



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

THURSDAY, AUGUST 6, 2009

3:30 P.M.

3RD FLOOR CONFERENCE ROOM

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, August 6, 2009.
2. Discuss the use of private property as recreational areas.
3. Discuss parking in residential areas.
4. Discuss proposed amendments to the utility service fees.
5. Discuss upcoming appointments to various boards and commissions.

5:00 P.M.

MUNICIPAL BUILDING

**2 NORTH MAIN STREET
CITY COUNCIL CHAMBERS – 2ND FLOOR**

TEMPLE, TX

TEMPLE CITY COUNCIL

REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PUBLIC APPEARANCES

3. Receive comments from Ron Stewart, Temple Firefighter, regarding [MDA Fill the Boot](#) Campaign and presentation of check to Kristen Wheeler, MDA representative.

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 promotion of the meeting. Please limit comments to 3 minutes. No discussion or final action will be taken by the City Council.

IV. BUDGET ITEMS

4. (A) PUBLIC HEARING - Receive presentation by the City Manager and conduct a public hearing on the [proposed 2009-2010 operating budget](#).
(B) [2009-5761-R](#): Discuss proposed tax rate and consider adopting a resolution scheduling the adoption of the proposed tax rate for September 3, 2009, and setting public hearings for August 14, 2009 and August 20, 2009 on the proposed tax rate for FY 2009-2010.

V. 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.

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

Minutes:

- (A) [July 10, 2009 Special Called Meeting](#)
- (B) [July 16, 2009 Special Called Meeting and Regular Meeting](#)

Contracts, Leases & Bids:

- (C) [2009-5762-R](#): Consider adopting a resolution authorizing the renewal of a Cooperative Working Agreement (CWA) with Bell County for the Bell County Crime Coalition project that is administered by the Bell County Juvenile Probation Department.
- (D) [2009-5763-R](#): Consider adopting a resolution authorizing a tax abatement agreement with Texquest Investments LLC for property located at 2006 South First Street.
- (E) [2009-5764-R](#): Consider adopting a resolution authorizing a construction contract with Chaney-Cox Construction, Inc. of Temple for remediation of failing portions of the exterior at the Santa Fe Depot in the amount of \$291,810, and approving a deductive change order in the amount of \$66,810 for a net contract amount of \$225,000.
- (F) [2009-5765-R](#): Consider adopting a resolution authorizing an amendment to a lease contract with the Health and Human Services Commission (HHSC), formerly the Texas Department of Human Services, for 19,617 sq. ft. in the Public Services Annex, 102 East Central Avenue.

Plats

- (G) [2009-5766-R](#): P-FY-09-34: Consider adopting a resolution approving the final plat of Scallions Addition, 4 single-family lots on 2.71± acres located on the north side of FM 3117, 181± feet east of the City limits, in Temple's Eastern E.T.J, with exceptions to Subdivision Ordinance Section 33-94(a) Curbs and Gutters.

Ordinance – Second & Final Reading:

- (H) [2009-4300](#): SECOND READING – Z-FY-09-24: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Light Industrial District (LI) located on 6.9 ± acres east of Pegasus Drive, west of Interstate 35, 180 ± feet south of Moore's Mill Road, out of the Vincent Barrow Survey, Abstract No. 64.

Misc.:

- (I) [2009-5767-R](#): Consider adopting a resolution ratifying a grant application submission in the amount of \$1,146,285 for funding assistance for the construction of Fire Station 8 through the Department of Homeland Security's Federal Emergency Management Agency's Fire Station Construction Grant Program.
- (J) [2009-5768-R](#): Consider adopting a resolution authorizing the use of Child Safety Funds to upgrade the school zone at Jefferson Elementary and Lamar Middle School on North 3rd Street in the amount of \$15,758.
- (K) [2009-5769-R](#): Consider adopting a resolution approving the Temple Film Guidelines that will enable Temple to become a certified Texas Film Friendly Community and assist City and State tourism staff in recruiting filmmakers to consider Temple when producing films.
- (L) [2009-5770-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

VII. REGULAR AGENDA

RESOLUTIONS

- 6. [2009-5771-R](#): Consider adopting a resolution naming the new Municipal Court & Utility Business Office facility at 401 North 3rd Street after Jamie Hager Clements.

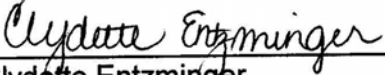
ORDINANCES

- 7. [2009-4301](#): FIRST READING – PUBLIC HEARING Z-FY-09-16: Consider adopting an ordinance authorizing a zoning change from the Central Area District (CA) and Multiple Family Two District (MF2) to Single Family One District (SF1) and/or Neighborhood Services District (NS) for all of Blocks 1 and 26, Moore's First Addition; all of Blocks, 4, 7, 8, 9, & 10, and Block 3, Lots 2-4, L.R. Taylor Addition; and Outblocks, 263-2A, 2B, 2C, 2D, and 23, Temple Original.
- 8. [2009-4302](#): FIRST READING — PUBLIC HEARING - Consider adopting an ordinance amending Chapter 12, "Fire Prevention and Protection," of the Code of Ordinances of the City of Temple, Texas, by adopting the 2006 International Fire Code.
- 9. [2009-4303](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending Chapter 37, "Traffic," Article IV, "Stopping, Standing and Parking," of the Code of Ordinances of the City of Temple, Texas, by amending Section 37-93, entitled, "Two-Hour Parking Zone," to provide that the City Manager may suspend by decree the fine for parking longer than two hours in the downtown area during public events or when the municipal parking lot adjacent to City Hall is closed.
- 10. [2009-4304](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance extending the life of preliminary plats for single family residential subdivisions that were: (1) approved in the past 2 years; (2) extended by the approval of a final plat for a phase of the subdivision in the past 2 years; or (3) that would have expired in the past 2 years, by giving them an additional life of 2 years from the effective date of this ordinance.

11. FIRST READING – PUBLIC HEARING – Consider adopting ordinances establishing the prima facie speed of motor vehicles on a certain section of SH 36/LP363, within the City limits, as follows:
- (A) 2009-4305: The speed limit on Loop 363 access roads will be increased from 40 mph to 45 mph from Airport Road to a point 2,375 feet south of FM 2305 and from 30 mph to 50 mph from a point 2,375 feet south of FM 2305 to South 5th Street; and
 - (B) 2009-4306: The speed limit on Loop 363 will be increased from 55 mph to 60 mph from Airport Road to South 5th Street.
12. 2009-4307: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance establishing school crosswalks and setting speed limits within school zones to conform to school schedules.

***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 9:15 AM, on July 31, 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 at _____ on the _____ day of _____ 2009. _____



COUNCIL AGENDA ITEM MEMORANDUM

08/06/09
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Receive comments from Ron Stewart, Temple Firefighter, regarding MDA Fill the Boot Campaign and presentation of check to Kristen Wheeler, MDA representative.

STAFF RECOMMENDATION: Receive comments as presented in item description.

ITEM SUMMARY: Ron Stewart, Temple Professional Firefighters, will give a report on the MDA Fill the Boot Campaign and present a check for those funds to Kristen Wheeler, MDA representative.

FISCAL IMPACT: None

ATTACHMENTS:

[Request for placement on agenda](#)

CITY OF TEMPLE, TEXAS

CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

____ Priority

RON STEWART

NAME OF PRESENTER: TEMPLE PROFESSIONAL FIREFIGHTERS

ADDRESS: 505 N. 3RD + MDA- KRISTEN WHEELER
TEMPLE, TX 76502

TELEPHONE NO. 254-298-5682

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note - The City Council meets the first and third Thursdays of each month.) AUGUST 6

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

MDA Fill The Boot Report

+ Check Presentation

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

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



SIGNATURE OF PRESENTER

7-29-09

DATE

For Office Use:



COUNCIL AGENDA ITEM MEMORANDUM

08/06/09
Item #4(A)-(B)
Regular Agenda
Page 1 of 4

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager
Traci Barnard, Director of Finance

ITEM DESCRIPTION: (A) PUBLIC HEARING - Receive presentation by the City Manager and conduct a public hearing on the proposed 2009-2010 operating budget.

(B) Discuss proposed tax rate and consider adopting a resolution scheduling the adoption of the proposed tax rate for September 3, 2009, and setting public hearings for August 14, 2009 and August 20, 2009 on the proposed tax rate for FY 2009-2010.

STAFF RECOMMENDATION: (A) Receive presentation and conduct public hearing. Final action is to be taken by the Council at their September 3rd meeting; (B) Adopt resolution as presented in item description.

ITEM SUMMARY: (A) **Budget- Public Hearing** - The City Manager's recommended budget was filed in accordance with the City Charter on June 26, 2009. Council has met for budget related work sessions on July 2nd, 10th and 16th.

This is the initial public hearing on the proposed 2009-2010 budget, and complies with the State and Charter requirements that must be met before the budget can be adopted by the Council. A supplemental second public hearing on the budget will be conducted at the September 3rd Council meeting, prior to budget adoption.

(B) Proposed Tax Rate – Resolution setting dates for 2 public hearings and date for adoption - The proposed tax rate will be presented and discussed at the 5:00 pm meeting, prior to adoption of a resolution scheduling the adoption of the proposed tax rate for September 3rd. Two public hearings must also be set on the proposed tax rate, August 14th special Council meeting and a regular meeting on August 20th. Following this action, the publication of a "Notice of Public Hearing on Tax Increase," will occur on August 7th and "Notice of Tax Revenue Increase," on August 15th and August 21st.

These proposed meeting dates and publication schedules comply with the Truth-In-Taxation requirements set forth in Senate Bill 18 adopted by the 79th Legislature and the City Charter.

FISCAL IMPACT:

(A) Budget: The proposed FY 2010 budget filed on June 26, 2009, totaled \$95,456,531 for all funds (expenditures/transfers).

Expenditures/Transfers	Adopted Budget FY 2009	Proposed Budget FY 2010	% Increase/ (Decrease)
General Fund	\$ 55,934,881 ⁽¹⁾	\$ 54,440,929 ⁽²⁾	-2.67%
Water & Wastewater Fund	26,033,246	26,369,924	1.29%
Debt Service Fund	7,430,032	8,534,733	14.87%
Hotel/Motel Tax Fund	1,276,000	1,231,250	-3.51%
Federal/State Grant Fund	533,154	515,539	-3.30%
Drainage Fund	959,735	999,373	4.13%
Reinvestment Zone No. 1 Fund	4,154,262	3,364,783	-19.00%
Total Expenditures/Transfers	\$ 96,321,310	\$ 95,456,531	-0.90%

⁽¹⁾ Includes \$1,626,292 in Capital (\$1,141,292), Strategic Investment Zone (\$85,000) and TEDC Matrix allocation (\$400,000) funded with Undesignated Fund Balance - Capital Projects

⁽²⁾ Includes \$1,414,024 in Capital (\$1,362,243) and TEDC Matrix allocation (\$51,781) funded with Undesignated Fund Balance - Capital Projects

Changes from the preliminary budget filed on June 26, 2009 to the proposed budget as presented August 6, 2009, assuming a proposed tax rate of 56.46¢. Changes are as follows:

General Fund:

	Proposed Budget		
	Filed Copy as of 6-26-09	Current as of 8-6-09	Increase (Decrease)
Projected Revenues	\$ 53,026,905	\$ 53,303,747	\$ 276,842 ^A
Proposed Budget Expenditures	54,043,470	54,320,312	276,842 ^B
Excess Revenues Over (Under) Expenditures	(1,016,565)	(1,016,565)	-
Transfers In (Out):			
Less: Transfer Out To Debt Service Fund [Energy Program]	(98,440)	(98,440)	-
Less: Transfer Out To Debt Service Fund [Limited Tax Note]	(299,019)	(299,019)	-
Total Transfer In (Out)	(397,459)	(397,459)	-
Excess Revenues Over (Under) Expenditures for FY 2010	\$ (1,414,024)	\$ (1,414,024)	\$0.00
Recommended Use of Undesignated Fund Balance-Capital Projects			
-Capital Equipment Funding	\$ 1,362,243	\$ 1,362,243	\$ -
-TEDC Funding	51,781	51,781	-
	\$ 1,414,024	\$ 1,414,024	\$ -

General Fund (continued):

Explanation of Changes from Filed Budget to Proposed Budget @ 8/6/2009:

^A **Revenue Changes:**

Increased property tax - from preliminary to certified roll	\$ 703
Increased solid waste revenues (\$1.25 per month rate increase)	276,139
Total Revenue Changes	\$ 276,842

^B **Expenditure Changes:**

Increased personnel services, operations and capital to maintain 2x per week Residential garbage service and Brush/Bulk pickup at current service level	\$ 276,139
Corrected allocation for Keep Temple Beautiful - funded an additional \$7,400 for a total recommended funding level of \$23,900	7,400
Decrease in request for funding Bell County Communications Contract in FY 2010 based on their final budget as approved by their Executive Board	(14,530)
Increased Contingency for Judgments & Damages	7,833
Total Expenditures Changes	\$ 276,842
Net Revenue Over (Under) Expenditures	\$ -

Debt Service Fund:

Explanation of Changes from Filed Budget to Proposed Budget @ 8/6/2009:

^A **Revenue Changes:**

Increased property tax - from preliminary to certified roll	\$ 7,430
Increased line item for property tax discount	(7,430)
Total Revenue Changes	\$ -

^B **Expenditure Changes:**

Total Expenditures Changes	\$ -
Net Revenue Over (Under) Expenditures	\$ -

(B) Tax Rate: The proposed tax rate for FY 2010 is 56.46¢. This rate is comprised of two components, maintenance and operations (M&O) of 31.73¢ and the interest & sinking (I&S) rate of 24.73¢. The proposed tax rate represents a 2.45% increase above the effective tax rate of 55.11¢. The current FY 2009 tax rate is 55.95¢.

	2009	2010	+/-
I & S Rate	0.2273	0.2473	0.0200
M& O Rate	0.3322	0.3173	(0.0149)
Total Rate	0.5595	0.5646	0.0051

The effective tax rate is the calculated rate that would provide the same amount of revenue received in the previous year on properties taxed in both years.

Note: The tax rate proposed in the budget document filed on June 26, 2009 was 57.45¢. The rate was developed based on estimates. Subsequent to the budget filing, staff received the Certified Roll and the Effective Tax Rate calculations.

ATTACHMENTS:

[FY 2009-2010 Budget Message](#)
[Tax Rate](#)
[Resolution](#)



June 26, 2009

Honorable Mayor and City Council,

I am pleased to present the Preliminary Fiscal Year 2009-2010 Budget for the City of Temple totaling \$95,456,531 for all funds. Of this amount, \$91,117,705 is proposed for the operations and maintenance budget which includes debt service and transfers. As in previous years, the FY 2010 Preliminary Budget is a balanced budget under the policies and parameters discussed in earlier planning sessions with the City Council.

In addition, \$34,983,826 is proposed for capital improvements programs (CIP). The CIP allocated in FY 2010 can be divided into three categories:

- ▶ Multi-year Non-Routine Capital Recommended for Utility Revenue Bond Funding (U.R. CIP) - \$16,650,000
- ▶ Multi-year Non-Routine Capital Recommended for General Obligation Bond Funding (G.O.CIP) - \$13,995,000
- ▶ Routine Capital Recommended for General Operating Budget Funding - \$4,338,826 is proposed for the capital budget which includes equipment and public infrastructure projects that are underway and/or planned for this fiscal year.

\$1,362,243 of the Routine Capital recommended for General Operating Budget Funding is recommended to be funded with unallocated fund balance.

Budget Background & Framework

The framework for the development of this budget was, in most ways, very similar to previous budgets. Planning and work for this budget began in November 2008 with the City Manager working on timelines and issue identification. Over the course of the winter of 2008, the Manager worked with Finance to develop the budget calendar and process for the FY 2009-2010 Budget.

In February 2009, the City Council met to review and, as might be needed, update the City's strategic plan. 'Temple Tomorrow' was updated and a fourth focus area added, a focus area on 'growing community enhancements'. This focus area was intended to recognize the substantial commitment to priority and resources that is placed on the investments made in our community through many areas in the Budget...areas like our parks, our library, our streets, and our public works infrastructure.

From February through the delivery of this Preliminary FY 2009-2010 Budget, staff has worked countless hours on reviewing, researching and responding to questions from Finance and the Manager relating to the programs and services this Preliminary Budget recommends. The guideposts, the 'fence posts', for our review, research and response continues to be our strategic plan.

All of the above represents, essentially, the same framework as we have followed for the past several years. In essence, nothing new. However, there was something 'new' in the development of the Preliminary Budget and that was the backdrop from which it was prepared. The national recession, and its effect on our local economy, has played a significant role in the development and recommendations of the Preliminary FY 2009-2010 Budget. In fact, the local effects of the economic recession have been significant in both the management of the current year budget and in the development of the preliminary budget for upcoming FY 2010. Due to the economy, cost saving and containment measures went into effect mid-year in FY 2008-2009. Most significant of these cost containment measures was a hiring freeze that this Preliminary FY 2009-2010 proposes to continue.

Cities across the nation are facing major challenges as retail sales and associated sales tax revenues fall; housing prices and tax base values flatline or decline; and jobless rates and foreclosures climb. Temple's diverse economy has proved more stable than many, but our community is not immune to the current recession and the challenges resulting from such. As such, this Preliminary Budget forecasts flat or slightly declining revenues for the FY 2009-2010 year in several key areas. Two key revenue accounts, property and sales taxes, are such areas.

Budget Challenges

The effect of the economy on the City's revenue is clearly demonstrated by two major revenue sources for the City- sales tax and property tax.

Sales Tax- The City of Temple has historically, over the last five years, experienced a 5.16% average annual growth rate in sales tax revenue. The fact that sales tax revenue is closely associated with the general economy means that the slowing of the economy also results in a slowing of the growth in sales tax revenue. Actual sales tax revenue received by the City for the months of October 2008-May 2009 totals \$10,326,917 dollars, which represents a 0.21% growth from the same time period as prior year and is projected to be -1.61% below budgeted revenue levels. Sales tax revenue is a significant source of revenue for the City. In FY 2010, sales tax accounts for 28.85% of the General Fund budgeted revenues, compared to 29.09% in FY 2009, and is the single largest revenue source of the General Fund.

Property Tax- The City's historical practice over the last decade has been to adopt a tax rate that is within 3% of the effective rate. The effective rate is the tax rate which provides the City the same amount of tax revenue as the prior year on properties taxed in both years. If property values rise, the effective tax rate will go down. The opposite occurs if property values decline.

FY 2010 is a unique year in that, for the first time since at least the mid-1980's the City's property tax base is flat or declining. According to preliminary information from the Bell County Tax Appraisal District, this flat or declining assessment is attributable to business inventories being reduced by our commercial base. Again, an anomaly that hasn't been seen in many, many years.

The impact of an increasing property tax base is that, in a year when the property tax base has grown, a constant tax rate provides additional tax revenue. In other words, the City is able to 'live off the growth'. We can fund new programs and new service levels with the same or lower tax rate because it generates more revenue. The tax base, and/or the values in the tax base, have grown...either way, a good thing and an engine for providing programs and services.

However, just the opposite is true in a year when the property tax base declines, a constant tax rate provides less tax revenue than was generated in the prior year.

The preliminary appraisal roll for Ad Valorem taxes provided by the Appraisal District of Bell County indicates the City of Temple's assessed taxable value for the upcoming year is \$3,170,164,601, a potential increase of 2.24% compared with prior year. Historically, over the last five years, the City of Temple has experienced a 7.58% annual growth rate in its tax base.

Like sales tax, property tax is also a significant source of revenue for the City. In FY 2010, property tax accounts for 19.87% of the General Fund budgeted revenues, compared to 19.68% in FY 2009, and is the second largest revenue source of the General Fund.

The impact of these two revenue accounts is significant on the Budget, and especially on the General Fund. Having both property and sales tax revenues flat or declining at the same time presents us with a significant challenge. Add to this the desire to maintain the property tax rate, and we have not just a significant challenge, but, perhaps, a historic challenge.

Property and sales tax are not the only economic indicators the City monitors. Economic indicators such as building permit activity, solid waste tonnage, utility accounts, and unemployment rates are also tracked. Like our sales and property tax revenues, these indicators also point to a local economy that is being impacted by the national economy.

FY 2010 Budget Development

Strategic Direction: Temple Tomorrow- Following the City Council's February planning retreat, in March of 2009, Council adopted the 2009 update to the City's strategic plan, "Temple Tomorrow: Strategic Vision and Plan". This plan establishes the mission and vision of the City, identifies four major areas of focus, and establishes the City's goals and objectives. The areas of focus identified in the Plan are: Grow the Tax Base, Grow Health and Bioscience, Grow the Transportation Infrastructure, and Grow Community Enhancements. These focus areas and their associated goals and objectives guided the development of the FY 2010 Preliminary Budget.

'Fence Posts'- This year's budget, as with every budget I have presented you, has been developed within the framework of the strategic plan priorities adopted by the City Council and the budget parameters, or 'fence posts', that were briefed to the Council at the February 19 and May 21, 2009 work sessions. Those 'fence posts' are:

1. Maintain fiscal soundness;
2. Maintain the tax rate;
3. Align strategic, financial & tactical plan;
4. Align programs & services with revenue;
5. Focus on mission, activities & service levels;
6. Focus on people;
7. Focus on economic development.

A New Budget Approach: Forward Focused Budgeting-

While in many respects the budget development process was similar to past processes, the unprecedented economic challenges facing the nation, state, and City did alter our approach in two key respects.

First, each Department was asked to begin their budget development with zero funding. This 'zero based budgeting' approach allowed departments the opportunity to re-examine service areas and service levels in a way that simply is not done when starting with the funding level of the previous year. 'Starting from scratch' causes, requires, us to re-evaluate why we are doing an activity and, if we are to continue to engage in the activity, examine other means by which to

delivery the activity. While this will probably not be done each year, it is helpful from time to time to 'start from scratch'.

Secondly, the Departments were asked to look at each of their service areas from an 'activity-based' perspective. Each Department was to identify each and every activity that they provide. They were also asked to identify the cost for providing each activity. This 'activity-based' approach allowed for better identification of the services and service levels that we provide. This level of identification and analysis is particularly helpful in times where resources are strained. Thus, unlike zero based budgeting which we will not engage every year, activity based budgeting is intended to be a part of our budgeting process for future budgets.

Budget Highlights

With this background, I would like to highlight a few areas of general priority and emphasis in the FY 2010 Budget.

Tax Rate- A primary 'fence post' for the development of the FY 2010 Preliminary Budget has been the maintenance of the existing tax rate. Maintaining the existing tax rate, and attempting to maintain existing levels of service, presented several extraordinary challenges this year. The historically significant occurrence of a property tax base that is essentially flat, combined with additional property tax-supported debt obligations, results in the fact that, based on the Tax Appraisal District of Bell County's Preliminary Tax Assessment Roll, the existing tax rate will provide less property tax revenue this year for operations and maintenance than was budgeted in FY 2009. In response to flat or declining revenue from major sources such as property tax, sales tax, and interest income, service levels must be adjusted to align with available resources.

In accordance with the budget development 'fence post' to maintain the property tax rate, the preliminary tax rate for FY 2010 is proposed at 57.45¢ per \$100 valuation. This rate is based on the FY 2009 rate of 55.95¢ plus an additional 1.5¢ as approved in May 2008 by the voters for the \$13.9 million Fire General Obligation Bond debt. The tax rate is comprised of two components, the Maintenance and Operations rate (M&O) and the Interest Sinking rate (I&S). This year's proposed tax rate is 32.28¢ for the M&O rate and 25.17¢ for the I&S rate.

The certified appraisal roll for Ad Valorem taxes will not be available from the Appraisal District of Bell County until late July. Therefore, the proposed tax rate is based on assumptions and may require adjustments prior to the final adoption of the budget to reflect the current parameters set forth by Council.

Service Level Adjustments- Another primary 'fence post' for the development of the FY 2010 Preliminary Budget has been the alignment of programs and services with available revenue. The result of the program and activity-based budgeting approach used this year was an extremely intensive budgeting process that, while requiring a significant time investment on the part of all involved, identified several areas of cost savings- both in cost efficiencies and service level reductions.

The adjustments proposed in the FY 2010 Preliminary budget allow us to continue provision of services to our citizens but do so within the confines of the revenues available. Cost efficiencies have been identified in some areas, such as a reduction in wireless data cards, through a review of historical usage. Other areas such as overtime and travel and training have been trimmed across multiple departments.

The preliminary budget anticipates twenty-one positions across multiple departments, programs, and service areas that are either vacant and/or not needed as a result of reduced and/or eliminated services. The FY 2010 Preliminary Budget further proposes the continuation of a strategic hiring freeze ('SHF') implemented during the current fiscal year. The current year SHF

has saved over \$250,000. Of the twenty-one positions, the Preliminary FY 2009-10 Budget proposes 'freezing' seven positions to be 'authorized but unfunded'. These positions, which are all currently vacant, will remain unfilled. In addition, the Manager will continue to 'freeze' positions that become vacant and assess the need to fill vacancies on a case-by-case basis. It is anticipated that our quarterly financial reviews will provide an opportunity to review and assess the need to continue this freeze and, if so, at what levels.

Many additional adjustments are proposed that effect service levels provided. These adjustments are described in detail in the Fund Summary section of this message.

Our Primary Asset: Our People- You have heard me say many times that our most important asset isn't our brick and mortar, it isn't our trucks, it isn't our tools...it is our people. The City of Temple is a service based organization and our people are our number one asset. What we are and the priority we place on our people doesn't change with the economy. However, personnel-related expenditures are also our largest category of expenses and, as such, one of the most significant impacts that can be made to align our expenditures with our available resources is in this area. As a result, the FY 2010 Preliminary Budget includes no compensation adjustments for general government employees. This one proposed cost containment measure will save approximately \$1,000,000. City funded contribution for employee insurance remains constant, but benefit levels and employee contribution amounts will be impacted as new levels in both these areas are recommended to account for increases in associated costs for providing the benefits.

One key benefit area that is not being impacted by our constrained revenue situation is the employee retirement fund. Thanks to the work and strategies that began in the FY 2008-09 Budget, and the work of TMRS in this Legislative Session, funding and benefits for the second year of an eight year plan are being recommended. Substantial work still remains ahead in coming budget years to insure both benefit and funding levels are sustainable, but state and local planning processes are in place and proceeding.

Fuel Expenses and Addressing Pricing Volatility- A key expense component of our budget is fuel and the continuing volatility of the prices of fuel has a significant effect on the City's budget. Over past eighteen months, the City has seen million dollar fluctuations in the cost of fuel. In FY 2008, fuel was budgeted at \$2.90 per gallon for unleaded and diesel for a total fuel budget of \$1,393,710. During FY 2008 the cost per gallon of diesel reached \$4.45 and total actual fuel expenditures for the fiscal year were \$1,618,636. In FY 2009, fuel was budgeted at \$3.80 per gallon for unleaded and \$4.25 per gallon for diesel for a total of \$2,035,875. As of the end of June 2009, the highest per gallon price paid for diesel was \$3.19 and actual fuel expenditures for the fiscal year are projected to be \$1,136,175.

For the FY 2010 Preliminary Budget, fuel has been budgeted at \$2.50 per gallon for unleaded and \$2.75 per gallon for diesel in accordance with Department of Energy forecasts for a total of \$1,301,420. Additionally, because of the extreme volatility of fuel prices, as demonstrated by the above figures, the FY 2010 recommends the creation an internal fuel reserve account, which sets aside \$125,000 additional dollars to provide for any unexpected spikes in the cost of fuel during the upcoming fiscal year. Creating, and maintaining, this internal fuel reserve account is critical for us to both continue to provide services and to do so in a manner that minimizes a 'crisis-oriented' response to fuel pricing fluctuations.

Service Provision Partners: Public Service Agencies- In addition to adjustments in funding for services provided directly by the City, several adjustments have also been proposed in the FY 2010 Preliminary Budget for funding provided to Public Service Agencies ('PSA's') . As you are aware, the PSA's provide much needed services to the community and our support to them 'leverages' their resources with ours. It is a 'win-win' situation.

However, just as City departments have been impacted by constrained resource levels, the recommended funding levels for our PSA's in this Preliminary Budget are also impacted. These adjustments are proposed in accordance with the budget 'fence post' to align programs and services with available revenue, as discussed above. In FY 2009, the City of Temple provided \$747,944 of funding to seventeen public service agencies. In FY 2010, nineteen public service agencies requested \$883,180 in funding. The FY 2010 Preliminary Budget includes \$564,116 in funding for twelve organizations. Many of these organizations are funded through the City's General Fund. Organizations whose services are eligible for funding by hotel/motel tax revenues are funded through the City's Hotel/Motel Tax Fund.

In addition, \$72,175 has been allocated for public service agencies through the Community Development Block Grant.

Growing Our Tax Base- One of the strategic focus areas identified in our Strategic Plan is to 'grow the tax base'. In order for us to continue to meet the demands for current service, and in order for us to meet the needs of projected growth and development, it is critical that this objective be met.

As Council will recall, the FY 2008 Budget set historic, unprecedented levels of funding for economic development. The funding levels were increased by almost 100%, from around \$1,000,000 annually to almost \$2,000,000 annually. This increase also included funding a 'matrix incentive pool' at \$800,000. This 'matrix incentive pool' was intended to be funding for economic development incentives relating to economic development agreements with new and/or expanding businesses. The commitment made in the FY 2008 Budget was to maintain this matrix incentive pool at a level of \$800,000. The FY 2010 Preliminary Budget continues that commitment and includes a \$51,781 'placeholder' investment to maintain the matrix funding level. It is anticipated that additional discussions with TEDC will clarify the actual level of funding needed and that such discussions will occur between the filing of this Preliminary Budget and adoption of the final FY 2010 Budget in September.

Perhaps no other focus area in our Strategic Plan is as significant or important as growing our tax base. As I have indicated in previous Budget's, our current course of lowering tax rates and increasing services and service levels is unsustainable. Growing the tax base is imperative if we are to maintain the quality and level of services currently being provided. It is for these reasons that no other area of the Budget received as high a priority as economic development. In fact, many other areas were significantly impacted so that economic development work may continue at the same levels.

Fund Overview

General Fund- Revenue and Expense Highlights

Total revenues for the FY 2010 General Fund Budget are presented at \$53,026,905, a decrease of 2.36% compared to the FY 2009 adopted budget.

Total expenditures for the FY 2010 General Fund Budget are presented at \$54,440,929, a decrease of 2.67% compared to the FY 2009 adopted budget.

Sales Tax Revenue- Sales Tax revenue is budgeted at \$15,300,000, a decrease of 3.15% compared to the FY 2009 adopted budget. Because sales tax revenue is somewhat volatile in nature and is dependent on the general economic conditions of the region and nation, the City of Temple historically has and will continue to budget sales tax revenue conservatively. During FY 2009 the rate of actual growth in our sales tax has been flat to slightly declining. We are projecting for sales tax to continue to be flat to slightly declining during FY 2010. We will

continue to monitor sales tax collections closely throughout the coming months and year. We will also need to be prepared to make additional adjustments in our budget as conditions may warrant.

Interest Income- Interest Income revenue for FY 2010 is budgeted at \$50,000 a decrease of \$450,000 or 90% compared to FY 2009 budget and a decrease of \$1,268,024 or 96.21% compared to FY 2008 budget. Interest rates have decreased dramatically resulting in significantly reduced revenues from this source. While interest rates are projected to stabilize we are not anticipating rate increases at this time that would generate additional interest income.

Solid Waste Services- The FY 2010 Preliminary Budget includes \$7,725,000 in budgeted revenues for charges associated with solid waste services. These revenues are based on rates that remain unchanged from current year.

While no change is proposed to solid waste rates, an adjustment is proposed to Solid Waste service levels. The FY 2010 Preliminary Budget recommends a service level adjustment in the Residential Collection activity by changing the collection frequency for residential customers from twice weekly to once weekly. The Brush/Bulk Collection activity is also recommended to be adjusted from a twice per month collection frequency to a once per month collection frequency. The savings resulting from these proposed service level adjustments total \$221,698.

Parks and Leisure Services- The FY 2010 Preliminary Budget includes several proposed service level adjustments in Parks and Leisure Services. The Parks Mowing activity and the Vacant Lots activity includes a proposed service level adjustment that reduces the frequency by which certain city-maintained facilities and vacant lots are mowed. The Custodial Services program includes a proposed service level adjustment reducing the frequency custodial services are provided at city-maintained facilities. The Association Support activity proposes elimination of the field chalking services provided to athletic associations who use city-owned fields. The FY 2010 Preliminary Budget proposes that the Clark Pool activity in the Aquatics program be eliminated resulting in the closure of this facility. The Community Events activity is also proposed to be eliminated resulting in community events such as Community Market, National Trails Day, National Recreation & Parks Month, Movies in the Park, and Kite Kraze will no longer be held. The savings resulting from these proposed service level adjustments total \$274,890.

In addition to the above service level adjustments, fee increases are proposed for certain recreation programs and the addition of several new after-school and summer camp programs are proposed in the FY 2010 Preliminary Budget. The addition of two new arts and science-focused summer camps as well as four new after-school programs is proposed to generate \$129,643 in net revenue. Fees for existing summer camp programs are proposed to increase from \$50 per week to \$55 per week. Fees for existing after school programs are proposed to increase from \$20 per week to \$35 per week. The fee for membership at the Sammons Community Center is proposed to increase from \$0 per year to \$5 per year. The participation fee for the Seniors Christmas Dinner held at Sammons Community Center is proposed to increase from \$0 to \$5 per person. The proposed fee increases are estimated to provide an additional \$70,900 in revenue.

Street Services- The FY 2010 Preliminary Budget includes service level adjustment proposals in the Street Reconstruction and Reclamation activity and the Overlay Program activity. The Street Reconstruction and Reclamation activity is proposed to be eliminated due to the infrequent performance of the activity and the high per mile cost. The total savings resulting from this proposed service level adjustment is \$67,434. Future street reconstruction and reclamation work will be assessed in concert with a street inventory assessment and plan and, most, likely be contracted out.

