



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

THURSDAY, OCTOBER 15, 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, October 15, 2009.
2. Receive update from Jacobs Engineering Group regarding the Bird Creek Interceptor Improvement Project.
3. Discuss possible Zoning Ordinance amendments relating to the on- and off-premise sale of alcoholic beverages in the City of Temple.
4. Discuss the proposed agreement with Panda Temple Power, L.L.C., regarding the sale of treated effluent for the operation of a power plant.

Executive Session: Pursuant to Section 551.087 of the Government Code, the City Council may meet in executive session to discuss either commercial or financial information that the City has received from a business prospect that the City wishes to locate, stay or expand within the City limits and with which the City is conducting economic development negotiations, or to deliberate the offer of a financial or other incentive to a business prospect the public discussion of which would adversely affect ongoing economic development negotiations.

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 Dr. Vivian Baker, Superintendent, Belton Independent School District, regarding the [November 3, 2009, BISD Bond election](#).

III. PROCLAMATIONS & SPECIAL RECOGNITIONS

4. Presentation of Proclamations:

(A)	Community Planning Month	October, 2009
(B)	Czech Heritage Month	October, 2009
(C)	Make A Difference Day	October 24, 2009

IV. PUBLIC COMMENTS

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

V. PUBLIC HEARINGS

5. PUBLIC HEARING – Conduct a public hearing to receive comments on the possible [voluntary annexation](#) of a 1.148 acre tract of land located in the vicinity of FM 2305 and Buck Lane.

VI. CONSENT AGENDA

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

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

Minutes:

- (A) [October 1, 2009 Special Called Meeting and Regular Meeting](#)

Contracts, Leases & Bids:

- (B) [2009-5849-R](#): Consider adopting a resolution authorizing a construction contract with Bell Contractors, Inc., of Belton to replace the sewer line crossing Avenue M between 35th through 39th Street in the amount of \$ 63,465.01.
- (C) Consider adopting resolutions authorizing the following purchases for the Street Division:
1. [2009-5850-R](#): One Cab/Chassis; and
 2. [2009-5851-R](#): One Asphalt Pothole Patcher body with options to be mounted on the above cab/chassis from HD Industries in Jacksonville Texas, through the Buy Board in the amount of \$75,013.70.
- (D) [2009-5852-R](#): Consider adopting a resolution authorizing the purchase of one Dump Truck for the Street Division.
- (E) [2009-5853-R](#): Consider adopting a resolution authorizing the purchase of one Street Sweeper for the Street Division.
- (F) [2009-5854-R](#): Consider adopting a resolution authorizing continued cellular services, data services, and related equipment acquisitions through Verizon Wireless utilizing an existing Federal and/or State contract in the estimated annual amount of \$165,000.
- (G) [2009-5855-R](#): Consider adopting a resolution authorizing a 2-year renewal agreement with Central Texas 4C, Inc., for lease of space in the Robert M. Blackmon, Jr., Neighborhood Center for preschool programs.
- (H) [2009-5856-R](#): Consider adopting a resolution authorizing a contract with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy for the provision of temporary workers for the Parks and Leisure Services Department in the amount of \$ 73,500.

Ordinance – Second & Final Reading:

- (I) [2009-4319](#): SECOND READING – Z-FY-09-30 – Consider adopting an ordinance authorizing a zoning change from:
1. General Retail (GR) to Neighborhood Service (NS) on Lots 1 and 2, Block 56 of Freeman Heights Addition located at 1415 West Avenue H and
 2. Multiple-Family One (MF-1) to Neighborhood Service (NS) on Lots 5 and 6, Block 56 of Freeman Heights Addition located at 1403 West Avenue H.
- (J) 1. [2009-4320](#): SECOND READING – Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing Plan for FY 2010 to appropriate funding for the feasibility study of extension of rail service with Kasberg, Patrick & Associates in the amount of \$121,550.
2. [2009-5857-R](#): Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, (KPA) in the amount of \$121,550 for services required to investigate extension of rail infrastructure to serve additional properties in the vicinity of the Industrial Park in north Temple.

Misc.:

- (K) [2009-5858-R](#): Consider adopting a resolution declaring an approximately .014 acre, five foot (5.0') strip along South 2nd and Avenue M, as surplus City property and allowing it to be conveyed to the abutting property owner.

VII. REGULAR AGENDA

ORDINANCES

7. [2009-4321](#): FIRST READING – PUBLIC HEARING – Z-FY-09-34: Consider adopting an ordinance authorizing a zoning change from Single Family Two District (SF2) to Two Family District (2F) on property platted as Lots 1 – 4, Block 4, West Ridge Phase IX, located at the northeast corner of 205 Loop and Turley Drive.
8. [2009-4322](#): FIRST READING–PUBLIC HEARING- Z-FY-09-37: Consider adopting an ordinance amending Section 7-100 et seq. (Uses of Land & Buildings) of the Zoning Ordinance to regulate the use of property for the on- and off-premise sale of alcoholic beverages.
9. [2009-4323](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending Chapter 4, “Alcoholic Beverages,” of the Code of Ordinances of the City of Temple, Texas, relating to the issuance of permits for the sale of alcoholic beverages and making non-substantive changes to reorganize the chapter and conform to state law.
10. [2009-4324](#): FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending Chapter 35, “Taxation,” of the City Code to conform certain provisions therein relating to the local hotel occupancy tax to State law.

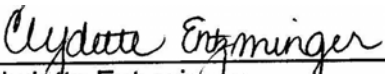
OTHER BUSINESS

11. Discuss the terms of a [development agreement with Panda Temple Power, L.L.C.](#), for the sale of effluent and potable water for the operation of an electric generation facility.

Executive Session: Pursuant to Section 551.087 of the Government Code, the City Council may meet in executive session to discuss either commercial or financial information that the City has received from a business prospect that the City wishes to locate, stay or expand within the City limits and with which the City is conducting economic development negotiations, or to deliberate the offer of a financial or other incentive to a business prospect the public discussion of which would adversely affect ongoing economic development negotiations.

***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 12:40 PM, on October 9, 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

10/15/09
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Receive comments from Dr. Vivian Baker, Superintendent, Belton Independent School District, regarding the November 3, 2009, BISD Bond election.

STAFF RECOMMENDATION: Receive comments as presented in item description.

ITEM SUMMARY: Dr. Vivian Baker, Superintendent, Belton Independent School District, will provide a presentation to the City of Temple for their November 3, 2009, Bond Election for BISD.

FISCAL IMPACT: None

ATTACHMENTS:

[Request for placement on agenda](#)



CITY OF TEMPLE, TEXAS
CITY COUNCIL MEETINGS

RECEIVED

SEP 22 2009

CITY OF TEMPLE, TX
CITY SECRETARY

REQUEST FOR PLACEMENT ON AGENDA

____ Priority

NAME OF PRESENTER: Dr. Vivian Baker, Superintendent,
Belton ISD
ADDRESS: 400 N. Wall
TELEPHONE NO. 215-2002

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note - The City Council meets the first and third Thursdays of each month.) Oct. 15, 2009

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.) _____

Belton ISD Bond Presentation - Bond election for a
new middle school is Tues. Nov. 3.
Council may choose to advocate support of
the bond election

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.

Vivian Baker
SIGNATURE OF PRESENTER

9-22-09
DATE

For Office Use:



COUNCIL AGENDA ITEM MEMORANDUM

10/15/09
Item #4
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamations:

- | | | |
|-----|--------------------------|------------------|
| (A) | Community Planning Month | October, 2009 |
| (B) | Czech Heritage Month | October, 2009 |
| (C) | Make A Difference Day | October 24, 2009 |

STAFF RECOMMENDATION: Present proclamations as presented in item description.

ITEM SUMMARY:

- (A) This proclamation was requested by Director of Planning Tim Dolan. It will be received by representatives from the City's Planning Department.
- (B) This proclamation was requested by, and will also be received by, Brian Vanicek, President of SPJST.
- (C) This proclamation was requested by, Tanya Gray, Executive Directors, Keep Temple Beautiful. Ms. Gray will receive the proclamation.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

10/15/09
Item #5
Regular Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: PUBLIC HEARING – Conduct a public hearing to receive comments on the possible voluntary annexation of a 1.148 acre tract of land located in the vicinity of FM 2305 and Buck Lane.

STAFF RECOMMENDATION: Receive staff presentation on the Municipal Service Plan, as required by State law, hold public hearing and take no action at this time. The first required public hearing occurred yesterday, Wednesday, October 14, 2009, at 8:00 a.m., at a special meeting of the City Council.

ITEM SUMMARY: On September 17, 2009, the Council accepted a petition from Jim and Jan Kent, filed on August 27, 2009, seeking voluntary annexation of approximately 1.148 acres into the City of Temple. The property is located east of the existing City limits. The Council directed the staff to prepare a municipal services plan for this tract.

The annexation schedule calls for two public hearings—this being the second. The public hearing today is to receive public comments on the proposed annexation and proposed service plan from anyone that might wish to speak. There are no residents on the 1.148 acre tract.

The annexation ordinance will be presented to the Council for First Reading on November 5, 2009.

FISCAL IMPACT: Future tax revenue. Need to provide police and fire services to the area. The Municipal Service Plan does not contain any proposal to extend water or wastewater services to the area, or any other new physical facilities to serve this small tract.

ATTACHMENTS:

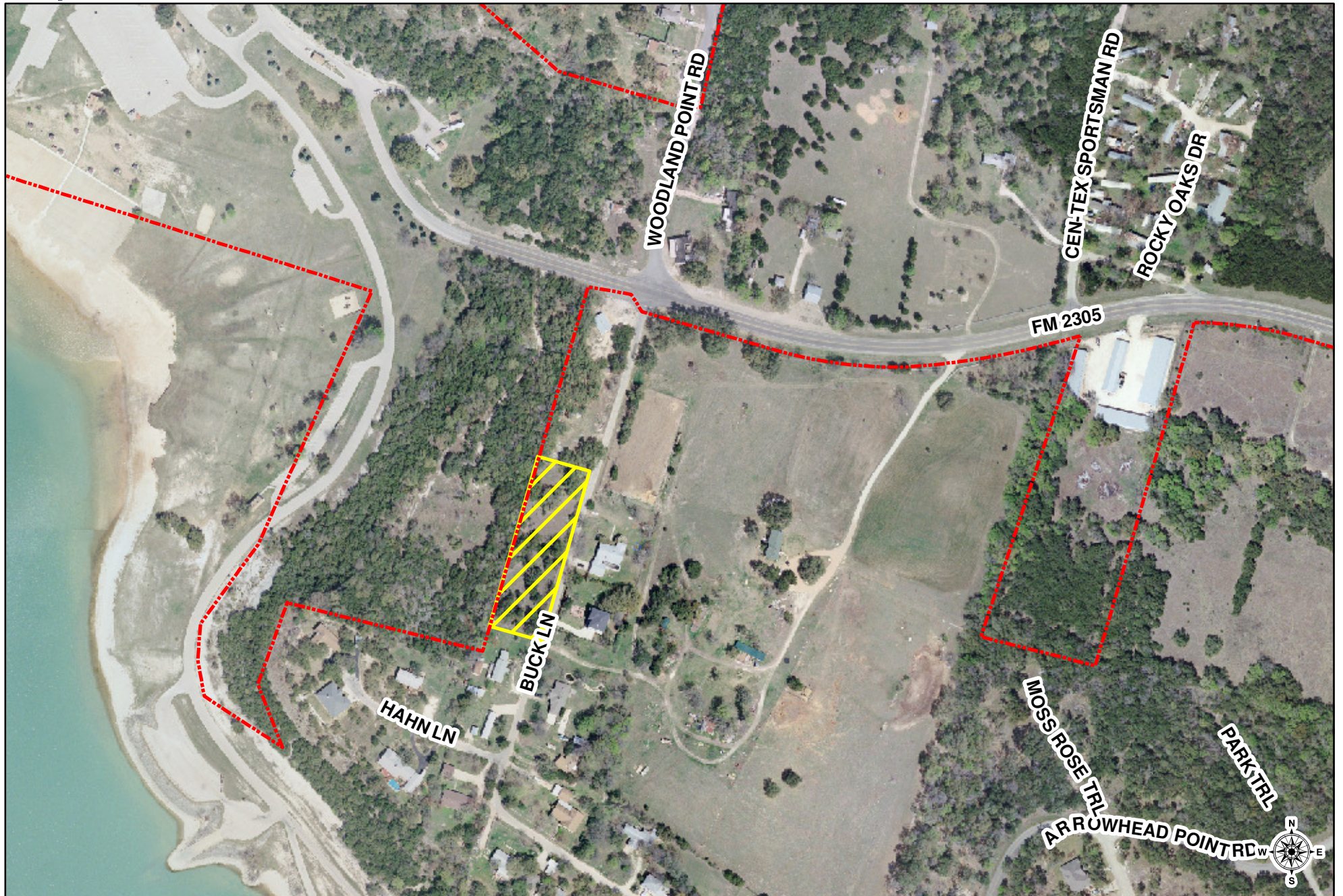
[Voluntary Annexation Area Map](#)
[Service Plan](#)





Z-FY-09-33

Proposed Annexation of 1.148 Acres

Buck Lane (Western ETJ)



 Current Temple Boundary  ZFY0933

Feet 0 75 150 225 300
J Stone 9.15.9

CITY OF TEMPLE

ANNEXATION SERVICE PLAN—VOLUNTARY ANNEXATION – KENT ET ALL

For approximately 0.0018 square miles (1.148± acres) situated in Bell County, Texas, located south of FM 2305 (West Adams Avenue), west of 'Buck' Lane, and east of Lake Belton, and abutting the City limits, and being more particularly described an Exhibit "A" and depicted as Exhibit "B" of the Annexation Ordinance (2009-####).

SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

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

2. FIRE PROTECTION AND AMBULANCE SERVICE

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

3. SOLID WASTE COLLECTION

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

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

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

5. MAINTENANCE OF ROADS AND STREETS

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

6. MAINTENANCE OF PUBLIC PARKS, PLAYGROUNDS AND SWIMMING POOLS

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

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

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

8. CONSTRUCTION SAFETY

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

9. CODE ENFORCEMENT

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

CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

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

2. ROADS AND STREETS

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

3. WATER AND WASTEWATER FACILITIES

The City of Temple has water facilities within the boundaries of the voluntary annexation, and proposes no other extension of water facilities to the area, taking into consideration the existing land use, and topography and population density relative to areas within the existing City Limits which do not have water services.

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

4. CAPITAL IMPROVEMENTS

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

SPECIFIC FINDINGS

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

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

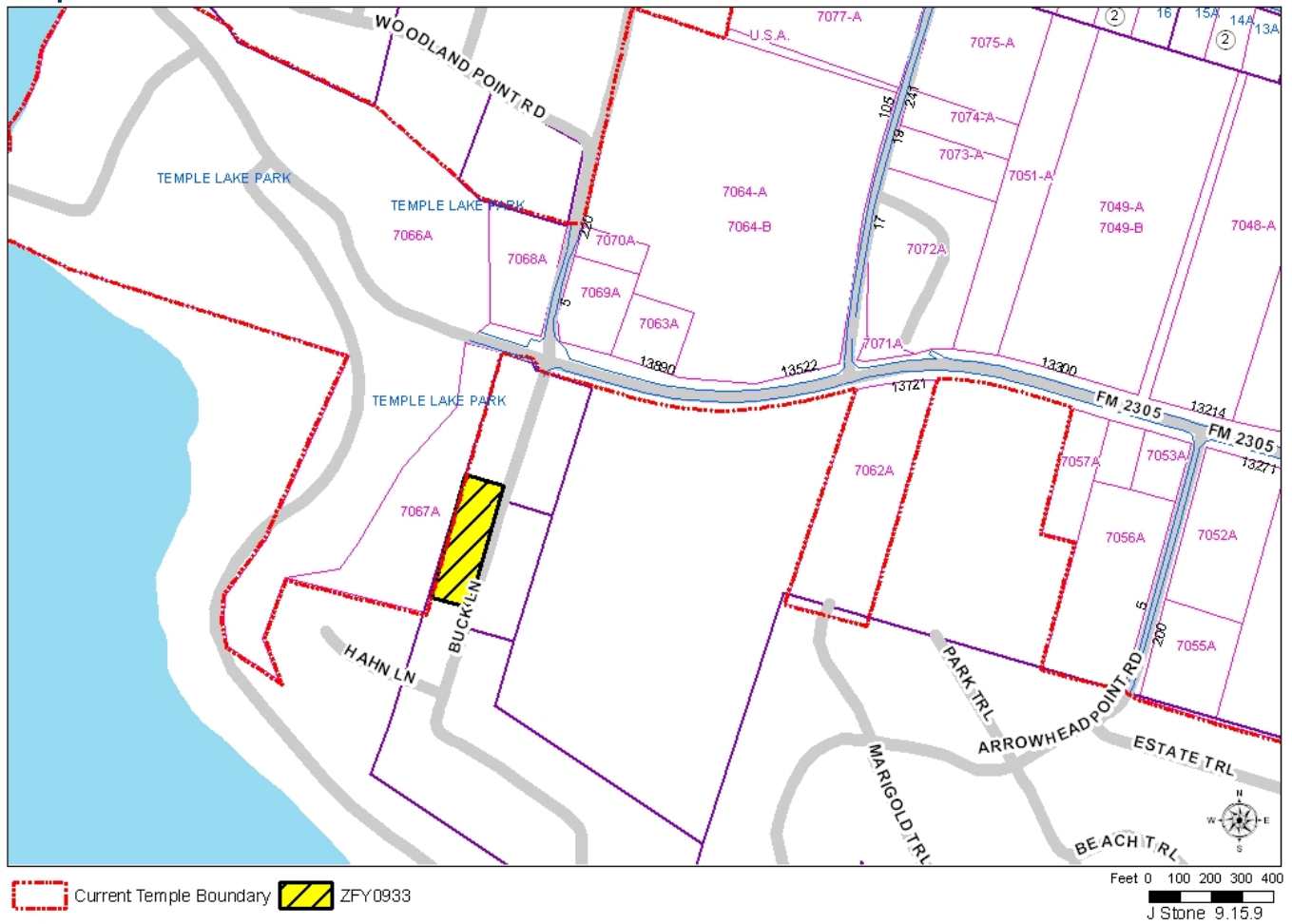
APPROVED ON THIS _____ DAY OF _____, 2009.

City of Temple, Texas

Mayor

ATTEST:

City Secretary





COUNCIL AGENDA ITEM MEMORANDUM

10/15/09
Item #6(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) October 1, 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:

October 1, 2009 Special Called Meeting & Regular Meeting

TEMPLE CITY COUNCIL

OCTOBER 1, 2009

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, October 1, 2009, at 3:00 PM in the Jamie Hager Clements Complex, 2nd Floor Multi Purpose Room, 401 North 3rd Street.

