a higher level than which exists on other properties in the South 1st Street Strategic Investment Zone at the time of adoption of this ordinance; (3) whether the applicant has the financial resources to complete the described in the application; (4) whether the property is unlikely to redevelop without an incentive by the City; (5) if the property for which a grant is sought is on South 1st Street, whether the applicant's proposed redevelopment eliminates a continuous curb cut on South 1st Street or retains limited access to such street; and (6) whether the proposed use of the property is in keeping with the future uses of property identified in the City's Comprehensive Plan or a master plan adopted by the City Council

for the Temple Medical Education District (TMED). Upon receipt of an application for a grant under Part 3(a), the City Manager shall cause the application to be evaluated using the criteria established in Part 3(d) above, and submit the application and the Staff's recommend to approve or deny the request, in whole or part, to the City Council for their consideration.

(e) **Approval of grants.** The City Council may approve a request for a grant under Part 3(a) in whole or in part, or deny the same.

(f) **No Vested Right to Receive a Grant.** The existence of the grant program established in Section 3(a) does not create any vested rights to receive a grant or convey a property interest to any person to receive a grant. The award or denial of a grant under this Ordinance shall be at the sole discretion of the City Council. The City Council shall annually appropriate funds for the administration of the grant program in this ordinance, and the granting of funds under the programs established by this ordinance are subject to the availability of funds appropriated for that purpose in any given fiscal year.

(g) **Compliance with Terms of a Grant; payment to recipient.** A recipient of a grant from the City must enter into a development agreement with the City prior to receiving any grant funds or in-kind services by the City. The agreement shall provide that the applicant agrees to: (1) complete the work described in the application in a timely fashion; (2) give the City the right to inspect the work described in the development agreement and the financial records associated with the same during reasonable business hours; (3) perform all of the work described in the grant application in accordance with all applicable City codes and regulations; and (4) to maintain those improvements in the future. The failure by an applicant for a grant to satisfy all of the terms and conditions of the development agreement shall relieve the City of any obligation to provide grants funds under this Ordinance or as described in the development agreement. Payment to grantees shall be made within thirty (3) days of the work described in the development agreement being completed, inspected and accepted by the City.

Part 2: Severance clause. 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: Effective date. 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: Open Meeting Act. 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 Meeting Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **19th** day of **February**, 2009.

PASSED AND APPROVED on Second Reading on the **5th** day of **March**, 2009.

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

02/19/09
Item #13
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Amy M. House, Director of Human Resources/Civil Service

ITEM DESCRIPTION: FIRST & FINAL READING – PUBLIC HEARING – Consider adopting an ordinance setting out the civil service classifications and setting the number of positions in each classification in the Temple Fire Department, to be considered on an emergency basis.

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

ITEM SUMMARY: Chapter 143 of the Local Government Code requires that the Council establish, by ordinance, the classifications in the Police Department and the Fire Department. Following the success of the Fire bond election that included establishing a Fire Station #8, it was determined that we would need to add twelve (12) additional firefighters in order to staff the new station. In an effort to stagger the cost of adding these firefighters, the City decided to phase in four (4) firefighters per year. In addition, the City applied for a SAFER Grant for four (4) of these additional firefighters, and we were recently advised that we were successful in obtaining this grant. Staff is recommending that Council authorize the four (4) additional positions be added to the classification of Fire Control and Rescue Officer.

FISCAL IMPACT: The City received notification that we were awarded the Safer Adequate Fire and Emergency Response (SAFER) grant on January 16, 2009, in the amount of \$ 433,520, to partially fund salary and benefits for four Fire and Rescue Officer positions. This funding will be received over a four year period with the amount to be received ranging from 90% the first year to 0% the fifth and final year with a \$108,380 limit per position for funding assistance over the life of the grant.

After the initial four year period, the new positions must be included in the budget for at least one full budget cycle with an estimated fiscal impact of approximately \$321,349 in Fiscal Year 2012-2013. Funding in the amount of \$46,976 was included in the Fiscal Year 2008-2009 Operating Budget in contingency to fund the City's match for the first year.

ATTACHMENTS:

[Classifications](#)
[Ordinance](#)

**CLASSIFICATIONS AND THE NUMBER OF POSITIONS OF CERTIFIED FIREFIGHTERS
AND
CLASSIFICATIONS AND THE NUMBER OF POSITIONS OF CERTIFIED POLICE OFFICERS**

CLASSIFICATIONS AND POSITIONS OF CERTIFIED FIREFIGHTERS

I. UNCLASSIFIED POSITIONS

A. *FIRE CHIEF* - 1 Position

The Fire Chief is appointed by the City Manager. No person shall be eligible for appointment as Chief of the Fire Department who is not eligible for certification by the Commission on Fire Protection Personnel Standards and Education at the intermediate level, or its equivalent as determined by that Commission, and who has not served at least 5 years as a fully paid firefighter.