The Overlay Program is proposed to be suspended for the upcoming fiscal year. A current review of the existing program and approach indicated a more comprehensive approach is desirable before further investments in the overlay program occur. City staff is currently working on a street condition inventory program, which will provide a comprehensive database of our streets and their condition, and will allow for the funding available for street overlay and other street maintenance activities to be strategically allocated. I would anticipate returning sometime mid-year with recommendations. In the meantime, the Preliminary Budget recommends redirecting a portion of the funds historically budgeted for the Overlay Program to the Seal Coat activity. The total savings resulting from this proposed service level adjustment is \$262,541.

The FY 2010 Preliminary Budget also recommends providing enhanced funding in the amount of \$15,000 to the Traffic Calming activity by utilizing funds available from the Child Safety Fees, a restricted revenue source.

Fire and Rescue Services- In addition to anticipating the beginning of construction for the new Fire Station #1, the FY 2010 Preliminary Budget includes a service level adjustment in the Public Education/Information activity. A Public Education Specialist position is proposed to be funded with funds available from the Child Safety Fees. This position, proposed to be classified as non-civil service, would provide additional resources for educational programming to promote health and safety of citizens in the community. The primary focus of the additional programming will be youth-oriented.

Sammons Golf Links- The FY 2010 Preliminary Budget proposes to invest the \$350,000 approved by voters in the General Obligation Bond election in November 2007 for golf course improvements in two primary areas: 1) re-surfacing all 18 greens and 2) upgrading the irrigation system for the golf course. Re-surfacing our greens, as opposed re-constructing our greens, will allow us to address a long standing quality and conditioning issue with not just some of our greens but all of them. In addition, a needed upgraded to our irrigation system in order to maintain the new greens once re-surfaced is crucial to our long term success relative to our course maintenance.

Additionally, we are going to look at re-designing the course to add much needed length options as well as to improve the overall playing experience for our patrons. In concert with the greens re-surfacing and the irrigation system improvements, the new design and layout should present a remarkable transformation for Sammons Golf Links.

The timing and execution of these improvements is just as critical as the improvements themselves. In order to minimize impacts on play and budget, these improvements will begin late in the FY 2010 year and be in concert with a public works project that will also impact the golf course.

Legislative Consulting Services. A few years ago, the City entered into separate agreements for legislative consulting services in both Washington and Austin. These services have been beneficial for the City. Our Washington consultant has assisted in a variety of grant and non-grant ways, to include a downtown redevelopment grant and a wastewater utility grant for our industrial park. Our Austin consultant has been instrumental in working in a collaborative manner with other Temple interests, like Scott & White and the Bioscience District, to help advance our interests in the continued growth and development of the bioscience component of our community and our economy. The past two State Legislature's have seen the advancement of funding for a four year medical school, the top State legislative priority for the City for the past two Sessions. Our Austin consultant played no small role in those efforts.

However, due to the current financial constraints, this Budget recommends suspending those contracts. I fully anticipate re-engaging our Washington and Austin consultants at a later date

and the recommendation to suspend our outside legislative consulting help is driven solely by the need to prioritize current services and service levels. Approximately \$139,000 can be saved over the next fiscal year by suspending these contracts.

Capital Improvements Program Highlights

The City of Temple is currently managing the largest capital improvement program in the history of the community. As of March 31, 2009, a total of \$117,954,930 has been allocated for various capital projects including such improvements as water and sewer infrastructure, transportation infrastructure, parks improvements, library improvements, and public safety infrastructure. Funding sources for these projects can be identified in four major areas:

- ▶ Utility Revenue Bonds
- ▶ General Obligation Bonds
- ▶ Certificates of Obligation
- ▶ General Operating Budget Funding

During FY 2009, several major capital projects are underway or have been completed such as the Lions Junction Family Water Park, West Temple Spray Park, Miller Park improvements, Ferguson Park improvements, Summit expansion, and Sammons Indoor Pool. These improvements were funded by Parks GO Bonds approved by voters in November 2007. Other major projects completed include the Rail Park at Central Pointe, the detention pond, rail improvements, Wendland Road improvements, and Pepper Creek Trail hike and bike trail.

Also of note, during FY 2009, capital improvement projects at the Water Treatment Plant were completed and allowed us to bring production at the existing Membrane Water Treatment Plant from 5 MGD up to 11.6 MGD. Current total Plant capacity, including the Conventional Water Treatment Plant, is 41 MGD. City staff continues to evaluate the Water Treatment Plants and assessment is ongoing relating to the best course of action to continue to improve the efficiency of treatment and distribution of water to our customers.

The FY 2010 Preliminary Budget includes \$34,983,826 in additional funding for CIP work in the following areas:

1. Multi-year Non-Routine Capital Recommended for Utility Revenue Bond Funding (U.R. CIP) - \$16,650,000 is proposed for various water and sewer infrastructure projects including Birdcreek Wastewater Line replacement; Phase II of the Water Treatment Plant Generator project; replacement of an 18 inch water line from the Water Treatment Plant to Loop 363; and rehabilitation of Pea Ridge Lift Station.
2. Multi-year Non-Routine Capital Recommended for General Obligation Bond Funding (G.O.CIP) - \$13,995,000 is proposed for various public safety projects including the construction of Central Fire Station, Fire Station #8 and the purchase of three fire engines. These projects were approved by voters in May 2008 in anticipation of selling bonds in the fall of 2009.
3. Routine Capital Recommended for General Operating Budget Funding - \$4,338,826 is proposed for the capital budget which includes equipment and public infrastructure projects that are underway and/or planned for this fiscal year. Of this amount, \$1,362,243 of capital is proposed to be funded with Fund Balance Designated for Capital – Unallocated.

Within the Capital Improvement Projects section of this document, the specific projects recommended within each category of funding are listed. Also included are the projects identified for future funding.

Water and Wastewater Fund- Revenue and Expense Highlights

Total revenues for the FY 2010 Water and Wastewater Fund Budget are presented at \$26,369,924, an increase of 1.29% compared to the FY 2009 adopted budget. No rate changes are proposed for water and wastewater service.

Expenses, capital improvements, and debt service for the FY 2010 Water and Wastewater Fund Budget are presented at \$26,369,924, an increase of 1.29% compared with prior year. The capital improvements include the allocation of \$1,033,000 to continue the long-term replacement program of water and sewer infrastructures. This annual amount is in addition to the capital improvement program improvements described herein. An additional \$305,000 is included to fund equipment needs.

Hotel and Motel Fund- Revenue and Expense Highlights

Total revenues and expenditures for Hotel/Motel Fund Budget are presented at \$1,231,250, a decrease of 3.51% compared to the FY 2009 adopted budget. Funding for the Mayborn Center program as well as the Tourism/Marketing program are funded through the Hotel/Motel Tax Fund. Public Service Agencies whose services are eligible for funding by hotel/motel tax revenues are also funded through the Hotel/Motel Tax Fund. The Railroad and Heritage Museum is proposed to be funded with a total of \$192,453; the Cultural Activities Center is proposed to be funded at \$44,085; the Czech Heritage Museum is proposed to be funded with a total of \$8,817; the Temple Symphony Orchestra is proposed to be funded at \$3,674; and the Temple Civic Theatre is proposed to be funded at \$7,347.

Federal and State Grant Fund Highlights

Total revenues include the award of the Community Development Block Grant (CDBG) - \$515,539. The proposed allocation of CDBG funds are as follows - public services \$72,175, street/drainage improvements \$120,970, park improvements \$75,000, demolitions \$100,000, public facilities \$45,000 and general administration \$102,394.

Drainage Fund- Revenue and Expense Highlights

Total revenues are presented at \$999,373, an increase of 4.13% and expenditures at \$999,373, an increase of 4.13% compared to the FY 2009 adopted budget. The expenditures of the drainage fund represent personnel, operational, and capital cost related to maintenance of existing drainage systems.

FY 2010 is the second year of the Texas Pollutant Discharge Elimination System ('TPDES') program that is required by the Texas Commission on Environmental Quality ('TCEQ'). As I mentioned last year, I consider this program to be an unfunded mandate from the State. The multi-year plan required by the State, and adopted by Council in 2008, includes fee increases over several years to fund this program. In FY 2009, the first drainage fee increase was implemented. The FY 2010 Preliminary Budget proposes no increases to the drainage fee.

Conclusion

I have attempted to provide you with a brief synopsis of the Preliminary Budget for FY 2010. Developing the budget is a team effort that requires participation and input by citizens, City Council and City staff. My thanks to all of the Department and Division Heads who helped put this Preliminary Budget together. Their ability to respond, many times on short notice, to my inquiries and requests for additional information was appreciated and helpful.

I also want to extend a special word of appreciation to Director of Finance, Traci Barnard and her staff for the many hours of work and effort they put in toward the development of this Preliminary Budget. Of special note is the work done by Assistant Finance Director Melissa Przybylski, Budget Analyst Miranda Hennig, Senior Accountant Kiyoko McDonald, and Accountant Stacey Hawkins. I also need to recognize Assistant City Manager Kim Foutz, Assistant to the City Manager Brynn Reynolds, and for their work and input into the development of this Preliminary FY 2010 Budget. Quite simply, this document could not have been produced without them.

I look forward to the coming weeks of discussion, review, and direction by Council.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'David Blackburn', followed by a horizontal line.

David Blackburn
City Manager
City of Temple, Texas

City of Temple, Texas
Impact of Tax Rates and Fee Increases

Taxable Home Value = \$100,000				
Preliminary Budget Proposed Increases	Monthly Cost			Increase/ (Decrease)
	Current FY 2009	Proposed FY 2010		
AV Tax ⁽¹⁾	\$ 46.63	\$ 47.05	\$	0.42
Solid Waste - \$1.25	14.55	15.80		1.25
Drainage	2.75	2.75		-
Water -				
10,000 gallons	35.60	35.60		-
Sewer -				
6,000 gallons	27.00	27.00		-
	<u>\$ 126.53</u>	<u>\$ 128.20</u>	<u>\$</u>	<u>1.67</u>
⁽¹⁾ Assuming no increase in property value in 2010				

Taxable Home Value = \$100,000 (with and without re-appraisal)					Impact on Preliminary FY 2010 Budget	
					- Certified Roll and Effective Tax Rate received	
Proposed tax rate of 56.46¢ at 8/6/09 (2.45% above ETR):						+ \$703
	Current FY 2009	Proposed FY 2010	Increase/ (Decrease)			
No change in value	\$ 46.63	\$ 47.05	\$ 0.42			
.90% (average)	46.63	47.47	0.84			
10.00% (maximum)	46.63	51.76	5.13			
Effective tax rate of 55.11¢:						- \$386,665
	Current FY 2009	Proposed FY 2010	Increase/ (Decrease)			
No change in value	\$ 46.63	\$ 45.93	\$ (0.70)			
.90% (average)	46.63	46.34	(0.29)			
10.00% (maximum)	46.63	50.52	3.89			

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SCHEDULING THE ADOPTION OF THE PROPOSED TAX RATE FOR SEPTEMBER 3, 2009, AND SETTING PUBLIC HEARINGS FOR AUGUST 14, 2009, AND AUGUST 20, 2009, ON THE PROPOSED TAX RATE FOR FY2009-2010; DIRECTING THE CITY SECRETARY TO PUBLISH THE REQUIRED NOTICE OF THE PUBLIC HEARINGS; DECLARING FINDINGS OF FACTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Chapter 26 of the Property Tax Code requires all taxing entities to comply with truth-in-taxation laws in adopting their tax rates in an effort to make taxpayers aware of tax rate proposals and, in certain cases, to roll back or limit a tax increase; and

Whereas, the City Council has determined that it is in the public interest to schedule the adoption of the proposed tax rate for September 3, 2009, and to set public hearings for August 14, 2009, and August 20, 2009, on the proposed tax rate for FY2009-2010.

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

Part 1: The City Council sets the proposed tax rate at \$0.5646 per \$100 of assessed property valuation, and schedules the adoption of the proposed tax rate for September 3, 2009, at the regular scheduled meeting at 5:00 p.m. in the City Council Chambers on the second floor of the Municipal Building located at Main and Central in Temple, Texas.

Part 2: Public hearings to discuss the proposed tax rate of \$0.5646 per \$100 of assessed property valuation will be held in the City Council Chambers on the second floor of the Municipal Building located at Main and Central in Temple, Texas, at a special meeting at 5:00 p.m. on Friday, August 14, 2009, and at a regular meeting at 5:00 p.m. on Thursday, August 20, 2009.

Part 3: The City Secretary is hereby directed to publish notice of said public hearings as required by the City Charter and applicable portions of the Texas Property Tax Code.

Part 4: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **6th** day of **August, 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

08/06/09
Item #5(A)-(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

- (A) July 10, 2009 Special Called Meeting
- (B) July 16, 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:

July 10, 2009 Special Called Meeting
July 16, 2009 Special Called Meeting & Regular Meeting

SPECIAL MEETING OF THE TEMPLE CITY COUNCIL

JULY 10, 2009

The City Council of the City of Temple, Texas conducted a Special Meeting on Friday, July 10, 2009 at 8:30 am in the Morris Ballroom - Sammons Community Center, 2222 West Avenue D.

Present:

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

1. Discuss FY 2009-2010 preliminary budget.

David Blackburn, City Manager, began the session with a review of the topics to be discussed today and during the July 16th budget work session.

Next, Ken Cicora, Director of Parks and Leisure Services, showed the Council a video the department developed as part of the National Parks and Recreation Gold Medal Award program. The City of Temple Parks Department was rated in the top four departments nationwide and is now competing for the gold medal. Winners will be announced in October 2009.

Mr. Blackburn used the Parks and Leisure Services original budget submission to explain how the budget was developed for the upcoming year. He discussed the various programs and activities and how they are presented in the budget document. City support for community events, such as Kite Day and Community Market, will be eliminated next year unless sponsors for the events are obtained. Clark Pool, located at Wilson Park, will also be closed in FY 2010 in order to reduce costs. These cuts, as well as other detailed in the handout provided, are based on the total dollars needing to be saved in the Parks and Leisure Services budget.

The Council discussed mowing services and the practice of placing liens on properties when necessary. They also discussed other ways to recoup the cost of mowing private property, including the possibility of issuing citations. Rates at the Sammons Community Center and Summit Recreation Center were also reviewed. The dual goals are to provide these services to the community and still break even with revenues and expenditures, although neither break even now. \$350,000 is included in the budget (bond funds) to resurface the greens, redesign some of the tees and update the irrigation at Sammons Golf Links. This project will be coordinated with the Public Works project at Thornton Dam. The Council also asked how many golf courses break even. The City's electric costs, as it relates to field lighting and other recreational uses, was discussed.

The next topic Mr. Blackburn discussed was the capital improvement program for the upcoming year. He reviewed several of the major projects that are funded, including the Bird Creek Wastewater Line Replacement, South Temple Water System Improvements, and the Pepper Creek Tank Rehab. Mr. Blackburn discussed the replacement of non-routine capital equipment, such as the street sweeper requested by the Public Works

Department. Only a few pieces of equipment will be replaced this year. About half of the bond funds allocated for the Library renovation project will be used on the roof replacement and foundation repairs. It was discussed whether unallocated fund balance could be used for that portion of the project. Airport T-hangars are not included in the current CIP but but they might be added to meet some needs of AMCOM. It would also free up some of the hangars being used for storage now. An increase in hangar rates might be necessary to support building new ones in the future.

Regarding Solid Waste services, the Council discussed the cost for additional or larger containers if once per week service is approved. They also asked about the cost to keep the twice per week service currently provided and the twice per month brush/bulk service. If once per month brush service is approved, the rules for setting out the brush might need to modified.

In conclusion, Mr. Blackburn noted the budget items for discussion at the July 16th work session.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

TEMPLE CITY COUNCIL

JULY 16, 2009

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, July 16, 2009, at 2:00 PM in the 3rd Floor Conference Room, 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

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, July 16, 2009.

Employee Benefits Trust Item: Amy House, Director of Human Resources, provided an overview of the item authorizing the purchase of various insurances for City of Temple employees. She discussed the Healthcare Savings Account that is being recommended as the fully City paid option for medical and prescription insurance.

Item 5(E) - Mayborn Center interior renovations: Jonathan Graham, City Attorney, explained the low bid for this contract was \$44,000 less than the next lowest bidder. The low bidder has acknowledged they made about a \$60,000 error on their bid. The low bidder may withdraw their bid but they will forfeit the bid bond (\$14,000) if they do. Therefore, the low bidder has decided to honor their bid. Mr. Bert Pope will oversee this project.

2. Receive briefing regarding the 81st legislative session.

Jonathan Graham, City Attorney, presented this report to the City Council. He stated of the 7,609 bills filed in 2009, about 1,500 were city-related bills and of those, 120 passed. Mr. Graham highlighted those bills that most directly impact the City of Temple.

The City's primary concern was regarding bills that would have established appraisal or revenue caps but none were approved this session, Mr. Graham explained. Other bills relating to Finances, Taxation and Administration related to changes in "truth in taxation" language, additional property tax exemptions, sales tax exemptions, appraised value of property, local preference purchasing laws, elections and open records. Other bills Mr. Graham reviewed were related to municipal courts, economic development, eminent domain, employment and civil service, public safety, utilities and transportation.

A special legislative session was also conducted, beginning July 1st, to consider only three items - the sunset review of 5 state agencies, legislation allowing TxDOT to issue general obligation bonds for highway improvement projects, and legislation extending the authority of TxDOT and a regional mobility authority to use comprehensive development agreements to design, finance, build and maintain transportation infrastructure. All three items were approved.

3. Discuss proposed ordinance which would, on a one time basis, extend the life of preliminary plats that would otherwise have expired in the last two years, by giving those plats two additional years from the effective date of this new ordinance.

Mr. Graham discussed this proposed ordinance which would give a one time, two-year extension of the life of existing residential preliminary plats that have either recently expired or will expire in the short term. This action is being recommended because of the slow down in residential building activity and the adverse impact of this on phased in subdivisions. Currently, a preliminary plat would die after two years.

Mr. Graham explained more substantive changes are needed to the Subdivision Ordinance but these will require additional time for analysis and discussion with stakeholders. However, this ordinance to extend the plat life by two years is proposed to go to the Planning and Zoning Commission on July 20th, then to Council for first reading on August 6th and final reading on August 20th.

4. Discuss proposed amendments to the Fire Code.

Lonzo Wallace, Fire Chief, presented the proposed amendments to the Fire Code. He stated the Fire Code has not been totally updated since 1997, resulting in some significant changes between the proposed 2006 code and the current 1997 one. Chapter 12 of the Code of Ordinances, relating to Fire Protection, has also been rewritten in a more logical and comprehensive manner. The 2006 Code will complete the adoption of a series of codes, including the International Codes and Building and Mechanical Codes.

Significant changes being proposed with the adoption of the 2006 Fire Code relate to sprinkler systems, fire extinguishers, public dead-end fire apparatus access roads within residential developments, commercial kitchen suppression systems, firewalls in multi-tenant commercial buildings, recreational fires and outside fires for domestic purposes and fire lanes. Chief Wallace added that many of these requirements are already being met in new construction throughout the community.

Councilmember Schneider asked that the width of the fire lane be clarified as to how it is measured - from curb to curb, back to back or within the pavement markings.

5. Discuss FY 2009-2010 preliminary budget.

David Blackburn, City Manager, reviewed the questions raised at the July 10th budget work session with Council, noting issues staff is working on. These issues related to lot mowing, operations at the Sammons Community Center and Summit Recreation Center, electricity costs and lighting, Library renovations, Airport t-hangar rates, and a replacement street sweeper.

Mr. Blackburn reviewed the vehicle replacement guidelines that are followed for the City's equipment. This is the model followed by the Fleet Division to determine what equipment needs to be replaced each year.

Councilmember Janczak stated he previously questioned the process by which it was determined that a street sweeper needed to be replaced in the upcoming year. He added he was comfortable with the process used and would concur with the recommendation to replace the street sweeper.

Councilmember Jeter stated he asked for the compensation information provided to Council. He has no particular issue, he stated, but does not agree with the civil service step increases when there are no funds allocated for other compensation increases, although he understands the issues.

The next budget related topic discussed related to solid waste services. Councilmember Jeter asked how the City would deal with apartments, restaurants, and other establishments if we go to once per week pickup.

Mr. Blackburn explained he has proposed once per week pickup for residential only, with twice per week service for commercial establishments.

Councilmember Jeter expressed his concern with raising the rates because many people in the community do not use the full service.

Councilmember Schneider asked why providing twice per week residential service would cost any more money since we are already performing that service.

Mr. Blackburn stated the City needs the revenue to keep the tax rate the same. If we decrease residential service to once per week, the City can save \$250,000 with that revenue applied elsewhere in the budget.

Following some discussion, the consensus of the Council was that most people are willing to pay more to keep the current level of service. Mr. Blackburn stated the increase would be \$1.25 per month to keep the twice per week residential collection.

Councilmember Jeter stated he is concerned that some items are being pushed into capital in order to use fund balance. He also expressed his concern that the City is overly optimistic on sales tax revenues, property taxes and fuel costs for the upcoming year. If we take the fund balance down to \$1.7M at year end, Councilmember Jeter stated that would concern him.

Traci Barnard, Director of Finance, stated \$1M will be added to fund balance this year because we budgeted more than needed for fuel.

Councilmember Jeter stated his expectation would be that all public service agencies we provide funding to will not be giving bonuses or salary increases next year.

Mayor Jones asked if the foundation and roof repairs for the Library are being funded out of the original bond funding. If so, he would assume this would take away from the interior renovations. Mayor Jones stated he felt this would be an appropriate use of fund balance as it is an unexpected need beyond the original scope of work.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, July 16, 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

Fire Chief Lonzo Wallace voiced the invocation.

2. Pledge of Allegiance

Thomas Pechal and 2009 Junior Fire Cadets led the Pledge of Allegiance to the United States flag.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Recognize Mary Ann Garrett -Texas' Top CIS Volunteer of the Year for 2009

Mayor Jones presented this proclamation to Mary Ann Garrett.

(B) Recognition of 2009 Junior Fire Cadet Program

Thomas Pechal and members of the 2009 Junior Fire Cadet Program expressed their appreciation to the City Council for their support of this great program. They displayed photos of the kids participating in the program this year.

III. PUBLIC COMMENTS

Betty Elliott, 305 East Xavier, addressed the City Council. She stated she was traveling south on North 3rd Street on a Saturday when she found a very large dead dog in the street. She notified the Police Department so it could be removed from the street but was informed it would be picked up on Monday. Ms. Elliott expressed her concern with the extreme heat and decided to call Tony Jeter, her Councilmember, about this issue and he took care of the problem by removing the animal from the street himself. She only wanted a phone number from him but he took care of the problem and she expressed her appreciation to him. This is not good for the appearance of Temple or the health of our community. Animals are like our family members and need to be taken care of. The City needs to have someone on standby to take care of dead animals over the weekends.

Edward Luna, 216 South 26th Street, addressed the City Council. He circulated a petition and gathered 75 signatures from citizens who oppose the Council closing City streets without the consent of the voters. It is not democratic for just three Councilmembers to close public streets when they choose to do so. This is probably not in the City Charter but it should be included. How many more signatures are needed on the petition to get the Charter changed, Mr. Luna asked.

Mr. David Blackburn, City Manager, discussed the City's current water conservation efforts and usage. He stated system modifications and adjustments have been made over the past 10 days and additional water to the 835 Zone is now available. Beginning July 14th, the City will begin transitioning customers in that Zone to voluntary Stage 1 water

conservation measures. In addition, the City will immediately implement a city-wide no watering window between 2:00 a.m. and 8:00 a.m. seven days per week until further notice.

Mr. Milton Hensley, 301 Mitchell Drive, addressed the City Council, on behalf of the Ronald McDonald House. This facility operates on gifts and donations. He asked that they be allowed to collect the proceeds of the aluminum cans collected at the City's recycling center. This would double the income to the Ronald McDonald House. Lisa Sebek wrote a letter to city management but there has been no discussions about the logistics of how the cans would be collected from the City.

IV. BUDGET ITEMS

- 4. 2009-5748-R: PUBLIC HEARING - Conduct a final public hearing and consider adopting a resolution approving the 2009-2010 Action Plan and Community Development Block Grant (CDBG) budget.**

Lois Whitley, Traylor & Associates, reviewed the 5-year Annual Action Plan, the total resources available and how those funds are proposed to be allocated. She also discussed the action plan schedule of actions to date. No comments from the public have been received but staff has learned the proposed seal coat project is not eligible under CDBG guidelines so it is recommended that those funds be allocated for the Avenue G sidewalk project.

Mayor Jones declared the public hearing to be open with regard to agenda item 4 and asked if anyone wished to address this item. There being no comments, Mayor Jones closed the public hearing.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

V. CONSENT AGENDA

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

(A) July 2, 2009 Special Called Meeting and Regular Meeting

(B) 2009-5749-R: Consider adopting a resolution authorizing a construction contract with Matous Construction, Ltd., of Temple for rehabilitation of Mixed Media Filters 1 through 6 and Replacement of Lagoon #4 at the Conventional Water Treatment Plant in the amount of \$1,674,000.

(C) 2009-5750-R: Consider adopting a resolution authorizing a construction contract with C.A.P.'s Mechanical of Moody for providing plumbing services on an as needed basis through September 30, 2010, in the estimated annual amount of \$25,000.

(D) 2009-5751-R: Consider adopting a resolution authorizing an increase to the guaranteed maximum price (GMP) construction contract with Vanguard Contractors, LP of Temple for Phase 1 renovations to the Temple Public Library in the amount of \$308,347 for a revised GMP of \$448,389.

(E) 2009-5752-R: Consider adopting a resolution authorizing a construction contract with Thaten Construction, Inc. of Sanger for the interior renovations to the Frank W. Mayborn Civic & Convention Center in the amount of \$299,664.

(F) 2009-5753-R: Consider adopting a resolution authorizing the purchase of kitchen equipment as part of the interior renovation at the Frank W. Mayborn Civic & Convention Center by utilizing the Buy Board Contract in the amount of \$96,753.87.

(G) 2009-5754-R: Consider adopting a resolution authorizing the emergency purchase of two check valves for raw water pumps from ACT Pipe & Supply of Temple in the amount of \$27,408.32, and the installation of those new check valves from Bell Contractors of Belton in the amount of \$3,425.

(H) 2009-5755-R: Consider adopting a resolution authorizing annual purchase agreements through September 30, 2010, with Superior Crushed Stone of Jarrell and Miller Springs Materials of Temple for the purchase of rock, sand, crusher fines, crushed rock, construction rock and rip rap rock in the estimated annual amount of \$25,000.

(I) 2009-5756-R: Consider adopting a resolution authorizing an Interlocal Agreement with the Belton Independent School District (BISD) to provide after school latchkey programming.

(J) 2009-5757-R: Consider adopting a resolution authorizing a tax abatement agreement with McLane Group, LP, and McLane Advanced Technologies, LLC, for property located at 4001 Central Pointe Parkway.

(K) 2009-4298: SECOND READING - Consider adopting an ordinance abandoning a 0.2+ acre tract of land in that portion of East Barton Avenue from the west side of North 4th Street to the west side of the nearest alley, approximately 130 linear feet.

(L) 1. 2009-4299: SECOND READING - Consider adopting an ordinance setting out the civil service classifications and setting the number of positions in each classification in the Temple Police Department.

2. 2009-5758-R: Consider adopting a resolution authorizing an Interlocal Agreement with the Temple Independent School District to add one School Resource Officer to the Temple Police Department.

(M) 2009-5759-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

Motion by Councilmember Marty Janczak to adopt resolution approving Consent Agenda, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

V. REGULAR AGENDA

ORDINANCES

- 6. 2009-4300: FIRST READING - PUBLIC HEARING - Z-FY-09-24: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Light Industrial District (LI) located on 6.9 ± acres east of Pegasus Drive, west of Interstate 35, 180 ± feet south of Moore's Mill Road, out of the Vincent Barrow Survey, Abstract No. 64.**

Tim Dolan, Planning Director, presented this rezoning case to the City Council. This property is proposed for an office development and he displayed maps of the site location, which is south of the proposed Outer Loop. The Planning and Zoning Commission recommended approval because the request complies with the future land use plan and thoroughfare plan and adequate public facilities exist to serve the site.

Mayor Jones declared the public hearing to be open with regard 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 Russell Schneider to adopt ordinance on first reading, with second and final reading scheduled for August 6, 2009, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

RESOLUTIONS

- 7. (A) Receive briefing on the Temple Medical and Education District (TMED) concept plan and charette design for South First Street.**
(B) 2009-5760-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, (KPA) of Temple, for engineering services, including design phase services, bid phase services, and construction phase services, required to design Phase I of the Temple Medical and Education District (TMED) South First Street improvements along South First Street in the vicinity of Temple College in an amount not to exceed \$114,800.

Kim Foutz, Assistant City Manager, presented this item to the City Council. She displayed the Framework Plan for the TMED. She then discussed the various uses within the entire district. Mrs. Foutz displayed the open space plan, noting the hike and bike trails; street plan hierarchy map; high density mixed use and residential

development; monumentation and signage plan; design and development standards; and streetscapes. She also presented some products from the charette design meetings.

Staff is seeking Council authorization to begin phase 1 of the project by awarding a professional services agreement for design services to Kasberg, Patrick and Associates. This phase of the project will include the area from the pedestrian overpass to the entrance of the Temple College campus. Next steps will involve more meetings with the coordinating group, prioritizing ideas and improvements, discussing funding options and incentives and finalizing and adopting the design standards for 1st Street. Mrs. Foutz noted a design charette for South 5th Street will also be conducted.

Councilmember Jeter stated this is a great project and he fully supports it. He asked that Council also continue to focus on other corridors and develop overlays as a proactive planning mechanism to determine what we want developed in these areas.

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

Motion passed unanimously.

Mayor Jones adjourned the regular meeting of the Temple City Council and convened the City of Temple Employee Benefits Trust Meeting. He noted the City Councilmembers also serve as members of the trust.

VI. AGENDA - CITY OF TEMPLE EMPLOYEE BENEFITS TRUST

1. Conduct a meeting of the City of Temple Employee Benefits Trust to purchase insurance policies from:

(A) MetLife for life insurances and accidental death and dismemberment insurances for FY2009-2010 through FY2011-2012;

(B) The Standard for long term disability insurance for FY2009-2010 through FY2010-2011;

(C) MetLife for dental insurance for FY2009-2010; and

(D) Scott & White Health Plan for medical and prescription insurance for FY2009-2010.

Amy House, Director of Human Services, presented this item to the Trust members. She discussed each type of insurance coverage being recommended for purchase, as follows:

Life insurance/accidental death and dismemberment insurances - Six proposals received. Insurance Committee recommends award to MetLife for a 3-year term as it maintains current benefits and reduces cost by almost \$2,000.

Long term disability insurance - Five proposals received. Insurance Committee

recommends award to the Standard for a two year term as it maintains the current rates and benefits.

Dental insurance - Five proposals received. Insurance Committee recommends award to MetLife because it maintains current benefits, requires the smallest increase and has the most in-network dental providers. If employees do not wish to participate in dental insurance, the City's contribution will be contributed to either their healthcare savings account or flexible spending account.

Medical and prescription insurance - Four proposals received, with three being a significant increase over current rates to maintain current benefits. The one proposal with a decrease in cost does not include Scott & White providers in their network. Staff recommends the City contribute the same amount towards medical benefits as in the current year for the City paid option. In order to reduce the cost to the employee and have an option fully funded by the City, a healthcare savings account (HSA) is being proposed. Ms. House provided the details of this plan. Under the HSA, the City will contribute \$16.52 per month to the employee's account. In addition, the current option 1 and option 4 plans will be offered to employees. The Insurance Committee recommends award of this contract to Scott & White Health Plan.

Motion by Mayor Pro Tem Patsy E. Luna to authorize the purchase of insurances as recommended, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

ATTEST:

William A. Jones, III, Mayor

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police

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

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

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

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

The term of this contract will commence on August 1, 2009 and will end on July 31, 2010.

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

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

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

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

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

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

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

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

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

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **6th** day of **August**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing a tax abatement agreement with Texquest Investments LLC for property located at 2006 South First Street.

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

ITEM SUMMARY: The proposed resolution authorizes the City Manager to execute an agreement with Texquest Investments LLC (Texquest), which if approved gives Texquest 100% tax abatement for five years on the increased taxable value of real and eligible personal property improvements. The tax abatement applies only to new real and personal property improvements with a useful life of ten or more years.

Texquest has filed an application to receive tax abatement on improvements on a facility to be redeveloped at 2006 South First Street. In May 2008, the City Council designated the property as Tax Abatement Reinvestment Zone #13. Tax abatement is being sought for the redevelopment of the facility which includes refinishing all four sides of the building facades with EIFS and stone or brick; installing new doors and windows; installing landscaping and irrigation system as per TMED concept design; installing sidewalks and handicap ramps as per TMED concept design; and replacing/upgrading the asphalt parking lot ("the Improvements). The taxable value of real and personal property with a useful life of ten or more years at the facility will be increased by an estimated \$600,000.

The City's Economic Development Policy for the South First Street Corridor sets out the criteria and guidelines for granting tax abatement. The renovations proposed meet the minimum criteria established for tax abatement consideration.

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 Texquest 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: (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 Texquest to annually certify to all the taxing entities that it is in compliance with all of the terms and conditions of the agreement.

Texquest's application meets the standards for granting tax abatement on the increase in real and personal property improvements established by the City's Criteria and Guidelines for Tax Abatement. The agreement should add to the continued redevelopment of the South First Street corridor, which would not have occurred in the absence of tax abatement.

FISCAL IMPACT: A 100%, 5 year tax abatement would save the applicant approximately \$16,785 in taxes over the five year period assuming the proposed fiscal year 2009 tax rate of \$0.5595 for the full 5 years. This savings also assumes the taxable value of real and personal property with a useful life of ten or more years at the facility will be increased by an estimated \$600,000.