Present:

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

The following is a summary of the proceedings of this meeting. It is not intended to be a verbatim translation.

1. Conduct a tour of the Jamie Hager Clements Complex, the new home of the City of Temple Municipal Court and Utility Business Office.

Mayor Jones announced the City Council and staff would take about ten minutes to tour the new facility before continuing with the work session.

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

Agenda item 3 - BISD Public Appearance: David Blackburn, City Manager, stated this item is to receive a presentation only, with no action to be taken.

Agenda item 9 - Cost Sharing Agreements: Councilmember Jeter asked if there are any issues with continuing to approve plats in West Temple relating to water capacity.

Mr. Bruce Butscher, Director of Public Works, replied there will be no problems with water capacity when the improvements under construction are completed.

3. Discuss HOME Program eligibility and selection criteria.

Kim Foutz, Assistant City Manager, reviewed the applicant selection qualification process for the HOME Program. She discussed the application requirements, income qualification, project feasibility and how the scoring will be tabulated. The top 13 projects with the lowest score will be the selected applicants. However, if the estimated construction costs, as determined by the construction estimator, are higher than the maximum of \$26,200 per home, the applicant might still be disqualified from the program. If the full amount is not used on a home, the remaining amount can be used on another home but the total cannot exceed the maximum of \$26,200 per home. The City inspectors will perform the phase one outside inspections.

Mark Taylor, Gary Traylor & Associates, reviewed the Temple 2008 HOME Program Application document and the associated timeline.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, October 1, 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

Pastor Dana Wilhelmsen, Immanuel Lutheran Church, voiced the invocation.

2. Pledge of Allegiance.

Chuck Lucko, President of Robert S. Love Foundation, led the Pledge of Allegiance.

II. PUBLIC APPEARANCES

3. **Receive comments from Dr. Vivian Baker, Superintendent, Belton Independent School District, regarding the November 3, 2009, BISD Bond election.**

Mayor Jones announced this item would be presented at the October 15th Council meeting.

III. PROCLAMATIONS & SPECIAL RECOGNITIONS

4. (A) White Cane Safety Day and Meet the Blind Month October, 2009

Mayor Jones presented this proclamation to Cynthia Washington, Special Projects Coordinator, and other members of the Temple Chapter of the National Federation of the Blind.

(B) Love Cures Month **October, 2009**

Mayor Jones presented this proclamation to Chuck Lucko, President of Robert S. Love Foundation.

IV. PUBLIC COMMENTS

Doris Rodriguez, 1408 East Adams, addressed the Council about the placement of bus stop signs. She works for the HOP and drives route 520. She has a layover of several

minutes at the Temple Mall during her route. Ms. Rodriguez stated she received a parking ticket from a City police officer for leaving her bus while parked at the bus stop in the mall parking lot. She did not feel this was appropriate and asked for the Council's assistance.

Justice Bigbie, 108 Sundance Drive, stated being loyal is a two-way street, up and down. People do not want to trust even honest people. He asked for the Council's support of the item to schedule a charter amendment election.

Lanelle Mabry, 3309 Oaklawn, addressed the Council regarding the speed humps on her street, which is three blocks long and extremely quiet. About 95% of the people drive at a safe speed and stop at the stop sign. Someone from the neighborhood stated it was not safe for their grandchildren to ride their bikes and complaints were filed. Speeds have greatly increased since the speed humps were installed. It is no longer safe on their street, Ms. Mabry stated, and she would like the speed humps removed.

Willie Hall, 100 North 7th Street, addressed the Council regarding an ongoing issue with a HOP bus driver and he asked for the Council's assistance. He has been put off the bus again and the driver called the police department. Mr. Hall gave some background on issues he has previously experienced with the HOP.

Deanna DeGraaff invited the City Council and citizens to an upcoming event, Come Walk in My Shoes, on October 10th in the McLane Room, Temple Public Library. Over 100 people participated in last year's event.

Robert Bortz, 2909 Pin Oak Drive, addressed the Council regarding the speed humps installed on Oaklawn. He circulated a petition to prevent the speed humps from being installed. The average speed was 38 hours per hour but he did not think this was accurate since there is so much school traffic which is bumper to bumper. He asked that the speed humps be removed.

Milton Hensley, 301 Mitchell Drive, reminded the Council about the Life Chain event this Sunday. Regarding the proposed amendment to the City Charter, he felt it should go to a vote of the citizens.

V. CONSENT AGENDA

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

(A) September 17, 2009 Special Called Meeting and Regular Meeting

(B) 2009-5835-R: Consider adopting a resolution authorizing the following related to annual purchase agreements for traffic signal supplies:

- 1. A one-year renewal to an annual purchase agreement for the purchase of certain traffic signal supplies for FY 2010 with Naztec, Inc. of Sugarland in the estimated amount of \$103,585;**
- 2. Rejection of all bids received on August 11, 2009 for signal heads, brackets, lenses and accessories; and**

3. **New purchase agreements with various vendors in the estimated annual amount of \$33,346.20.**

(C) 2009-5836-R: Consider adopting a resolution authorizing a one-year renewal to an annual purchase agreement for liquid caustic soda with Altivia Corporation of Houston at \$.3218/wet pound for an estimated annual amount of \$99,200 and new annual purchase agreements with five (5) various vendors in the estimated annual amount of \$855,390.

(D) 2009-5837-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP for engineering services required to prepare Phase 2 of the Master Plan for Tax Increment Financing Reinvestment Zone No. 1 for ultimate build out to year 2022, for an amount not to exceed \$91,200.

(E) SECOND READING - Consider adopting ordinances:

1. **2009-4317: setting out the civil service classifications and setting the number of positions in each classification in the Temple Fire Department; and**
2. **2009-4318: establishing assignment pay in the amount of \$200 per month for the assignment of Fire Marshal duties.**

(F) 2009-5838-R: Consider adopting a resolution authorizing the transfer of funds from the Child Safety Fees-Bell County to the Temple Police Department's Overtime Account in the amount of \$2,700 for FY 2009-2010.

(G) 2009-5839-R: Consider adopting a resolution extending a rebate program for a portion of franchise fees paid by high volume gas purchasers within the City limits.

(H) 2009-5840-R: Consider adopting a resolution designating the Temple Daily Telegram as the official newspaper for the City for fiscal year 2009-2010, in accordance with Section 4.20 of the Charter of the City of Temple.

(I) 2009-5841-R: Consider adopting a resolution authorizing Specialized Public Finance Inc. to prepare Official Statements to proceed with the issuance of General Obligation Bonds, Series 2009 for the construction of a Central Fire Station, Fire Station # 8 to include a Training Center and Emergency Operations Center, and the purchase of three fire engines and the issuance of General Obligation Refunding Bonds, Series 2009.

(J) 2009-5842-R: Consider adopting a resolution adopting the City of Temple Safe Routes to School Master Plan and authorizing submission of grant applications to support the Plan implementation.

(K) 2009-5843-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 Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

VI. REGULAR AGENDA

ORDINANCES

6. **2009-4312: THIRD READING - PUBLIC HEARING: Consider adopting an ordinance granting a franchise to AM Construction to provide for construction job site cleaning, rental and setting of fifteen (15) yard or less roll-off containers, and the hauling of construction site waste within the City of Temple.**

Jonathan Graham, City Attorney, presented this item to the Council. AM Construction is requesting a franchise from the City. The services to be offered under this franchise include demolition work on existing structures, site clean up for construction work sites, and set up and hauling of 15 yard containers. Currently the City hauls all solid waste in the City limits, both residential and commercial. A franchise is required to set and haul the commercial solid waste containers to protect the financial viability of the City's operation and to avoid street congestion.

Mr. Graham explained that AM Construction sets 15 cubic yard containers only and uses smaller trucks to set them versus the 20 yard containers set by the City. AM Construction also provides site clean up that City crews do not perform. Mr. Graham proposed a short term franchise, one year, to provide an evaluation period and Mr. Martone has agreed to this term. The City will collect 5% of gross receipts from jobs where containers are set and hauled in the City limits. Mr. Graham added that other companies may be providing the same services in the community and the City will require them to cease their activities or obtain a franchise from the City under identical terms.

Mayor Jones declared the public hearing open with regard to agenda item 6 and asked if anyone wished to address this item.

Mike Pilkington stated he has used Mr. Martone's services within the county. He provides clean up services which are good for the City. The smaller containers are also a benefit. Mr. Pilkington expressed his support for the franchise.

Troy Glasson, Temple Area Builders Association, agreed with Mr. Pilkington's comments. Builders use his services and would like the ability to use them within the City. This franchise would be beneficial to the building community.

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

Motion by Councilmember Russell Schneider to adopt ordinance on third and final reading, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

7. **2009-4319: FIRST READING - PUBLIC HEARING -Z-FY-09-30 - Consider adopting an ordinance authoring a zoning change from:**

(A) General Retail (GR) to Neighborhood Service (NS) on Lots 1 and 2, Block 56 of Freeman Heights Addition located at 1415 West Avenue H and

(B) Multiple-Family One (MF-1) to Neighborhood Service (NS) on Lots 5 and 6, Block 56 of Freeman Heights Addition located at 1403 West Avenue H.

Brian Mabry, Planner, presented items 7(A) and (B) to the Council. The purpose of this rezoning is to allow the property to be used as a flower shop. This will make both properties consistent with a previously approved Neighborhood Service (NS) rezoning for an adjacent lot. Mr. Mabry displayed photos of the surrounding properties. This request complies with the future land use and character map and the thoroughfare plan. Public utilities are available to serve the site. The Planning & Zoning Commission voted 8-0 in favor of the requested rezoning.

Mayor Jones declared the public hearing open with regard to agenda items 7(A) and (B) and asked if anyone wished to address these items. There being no comments, Mayor Jones closed the public hearing.

Motion by Councilmember Marty Janczak to adopt ordinances 7(A) and (B), with second reading and final adoption set for October 15, 2009, seconded by Councilmember Tony Jeter.

Motion passed unanimously.

8. **2009-4320: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing Plan for FY 2010 to appropriate funding for the feasibility study of extension of rail service with Kasberg, Patrick & Associates in the amount of \$121,550.**

Traci Barnard, Director of Finance, presented this item to the Council. The proposed Financing Plan amendment will fund a feasibility study for the extension of rail service with Kasberg, Patrick and Associates in the amount of \$121,550. The amendment will be funded from the proceeds from the sale of 158.81 acres of land to HEB Grocery Company, LP. The Reinvestment Zone No. 1 received \$1,117,741.47 from this sale in June 2009.

Mayor Jones declared the public hearing open with regard to agenda item 8 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 ordinance, with second

reading and final adoption set for October 15, 2009, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

RESOLUTIONS

9. **Consider adopting resolutions authorizing utility cost sharing agreements for:**

(A) 2009-5844-R: The Hills of Westwood Phase Subdivision V;

(B) 2009-5845-R: Northcliffe Subdivision Phase IX; and

(C) 2009-5846-R: Echo Vista Subdivision Phase II.

Jonathan Graham, City Attorney, presented these items to the Council. He reviewed the requirements for a developer to seek this type of agreement with the City. The City pays 100% of the first 2,500 feet of extension, 50% of the next 2,500 feet and the developer pays 100% of the additional amount. Mr. Graham reviewed the components of each of the development agreements being proposed, Hills of Westwood, Phase V (\$188,265.06); Northcliffe Subdivision Phase IX (\$275,813.13); and Echo Vista Subdivision Phase II (\$208,957.29). After the developer puts the lines in, the City pays the lower amount, either actual cost or the not to exceed amount. The developer pays for any overages.

Motion by Councilmember Marty Janczak to adopt resolutions 9(A), (B), and (C), seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

10. **2009-5847-R: Consider adopting a resolution proposing an amendment to the City of Temple Charter be submitted to the voters on May 8, 2010 which would prohibit any member of the City Council or employee of the City from having a direct financial interest in any contract for goods or services, including public works contracts, let by the City, nor in any matter wherein its rights or liabilities or involved.**

David Blackburn, City Manager, introduced this item to the Council for discussion. This item was placed on the agenda at the request of Mayor Pro Tem Luna and Councilmember Jeter.

Councilmember Jeter clarified that this is a proposed amendment to Section 4.9 of the City Charter. He asked for clarification of whether Councilmembers currently doing business with the City could vote on this item or would they need to abstain.

Jonathan Graham, City Attorney, stated he has discussed this with several

Councilmembers and it is for their determination. Approval of this item does not award any contract or expend any funds.

Councilmember Jeter stated the ambiguity of the Conflict of Interest section in the Charter is one of the reasons he would like to see it amended. It is a gray area. He discussed how the Council develops projects throughout the year and how this could create opportunities for Councilmembers to bid on those projects in the future, which is entirely legal, he added. Councilmember Jeter also discussed the subcontract work and provision of goods and materials by Councilmembers and how this is below the radar and not transparent to the citizens. He felt the standards should be higher for Councilmembers and the voters should have an opportunity to speak on this issue.

Councilmember Janczak asked if Mr. Graham if he authored or vetted this proposed charter amendment language.

Mr. Graham replied no.

Councilmember Jeter stated he researched the issue and spoke with several attorneys before proposing this amendment.

At Councilmember Janczak's request, Mr. Graham explained how amendments to the City Charter can be proposed, either at the Council's direction, by petition of registered voters, or through a Charter Review Commission.

Councilmember Janczak asked if Mr. Graham was aware of any malfeasance by the City Council during the 21 years he has been on staff.

Mr. Graham replied no.

Councilmember Jeter asked if staff was aware of how much money was paid to Councilmembers outside of direct contracts.

Mr. Graham replied he was not aware of this.

Councilmember Janczak stated there is an established process for handling charter amendments. He felt this proposed resolution would circumvent that process and he was very uncomfortable with that. If there was any evidence of malfeasance there would be no problem in getting the required number of signatures on a petition.

Councilmember Jeter stated the Council has put charter amendments on ballots before and this is no different. He asked Mr. Graham if the proposed proposition, as written, was enforceable.

Mr. Graham replied it was enforceable but it was not the way he would write it. However, if the Council is inclined to submit a proposition to the voters, it could be re-written now or in the future.

Councilmember Schneider stated that contractors do not fly under the radar but instead are under the scrutiny of engineers, construction managers and the bid process itself. He explained this review process and gave some examples. He

felt it would be a shame to discount someone who wants to serve the community just because they happen to do business with the City. Councilmember Schneider added he has not received any phone calls and only three e-mails asking him to support this proposed charter amendment. He did not feel this was enough opposition to take the issue to the voters.

Councilmember Jeter explained this is not about the bid process or the quality of the work. It is about what goes on before and after the contract is awarded. The bottom line is the City has no idea how much in taxpayer dollars are going to City Councilmembers.

Mayor Pro Tem Luna stated there is nothing improper being done by any Councilmember. She started out with a different mind-set about this issue but there is a perception in the community that is wrong for Councilmembers to do business with the City. Many people have approached her asking for the right to vote on the issue and she felt that was the right thing to do.

The Councilmembers continued the discussion about the bid process and how subcontractor bids are handled.

Motion by Councilmember Tony Jeter to adopt resolution as presented in the item description, seconded by Mayor Pro Tem Patsy E. Luna.

Mayor Jones stated he has abstained for voting many times since he has been in office, but mostly when a competitor was getting the job, not one of his companies. The quarry rezoning case is an example of a competing company and Mayor Jones stated he abstained from discussion or voting on that item even though he was not receiving any remuneration. He explained he does own a company that does regular business with the City. Employees purchase steel on an as-needed basis from his company because it is convenient and a good value. Bids are not required for this type of purchase and he is not even aware of the purchases that are made.

On the broader view of this issue, Mayor Jones stated Councilmember Jeter has been discussing this item for almost two years and there has been no huge ground swell for a petition or charter review. The Charter is a very important document and it should not be easy to amend. There should be a much broader cross section of the community wanting this change before it is put before the voters.

Councilmember Tony Jeter, and Mayor Pro Tem Patsy E. Luna voted aye. The other members voted nay. The motion failed.

BOARD APPOINTMENTS

- 11. 2009-5848-R: Consider adopting a resolution appointing one member to serve as the City's representative on the Board of Directors of the Tax Appraisal District of Bell County for a two year term beginning January 1, 2010.**

Mayor Jones recommended Mr. Dell Martin be reappointed to this board.

Motion by Councilmember Tony Jeter to adopt resolution as recommended,
seconded by Councilmember Marty Janczak.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Bruce A. Butscher, P.E., Director of Public Works
Nicole Torralva, P.E., Assistant Director of Public Works / Operations

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Bell Contractors, Inc., of Belton to replace the sewer line crossing Avenue M between 35th through 39th Street in the amount of \$ 63,465.01.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: As part of the FY 2009 budget, the Public Works In-House Utility Construction Crew replaced deteriorating clay tile sewer lines in the alleys between 35th through 39th Street. Due to grade, depth, and traffic control issues, staff retained an engineering firm, Clark & Fuller Engineering of Temple, to evaluate the project as it crosses Avenue M and to prepare plans for a contractor to complete the work. The proposed improvements across Avenue M will replace old, root infested, collapsed tile sewer line. These improvements will also reroute sewer lines where possible outside of Avenue M, minimizing time City personnel will be exposed to heavy traffic areas attempting to relieve future stoppages.

The engineer's opinion of probable construction cost for the project was approximately \$83,700. Bids were open October 6, 2009, as shown on the attached bid tabulation, with Bell Contractors submitting the low bid of \$63,465.01.

FISCAL IMPACT: Funding for this project in the amount of \$63,465.01 is available in account #520-5400-535-6359, project #100454 and 100461, split equally between the two projects. These projects were included in the FY 2009 operating budget. The remaining funds from FY 2009 will be carried forward to FY 2010 to fund this construction contract.

ATTACHMENTS:

[Engineer's Letter of Recommendation](#)
[Bid Tabulation](#)
[Resolution](#)



2010 SW HK Dodgen Loop, Suite 105
Temple, Texas 76504
(254) 899-0899
Fax (254) 899-0901
www.clark-fuller.com
Firm Registration No: F-10384

October 6, 2009

City of Temple
Nicole Torralva, P.E.
3210 E. Ave. H, Bldg. A
Temple, Texas 76501

Re: City of Temple, Avenue M Sanitary Sewer Reconstruction

Dear Mrs. Torralva,


We have reviewed the bids for the above referenced project. Bell Contractors, Inc. submitted a Bid of \$63,465.01. *Please see the enclosed Bid Tabulation Sheet for detailed information.*

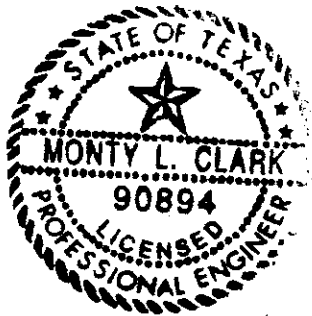
We are recommending that you award the contract to Bell Contractors, Inc. We believe, through personal experience, that Bell Contractors, Inc. is qualified and is capable of providing the new utility improvements as required in this project.