II. CLASSIFIED POSITIONS

A. *DEPUTY CHIEF* - 5 Positions

No person shall be eligible for appointment as a Deputy Chief who has not served continuously in the Department, as a Captain for at least 2 years. In addition to base pay every Deputy Chief having 5, 7, 9 or 15 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

B. *CAPTAIN* - 22 Positions

No person shall be eligible for appointment as a Captain who has not served continuously in the Department, as a Driver, for at least 2 years. In addition to base pay, every Captain having 3, 5, 7, 9 or 15 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

C. *DRIVER* - 27 Positions

No person shall be eligible for appointment as a Driver who has not served continuously in the Department, as a Fire Control and Rescue Officer, for at least 2 years. In addition to base pay, every Driver having more than 3, 5, 7, 9 or 15 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

D. *FIRE CONTROL AND RESCUE OFFICER* – 49 53 Positions

No person shall be eligible for appointment as a Fire Control and Rescue Officer who does not meet all requirements necessary to become eligible for future classification by the Commission on Fire Protection Personnel Standards and Education. In addition to base pay every Fire Control and Rescue Officer having 1, 3, 5, 7, 9 and 15 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

CLASSIFICATIONS AND POSITIONS OF CERTIFIED POLICE OFFICERS

I. UNCLASSIFIED POSITIONS

A. *POLICE CHIEF* - 1 Position

The Police Chief is appointed by the City Manager. No person shall be eligible for appointment as Chief of the Police Department who is not eligible for certification by the Commission on Law Enforcement Standards and Education at the intermediate level or its equivalent as determined by that Commission or who has not served as a bona fide law enforcement officer for at least 5 years.

B. *Deputy Chief* - 2 Positions

No person shall be eligible for appointment as a Deputy Chief who has not served as a Lieutenant or continuously served for a minimum of 2 years as a Sergeant in the Department.

II. CLASSIFIED POSITIONS

A. *LIEUTENANT* - 5 Positions

No person shall be eligible for appointment as a Lieutenant who has not served continuously as a Sergeant in the Department for at least 2 years. In addition to base pay every Lieutenant having more than 5, 8, 12, 16 or 20 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

B. *SERGEANT* – 16 Positions

No person shall be eligible for appointment as a Sergeant who has not served continuously as a Corporal in the Department for at least 2 years. In addition to base pay every Sergeant having more than 3, 6, 10, 15 or

20 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

C. *Corporal* - 16 Positions

No person shall be eligible for appointment as a Corporal who has not served continuously as a Police Officer in the Department for at least two years. In addition to base pay every officer who has 3, 6, 10, 15 or 20 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

D. *POLICE OFFICER* - 90 Positions

No person shall be eligible for appointment as a Probationary Police Officer who has not met the basic requirements for entrance into the Department. No person shall be eligible for a permanent appointment as a police officer who has not completed 1 year of satisfactory performance in the Department. In addition to base pay every police officer who has 1, 3, 6, 10, 15 or 20 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SETTING OUT THE CIVIL SERVICE CLASSIFICATIONS, SETTING OUT REQUIREMENTS FOR APPOINTMENT TO THE POSITIONS, AND SETTING OUT THE NUMBER OF POSITIONS IN EACH CLASSIFICATION IN THE TEMPLE FIRE DEPARTMENT AND TEMPLE POLICE DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING AN OPEN MEETING CLAUSE; AND DECLARING AN EMERGENCY.

Whereas, Chapter 143 of the Local Government Code requires that the City Council establish, by ordinance, the classifications in the Police Department and the Fire Department;

Whereas, following the success of the Fire bond election that included establishing Fire Station #8, it was determined that the City would need to add 12 additional firefighters in order to staff the new station – in an effort to stagger the cost of adding these firefighters, the City decided to phase in 4 firefighters per year, and it is recommended that 4 additional Fire Control and Rescue Officers be added at this time; and

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

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

Part 1: The City Council establishes the following *Classifications and the Number of Positions of Certified Firefighters and Classifications and the Number of Positions of Certified Police Officers* for civil service positions in the Police and Fire Departments.

CLASSIFICATIONS AND POSITIONS
OF CERTIFIED FIREFIGHTERS

I. UNCLASSIFIED POSITIONS

A. *FIRE CHIEF* - 1 Position

The Fire Chief is appointed by the City Manager. No person shall be eligible for appointment as Chief of the Fire Department who is not eligible for certification by the Commission on Fire Protection Personnel Standards and Education at the

intermediate level, or its equivalent as determined by that Commission, and who has not served at least 5 years as a fully paid firefighter.