ATTACHMENTS:

[Application for tax abatement
Resolution](#)

City of Temple



**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 and 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 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: **Texquest Investments, LLC**
 Mailing Address: **106 Champions Ct.**
 Georgetown, TX 78628
 E-mail Address: **tomw1949@yahoo.com**
 Telephone Number: **512/484/6335**
 Fax Number:

2. Contact Person or Agent: **Tom Wilkinson**
 Mailing Address: **Same as above**

 E-mail Address:
 Telephone Number:
 Fax Number:

3. Current Property Owner: **Same as above**
 Mailing Address:

 Telephone Number:

4. Property Owner's Representative: (if different)
Mailing Address:

Telephone Number:

Fax Number:

5. Property Street Address: **2006 South First Street**
Temple, TX 76504

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

6. Is the property located within City of Temple? **Yes**
In the City's extraterritorial jurisdiction (ETJ)? **No**
Inside the City's **Tax Increment Financing Reinvestment Zone** ☒ **Yes** ☐ **No**
Temple ISD? **Yes**

Description of Project(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 will expect to make –including **square footage, construction material, etc.**

Pharmacy dealing with time sensitive prescription items

The building is an existing metal structure that was constructed in the mid to late 70's and has declined in use and value due primarily to the neighborhood that the structure is located in. This structure will be completely renovated to comply closely with the TMED vision of office and retail space along and fronting south First Street.

8000 sq Feet, brick /stone EIFS

8. Date Projected for (a) initiation of project: **Awaiting permitting**
(b) Completion of project: **March 31, 2010**

9. Percentage and duration of tax abatement requested:
100% of City tax for a period of 5 Years

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*)

2008 \$207257 proposed 2009 \$ 236491.

2. What are they type and value of proposed improvements (broken down to separately show the kind and dollar value of real and personal property improvements)?

	<u>Type</u>	<u>Estimated Expenditure</u>	<u>Useful Life</u>
Real Property:	Renovation	600000	20 Yr
Personal Property			

3. How many existing jobs, if any, will be *retained* by proposed improvements? **11**

4. What number, job type, and estimated payroll of *new* jobs will be created by the proposed project? **2**

<u>Job Type</u>	<u>Number of Jobs</u>	<u>Est. Annual Salary</u>	<u>Total Salary</u>
Pharmacist	1	100000	
Pharmacy Technician	1	35000	

5. Will the newly created jobs be filled by persons residing or projected to reside within the City? **Yes**

6. Temple/Belton/Troy (circle one) Independent School District? **Can not predict**

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 1½% city sales tax on applicable purchases within the City) **\$7500**

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)? **\$ 250000**

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

Grant proposal applied for 6/25/09 *see attached,*

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 improvement; and (c) the percentage of new value abated; and (c) the Abatements period (assume a City tax rate of .5745). **To be determined by the city of Temple**

10. What population growth, if any, in the City of Temple do you expect to occur as a direct result of your proposed improvement? **0**

11. What, if any, are the types and values of public improvements (e.g., streets, railroad spurs) you intend to make? **None** *except sidewalks*

12. Will the proposed improvements complete with existing businesses to the detriment of the local economy? Which businesses if any are likely to be impacted? **No**

13. Is your proposed use of the underlying real property in compliance with the City's Comprehensive Zoning and Subdivision Ordinances? **Yes**
Have you discussed your plans with the City's Planning or Engineering Departments? **Permits have been requested and awaiting issue.** *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. **The renovation is extensive and is an existing facility**

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.

The renovation is one of the first steps in the revitalization of the TMED district. Our renovation will closely mimic the standards proposed and suggestions for façade improvements along south First Street Visual enhancement, parking façade use and signage will be the objective of the owner.

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

The project is and will have high visibility, image and impact. This renovation will set the bar for further development along south First Street.

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

Ownership patterns and location of the project Less than desirable surroundings

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

Partly to the vision of the city of Temple and the willingness of Texquest Investments, LLC to participate in renovations of this project we believe that this will bring much needed attention to revitalization and renovation of the

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

Will change the use and to a professional commercial application. The impact should help to partially eliminate undesirable transient pedestrian foot traffic and congregation of undesirable factions.

7. Will the project generate greater employment than would otherwise be achieved, e.g., commercial/industrial versus residential or manufacturing versus warehousing? Explain. **NO**

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 TEXQUEST INVESTMENTS, LLC,
FOR PROPERTY LOCATED AT 2006 SOUTH FIRST STREET; 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 March 5, 2009, the City Council adopted Ordinance No. 2009-4284, 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, Texquest Investments, LLC, is the owner of property within the City's Tax Abatement Reinvestment Zone Number Thirteen, and has requested that the City consider granting tax abatement for proposed improvements to said property;

Whereas, the contemplated use of the property by Texquest Investments, LLP, 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 Texquest Investments, LLC, is in compliance with State law and the City's *Guidelines and Criteria* governing tax abatement, and that the proposed improvements by Texquest Investments, LLC, 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 Texquest Investments, LLC, after approval as to form by the City Attorney, governing property located at 2006 South First Street 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 **6th** day of **August**, 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:

Ken Cicora, Director of Parks and Leisure Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Chaney-Cox Construction, Inc. of Temple for remediation of failing portions of the exterior at the Santa Fe Depot in the amount of \$291,810, and approving a deductive change order in the amount of \$66,810 for a net contract amount of \$225,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple acquired and restored the Santa Fe Depot in 1999-2000. The building not only houses the Railroad and Heritage Museum and the Amtrak Station but is also used as rental space for several functions throughout the year. Over the last 9 years the building exterior has experienced accelerated aging problems allowing water to infiltrate numerous window sections and door components as well as into the building in other locations. Also, the paint on the exterior of the building is beginning to fail.

The City of Temple engaged 1113 Architects, Inc. to conduct an analysis of the facility. Their report identified approximately \$310,500 in restoration work that needs to be accomplished. 1113 Architects then developed plans and specifications to address the problems at this historic building as part of the CIP program.

Bids were opened on June 23, 2009 with two bidders responding. The low base bid was from Chaney-Cox Construction of Temple in the amount of \$291,810. This amount exceeded the budget established for these repairs so the Architect and Contractor have modified the scope of the project and portions of the specifications so this needed work can be completed within budget to protect this asset.

Work to be accomplished in this project includes repairing or reconstructing all windows/doors, preparing all exterior painted surfaces and repainting, and painting all new repairs made to the interior of the Depot.

The Parks and Leisure Services Department has previous experience with Chaney-Cox Construction, Inc. working with them to construct the Lions Junction Family Water Park, the Sammons Park Indoor Pool and the expansion to the Summit Fitness and Recreation Center, and has found them to be a very responsible contractor.

FISCAL IMPACT: Funding in the amount of \$300,000 is appropriated in account 361-2400-519-6807, project #100329, from the 2008 Certificate of Obligation Bond Issue for repairs to the Santa Fe Depot. After funding professional services in the amount of \$17,000, architectural fees of \$31,000, roof repairs of \$15,931 and \$194 of miscellaneous expenditures related to the project, a balance of \$235,875 remains available for this contract.

ATTACHMENTS:

[Bid Tabulation](#)

[Change Order #1](#)

[Resolution](#)

Tabulation of Bids Received
on June 23, 2009 at 2:00 p.m.
Santa Fe Depot Restoration Project

	Bidders	
	G. Creek Construction Austin	Chaney-Cox Construction Inc. Temple
Description		
Total Base Bid	\$462,816.88	\$291,810.00
Total Add Alternate #1	\$13,200.00	\$8,400.00
Total Add Alternate #2	\$2,760.00	\$9,900.00
Total Add Alternate #3	\$21,600.00	\$58,500.00
Total Deduct Alternate #1	-\$12,100.00	-\$3,000.00
Total Deduct Alternate #2	-\$16,000.00	-\$6,000.00
Acknowledge Addendum	Yes	Yes
Local Preference	No	Yes
Qualification Statement	Yes	Yes
Bid Bond (required at bid opening)	5%	5%

Bond Affidavit	Yes	Yes
Insurance Affidavit	Yes	Yes
Credit Check Authorization Form	Yes	Yes

I hereby certify that this is a correct and true tabulation of all bids received.

Belinda Mattke

23-Jun-09

Note: Highlighted bid is recommended

Belinda Mattke, Director of Purchasing

Date

for Council approval.

CHANGE ORDER

PROJECT: Santa Fe Depot Remediation Project
OWNER: City of Temple
CONTRACTOR: Chaney – Cox Construction, Inc.
ENGINEER: Eleven Thirteen Architects
CHANGE ORDER #: 1

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

ITEM#:1 Revised # of doors to be replaced and/or repaired as described in the attached schedule. Revised how sash and windows will be repaired or replaced as described in the attached schedule. LUMP SUM AMOUNT: **(-66,810.00)**

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	\$	291,810.00
Previous Net Change in Contract Amount	\$	
Net Change in Contract Amount	\$	(66,810.00)
Revised Contract Amount	\$	225,000.00
Original Contract Time		120 days
Previous Net Change in Contract Time		N/A days
Net Change in Contract Time		N/A days
Revised Contract Time		120 days
Original Final Completion Date		
Revised Final Completion Date		

Contractor: Chaney-Cox Construction

Engineer/Architect/Contract Administrator:

By _____
date

By _____
date

Approved by City of Temple:

Approved as to Form::

By _____
date

By _____
City Attorney's Office date

**Santa Fe Depot
Change Order #1 Narrative**

1st Floor

Original Scope included 3 doors to be replaced.

Revised Scope includes 3 wood/glass doors to be replaced and one to be repaired. The Contractor shall replace sash in lieu of repairing at his option.

2nd Floor

Original Scope required some pieces of sash to be replaced as well as replacement of the glazing bead at the bottom piece of the sash (the rail).

Revised Scope: No pieces or sash will be replaced. Windows have been identified on an individual basis that shall be repaired with an epoxy wood consolidate. These windows shall have the bottom glazing bead removed and replaced and set in a glazing putty bed as detailed originally. All others shall have a new bead of glazing placed on top of the existing bead.

All operable windows – an alternative copper weather-stripping for the meeting rail has been accepted allowing for installation without removal of the sash. The weather-stripping will not be visible.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH CHANEY-COX CONSTRUCTION, INC., OF TEMPLE, TEXAS, FOR REMEDIATION OF FAILING PORTIONS OF THE EXTERIOR AT THE SANTA FE DEPOT IN THE AMOUNT OF \$291,810, AND APPROVE A DEDUCTIVE CHANGE ORDER IN THE AMOUNT OF \$66,810, FOR A NET CONTRACT AMOUNT OF \$225,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 23, 2009, the City received 2 bids for remediation of failing portions of the exterior at the Santa Fe Depot;

Whereas, the Staff recommends accepting the bid (\$291,810) received from Chaney-Cox Construction, Inc., of Temple, Texas, and approving a deductive change order in the amount of \$66,180, for a net contract amount of \$225,000;

Whereas, funding for this project is available in Account No. 361-2400-519-6807, project # 100329; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a construction contract, not to exceed \$291,810, with Chaney-Cox Construction, Inc., of Temple, Texas, after approval as to form by the City Attorney, and a deductive change order in the amount of \$66,810, for a net contract amount of \$225,000, for the remediation of failing portions of the exterior at the Santa Fe Depot.

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 6th day of **August**, 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

08/06/09
Item #5(F)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the an amendment to a lease contract with the Health and Human Services Commission (HHSC), formerly the Texas Department of Human Services, for 19,617 sq. ft. in the Public Services Annex, 102 East Central Avenue.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The current lease with the Health and Human Services Commission (HHSC) is for 19,617 sq. ft at \$0.60/sq. ft. monthly for a total of \$11,770.20 per month in the Public Services Annex (old Sears building). The lease will expire on February 28, 2010. HHSC is requesting an extension of the lease at this time from March 1, 2010 through August 31, 2011. The lease extension would remain under the same terms and conditions as the current lease and includes a 90 day cancellation clause.

FISCAL IMPACT: The total anticipated HHSC annual rent amount is \$141,242.40 (\$7.20/ sq. ft. annually).

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND THE HEALTH AND HUMAN SERVICES COMMISSION (HHSC) FOR LEASE OF SPACE IN THE PUBLIC SERVICES ANNEX LOCATED AT 102 EAST CENTRAL AVENUE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the current lease with the Health and Human Services Commission (formally Texas Department of Human Services) for 19,617 sq. ft. at \$0.60 sq. ft. in the Public Services Annex (old Sears building) will expire on February 28, 2010;

Whereas, HHSC is requesting an extension of the lease from March 1, 2010 through August 31, 2011—the lease extension would remain under the same terms and conditions as the current lease; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an amendment to the lease agreement between the City of Temple, Texas, and the Health and Human Services Commission, after approval as to form by the City Attorney, for lease of space in the Public Services Annex from March 1, 2010 through August 31, 2011.

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 the 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 **6th** day of **August**, 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

08/06/09
Item #5(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: P-FY-09-34: Consider adopting a resolution approving the final plat of Scallions Addition, 4 single-family lots on 2.71± acres located on the north side of FM 3117, 181± feet east of the City limits, in Temple's Eastern E.T.J with exceptions to Subdivision Ordinance Section 33-94(a) Curbs and Gutters.

P&Z COMMISSION RECOMMENDATION: At its July 20, 2009 meeting the Planning and Zoning Commission voted 7/0 in accordance with Staff recommendation for approval of Final Plat P-FY-09-34 with exceptions to the Subdivision Ordinance Sec. 33-94(a), Curbs and Gutters. Commissioners Martin and Dusek were absent.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

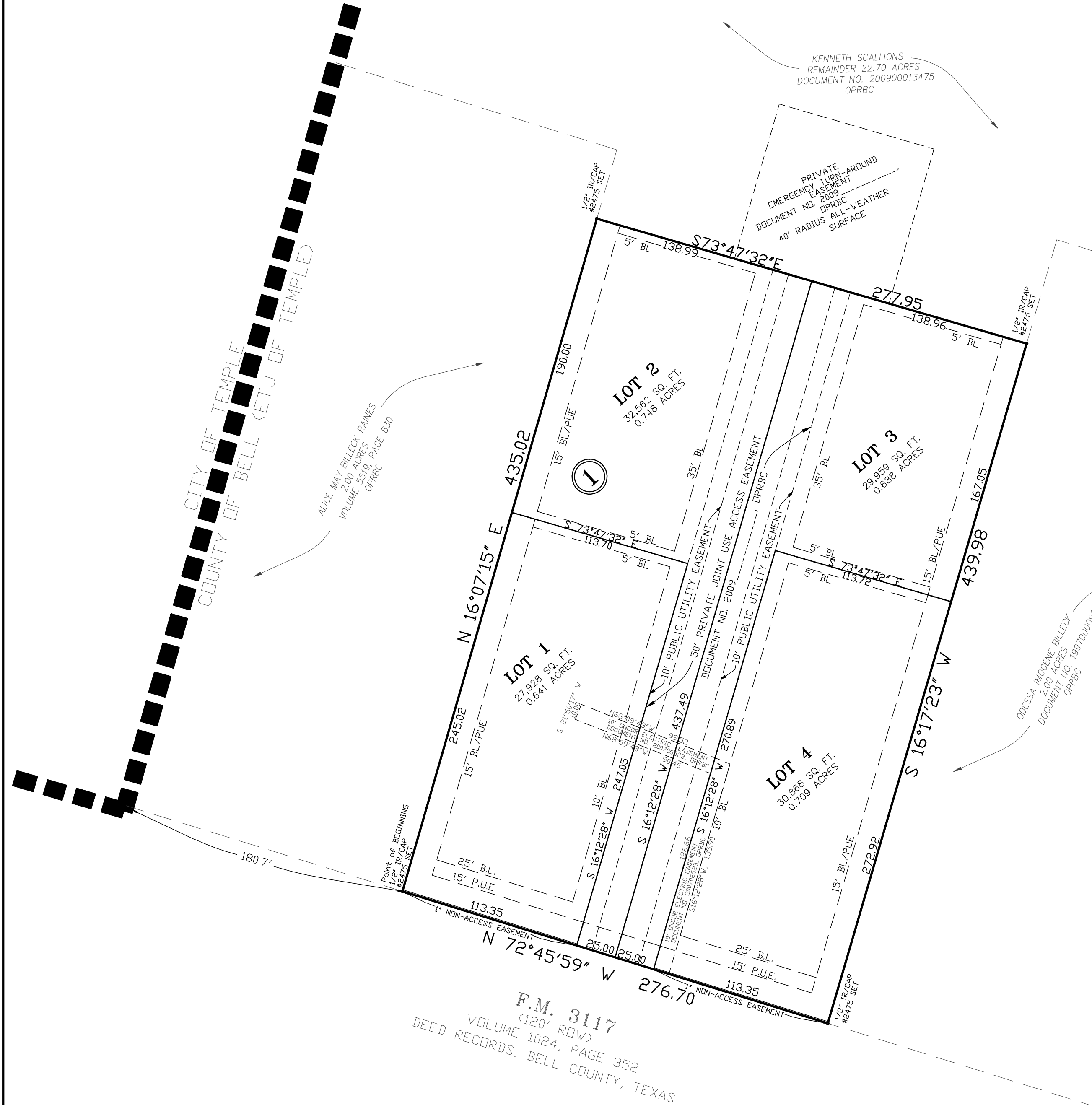
ITEM SUMMARY: Please refer to the Staff Report and draft minutes for case P-FY-09-34, from the Planning and Zoning Commission meeting, July 20, 2009. The proposed subdivision consists of four lots, two of which are flag lots. Except for the exception requested for the rural curb and gutter standards in Sec. 33-94(a) of the Subdivision Ordinance, the plat meets the minimum requirements of the Subdivision Ordinance. The City Council is the final plat authority since exceptions have been requested.

Staff and the Planning and Zoning Commission support the requested exception due to the lack of nearby rural curbs and gutters and because the lots (0.6 - 0.7 acres each) have sufficient area to accommodate storm water runoff.

FISCAL IMPACT: Park fees in the amount of \$900 will be paid for this subdivision.

ATTACHMENTS:

[Plat](#)
[P&Z Staff Report](#)
[P&Z Excerpts](#)
[Resolution](#)



THIS FINAL PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF TEMPLE, TEXAS, AND IS HEREBY APPROVED BY SUCH COMMISSION.
DATED THIS _____ DAY OF _____, 2009.

CHAIRPERSON

THIS PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING & ZONING COMMISSION OF THE CITY OF TEMPLE, AND IS HEREBY APPROVED BY SUCH COMMISSION.
DATED THIS _____ DAY OF _____, 2009.

SECRETARY TO PLANNING & ZONING COMMISSION:

THIS PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AND IS HEREBY APPROVED BY SUCH COUNCIL.
DATED THIS _____ DAY OF _____, 2009.

CITY SECRETARY

BELL COUNTY HEALTH DEPT. CERTIFICATE
I, the undersigned, a registered sanitarian in the State of Texas, hereby certify that this subdivision, and its wastewater utility system has been reviewed for compliance with applicable state and other regulations governing such systems and is hereby approved for installation as indicated.

Approved: _____ Date: _____
Title: _____ BCH

COUNTY COMMISSIONERS COURT CERTIFICATE
I hereby certify that this plat was approved this the _____ day of _____, 2009 by Bell County Commissioners Court, and may be filed for record in the Deed Records of Bell County by the County Clerk.

County Judge _____ County Clerk _____

SEAL: _____ Notary Public, State of Texas
Date: _____

"In approving this plat by the Commissioners' Court of Bell County, Texas, it is understood that the building of all streets, roads, and other public thoroughfares and any bridges or culverts necessary to be constructed or placed is in the responsibility of the owners of the tract of land covered by this plat in accordance with the plans and specifications prescribed by the Commissioners' Court of Bell County, Texas. Said Commissioners' Court assumes no obligation to build any of the streets, roads, or other public thoroughfares shown on this plat or of constructing any of the bridges or drainage improvements in connection therewith. The County will assume no responsibility for drainage ways or easements in the subdivision, other than those draining or protecting the road system and streets. The County assumes no responsibility for the accuracy of representation by other parties in this plat. Flood plain data, in particular, may change depending on subsequent development."

STATE OF TEXAS
COUNTY OF BELL

KENNETH LEON SCALLIONS, OWNER OF THE LAND SHOWN ON THIS PLAT AS RECORDED IN DOCUMENT NUMBER 200900013475 OF THE OFFICIAL PUBLIC RECORDS OF BELL COUNTY AND DESIGNATED HEREIN AS THE SCALLIONS ADDITION, A SUBDIVISION IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF TEMPLE, BELL COUNTY, TEXAS, AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES AS SHOWN HEREON.

KENNETH LEON SCALLIONS, OWNER

STATE OF TEXAS
COUNTY OF BELL

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE _____ DAY OF _____, 2009 BY KENNETH LEON SCALLIONS, KNOWN TO ME TO BE THE OWNER OF THE PROPERTY SHOWN.

NOTARY PUBLIC

I, THE UNDERSIGNED, DIRECTOR OF PLANNING OF THE CITY OF TEMPLE, HEREBY CERTIFY THAT THIS PLAT CONFORMS TO ALL REQUIREMENTS OF THE CITY OF TEMPLE, IT QUALIFIES FOR ADMINISTRATIVE PLAT APPROVAL AS PROVIDED IN THIS ORDINANCE, AND IS HEREBY APPROVED.

DIRECTOR OF PLANNING _____ DATE _____

TAX CERTIFICATE
THE BELL COUNTY TAX APPRAISAL DISTRICT, THE TAXING AUTHORITY FOR ALL TAXING ENTITIES IN BELL COUNTY, TEXAS, DOES HEREBY CERTIFY THAT THERE ARE CURRENTLY NO DELINQUENT TAXES DUE OR OWING ON THE PROPERTY DESCRIBED BY THIS PLAT.
DATED THIS THE _____ DAY OF _____, A.D. 2009.

BELL COUNTY TAX APPRAISAL DISTRICT

BY: _____

STATE OF TEXAS
COUNTY OF BELL

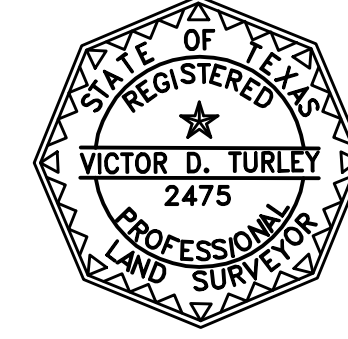
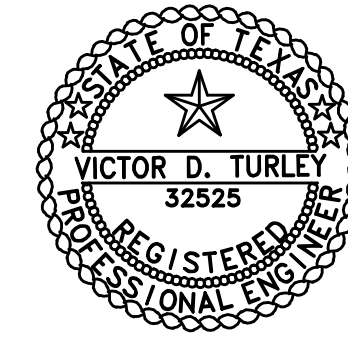
I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY, THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT:

VICTOR D. TURLEY, P.E.
NO. 32525

STATE OF TEXAS
COUNTY OF BELL

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THIS PLAT IS TRUE AND CORRECT, THAT IT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND, AND THAT ALL NECESSARY SURVEY MONUMENTS ARE CORRECTLY SHOWN THEREON.

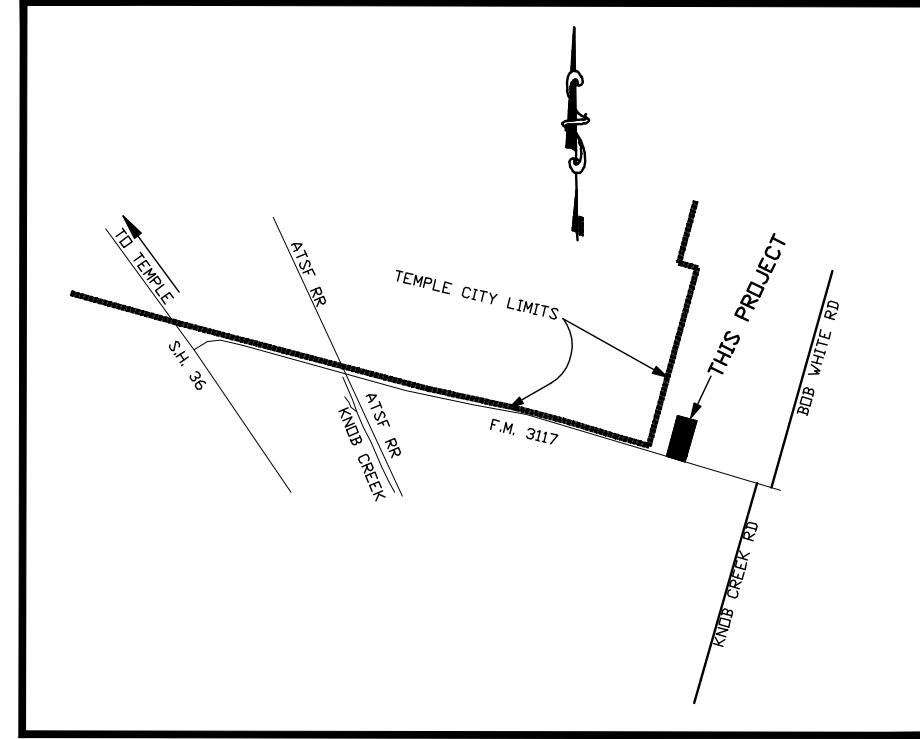
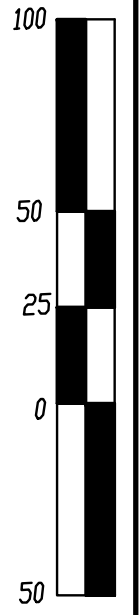
VICTOR D. TURLEY, R.P.L.S.
NO. 2475



FINAL PLAT of:
SCALLIONS ADDITION
1 BLOCK, 4 LOTS
2.785 ACRES
OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, BELL COUNTY, TEXAS
A SUBDIVISION IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF TEMPLE
BELL COUNTY, TEXAS

TRACT SUVEYED APRIL 24, 2009
2.785 ACRES MORE FULLY DESCRIBED BY METES AND BOUNDS BY SEPARATE FIELD NOTES.

FILED FOR RECORD THIS _____ DAY OF _____, 2007, IN CABINET _____, SIDE _____, PLAT RECORDS OF BELL COUNTY, TEXAS.



VICINITY MAP (N.T.S.)

NOTES:
THIS SUBDIVISION IS NOT WITHIN THE 100 YEAR FLOOD ZONE AS DEPICTED ON THE FEDERAL EMERGENCY MANAGEMENT (FEMA) FLOOD INSURANCE RATE MAP PANEL NUMBER 448027C0375E, DATED SEPTEMBER 26, 2008.
COPIES OF THIS PLAT HAVE BEEN PROVIDED TO UTILITY PROVIDERS FOR REVIEW.
LOTS 1 & 4 SHALL HAVE NO ACCESS OFF OF FM 3117.
NO APPLICABLE ZONING, SETBACKS ARE AS SHOWN.
ALL CORNERS ARE 1/2" IRON RODS WITH CAP "RPLS 2475" UNLESS OTHERWISE SHOWN.

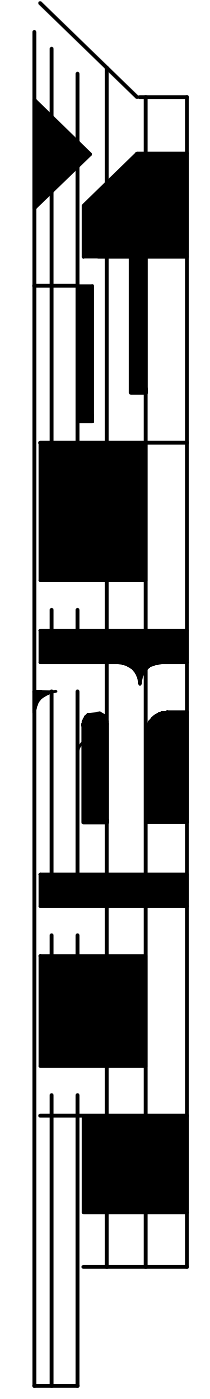
TBM = CITY OF TEMPLE MONUMENT NO. 531
N=10356934.38 E=3242793.64 ELEV.=587.18
THIS PROJECT IS REFERENCED TO THE CITY OF TEMPLE COORDINATE SYSTEM, AN EXTENSION OF THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.
ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 531
THE THETA ANGLE AT SAID CITY MONUMENT IS 01°33'23"
THE COMBINED CORRECTION FACTOR (CCF) IS 0.999854
PUBLISHED CITY COORDINATES ARE X=3242793.64 Y=10356934.38
THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS N 78°05'47"E, 243.30 FEET
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

FINAL PLAT OF:
SCALLIONS ADDITION
2.785 ACRES
OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, BELL COUNTY, TEXAS
A SUBDIVISION IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF TEMPLE
BELL COUNTY, TEXAS
PREPARED FOR:
KENNETH L. SCALLIONS
3910-A FM 3117
TEMPLE, TEXAS 76801
BELL COUNTY

REVISIONS		
6/9/9	COT COMMENTS	MEA

DATE: 05/12/09	
DRN. BY: MEA	
FIELD BOOK:	
REF.:	
JOB NO.:	09-100
SHEET 1 OF 1	
COMPUTER DWG. NO.	KSFINALPLAT

12086-D
DRAWING NUMBER



TURLEY ASSOCIATES, INC.
301 N. 3rd ST.
E-MAIL: VDTURLEY@AOL.COM
TEMPLE, TEXAS
(254) 773-2400
(254) 773-3998



PLANNING AND ZONING COMMISSION AGENDA ITEM

07/20/09

Item #4

Consent Agenda

Page 1 of 2

APPLICANT / DEVELOPMENT: Turley Associates for Kenny Scallions

CASE MANAGER: Brian Mabry, AICP, Senior Planner

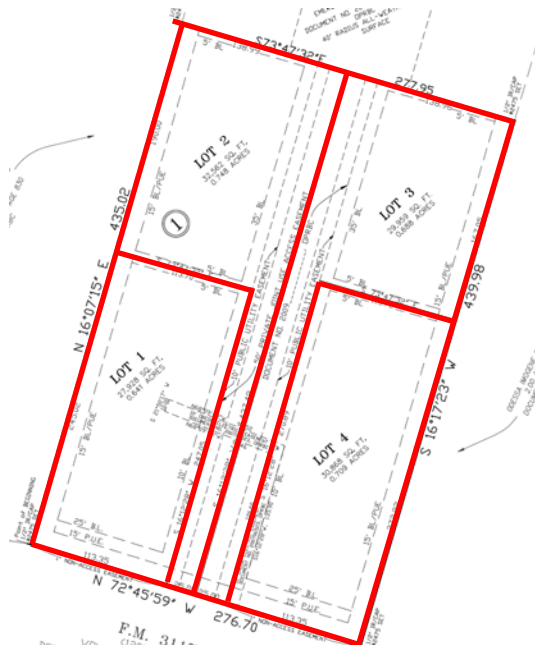
ITEM DESCRIPTION: P-FY-09-34 Consider a recommendation to approve the Final Plat of Scallions Addition, 4 single-family lots on 2.71± acres with exceptions to Section 33-94(a) Curbs and Gutters located on the north side of FM 3117, 181± feet East from the City Limits, in Temple's Eastern E.T.J.

STAFF RECOMMENDATION: Staff recommends approval of the Final Plat subject to the applicant's requested exception for ribbon curb.

BACKGROUND:

The Design Review Committee (DRC) reviewed the Final Plat on June 9th and June 30th, 2009 and deemed the Final Plat complete on July 2nd, 2009. As the DRC requested, the applicant has submitted a letter with an engineer's seal stating that fire flow for the subdivision is adequate for four lots. Park fees in the sum of \$900 are required for this proposed subdivision. Except for the exception requested for the rural curb and gutter standards in Sec. 33-94(a) of the Subdivision Ordinance, the plat meets the minimum requirements of the Subdivision Ordinance. The City Council is the final plat authority since exceptions have been requested.

The proposed subdivision consists of four lots, two of which are flag lots. The easement lines and lot lines on the plat drawing may appear confusing. The red lines in the graphic below make the lot lines more obvious.



The applicant requests exceptions to the following provision.

Subdivision Regulations Citation	Requirement	Applicant's Justification	Staff Support?
33-94	Rural streets shall be edged with 12 inch wide concrete ribbons.	FM 3117 is in a rural area and the frontage of the lots is limited (276')	Yes

*See explanations below

The rural curb and gutter standard in Section 33-94 of the Subdivision Ordinance applies to the lots adjacent to FM 3117, but not to the proposed private access easement that runs up the middle of the subdivision.

Staff supports the applicant's requested exception for a ribbon curb for the lots adjacent to FM 3117. The one-half acre or larger lots have sufficient area to mitigate storm water runoff from any built structure. The lots have access from a single driveway, and the curb would be isolated along the north side of FM 3117.

ATTACHMENTS:

Plat

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

MONDAY, JULY 20, 2009

ACTION ITEMS

Item 4: P-FY-09-34: Consider a recommendation to approve the Final Plat of Scallions Addition, 4 single-family lots on 2.71± acres with exceptions to Section 33-94(a) Curbs and Gutters located on the north side of FM 3117, 181+ feet East from the City Limits, in Temple's Eastern E.T.J. (Applicant: Turley & Associates).

Mr. Brian Mabry gave an overview to the Commission and stated this case would go to City Council on August 6th for final approval for the exception request.

Mr. Mabry stated the property is on FM 3117, known as Barnhardt Road and lies very close to the eastern city limits. Currently two manufactured homes exist on the property and is platted for 4 lots and the applicants would like to add two more manufactured homes.

Mr. Mabry stated all lots have access to 3117 via a private access easement that serves all of the lots which is 50 feet wide so if the land to the rear and north of the property were developed in the future, there would be sufficient room to add a public right-of-way to serve the properties in the back, if subdivided.

Mr. Mabry stated DRC deemed the plat complete on July 8, 2009.

Mr. Mabry stated the applicants requested exception to Section 33-94(a) of the Subdivision Regulations which required rural streets to have a 12" wide ribbon curb which apply to Lots 1 and 4 only. It would not apply to the access way down the middle of the property. The lots are large enough to accommodate storm water runoff without the ribbon curb.