Bell Contractors, Inc. is a proven company with many successfully completed projects and we look forward to working with them on this project.

Please advise us as to which contractor you select.

Sincerely,


Monty Clark, P.E.



10.6.09

Cc: Belinda Matke, City of Temple, Purchasing

Bid Tabulation Sheet **Avenue M Sanitary Sewer 35th to 39th Reconstruction**

Bid Date: October 6th, 2009

No.	Base Bid Item Description	Est. Quan.	UOM	K&S Backhoe Services, Inc.		TTG Utilities, Inc.		Lumar Development, Inc.		Bell Contractors, Inc.		Smetana & Associates	
				Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
1	Site R.O.W. Preparation & Clearing	100%	LS	\$ 1,958.77	\$ 1,958.77	\$ 925.00	\$ 925.00	\$ 5,000.00	\$ 5,000.00	\$ 1,500.00	\$ 1,500.00	\$ 5,953.00	\$ 5,953.00
2	Mobilization, Bonds, Permits, & Insurance	100%	LS	\$ 3,514.26	\$ 3,514.26	\$ 5,025.00	\$ 5,025.00	\$ 5,000.00	\$ 5,000.00	\$ 4,200.00	\$ 4,200.00	\$ 3,070.00	\$ 3,070.00
3	Saw Cut, Removal & Replace Ex. HMAC Pavement	88	SY	\$ 38.63	\$ 3,399.44	\$ 21.00	\$ 1,848.00	\$ 44.00	\$ 3,872.00	\$ 31.62	\$ 2,782.56	\$ 27.00	\$ 2,376.00
4	Sawcut, Remove & Replace Concrete Valley Gutter	40	LF	\$ 48.83	\$ 1,953.20	\$ 15.00	\$ 600.00	\$ 28.00	\$ 1,120.00	\$ 26.50	\$ 1,060.00	\$ 31.00	\$ 1,240.00
5	Remove & Replace Crushed Limestone Base Pavement	645	SY	\$ 9.23	\$ 5,953.35	\$ 16.00	\$ 10,320.00	\$ 8.00	\$ 5,160.00	\$ 9.22	\$ 5,946.90	\$ 9.00	\$ 5,805.00
6	Provide & Implement a Traffic Control Plan	100%	LS	\$ 2,304.44	\$ 2,304.44	\$ 3,285.00	\$ 3,285.00	\$ 2,000.00	\$ 2,000.00	\$ 3,290.00	\$ 3,290.00	\$ 4,948.00	\$ 4,948.00
7	Provide & Implement a Trench Safety Plan	100%	LS	\$ 1,152.21	\$ 1,152.21	\$ 1,425.00	\$ 1,425.00	\$ 2,000.00	\$ 2,000.00	\$ 1,250.00	\$ 1,250.00	\$ 2,495.00	\$ 2,495.00
Subtotal Site Preparation				\$ 20,235.67		\$ 23,428.00		\$ 24,152.00		\$ 20,029.46		\$ 25,887.00	
8	Demolish & Remove Existing Sanitary Sewer Manhole	2	EA	\$ 397.51	\$ 795.02	\$ 565.00	\$ 1,130.00	\$ 500.00	\$ 1,000.00	\$ 681.30	\$ 1,362.60	\$ 908.00	\$ 1,816.00
9	Provide 8" PVC SDR 26 Class 160 "Pressure Rated" Main	570	LF	\$ 53.42	\$ 30,449.40	\$ 46.00	\$ 26,220.00	\$ 44.00	\$ 25,080.00	\$ 20.41	\$ 11,633.70	\$ 45.32	\$ 25,832.40
10	Provide 4' Dia. Precast Eccentric Concrete Manhole	3	EA	\$ 2,730.65	\$ 8,191.95	\$ 2,835.00	\$ 8,505.00	\$ 3,500.00	\$ 10,500.00	\$ 2,018.75	\$ 6,056.25	\$ 2,811.00	\$ 8,433.00
11	Connection to Existing Sanitary Sewer Main	7	EA	\$ 108.67	\$ 760.69	\$ 245.00	\$ 1,715.00	\$ 300.00	\$ 2,100.00	\$ 738.00	\$ 5,166.00	\$ 656.00	\$ 4,592.00
12	Connection to Existing Manhole	1	EA	\$ 632.17	\$ 632.17	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 820.00	\$ 820.00	\$ 1,104.00	\$ 1,104.00
13	Provide New Sanitary Sewer Service & Service Connection	23	EA	\$ 577.21	\$ 13,275.83	\$ 525.00	\$ 12,075.00	\$ 400.00	\$ 9,200.00	\$ 725.00	\$ 16,675.00	\$ 570.00	\$ 13,110.00
14	Provide Misc. Sanitary Sewer Service Pipe & Replacement	100	LF	\$ 14.06	\$ 1,406.00	\$ 41.00	\$ 4,100.00	\$ 18.00	\$ 1,800.00	\$ 9.29	\$ 929.00	\$ 16.51	\$ 1,651.00
15	Provide End of Line Cleanout	1	EA	\$ 473.31	\$ 473.31	\$ 580.00	\$ 580.00	\$ 800.00	\$ 800.00	\$ 793.00	\$ 793.00	\$ 518.00	\$ 518.00
Subtotal New Sanitary Sewer Main Construction				\$ 55,984.37		\$ 54,825.00		\$ 50,980.00		\$ 43,435.55		\$ 57,056.40	
Total Bid Avenue M Sanitary Sewer Reconstruction				\$ 76,220.04		\$ 78,253.00		\$ 75,132.00		\$ 63,465.01		\$ 82,943.40	

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH BELL CONTRACTORS, INC., OF BELTON, TEXAS, TO REPLACE THE SEWER LINE CROSSING AVENUE M BETWEEN 35TH THROUGH 39TH STREETS, IN THE AMOUNT OF \$63,465.01; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 6, 2009, the City received 5 bids for a project to replace the sewer line crossing Avenue M between 35th through 39th Streets;

Whereas, the Staff recommends accepting the bid (\$63,465.01) received from Bell Contractors, Inc., of Belton, Texas;

Whereas, funds are available for this project in Account No. 520-5400-535-6359, Project #100461; 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 \$63,465.01 with Bell Contractors, Inc., of Belton, Texas, after approval as to form by the City Attorney, to replace the sewer line crossing Avenue M between 35th through 39th Streets.

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 **15th** day of **October**, 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

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DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, P.E., Director of Public Works
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting resolutions authorizing the following purchases for the Street Division:

1. One Cab/Chassis; and
2. One Asphalt Pothole Patcher body with options to be mounted on the above cab/chassis from HD Industries in Jacksonville Texas, through the BuyBoard in the amount of \$75,013.70.

STAFF RECOMMENDATION: Adopt resolutions as presented in item description.

ITEM SUMMARY: Included in the adopted FY 2010 budget is funding to replace a pothole patcher vehicle in the Street Division of the Public Works Department. The existing pothole patcher was purchased in 1997 and has a useful life of approximately 10 years. This piece of equipment is used daily by a designated pothole patching crew in the Street Department to repair potholes and utility cuts within City streets as they occur throughout the year.

One bid for the cab/chassis purchase was received and opened on October 13, 2009. Temple Freightliner was the low bidder, submitting a low bid in the amount of \$54,681.00. Based upon the low bid, staff recommends purchase of this cab/chassis from Temple Freightliner in the amount of \$54,681.00.

Staff is also recommending purchase of the Pro-Patch Asphalt Pothole Patcher body from HD Industries, Inc. using the BuyBoard, a local purchasing cooperative, in the amount of \$75,013.70. HD Industries will attach the body to the cab/chassis.

FISCAL IMPACT: Included in the FY 2010 Operating Budget is \$137,500 in account #110-5900-531-6222, project # 100527, for the purchase of the replacement patch truck which includes the cab/chassis and body for the Street Division.

ATTACHMENTS:

[Bid Tabulation](#)
[BuyBoard Quote](#)
[Resolution](#)

Tabulation of Bids Received
on October 13, 2009 at 2:15 p.m.
Cab/Chassis for Mounting an Asphalt Patch Body

	Bidders	
	Temple Freightliner	
	Temple	
Description		
Total Bid Price	\$54,681.00	
Delivery within 180 days?	Yes	
Local Preference	Yes	
Exceptions?	Yes	
Credit Check Authorization	Yes	

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

Belinda Mattke

13-Oct-09

Belinda Mattke, Director of Purchasing

***Note: Highlighted bid is recommended
for Council approval.***

Plan Holders
Grand Prairie Ford
Grande Truck Center
Longhorn International
Prime Vendor
Rush Truck Center
Temple Freightliner

City, ST
Grand Prairie, TX
San Antonio, TX

Waco, TX



H.D. Industries, Inc.

Pro-Patch Pothole Patcher

P.O. Box 8250 / Jacksonville, TX 75766 / (903) 586-6126 / www.pro-patch.com

October 5, 2009

Sam Weed
City of Temple
3210 East Ave. H; Bldg. B
Temple, TX
sweed@ci.temple.tx.us

Dear Mr. Weed:

I have enclosed specifications and the following quote for the **Pro-Patch** Asphalt Pothole Patcher. This unit is available at the following price under our Buy Board Proposal #268-07.

1. Basic Model TCM 425-100-DHE	\$ 37,600.00
2. Secondary Auger Motor.....	1,052.80
3. 1.25 Cubic yard 30" Spoils Bin	1,692.00
4. Wacker WP1550AW Compactor Plate.....	2,118.89
5. Hydraulic Rear Lift Platform with Pavement Breaker Mount & Auto Return.....	2,341.84
6. Stanley BR72 Pavement Breaker	2,497.77
7. Hydraulic Tool Line Hose Reel with Reel Cover	990.00
8. Hydraulic Bi-Fold Steel Fold Top Doors with 12 VDC in-cab Door Controls.....	3,327.10
9. Diesel Fuel Hose Reel with 20 Ft. Hose.....	301.02
10. Tack Oil Hose Reel	403.06
11. Air Line Hose Reel	301.02
12. 15CFM Hydraulic Air Compressor.....	2,750.00
13. 10 Gallon Drip & Waste Oil Tank	301.02
14. 8 Gallon Water Tank with Rust Proof Liner	301.02
15. 50 Gallon Frame Mounted LP Gas Bottle	1,092.50
16. Wanco WSBAL-14 LED Directional Arrow Board	1,635.90
17. Meteorlight SY2000 Strobe Light.....	283.50
18. Sand Spreader Assembly	3,995.45
18. Asphalt Edger with Diesel Engine	7,137.76
19. 10 lb. ABC External Mounted Fire Extinguisher	147.60
20. 18" Work Deck.....	816.33
21. Two (2) Asphalt Lute/Shovel Holders @ 91.84 each	183.68
22. Shoveling Apron with hinged, folding bottom.....	552.50
23. Muncie or Chelsea Hot Shift PTO.....	1,675.80
24. Electronic Engine Throttle Control	357.14
Sub total.....	\$ 73,855.70
Delivery and two (2) days training.....	\$1,158.00
Total for Pothole Patcher	\$75,013.70

I hope this information is helpful to you and I look forward to the possibility of working with you and the City of Temple. If you have any questions or need any additional information, please feel free to give me a call at 1-800-256-6126.

Sincerely,

Brad Dillingham

Brad Dillingham
Sales Coordinator

RESOLUTION NO. 2009-5850-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A CAB/CHASSIS FOR AN ASPHALT POTHOLE PATCHER FROM TEMPLE FREIGHTLINER OF TEMPLE, TEXAS, IN THE AMOUNT OF \$54,681.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 13, 2009, the City received one bid for the purchase of a cab/chassis for an asphalt pothole patcher for the Street Division;

Whereas, the Staff recommends accepting the bid (\$54,681.00) received from Temple Freightliner of Temple, Texas;

Whereas, funds are available for the purchase in Account No. 110-5900-531-6222, Project # 100527; and

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

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

Part 1: The City Council authorizes the purchase of a cab/chassis for an asphalt pothole patcher for the Street Division from Temple Freightliner of Temple, Texas, in the amount of \$54,681.00.

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

Part 3: 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 **15th** day of **October**, 2009.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. 2009-5851-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF ONE PRO-PATCH ASPHALT POTHOLE PATCHER BODY FROM HD INDUSTRIES OF JACKSONVILLE, TEXAS, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE, IN THE AMOUNT OF \$75,013.70; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the purchase of a cab/chassis for an asphalt pothole patcher for the Street Division has been approved – it will be necessary to also purchase an asphalt pothole patcher body with options to be mounted on the cab/chassis;

Whereas, the Staff recommends purchasing the equipment from HD Industries of Jacksonville, Texas, through the BuyBoard local government online purchasing cooperative, for a total purchase price of \$75,013.70;

Whereas, funds are available for the purchase in Account No. 110-5900-531-6222, Project # 100527; and

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

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

Part 1: The City Council authorizes the purchase of one Pro-Patch asphalt pothole patcher body from HD Industries of Jacksonville, Texas, through the BuyBoard local government online purchasing cooperative, in the amount of \$75,013.70.

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

Part 3: 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 **15th** day of **October**, 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:

Bruce Butscher, P.E., Director of Public Works
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of one Dump Truck for the Street Division.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Included in the adopted FY 2010 budget is funding to replace a dump truck in the Street Division of the Public Works Department. This dump truck is used daily to haul base and asphalt materials utilized by the Streets Division throughout the course of daily operations. The current dump truck identified to be replaced at this time was purchased in 1994, with an estimated lifetime of ten years. Existing equipment has served its useful life and has therefore been identified during this fiscal year for replacement.

Two bids for this purchase were opened on October 13, 2009. Temple Freightliner was the low bidder, submitting a bid in the amount of \$71,265.00. Based upon the low bid, staff recommends purchase of this equipment from Temple Freightliner in the amount of \$71,265.00.

FISCAL IMPACT: Included in the FY 2010 Operating Budget is \$76,500 in account #110-5900-531-6222, project # 100528, for the purchase of the replacement dump truck for the Street Division.

ATTACHMENTS:

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

Tabulation of Bids Received
on October 13, 2009 at 2:45 p.m.
Dump Truck

	Bidders	
	Longhorn International Temple	Temple Freightliner Temple
Description		
Total Bid Price	\$75,533.52	\$71,265.00
Delivery within 180 days?	Yes	Yes
Local Preference	Yes	Yes
Exceptions?	No	Yes
Credit Check Authorization	Yes	Yes

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

Belinda Mattke

13-Oct-09

Belinda Mattke, Director of Purchasing

***Note: Highlighted bid is recommended
for Council approval.***

Plan Holders
Baby Jack II Automotive
Davis Trailer & Truck
Equipment Southwest
Grand Prairie Ford
Hub City Ford
Longhorn International
Mac Truck
MHC Kenworth
Prime Vendor
Randall Reed's Prestige Ford
Rush Truck Center
TBEI, Inc
Temple Freightliner

City, ST
Caldwell, TX
Little Rock, AR
Irving, TX
Grand Prairie, TX
Crestview, FL

Garland, TX
Waco, TX
Eden Prairie, MN

RESOLUTION NO. 2009-5852-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A DUMP TRUCK FOR THE STREET DIVISION FROM TEMPLE FREIGHTLINER OF TEMPLE, TEXAS, IN THE AMOUNT OF \$71,265.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 13, 2009, the City received 2 bids for the purchase of a dump truck for the Street Division;

Whereas, the Staff recommends accepting the bid (\$71,265.00) received from Temple Freightliner of Temple, Texas;

Whereas, funds are available for the purchase in Account No. 110-5900-531-6222, Project # 100528; and

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

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

Part 1: The City Council authorizes the purchase of a dump truck for the Street Division from Temple Freightliner of Temple, Texas, in the amount of \$71,265.00.

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

Part 3: 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 **15th** day of **October**, 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

10/15/09
Item #6(E)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, P.E., Director of Public Works
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of one Street Sweeper for the Street Division.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Included in the adopted FY 2010 budget is funding to replace a street sweeper in the Street Division of the Public Works Department. Currently, personnel in the Street Department operate two street sweepers for maintenance and cleaning of city streets. The street sweeper identified to be replaced at this time was purchased in 2000, with an estimated lifetime of six to seven years. Existing equipment has served its useful life and has therefore been identified during this fiscal year for replacement.

One bid for this purchase was received and opened on October 13, 2009. Tymco, Inc. was the low bidder, submitting a bid with options in the amount of \$156,225.00. Based upon the low bid, staff recommends purchase of this equipment from Tymco, Inc., of Waco, in the amount of \$156,225.00.

FISCAL IMPACT: Included in the FY 2010 Operating Budget is \$163,000 in account #110-5900-531-6222, project # 100529, for the purchase of the replacement street sweeper for the Street Division.

ATTACHMENTS:

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

Tabulation of Bids Received
on October 13, 2009 at 2:30 p.m.
Street Sweeper

	Bidders
	Tymco Inc. Waco
Description	
Total Base Bid	\$147,330.00
Total Bid w/options	\$156,225.00
Delivery within 180 days?	Yes
Acknowledge Addendum?	Yes
Local Preference?	No
Exceptions?	None
Credit Check Authorization	Yes

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

Belinda Mattke

13-Oct-09

Belinda Mattke, Director of Purchasing

***Note: Highlighted bid is recommended
for Council approval.***

Plan Holders
Ahern
Equipment Southwest
Grand Prairie Ford
Hi-Way Equipment Co
Hub City Ford
Longhorn International
M-B Companies, Inc
Nilfisk-Advance Inc
Prime Vendor
Temple Freightliner
TYMCO, Inc

City, ST
Las Vegas, NV
Irving, TX
Grand Prairie, TX
Houston, TX
Crestview, FL

New Holstein, WI
Minneapolis, MN

Waco, TX

RESOLUTION NO. 2009-5853-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A STREET SWEEPER FOR THE STREET DIVISION FROM TYMCO, INC., OF WACO, TEXAS, IN THE AMOUNT OF \$156,225.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 13, 2009, the City received one bid for the purchase of a street sweeper for the Street Division;

Whereas, the Staff recommends accepting the bid (\$156,225.00) received from Tymco, Inc., of Waco, Texas;

Whereas, funds are available for the purchase in Account No. 110-5900-531-6222, Project # 100529; and

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

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

Part 1: The City Council authorizes the purchase of a street sweeper for the Street Division from Tymco, Inc., of Waco, Texas, in the amount of \$156,225.00.