II. CLASSIFIED POSITIONS

A. *DEPUTY CHIEF* - 5 Positions

No person shall be eligible for appointment as a Deputy Chief who has not served continuously in the Department, as a Captain for at least 2 years. In addition to base pay every Deputy Chief having 5, 7, 9 or 15 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

B. *CAPTAIN* - 22 Positions

No person shall be eligible for appointment as a Captain who has not served continuously in the Department, as a Driver, for at least 2 years. In addition to base pay, every Captain having 3, 5, 7, 9 or 15 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

C. *DRIVER* - 27 Positions

No person shall be eligible for appointment as a Driver who has not served continuously in the Department, as a Fire Control and Rescue Officer, for at least 2 years. In addition to base pay every Driver having more than 3, 5, 7, 9 or 15 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

D. *FIRE CONTROL AND RESCUE OFFICER* - 53 Positions

No person shall be eligible for appointment as a Fire Control and Rescue Officer who does not meet all requirements necessary to become eligible for future classification by the Commission on Fire Protection Personnel Standards and Education. In addition to base pay every Fire Control and Rescue Officer having 1, 3, 5, 7, 9 and 15 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

CLASSIFICATIONS AND POSITIONS OF CERTIFIED POLICE OFFICERS

I. UNCLASSIFIED POSITIONS

A. *POLICE CHIEF* - 1 Position

The Police Chief is appointed by the City Manager. No person shall be eligible for appointment as Chief of the Police Department who is not eligible for certification by the Commission on Law Enforcement Standards and Education at the intermediate level or its equivalent as determined by that Commission or who has not served as a bona fide law enforcement officer for at least 5 years.

B. *Deputy Chief* - 2 Positions

No person shall be eligible for appointment as a Deputy Chief who has not served as a Lieutenant or continuously served for a minimum of 2 years as a Sergeant in the Department.

II. CLASSIFIED POSITIONS

A. *LIEUTENANT* - 5 Positions

No person shall be eligible for appointment as a Lieutenant who has not served continuously as a Sergeant in the Department for at least 2 years. In addition to base pay every Lieutenant having more than 5, 8, 12, 16 or 20 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

B. *SERGEANT* – 16 Positions

No person shall be eligible for appointment as a Sergeant who has not served continuously as a Senior Police Officer in the Department for at least 2 years. In addition to base pay every Sergeant having more than 3, 6, 10, 15 or 20 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

C. *Corporal* - 16 Positions

No person shall be eligible for appointment as a Corporal who has not served continuously as a Police Officer in the Department for at least two years. In addition to base pay every officer who has 3, 6, 10, 15 or 20 years of service in the Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

D. *POLICE OFFICER* - 90 Positions

No person shall be eligible for appointment as a Probationary Police Officer who has not met the basic requirements for entrance into the Department. No person shall be eligible for a permanent appointment as a police officer who has not completed 1 year of satisfactory performance in the Department. In addition to base pay every police officer who has 1, 3, 6, 10, 15 or 20 years of service in the

Department shall receive the amount shown on the attached compensation plan for such increments of seniority.

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: 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.

Part 5: The fact that it is necessary to maintain the current Fire Department personnel, creates an emergency and imperative necessity which authorize and require that all Charter provisions, ordinances, and rules commanding the reading of ordinances on two separate regular meetings of the City Council, and prohibiting the passage of an ordinance on the date of its introduction be suspended and they are hereby suspended, and this ordinance is hereby passed as an emergency ordinance on the date of its introduction and shall be in effect from and after its adoption.

PASSED AND APPROVED on First Reading and Final Reading on the **19th** day of **February**, 2009.

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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DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution appointing members to the following City boards and commissions:

- (A) Building & Standards Commission – two regular members and three alternate members to fill expiring terms through March 1, 2011
- (B) Building Board of Appeals – two members to fill expiring terms through March 1, 2013
- (C) Development Standards Advisory Board – three members to fill expiring terms through March 1, 2012
- (D) Electrical Board – one member to fill expiring term through March 1, 2012
- (E) Library Board – one member to fill unexpired term through September 1, 2009
- (F) Parks and Leisure Services Advisory Board – four members to fill expiring terms through March 1, 2012
- (G) Tree Board – two members to fill expiring terms through March 1, 2012
- (H) Zoning Board of Adjustment – two regular members and two alternate members to fill expiring terms through March 1, 2011

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In accordance with the City Council adopted policies governing the appointment and training of citizens to City boards, appointments to the above stated boards are to be made at the second regular meeting in February, with an effective date of March 1, 2009.

Please see the attached board summary forms, which list current board members, purpose, membership requirements, term and meeting time/place for the boards. Also attached is a summary listing of all applications received for board appointments, as well as the each board application form.

FISCAL IMPACT: N/A

ATTACHMENTS:

Board Application Summary – (Hard Copy)
Board Summary Forms & Applications – (Hard Copy)