Staff recommended approval of the final plat for Scallions Addition with exception to Subdivision Regulation Section 33-94(a), Curbs and Gutters. Part of that recommendation is with any additions or alterations to the engineering plans as required by the Engineering Department.

Commissioner Talley made a motion to approve the final plat of **P-FY-09-34** with the exceptions and Commissioner Hurd made a second.

Motion passed: (7:0)

Commissioners Dusek and Martin were absent.

RESOLUTION NO. _____

(Planning No. P-FY-09-34)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE FINAL PLAT OF SCALLIONS ADDITION, 4 SINGLE-FAMILY LOTS ON APPROXIMATELY 2.71 ACRES LOCATED ON THE NORTH SIDE OF FM 3117, APPROXIMATELY 181 FEET EAST OF THE CITY LIMITS, IN TEMPLE'S EXTRATERRITORIAL JURISDICTION (ETJ), SUBJECT TO THE DEVELOPER'S REQUESTED EXCEPTION TO THE SUBDIVISION ORDINANCE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on July 20, 2009, the Planning and Zoning Commission approved the final plat of Scallions Addition, 4 single-family lots on approximately 2.71 acres located on the north side of FM 3117, approximately 181 feet east of the City limits, in Temple's ETJ, subject to the developer's requested exception to the Subdivision Ordinance; and

Whereas, the City Council has considered the matter and deems it in the public interest to approve the final plat of Scallions Addition.

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

Part 1: The City Council approves the final plat of Scallions Addition, 4 single-family lots on approximately 2.71 acres located on the north side of FM 3117, approximately 181 feet east of the City limits, in Temple's ETJ, more fully shown on the Plat which is on file in the City's Planning Department, incorporated herein and referred to by reference, and including the following exception to the Subdivision Ordinance: *Section 33-94(a)* to allow a ribbon curb for the lots adjacent to FM 3117.

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 6th day of August, 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

08/06/09
Item #5(H)
Consent Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-09-24: Consider adopting an ordinance authorizing a zoning change from Agricultural (A) to Light Industrial (LI) located on 6.9± acres east of Pegasus Drive, west of Interstate 35, 180± feet south of Moore's Mill Road, out of the Vincent Barrow Survey, Abstract No. 64.

P&Z COMMISSION RECOMMENDATION: At its July 6, 2009 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zoning change from A to LI because the request:

1. Conforms to the Future Land Use and Character Plan for Suburban Commercial,
2. Conforms to the Thoroughfare Plan for access to existing Arterials, and
3. Conforms to the Adequacy of Public Facilities Plan since water and sewer will be extended as part of the plat.

Commissioner Pilkington was absent.

STAFF RECOMMENDATION: Adopt ordinance on second reading and final adoption.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-09-24, from the Planning and Zoning meeting, July 6, 2009.

The applicant proposes a six-lot office park subdivision with access from a proposed collector sized roadway which intersects North General Bruce Drive and Pegasus Drive.

A total of four notices of the P&Z public hearing were sent out. No notices have been returned. The newspaper printed notice of the P&Z public hearing on Friday, June 26, 2009 in accordance with state law and local ordinance.

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

FISCAL IMPACT: NA

ATTACHMENTS:

Zoning Map

Land Use and Character Map

Aerial

Notice Map

P&Z Staff Report (Z-FY-09-24)

P&Z Minutes (July 6, 2009)

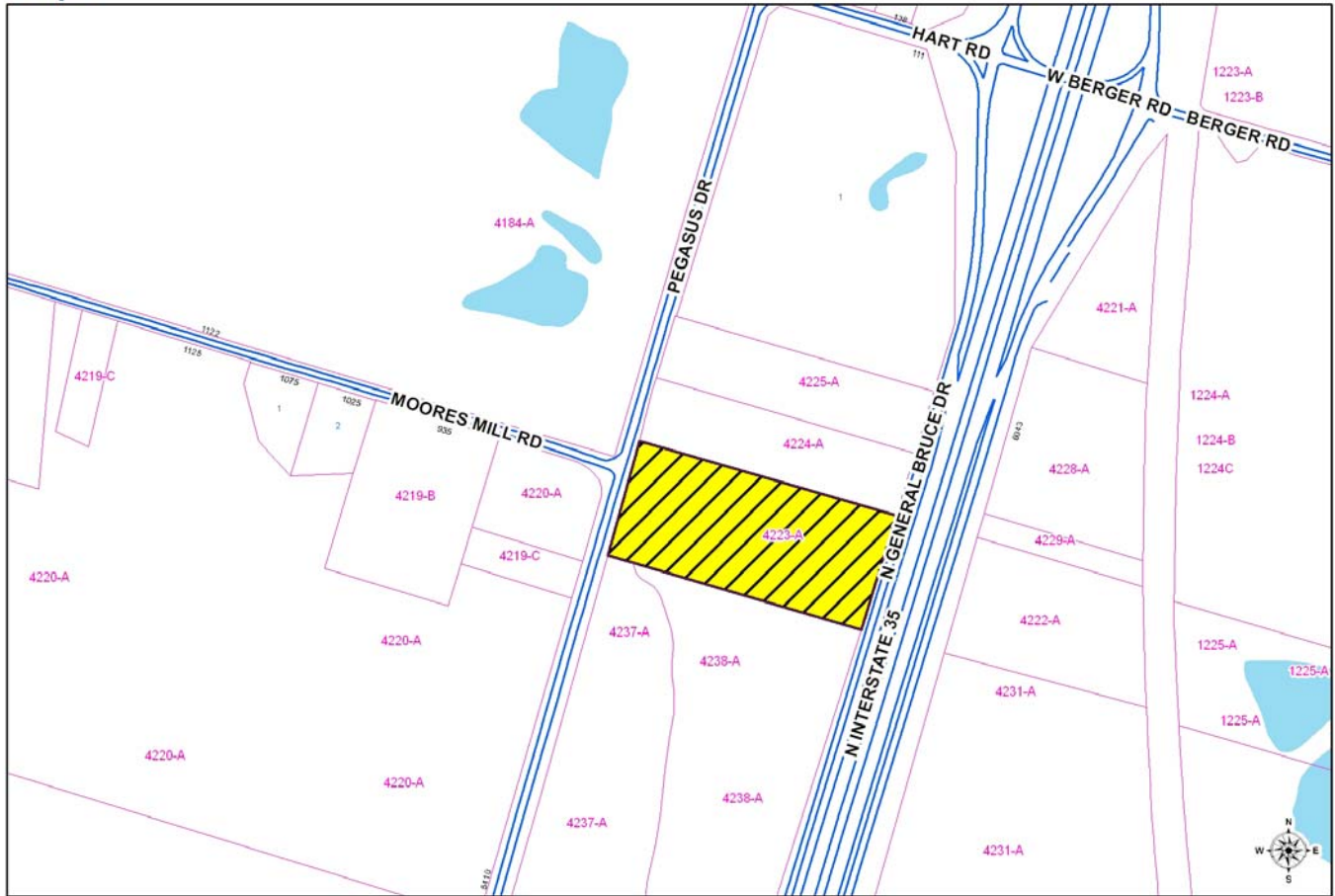
Ordinance



Z-FY-09-24

OB# 4223-A (Business Park)

5862 N General Bruce Dr



 ZFY0924

A to LI

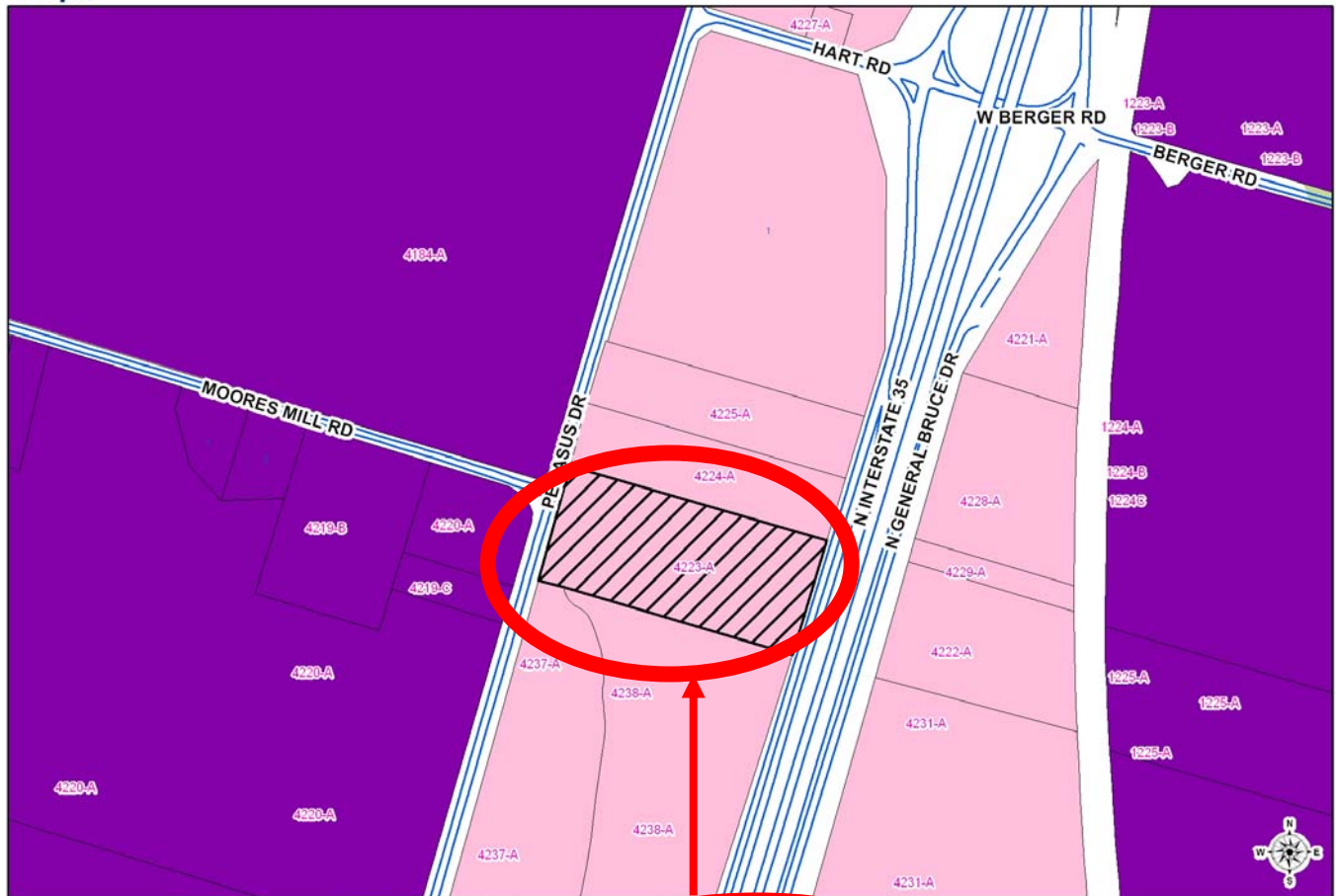
1 inch = 400 feet
J Stone 5.22.9



Z-FY-09-24

OB# 4223-A (Business Park)

5862 N General Bruce Dr



Future Land Use Plan		Auto-Urban Mixed Use	Business Park	Neighborhood Conservation	Suburban Commercial	Urban Center
Agricultural/Rural	Auto-Urban Multi-Family	Estate Residential	Parks & Open Space	Suburban Residential		
Auto-Urban Commercial	Auto-Urban Residential	Industrial	Public Institutional	Temple Medical Education District		

A to LI

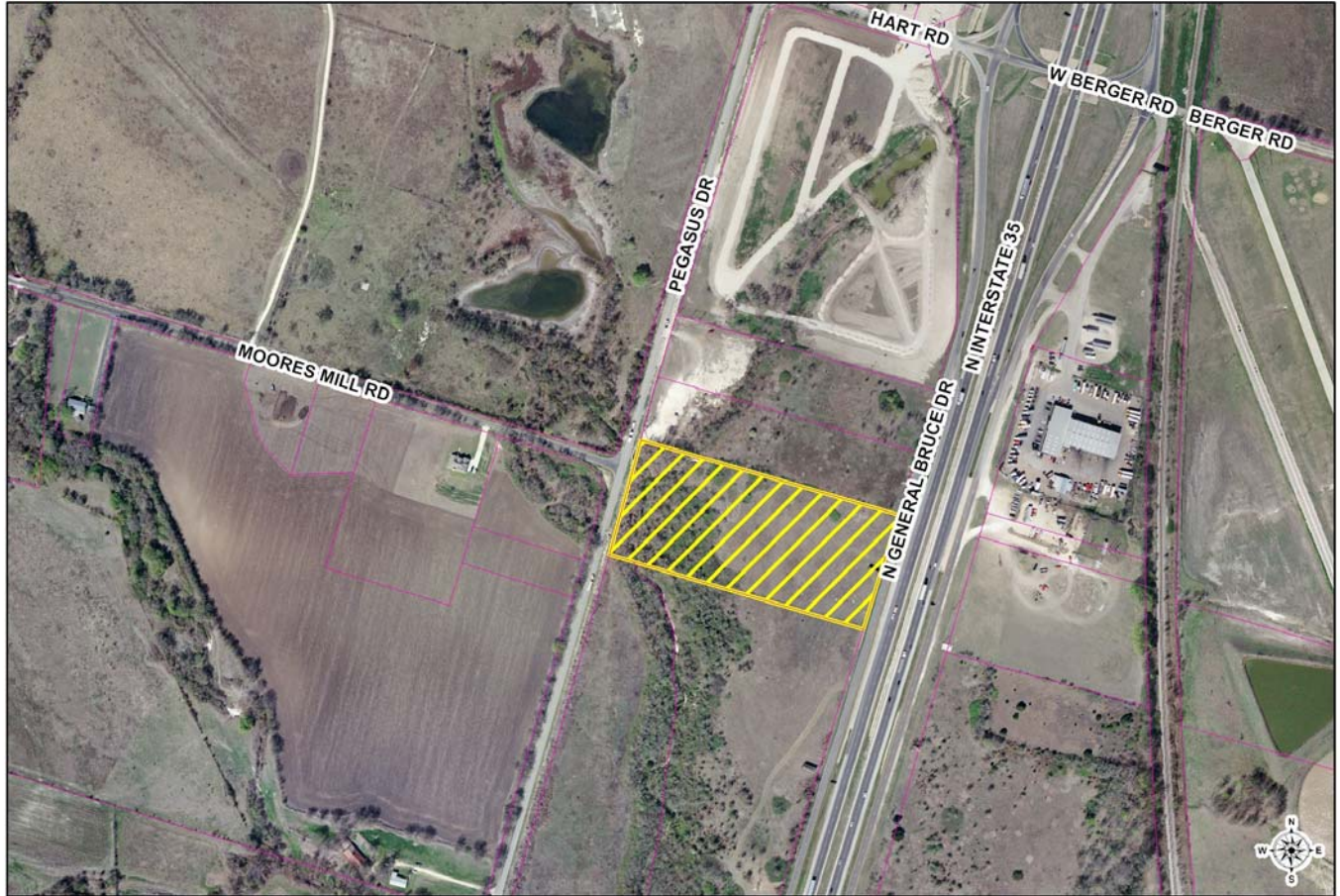
1 inch = 400 feet
J Stone 5.22.9



Z-FY-09-24

OB# 4223-A (Business Park)

5862 N General Bruce Dr



 ZFY0924

A to LI

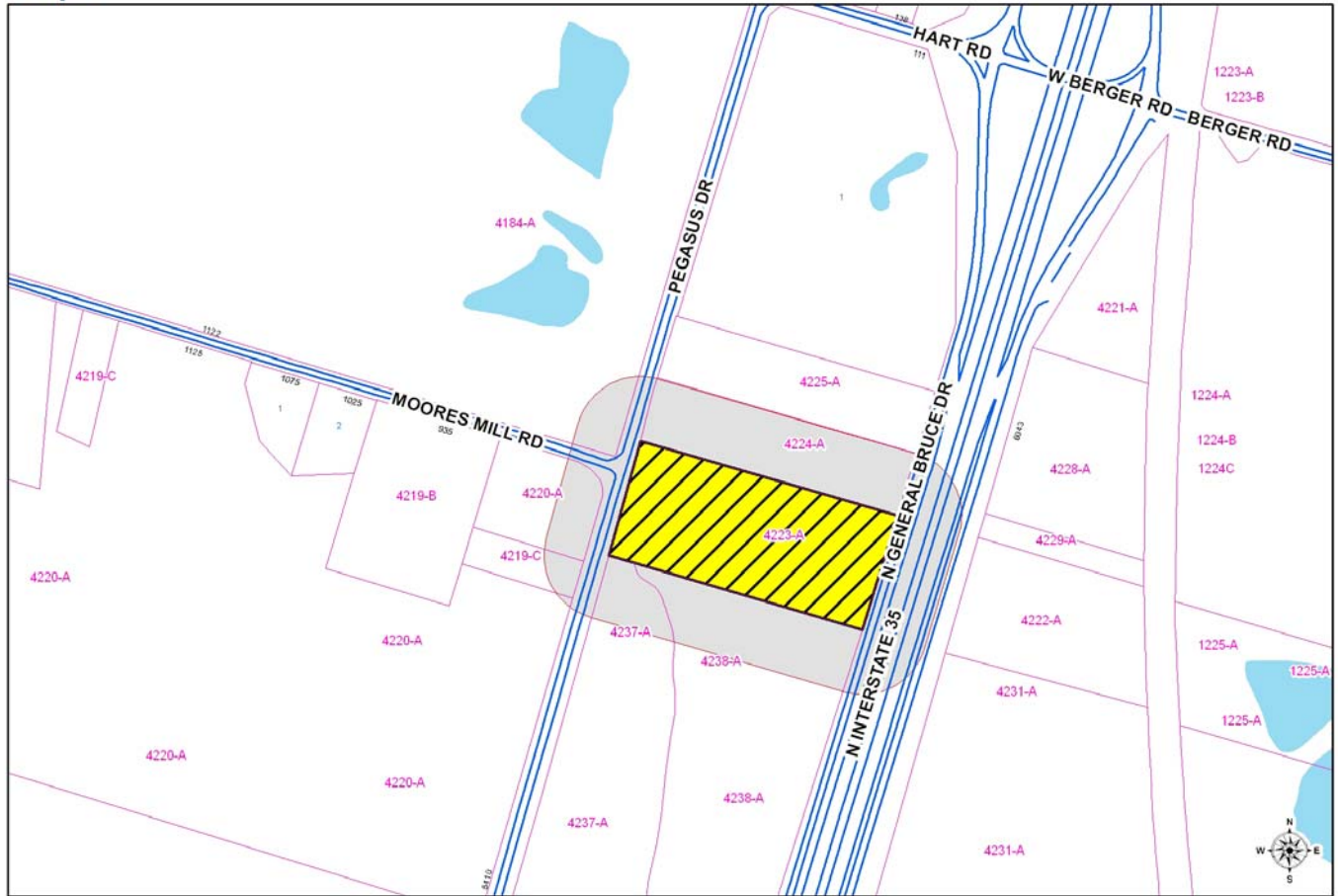
1 inch = 400 feet
J Stone 5.22.9



Z-FY-09-24

OB# 4223-A (Business Park)

5862 N General Bruce Dr



 ZFY0924  200' Buffer

A to LI

1 inch = 400 feet
J Stone 5.22.9



PLANNING AND ZONING COMMISSION AGENDA ITEM

07/06/09

Item #5

Regular Agenda

Page 1 of 2

APPLICANT / DEVELOPMENT: WRA Enterprises, Inc.

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION - Z-FY-09-24: Public Hearing: Discuss and recommend action on a rezone request from Agricultural (A) to Light Industrial (LI) located on 6.9± acres east of Pegasus Drive, west of Interstate 35, 180± feet south of Moore's Mill Road, out of the Vincent Barrow Survey, Abstract No. 64.

BACKGROUND - The applicant's request is for a six-lot business park subdivision. Water and wastewater will be extended to this area as part of the development. The Commission should review and take action on a preliminary plat at you next meeting, July 20th.

Surrounding Property and Uses

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

Direction	Current Land Use
North	Undeveloped – zoned LI
East	Undeveloped – zoned LI
South	Undeveloped – zoned LI
West	Undeveloped – zoned LI

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

Future Land Use and Character Plan

The Future Land Use and Character Plan show the subject area suitable for business park uses, for suburban commercial, next to an Industrial Use. The request conforms to the Future Land Use and Character Plan. Any structures, landscaping and parking will be required to conform to the IH 35 Overlay District Regulations.

Thoroughfare Plan

Both Pegasus Drive and North General Bruce are existing Arterial Rights-of-Way and are located on the east and west sides of the subject tract. The request conforms to the Thoroughfare Plan.

Adequacy of Public Facilities Plan

Adequate water and sewer exist on Pegasus Drive and will be extended through the proposed subdivision.

Development Regulations

The purpose of the Light Industrial District (LI) allows light industrial uses as defined by performance standards in the zoning ordinance for land uses not to create excessive noise, air containments, fire, explosives, odor, smoke, vibration or glare. The LI District allows building height to any legal limit not prohibited by other laws or ordinances. The light industrial district acts as a transition from other

commercial or retail uses to industrial uses. Any structures, landscaping and parking will be required to conform to the IH 35 Overlay District Regulations. This district is intended to be located away from areas of low and medium density residential development. The location should be carefully selected to avoid or reduce environmental impacts to residential areas. Prohibited uses include single family residential uses. Temporary residential include boarding or rooming houses and hotels or motels.

The minimum lot area and setback requirements include

IH 35 Overlay Requirements	
Dimensions	LI
Min. Lot Area (sq. ft.)	NA
Min. Lot Width (ft.)	NA
Min. Lot Depth (ft.)	100
Max. Height (stories)	to any legal height not prohibited by other laws or ordinances
Min. Yard (ft)	
Front	50' from the property line
Side	10
Side (street)	20
Rear	10
Landscaping	15%

Public Notice

A total of four notices were sent out June 26th, and the newspaper also printed notice of the public hearing June 26th in accordance with state law and local ordinance. As of July 1st at 5 PM, no notices were returned.

STAFF RECOMMENDATION:

Staff recommends approval of **Z-FY-09-24** because the zoning request:

1. Conforms to the Future Land Use and Character Plan for Suburban Commercial,
2. Conforms to the Thoroughfare Plan for access to existing Arterials, and
3. Conforms to the Adequacy of Public Facilities Plan since water and sewer will be extended

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Zoning Map

Land Use and Character Map

Aerial

Notice Map

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

MONDAY, JULY 6, 2009

ACTION ITEMS

Item 6: Z-FY-09-24: Public Hearing: Discuss and recommend action on a rezone request from Agricultural (A) to Light Industrial (LI) located on 6.9+ acres east of Pegasus Drive, west of Interstate 35, 180+ feet south of Moore's Mill Road, out of the Vincent Barrow Survey, Abstract No. 64. (Applicant: WRA Enterprises, Inc.)

Mr. Tim Dolan stated if this item continues on to City Council, first reading would be July 16th and the second reading would be August 6th. This area is planned for office park development on seven (7) acres. The Land Use Plan, while contemplated for suburban/residential uses, the recently approved I35 Overlay showed this area planned for industrial uses.

Five letters were mailed and no letters were received in favor of or opposition to this issue. Staff is recommending approval of this zoning case because it complies with the Future Land Use Plan Map, the Comprehensive Plan, the Thoroughfare Plan and adequate public facilities will be planned to serve the area as part of the plat.

Chair Pope opened the public hearing to allow anyone to speak regarding this matter. There being no speakers Chair Pope closed the public hearing.

Commissioner Luck made a motion to approve the zone change from Agricultural (A) to Light Industrial (LI) and Commissioner Hurd made the second.

Motion passed: (8:0)

Vice-Chair Pilkington was absent.

ORDINANCE NO. _____

[PLANNING NO. Z-FY-09-24]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO LIGHT INDUSTRIAL (LI) LOCATED ON APPROXIMATELY 6.9 ACRES EAST OF PEGASUS DRIVE, WEST OF INTERSTATE 35, APPROXIMATELY 180 FEET SOUTH OF MOORE'S MILL ROAD, OUT OF THE VINCENT BARROW SURVEY, ABSTRACT NO. 64; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from Agricultural District (A) to Light Industrial (LI) on approximately 6.9 acres east of Pegasus Drive, west of Interstate 35, approximately 180 feet south of Moore's Mill Road, out of the Vincent Barrow Survey, Abstract No. 64, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **16th** day of **July**, 2009.

PASSED AND APPROVED on Second Reading on the **6th** day of **August**, 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

08/06/09
Item #5(I)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Consider adopting a resolution ratifying a grant application submission in the amount of \$1,146,285 for funding assistance for the construction of Fire Station 8 through the Department of Homeland Security's Federal Emergency Management Agency's Fire Station Construction Grant Program.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The purpose of the Fire Station Construction Grant ('FSC') Program is to achieve the goals of firefighter safety and improved response capability/capacity based on need through the construction, renovation or modification of fire stations.

FSC grants provide financial assistance directly to fire departments on a competitive basis to build new or modify existing fire stations in order for departments to enhance their response capability and protect the community they serve from fire and fire-related hazards. The authority for FSC is derived from the American Recovery and Reinvestment Act (ARRA) of 2009. Congress appropriated a total of \$210 million for this Fiscal Year (FY) 2009 program. The primary program goal is to help fire departments meet their firefighting and emergency response needs.

As noted above, construction of new fire stations, to include stations that have previously committed and/or acquired funding, are eligible for this grant.

Staff is recommending \$1,146,285 in grant funding be sought for the construction of Fire Station 8. The projected cost of the Fire Station 8/Training Center/EOC project is \$4,859,929. Of this amount \$837,879 is estimated for expenditures that are not eligible for grant funding such as furniture/fixtures, bunker gear equipment, and technology/communications equipment. Additionally, fire training centers and emergency operation centers are not eligible for funding under the program. However, non-operational space (training, EOC, etc.) may be incorporated into a structure funded through the grant program, but the costs of that space will not be eligible for Federal funding nor inclusion as a local cost-share. The grant guidelines specify that, for dual-use stations, eligible costs will be determined based on square footage totals of operational vs. non-operational space. The total Fire Station 8/Training Center/EOC project, less the \$837,879 for grant ineligible items, is estimated to cost

\$4,022,050. 57% of the total square footage of the project is estimated to be used for grant eligible fire station operational facilities and 43% of the total square footage of the project is estimated to be used for grant ineligible training center and emergency operations center facilities. Therefore, based on the grant program guidelines, 57% of the \$4,022,050 cost (or \$2,292,569) is eligible for grant funding. Of the \$2,292,569, the Staff recommends requesting 50% of that amount, \$1,146,285, in grant funding from the FSC grant program for the construction of Fire Station 8.

FISCAL IMPACT: Total grant funding requested totals \$1,146,285 which would be used in conjunction with General Obligation Bond funds for the construction and equipping of the Fire Station 8/Training Center/EOC project.

Funding for the city's grant match of \$1,146,285 is available using 2008 General Obligation Bonds, which were approved by voters on May 10, 2008. The issue included the construction of Fire Station #8/Training Center/Emergency Operations Facility for a total cost of \$4,775,160. Bonds are scheduled to be issued in the fall of 2009.

An additional \$84,769 of 2006 Certificate of Obligation bonds is designated for the completion of the Emergency Operations Center to be located at Fire Station #8.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS; RATIFYING A GRANT APPLICATION SUBMISSION IN THE AMOUNT OF \$1,146,285 FOR FUNDING ASSISTANCE FOR THE CONSTRUCTION OF FIRE STATION 8 THROUGH THE DEPARTMENT OF HOMELAND SECURITY'S FEDERAL EMERGENCY MANAGEMENT AGENCY'S FIRE STATION CONSTRUCTION GRANT PROGRAM; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the purpose of the Fire Station Construction Grant (FSC) Program is to achieve the goals of firefighter safety and improved response capability/capacity based on need through the construction, renovation or modification of fire stations;

Whereas, FCS grants provide financial assistance directly to fire departments on a competitive basis to build new or modify existing fire stations in order for departments to enhance their response capability and protect the community they serve from fire and fire-related hazards;

Whereas, the Staff requests ratification of a grant application in the amount of \$1,146,285 for funding assistance for the construction of Fire Station 8;

Whereas, funding for the City's match of \$1,146,285 is available using 2008 General Obligation Bonds, which were approved by the voters on May 10, 2008, which issue included the construction of Fire Station 8/Training Center/Emergency Operations Facility; 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 ratifies a grant application submission in the amount of \$1,146,285 for funding assistance for the construction of Fire Station 8 through the Department of Homeland Security's Federal Emergency Management Agency's Fire Station Construction Grant Program, 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 the grant process.

Part 2: The City Council accepts any funds that may be received for this grant.

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 6th day of **August**, 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

08/06/09
Item #5(J)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, Director of Public Works
Michael Newman, Assistant Director of Public Work/City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing the use of Child Safety Funds to upgrade the school zone at Jefferson Elementary and Lamar Middle School on North 3rd Street in the amount of \$15,758.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The requested Child Safety Funds will be used to consolidate and upgrade the two school zones serving Jefferson Elementary and Lamar Middle School to include one extended school zone with pole and mast arm type solar powered flashers.

The City has received concerns from TISD that there is a need to make the school zone more visible, due to North 3rd Street being a wide and heavily traveled street. There are a great number of students that cross this street during peak traffic hours.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$ 15,758 to account 110-2800-532-6323, project # 100513, from Child Safety Fees collected by the County on behalf of the City.

After approval of this funding, there will be \$ 218,502 available in Child Safety Funds for future eligible expenditures.

ATTACHMENTS:

[Budget Adjustment](#)
[Pole and Mast Arm Flasher Example](#)
[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	
110-0000-452-01-64		Child Safety Fee Revenue	\$ 15,758			
110-2800-532-63-23	100513	Traffic Signals	15,758			
TOTAL.....			\$ 31,516		\$ -	

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

To appropriate Child Safety Funds in the amount of \$ 15,758 to consolidate and upgrade the two school zones serving Jefferson Elementary and Lamar Middle School to one extended school zone with pole and mast arm type solar powered flashers. The City has received concerns from TISD that there is a need to make the school zone more visible. After approval of this budget adjustment, \$ 218,502 will remain in Child Safety Funds for future eligible expenditures.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

8/6/2009

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 USE OF \$15,758 IN CHILD SAFETY FUNDS TO UPGRADE THE SCHOOL ZONE AT JEFFERSON ELEMENTARY AND LAMAR MIDDLE SCHOOL ON NORTH 3RD STREET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple receives an annual allocation of child safety fees from Bell County that are collected on every vehicle registered in Bell County;

Whereas, these funds must be used for programs such as school crossing guards, child safety, health or nutrition, child abuse prevention and intervention and drug and alcohol abuse prevention;

Whereas, from those funds, the Street Department request funding to upgrade the school zone at Jefferson Elementary and Lamar Middle School;

Whereas, an amendment to the FY2008-2009 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

Part 1: The City Council authorizes the use of \$15,758 in Child Safety Funds to upgrade the school zone at Jefferson Elementary and Lamar Middle School.

Part 2: The City Council approves an amendment to the FY2008-2009 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 **6th** day of **August**, 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

08/06/09
Item #5(K)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Director of Parks & Leisure Services

ITEM DESCRIPTION: Consider adopting a resolution approving the Temple Film Guidelines that will enable Temple to become a certified Texas Film Friendly Community and assist City and State tourism staff in recruiting filmmakers to consider Temple when producing films.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Texas Film Commission (TFC) has an ongoing program called Film Friendly Texas in which Texas communities are trained and prepared to effectively deal with on-location filming, and to put their best foot forward in marketing their resources. Whether it's a two-day television commercial or a two-month feature film, the Texas Film Commission wants Texas communities to be ready to welcome filmmakers in a way that also benefits their residents, businesses and community in general.

The TFC has developed several steps to becoming a certified Film Friendly Community. Film Friendly Workshop attendance is the first step in becoming a certified Film Friendly Texas community, with recognition as such on the Texas Film Commission's Web site. The steps for certification are:

- Attendance at a daylong Film Friendly Texas workshop by at least one official community representative. Nancy Glover attended this workshop several months ago.
- Passage of Film Guidelines, as approved by the Texas Film Commission. Temple's Guidelines have been developed and have passed through several approval phases to date.
- Inclusion of selected area locations in the Texas Film Commission's location database. Tourism staff have been working with an area photographer to develop a database of locations in Temple. The database is nearing completion.

With the recent passage of legislation that increases the incentives offered to film producers in Texas, now is the time to ensure Temple is well represented at the State level through this certification. New legislation offers filmmakers the opportunity to receive 5-15% of eligible Texas spending upon completion of the project.

The Film Guidelines developed are intended to protect the personal and property rights of our residents and businesses. They cover requests for commercial use of City-owned property (streets, right-of-ways, and public buildings), commercial use of private property which may affect adjacent public or private property, equipment and personnel in the filming of movies, TV shows, commercials, and related activities. The guideline packet addresses the following points:

- City Control/City Manager Authority
- Permit Requirements
- Fees
- Use of City Equipment and Personnel
- Use of City Property
- Special Equipment and Vehicles
- Hours of Filming
- Notification of Neighbors
- Insurance Requirements and Liability

Authority for managing filmmaking in Temple is the City Manager or his designee. Permitting for films in Temple follows the process established for all other outdoor events with the permits being issued through the Parks and Leisure Services Department. The Guidelines also include a filmmaking application that must be completed prior to the start of any filming project.