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

Part 3: 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 **15th** day of **October**, 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

10/15/09
Item #6(F)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing
Alan DeLoera, Director of Information Technology

ITEM DESCRIPTION: Consider adopting a resolution authorizing continued cellular services, data services, and related equipment acquisitions through Verizon Wireless utilizing an existing Federal and/or State contract in the estimated annual amount of \$165,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City currently has 224 cellular phones and 134 wireless data cards serviced through Verizon Wireless. The Purchasing and Information Technology departments have reviewed the current Verizon contract and have done some comparisons with other plans and vendors and are confident that the current contracts offer the lowest rates available with the best service coverage.

The State of Texas contract offers lower monthly rates for staff who do not have smart phones or who do not travel outside the state. The State contract also has better rates for the wireless data cards. Currently we have 154 cellular phones and 134 wireless data cards on this contract.

For staff who have smart phones or who travel outside the State of Texas, we found the Federal (GSA-Schedule 70) contract to be more advantageous for the City. Currently we have 70 cellular phones on this contract.

Staff will be doing an economic analysis again this year to determine which plan is most advantageous for each user.

Staff has been pleased with the services provided by Verizon Wireless and recommends Council award extensions to the contracts.

FISCAL IMPACT: Each department with cellular phones and wireless data cards has budgeted for these services totaling approximately \$165,000.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2009-5854-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, AUTHORIZING CONTINUED CELLULAR SERVICES, DATA
SERVICES, AND RELATED EQUIPMENT ACQUISITIONS THROUGH
VERIZON WIRELESS UTILIZING AN EXISTING FEDERAL AND/OR
STATE CONTRACT IN THE ESTIMATED ANNUAL AMOUNT OF
\$165,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Staff recommends that the City continue cellular services, data services, and related equipment acquisitions through Verizon Wireless;

Whereas, each department with cellular phones and wireless data cards has budgeted for these services – Staff estimates it will spend no more than the approximately \$165,000 budgeted for cellular services over the next 12 months; 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 continued cellular services, data services, and related equipment acquisitions through Verizon Wireless utilizing an existing Federal and/or State contract in the estimated annual amount of \$165,000.

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 **15th** day of **October, 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

10/15/09
Item #6(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a 2-year renewal agreement with Central Texas 4C, Inc., for lease of space in the Robert M. Blackmon, Jr., Neighborhood Center for preschool programs.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The annual lease for the Robert M. Blackmon, Jr. Neighborhood Center, located in Wilson Park, expired September 30, 2009. Central Texas 4C, Inc., would like to keep leasing the facility for their preschool programs.

4C has been occupying the Blackmon Center since 1986. Under the lease the City pays water, sewer and garbage. 4C pays for electrical services. The City maintains the exterior walls, drives, etc., of the building and pipes and wiring which are internal to the walls of the building. 4C pays for plumbing and electrical within the building such as toilets, light fixtures, etc. The total cost anticipated to be expended for FY2009-10 for all costs by the City at the Blackmon Center, to include water, sewer, garbage pickup and maintenance per the lease agreement, is budgeted at \$750.

FISCAL IMPACT: The total annual rent is \$9,261.48, with City expenditures for water, sewer, garbage and maintenance per the lease agreement estimated at \$750 for FY 2010.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A 2-YEAR RENEWAL AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND THE CENTRAL TEXAS 4C, INC., FOR LEASE OF SPACE AT THE ROBERT M. BLACKMON, JR., NEIGHBORHOOD CENTER FOR PRESCHOOL PROGRAMS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Central Texas 4C, Inc., has requested a renewal of the lease of space in the Robert M. Blackmon, Jr., Neighborhood Center for preschool programs;

Whereas, the Staff recommends approval of the lease for 2 years at the rate of \$771.79 per month (\$9,261.48 per year); 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 lease agreement between the City of Temple and the Central Texas 4C, Inc., after approval as to form by the City Attorney, for lease of space in the Robert M. Blackmon, Jr., Neighborhood Center for preschool programs.

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 **15th** day of **October**, 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

10/15/09
Item #6(H)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy for the provision of temporary workers for the Parks and Leisure Services Department in the amount of \$ 73,500.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Since 2001, the Parks and Leisure Services Department has utilized the services of the Temple Veterans Affairs (VA) Hospital to provide contract day laborer services to help maintain the park system. The VA has provided temporary workers to conduct a number of duties including: mowing/edging/trimming, restroom cleaning, litter removal, planter bed maintenance, ball field maintenance, painting and carpentry work.

The program has been very successful. We have found that almost every one of the workers the VA assigns to the Parks and Leisure Services Department has worked diligently to do a good job for us and as a result we have chosen to hire a number of them as full-time employees when job opportunities have arisen. We believe this is an excellent program and provides a win-win opportunity for the VA and the Department.

This procurement falls under the general exemptions for competitive bidding under the Local Government Code 252.022(a)(5), which allows procurements for work that is performed and paid for by the day as work progresses to not have to comply with the competitive sealed bidding rules.

FISCAL IMPACT: \$ 73,500 – Funds are budgeted in account 110-3500-552-26-23

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH THE DEPARTMENT OF VETERANS AFFAIRS, VETERANS INDUSTRIES/COMPENSATED WORK THERAPY FOR THE PROVISION OF TEMPORARY WORKERS FOR THE PARKS AND LEISURE SERVICES DEPARTMENT, IN AN ANNUAL AMOUNT NOT TO EXCEED \$73,500; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, since 2001, the Parks and Leisure Services Department has utilized the services of the Temple Veterans Affairs (VA) Hospital to provide contract day laborer services to help maintain the park system;

Whereas, the program has been very successful and the Staff recommends authorizing a contract with the Department of Veterans Affairs to continue the compensated work therapy program for the Parks and Leisure Services Department in the approximate amount not to exceed \$73,500;

Whereas, funds are budgeted in Account Nos. 110-3500-552-2623 for this expenditure; 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 contract for an amount not to exceed \$73,500, with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy, after approval as to form by the City Attorney, for the provision of workers for the Parks and Leisure Services Department.

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 **15th** day of **October**, 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

10/15/09
Item #6(I)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-09-30 – Consider adopting an ordinance authoring a zoning change from:

1. General Retail (GR) to Neighborhood Service (NS) on Lots 1 and 2, Block 56 of Freeman Heights Addition located at 1415 West Avenue H and
2. Multiple-Family One (MF-1) to Neighborhood Service (NS) on Lots 5 and 6, Block 56 of Freeman Heights Addition located at 1403 West Avenue H.

P&Z COMMISSION RECOMMENDATION: At its September 22, 2009 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zone change from GR and MF-1 to NS for the following reasons:

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

Commissioner Pope was absent.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-09-30, from the Planning and Zoning meeting, September 21, 2009. The purpose of this rezoning is two-fold: (1) To make the zoning of Mr. Hajda's property consistent with a previously approved NS rezoning for an adjacent lot that Mr. Hajda also owns and plans for a flower shop and (2) To rezone Mr. Motz's property to NS to bring the use of his property as a law office into compliance with the permitted uses in the Zoning Ordinance.

The Commission did not raise any issues requiring additional staff attention.

Six notices were sent out. As of Wednesday, Sept. 16 at 5 PM, two notices were returned in favor and none were returned in opposition to the request. The newspaper printed notice of the public hearing on Sept. 11, 2009 in accordance with state law and local ordinance

FISCAL IMPACT: None

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Notice Map
P&Z Staff Report (Z-FY-09-30)
P&Z Minutes (September 21, 2009)
Ordinance



Z-FY-09-30 Lots 1, 2, 5 & 6, Block 56, Freeman Heights Addition

1403 & 1415 W Ave H



 ZFY0930

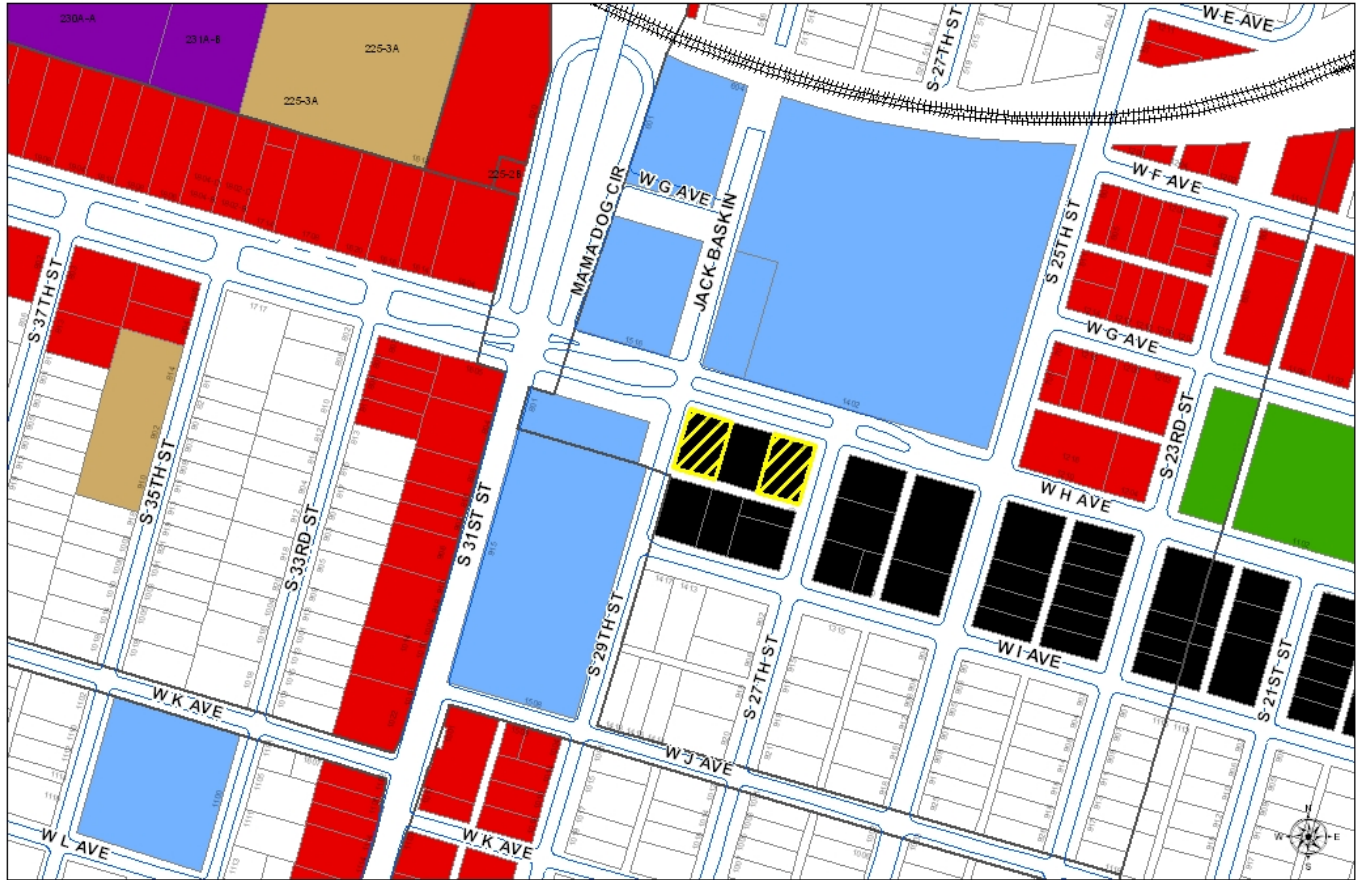
Feet
0 50 100
J Stone 9.1.9



Z-FY-09-30

Lots 1 & 2, Block 56, Freeman Heights Addition

1415 W Ave H



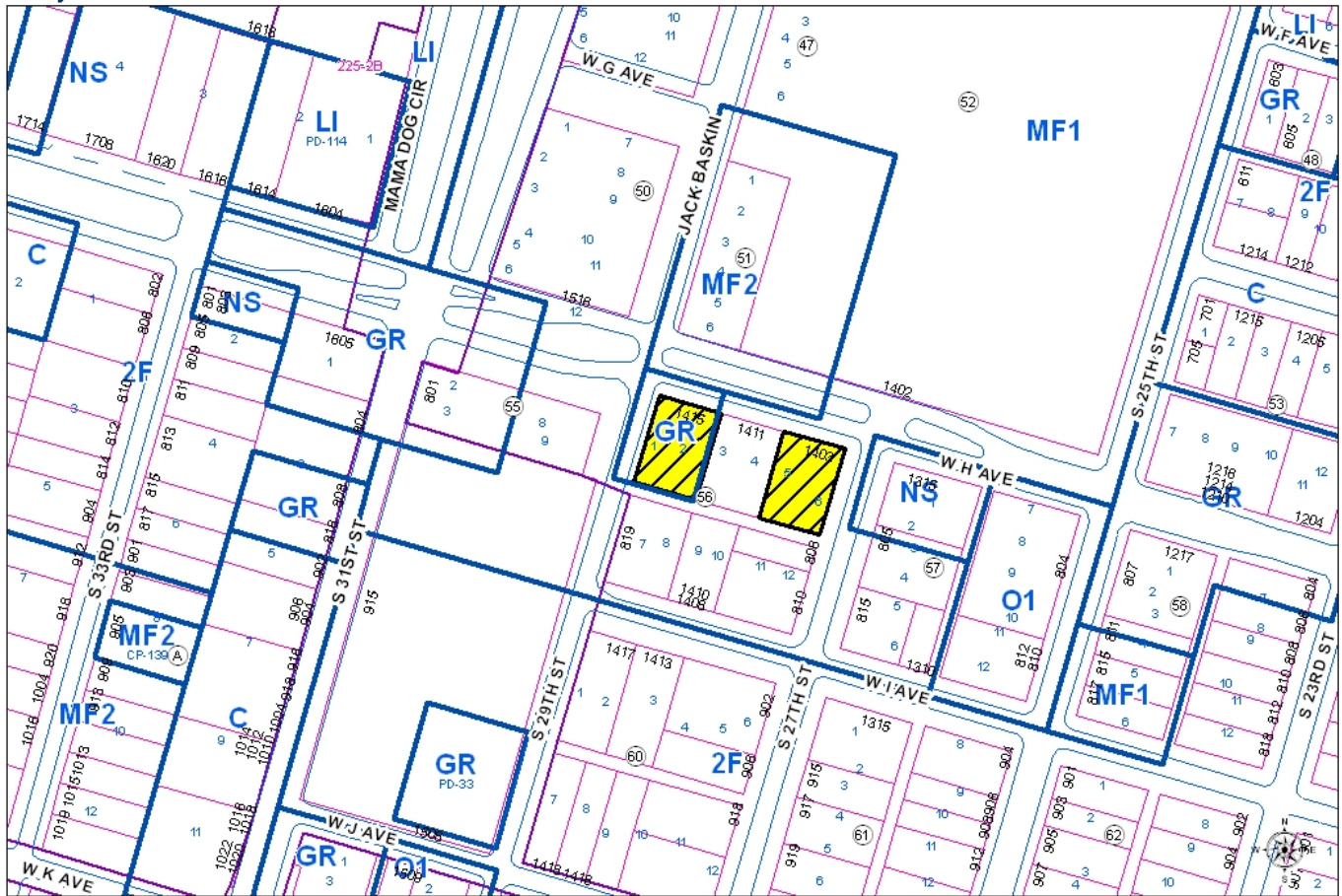
- | | | | | | |
|-----------------|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Temple Boundary | Neighborhood Conservation | Auto-urban Residential | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional |
| ZFY0930 | Estate Residential | Auto-Urban Multi-Family | Suburban Commercial | Industrial | Parks and Open Space |
| | Suburban Residential | Auto-Urban Mixed Use | Urban Center | Business park | Agricultural/Rural |

1 inch = 300 feet
J Stone 9.15.9



Z-FY-09-30 Lots 1, 2, 5 & 6, Block 56, Freeman Heights Addition

1403 & 1415 W Ave H



ZFY0930

Feet
0 50 100 150 200
J Stone 9.1.9



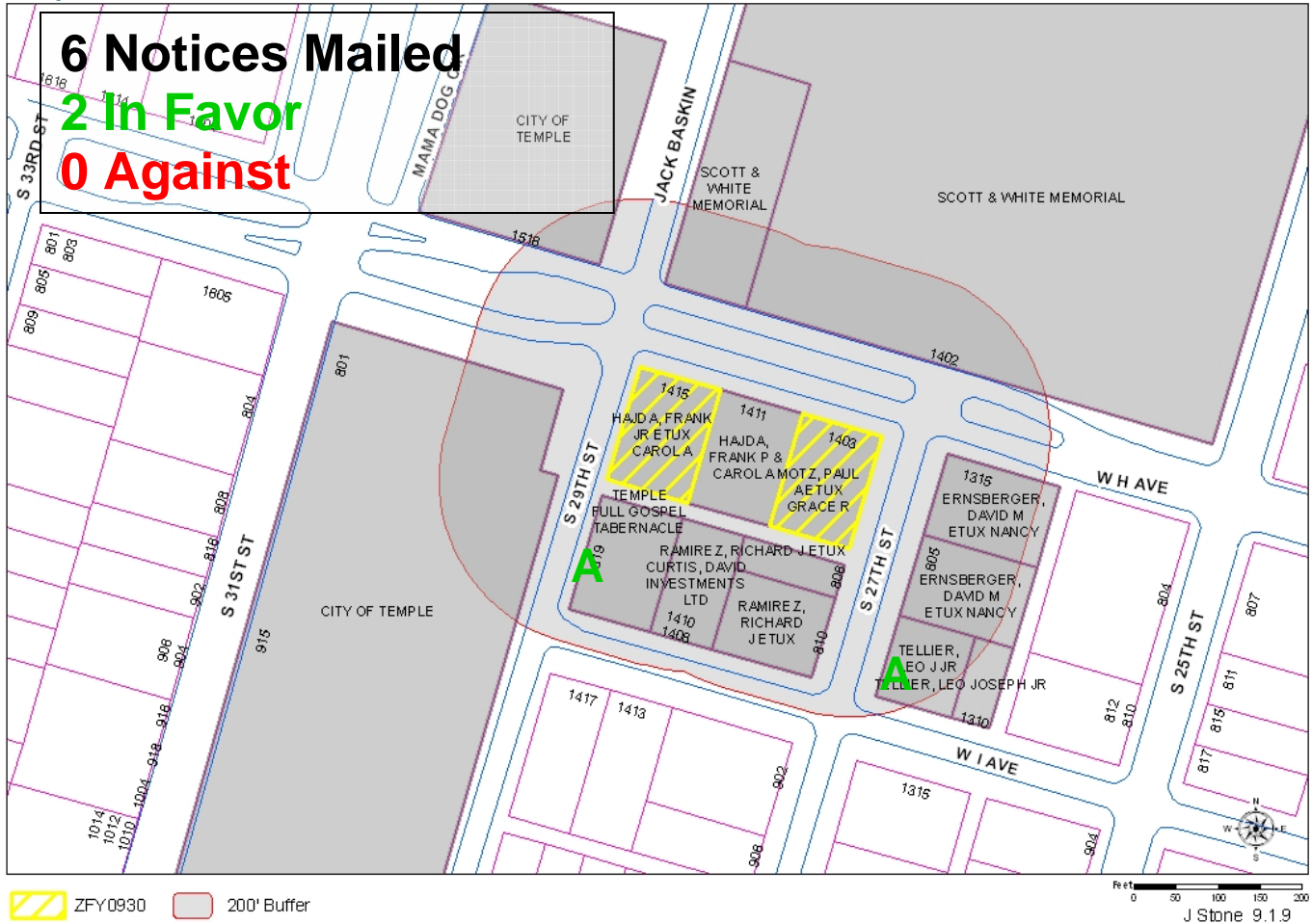
Z-FY-09-30 Lots 1, 2, 5 & 6, Block 56, Freeman Heights Addition

1403 & 1415 W Ave H

6 Notices Mailed

2 In Favor

0 Against





PLANNING AND ZONING COMMISSION AGENDA ITEM

09/21/09
Item #3
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: City of Temple for Frank Hajda and Paul Motz

CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-09-30 – Hold a public hearing to discuss and recommend action on a zoning district change from:

- a. General Retail (GR) to Neighborhood Service (NS) on Lots 1 and 2, Block 56 of Freeman Heights Addition located at 1415 W. Ave. H and
- b. Multiple-Family One (MF-1) to Neighborhood Service (NS) on Lots 5 and 6, Block 56 of Freeman Heights Addition located at 1403 W. Ave. H.