FISCAL IMPACT: None

ATTACHMENTS:

[Temple Film Guidelines
Resolution](#)



Filming Guidelines Temple, Texas

Guidelines for Filming in Temple, TX

I. Purpose

II. City Control/City Manager Authority

III. Permit Requirements and Fees

IV. Fees

V. Use of City Equipment and Personnel

VI. Use of City Property

VII. Special Equipment and Vehicles

VIII. Hours of Filming

IX. Notification of Neighbors

X. Certificate of Insurance

XI. Hold Harmless Agreement

XII. Liability

Guidelines for Filming in Temple, TX

I. PURPOSE

The following guidelines are intended to protect the personal and property rights of our Temple, TX residents and businesses. The City Manager reserves the right to impose additional regulations in the interest of public safety if deemed necessary.

These guidelines cover requests for commercial use of City-owned property (streets, right-of-ways, and public buildings), commercial use of private property which may affect adjacent public or private property, equipment and personnel in the filming of movies, TV shows, commercials, and related activities.

II. CITY CONTROL/CITY MANAGER AUTHORITY

The City Manager, or his designee, may authorize the use of any street, right-of-way, or public building, equipment or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Manager, or his designee, may require that any or all of the conditions and/or remuneration as specified on the application be met as a prerequisite to that use.

The applicant agrees that the City of Temple, TX shall have full control over the use of public streets and buildings of the City while being used, as well as control over the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming if determined to be detrimental to the public health, safety and welfare.

The applicant shall agree to allow the respective City departments (i.e., Police, Fire, Building) to inspect all structures and/or devices and equipment to be used in connection with the filming and taping if required by the City Manager.

III. PERMIT REQUIREMENTS

Before filing an application for filming in Temple, TX, the Parks and Leisure Services Department – Permit Office must be contacted to discuss the production's specific filming requirements and the feasibility of filming in Temple, TX.

Any commercial producer who desires to undertake a commercial film or tape production in Temple, TX is required to complete and return the attached application for filming to the Parks and Leisure Services – Permit Office:

- **Commercials or episodic television** a minimum of 2 business days prior to the commencement of filming or any substantial activity related to the project.
- **Feature films** a minimum of 5 business days prior to the commencement of filming or any substantial activity related to the project.

IV. FEES

An application processing fee of \$25.00 should accompany each application for filming in Temple, TX.

The City Manager, or his designee, may waive this fee for non-profit organizations.

V. USE OF CITY EQUIPMENT AND PERSONNEL

The applicant will agree to pay for the costs of any Police, Fire, Public Works, or other City personnel assigned to the project (whether specifically requested by the producer or not). Remuneration rates for the use of any City equipment, including Police squad cars and fire equipment, will be established on a case-by-case basis. The applicant will agree to pay in full, promptly upon receipt of an invoice, the charges incurred or the Parks and Leisure Services Director may require a deposit for proposed use of the equipment in advance.

The City Manager, or his designee, has the authority to require additional police or fire coverage if it is determined to be in the best interest for public safety. Off-duty police officers or firefighters are to be paid one and one-half their hourly rate based on their rank.

VI. USE OF CITY PROPERTY

The City Manager, or his designee, may authorize the use of any street, right-of-way, or public building, use of Temple, Texas name, trademark or logo, equipment or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Manager, or his designee, may require that any or all of the conditions and/or remuneration as specified on the application be met as a prerequisite to that use. A security or damage deposit may be required based on production activity.

Depending upon the extent of the use of City property, the producer agrees to reimburse the City for inconveniences when using public property. Following is the rate schedule:

A. Total or disruptive use (regular operating hours) per day of a public building:	\$500
B. Partial non-disruptive use of a public building:	\$250 per day
C. Total closure of public street or right-of-way (including parking lots and on-street parking):	\$50 per day
D. Partial closure or obstruction of public street or right-of-way (including parking lots and on-street parking):	\$25 per day

The applicant agrees that The City of Temple, TX shall have full control over the use of the name, trademark and logo, public streets and buildings of the City while being used, as well as control over the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming if determined to

be hazardous to the public health, safety and welfare.

VII. SPECIAL EQUIPMENT AND VEHICLES

The applicant shall provide a report listing the number of vehicles and types of equipment to be used during the filming including their proposed hours of use and their proposed parking locations. Such locations will need to be specifically approved by the City so as to maintain traffic safety. On-street parking or use of public parking lots is subject to City approval. The use of exterior lighting, power generators, or any other noise or light producing equipment requires on-site approval of the City.

VIII. HOURS OF FILMING

Unless permission has been obtained from the City in advance and affected property owners, tenants and residents are notified, filming will be limited to the following hours: Monday thru Friday 7:00 a.m. to 9:00 p.m. and Saturday, Sunday and holidays 8:00 a.m. to 8:00 p.m.

IX. NOTIFICATION OF NEIGHBORS

The applicant shall provide a short written description, approved by the Parks and Leisure Services Director, of the schedule for the proposed production to the owners, tenants and residents of each property in the affected neighborhood (as defined by boundaries set by the Parks and Leisure Services Director). The applicant, or his designee, shall make a good faith effort to notify each owner, tenant and resident of all such property and submit as part of this application a report noting any owner or resident's comments, along with the address and phone numbers of all such property owners, tenants and residents and their signatures. Based upon this community feedback, the Parks and Leisure Services Director may grant or deny the filming application.

X. CERTIFICATE OF INSURANCE

The producer shall attach a certificate of insurance, naming The City of Temple, TX as an additional insured, in an amount not less than \$1,000,000 general liability, including bodily injury and property damage with a \$5 million umbrella; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage.

XI. LIABILITY

The applicant agrees to pay in full, promptly upon receipt of an invoice, the costs of repair for any and all damage to public or private property, resulting from or in connection with, the production, and restore the property to its condition prior to the production or to better than original condition.

XII. HOLD HARMLESS AGREEMENT

The producer shall sign the following Hold Harmless Agreement holding the City harmless from any claim that may arise from their use of designated public property, right-of-way, or equipment in conjunction with the permitted use:

I certify that I represent the firm which will be performing the filming/taping at the locations specified on the attached permit application. I further certify that I and my firm will perform in accordance with the directions and specifications of The City of Temple, TX, and that I and my

firm will indemnify and hold harmless The City of Temple, TX for and from any loss, damage, expense, claims and costs of every nature and kind arising out of or in connection with the filming/taping pursuant to this permit.

I further certify that the information provided in this application is true and correct to the best of my knowledge, and that I hold the authority to sign this and other contracts and agreements with the City of Temple on behalf of the firm.

Signed: _____

Title: _____

Date: _____



Application for Commercial Filming

Title of commercial/film/photo shoot) _____

Type of production: commercial _____ feature film _____
Television _____ training film _____
Public service _____ other _____

Location of filming: _____

Date(s) of filming: _____

CONTACTS

Production Office:

name: _____
address: _____
phone: _____ fax: _____

Producer:

name: _____
address: _____
phone: _____ fax: _____

Location Manager:

name: _____
address: _____
phone: _____ fax: _____

Texas Film Commission representative: _____

PRODUCTION *(Attach additional sheets if necessary.)*

1. Production schedule and activities to include stunts, pyrotechnics, special effects, aerial photography, amplified sound or use of animals: (Give dates and times and rain dates. Hours should include set-up, holding of sets and restoration.)

2. Number of persons involved with the production, including cast and crew:
3. Anticipated need of City personnel, equipment or property:
4. Describe any areas in which public access will be restricted during production:
5. Describe alterations to property:
6. Number and type of production vehicles to be used and location(s) where vehicles will be parked:
7. Location where crew will be fed, if not at production location:
8. Location where extras will be held, if not at production location:
9. Attach a map of anticipated street closure(s) or other public area use:

Application completed by:

Name/Title: _____ Date: _____

Approved by: _____ Date: _____

The "Guidelines for Filming in Temple, TX" apply to all filming activities, and the Parks and Leisure Services – Permit Office may require the applicant to acknowledge receipt of the guidelines prior to approving this application.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE *TEMPLE FILM GUIDELINES* FOR THE CITY THAT WILL ENABLE TEMPLE TO BECOME A CERTIFIED TEXAS FILM FRIENDLY COMMUNITY AND TO ASSIST CITY AND STATE TOURISM STAFF TO HELP RECRUIT FILMMAKERS TO CONSIDER TEMPLE WHEN PRODUCING FILMS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, The Texas Film Commission (TFC) has an ongoing program called Film Friendly Texas in which Texas communities are trained and prepared to effectively deal with on-location filming and to successfully market their resources;

Whereas, the TFC encourages Texas communities to be ready to welcome filmmakers in a way that also benefits their residents, businesses and community in general;

Whereas, the TFC has developed several steps to becoming a Film Friendly Community, one of which is passage of Film Guidelines, as approved by the Texas Film Commission;

Whereas, the Staff recommends approval of the *Temple Film Guidelines* which will enable Temple to become a Texas Film Friendly Community to help recruit filmmakers to consider Temple when producing films; 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 approves the *Temple Film Guidelines* for the City of Temple, a copy of which is attached as Exhibit A, that will enable Temple to become a certified Texas Film Friendly Community and assist City and State tourism staff to help recruit filmmakers to consider Temple when producing films.

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 **6th** day of **August**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/06/09
Item #5(L)
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 912,288.

ATTACHMENTS:

[Budget amendments
Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
August 6, 2009

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-2000-521-2516		Judgments & Damage - Police Dept.	\$ 285	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 285
Attorney fees for lawsuit filed against City - - Steven Taylor v. City of Temple				
110-3700-524-2516		Judgments & Damages - Construction Safety	\$ 7,253	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 7,253
Attorney fees -- Martha's Kitchen Shelter of Texas, Inc. v. City of Temple				
260-6400-572-2616		Professional (HOME Grant)	\$ 7,300	
260-6400-572-2625		Advertising/Legals	\$ 200	
260-6400-572-2623		Other Contract Services	\$ 375,000	
260-6400-572-2697		Affordable Housing - General Fund	\$ 58,125	
260-0000-431-0135		HOME Grant		\$ 382,500
260-0000-490-2582		Transfer In - General Fund		\$ 58,125
110-9100-591-8160		Transfer Out - General Fund	\$ 58,125	
110-0000-352-1345		Designated Capital Projects - 2008 HOME Grant		\$ 58,125
To appropriate funds for the 2008 HOME Owner Occupied grant received from the Texas Department of Housing and Community Affairs.				
520-5100-535-2118		Chemicals (Water Treatment Plant)	\$ 400,000	
520-5100-535-6310	100300	Buildings & Grounds - Repair/Replace Drives & Valves		\$ 105,000
520-5500-535-6532		Contingency - Sewer Treatment		\$ 295,000
<p>To appropriate additional funds needed for chemicals at the Water Treatment Plant. It is anticipated that an additional \$400,000 will be needed to fund chemical costs for the remainder of FY 2009 in addition to the \$730,000 that is currently budgeted bringing the total amount needed for chemicals during FY 2009 to \$1,130,000. \$110,000 to \$125,000 of the shortfall is directly attributable to increased costs in chemicals. The drought situation that we are currently in causes the quality of the water to decline causing a need for higher usage of chemicals at the plant. This account was also "under budgeted" in FY 2009. The proposed FY 2010 budget, includes \$1,427,348 in funding for chemicals for the membrane and conventional plants.</p>				
520-5200-535-6532		Contingency (Water Distribution)	\$ 4,000	
520-5400-535-6532		Contingency (Sewer Collection)	\$ 2,000	
520-5300-535-6532		Contingency (Metering)		\$ 6,000
This budget adjustment appropriates additional funding for these divisions for future judgments & damages.				
TOTAL AMENDMENTS			\$ 912,288	\$ 912,288
GENERAL FUND				
Beginning Contingency Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
August 6, 2009

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
		Beginning Judgments & Damages Contingency	\$	70,000
		Added to Contingency Judgments & Damages from Council Contingency	\$	20,000
		Taken From Judgments & Damages	\$	(83,416)
		Net Balance of Judgments & Damages Contingency Account	\$	6,584
		Beginning SAFER Grant Match Contingency	\$	46,821
		Added to SAFER Grant Match Contingency	\$	-
		Taken From SAFER Grant Match Contingency	\$	(41,968)
		Net Balance of SAFER Grant Match Contingency Account	\$	4,853
		Beginning Compensation Contingency	\$	184,700
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(118,395)
		Net Balance of Compensation Contingency Account	\$	66,305
		Net Balance Council Contingency	\$	77,742
		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	\$	(166,411)
		Net Balance of Contingency Account	\$	7,710
		Beginning Compensation Contingency	\$	34,334
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(34,334)
		Net Balance of Compensation Contingency Account	\$	-
		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	\$	(445,424)
		Net Balance of T-BRSS Future Plant Expansion Contingency	\$	4,576
		Net Balance Water & Sewer Fund Contingency	\$	500,556
		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

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
August 6, 2009

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		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
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	7,962
		Carry forward from Prior Year	\$	99,254
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(70,458)
		Net Balance of Contingency Account	\$	36,758

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 6th day of **August**, 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

08/06/09
Item #6
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Consider adopting a resolution naming the new Municipal Court & Utility Business Office facility at 401 North 3rd Street after Jamie Hager Clements.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The new Municipal Court and Utility Business Office located at 401 N. 3rd Street is nearing completion with a projected opening date in early October 2009. Attached are two citizen requests that have been received requesting the naming of this facility after Jamie Hager Clements.

Mr. Clements was born on December 9, 1930, in Crockett, Texas. Mr. Clements passed away on February 26, 2009.

Mr. Clements received his undergraduate degree from the University of Texas and later his law degree from the University of Texas School of Law. At the age of 20 while obtaining his undergraduate degree, Mr. Clements became the youngest legislator ever elected to the Texas House of Representative.

Mr. Clements became a resident of Temple after being recruited by Scott & White on July 25, 1960. During his tenure at Scott & White, Mr. Clements guided the development of Scott & White into the regional healthcare facility that it is today, oversaw the development of the partnership between Texas A&M University System Health Science Center and its College of Medicine, and led the establishment of the Scott & White Health Plan.

Mr. Clements served two terms as Temple mayor from 1970 to 1974.

FISCAL IMPACT: Funds are available in the Municipal Court & Utility Business Office facility budget to cover the cost of signage.

ATTACHMENTS:

[Recommendation Letters](#)
[Resolution](#)

Law Offices of

SIDNEY KACIR

1821 Everton Drive
Temple, Texas 76504
P.O. Box 5119
Temple, Texas 76505-5119

(254)773-2171 office
(254)773-2173 fax
kacirlaw.com
kacirlaw@sbcglobal.net

Associate:
DAN J. KACIR

March 27, 2009

Mayor and City Council Members
City of Temple
Municipal Building
Temple, TX 76501

Re: Jamie Clements, Sr. and the property at the site of the
former Temple High School on North Third Street

Dear Mayor and Council Members:

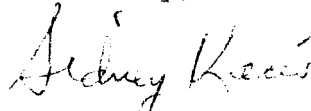
I would appreciate consideration being given to naming the above
facility for our late, great friend, Jamie Clements, Sr.

We are all familiar with Jamie's numerous and varied
contributions to the City of Temple including his excellent
service as mayor.

Jamie's contributions as an attorney are not as generally
recognized, but he made a significant and lasting positive impact
on the working relationship between the medical profession and
the attorney profession. Not only was Jamie an industrious
worker and leader, but he was also a teacher and medical
personnel at all levels and in many areas were educated in the
working relationships between the two professions. This working
relationship was developed in areas that are often emotional and
challenging and dealing with fresh ground such as medical
directives to physicians, living wills, organ donations and
related areas. The teachings in this area will continue to be
significant for many years and I feel it is only appropriate that
proper recognition be given to Jamie.

I would appreciate your consideration in this regard and with
best wishes, remain

Sincerely,


Sidney Kacir

SK:dm



KEIFER MARSHALL INSURANCE

Post Office Box 1087
Temple, Texas 76503
(254) 773-2240

RECEIVED

APR 17 2009

**CITY OF TEMPLE, TX
CITY SECRETARY**

April 10, 2009

William A. Jones, III, Mayor
City of Temple
2 North Main
Temple, Texas 76501

Dear Bill,

It is my understanding that the name Jamie H. Clements has been nominated for the new Municipal Courts Building. I think that this is a wonderful opportunity to recognize the life and work of our good friend.

Jamie was born and grew up in Crockett, Texas and attended the University of Texas. After obtaining his first degree he entered law school and graduated from the University Of Texas School Of Law.

While attending the University of Texas as an undergraduate he was elected to represent his East Texas District at the young age of twenty, the youngest member ever elected to the House of Representatives. After graduating from Law School he entered the United States Marine Corps and represented his country with distinction as a legal officer.

After his service in the Marine Corps he practiced law for a number of years and in 1960 was selected as the first Development Officer for Scott and White Hospital and Clinic in Temple, serving as legal council to both the hospital and clinic and as a public relations and development director for Scott and White Institution.



He served the City of Temple as a member of the city council for two terms and was elected Mayor of the City of Temple for two terms. Under his leadership Temple grew and developed in every phase of the city's life. He spent countless hours working with the City of Temple Economic Development Office. I distinctly remember his calling me one day telling me that through his service in the State Legislature he had contacts with Texas Instruments and they were coming to visit Temple about the possibility of locating a plant here. He pursued Texas Instruments with the help of the Temple Industrial Foundation and they did locate a great plant here on five hundred acres of land. After the plant closed, the City of Temple was able to purchase this property and it is now the site of the Temple Bio-Science District.

Jamie's talents as a lawyer and legal scholar especially in the development in the area of legal opportunity for the medical community has been well documented. His life was an example of a wonderful citizen serving his country, his state and his city in the very best possible way and all the citizens of Temple have been blessed by being able to call him a wonderful leader and good neighbor.

He was a man of exemplary character, intelligent, dedicated, responsible, humble and caring. He brings honor to any who honor him.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Keifer Marshall, Jr.', written in dark ink.

Keifer Marshall, Jr.

KM/mp

RESOLUTION NO. 2009-5771-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, NAMING THE NEW MUNICIPAL COURT AND UTILITY BUSINESS OFFICE FACILITY AT 401 NORTH 3RD STREET AFTER JAMIE HAGER CLEMENTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the new Municipal Court and Utility Business Office located at 401 North 3rd Street is nearing completion with a projected opening date in early October, 2009;

Whereas, the City of Temple has received citizen requests to name the new facility after Jamie Hager Clements who served two terms as Mayor of Temple from 1970 through 1974, and who was instrumental in guiding the development of Scott & White Memorial Hospital into the regional healthcare facility that it is today;

Whereas, Mr. Clements received his undergraduate degree from the University of Texas and later his law degree from the University of Texas School of Law – at the age of 20 while obtaining his undergraduate degree, he became the youngest legislator ever elected to the Texas House of Representatives;

Whereas, his personal, professional, and civic life was built on a foundation of integrity and service; he was a man who had strong convictions and lived by them; he was a man who loved challenges, and who never hesitated to give of his time and talent to assist others;

Whereas, the City of Temple desires to pay tribute to the late Jamie Hager Clements by naming the new Municipal Court and Utility Business Office after him; 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 approves naming the new Municipal Court and Utility Business Office facility located at 401 North 3rd Street after Jamie Hager Clements in honor of his many years of support and dedication to the citizens of Temple, Texas, and to the entire Central Texas community.

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 6th day of **August**, 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

08/06/09
Item #7
Regular Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING Z-FY-09-16: Consider adopting an ordinance authorizing a zoning change from the Central Area District (CA) and Multiple Family Two District (MF2) to Single Family One District (SF1) and/or Neighborhood Services District (NS) for all of Blocks 1 and 26, Moore's First Addition; all of Blocks, 4, 7, 8, 9, & 10, and Block 3, Lots 2-4, L.R. Taylor Addition; and Outblocks, 263-2A, 2B, 2C, 2D, and 23, Temple Original.

P&Z COMMISSION RECOMMENDATION: At its July 20, 2009 meeting the Planning and Zoning Commission voted 7/0 to recommend SF1 zoning only for Z-FY-09-16.

Commissioners Dusek and Martin were 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 August 20, 2009.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-09-16, from the Planning and Zoning Commission meeting, July 20, 2009. The City Council is the final authority for zoning cases.

FISCAL IMPACT: NA

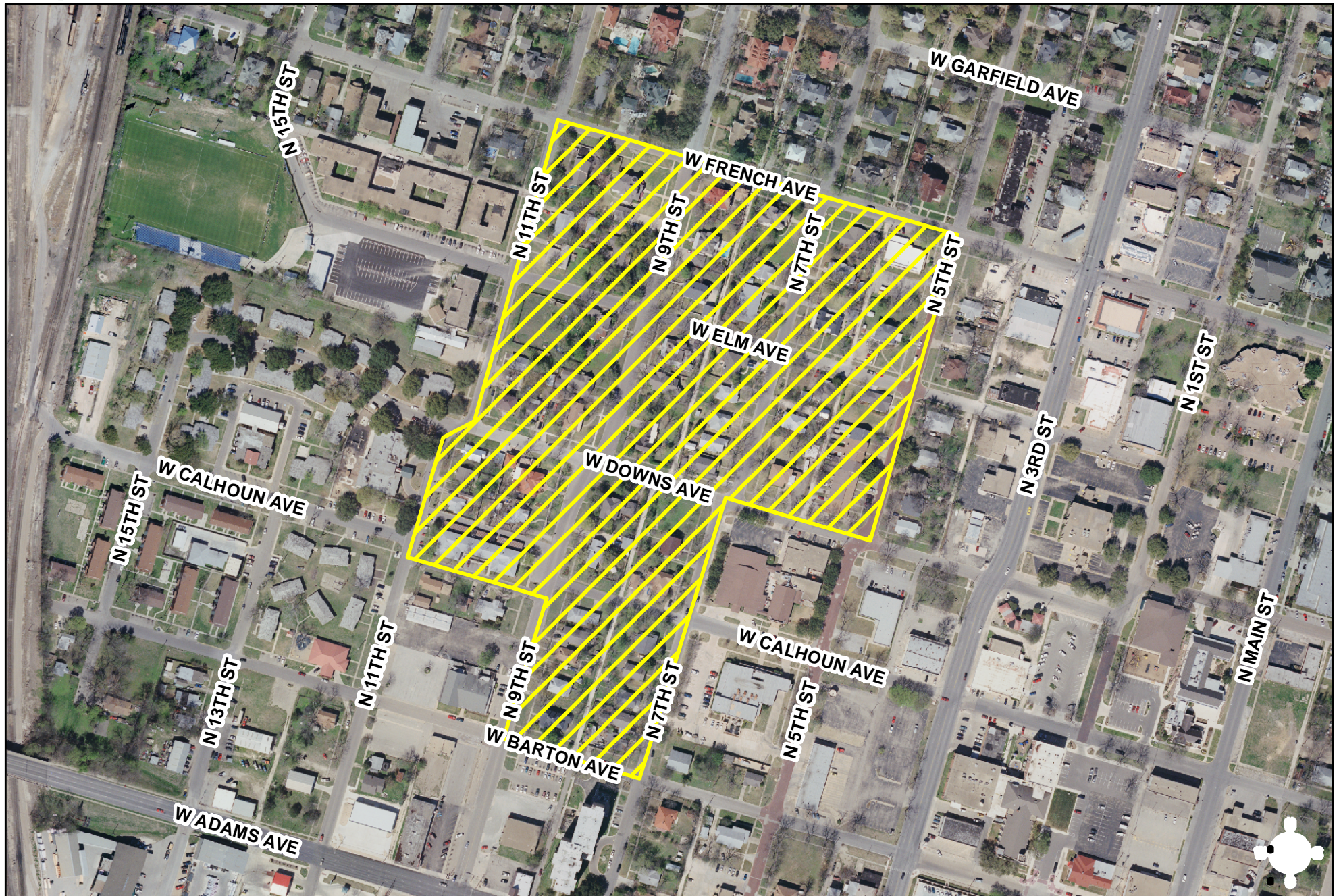
ATTACHMENTS:

Aerial
Zoning Map
Future Land Use & Character Plan
Buffer
Respondent's Letters
P&Z Staff Report
P&Z Excerpts
Ordinance



Z-FY-09-16

CA & MF2 District Rezoning



 ZFY0916

CA & MF2 to SF1 or NS

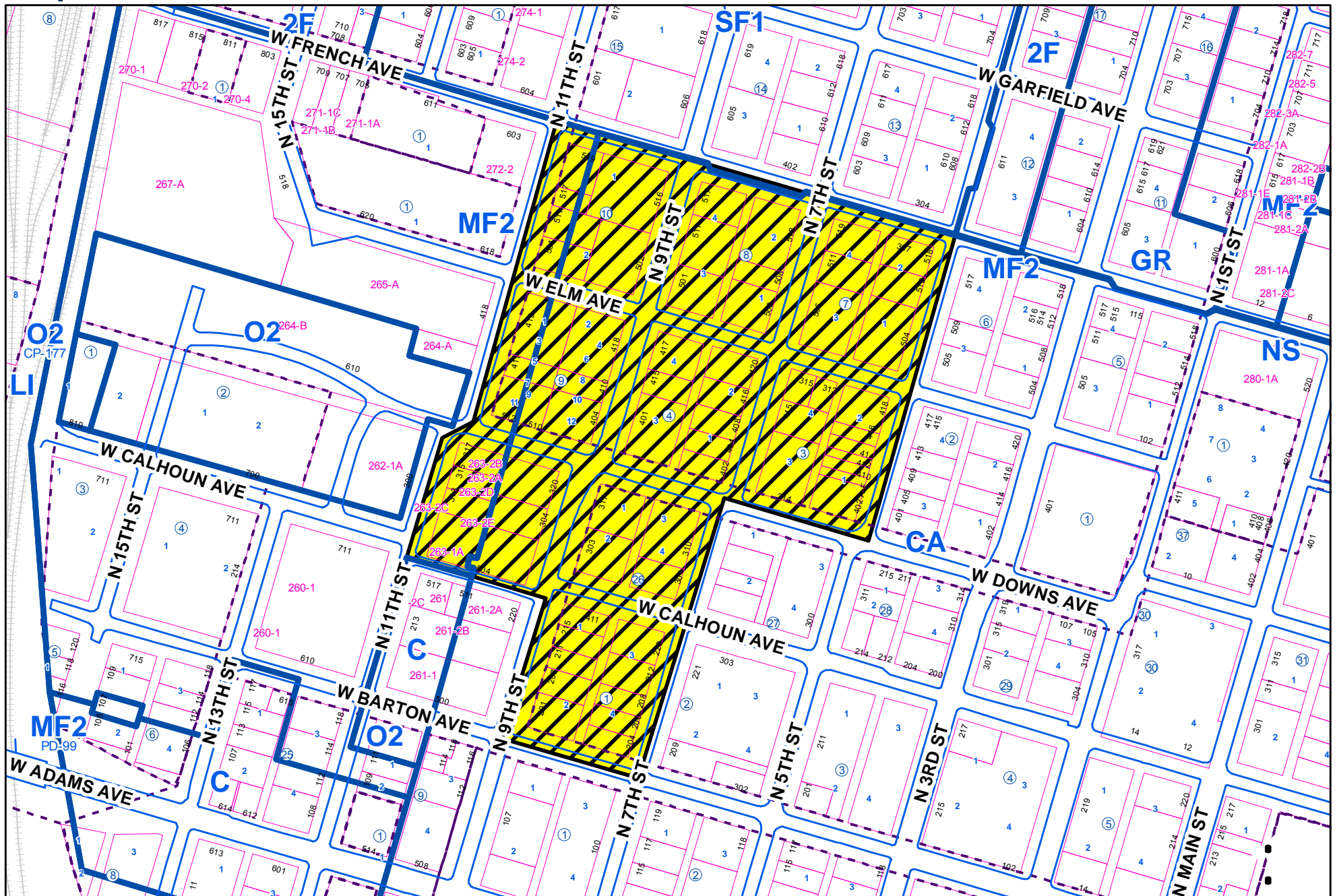
1 inch = 300 feet

J Stone 7.7.9



Z-FY-09-16

CA & MF2 District Rezoning



 ZFY0916

CA & MF2 to SF1 or NS

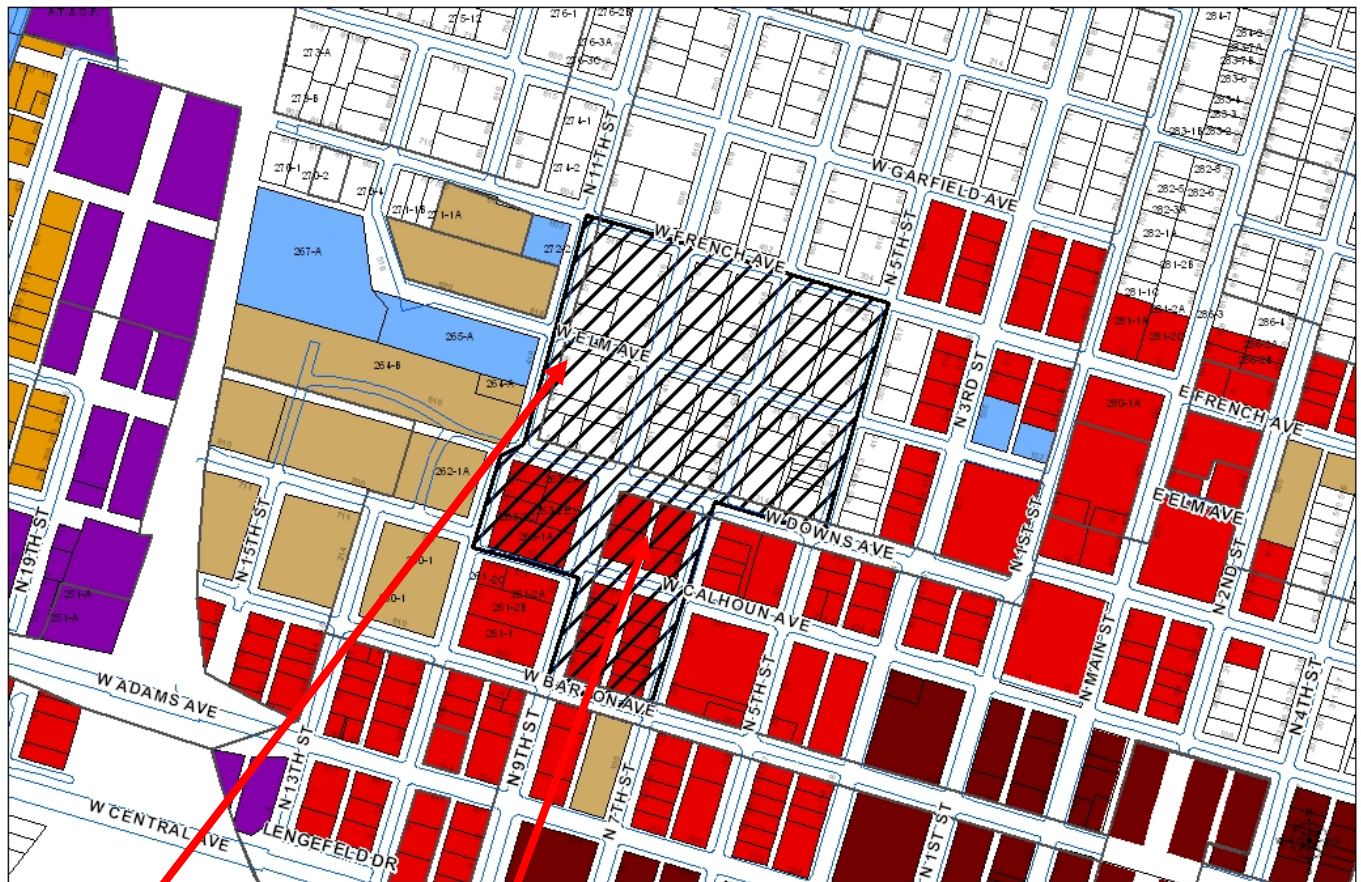
1 inch = 300 feet

J Stone 7.7.9



Z-FY-09-16

CA & MF2 District Rezoning to SF1 or NS

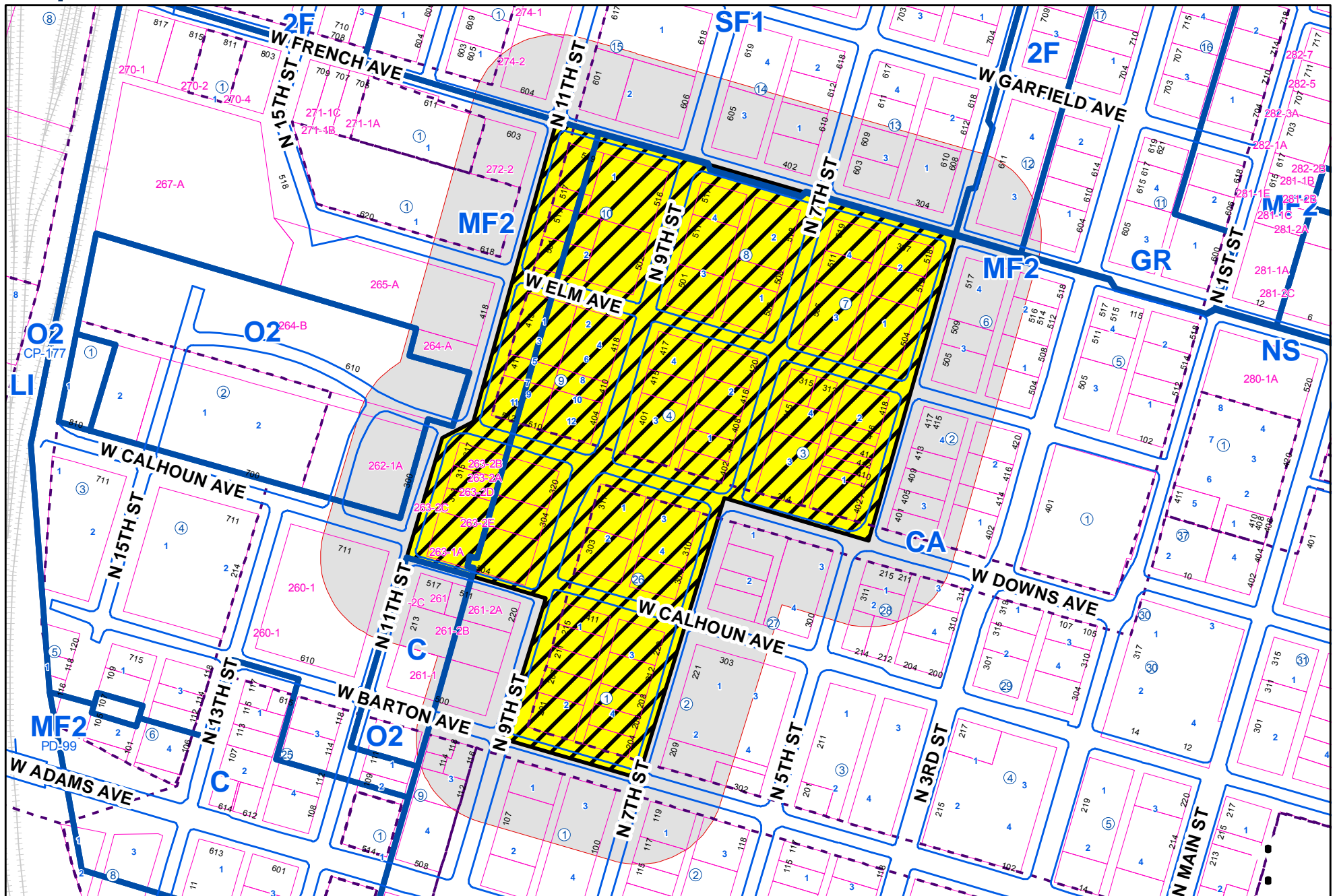


- 1 inch = 400 feet
J Stone 7.7.9
- | | | | | | |
|---------------------------|------------------------|-------------------------|-----------------------------------|---------------|-----------------------|
| Temple Boundary | Estate Residential | Auto-Urban Multi-Family | Suburban Commercial | Industrial | Parks and Open Space |
| Neighborhood Conservation | Suburban Residential | Urban Center | Temple Medical Education District | Business park | Agricultural/Rural |
| | Auto-urban Residential | Auto-Urban Commercial | Public/Institutional | | CA & MF1 to SF1 or NS |



Z-FY-09-16

CA & MF2 District Rezoning



 ZFY0916  200' Buffer

CA & MF2 to SF1 or NS

1 inch = 300 feet

J Stone 7.7.9



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

James & Edith Roskey
3901 Midway Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval

☒ denial of this request.

Comments:

but would approve if it's district

for single family zone only

7-20-09
James Roskey / Edith Roskey
Signature

7-20-09
JAMES ROSKEY EDITH ROSKEY
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 23 2009

City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Terri L. Wheeler
511 North 7th Street
Temple, Texas 76501

"Approved"
per TDM
7-22-09

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval () denial of this request.

Comments:

I agree with the rezoning for single family. My small business is located to home for the neighborhood I am caring it - I live across from the quilt shop (the Ferguson house) and can drive up and down the street - there are times I wish my driveway is on halter block - I am to the point of putting up traffic cones so I can access my own walkway and driveway.

Signature

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 22 2009

City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Frances I. Bowker
504 North 7th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☐ approval ☒ denial of this request.

Comments:

Frances I. Bowker
Signature

FRANCES I. BOWKER
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 22 2009

City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Virginia Sanders
~~Jonathan Etux Rhonda Sanders~~
420 North 7th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:

*We strongly support this change and believe it will
improve the quality of this neighborhood as well as the value of
our homes.*

Jonathan Sanders
Signature

Virginia Sanders

Jonathan I. Sanders
Print Name

Virginia B. Sanders

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 22 2009

City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Darren Etux Katherine Mowbray
P.O. Box 2713
Temple, Texas 76503-2713

418 N. 9th St

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval (X) denial of this request.

Comments:

Leave the zoning alone.

Katherine M. Mowbray
Signature

Katherine M. Mowbray
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

William Etux Pearline Stanley
304 West French Avenue
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend (☒) approval (☐) denial of this request.

Comments:

Look carefully at the area proposed for change. Perhaps this area needs to be rezoned in some way. Down to French & 517 away to 9th St. Making that a 2 family area seems to make sense. Perhaps even single family. I can't not see a larger building being an asset to the home.

William B Stanley
Signature

William B Stanley
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 20 2009

City of Temple
Planning & Development

Number of Notices Mailed: 41

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Conrado & Virginia Rangel
303 North 9th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval ☐ denial of this request.

Comments:

We prefer single family and
not Neighborhood Services.

Conrado & Virginia Rangel
Signature

CONRADO + VIRGINIA RANGEL
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

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JUL 21 2009
City of Temple
Planning & Development

Number of Notices Mailed: 41

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

317 N. 9TH

Elizabeth Geyer & Edwin Bailey
P.O. Box 146
Temple, Texas 76503-146

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend (☒) approval (☐) denial of this request.

Comments:

I WOULD LIKE TO SEE SINGLE FAMILY ONLY IN
THIS AREA. THE MAJORITY HAS BEEN SINGLE FAMILY
AND IT IS NOT THE CLIMATE FOR BUSINESS.

Edwin Bailey
Signature

EDWIN BAILEY
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

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City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

James H. Adams Family Ltd
P.O. Box 887
Temple, Texas 76503

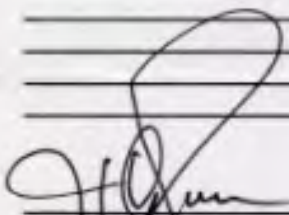
Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend (☒) approval (☐) denial of this request.

Comments:


Signature

J H Adams
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

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JUL 17 2009

City of Temple
Planning & Development

Number of Notices Mailed: 41

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

William R. McGarvey
401 North 9th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval ☐ denial of this request.

Comments:

my grandfather, August Kacin, built a home and raised a family on N 9th St starting in 1942. My parents, Dr. Mike Wheeler and (m) Betty Kacin were also raised on the North Side. It can be said that my roots in Temple are substantial.

I moved to the Northside in 2000, moving into and restoring the family home. The history is rich on my block and the surrounding area. I urge the planners and council to change zoning so that the vitality and richness of the neighborhood perseveres.

Brent Wheeler
Signature

Brent Wheeler
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

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JUL 17 2009

City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Charleton & Patricia Lee
501 North 9th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:

Support Rezoning to Single
Family As First Choice, NSF
as SECOND CHOICE.

Signature

CHARLETON LEE

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 17 2009

City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Ronald L. Thweatt
404 North 9th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:

Ronald L. Thweatt
Signature

RONALD L. THWEATT
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

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JUL 17 2009

City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Scott A. Shine
415 North 9th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:

It is very clear from a quick drive through this neighborhood that it was originally intended to be a single family residence neighborhood and that is the use that continues through the present. The current zoning and the potential for the further expansion of businesses is detrimental to the everyday enjoyment of the majority of property owners who use their properties for single family purposes.

I strongly support the change of zoning to Single family Residential


Signature

Scott Shine
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 16 2009

City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Sam K. Hendler
601 North 11th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval ☐ denial of this request.

Comments:

Sam K. Hendler Jr.
Signature

SAM K. HENDLER JR.
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 16 2009

City of Temple
Planning & Development

Number of Notices Mailed: 41

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE
CITY OF TEMPLE

Temple ISD
Superintendent's Office
200 North 23rd Street
Temple, Texas 76504


Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend (☒) approval (☐) denial of this request.

Comments:


Signature

Robin Battershell
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 16 2009

City of Temple
Planning & Development

Number of Notices Mailed: 41

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

First Christian Church of Temple
300 North 5th Street
Temple, Texas 76501

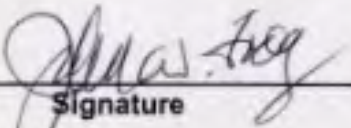
Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:


Signature

J. W. Troy, Board Chair
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

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JUL 15 2009

City of Temple
Planning & Development

Number of Notices Mailed: 41

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Michael Etux Johnelle Krumnow
610 North 7th Street
Temple, Texas 76501

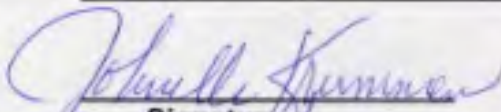
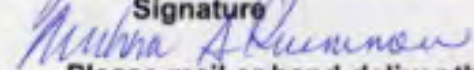
Zoning Application Number: Z-FY-09-16

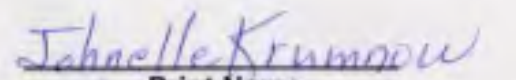
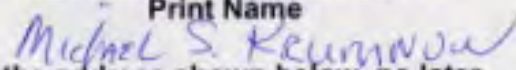
Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval ☐ denial of this request.

Comments:


Signature



Print Name


Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

RECEIVED

JUL 14 2009

City of Temple
Planning & Development

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

Number of Notices Mailed: 41

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

John A. II & Sheri Joseph
618 North 9th Street
Temple, Texas 76501

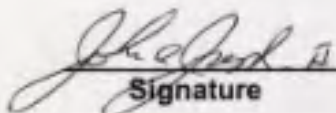
Zoning Application Number: Z-FY-09-16

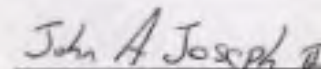
Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval ☐ denial of this request.

Comments:


Signature


Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 14 2009

City of Temple
Planning & Development

Number of Notices Mailed: 41

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Kevin & Wenda Elliott
417 North 9th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

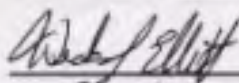
Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within the area being considered for rezoning, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval

☒ denial of this request.

Comments:


Signature

Wenda J Elliott
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 14 2009

City of Temple
Planning & Development

Number of Notices Mailed: 55

Date Mailed: July 10, 2009



RESPONSE TO PROPOSED ZONING CHANGE

CITY OF TEMPLE

Dr. Raleigh R. White
619 North 9th Street
Temple, Texas 76501

Zoning Application Number: Z-FY-09-16

Project Manager: Tim Dolan

The proposed zone change is the area shown in yellow and blue marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ ^{in part} approval ☒ ^{in part} denial of this request.

Comments:

- 1) Several lots in this proposed zone change lie within the HISTORIC DISTRICT, therefore NS should not be allowed there. These lots are south of French on 9th + 7th.
- 2) I support the change to SF1. However, NS included the language allowing "any residential, excluding apartments".
- 3) If the "any residential" provision could be excluded, I will support the change to SF1 and/or NS.

Raleigh R. White
Signature

Raleigh R. White
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 20, 2009.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

JUL 14 2009

City of Temple
Planning & Development

Number of Notices Mailed: 41

Date Mailed: July 10, 2009



PLANNING & ZONING COMMISSION MEMORANDUM

07/20/09

Item 4

Regular Agenda

Page 1 of 2

APPLICANT: Planning & Zoning Commission

DEPT. /DIVISION SUBMISSION & REVIEW: Tim Dolan, AICP, Planning Director

Z-FY-09-16: Hold a public hearing to discuss and recommend action on a zone change from Central Area District (CA) and Multiple Family Two District (MF2) to Single Family One District (SF1) and/or Neighborhood Service District (NS) for all of Blocks 1 and 26, Moore's First Addition; All of Blocks 3, 4, 7, 8, 9, & 10, L.R. Taylor Addition; and Out blocks 263- 1A, 2A, 2B, 2C, 2D, and 23, Temple Original.

STAFF RECOMMENDATION: Staff recommends the Commission conduct a public hearing, take testimony from the public, close the hearing and make a motion to consider recommending rezoning the area described above. The Commission has several options:

1. Motion to recommend approval for **Z-FY-090-16** subject to the following:
 - a. Rezone the area from CA and MF2 to NS; or
 - b. Rezone the area from CA and MF2 to SF1; or
 - c. Keep the area zoned CA and MF2; or
 - d. Reduce the area described above, keeping the similar choices described above.

ITEM SUMMARY:

The Commission called a public hearing for today's meeting to consider rezoning some lots south of the Historical District, and a small portion of the Historical District from CA and MF2 to either NS or SF-1. At the meeting July 6th, some Commissioners requested rezoning the area to SF-1, NS, or keep the area intact with the current CA zoning. The Commission conducted a special meeting Tuesday, June 9th at the First Christian Church to meet with area property owners and receive input for proposed Map amendments for rezoning some of the area from Central Area (CA) to Neighborhood Service (NS).

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

Future Land Use and Character

The Future Land Use and Character map designates the subject property as Neighborhood Conservation and Urban Retail. Chapter 3 of the Comprehensive Plan states that the Neighborhood Conservation designation is to keep the same residential development pattern allowing for non-conforming uses to change over time to Neighborhood Conservation. Urban retail uses are those serving the surrounding area with commercial buildings built to the property line, serving the local area. The Comprehensive Plan designates changes from Urban Retail to Neighborhood Conservation.

Thoroughfare Plan

While Nugent Street is shown as a collector sized roadway, it is north of the subject area. The remaining roads in the subject area are shown as local roads. The rezoning request from CA to NS or SF1 conforms to the road pattern and action statements of the Thoroughfare Plan requiring parking for NS or SF-1 uses. CA zoning does not require on-site parking.

Adequacy of Public Facilities

Water and sewer serve the area.

Public Notice

A total of 96 notices were sent out to the subject area and to owners 200' outside of the subject area. On Wednesday, July 15th at 2 PM, three notices favored the request and one notice opposed the request. One request was returned favoring the SF-1 request, while opposing the NS request. The newspaper printed notice of the public hearing on Friday, July 10, 2009 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Future Land Use & Character Plan
Zoning Map
Aerial
Buffer

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

MONDAY, JULY 20, 2009

ACTION ITEMS

Item 3: Z-FY-09-16: Hold a public hearing to discuss and recommend action on a zone change from Central Area District (CA) and Multiple Family Two District (MF2) to Single Family One District (SF1) and/or Neighborhood Service District (NS) for all of Blocks 1 and 26, Moore's First Addition; All of Blocks 3, 4, 7, 8, 9, & 10, L.R. Taylor Addition; and Out blocks 263- 1A, 2A, 2B, 2C, 2D, and 23, Temple Original. (Applicant: Planning & Zoning Commission)

Mr. Dolan stated a public hearing would be held on this and if it moved forward to City Council the first reading would be August 6th and second reading would be August 20th.

Mr. Dolan gave some history for Commissioners and audience. The Commission asked Staff to look at some of the areas south of the Historical District for land uses and zoning. The Commission recommended some of the changes from the Central Area (CA) and Multi-Family Two (MF-2) to Neighborhood Services (NS) which changes were also discussed at the community meeting held on June 9th at First Christian Church.

Mr. Dolan stated there were Land Use charts located on both corners of the dais for public information for citizens in attendance which were also provided at the community meeting. These charts stated all allowed land uses within the Single Family (SF1), Neighborhood Services (NS) and Central Area (CA) zoning districts.

Mr. Dolan stated at the July 6th meeting the Commission asked Staff to also consider zoning the area as NS or SF1 which was advertised in the newspaper and property owners. A total of 16 responses have been submitted.

Mr. Dolan stated the map being shown indicated the original subject area outlined in red dashes is what was looked at from previous meetings. The Commission decided to reduce the area size to the solid red outline now indicated. The Commission also looked at including 4 lots of 516, 511, 517 and 518 into the zoning change.

Mr. Dolan stated the Future Land Use Plan shows the majority of this area for neighborhood conservation—to conserve the neighborhood, to take the Single Family awareness that is there. It would be in keeping in line with what the

Comprehensive Plan Advisory Committee and the City Council recommended for approval.

Mr. Dolan described and explained some of the uses, symbols, and abbreviations on the comparison charts. Single Family One (SF1) is more restrictive than the CA and NS areas.

Mr. Dolan stated there were a total of 96 notices mailed to property owners within the 41 lot area that is being looked at for rezoning and 55 notices mailed for the 200' buffer area. Of the 16 notices the Commission had in their documentation, seven (7) were in favor of SF1 and one was opposed to NS and SF1. The balance of the notices only stated they were in favor of the request but did not indicate any zoning type.

Mr. Dolan pointed out seven (7) non-confirming uses if the area were rezoned for SF. If the area were zoned NS, condominiums/townhomes and apartments would not be allowed but the retail uses would be. If the areas with the apartments and condos were zoned NS, those uses would become legal non-conforming uses.

Mr. Dolan stated there were several options for the Commission to consider:

- CA and MF2 to NS; or

- CA and MF2 to SF1; or

- Keep the areas zoned CA and MF2; or

- Reduce the area described earlier.

Mr. Dolan informed the Commission they could not enlarge the area geographically. If a larger area were to be considered, the public hearing should be closed without taking comments and/or action and instruct Staff to include a larger area. However, a larger area could not be allowed at this meeting.

Chair Pope asked Mr. Dolan to explain 'legal non-conforming.' Mr. Dolan stated the businesses are legal uses but non-conforming to the zoning district. For example, if an existing business were purchased as that specific business, and the purchaser decided at a later date to cease that specific business and instead used the property as a residential homestead or a Single Family use, that action will 'close the door' on the legal nonconforming use--the preceding business would be unable to reestablish itself, if the area were zoned SF1.

Chair Pope opened the public hearing and asked for public comments.

Mr. Scott Shine, 415 N. 9th Street, and has owned his home for ten (10) years. During this time a business opened next door to his home. Mr. Shine stated it is believed that commercial zoning has the effect of increasing a property's value

and always desirable. Mr. Shine disagreed and stated when commercial zoning is improperly applied it has the opposite effect and depresses property values.

Mr. Shine stated the homes located between French and Nugent that are protected by Single Family residential zoning “are on average valued at more than \$20 a square foot higher than homes that are very similar that are just a few feet away in Central Area zoning.” “On a typical home of 1800 square feet that is a difference of \$36,000.”

Mr. Shine stated that since 2006 when the business next door to his home opened, the Bell County Tax Appraisal District has continually lowered the value of his home from a “proposed value of \$156,903 in 2006 to a current value of \$88,336. That is a loss of value of over \$68,000.”

Mr. Shine stated the Tax Appraisal District is “very reluctant to lower the taxable value of a property, however, given the current zoning and proximity to a business, they could come to no other conclusion.” Mr. Shine feels the damage to his home’s value is far greater than the tax savings.

Mr. Shine stated protecting homeowners’ property values is far more important than speculating a commercial expansion. Within a few blocks of City Hall in the downtown business district, there are 17 commercial properties that are actively being advertised for lease or sale. There is no lack of appropriate commercial space in the downtown Temple area.

In July of 2002 the City of Temple issued the following statement about zoning of this area. “Staff believes all districts outside the downtown should be compatible with their potential and future land uses as in other parts of the city. The majority of the neighborhood is currently zoned Central Area zoning district. The City would like to rezone a portion of this neighborhood to a residential zoning district that doesn’t allow businesses, only single family homes. This would protect the existing family homes from a high density business use opening. The City supports the zone change.”

Mr. Shine stated there is no reason 2009 should be different than 2002. There was no infrastructure to support business then and there is no infrastructure to support business today. Mr. Shine stated this is a residential neighborhood, commercial expansion will destroy the quality of life for those who live there, it will destroy homes’ values and it will destroy the rich history of this beautiful neighborhood.

Mr. Shine stated now is the time to protect the single largest investment most people will make and urged the Commission to rezone the neighborhood single family residential.

Mr. Dolan asked Chair Pope if it was possible for anyone speaking that had written documentation to please let Staff make xerox copies of that

documentation for accuracy of taking the meeting minutes. Chair Pope agreed and asked the attending citizens to share their documentation with Staff.

Mr. Ron German, 511 N. 9th. Mr. German stated he did some investigation of this problem and tried to take a systematic approach to the question. In his unscientific survey, Mr. German had determined that “59 of the 64 properties that were in the original block were being used for family quarters” which represents “92% of that neighborhood or the shaded area in the single family residential platform.”

Mr. German stated if you go with the average of three (3) people in a family which the Census Bureau discussed, it means this decision potentially affects 177 people.

Mr. German stated it was ironic to even consider the idea of having a “stable, an electric subdivision, a transmission line, a government shop yard, a sewage pumping station, utility shops, treatment plant, off and on premise beer and wine sales, a stadium, a fitness club, cemetery, community center, halfway house, helicopter stop, gas station, convenience store, retail store, dental lab and others and temporary asphalt or cement batching plant as the gateway to the Historic District. It just didn’t seem right.”

Mr. German stated he took a drive down Avenue H and noticed the businesses in that area had designated parking. If the current designation in his neighborhood were to continue there is no requirement for parking, yet somehow they manage to impose that for the businesses along Avenue H.

Mr. German stated he is opposed to the NS when there is an option for SF1.

Ms. Barbara Boson, Executive Director of Texas Housing Authority, wanted to speak on behalf of 504 W. Calhoun for this hearing. The THA owns the Chateau Apartments located at 504 W. Calhoun and the apartments have been there since the mid-1960s. Ms. Boson asked the Commission to draw the line back and allow the apartments to remain multi-family. It is a 22 unit complex, houses the elderly and near-elderly and there is adequate parking for the residents without parking on the street. There are two buildings and if one were ever damaged, it would prevent the Texas Housing Authority from reconstructing.

Chair Pope asked Ms. Boson if her proposal was to move the line from Calhoun to behind the THA north property line and Ms. Boson replied that was correct, to take 263-1A out of the area.

Mr. Kevin Elliott, 417 N. 9th Street stated his wife owned the scrapbook store at that property. Mr. Elliott stated he looked at the downtown Temple area as an opportunity to conduct a business venture similar to what is found in Fredericksburg and Salado—taking residential homes and turning them into profitable businesses. Mr. Elliott stated his property appraised value had increased.

Mr. Elliott stated he had invested approximately \$30,000 into their business and it appeared their business would be grandfathered in as a legal non-conforming use if this zone change took effect. Mr. Elliott stated some of the suggested restrictions on the area would discourage and deny business interests and opportunities from coming into the area.

Mr. Elliott stated he opposed this zone change because he would like to see further opportunities for other like-minded people to come into the area and bring the type of quality clientele they have to the area.

Mr. Chad Lee, 501 N. 9th Street, stated he appreciated the point of view about bringing in businesses to the neighborhood but this is “a neighborhood.” Mr. Lee stated families live and have raised their families in this area.

Mr. Lee stated there were currently six businesses within the area and it is not a downtown area for redevelopment. It is an area for raising your families. Mr. Lee stated he is “offended” and does not appreciate someone entering his residential neighborhood and opening a business.

Mr. Lee asked the Commission to make the change to SF.

Ms. Hillary Shine, 415 N. 9th Street, stated she and her husband have been dealing with this issue for last three (3) years. Her home was built in 1921 and is an arts and crafts bungalow. Ms. Shine is passionate about her home and neighborhood preservation and feels there is a very real threat to her and others’ homes with the current Central Area (CA) zoning when this area was intended to be a neighborhood. Ms. Shine had a business move directly next door to her home in 2006 and was “shocked.” Ms. Shine did not believe the City would allow a business to locate right next door to her home. Ms. Shine approached the City to find out about this situation and discovered what Central Area zoning meant, or in her opinion, “no zoning.”

Ms. Shine stated almost “anything you can think of can be located right next door” to her and “unbelievably” CA zoning has been “exempted from most every commercial code.”

Ms. Shine has been pursuing this residential zone change for nearly three years through City Council, City Staff and Planning and Zoning and thanked the Commission for finally bringing it to the table.

Ms. Shine stated her goal is not to have the business closed next door to her but to prevent future business uses in this “residential” neighborhood. The predominant use is residential.

Ms. Shine stated businesses in the area lowers property values, increases traffic, destroys the historic integrity of properties and chases people like Ms. Shine away. Ms. Shine also stated the infrastructure and current uses support no

zoning other than single family or residential and there is no other way to prevent further deterioration of historic properties.

Ms. Shine asked the Commission to vote in favor of the zone change single family and do what is in the best interest for families that call this area home, to secure the future of the historic district and its surrounding areas, and improve all of the property values by disallowing inappropriate uses.

Ms. Shine addressed issues previously raised: using alleys as “creative” parking. Ms. Shine’s utilities and trash containers are located in the alley. Someone recently drove down the alley and destroyed the Shines’ gas meter and they experienced loss of power due to vehicles in the alley.

Ms. Shine also stated Neighborhood Services would require “buffers.” When a “house sits three feet off the ground, a six foot fence does nothing to buffer you from your neighbor.”

Ms. Katherine Mowbray, 418 N. 9th Street, stated she lived directly across from the scrapbook store. Ms. Mowbray purchased her home in '98 which was being used as a church and have slowly remodeled the house. Ms. Mowbray stated she feels the scrapbook store seems to be “the center viewpoint of this whole mess and that’s how it got started.”

Ms. Mowbray stated she has never had any issues with any of the scrapbook store’s customers.

Ms. Mowbray stated her property values have increased and did not understand how the Shines’ property taxes would have been lowered. Ms. Mowbray stated she did not want any zoning that would allow businesses such as a “strip club or something of that nature” but at the same time she feels small family businesses are fine.

Ms. Mowbray stated she did not welcome the idea of looking out her window and having large parking lots and asphalt or having homes torn down in order to have parking lots but she felt the businesses currently in the area were not causing any harm. Ms. Mowbray stated the businesses have not lowered her property taxes nor other neighbors she had spoken with and doesn’t understand why the Shines’ have been lowered. Ms. Mowbray felt this issue might be related to computer error.

Ms. Mowbray stated she did not want the neighborhood overrun by businesses but she didn’t feel there was any harm in it. If Ms. Mowbray were to sell her home, the increased traffic would provide more people to look at her home and other area homes for potential purchase.

Ms. Mowbray stated she did not feel this situation was so drastic and being vindictive was not the answer.

Mr. Edwin Bailey, 317 N. 9th Street, stated he would like to see the area stay single family and did not feel the area is conducive to a successful business.

Mr. William McGarvey, 401 N. 9th Street, stated there is a tendency to allow older cities to be encroached upon in areas that are contemplated to be single family. Mr. McGarvey stated “encroachment is a subtle means of deterioration” over a period of time.

Mr. McGarvey stated most inner cities desperately need businesses but the outer parts do not since “it conflicts and does not comport with overall ambience that should be preserved” and anything other than single family would be counterproductive.

Mr. James Roskey, 201 N. 9th, stated anyone who is considering the purchase of a home in this area should look at the zoning first. Mr. Roskey stated small businesses seemed to have helped some neighborhoods in surrounding areas and the property values had increased.

Mr. Roskey stated he is in favor of businesses in the area.

Ms. Patty Branson, 1101 N. 3rd Street, asked the Commission how they would feel if the property next door to them were sold and became some type of business. Ms. Branson lives just outside the subject property but is concerned about the possibility of fighting for her own neighborhood in the future. Ms. Branson asked the Commission to consider keeping this as a residential area.

Mr. Tim Norton, 1410 N. 7th Street, stated he moved to Temple to live in a residential neighborhood. Mr. Norton stated the “type of zoning currently in place is great strategy” if the area is contemplated for “revitalization” but that neighborhood “does not need to be revitalized with businesses--it needs to be kept with families.”

Mr. Norton stated he wanted people to move into Temple but to “live” in his neighborhood—not to “shop.” Mr. Norton stated the area needed to remain single family.

Chair Pope closed the public hearing since there were no more speakers.

Two motions were made on this Item:

Commissioner Barton made a motion to exclude 504 W. Calhoun and 402, 410, 412, 414 and 416 N. 5th Street from the rezoned area to be considered and Commissioner Hurd made a second.

Motion passed: (7:0)

Commissioners Dusek and Martin were absent.

Commissioner Luck made the motion to approve the zone change from Central Area (CA) and Multi-Family Two (MF2) to Single Family One (SF1) and Commissioner Talley made a second.

Motion passed: (7:0)

Commissioners Dusek and Martin were absent.

ORDINANCE NO. _____

[PLANNING NO. Z-FY-09-16]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM THE CENTRAL AREA DISTRICT (CA) AND THE MULTIPLE FAMILY TWO DISTRICT (MF2) TO THE SINGLE FAMILY ONE DISTRICT (SF1) FOR ALL OF BLOCKS 1 AND 26, MOORE'S FIRST ADDITION; ALL OF BLOCKS 4, 7, 8, 9, & 10, AND BLOCK 3, LOTS 2-4, L.R. TAYLOR ADDITION; AND OUTBLOCKS 263-2A, 2B, 2C, 2D, AND 23, TEMPLE ORIGINAL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from the Central Area District (CA) and the Multiple Family Two District (MF2) to the Single Family One District (SF1) for all of Blocks 1 and 26, Moore's First Addition; all of Blocks 4, 7, 8, 9 & 10, and Block 3, Lots 2-4, L.R. Taylor Addition; and Outblocks 263-2A, 2B, 2C, 2D, and 23, Temple Original, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **6th** day of **August**, 2009.

PASSED AND APPROVED on Second Reading on the **20th** day of **August**, 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

08/06/09
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DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief

ITEM DESCRIPTION: FIRST READING — PUBLIC HEARING - Consider adopting an ordinance amending Chapter 12, “Fire Prevention and Protection,” of the Code of Ordinances of the City of Temple, Texas, by adopting the 2006 International Fire Code.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for August 20, 2009.

ITEM SUMMARY: The City is currently operating under the 1997 Standard Fire Prevention Code; this ordinance would update the City of Temple’s ordinance to the 2006 International Fire Code. The City has previously adopted the International Building and International Mechanical Codes, and by adopting the International Fire Code, the City will have a series of codes with similar terminology and the ability to cross-reference each other.

Meetings were held with stakeholders such as Temple Area Builders Association and local developers as well as the following departments: engineering, planning and development, legal and the fire department. The fire department was able to implement standards developed through these meetings, allowing a great deal of feedback from those citizens and staff members who would be most affected by the change in the code.

Though there have been several significant changes, many if not all of them are already been implemented and enforced through the adopted 2006 International Building Code.

FISCAL IMPACT: None

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 12, "FIRE PREVENTION AND PROTECTION," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, BY ADOPTING THE 2006 INTERNATIONAL FIRE CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: Chapter 12, "Fire Prevention and Protection," of the Code of Ordinances of the City of Temple, Texas, is amended to read as follows:

Chapter 12
FIRE PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

Sec. 12-1. Appointment qualifications, general powers, and duties of the fire chief.

(a) The fire chief of the fire & rescue department shall be appointed by the city manager, with approval of the city council. The fire chief shall be skilled in the management of the department and in the conduct thereof, and in the fighting and control of fires and conflagrations, and shall devote his entire time to the services of the department under such rules and regulations as may be laid down by the city manager and/or city council from time to time.

(b) The fire chief, under the direction of the city manager, shall have control of all fire stations and apparatus in the city, shall direct the department and preside over same in its efforts to extinguish all fires and conflagrations, and shall at all times be ready with his department for all the services which are usually expected of an efficient department.

(c) Wherever fire chief appears in this chapter, it shall mean the fire chief or his designee.

Sec. 12-2. Appointment qualifications, general powers, and duties of the fire code official.

(a) The fire prevention division is hereby created. Such division shall be in the fire & rescue department with the fire code official being a member of that division and reporting directly to the fire chief.

(b) The fire code official shall be appointed by the fire chief. The fire code official shall be skilled in investigations, inspections, management and shall devote his time to educating the public in fire safety while enforcing federal, state, and local laws as they pertain to fire prevention. The fire code official must be a licensed peace officer, in accordance with Article 2.12 of the Texas Code of Criminal Procedure, unless otherwise approved by the fire chief.

(c) Wherever fire code official appears in this chapter, it shall mean the fire code official or his designee.

(d) When, in the opinion of the fire code official, further investigation of a fire is necessary, he shall take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing.

(e) The fire code official shall have the power to summons witness before him to testify in relation to any matter which is, by the provisions of this chapter, a subject of inquiry and investigation, and may require the production of any book, paper, document, or information deemed pertinent thereto. The fire code official is hereby authorized and empowered to administer oaths and affirmation to any persons appearing as witnesses before him.

(f) All investigations held by or under the direction of the fire code official may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

(g) Any witness who refuses to be sworn, or who refuses to appear to testify, or who disobeys any lawful order of the fire code official, or who fails or refuses to produce any book, paper, document or information touching any matter under examinations, or who commits any contemptuous conduct during an investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as provided in this article, may be charged with a misdemeanor, and it shall be the duty of the fire code official to cause all such offenders to be prosecuted.

(h) When the fire code official determines that the condition of any premises creates a serious fire hazard dangerous to human life, he may order the utility company or companies to disconnect the utility service until the hazardous condition is removed. In cases of emergency or in situations where a utility company does not respond to or comply with the order of the fire code official shall have the authority to immediately disconnect or cause the disconnection of the utility service. Any person whose property is affected by the act or order of the fire code official shall have the right of direct appeal to the city manager.

Sec. 12-3. Definitions.

In this chapter:

Fire Lane shall mean an off-street area that is accessible to the public and is to remain free and clear of parked and standing vehicles in order to provide access to commercial buildings for emergency response purposes. This term includes specifically marked areas in public parking lots.

Private Fire Apparatus Access Road shall mean a road that extends from the property line of a private property to within 150 feet of all points on a commercial building located on that property, to include private streets and access roadways.

The route that a fire hose would be laid shall mean the routing of fire hose from either a public or approved on-site fire hydrant to the fire apparatus along the length of the public roadway and/or approved private fire lanes.

Article II. Adoption of Fire Prevention Code

Sec. 12-4. Adoption of fire prevention code.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, that certain code known as the International Fire Code 2006, International Code Council, as well as Appendices B, D, E, F, and G, as it now exists and as it may be revised from time to time, and the whole thereof, save and except:

- (a) Exclusions as noted in Article III of this chapter;
- (b) Revisions as noted in Article IV of this chapter;
- (c) Additions as noted in Article V of this chapter; and
- (d) Such portions as are hereinafter modified and amended, of which code not less than three (3) copies have been and now are filed in the office of the building official and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date of which this article shall take effect, the provisions thereof shall be controlling within the city limits.