BACKGROUND: The purpose of this rezoning is two-fold: (1) To make the zoning of Mr. Hajda's property consistent with a previously approved NS rezoning for an adjacent lot that Mr. Hajda also owns and (2) To rezone Mr. Motz's property to NS to bring the use of his property as a law office into compliance with the permitted uses in the Zoning Ordinance.

At its August 17, 2009 meeting, the Planning and Zoning Commission recommended approval of a request to rezone Mr. Hajda's lot to the east of the subject property from MF-1 to NS for the purpose of establishing a flower shop. The City Council approved the request on first reading at its September 3, 2009 meeting. The City initiates this zone change from GR to NS so that the two lots that the flower shop is proposed to be built on will have identical zoning. The NS zoning district is the least intense zoning district that allows flower shops.






In conducting research for the August zone change case, City staff discovered that Mr. Motz's law office is on an MF-1 lot. Offices are not permitted in MF-1, but are permitted in NS.



Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property A	GR (NS requested)	Vacant	

Double Sided

Direction	Zoning	Current Land Use	Photo
Subject Property B	MF1 (NS requested)	Office	
North of Subject Property A&B	MF1 & MF2	Hospital	
East of Subject Property A & West of Subject Property B	NS	Office	
East of Subject Property B	NS	Vacant Building	
South of Subject Property A	MF-1	Church	

Direction	Zoning	Current Land Use	Photo
South of Subject Property B	MF-1	Apartment Building	
West of Subject Property A	MF-1	Underground Water Storage	

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

Future Land Use and Character Map

The Future Land Use and Character map designates the subject properties as Auto Urban Mixed Use. The request complies with the Future Land Use and Character Map.

Thoroughfare Plan

The Thoroughfare Plan designates Avenue H as a major arterial. The request complies with the Thoroughfare Plan.

Availability of Public Facilities

A six-inch sewer line and several water lines serve the subject properties.

Development Regulations

The purpose of the NS zoning district is to provide day-to-day retail and service needs for residential areas. This district should be located convenient to residential areas in locations such as the corner of a local road and a collector that serves the neighborhood.

Typical permitted uses include limited retail services such as a convenience store without fuel sales, bank, barber or beauty shop, cleaners or flower shop. Typical prohibited uses include a drive-in restaurant or car wash.

The minimum lot area and setback requirements for NS zoning district are as follows.

NS, Neighborhood Service	
Min. Lot Area (sq. ft.)	NA
Min. Lot Width (ft.)	NA
Min. Lot Depth (ft.)	NA
Max. Height (stories)	2 ½ stories
Min. Yard (ft)	
Front	15
Side	10
Rear	0

Public Notice

Six notices were sent out. As of Wednesday, Sept. 16 at 5 PM, two notices were returned in favor and none were returned in opposition to the request. The newspaper printed notice of the public hearing on Sept. 11, 2009 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-09-30, the zone change from the GR and MF1 to the NS zoning district for the following reasons:

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

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Zoning Map
Land Use and Character Map
Aerial
Notice Map
Response Letters (if any)

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

MONDAY, SEPTEMBER 21, 2009

ACTION ITEMS

Item 3: Z-FY-09-30: Hold a public hearing to discuss and recommend action on a zoning district change from General Retail (GR) to Neighborhood Service (NS) on Lots 1 and 2, Block 56 of Freeman Heights Addition located at 1415 W. Ave. H and from Multiple-Family One (MF-1) to Neighborhood Service (NS) on Lots 5 and 6, Block 56 of Freeman Heights Addition located at 1403 W. Ave. H. Zoned GR and MF-1. (Applicant: City of Temple for Frank Hajda and Paul Motz)

Mr. Brian Mabry, Senior Planner, stated this case will go to City Council on October 1st and 15th for first and second reading, respectively. This involved two separate but related lots for clarification during Mr. Mabry's presentation of the subject property. Mr. Mabry stated the purpose of this rezoning initiated by the City is to make the zoning of this property consistent with the previously approved NS zoning on the adjacent lot. NS was approved at a previous meeting by P&Z and City Council and will need one more reading to become official.

Mr. Mabry stated the second purpose is to rezone the Motz property from MF1 to NS since the current use for "offices" is not permitted in MF1, which was discovered during the research of this case. The entire block would be NS if recommended for approval for rezoning by the P&Z Commission.

Mr. Mabry stated both properties are designated auto/urban commercial so the request for NS complied with the Future Land Use and Character Map; Avenue H is a major arterial and complied with the Thoroughfare Plan; and a 6" sewer and various water lines serve the properties which made public facilities available to serve the properties.

Mr. Mabry stated six notices were mailed for this request and two notices were returned in favor and zero were returned in opposition.

Mr. Mabry stated Staff recommended approval of this rezoning request from GR and MF1 to NS since it complied with the Future Land Use and Character Map, the Thoroughfare Plan and adequate facilities will serve the property.

Commissioner Barton asked about a church south of the property and asked if churches are normally MF1. Mr. Mabry stated in Temple churches are allowed in any zoning district just as schools. Mr. Mabry stated he knew of no instance where a church needed to apply for a rezoning.

Commissioner Barton asked when churches were designated MF1 and Mr. Mabry said he would have to research that information.

Mr. Mabry stated this was a public hearing and Chair Pilkington opened the public hearing for comment. There being no speakers Chair Pilkington closed the public hearing.

Vice-Chair Talley made a motion to approve this request and Commissioner Barton made a second.

Motion passed: (8/0)

Commissioner Pope absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-09-30]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM GENERAL RETAIL DISTRICT (GR) TO NEIGHBORHOOD SERVICE DISTRICT (NS) ON LOTS 1 AND 2, BLOCK 56 OF FREEMAN HEIGHTS ADDITION LOCATED AT 1415 WEST AVENUE H; AND FROM MULTIPLE-FAMILY ONE DISTRICT (MF-1) TO NEIGHBORHOOD SERVICE DISTRICT (NS) ON LOTS 5 AND 6, BLOCK 56 OF FREEMAN HEIGHTS ADDITION LOCATED AT 1403 WEST AVENUE H; 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 General Retail District (GR) to Neighborhood Service District (NS) on Lots 1 and 2, Block 56 of Freeman Heights addition located at 1415 West Avenue H; and from Multiple-Family One District (MF-1) to Neighborhood Service District (NS) on Lots 5 and 6, Block 56 of Freeman Heights addition located at 1403 West Avenue H, 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 **1st** day of **October**, 2009.

PASSED AND APPROVED on Second Reading on the **15th** day of **October**, 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

10/15/09
Item #6(J)-(1)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing Plan for FY 2010 to appropriate funding for the feasibility study of extension of rail service with Kasberg, Patrick & Associates in the amount of \$121,550.

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

ITEM SUMMARY: An amendment to the Financing Plan to appropriate funding for a feasibility study for the extension of rail service with Kasberg, Patrick & Associates in the amount of \$121,550 is presented for approval. This amendment to the Financing Plan is proposed to be funded from the proceeds from the sale of 158.81 acres of land to HEB Grocery Company, LP. The Reinvestment Zone No. 1 received \$1,117,741.47 in June 2009 from this sale.

The Reinvestment Zone No. 1 Board approved the recommendation at its September 23, 2009, board meeting.

FISCAL IMPACT: The proposed amendment to appropriate funds in the amount of \$121,550 for the feasibility study for the extension of rail service is proposed to be funded from Unreserved Fund Balance within the Reinvestment Zone No. 1 Financing Plan. In June 2009, 158.81 acres was sold to HEB Grocery Company, LP. The Reinvestment Zone No. 1 received \$1,117,741.47 in proceeds from the sale in FY 2009. Since the proceeds were received in FY 2009, those funds “roll” to unreserved fund balance in FY 2010. The Project Plan and Financing Plan beginning fund balance has been adjusted just to reflect the amount needed to fund this agreement. A budget adjustment is presented for Council’s approval appropriating these funds to account 795-9500-531-6110, project #100578, from the Zone’s Unreserved Fund Balance.

ATTACHMENTS:

[Summary of Recommended Financing Plan Amendments](#)
[Financing Plan](#)
[Summary Financing Plan with Detailed Project Plan](#)
[Budget Adjustment](#)
[Ordinance](#)

Summary of Recommended Financing Plan Amendments

FY	Project	Agreement Required	Financing Plan Amendment	Line Project Plan/Financing Plan	Source	Amount
2010	Extension of rail service	Yes, KPA agreement not to exceed \$121,550	Yes	5, 130/ 5, 199	Proceeds from sale of land to HEB in FY 2009; funds roll to unreserved fund balance in FY 2010	\$121,550

DESCRIPTION		Y/E 9/30/09 Year 27	Y/E 9/30/10 Year 28	Y/E 9/30/11 Year 29	Y/E 9/30/12 Year 30	Y/E 9/30/13 Year 31	Y/E 9/30/14 Year 32	Y/E 9/30/15 Year 33	Y/E 9/30/16 Year 34	Y/E 9/30/17 Year 35	Y/E 9/30/18 Year 36	Y/E 9/30/19 Year 37	Y/E 9/30/20 Year 38	Y/E 9/30/21 Year 39	Y/E 9/30/22 Year 40
1	Appraised Value	\$ 131,160,668	\$ 140,238,368	\$ 144,626,499	\$ 212,822,764	\$ 233,450,991	\$ 235,785,501	\$ 238,143,356	\$ 240,524,790	\$ 242,930,038	\$ 245,359,338	\$ 314,562,931	\$ 336,208,561	\$ 339,570,646	\$ 342,966,353
5	FUND BALANCE, Begin	\$ 23,998,646	\$ 1,328,769	\$ 2,372,393	\$ 2,331,964	\$ 1,473,522	\$ 1,401,286	\$ 1,793,455	\$ 1,751,307	\$ 1,771,083	\$ 1,354,609	\$ 1,203,823	\$ 1,451,326	\$ 1,692,672	\$ 2,007,493
SOURCES OF CASH:															
10	Tax Revenues	4,051,439	4,592,298	4,679,594	6,271,181	6,789,596	6,857,023	6,925,124	6,993,906	7,063,376	7,133,540	8,749,666	9,249,246	9,341,269	9,434,212
15	Allowance for Uncoll. Taxes	(108,507)	(112,341)	(114,517)	(115,655)	(116,801)	(117,961)	(119,132)	(120,314)	(121,509)	(122,715)	(123,934)	(125,165)	(126,408)	(127,663)
20	Interest Income-Bonds	-	-	-	-	-	-	-	-	-	-	-	-	-	-
25	Interest Income-Other	40,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	40,000	40,000	30,000	10,000
30	Other-Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-
33	Miscellaneous Reimbursements {GST}	45,955	-	-	-	-	-	-	-	-	-	-	-	-	-
34	Sale of Land	-	-	-	-	-	-	-	-	-	-	-	-	-	-
35	Grant Funds	-	-	-	-	-	-	-	-	-	-	-	-	-	-
35	Miscellaneous Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-
40	TOTAL SOURCES	4,028,887	4,529,957	4,615,077	6,205,526	6,722,795	6,789,062	6,855,992	6,923,592	6,991,867	7,060,825	8,665,732	9,164,081	9,244,861	9,316,549
USES OF CASH:															
Operating Expenses															
50	Prof Svcs/Proj Mgmt	127,552	92,007	93,847	95,724	97,638	99,591	101,583	103,615	105,687	107,801	109,957	112,156	114,399	116,687
51	Legal/Audit	1,100	1,100	1,100	1,200	1,200	1,200	1,200	1,200	1,300	1,300	1,300	1,300	1,300	1,400
55	Zone Mtc	75,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
60	TEDC	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
62	Other Contracted Services	30,000	-	-	-	-	-	-	-	-	-	-	-	-	-
65	TISD-Joint Use facilities	129,709	22,423	22,647	22,873	23,102	23,333	23,567	23,802	24,040	24,281	24,523	24,769	25,016	25,267
90	Subtotal-Operating Expenses	463,361	390,530	392,594	394,797	396,940	399,124	401,350	403,617	406,027	408,382	410,780	413,225	415,715	418,354
Projects (2)															
199	North Zone (3)	13,604,434	161,550	-	-	800,000	-	-	-	-	2,700,000	-	-	-	-
299	Western Aviation Zone (3)	133,342	300,000	1,225,150	2,175,850	1,100,000	-	-	-	-	-	-	-	-	-
399	Western Bio-Science & Medical Zone (3)	7,369,186	-	-	-	-	-	-	-	-	-	-	-	-	-
400	Southeast Industrial Park Zone (3)	1,273,500	-	-	-	-	-	-	-	-	-	-	-	-	-
405	General Roadway Improvements	250,111	-	-	-	-	-	-	-	-	-	-	-	-	-
410	Major Gateway Entrances	400,000	-	400,000	-	-	-	-	-	-	-	-	-	-	-
415	Downtown Improvements	204,260	192,113	195,747	197,691	199,655	201,639	203,643	205,667	207,710	209,775	211,860	213,966	216,093	218,241
420	Loop 363 Improvements	905,410	-	-	-	-	-	-	-	-	-	-	-	-	-
430	Reserve for Acer facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-
500	Zone Projects - Public Improvements	176,730	400,000	400,000	400,000	400,000	1,900,000	2,400,000	2,400,000	2,900,000	-	3,900,000	4,400,000	4,400,000	6,788,783
600	Subtotal-Projects	24,316,973	1,053,663	2,220,897	2,773,541	2,499,655	2,101,639	2,603,643	2,605,667	3,107,710	2,909,775	4,111,860	4,613,966	4,616,093	7,007,024
Debt Service															
625	2003 Bond Issue	866,385	868,545	868,420	867,035	869,055	869,855	868,930	866,530	867,440	866,753	869,240	869,640	868,070	870,070
626	2008 Bond Issue-Nontaxable {\$16.010 mil}	635,460	635,460	635,460	1,785,460	1,788,540	1,784,580	1,783,784	1,785,948	1,785,868	1,783,544	1,783,976	1,786,960	1,787,292	1,784,972
627	2008 Bond Issue-Taxable {\$10.365 mil}	536,935	536,935	536,935	1,241,935	1,239,641	1,240,495	1,239,233	1,240,854	1,240,096	1,241,957	1,241,173	1,237,744	1,241,670	1,242,422
628	Issuance Costs	-	-	-	-	-	-	-	-	-	-	-	-	-	-
630	Paying Agent Services	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
635	Subtotal-Debt Service	2,039,980	2,042,140	2,042,015	3,895,630	3,898,436	3,896,130	3,893,147	3,894,532	3,894,604	3,893,454	3,895,589	3,895,544	3,898,232	3,898,664
650	TOTAL USES	26,820,314	3,486,333	4,655,506	7,063,968	6,795,031	6,396,893	6,898,140	6,903,816	7,408,341	7,211,611	8,418,229	8,922,735	8,930,040	11,324,042
660	FUND BALANCE, End	1,207,219	2,372,393	2,331,964	1,473,522	1,401,286	1,793,455	1,751,307	1,771,083	1,354,609	1,203,823	1,451,326	1,692,672	2,007,493	(0)
670	Required Debt Reserve	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	-
700	AVAILABLE FUND BALANCE	\$ 333,982	\$ 1,499,156	\$ 1,458,727	\$ 600,285	\$ 528,049	\$ 920,218	\$ 878,070	\$ 897,846	\$ 481,372	\$ 330,586	\$ 578,089	\$ 819,435	\$ 1,134,256	\$ (0)
800	FUND BALANCE, Begin	23,998,646	1,328,769	2,372,393	2,331,964	1,473,522	1,401,286	1,793,455	1,751,307	1,771,083	1,354,609	1,203,823	1,451,326	1,692,672	2,007,493
805	Revenue over(under)expense	(22,791,427)	1,043,624	(40,429)	(858,442)	(72,236)	392,169	(42,148)	19,776	(416,474)	(150,786)	247,503	241,346	314,821	(2,007,493)
810	FUND BALANCE, End	\$ 1,207,219	\$ 2,372,393	\$ 2,331,964	\$ 1,473,522	\$ 1,401,286	\$ 1,793,455	\$ 1,751,307	\$ 1,771,083	\$ 1,354,609	\$ 1,203,823	\$ 1,451,326	\$ 1,692,672	\$ 2,007,493	\$ (0)