Article III. Exclusions of International Fire Code 2006

The following provisions of the International Fire Code 2006 are excluded:

- (a) Exclude Chapter 3, "General Precautions Against Fire," Section 307, "Open Burning and Recreation Fires," but see Section 12-14, "Controlled Burning," herein.
- (b) Exclude Chapter 5, "Fire Service Features," Section 505, "Premises Identification," Subsection 505.1, "Address Numbers," but see Chapter 32, "Streets and

Sidewalks,” Section 32-9, “Residence and Building Address Numbering,” from the city code.

(c) Exclude Chapter 33, “Explosives and Fireworks,” in its entirety, but see Section 12-13, “Fireworks,” herein.

(d) Exclude Chapter 5, “Fire Service Features,” Section 508, “Fire Protection Water Supplies,” Subsection 508.5, “Fire Hydrant Systems,” but see Section 12-16, “Fire Hydrants,” herein.

(e) Exclude Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.6, “Required operational permits,” Part 105.6.35, “Private Fire Hydrant Exception,” but see Section 12-16, “Fire Hydrants,” herein.

(f) Exclude Chapter 3, “General Precautions Against Fire,” Section 308, “Open Flames,” Subsection 308.3, “Open Flames,” Part 308.3.1, “Open-flame Cooking Devices Exception,” but see Section 12-14 b, “Recreational Fires and Outside Fires for Domestic Purposes,” herein.

(g) Exclude Chapter 9, “Fire Protection Systems,” Section 906, “Portable Fire Extinguishers,” Subsection 906.1, “Where Required Exception,” but see Section 12-9, Table 906.3 (1), “Fire Extinguishers for Fire Hazards,” and Section 12-10, Table 906.3 (2), “Flammable or Combustible Liquids with Depths of less than or equal to 0.25-inch,” herein.

Article IV. Revisions of International Fire Code 2006

Sec. 12-5. Adjustment to Chapter 1, “Administration.”

(a) Adjustment to Chapter 1, “Administration,” Section 101, “General,” Subsection 101.1, “Title,” amended to read as follows:

(1) In the title insert “The City of Temple.”

(2) Replace all references to “the ICC Electrical Code” with “the currently adopted edition of the City of Temple Electrical Code.”

(b) Adjustment Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.1, “General,” Part 105.1.1, “Permits Required,” amended to read as follows:

Permits required by this code shall be obtained from the construction safety division of the city. Permit fees, if any, shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.

(c) Adjustment to Chapter ,1 “Administration,” Section 108, “Board of Appeals,” Subsection 108.1, “Board of Appeals Established,” amended to read as follows:

Refer to Chapter 7, “Buildings,” of the City of Temple Code of Ordinances.

Sec. 12-6. Adjustment to Chapter 8, “Interior Finish, Decorative Materials and Furnishings,” Section 806, “Decorative Vegetation in New and Existing Buildings,” subsection 806.1, “Natural Cut Trees,” amend to read as follows:

Natural cut trees shall be prohibited in all commercial occupancies as well as Group R occupancies, excluding one and two family dwellings, apartments, and townhomes.

Sec. 12-7. Replace Table 906.3(1), “Fire Extinguishers for Class A Fire Hazards,” with the following table:

Fire Extinguisher Requirement Based on Travel Distance		
TYPE OF HAZARD	BASIC MINIMUM EXTINGUISHER RATING	MAXIMUM TRAVEL DISTANCE TO EXTINGUISHERS (FEET)
Light (Low)	5 lb, ABC	75 feet
Ordinary (Moderate)	5 lb, ABC	75 feet
Extra (High)	5 lb, ABC	75 feet

Fire Extinguisher Requirement Based on Square Footage			
	LIGHT (LOW) HAZARD OCCUPANCY	ORDINARY(Moderate) HAZARD OCCUPANCY	EXTRA (High) HAZARD OCCUPANCY
Minimum Rated Single Extinguisher	5 lb. ABC	5 lb. ABC	5 lb. ABC
Maximum Floor Area Per Unit	3,000 square feet	1,500 square feet	1,000 square feet
Maximum Travel Distance to Extinguisher	75 feet	75 feet	75 feet

Sec. 12-8. Replace Table 906.3(2), “Flammable or Combustible Liquids with Depths of Less than or Equal to 0.25-inch,” with the following table:

Sec. 12-9. Adjustment to Chapter 14, “Fire Safety During Construction and Demolition,” Section 1404, “Precautions Against Fire,” Subsection 1404.5, “Fire Watch,” amend to read as follows:

When required, as determined by the fire code official, certified firefighter(s) from the fire & rescue department shall be provided as an on-site fire watch for building construction or demolition.

Sec. 12-10. Adjustment to Chapter 33, “Explosives and Fireworks,” Section 3307 “Blasting,” Subsection 3307.1, “General,” amend to read as follows:

Blasting operations shall be conducted only by approved, competent operators familiar with the required safety precautions and the hazards involved and in accordance with the provisions of NFPA 495 and Section 12-23, “Extraction Operations Regulations.”

Sec. 12-11. Adjustment to Chapter 38, “Liquefied Petroleum Gases,” Section 3801, “General,” 3801.1 “Scope,” amend to read as follows:

Storage, handling, and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such use shall comply with this chapter, the Texas Railroad Commission Rules governing LP-gas and NFPA 58. Properties of LP-gases shall be determined in accordance with Appendix B of NFPA 58.

Sec. 12-12. Adjustment to Appendix D, “Fire Apparatus Access Roads.”

(a) Section D103, “Minimum Specifications,” amended as follows:

(1) Exclude Table D103.4, “Requirements for Dead-end Fire Apparatus Roads.”

(2) Subsection D103.4, “Dead-ends,” amend to read as follows:

Public Dead-end fire apparatus access roads in excess of 150 feet (45,720 mm) in length shall be designed in accordance with the City of Temple Design and Development Standards Manual.

(3) Subsection D103.5, “Fire apparatus road gates,” amend to read as follows:

5. Electric gates shall be equipped with a lock box of a type approved by the fire & rescue department and contain a manual release. The release will be used by fire & rescue personnel for emergency access in the event of a power failure. Any manual release devices used for emergency access to a property shall be approved by the

fire code official.

- (4) Subsection D103.6, “Signs,” amend to read as follows:

Where required by the fire code official, private fire apparatus access roads shall be marked with a permanent sign reading, “NO PARKING—FIRE APPARATUS ROAD,” as depicted in Figure D103.6. Signs shall have a minimum dimension of 18 inches (305 mm) wide by 24 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the private fire apparatus road, as required by Section D103.6.1 or D103.6.2.

- (b) Section D106, “Multiple-Family Residential Developments,” amend to read as follows:

- (1) D106.1, “Projects having 1-75 dwelling units.” Multiple-family residential projects having 1-75 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the city’s Design & Development Standards Manual.
- (2) D106.2, “Projects having 76-150 dwelling units.” Multiple-family residential projects having 76-150 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City’s Design & Development Standards Manual. The exception to this sub-section is excluded. See Article II of this chapter.
- (3) D106.3, “Projects having 151-300 dwelling units.” Multiple-family residential projects having more than 151-300 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City’s Design & Development Standards Manual.
- (4) D106.4, “Projects having 301 or more dwelling units.” Multiple-family residential projects having 301 or more dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.

- (c) Section D107, “One- or Two- Family Dwelling Residential Developments,” amend to read as follows:

- (1) D107.1, “Developments having 1-75 dwelling units.” One- or Two-Family residential developments having 1-75 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the city’s Design & Development Standards Manual.
- (2) D107.2, “Developments having 76-150 dwelling units.” One- or Two-

Family residential having 76-150 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City's Design & Development Standards Manual. The exception to this sub-section is excluded. See Article II of this chapter.

- (3) D107.3, "Developments having 151-300 dwelling units." One- or Two-Family residential having more than 151-300 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City's Design & Development Standards Manual.
- (4) D107.4, "Developments having 301 or more dwelling units." One- or Two-Family residential having 301 or more dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.

Article V. Additional Provisions Related to Fire Prevention and Protection

Sec. 12-13. Fireworks.

(a) Definitions.

Distributor means a person who:

- a. imports fireworks into this state; or
- b. sells fireworks to:
 - 1. a jobber, retailer, or other distributor for resale; or
 - 2. a holder of a single public display permit, a multiple public display permit, or another fireworks permit.

Fireworks means a composition or device:

- a. designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation; and
- b. defined by 49 C.F.R. Section 173.56(j)(1996).

Fireworks 1.3G means a large fireworks device:

- a. primarily designed to produce visible or audible effects by combustion, deflagration, or detonation; and
- b. classified as a 1.3G explosive by the department in 49 C.F.R. Part 173 (1996).

Fireworks 1.4G means a small fireworks device:

- a. primarily designed to produce visible or audible effects by combustion, deflagration, or detonation;
- b. that complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 C.F.R. Part 1507 (1996), or the most recently adopted version of that rule; and
- c. that is classified by the department in 49 C.F.R. Part 173 (1996).

Illegal fireworks means a fireworks device possessed, sold, manufactured, discharged,

or transported in violation of this chapter.

Jobber means a person who purchases fireworks only for resale to retailers.

Manufacturer means a person, firm, corporation, or association who makes fireworks.

Person means an individual or entity, including an owner, manager, officer, employee, or occupant.

Public display means the igniting of Fireworks 1.3G for public or private amusement.

Pyrotechnic operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising public displays of Fireworks 1.3G or Fireworks 1.4G.

Pyrotechnic special effects operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising proximate displays of Fireworks 1.3G or Fireworks 1.4G.

Retailer means a person who purchases fireworks for resale only to the general public.

(b) *Exemptions.*

This section does not apply to:

- (1) a toy pistol, toy cane, toy gun, or other device that uses paper or plastic caps in sheets, strips, rolls, or individual caps that contain not more than an average of 25 hundredths of a grain of explosive composition per cap and that is packed and shipped under 49 C.F.R. Part 173 (1996);
- (2) a model rocket or model rocket motor designed, sold, and used to propel recoverable aero models;
- (3) the sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation, or highway use;
- (4) the use of a fusee or a railway torpedo by a railroad;
- (5) the sale of blank cartridges for:
 - i. use in a radio, television, film or theater production;
 - ii. a signal or ceremonial purpose in an athletic event; or
 - iii. an industrial purpose; or
- (6) the use of a pyrotechnic device by a military organization.

(c) *General prohibition against possession, sale, manufacture, discharge, or transportation.* Except as otherwise specifically provided in this section, it shall be unlawful

for any person to possess, sell, manufacture, discharge, transport, or otherwise assemble, store, receive, keep, offer or have in his possession with intent to possess, sell, manufacture, transport, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.

(d) *Permitted transportation.* It shall be lawful for any distributor, jobber, manufacturer, pyrotechnic operator, pyrotechnic special effects operator, or retailer to transport fireworks in accordance with the interstate commerce commission regulations regarding the transportation of explosives and other dangerous articles by motor, rail, and water.

(e) *Illegal fireworks as a nuisance; seizure and destruction, etc.* The presence of any fireworks within the jurisdiction of the city in violation of this section is hereby declared to be a common and public nuisance. The fire code official is directed and required to seize and cause to be safely destroyed any fireworks found in violation of this article. Any member of the fire prevention division of the fire & rescue department or any police officer of the city or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the fire code official can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section. Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city or the fire code official, or both, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the jurisdiction of the city and to aid the fire code official in the discharge of his duties and to particularly prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.

(f) *Section provisions to apply within five thousand feet of the city limits.* This section shall also be applicable and in force within the area immediately adjacent and contiguous to the city limits and extending for a distance outside the city limits for a total of five thousand (5,000) feet, and it shall be unlawful to do or perform any act in violation of this Article within such area of five thousand (5,000) feet outside the city limits; provided that this Article shall not apply within any portion of such five thousand (5,000) foot area which is contained within the city limits or extraterritorial jurisdiction of any city.

(g) *Right of entry to enforce section.* The fire code official is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks; but such authority does not include the right to enter a private dwelling or apartment.

(h) *Public displays; when permitted.* A public display of fireworks shall be permitted when made in compliance of the terms and conditions of this article.

(i) *Application for permit.* Any adult person or any firm, co-partnership, corporation or association planning to make a public display of fireworks shall first make written application for a permit to the fire code official at least seventy-two (72) hours in advance of

the date of the proposed display. No city permit shall be issued until a permit for said purposes has been issued by the State of Texas.

(j) *Issuance or denial and term of permit; permit non-transferable.* It shall be the duty of the fire code official to make an investigation as to whether the display as proposed by the applicant for a permit under this section shall be of such a character that it may be hazardous to property or dangerous to any person, and he shall, in the exercise of reasonable discretion, grant or deny the application, subject to the conditions prescribed in this section. In the event the application is approved, a permit shall be issued for the public display by the fire code official. The fire code official shall determine what fire protection safety measures will be required before, during and after the display and it is the responsibility of the permittee to make sure the fire protection measures are enforced. Such permit shall be valid for a period of time designated on the permit but can be extended by the fire code official. The permit is non-transferable and shall only be good for one display. In the event the permit is denied by the fire code official, he shall notify the applicant of the denial, in writing.

(k) *Insurance or bond required.* The applicant for a display permit under this section shall, at the time of making application, furnish proof that he carries compensation insurance for his employees, as provided by the laws of this state, and he shall file with the fire code official a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than one million dollars (\$1,000,000) issued by an insurance carrier authorized to transact business in the state, for the benefit of the person named therein as assured, as evidence of ability to respond to damages in at least the amount of one million dollars (\$1,000,000), such policy to be approved by the city. In lieu of insurance, the applicant may file with the fire code official, a bond in the amount of one million dollars (\$1,000,000) issued by an authorized surety company approved by the city, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks, or any negligence on the part of the applicant or his agents, servants, employees, or subcontractors in the presentation of the public display. The insurance policy shall name the city as an additional insured, and the bond shall cover the city.

(l) *Only aerial displays permitted.* Any fireworks display authorized under this article shall be limited to an aerial display.

(m) *Storage of material prohibited in the city.* The material to be used for a public display authorized by this article shall not be stored within the city limits, but shall be brought in on the date of the public display and then shall be taken immediately to the place of display for further handling and storage; except that such materials may be stored within the city limits in a secured storage area designated by the fire code official.

(n) *Hazardous conditions prohibited.* Any person overseeing a display of fireworks under this article shall be a competent, adult person, an experienced pyrotechnic operator and approved by the fire code official. No person shall handle fireworks at a public display unless such person has been approved by to do so by the fire code official. The names of all experienced pyrotechnic operators shall be designated on the permit issued for the public display.

(o) *Firefighter to be present.* For each public display of fireworks under this section, not less than two (2) firefighters of the city shall be in attendance during the display. The expense of such firefighters at the display shall be borne by the applicant for the permit.

Sec. 12-14. Controlled Burning

(a) *Burning of debris and other inflammable materials, generally.*

- (1) Permit. It shall be unlawful for any person to burn trash, brush, tree limbs, grass, trees, leaves, paper, boards, planks, lumber, or any other character of debris or inflammable materials whatsoever in the city, except in an incinerator or container which has been approved, in writing, by the fire code official. An exception shall be considered by the fire code official on an individual basis when and after the Texas Commission on Environmental Quality (TCEQ) has issued, in writing, a permit to so burn debris and other inflammable materials.
 - i. A copy of the TCEQ letter of determination or permission to conduct a controlled burning must be presented to the fire code official or his designee.
 - ii. The fire code official shall inspect the location of a controlled burn and shall determine if the burn can be safely conducted before any actual burning occurs.
 - iii. The fire code official may require the following, depending on conditions found during the controlled burn site inspection:
 - a. A specified number of individuals be present with fire extinguishing devices and appliances;
 - b. Fire breaks to be cut around the area to be burned;
 - c. A trench to be dug and any burning be conducted in the trench;
 - or
 - d. Any other requirements that the fire code official may deem necessary to safely conduct the controlled burn.
- (2) A controlled burn that the TCEQ has authorized and that has been approved by the fire code official must meet criteria as outlined in the remainder of this section.
- (3) Burning shall be commenced when the wind will carry smoke and other pollutants away from the city or any residential, recreational, commercial, or industrial area, navigable water, public road, or landing strip which may be affected by the smoke. Burning shall not be conducted when a shift in wind direction is predicted which could produce adverse effects to persons,

animals, or property during the burning period. If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post a flag person on affected roads in accordance with the requirements of the Department of Public Safety.

- (4) Burning must be conducted downwind of, or at least three hundred (300) feet from any structure located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control.
- (5) Burning shall be conducted in compliance with the following meteorological and timing considerations:
 - i. The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset, and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard conditions. In no case shall the extent of the burn area be allowed to increase after this time.
 - ii. Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period. This information can be obtained by contacting the Draughton-Miller Central Texas Regional Airport or the National Weather Service.
- (6) Per TCEQ Rules & Regulations, heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any material which may produce an unreasonable amount of smoke must not be burned.
- (7) An incinerator or container used for burning of any material mentioned in this section (12-20) shall be located so that smoke will not become a nuisance to occupants of surrounding building and such incinerator or container shall not create a hazard to surrounding property. All incinerators must meet any regulation set forth by the TCEQ.
- (8) Any and all burning of debris and other inflammable materials will be extinguished immediately if determined by the fire code official to be unsafe or constituting a hazard to the environment or interferes with the reasonable use of any properties.
- (9) The fire code official is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of an open burning that creates or adds to a hazardous or objectionable situation.

(b) *Recreational Fires and Outside Fires for Domestic Purposes.*

- (1) Open burning in approved containers shall be allowed without a permit at single-family homes, duplexes, and town homes, subject to the regulations contained herein.
- (2) Fires shall be limited to a maximum 3 feet diameter and 2 feet in height, must be contained in a non-combustible chimenea, barbeque pit, outdoor fireplace, fire pit, or other method approved by the fire code official.
- (3) All openings in the container or fire pit must be covered with wire mesh or other screening materials that will prevent the passage of sparks and ember.
- (4) Fires must be kept at least 10 feet from any structure or combustible exterior wall.
- (5) Fires must be constantly attended.
- (6) No such fire or container used for an open burning may be used on any porch, deck, balcony, or other portion of a building; within any room space; or under any building overhang.
- (7) The burning of yard waste, leaves, brush, vines, evergreen needles, branches smaller than 3 inches in diameter, untreated lumber, garbage, paper products, or anything other than firewood as set forth herein is prohibited.
- (8) The fire code official, police officer, or code enforcement officer may order any open fire, or use of a chimenea, outdoor fireplace, or fire pit which creates a nuisance to be extinguished.
- (9) All chimineas must be extinguished by 1:00 a.m.

(c) *Burning of garbage, petroleum products and motor vehicles prohibited.* The burning of garbage in any form, including petroleum products, automobiles, other motor vehicles or any part thereof for wrecking or salvage purposes in or on any lot or other premises within the city limits is hereby prohibited.

(d) *Fire prohibited in streets, alleys and on or in public property.* It shall be unlawful for any person to light or have lighted any fire in or on any street, alley, thoroughfare, or public property, except in designated areas or where authorized by the fire official.

Sec. 12-15. Private Fire Apparatus Access Road and Fire Lanes.

(a) *Maintenance.*

- (1) A property owner shall at all times maintain and keep in good repair all

private apparatus access roads and fire lanes on the premises.

- (2) The owner shall maintain all signs and/or markings in good condition and legible at all times.

(b) *Abandonment of Private Fire Apparatus Access Roads and Fire Lanes.* No owner or person in charge of any premises served by a private fire apparatus access road shall abandon or close any such fire apparatus access road without complying with the following procedure:

- (1) A request to the fire code official shall be made in writing by the owner stating the reason for abandonment of the private fire apparatus access road;
- (2) The fire code official shall determine if said property is no longer subject to the requirements of this code;
- (3) The fire code official shall either approve or deny the request for abandonment and notify the owner, in writing, within 10 days of receiving the request; and
- (4) No private fire apparatus access road may be abandoned until the fire code official has approved the abandonment, in writing.

(c) *Authority to Determine Location.* The locations of fire lanes and private apparatus access roads shall be determined by the fire code official in conformity with the provisions of this article.

(d) *Location of Private Fire Apparatus Access Roads and Fire Lanes.* No building, other than single-family or two-family dwellings, shall be constructed so that any part of the perimeter of the building is greater than one hundred and fifty (150) feet from a public way or public place unless the owner or property manager constructs and maintains a private apparatus access road or fire lane having a minimum width of twenty (20) feet and a minimum overhead clearance throughout of no less than thirteen (13) feet six (6) inches and terminating within one hundred and fifty (150) feet from the furthestmost point of said building. The same being reflected on the first plat of the property.

(e) *Restrictions.*

- (1) Private apparatus access road or fire lanes shall not be used as loading zones.
- (2) There shall be no parking in any private apparatus access road or fire lane at any time.

(f) *Posting of Signage and Markings for Fire Lanes and Fire Hydrants.*

- (1) All required fire lanes shall be conspicuously marked and shall have signage posted that shall read "Fire Lane—No Parking," and all required fire hydrants on private property shall be marked "Fire Hydrant—Do Not Obstruct."
- (2) Signage shall be rectangular signs with red striping;

- i. Rectangular signs shall be a minimum of 18" width x 24" height. They will have a white background with red lettering and be made of reflective material.
 - ii. Striping will consist of a 5" wide red strip with 4" high white letters.
- (3) Required fire lane signage shall be placed no less than thirty (30) feet and no greater than forty (40) feet apart.
- (4) Required fire hydrant markings shall be placed on both sides of a hydrant and at a distance of fifteen (15) feet from the hydrant.

(g) *Private Dead-end Fire Apparatus Access Roads.* Private dead-end fire apparatus access roads in excess of 150 feet (45,720mm) in length shall be provided with a 120 foot hammerhead, 60 foot "Y," or 96 foot diameter cul-de-sac in accordance with figure D103.1 of the 2006 International Fire Code.

Sec. 12-16. Fire Hydrants

(a) *Authority to determine location.* The fire chief shall determine the location of fire hydrants in conformity with the provisions of this section.

(b) *Fire hydrants; location.*

- (1) As residential zoned property is developed, fire hydrants shall be located at a maximum spacing of six hundred (600) feet as measured along the length of the roadway and no part of any structure shall be farther than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose would be laid.
- (2) As non-residential zoned property is developed, fire hydrants shall be located a maximum spacing of three hundred (300) feet as measured along the length of the roadway and no part of any structure shall be further than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose is laid.

(c) *Restrictions.*

- (1) Type of fire hydrants. All required fire hydrants shall be of the national standard three-way breakaway type no less than five and one-fourth (5 ¼) inches in size and shall conform to the provisions of the latest American Water Works Association (AWWA) specifications C-502 and shall be placed upon approved water mains of no less than six (6) inches in size.
- (2) Gate valves shall be placed on all fire hydrant leads and within three feet of the point of connection to the water main.
- (3) Required fire hydrants shall be installed in such a manner that the breakaway point will be more than three (3) inches, and not greater than five (5) inches, above the ground surface.

- (4) A spacing of no less than eighteen (18) inches shall be provided between the center of the barrel of the large steamer connection and the finished grade surface.
- (5) No fire hydrant located on a six-inch (6 inch) dead-end water main shall be located more than one thousand eight hundred 1,800 ft. from a six-inch (6 inch) or greater main.
- (6) No six-inch looped water main shall exceed three thousand five hundred (3,500) feet in length.
- (7) Fire hydrants shall be installed on a water main that is separate from the domestic water supply, except when it is determined by the fire code official that the required maximum one (1) hour demand plus the needed minimum fire flow of one thousand (1,000) gallons per minute will be met by alternate installation.
- (8) Fire hydrants located on public property shall be located a minimum of two (2) feet and a maximum of four (4) feet behind the curb line, where a curb exists.
- (9) All fire hydrants placed on private property shall be adequately protected by either curb stops, concrete posts or other methods, as approved by the fire code official. Such stops or posts shall be maintained by the property owner or manager.
- (10) All fire hydrants shall be installed so that the steamer connection faces the fire lane or street.
- (11) Fire hydrants, when placed at intersections or access drives to parking lots, when practical, shall be placed so that no part of a fire truck connected to the hydrant will block the intersection or parking lot access.
- (12) Post, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrant from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.
- (13) Fire hydrants located on private property shall be accessible to the fire department at all times and free of any type of obstruction that would hinder their use (e.g., vegetation). A 3-foot clear space shall be maintained around the circumference of fire hydrants.
- (14) The fire code official shall have the authority to approve a variance of up to

ten percent (10%) of the footage requirements found at Sec. 12-16, B, parts (1) and (2).

(d) *Maintenance.*

- (1) All fire hydrants shall be inspected, flushed and painted at least once annually and such inspections, flushing and painting shall be the responsibility of fire & rescue. Fire hydrants shall be color coded as follows:
 - i. Less than 500 gpm – Red Bonnet
 - ii. 500-999 gpm – Yellow Bonnet
 - iii. 1000-1499 gpm – Green Bonnet
 - iv. Over 1500 gpm – Blue Bonnet
- (2) Any maintenance or repairs require to keep a fire hydrants in proper working order, other than the maintenance found at a subsection above, shall be the responsibility of the property owner or manager of the property on which the fire hydrant is located.

(e) *Use; opening and closing.* The fire chief shall prescribe the manner in which all fire hydrants shall be opened or closed. No person shall open or close any fire hydrant unless authorized to do so by the chief.

Sec. 12-17. Extraction Operations Regulations

(a) *Purpose.*

- (1) In order to promote the health, safety, and welfare of those who work or reside near extraction operations, and to protect air quality and the water resources of the city, the regulations in this section are applicable to extraction operations.
- (2) This section shall apply to all extraction operations conducted within the city or within 5000 feet of the city limits.

(b) *Definitions.*

In this section:

Blasting shall mean the practice or occupation of extracting heavy masses of rock, or other materials imbedded in the ground, by means of explosives or blasting agents.

Extraction operations shall mean the use of a lot or tract of land primarily for extraction of materials (including, but not limited to, limestone, rock, sand, gravel, or soil, but not oil or natural gas).

Extraction site shall mean the location of materials or rock removal or extraction operations as delineated by a site plan or a certificate of occupancy.

Regulatory authority shall mean the city.

(c) *Blasting.* All blasting activity that falls within the scope of this section shall comply with the following provisions;

(1) Permit required.

- i. An appropriate blasting or explosives permit must be acquired from the regulatory authority prior to any blasting activity or preparation for blasting activity at an extraction site.
- ii. A blasting or explosives permit will authorize blasting for the extraction of materials (e.g., rock or stone) only at the extraction site designated on the permit.
- iii. The extraction site operator, or designated representative, may apply for a blasting or explosives permit in accordance with the following procedures:
 - a. The applicant shall submit a completed permit application form and fee, as required by the regulations contained in the 2006 International Fire Code, as adopted and amended by the city. The permit fee shall be in an amount set by resolution of the city council.
 - b. The fire code official shall have thirty (30) days in which to approve or deny a permit application.
 - c. Any party aggrieved by the denial of a permit or inaction by the fire code official may appeal such decisions to the Building Board of Appeals, in writing. Upon receipt of an appeal notification, the Board shall take the actions required to review the appeal, in accordance with the 2006 International Fire Code.
 - d. The application shall contain the following information:
 1. Name of the operator(s) conducting the blasting;
 2. Identification of extraction site;
 3. Description of conditions, if any, which may cause possible adverse blasting effects;
 4. Normal extraction operations schedule;
 5. Type of explosives or blasting agents to be used;
 6. Type of stemming;

7. Name(s) of licensed blasters on the job;
8. Copy of Mine Safety Health Administration (MSHA) Certificate of Training (Form 5000-23) for all personnel involved in the extraction operations.
9. Copy of Insurance Certificate of Blasting Liability Coverage

(2) Insurance required.

- i. Before a permit is issued, the applicant shall obtain and maintain general liability insurance having limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined with one million dollars (\$1,000,000) or greater annual aggregate throughout the permitted period for the purpose of the payment of all damages to persons or property which arise, or are caused by, the conduct of any act or omission authorized by the permit. The general liability insurance shall name the city as an additional insured with a waiver of subrogation in favor of the city. The policy shall contain a provision requiring the insurance company to furnish the city with thirty (30) days advance written notification on any cancellation or non-renewal of the policy.
- ii. Evidence of compliance with this requirement shall be considered as having been met when the policy, a copy thereof, or a certificate of insurance has been filed with, and approved by, the fire code official. Such policy shall include an endorsement that the fire code official shall be notified at least thirty (30) days in advance in the event the policy or policies are canceled. The city may cancel a permit for any violation of this section.

(3) Regulatory Compliance. All blasting operations located within an extraction site shall comply with the applicable provisions of the 2006 International Fire Code and with this section, as well as all applicable local, state, and federal regulations concerning industrial noise and dust levels and applicable drainage, water and air standards.

(4) Annual permit renewal required.

- i. In addition to compliance with local, state, or federal regulations, the operator shall be required to comply with the provisions of this section by renewing a permit annually before the anniversary date of the permit.
- ii. Upon renewal, the extraction site operator shall:
 - a. certify in writing that the blasting activities at the permitted extraction site are anticipated to remain materially unchanged

- from the activities described on the permit application; or
- b. provide all relevant information relating to material changes at the permitted extraction site to the fire code official for review;
- c. pay the annual permit fee; and
- d. file a current certificate of insurance which complies with this section.

iii. A blasting permit will remain in force and effect, provided that the blasting activities at the extraction site specified in the permit are anticipated to remain materially unchanged, the permittee has complied with the requirement of this section during the preceding permit year, and the annual renewal requirements have been met.

(5) Hours of operation. The hours during which extraction operations may take place by blasting shall be at any time during the hours between 8:00 a.m. and 5:00 p.m. Extraction by blasting shall be prohibited on Saturdays, Sundays, and legal holidays unless a variance is obtained from the fire code official based upon public safety concerns or extraordinary economic considerations.

(6) Monitoring of Blasting.

- i. The extraction site operator shall monitor each blast to accumulate data with respect to seismographic and air blast effects of the blasting activity, as required by state and federal law. The extraction site operator shall conduct independent monitoring of blasting events, if directed, and to the extent and frequency reasonably required by the regulatory agency.
- ii. Information generated in the form of reports or other data from this monitoring shall be submitted to the fire code official within seventy-two (72) hours of each blasting event.
- iii. Monitoring information shall include:
 - a. actual date and time of the blast;
 - b. type of explosives or blasting agents used;
 - c. technical data and material safety data sheets for all explosives or blasting agents used;
 - d. total pounds of explosives used in each blast;
 - e. number, spacing, stemming and depth of holes;
 - f. maximum pounds per delay;
 - g. firing sequence, delay sequence, and typical hole load diagrams;
 - h. location and distance of extraction operation from seismographs;
 - i. weather conditions at time and location of blast;
 - j. seismograph data;
 - k. and ground vibrations or air blast records which shall include:

1. Type of instrument, sensitivity and calibration signal of certification of annual calibration.
2. Exact location of instrument and the date, time and distance from the blast;
3. Name of person and firm taking the reading as well as the person analyzing the seismic record; and
4. The vibration and air blast level recorded.

(7) Safety Standards. The extraction site operator is responsible and required to comply with all applicable provisions of any state or federal law or applicable regulations promulgated by the Occupational Safety Health Administration (OSHA), Mine Safety Health Administration (MSHA), Alcohol, Tobacco, and Firearms (ATF), or any other executive agency of the state or federal government relating to use, handling, transportation, storage, or detonation of explosives or blasting agents.

(8) Records and Inspections.

- i. The holder of a blasting permit shall make the extraction operations site available to the fire code official for inspection at all times during regular business hours.
- ii. The permittee shall retain a record of blast and monitoring information for at least the past five (5) years to include date of a blast.
- iii. All records, including monitoring records referenced in subsection (vi)(c) above, relating to blasting activities shall be made available to the fire code official during normal business hours within seventy-two (72) hours of request.

(d) *Control of Adverse Effects.*

1. Air Blast (Noise) Limits. For the purpose of this section, the air overpressure and related noise generated by the use of explosives or blasting agents in extraction operations shall be measured by the air blast created thereby. Air blast shall not exceed 134 dB peak (\pm 3dB) at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area, except as provided in subsection (e) of this section.
2. Ground vibration. In all blasting operations, except as otherwise authorized in subsection (e) below, the maximum ground vibration shall not exceed one (1) inch per second at the location of any dwelling.
3. Monitoring Requirement. The operator shall conduct monitoring to ensure compliance with the air blast standards and ground vibration standards. Air blast and ground vibration measurements of blasts must be performed to the

extent required this section.

4. Flyrock. Flyrock traveling in the air or along the ground shall not be cast from the blasting site beyond the area under the control of the operator.
5. Exception. The maximum air blast and ground-vibration standards of this section shall not apply at the following locations:
 - i. At structures owned by the permittee and not leased to another person;
 - ii. At structures owned by the permittee and leased to another person, if a written waiver by the lessee has been obtained.

Sec. 12-18. Business Registration.

(a) *Purpose*. Business registration is a procedure administered by fire & rescue, in conjunction with the Utilities Business Office, which assures that all businesses within the city are registered for 911 services, inspected and comply with all city codes.

(b) *Registration prerequisite to doing business in the city*. All businesses shall comply with the registration requirements of this article as a precondition of initiating or continuing any business within the city. For the purpose of this article, the term “business” includes any commercial enterprise, school, church or governmental office located within the city limits. Each occupant of a building used by a business shall have responsibility for complying with the registration requirements of this section.

(c) *Registration procedure*.

- i. When a business owner applies for utilities he or she shall fill out a business registration form and return to fire & rescue prior to the business receiving utilities or opening its doors for business.
- ii. Registration or re-registration with the city is required prior to changing the name, ownership, operator, location, or use of an existing business.

Article VI. Miscellaneous

Sec. 12-19. Establishment of limits of the fire district.