SUMMARY FINANCING PLAN							
	Adjusted FY 09 (with Carry Forwards)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
5Beginning Available Fund Balance, Oct 1	\$ 23,998,646	1,328,769	2,372,393	2,331,964	1,473,522	1,401,286	1,793,455
40Total Sources (Revenue & Bonds)	4,028,887	4,529,957	4,615,077	6,205,526	6,722,795	6,789,062	6,855,992
45Less Required Debt Reserve	-	-	-	-	-	-	-
49Net Available for Appropriation	28,027,533	5,858,726	6,987,470	8,537,490	8,196,317	8,190,348	8,649,447
50General Administrative Expenditures	128,652	93,107	94,947	96,924	98,838	100,791	102,783
55Zone Maintenance	75,000	175,000	175,000	175,000	175,000	175,000	175,000
60Contractual Payments (TEDC)	100,000	100,000	100,000	100,000	100,000	100,000	100,000
62Other Contracted Services	30,000	-	-	-	-	-	-
65TISD - Joint Use Facilities	129,709	22,423	22,647	22,873	23,102	23,333	23,567
70Debt Service - 2003 Issue	867,585	869,745	869,620	868,235	870,255	871,055	870,130
71Debt Service - 2008 Issue {\$16.010 mil}	635,460	635,460	635,460	1,785,460	1,788,540	1,784,580	1,783,784
72Debt Service - 2008 Taxable Issue {\$10.365 mil}	536,935	536,935	536,935	1,241,935	1,239,641	1,240,495	1,239,233
73Issuance Costs	-	-	-	-	-	-	-
75Total Operating & Committed Expenditures	2,503,341	2,432,670	2,434,609	4,290,427	4,295,376	4,295,254	4,294,497
99Net Available for Projects	\$ 25,524,192	\$ 3,426,056	\$ 4,552,861	\$ 4,247,063	\$ 3,900,941	\$ 3,895,094	\$ 4,354,950

PROJECT PLAN							
	Adj'd FY 2009 (with Carry Forwards)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
NORTH ZONE (including Enterprise Park):							
100Railroad Spur Improvements	9,234,785	-	-	-	-	-	-
105Elm Creek Detention Pond	1,005,157	-	-	-	-	-	-
110Railroad Improvements Engineering Analysis	-	-	-	-	-	-	-
115Railroad Repairs/Maintenance based on Analysis	243,469	40,000	-	-	-	-	-
120Enterprise Park Water Tank	-	-	-	-	800,000	-	-
121ROW Acquisition - Public Improvements	3,661	-	-	-	-	-	-
122Land Acq-Wendland property {approx 355 acres}	-	-	-	-	-	-	-
125Wendland Road Improvements	3,117,362	-	-	-	-	-	-
130Extension of Rail Service	-	121,550					
199Total North Zone (including Enterprise Park)	13,604,434	161,550	-	-	800,000	-	-
WESTERN AVIATION ZONE:							
200Detention Pond #2 including W 1-A	-	-	-	-	-	-	-
205Old Howard Road from Ind Blvd to SH36	-	-	-	-	-	-	-
210Old Howard Road Gateway Entrance Project	8,872	-	-	-	-	-	-
215WW1--Waste Water Ext SH36 to Ind Blvd	-	-	-	-	-	-	-
220R I-B, W I-B--Industrial Blvd Extension	2,100	-	-	-	-	-	-
221Airport Park Infrastructure Construction	122,370	-	-	-	-	-	-
225Airport Study	-	-	-	-	-	-	-
230Airport Trail Roadway-Ind Blvd to Pepper Crk (RIII)	-	-	115,500	654,500	-	-	-
235Airport Trail Utilities (W-V, W II, W III)	-	-	109,650	621,350	-	-	-
240Old Howard North (R II)	-	300,000	1,000,000	700,000	-	-	-
245Airport Trail Roadway-Pepper Crk to Mouser (R V)	-	-	-	200,000	1,100,000	-	-
299Total Western Aviation Zone	133,342	300,000	1,225,150	2,175,850	1,100,000	-	-
WESTERN BIO-SCIENCE & MEDICAL ZONE:							
300Greenbelt Development along Pepper Creek	2,376,428	-	-	-	-	-	-
305Outer Loop Phase 2	4,482,463	-	-	-	-	-	-
306Bio-Science Park Phase 1	510,295	-	-	-	-	-	-
310Bio-Science Institute	-	-	-	-	-	-	-
399Total Western Bio-Science & Medical Zone	7,369,186	-	-	-	-	-	-
OTHER PROJECTS:							
400Southeast Ind Park (Lorraine Drive)	1,273,500	-	-	-	-	-	-
405Roadway Maintenance/Improvements	250,111	-	-	-	-	-	-
410Gateway Entrance Projects (after Old Howard)	400,000	-	400,000	-	-	-	-
415Downtown Improvements	204,260	192,113	195,747	197,691	199,655	201,639	203,643
420Loop 363 Improvements (TxDOT commitment)	905,410	-	-	-	-	-	-
430Reserve for Acer facility	-	-	-	-	-	-	-
499Total Other Projects	3,033,281	192,113	595,747	197,691	199,655	201,639	203,643
500Undesignated Funding-Public Impr-nontaxable bonds	176,730	400,000	400,000	400,000	400,000	1,900,000	2,400,000
501Undesignated Funding-Public Impr-taxable bonds	-	-	-	-	-	-	-
600Total Planned Project Expenditures	24,316,973	1,053,663	2,220,897	2,773,541	2,499,655	2,101,639	2,603,643
660Fund Balance at Year End	\$ 1,207,219	\$ 2,372,393	\$ 2,331,964	\$ 1,473,522	\$ 1,401,286	\$ 1,793,455	\$ 1,751,307
670Required Debt Reserve	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)	(873,237)
700AVAILABLE FUND BALANCE	\$ 333,982	\$ 1,499,156	\$ 1,458,727	\$ 600,285	\$ 528,049	\$ 920,218	\$ 878,070

FY 2010**BUDGET ADJUSTMENT FORM**

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

Adjustments should be rounded to the nearest \$1.

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
795-9500-531-61-10	100578	Feasibility Study-Ext of Rail Service	\$ 121,550	
795-0000-358-11-10		Unreserved Fund Balance		\$ 121,550
		<i>Do not post</i>		
TOTAL.....			\$ 121,550	\$ 121,550

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

To appropriate funds in the amount of \$121,550 for the feasibility study with Kasberg, Patrick & Associates for the extension of rail service. All of these are proposed as amendments to the Reinvestment Zone No. 1's Financing Plan. These amendments were approved by the Reinvestment Zone No. 1 Board on 09/23/09. First reading by Council was on 10/01/09, second and final reading on 10/15/09.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

10/15/2009

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 1 FINANCING PLAN FOR FY 2010 TO APPROPRIATE FUNDING FOR THE FEASIBILITY STUDY OF EXTENSION OF RAIL SERVICE WITH KASBERG, PATRICK & ASSOCIATES, IN THE AMOUNT OF \$121,550; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City Council (the "Council") of the City of Temple, Texas, (the "City") created Reinvestment Zone Number One, City of Temple, Texas (the "Zone") by Ordinance No. 1457 adopted on September 16, 1982;

Whereas, the Council adopted a Project Plan and Reinvestment Zone Financing Plan for the Zone by Ordinance No. 1525 adopted on December 22, 1983, and thereafter amended such plans by Ordinance No. 1664 adopted on June 20, 1985, Ordinance No. 1719 adopted on November 21, 1985, Ordinance No. 1888 adopted on December 21, 1987, Ordinance No. 1945 adopted on October 20, 1988; Ordinance No. 1961 adopted on December 1, 1988; Ordinance No. 2039 adopted on April 19, 1990; Ordinance No. 91-2119 adopted on December 5, 1991; Ordinance No. 92-2138 adopted on April 7, 1992; Ordinance No. 94-2260 adopted on March 3, 1994; Ordinance No. 95-2351 adopted on June 15, 1995; Ordinance No. 98-2542 adopted on February 5, 1998; Ordinance No. 98-2582 adopted on November 19, 1998; Ordinance No. 99-2619 adopted on March 18, 1999; Ordinance No. 99-2629 adopted on May 6, 1999; Ordinance No. 99-2631 adopted on May 20, 1999; Ordinance No. 99-2647 adopted on August 19, 1999; Ordinance No. 99-2678 adopted on December 16, 1999; Ordinance No. 2000-2682 adopted on January 6, 2000; Ordinance No. 2000-2729 adopted on October 19, 2000; Ordinance No. 2001-2772 adopted on June 7, 2001; Ordinance No. 2001-2782 adopted on July 19, 2001; Ordinance No. 2001-2793 adopted on September 20, 2001; Ordinance No. 2001-2807 on November 15, 2001; Ordinance No. 2001-2813 on December 20, 2001; Ordinance No. 2002-2833 on March 21, 2002; Ordinance No. 2002-2838 on April 18, 2002; Ordinance No. 2002-3847 on June 20, 2002; Ordinance No. 2002-3848 on June 20, 2002; Ordinance No. 2002-3868 on October 17, 2002; Ordinance No. 2003- 3888 on February 20, 2003; Ordinance No. 2003-3894 on April 17, 2003; Ordinance No 2003-3926 on September 18, 2003; Ordinance No. 2004-3695 on July 1, 2004; Ordinance No. 2004-3975 on August 19, 2004; Ordinance No. 2004-3981 on September 16, 2004; Ordinance No. 2005-4001 on May 5, 2005; Ordinance No. 2005-4038 on September 15, 2005; Ordinance No. 2006-4051 on January 5, 2006; Ordinance No. 2006-4076 on the 18th day of May, 2006; Ordinance No. 2006-4118; Ordinance No. 2007-4141 on the 19th day of April, 2007; Ordinance No. 2007-4155 on July 19, 2007; Ordinance No. 2007-4172 on the 20th day of September, 2007; Ordinance No. 2007-4173 on October 25, 2007; Ordinance No. 2008-4201 on

the 21st day of February, 2008; and Ordinance No. 2008-4217 the 15th day of May, 2008; Ordinance No. 2008-4242 the 21st day of August, 2009; Ordinance No. 2009-4290 on the 16th day of April, 2009; Ordinance No. 2009-4294 on the 21st day of May, 2009; Ordinance No. 2009-4316 on the 17th day of September, 2009;

Whereas, the Board of Directors of the Zone has adopted an additional amendment to the Reinvestment Zone Financing Plan for the Zone and forwarded such amendment to the Council for appropriate action;

Whereas, the Council finds it necessary to amend the Reinvestment Zone Financing Plan for the Zone to include financial information as hereinafter set forth;

Whereas, the Council finds that it is necessary and convenient to the implementation of the Reinvestment Zone Financing Plan, including the additional amendment, to establish and provide for an economic development program within the meaning of Article III, Section 52-a of the Texas Constitution ("Article III, Section 52-a"), Section 311.010(h) of the Texas Tax Code and Chapter 380 of the Texas Local Government Code to develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone including programs to make grants and loans of Zone assets or from the tax increment fund of the Zone in an aggregate amount not to exceed the amount of the tax increment produced by the City and paid into the tax increment fund for the Zone for activities that benefit the Zone and stimulate business and commercial activity in the Zone as further determined by the City;

Whereas, the Council further finds that the acquisition of the land and real property assembly costs as described in the additional amendment to the Reinvestment Zone Financing Plan is necessary and convenient to the implementation of the Reinvestment Zone Financing Plan and will help develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone by providing land for development of future business and commercial activity, attracting additional jobs within the City and attracting additional sales and other taxes within the City; and

Whereas, the Council finds that such amendment to the Reinvestment Zone Financing Plan is feasible and conforms to the Comprehensive Plan of the City, and that this action will promote economic development within the City of Temple.

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: Reinvestment Zone Financing Plan. The amendment to the Tax Increment Financing Reinvestment Zone No. One Financing Plan, heretofore adopted by the Board of Directors of the Zone and referred to in the preamble of this ordinance, is hereby approved and

adopted, as set forth in the Amendment to Reinvestment Zone Number One, City of Temple, Texas, attached hereto as Exhibit A. This expenditure requires an amendment to the 2009-2010 budget, a copy of which is attached as Exhibit B.

Part 3: Plans Effective. The Financing Plan for the Zone heretofore in effect shall remain in full force and effect according to the terms and provisions thereof, except as specifically amended hereby.

Part 4: Copies to Taxing Units. The City Secretary shall provide a copy of the amendment to the Reinvestment Zone Financing Plan to each taxing unit that taxes real property located in the Zone.

Part 5: Economic Development Program. The Council hereby establishes an economic development program for the Zone in accordance with Article III, Section 52-a of the Texas Constitution, Section 311.010(h) of the Texas Tax Code and Chapter 380 of the Texas Local Government Code to develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone including a program to make grants and loans of Zone assets or from the tax increment fund of the Zone in accordance with the provisions of Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code as directed and authorized by the Council. The Council hereby further directs and authorizes the Board of Directors of the Zone to utilize tax increment reinvestment zone bond proceeds to acquire the land and pay other real property assembly costs as set forth in the additional amendment attached hereto to help develop and diversify the economy of the Zone and develop or expand business and commercial activity in the Zone in accordance with Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code.

Part 6: 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 7: 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 8: 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 and Public Hearing on the 1st day of October, 2009.

PASSED AND APPROVED on Second Reading on the **17th** day of **September**, 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

10/15/09
Item #6(J)-(2)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, (KPA) in the amount of \$121,550 for services required to investigate extension of rail infrastructure to serve additional properties in the vicinity of the Industrial Park in north Temple.

STAFF RECOMMENDATION: Adopt resolution as presented in item discussion.

ITEM SUMMARY: Phases I & II of the Industrial Rail Park were recently constructed to provide rail access from Burlington Northern/Santa Fe lines to the Industrial Park within the TIF Reinvestment Zone #1 in north Temple (see attached Map).

Over the past five years, Council has authorized the following contracts with KPA for the Rail Park's design:

3/17/05	Rail Spur Conceptual Plan	\$ 42,000
8/17/06	Rail Park Layout	\$ 32,500
12/07/06	Rail Spur Phase I design	\$ 394,500
4/05/07	Rail Park Phase 2 design	\$ 298,400
10/04/07	Rail Park Phase 2 design revisions	\$ 173,000

Over the past two years, Council has authorized the following with James Construction Group, LLC, for the Rail Park's construction:

7/03/08	Rail Park construction contract	\$ 9,529,955
6/18/09	Rail Park construction change orders	\$ 178,582

Significant interest and new business investment in properties adjacent to the rail park have already been generated. At the recommendation of the Temple Reinvestment Zone Board, preliminary investigation is required to identify potential areas for extension of rail infrastructure.

The engineering consultant services authorized under this resolution will provide preliminary design services to evaluate potential sites for rail extension. The proposed timeline for this investigation is 90 days (Proposal attached). The cost for these services is \$121,550.

FISCAL IMPACT: Funding in the amount of \$121,550 is available in account 795-9500-531-6110, project # 100578, within the Reinvestment Zone No. 1 Financing Plan as amended with the second and final reading on October 15, 2009, to fund this agreement.

ATTACHMENTS:

[RZ Rail Park Preliminary Investigation Proposal](#)
[RZ Rail Park Preliminary Investigation Map](#)
[RZ Rail Park Preliminary Investigation Resolution](#)



KASBERG, PATRICK & ASSOCIATES, LP

CONSULTING ENGINEERS

Texas Firm F-510

RICK N. KASBERG, P.E.

R. DAVID PATRICK, P.E., C.F.M.

THOMAS D. VALLE, P.E.

Temple

One South Main Street
Temple, Texas 76501
(254) 773-3731

Georgetown

3613 Williams Drive, Suite 406
Georgetown, Texas 78628
(512) 819-9478

August 6, 2009

Mr. Michael Newman, P.E., C.F.M.
City of Temple
3210 East Avenue H, Building A
Temple, Texas 76501

Re: City of Temple, Texas
Temple Reinvestment Zone #1
Preliminary Rail Investigations

Dear Mr. Newman:

At the request of the City of Temple Reinvestment Zone #1, we were directed to prepare a proposal for the above referenced project. The project will prepare preliminary investigations for extensions within the Rail Park that is currently under construction. Our understanding is this will be a change order to the existing contract.

This project will consist of two phases of preliminary engineering. Phase one will be the modeling of portions of the Elm Creek watershed to determine floodwaters, storm event elevations, and water surface modeling under various storm events. While phase two will consist of preliminary design and investigations of rail extensions for the Rail Park that is currently under construction. We will complete this work within ninety (90) days of a notice to proceed from the City of Temple.

The proposal will not include any final design of rail facilities, Corps of Engineer investigations or permits, permits or coordination with any Class I Railroads or FEMA Letter of Map Amendments.

Exhibit C outlines rates which would be used to charge for special or additional services authorized beyond the scope as described in this proposal.

The scope of services for this project will include the following:

- Review of the current recorded floodplain as designated by FEMA.
- Research and survey of the conveyance area and systems for the review area.
- Develop drainage areas for the project.
- Develop stream and floodplain cross sections for the project area.
- Develop modeling criteria.
- Develop hydrology model for the project area.
- Develop stream model for the project area.
- Develop floodplain elevations and maps for the 10, 25, 50 and 100 year storm events.
- Preliminary design of horizontal and vertical alignment of rail extensions.

- Preliminary design for rail crossings.
- Preliminary design for rail connections to existing infrastructure.
- Preliminary design for additional rail facilities.
- Preliminary design of storm water conveyance with relation to the modeling.
- Preliminary design for additional rail storage facilities.
- Preliminary design for clearances as required by regulation.
- Preliminary design for rail sections.
- Preliminary investigations for underground utility conflicts.
- Cost estimates
- Environmental Phase I analysis
- Archaeological Clearance

Preliminary Design Services

Storm Water Modeling

• Review current floodplain	\$	1,320
• Survey and research existing conveyance systems	\$	15,160
• Develop stream cross sections	\$	5,850
• Develop drainage areas for the project	\$	5,240
• Develop modeling criteria	\$	1,200
• Develop hydrology model	\$	9,740
• Develop stream model	\$	9,950
• Develop floodplain	\$	9,950
Subtotal Preliminary Stormwater Modeling	\$	58,410

Railroad Facilities

• New railroad alignment	\$	3,170
• Connection to existing infrastructure	\$	2,270
• Proposed future crossings	\$	6,385
• New storage facilities	\$	8,145
• Drainage conveyance systems	\$	7,230
• Clearance requirements	\$	2,380
• Plan/Profile for rail alignment	\$	9,600
• Rail sections	\$	3,410
• Cost estimate	\$	3,250
Subtotal Railroad Facilities	\$	45,840

Archeological / Environmental

• Archeological Clearance (Entire Property)	\$	9,200
• Phase I Environmental (Entire Property)	\$	8,100
Subtotal Archeological / Environmental	\$	17,300

TOTAL \$ 121,550

Mr. Michael Newman, P.E., C.F.M.

August 6, 2009

Page Three

The deliverables for the project shall be as follows:

1. Hydrology model for the project area.
2. Stream model for the project area.
3. Floodplain map for the 10, 25, 50 and 100 year storm events
4. Preliminary design plan and profile of the rail facilities (Main Line).
5. Preliminary design for the additional storage facilities.
6. Preliminary design of the rail section.
7. Preliminary design section for the storm water conveyance adjacent to proposed rail facilities.
8. Cost Estimates
9. Archeological Report
10. Environmental Report

We can complete all the tasks represented for the lump sum cost of \$121,550. We are available to discuss the scope of the project at your convenience. As always, we look forward to working with you on the project and to the enhancement that it will bring to the City of Temple.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. David Patrick', with a stylized flourish at the end.