Beginning at the point of intersection of the south line of Calhoun Avenue with the east line of North 5th Street; thence in southerly direction along the east line of North 5th Street to the south line of Barton Avenue; thence in a westerly direction along said south line of Barton Avenue to the point of intersection with the east right-of-way of the Gulf, Colorado and Santa Fe Railroad; thence in a southeasterly direction along the east line of South 9th Street, if extended; thence in a southerly direction with said line to the north line of Avenue D; thence in a easterly direction with said line to the east line of South 1st

Street; thence in a southerly direction along said line to the north line of Avenue E; thence in an easterly direction along said line, if extended, to the west line of 6th Street, if extended; thence in a northerly direction along said west line of 6th Street, if extended, to the north line of Avenue A; thence in an easterly direction along said line to the west line of 8th Street; thence in a northerly direction with said line to the south line of Central Avenue; thence in a westerly direction with said line to the west line of 6th Street; thence in a northerly direction along said line to the south line of Adams Avenue; thence in a westerly direction along said line to the west line of 4th Street; thence in a northerly direction along said line to the south line of Barton Avenue; thence in a westerly direction along said line to the west line of 2nd Street; thence in a northerly direction along said line to the south line of Calhoun Avenue; thence in a westerly direction along said line to the point of beginning.

Sec. 12-20. Unauthorized use of fire apparatus.

It shall be unlawful for any person, under any pretext whatever, other than for the purposes for which they were intended in fire & rescue, to take or use any engine, truck, ladder, fire axe, or other apparatus belonging to or in possession of the department, or any member or company thereof, or to break, deface, or injure the same.

Sec. 12-21. Injuring or driving over fire hose.

It shall be unlawful for any person to cut, deface, tear or otherwise injure, or drive any vehicle over any fire hose belonging to the city or any fire department that is providing mutual aid to the city.

Sec. 12-22. Reward for arrest and conviction of arsonists.

The city hereby offers a reward of five hundred dollars (\$500) for the arrest and conviction of any person for the crime of arson committed within the city limits. The sum of five hundred (\$500) is hereby appropriated out of any funds belonging to the city not already appropriated for some other purpose for the payment of such reward.

Sec. 12-23. New materials, processes or occupancies which may require permits.

The fire chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those enumerated in this chapter. The fire chief shall post such lists in a conspicuous place in their offices, and distribute copies thereof to interested persons.

Sec. 12-24. Exemptions.

Nothing contained in this ordinance shall be construed as applying to the regular military or naval forces of the United States, the duly authorized militia of the State, or the police and fire departments of the city in the proper performance of their duties.

Sec. 12-25. Permit Fees.

The city council shall, by resolution, set the amount of all permit fees required by this chapter. A copy of any resolution setting permit fees shall be maintained in the office of the fire code official.

Sec. 12-26. Enforcement.

This chapter shall be enforced by the fire chief.

Part 2: Penalties

(a) *Criminal Offenses.* Any person or persons, firm or corporation which violates any of the provisions of this chapter may be deemed guilty of a misdemeanor and, upon conviction, shall be fined an amount not exceeding two thousand (\$2,000) dollars for each offense and each violation hereof shall be deemed a separate and distinct offense for each of said days and shall be punishable as such.

(b) The city attorney may seek remedies at law or in equity to prevent a violation of this chapter

Part 3: 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 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 6: 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 6th day of **August**, 2009.

PASSED AND APPROVED on Second Reading on the 20th day of **August**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/06/09
Item #9
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending Chapter 37, "Traffic," Article IV, "Stopping, Standing and Parking," of the Code of Ordinances of the City of Temple, Texas, by amending Section 37-93, entitled, "Two-Hour Parking Zone," to provide that the City Manager may suspend by decree the fine for parking longer than two hours in the downtown area during public events or when the municipal parking lot adjacent to City Hall is closed.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for August 20, 2009.

ITEM SUMMARY: Approval of this ordinance will amend Chapter 37, "Traffic," of the Code of Ordinances to provide that the City Manager may suspend by decree the fine for parking longer than two hours in the downtown area during public events or when the municipal parking lot adjacent to City Hall is closed. Since parking space in the downtown area is limited, imposing 2-hour parking fines during public events is contrary to the purpose of inviting citizens and guests to enjoy public events in the downtown area.

FISCAL IMPACT: Minor loss of revenue for parking tickets issued during the time when the municipal parking lot is closed for public events.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 37, "TRAFFIC," ARTICLE IV, "STOPPING, STANDING AND PARKING," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, BY AMENDING SECTION 37-93, ENTITLED, "TWO-HOUR PARKING ZONE," TO PROVIDE THAT THE CITY MANAGER MAY SUSPEND BY DECREE THE FINE FOR PARKING LONGER THAN TWO HOURS IN THE DOWNTOWN AREA DURING PUBLIC EVENTS OR WHEN THE MUNICIPAL PARKING LOT ADJACENT TO CITY HALL IS CLOSED; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the municipal parking lot is frequently closed for public events;

WHEREAS, parking space in the downtown area is limited and imposing fines for parking longer than two hours during public events is contrary to the purpose of inviting citizens and guests to enjoy public events in the downtown area;

WHEREAS, the City Council desires to authorize the City Manager to suspend by decree the fine for parking longer than two hours in the downtown area during public events or when the municipal parking lot adjacent to City Hall is closed; 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 amends Chapter 37, "Traffic," Article IV, "Stopping, Standing and Parking," of the Code of Ordinances of the City of Temple, Texas, by amending Section 37-93, entitled "Two-Hour Parking Zone," to read as follows:

Section 37-93. Two-Hour Parking Zone.

(a) The ~~Zone~~ **area** in the City of Temple, Texas, shown on the drawing attached hereto as Exhibit "A," a copy of which is kept on file in the City Secretary's Office, and is most particularly described as the north side of Barton Avenue (between Main and 2nd Streets), south side of Barton Avenue (between 3rd & 1st Streets), south side of Adams Avenue (between 1st & Main), north side of Central Avenue (between 1st & 4th Streets), south side of Central Avenue

(between 3rd & 4th Streets), north side of Avenue A (between 1st & 4th Streets), south side of Avenue A (Between 1st & 2nd Streets), west half of south side of Avenue A (between 2nd & 4th Streets), south side of Avenue B (between Main & 2nd Streets), east & west side of 1st Street (between Calhoun & Adams Avenue), west side of 1st Street (between Central & Avenue A), north half of the east side of 1st Street (between Central & Avenue A), south half of the east side of 1st Street (between Avenue A & B), east and west side of Main Street (between Calhoun and Avenue B), east and west side of 2nd Street (between Barton & Avenue B), is hereby designated a two-hour parking zone, except as otherwise posted, and appropriate signs shall be erected giving notice of such two-hour limitation, and, **except as provided at Subsection (b),** it shall be unlawful for any person to leave standing or parked any vehicle for a period of more than two (2) hours, and each successive two (2) hours that a vehicle shall be left continuously parked in such zone shall constitute a separate offense.

(b) The city manager is authorized to suspend this Section by decree during public events or when the municipal parking lot adjacent to City Hall is closed.

Part 2: Chapter 37, entitled, "Traffic," of the Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect save and except as amended by this ordinance.

Part 3: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 5: This ordinance shall take effect from the date of its passage, in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: Any person or persons, firm or corporation which violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars for each offense and each violation hereof shall be deemed a separate and distinct offense for each of said days and shall be punishable as such.

Part 7: 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 6th day of August, 2009.

PASSED AND APPROVED on Second Reading on the **20th** day of **August**, 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

08/06/09
Item #10
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance extending the life of preliminary plats for single family residential subdivisions that were: (1) approved in the past 2 years; (2) extended by the approval of a final plat for a phase of the subdivision in the past 2 years; or (3) that would have expired in the past 2 years, by giving them an additional life of 2 years from the effective date of this ordinance.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for August 20, 2009.

ITEM SUMMARY: The City's Subdivision Ordinance provides that a preliminary plat for a subdivision expires 2 years from the date of approval absent an extension of the life of that preliminary plat. The ordinance further provides that the life of a preliminary plat can be extended for 2 years if a final plat is approved for a phase of the subdivision and the developer begins construction of the required subdivision improvements.

The current economic recession in the United States has caused a slowdown in the build out of local residential subdivisions which could cause the preliminary plats for a number of residential subdivisions to expire, resulting in the developer having to file a new preliminary plat for those phases of existing residential subdivisions which have not been final platted.

Approval of this ordinance will allow extending the life of preliminary plats for single family residential subdivisions that were: (1) approved in the past 2 years; (2) extended by the approval of a final plat for a phase of the subdivision in the past 2 years; or (3) that would have expired in the past 2 years, by giving them an additional life of 2 years from the effective date of this ordinance.

FISCAL IMPACT: None

ATTACHMENTS:

[Affected subdivisions](#)
[Ordinance](#)

Name	Expires
Canyon Ridge	12/20/06
Ranch at Woodland Trails	11/20/08
Carriage House	03/06/09
Lago Terra	11/05/09
Aberdeen Heights	09/15/10

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, EXTENDING THE LIFE OF PRELIMINARY PLATS FOR SINGLE FAMILY RESIDENTIAL SUBDIVISIONS THAT WERE: (1) APPROVED IN THE PAST TWO YEARS; (2) EXTENDED BY THE APPROVAL OF A FINAL PLAT FOR A PHASE OF THE SUBDIVISION IN THE PAST TWO YEARS; OR (3) THAT WOULD HAVE EXPIRED IN THE PAST TWO YEARS, BY GIVING THEM AN ADDITIONAL LIFE OF TWO YEARS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Section 33.32(f), “Preliminary plat term,” provides that a preliminary plat for a subdivision shall expire two years from the date of approval absent an extension of the life of that preliminary plat;

Whereas, Section 33.32(g), “Extension of plat term,” provides that the life of a preliminary plat shall be extended for two years if a final plat is approved for a phase of the subdivision and the developer begins construction of the required subdivision improvements;

Whereas, the current economic recession in the United States has caused a slowdown in the build out of local residential subdivisions which could cause the preliminary plats for a number of residential subdivisions to expire, which would result in the developer having to file new preliminary plats for those phases of existing residential subdivisions which have not been final platted; and

Whereas, the Staff recommends that the City Council consider extending the life of preliminary plats for single family residential subdivisions that were: (1) approved in the past two years, (2) extended by the approval of a final plat for a phase of the subdivision in the past two years, or (3) that would have expired in the past two years, by giving them an additional life of two years from the effective date of this ordinance.

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

Part 1: Findings. The statements contained in the preamble of this ordinance are true and correct and are adopted as findings of fact hereby.

Part 2: (a) **Authority of the Planning Director to Extend the Term of Certain Single Family Residential Preliminary Plats.** The City Council finds it is in the public interest to extend the life of existing residential preliminary plats, and residential preliminary

plats that may have expired in the past two years by operation of City ordinances. According, the City Council hereby authorizes the Director of Planning to administratively extend the life of residential preliminary plats that: (1) have expired in the past two years, (2) were extended by operation of law in the past two years by the filing of a final plat on a phase of the subdivision, or (3) were approved within the past two years, so that those residential subdivision preliminary plats covered by this ordinance shall not expire until the two years after the effective date of this ordinance.

(b) **Further Extensions of the Term of Affected Preliminary Plats.** Provided that preliminary plats the term of which are extended under this ordinance may be further extended under Section 33.32(g) of the City Code by the filing of a final plat on a phase of such subdivision and the commencement of construction of the required subdivision improvements therein by the developer of such subdivision.

(c) **Process for Requesting Extension of the Term of Certain Preliminary Plats under this Ordinance.** The Director of Planning shall give written notice to the developers of single family residential subdivisions that have a preliminary plat described in Section 2(a) above notifying them that they may request an extension of the term of their plat for a term of two years, or in the case of a preliminary plat that expired in the past two years of their right to request renewal of their preliminary plat for a term of two years. The Planning Director shall approve requests for an extension or renewal of a preliminary plat that satisfies the requirements of this ordinance, and his approval shall cause such preliminary plat to have a two year term running from the effective date of this ordinance.

Part 3: Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 4: 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 5: Open Meetings. 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 on the 6th day of August, 2009.

PASSED AND APPROVED on Second and Final Reading on the 20th day of August, 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

08/06/09
Item #11(A)-(B)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting ordinances establishing the prima facie speed of motor vehicles on a certain section of SH 36/LP363, within the City limits, as follows:

- (A) The speed limit on Loop 363 access roads will be increased from 40 mph to 45 mph from Airport Road to a point 2,375 feet south of FM 2305 and from 30 mph to 50 mph from a point 2,375 feet south of FM 2305 to South 5th Street; and
- (B) The speed limit on Loop 363 will be increased from 55 mph to 60 mph from Airport Road to South 5th Street.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinances as presented in item description, on first reading, and schedule second reading and final adoption for August 20, 2009.

ITEM SUMMARY: Based on Traffic Engineering Studies by the State, TxDOT has requested the City adopt ordinances setting the prima facie speed of motor vehicles on a certain section of SH 36/LP363 Frontage Road and main roadway as follows:

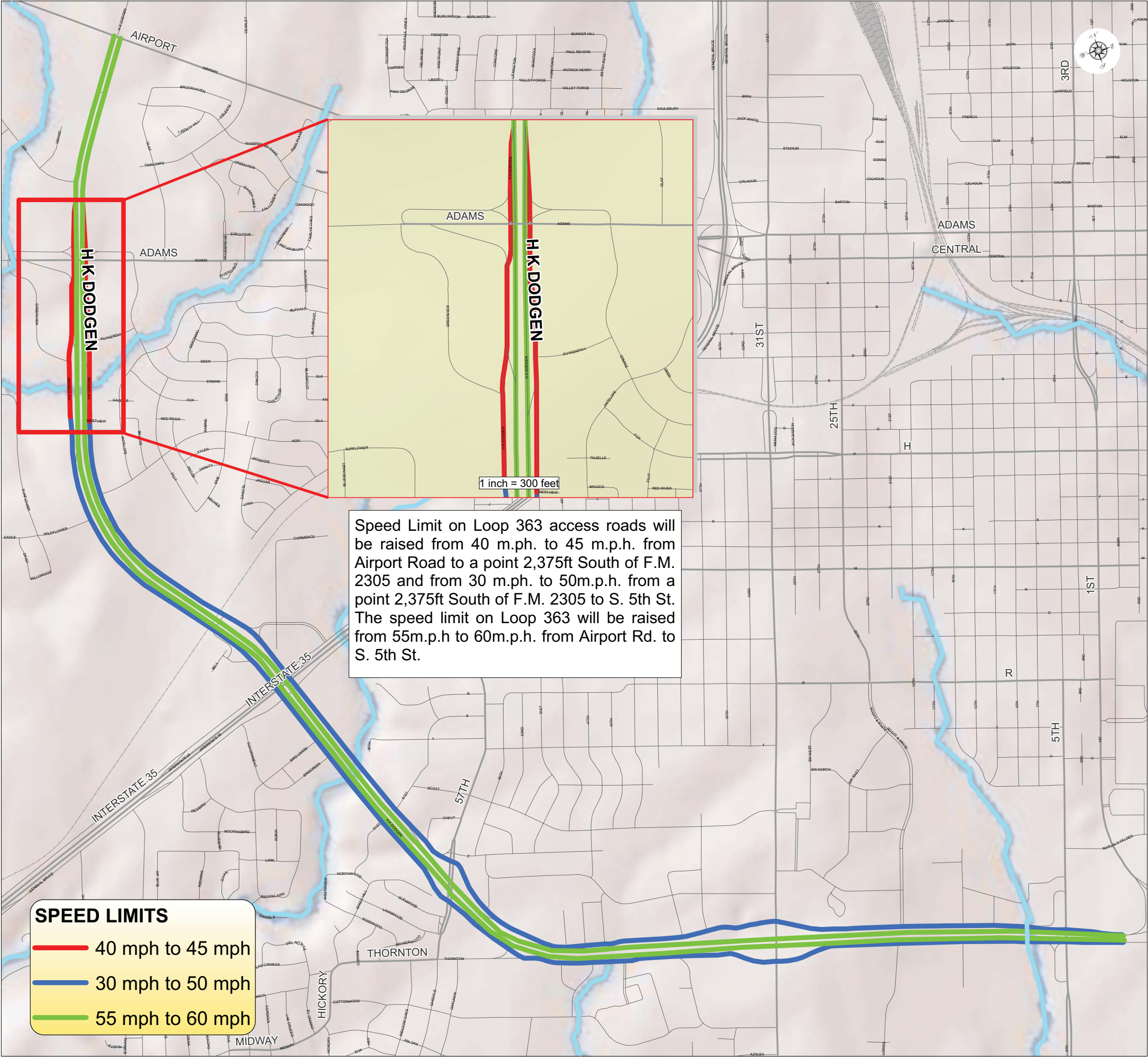
- (A) The speed limit on Loop 363 access roads will be increased from 40 mph to 45 mph from Airport Road to a point 2,375 feet south of FM 2305 and from 30 mph to 50 mph from a point 2,375 feet south of FM 2305 to South 5th Street.
- (B) The speed limit on Loop 363 will be increased from 55 mph to 60 mph from Airport Road to South 5th Street.

We are required by TxDOT to re-adopt this speed limit at this time with changes being posted.

FISCAL IMPACT: None

ATTACHMENTS:

[Map](#)
[Ordinances](#)



Drawn by:
Chris Oval
28 July 09
(254)298-5663

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, PROVIDING FOR REASONABLE AND PRUDENT PRIMA FACIE MAXIMUM SPEED LIMITS ON THE SH36/LOOP 363 FRONTAGE ROAD WITHIN THE CITY LIMITS; PROVIDING A REPEALER; PROVIDING FOR A PENALTY FOR VIOLATIONS NOT TO EXCEED \$500 FOR EACH VIOLATION; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, an engineering and traffic investigation has been made to determine the reasonable and prudent prima facie maximum speed for motor vehicles on the SH36/Loop 363 frontage road within the city limits;

WHEREAS, these traffic investigations and engineering studies have determined the reasonable and safe prima facie maximum speed limits, as more fully described herein; and

WHEREAS, the City Council has considered the matter and deems it in the public interest to approve these speed limits for the benefit of the citizens for the promotion of the public health, welfare, and safety.

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

Part 1: The City Council finds that the reasonable and prudent prima facie maximum speed limit for vehicular traffic on the SH36/Loop 363 frontage road is as follows:

Starting at M.P. 02.255, the speed limit shall be 45 MPH for a distance of 0.449. The speed limit shall then be 50 MPH for a distance of 1.958 miles ending at M.P. 3.194.

Part 2: It shall be unlawful for any person to drive or operate a motor vehicle, bicycle, or other vehicle of any kind, whether or not motor powered, on that portion of the roadways described above under the conditions described herein, at a speed greater than is reasonable and prudent under the circumstances then existing, but any speed in excess of the reasonable and prudent prima facie maximum speed limits as set forth in Part 1 hereof shall be prima facie evidence that such speed is not reasonable or prudent and that it is unlawful.

Part 3: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 4: A person who violates a provision of this ordinance is guilty of a separate offense for each day or portion of a day which the offense is committed, continued, or permitted, and each offense is punishable by a fine not to exceed \$500.

Part 5: 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 6: 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 7: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading on the **6th** day of **August**, 2009.

PASSED AND APPROVED on Second Reading on the **20th** day of **August**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, PROVIDING FOR REASONABLE AND PRUDENT PRIMA FACIE MAXIMUM SPEED LIMITS ON THE SH36/LOOP 363 WITHIN THE CITY LIMITS; PROVIDING A REPEALER; PROVIDING FOR A PENALTY FOR VIOLATIONS NOT TO EXCEED \$500 FOR EACH VIOLATION; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, an engineering and traffic investigation has been made to determine the reasonable and prudent prima facie maximum speed for motor vehicles on the SH36/Loop 363 within the city limits;

WHEREAS, these traffic investigations and engineering studies have determined the reasonable and safe prima facie maximum speed limits, as more fully described herein; and

WHEREAS, the City Council has considered the matter and deems it in the public interest to approve these speed limits for the benefit of the citizens for the promotion of the public health, welfare, and safety.

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

Part 1: The City Council finds that the reasonable and prudent prima facie maximum speed limit for vehicular traffic on the SH36/Loop 363 is as follows:

Starting at M.P. 0.255, the speed limit shall be 60 MPH for a distance of 2.939 miles ending at M.P. 3.194.

Part 2: It shall be unlawful for any person to drive or operate a motor vehicle, bicycle, or other vehicle of any kind, whether or not motor powered, on that portion of the roadways described above under the conditions described herein, at a speed greater than is reasonable and prudent under the circumstances then existing, but any speed in excess of the reasonable and prudent prima facie maximum speed limits as set forth in Part 1 hereof shall be prima facie evidence that such speed is not reasonable or prudent and that it is unlawful.

Part 3: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 4: A person who violates a provision of this ordinance is guilty of a separate offense for each day or portion of a day which the offense is committed, continued, or permitted, and each offense is punishable by a fine not to exceed \$500.

Part 5: 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 6: 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 7: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading on the **6th** day of **August**, 2009.

PASSED AND APPROVED on Second Reading on the **20th** day of **August**, 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

08/06/09
Item #12
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, Director of Public Works
Michael Newman, Assistant Director of Public Works/City Engineer

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance establishing school crosswalks and setting speed limits within school zones to conform to school schedules.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance presented in item description, on first reading, and schedule second reading and final adoption for August 20, 2009.

ITEM SUMMARY: In August of 2008 the City adopted an ordinance establishing school crosswalks and setting limits within school zones as agreed upon by the City, TISD and BISD. TISD has requested a signalized school zone be installed at Scott Elementary on West Avenue P between South 39th Street and South 49th Street at 20 mph east and west bound from the hours of 7:00am – 8:30am and 2:00pm – 3:45pm. TISD has also requested that the two signalized school zones at Jefferson Elementary and Lamar Middle School on North 3rd Street be consolidated into one extended signalized school zone at 25mph north and south bound from the hours of 7:00am – 8:30am and 2:45pm – 4:30pm. The ordinance needs to be updated to accommodate these changes.

FISCAL IMPACT: None

ATTACHMENTS:

[List of school crossings](#)
[Ordinance](#)

**City of Temple
School Zones**

Schools	Cones	Flags	Zone Times
Bethune Elementary 510 E Ave J A. Crossing guard works crosswalk on MLK Blvd and Ave J B. School Zone is on E Ave J and S 10th St. The front and westside of school C. One Way on S 10th St from E Ave I to E Ave J	Yes	Yes	One Way Time as Posted 7:00 to 8:30 14:00 to 15:30
Cater Elementary 4111 Lark Trail A. Crossing guard works Crosswalk in school parking area B. School Zone is on Lark Trail in front of School	Yes	Yes	
Emerson Elementary 1400 E Ave B A. Crossing Guard works Crosswalk Works E Ave B and S 24th ST	Yes	Yes	
Hector P. Garcia Elementary 2525 Lavendusky Dr A. No Crosswalk	No	No	
Jefferson Elementary 400 W. Walker Ave A. Crossing Guards (2) Works Crosswalk At N 3rd St and W. Walker Ave B. Crossing Guard works Crosswalk at N 3rd ST and Industrial Blvd this is a controlled signal light. C. Flashing lights on N 3rd St are North of W. Walker Ave and North of W Shell Ave.	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Kennedy-Powell Elementary 3707 W. Nugent Ave A. Crossing Guard will work Crosswalks W. Nugent Ave and Cearley Rd. B. Flashing lights on W. Nugent Ave west and east of Cearley Rd	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Dickson Elementary 1100 S 33rd St A. One way south from W Ave K to W Ave L			One Way Time as Posted 7:00 to 8:30 14:00 to 15:00
Meridith-Dunbar 1717 E Ave J			Flashing Lights

A. Crossing Guard will work Crosswalks at S 30th St and E. Ave J B. Flashing lights on S 30th St C. One Way on E Ave J from S 30th St to S 34th St at posted times	Yes	Yes	06:30 to 08:30 14:45 to 16:30 One Way Time as Posted 7:00 to 8:30 14:00 to 15:00
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**City of Temple
School Zones**

Schools	Cones	Flags	Zone Times
Raye Allen Elementary 5015 S 5th St A. Crossing Guards will work Crosswalks on S 5th St B. Flashing lights on S 5th St north and south of school	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Scott Elementary 2301 W Ave P A. Crossing Guard will work Crosswalk on W Ave P B. Crossing Guard will work Crosswalk on W Ave M @ S 45th St. C. Flashing lights on W Ave P east of S 49th St and west of S 39th St.	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Thornton Elementary 2900 Pin Oak Dr A. Crossing Guard will work Crosswalk on Pin Oak @ East Dr. B. One way on Pin Oak from East Dr. to Mesquite at posted times	Yes	Yes	School Zone Signs 07:30 to 8:30 14:30 to 16:00 One Way Time as Posted 7:30 to 8:30 14:30 to 16:00
Western Hills Elementary 600 Arapaho A. Crossing Gruard will work Crosswalk on Apache @ Deer Tr B. Crossing Guard will work Crosswalk on Apache @ Gila C. Flashing lights on Apache North of Deer Tr. South of Gila.	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Bonham Middle School 4600 Midway Dr A. Flashing Lights on Midway Dr. east and west of school.			Flashing Lights 07:00 to 08:30 15:00 to 16:30
Lamar Middle School 2120 N 1st St A. Flashing lights on N 3rd St are North of W. Walker Ave and North of W Shell Ave.			Flashing Lights 06:30 to 08:30 14:45 to 16:30

B. One way on N 1st St from W Park Ave to W. Virginia Ave at posted times			One Way Time as Posted 7:30 to 8:30 15:00 to 16:00
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**City of Temple
School Zones**

Schools	Cones	Flags	Zone Times
Travis Middle School 1500 S 19th St A. Crossing Guard will work Crosswalk on W Ave M @ S 19th St B. One way on S 19th St from W Ave R to W Ave M			One Way Time as Posted 7:30 to 8:30 14:30 to 16:00
Temple High School 415 N 31st St A. Flashing Lights on N 31st St north of W Barton Ave and North of W Houston Ave			Flashing Lights 07:00 to 16:00
Temple High School Campus 1414 W Barton Ave A. School Zone on Barton from N 31st St to North 27th St			School Zone Signs 07:00 to 16:30
<u>B.I.S.D</u> Lakewood Elementary 11200 FM 2305 A. Flashing lights on FM 2305 in front of school			 Flashing Lights 7:15 to 8:00 14:15 to 15:00
Joe M. Pirtle Elementary 714 South Pea Ridge Rd A. Flashing lights on South Pea Ridge in from of school			Flashing Lights 7:15 to 8:00 14:15 to 15:00
Tarver Elementary 7949 Shone Hollow Dr A. School Zone on Stone Hollow Dr in front of school. B. School Zone on Prairie Lark on northside of school B. School Zone on on Westfield on southside of school			School Zone Signs 7:00 to 8:30 14:30 to 16:00
Lake Belton Middle School 8815 Tarver A. Flashing lights on Tarver in front of			School Zone Signs 7:00 to 8:30

school.			14:30 to 16:00
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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING SCHOOL CROSSWALKS IN THE CITY OF TEMPLE; PROVIDING FOR REASONABLE AND PRUDENT PRIMA FACIE MAXIMUM SPEED LIMITS IN THE SCHOOL ZONES; DECLARING FINDINGS OF FACT; PROVIDING FOR A PENALTY FOR VIOLATIONS NOT TO EXCEED \$500 FOR EACH VIOLATION; PROVIDING AN EFFECTIVE DATE; PROVIDING A REPEALER; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City Staff and the Temple Independent School District worked together to establish recommended school crosswalk locations in the City of Temple and entered into an interlocal agreement in 1997 regarding the designation and equipping of school zones within the City;

Whereas, the Temple Independent School District and the City of Temple desire to update the crosswalk and school zone time schedule;

Whereas, an engineering and traffic investigation has been made to determine the reasonable and prudent prima facie maximum speed for motor vehicles within the school zones;

Whereas, it has been determined by these traffic and engineering investigations that the reasonable and safe prima facie maximum speed limit shall be 20 miles per hour; and

Whereas, the City Council has considered the matter and deems it in the public interest to approve the school crosswalks, including the speed limits within the school zones, for the benefit of the citizens for the promotion of the public welfare and safety.

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

Part 1: The City of Temple hereby establishes the school crosswalk locations, which are more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The Director of Public Works is authorized to proceed with installation of flashing lights and school crossing painting and signage, as needed, for the locations described in Exhibit A.

Part 3: The reasonable and prudent prima facie maximum speed limit for vehicular traffic within the school zones described in Exhibit A, shall be established at 20 miles per hour on the days when school is in session.

Part 4: It shall be unlawful for any person to drive or operate a motor vehicle, bicycle, or other vehicle of any kind, whether or not motor powered, on that portion of the roadways described above under the conditions described herein, at a speed greater than is reasonable and prudent under the circumstances then existing, but any speed in excess of the reasonable and prudent prima facie maximum speed limits as set forth in Part 3 hereof shall

be prima facie evidence that such speed is not reasonable or prudent and that it is unlawful.

Part 5: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 6: A person who violates a provision of this ordinance is guilty of a separate offense for each day or portion of a day which the offense is committed, continued, or permitted, and each offense is punishable by a fine not to exceed \$500.

Part 7: 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 8: 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 9: 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 **6th** day of **August**, 2009.

PASSED AND APPROVED on Second Reading on the **20th** day of **August**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney

**City of Temple
School Zones**

Schools	Cones	Flags	Zone Times
Bethune Elementary 510 E Ave J A. Crossing guard works crosswalk on MLK Blvd and Ave J B. School Zone is on E Ave J and S 10th St. The front and westside of school C. One Way on S 10th St from E Ave I to E Ave J	Yes	Yes	One Way Time as Posted 7:00 to 8:30 14:00 to 15:30
Cater Elementary 4111 Lark Trail A. Crossing guard works Crosswalk in school parking area B. School Zone is on Lark Trail in front of School	Yes	Yes	
Emerson Elementary 1400 E Ave B A. Crossing Guard works Crosswalk Works E Ave B and S 24th ST	Yes	Yes	
Hector P. Garcia Elementary 2525 Lavendusky Dr A. No Crosswalk	No	No	
Jefferson Elementary 400 W. Walker Ave A. Crossing Guards (2) Works Crosswalk At N 3rd St and W. Walker Ave B. Crossing Guard works Crosswalk at N 3rd ST and Industrial Blvd this is a controlled signal light. C. Flashing lights on N 3rd St are North of W. Walker Ave and North of W Shell Ave.	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Kennedy-Powell Elementary 3707 W. Nugent Ave A. Crossing Guard will work Crosswalks W. Nugent Ave and Cearley Rd. B. Flashing lights on W. Nugent Ave west and east of Cearley Rd	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Dickson Elementary 1100 S 33rd St A. One way south from W Ave K to W Ave L			One Way Time as Posted 7:00 to 8:30 14:00 to 15:00
Meridith-Dunbar 1717 E Ave J A. Crossing Guard will work Crosswalks at S 30th St and E. Ave J B. Flashing lights on S 30th St C. One Way on E Ave J from S 30th St to S 34th St at posted times	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30 One Way Time as Posted 7:00 to 8:30 14:00 to 15:00

**City of Temple
School Zones**

Schools	Cones	Flags	Zone Times
Raye Allen Elementary 5015 S 5th St A. Crossing Guards will work Crosswalks on S 5th St B. Flashing lights on S 5th St north and south of school	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Scott Elementary 2301 W Ave P A. Crossing Guard will work Crosswalk on W Ave P B. Crossing Guard will work Crosswalk on W Ave M @ S 45th St. C. Flashing lights on W Ave P east of S 49th St and west of S 39th St.	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Thornton Elementary 2900 Pin Oak Dr A. Crossing Guard will work Crosswalk on Pin Oak @ East Dr. B. One way on Pin Oak from East Dr. to Mesquite at posted times	Yes	Yes	School Zone Signs 07:30 to 8:30 14:30 to 16:00 One Way Time as Posted 7:30 to 8:30 14:30 to 16:00
Western Hills Elementary 600 Arapaho A. Crossing Guard will work Crosswalk on Apache @ Deer Tr B. Crossing Guard will work Crosswalk on Apache @ Gila C. Flashing lights on Apache North of Deer Tr. South of Gila.	Yes	Yes	Flashing Lights 06:30 to 08:30 14:45 to 16:30
Bonham Middle School 4600 Midway Dr A. Flashing Lights on Midway Dr. east and west of school.			Flashing Lights 07:00 to 08:30 15:00 to 16:30
Lamar Middle School 2120 N 1st St A. Flashing lights on N 3rd St are North of W. Walker Ave and North of W Shell Ave. B. One way on N 1st St from W Park Ave to W. Virginia Ave at posted times			Flashing Lights 06:30 to 08:30 14:45 to 16:30 One Way Time as Posted 7:30 to 8:30 15:00 to 16:00

**City of Temple
School Zones**

Schools	Cones	Flags	Zone Times
Travis Middle School 1500 S 19th St A. Crossing Guard will work Crosswalk on W Ave M @ S 19th St B. One way on S 19th St from W Ave R to W Ave M			One Way Time as Posted 7:30 to 8:30 14:30 to 16:00
Temple High School 415 N 31st St A. Flashing Lights on N 31st St north of W Barton Ave and North of W Houston Ave			Flashing Lights 07:00 to 16:00
Temple High School Campus 1414 W Barton Ave A. School Zone on Barton from N 31st St to North 27th St			School Zone Signs 07:00 to 16:30
<u>B.I.S.D</u> Lakewood Elementary 11200 FM 2305 A. Flashing lights on FM 2305 in front of school			 Flashing Lights 7:15 to 8:00 14:15 to 15:00
Joe M. Pirtle Elementary 714 South Pea Ridge Rd A. Flashing lights on South Pea Ridge in from of school			Flashing Lights 7:15 to 8:00 14:15 to 15:00
Tarver Elementary 7949 Shone Hollow Dr A. School Zone on Stone Hollow Dr in front of school. B. School Zone on Prairie Lark on northside of school B. School Zone on on Westfield on southside of school			School Zone Signs 7:00 to 8:30 14:30 to 16:00
Lake Belton Middle School 8815 Tarver A. Flashing lights on Tarver in front of school.			School Zone Signs 7:00 to 8:30 14:30 to 16:00