R. David Patrick, P.E., C.F.M.

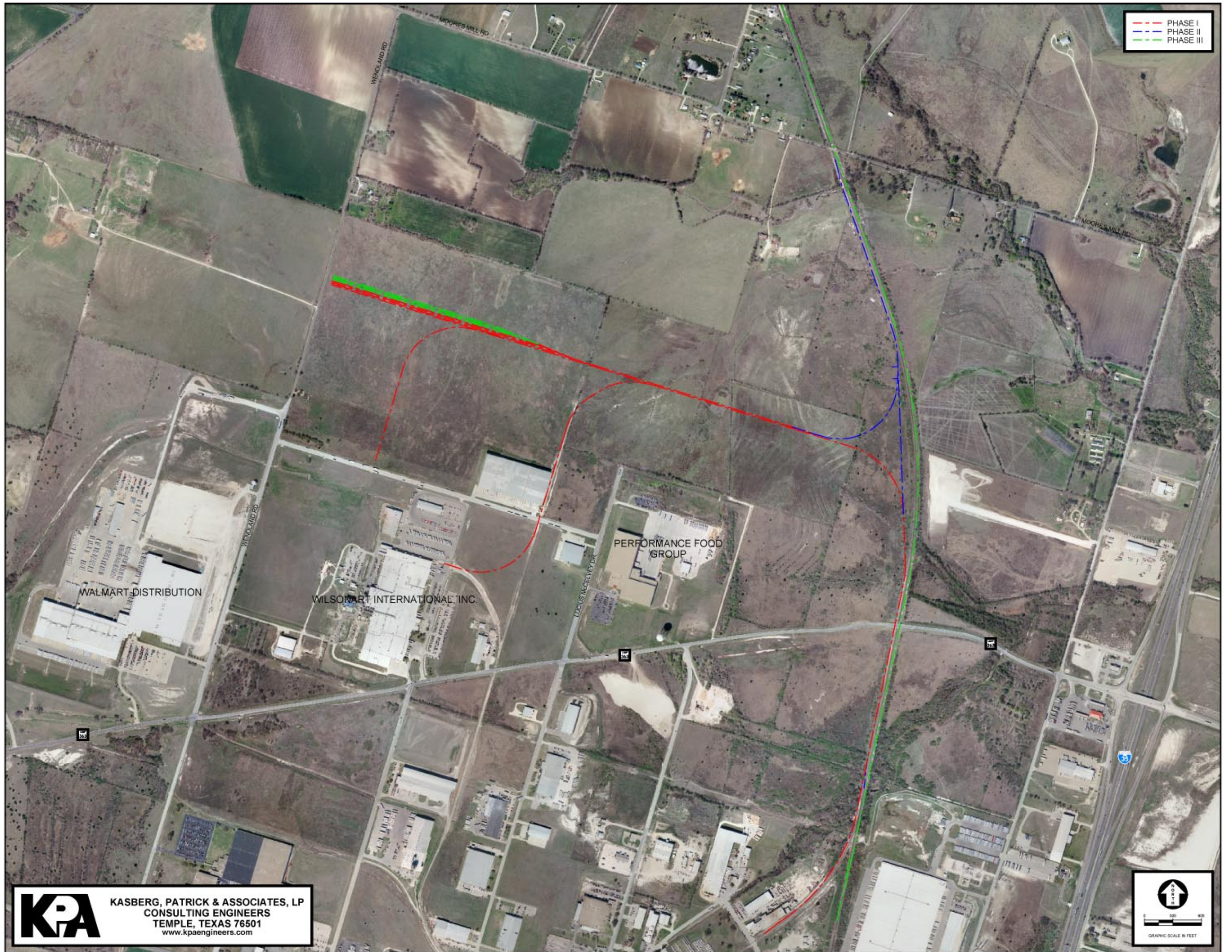
RDP/crc

EXHIBIT C

Charges for Additional Services

Temple Reinvestment Zone #1 Preliminary Rail Investigations

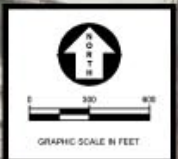
<u>POSITION</u>	<u>MULTIPLIER</u>	<u>SALARY COST/RATES</u>
Principal	2.4	\$ 60.00 – 80.00/hour
Project Manager	2.4	45.00 – 58.00/hour
Project Engineer	2.4	40.00 – 45.00/hour
Engineer-in-Training	2.4	32.00 – 40.00/hour
Engineering Technician	2.4	22.00 – 40.00/hour
CAD Technician	2.4	18.00 – 40.00/hour
Clerical	2.4	13.00 – 25.00/hour
Expenses	1.1	actual cost
Computer	1.0	15.00/hour
Survey Crew	1.1	95.00 – 120.00/hour
Registered Public Surveyor	1.0	110.00/hour
On-Site Representative	2.1	30.00 – 40.00/hour



--- PHASE I
--- PHASE II
--- PHASE III



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76501
www.kpaengineers.com



RESOLUTION NO. 2009-5857-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND KASBERG, PATRICK & ASSOCIATES, L.P., FOR ENGINEERING SERVICES REQUIRED TO INVESTIGATE EXTENSION OF RAIL INFRASTRUCTURE TO SERVE ADDITIONAL PROPERTIES IN THE VICINITY OF THE INDUSTRIAL PARK IN NORTH TEMPLE, FOR A COST NOT TO EXCEED \$121,550; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Phases I and II of the Industrial Rail Park were recently constructed to provide rail access from Burlington Northern/Santa Fe lines to the Industrial Park within the Temple Industrial Foundation Reinvestment Zone #1 in north Temple;

Whereas, significant interest and new business investment in properties adjacent to the rail park have already been generated – at the recommendation of the Temple Reinvestment Zone Board, preliminary investigation is required to identify potential areas for extension of rail infrastructure;

Whereas, Kasberg, Patrick & Associates, L.P., submitted a proposal for engineering services required for this project in the amount of \$121,550 and the Staff recommends accepting it;

Whereas, funds are available for this project in Account No. 795-9500-531-6110, Project #100578 within the Reinvestment Zone Financing Plan; 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 professional services agreement, not to exceed \$121,500, between the City of Temple, Texas, and Kasberg, Patrick & Associates, L.P., after approval as to form by the City Attorney, for engineering services required to investigate extension of rail infrastructure to serve additional properties in the vicinity of the Industrial Park in north Temple.

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 **15th** day of **October**, 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

10/15/09
Item #6(K)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: Consider adopting a resolution declaring an approximately .014 acre, five foot (5.0') strip along South 2nd and Avenue M Avenue as surplus City property and allowing it to be conveyed to the abutting property owner.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The owner of the adjacent property, zoned 2F, submitted plans to build a duplex. The lot frontage requirement is 50' and the platted lot width measures 45'. In 2002, the City of Temple acquired the north 50' next to South 2nd and Avenue M for visibility purposes. This narrow strip, five feet (5.0'), being requested still allows sufficient visibility for motorists at this intersection. The 5' will still be clear since it is a side yard setback for the proposed duplex. Staff has recommended to the builder to replat the lot, including this five-foot area with the adjacent lot. No utilities exist here. The resolution states the property will be conveyed by a 'Deed without Warranty'.

FISCAL IMPACT: Fair market value has been determined to be \$250.00 based on a broker's opinion.

ATTACHMENTS:


[Location Map](#)
[Resolution](#)



Abandonment

5' Strip of Lot 2, Blk 1, Bruner Bros Addition 1301 S 2nd Street



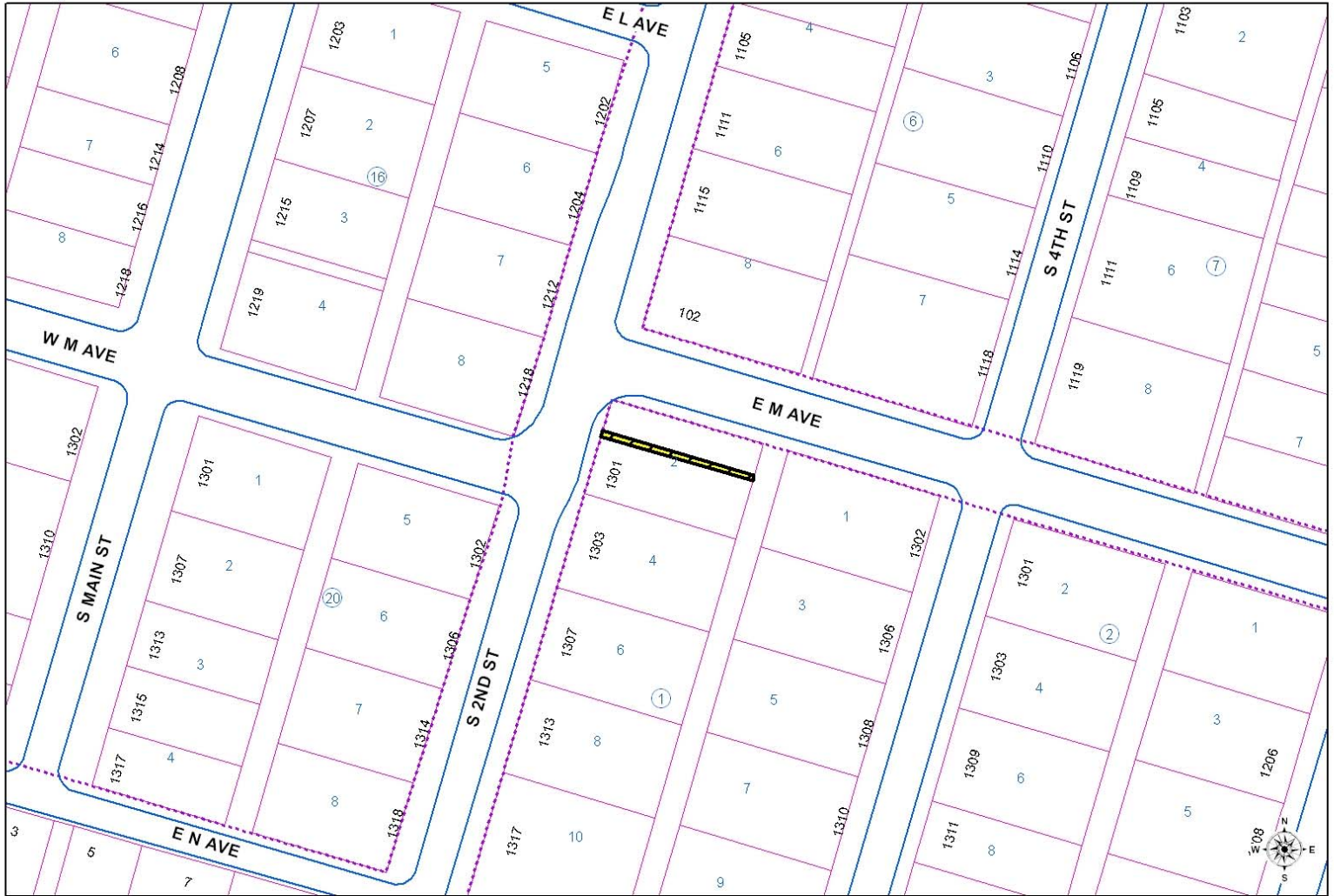
 Area to be Abandoned


1 inch = 50 feet
J Stone 10.6.9



Abandonment

5' Strip of Lot 2, Blk 1, Bruner Bros Addition 1301 S 2nd Street



 Area to be Abandoned

1 inch = 100 feet
J Stone 10.6.9

RESOLUTION NO. 2009-5855-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DECLARING AN APPROXIMATELY FIVE FOOT STRIP OF LAND ALONG SOUTH 2ND STREET AND AVENUE M AS SURPLUS CITY PROPERTY, ALLOWING IT TO BE CONVEYED TO THE ABUTTING PROPERTY OWNER; DECLARING FINDINGS OF FACT; AUTHORIZING CONVEYANCE OF SUCH SURPLUS CITY PROPERTY BY A DEED WITHOUT WARRANTY AND AUTHORIZING THE MAYOR TO EXECUTE, ACKNOWLEDGE AND DELIVER A DEED WITHOUT WARRANTY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, it has been determined that property described as an approximately five foot strip of land along South 2nd Street and Avenue M is not utilized by the public;

Whereas, the land is not necessary for any public purpose;

Whereas, Chapter 272 of the Local Government Code authorizes municipalities to sell narrow strips of land to abutting property owners for not less than fair market value; and

Whereas, the City Council has considered the matter and deems it in the public interest to declare the area as surplus property.

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

Part 1: The City Council declares an approximately five foot strip of land along South 2nd Street and Avenue M, more fully shown on the map attached hereto as Exhibit A, as surplus property by the City of Temple, Texas, and allows the land to be conveyed for not less than fair market value, which has been determined to be \$250 based on a broker's opinion, to the abutting property owner.

Part 2: The City Council authorizes the Mayor of the City of Temple, Texas, to execute a Deed Without Warranty conveying the rights and interests of the City of Temple, Texas, to the abutting property owner, which, when done, shall be and become a binding act and deed of the City of Temple.

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 on the **15th** day of **October**, 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

10/15/09
Item #7
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-09-34 – Consider adopting an ordinance authorizing a zoning change from Single Family Two District (SF2) to Two Family District (2F) on property platted as Lots 1 – 4, Block 4, West Ridge Phase IX, located at the northeast corner of 205 Loop and Turley Drive.

P&Z COMMISSION RECOMMENDATION: At its October 5, 2009 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zoning change from SF2 to 2F for the following reasons:

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

Commissioner Pope was absent.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-09-34, from the Planning and Zoning meeting, October 5, 2009. The purpose of this rezoning is to allow the use of duplexes since several lots in the vicinity are zoned and developed for duplexes.

The Commission did not raise any issues requiring additional staff attention.

Six notices were sent out. As of Tuesday, October 6th at 5 PM, one notice was returned in opposition to the request. The newspaper printed notice of the public hearing on Sept. 24, 2009 in accordance with state law and local ordinance.

FISCAL IMPACT: None

ATTACHMENTS:

Aerial

Land Use and Character Map

Zoning Map

Notice Map

P&Z Staff Report (Z-FY-09-34)

P&Z Minutes (October 5, 2009)

Ordinance



Z-FY-09-34

Proposed Zone Change of 4 Lots

West Ridge Phase IX



 ZFY0934

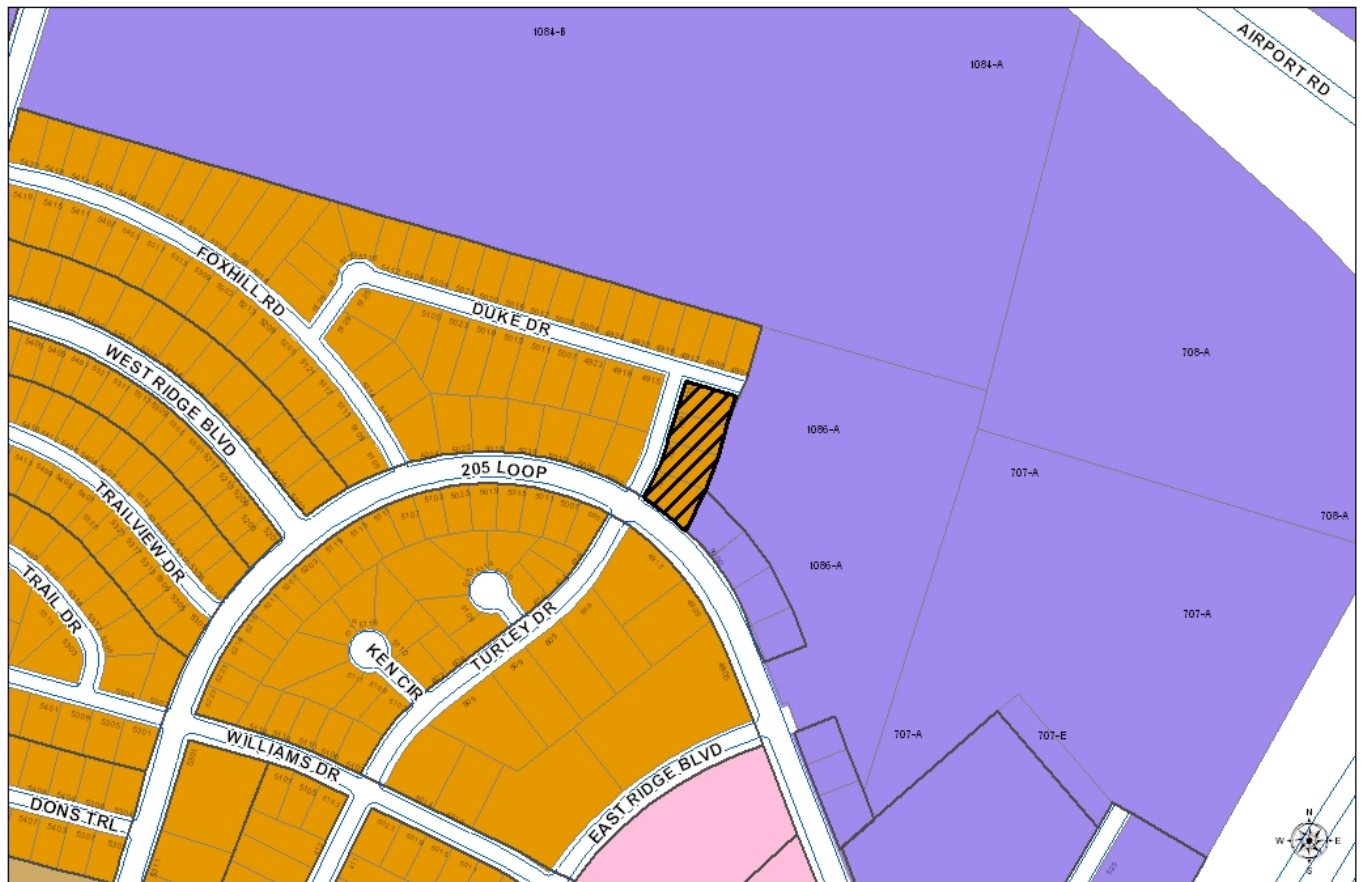
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J Stone 9.15.9



Z-FY-09-34

Proposed Zone Change of 4 Lots

West Ridge Phase IX



Temple Boundary
ZF0934

Neighborhood Conservation
Estate Residential
Suburban Residential

Auto-urban Residential
Auto-Urban Multi-Family
Auto-Urban Mixed Use

Auto-Urban Commercial
Suburban Commercial
Urban Center

Temple Medical Education District
Industrial
Business park

Public/Institutional
Parks and Open Space
Agricultural/Rural

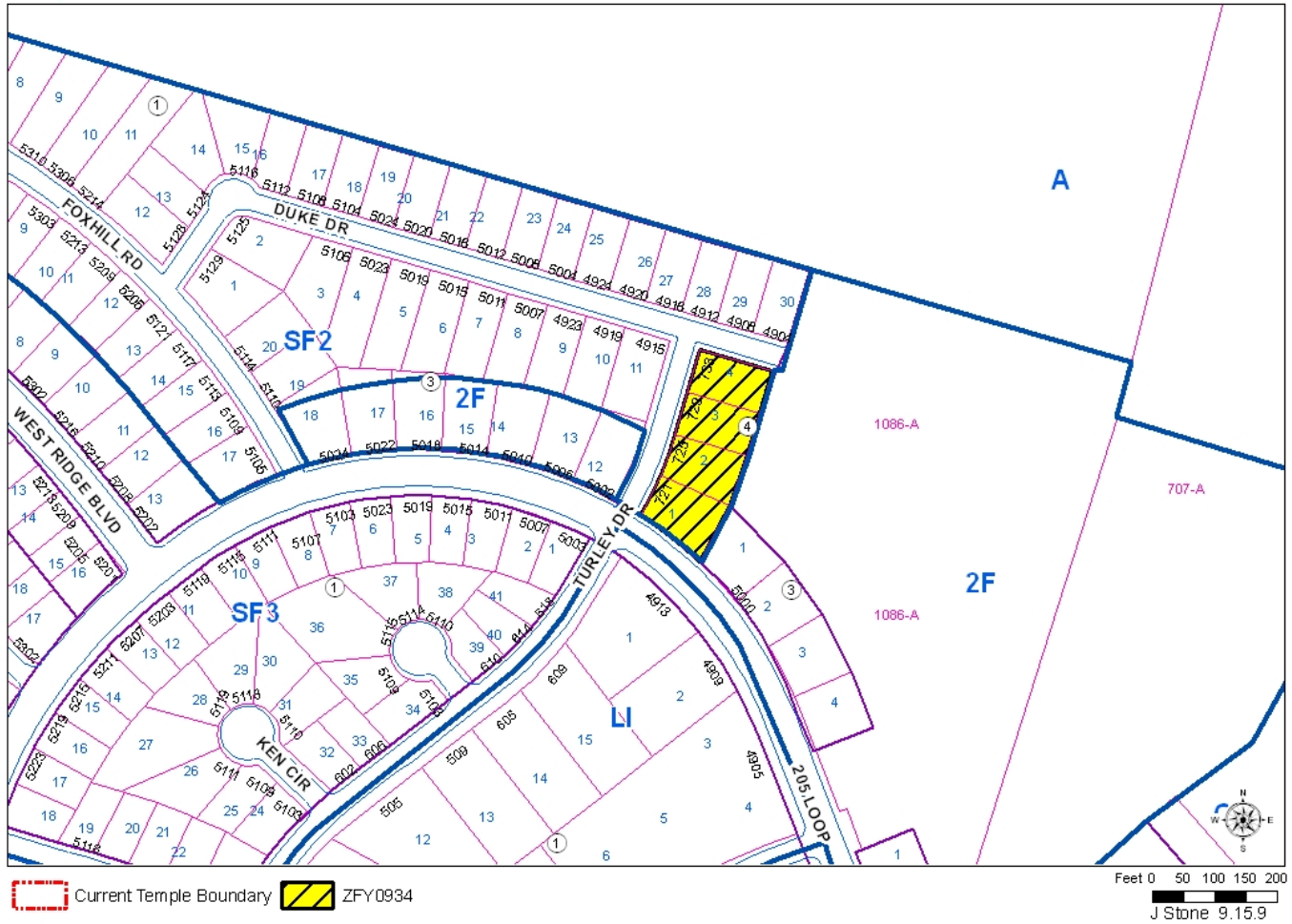
1 inch = 300 feet
J Stone 9.15.9



Z-FY-09-34

Proposed Zone Change of 4 Lots

West Ridge Phase IX

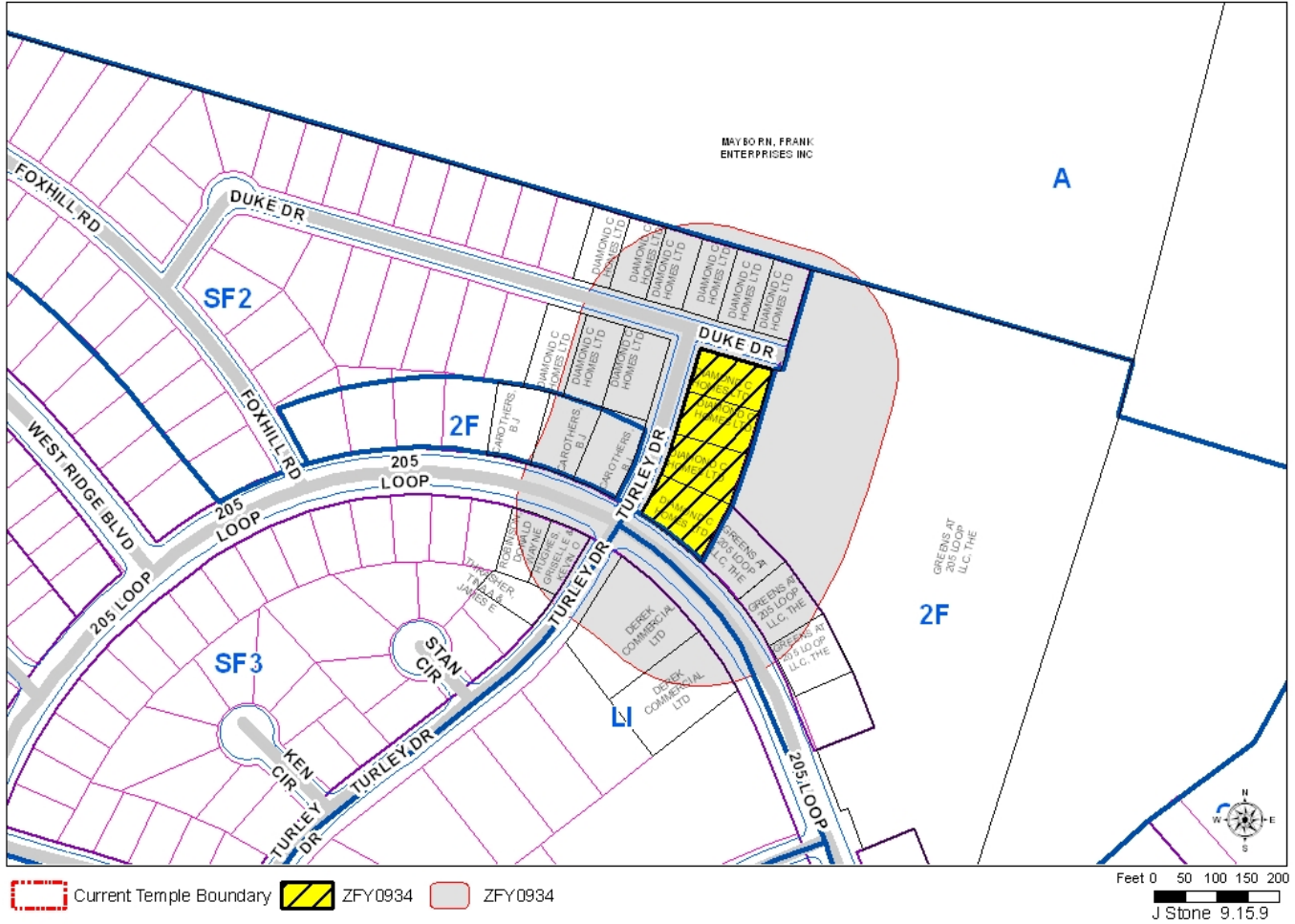




Z-FY-09-34

Proposed Zone Change of 4 Lots

West Ridge Phase IX





PLANNING AND ZONING COMMISSION AGENDA ITEM

10/05/09
Item #3A
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Bobby Carothers, dba Diamond C Homes

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION:

Z-FY-09-34: Hold a public hearing to discuss and recommend action on a zoning district change **from** Single Family Two District (SF2) **to** Two Family District (2F) on property platted as Lots 1 – 4, Block 4, West Ridge Phase IX, located at the northeast corner of 205 Loop and Turley Drive.

BACKGROUND:

The four lots exist as a platted subdivision and are requested for a Replat. (See following Agenda Item) The applicant requests a zoning district change from the SF2 to the Two Family Zoning District, which allows duplexes, both with a minimum lot size of 5,000 square feet. The lots average 6,000 square feet. Access to the four lots comes from an existing residential street named Turley Drive.

Surrounding Property and Uses

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

Future Land Use and Character

The applicant's request for Two Family Residential conforms to the auto urban residential land use shown on the Future Land Use and Character Plan.

Thoroughfare Plan

The applicant's request for Two Family Residential conforms to the Thoroughfare Plan since the four lots receive access from a local residential street measuring 50' width, and a 30' pavement width, between 2, 6" curb and gutter.

Availability of Public Facilities

The applicant's request for Two Family Residential conforms to the Availability of Public Facilities since the area is served by a 6" water line and a 12" sewer line.

Public Notice

A total of six notices were sent out. As of October 1, 2009 at 5 PM, 0 notices were returned. The newspaper printed notice of the public hearing on September 24, 2008 in accordance with state law and local ordinance.

Development Regulations

The Two Family Dwelling District (2F) allows single family to duplex housing.

Maximum Density	7 units per acre
Minimum Gross Floor Living Area	500 square feet
Minimum Lot Square Footage	5,000
Building Height	35 feet, 2 ½ stories
Minimum Front Yard Setback	25 feet
Minimum Side Yard Setback	5 feet interior lot, 15' street side
Minimum Rear Yard Setback	10 feet

STAFF RECOMMENDATION:

Staff requests the Commission recommend approval of Z-FY09-34 subject to the findings:

1. The applicant's request conforms to the Future Land Use and Character Plan for auto urban residential land use, and
2. The applicant's request conforms to the Thoroughfare Plan because the four lots receive access from a local residential street, and
3. The applicant's request conforms to the Availability of Public Facilities for water and sewer service.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Notice Map

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

MONDAY, OCTOBER 5, 2009

ACTION ITEMS

Item 3A: Z-FY-09-34: Hold a public hearing to discuss and recommend action on a zoning district change from Single Family Two District (SF2) to Two Family District (2F) on property platted as Lots 1 – 4, Block 4, West Ridge Phase IX, located at the northeast corner of 205 Loop and Turley Drive. (Applicant: Bobby Carothers for Diamond C. Homes)

Mr. Tim Dolan, Planning Director, stated this case is to rezone property from Single Family Two (SF2), which is a single family use, to Two Family (2F) zoning, which would allow potential use for two family dwelling or duplexes. This would allow the case to go forward on October 15th and November 5th for City Council meetings for the first and second readings, respectively. The P&Z Commission is the final authority for this rezoning since it does not contain any type of exceptions to it.

Mr. Dolan stated the development is to allow for continuation of duplex residential development and also for possible financing for these bonds. This subject property pertained to four lots off of Turley Drive and Duke Drive. The Future Land Use and Character Plan showed this area for auto/urban residential uses and the request conforms to the Future Land Use and Character Plan. The Thoroughfare Plan shows Duke Drive as a local residential street, with 50' of right-of-way and 31' back of curb of pavement with the site being served by 6" water line and 12" sewer line.

Mr. Dolan stated the surrounding zoning area north of Loop 205 is zoned 2F residential and the property to the east is 2F residential which happened earlier due to P&Z recommendations. Mr. Dolan stated the dimensional standards for 2F zoning is essentially the same; one can have up to 7 units per acre for 2F zoning but requires a 5,000 square foot lot which is also the minimum size for SF2, with building height of 2.5 stories, with same front yard set back of 25 feet, the same side yard setbacks with 5 feet for interior lot, 15 feet on the street side lot and 10 feet rear yard.

Mr. Dolan stated six notices were mailed out and one was received back in opposition. No notices were returned in favor of this request.

Mr. Dolan stated the plat is to look at the 4 lots, average of 6,000 square feet, these 4 lots being a replat of the West Ridge IX, facing Turley Drive.

Mr. Dolan stated in March of 2009, this was the first review of a preliminary plat for the property adjacent to West Ridge IX. There were discussions of not using Duke Drive as an access to come through and then the Greens for Loop 205 came back later with the idea of closing off access to Duke Drive. This is the preliminary plat which had been approved by the P&Z in March of 2009 which has a two year shelf life and will go through 2011.

Mr. Dolan stated the developer for West Ridge X tried to look at providing a cul-de-sac at the end of Duke Drive and although it went through the DRC, but did not come forward to P&Z since the applicant withdrew the request.

Mr. Dolan stated Staff recommended approval for this zoning case from SF2 to 2F and to recommend approval of the final plat of West Ridge X being the replat of West Ridge IX, blocks 4, lots 1 through 4.

Chair Pilkington opened the public hearing and Mr. Jason Carothers approached the Commission.

Mr. Jason Carothers representing Diamond C Homes, 2613 Bearing Lane, Temple, Texas, stated once the acreage to the east sold, it came through and was zoned 2F, and there had always been a problem trying to make it compatible up against SF. Mr. Carothers stated natural barriers are always looked for between SF and 2F and the problem here is with the number of 2F; and the only thing the Commission is considering are the four lots being looked at. Mr. Carothers stated the property to the right had the zoning but it is only a preliminary plat and the shelf life is close to two years. Mr. Carothers stated although the street may not go through, there is still a problem with lots 29 and 30 right up against the 2F. Mr. Carothers stated there is a demand for the 2F there that would blend in.

Vice-Chair Talley asked what the lot sizes were for 29 and 30 and Mr. Carothers stated they were smaller than the ones replated and were approximately 60 x 120 and Mr. Dolan stated this measurement was correct, 60 feet width and 120 foot depth, 7,200 square feet.

There being no further speakers, Chair Pilkington closed the public hearing.

Commissioner Secrest made a motion to approve this request since the request complied with the Future Land Use and Character Map; the request complies with the Thoroughfare Plan; and public facilities served the property. Commissioner Hurd made a second.

Motion passed: (8:0)
Commissioner Pope absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-09-34]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM SINGLE FAMILY TWO DISTRICT (SF2) TO TWO FAMILY DISTRICT (2F) ON PROPERTY PLATTED AS LOTS 1-4, BLOCK 4, WEST RIDGE PHASE IX, LOCATED AT THE NORTHEAST CORNER OF 205 LOOP AND TURLEY DRIVE; 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 Single Family Two District (SF2) to Two Family District (2F) on property platted as Lots 1-4, Block 4, West Ridge Phase IX, located at the northeast corner of 205 Loop and Turley Drive, 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 **15th** day of **October**, 2009.

PASSED AND APPROVED on Second Reading on the **5th** day of **November**, 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

10/15/09
Item #8
Regular Agenda
Page 1 of 3

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director
Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING–PUBLIC HEARING- Z-FY-09-37: Consider adopting an ordinance amending Section 7-100 et seq. (Uses of Land & Buildings) of the Zoning Ordinance to regulate the use of property for the on- and off-premise sale of alcoholic beverages.

PLANNING & ZONING COMMISSION RECOMMENDATION: 1. Require a CUP for a package store in the GR, CA, C, HI and LI zoning districts;

2. Created a new definition for off-premise alcohol sales/package store;
3. Clarified the definition for off-premises alcohol sales/beer & wine store (deleting the generic definition for alcoholic beverages, sales for consumption off-premises); and
4. Called a public hearing October 19, 2009 to recommend the regulation for the use of on-premises consumption of alcoholic beverages and to create site plan standards to be incorporated into conditional use permits for the off- (and potentially) on-premise sale of alcohol.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-09-37, from the P&ZC meeting, October 5th where the P&ZC recommended approval (8/0) to:

Before the Commission's unanimous approval of a motion as outlined above, Commissioner James Staats made a motion to approve the Staff recommendation with the exclusion of the Central Area from the zoning districts allowing package stores by conditional use permit, and it was seconded by Vice Chair Talley, to allow discussion by the Commissioners. Several Commissioners stated they agreed with Staff's recommendation to require a CUP for CA, plus the GR, C, HI and LI zoning districts. Several Commissioners also voiced support for including CA in the list of eligible districts for a CUP to allow a package store, citing the protection offered by the requirement for a site plan, newspaper notification and letters to property owners within 200' of a requested area. That motion to remove CA zoning districts from the list of districts where package stores could be allowed by conditional use permit failed 3-5, with Commissioner Staats, Vice Chair Talley and Chair Pilkington voting for the motion. Commissioner Pope was absent.

Staff Recommendation for Off-Premise Sales of Alcohol. Because the City is currently “wet” for beer and wine sales *only*, our current definition of the sale of alcohol for off-premise consumption does not make a distinction between the sale of beer and wine and distilled liquors (which can’t currently be sold in Temple). Our recommended changes for use, reflected in the motion approved by the P&ZC, creates two separate and distinct uses for the off-premise sale of alcohol: **one for beer and wine, and one for package stores.**

We are recommending that the off-premise sale of beer and wine continue to be allowed as a matter of right in GR, CA, C, LI and HI districts and by conditional use permit in MU (Mixed Use) and NS. With respect to the off-premise sale of alcohol in a package store, our recommendation is to allow that use **ONLY** by conditional use permit and only in the following use districts: GR, CA, C, HI and LI. This is a conservative approach, and one supported by a majority of the P&ZC, but it isn’t the only possible approach. Some cities restrict alcohol sales to certain geographic areas of the city or in certain corridors.

Staff Recommendation for On-Premise Sales of Alcohol. The Planning & Zoning Commission will meet on October 19th to consider making a recommendation to the City Council to amend the zoning ordinance provisions and use tables relating to the on-premise sale of alcohol and the adoption of site plan design standards to be incorporated into conditional use permits for the off- (and potentially) on-premise sale of alcohol. On second reading of this ordinance, the City Council will have the benefit of the Planning & Zoning Commission’s recommendations (if any) on amending zoning ordinance provisions and use tables relating to the on-premise sale of alcohol and the adoption of site plan design standards to be incorporated into conditional use permits for the off- (and potentially) on-premise sale of alcohol.

The Staff was finalizing its recommendations for possible changes to the Zoning Ordinance relating to the on-premise sale of alcohol at the time this item was submitted. The Staff will present its recommendations at the October 15, 2009 meeting. One concern is that restaurant/bars in the City currently operate under a number of different permits—some have food and beverage permits that require that the operator have a certain percentage of their revenue from food sales. That requirement affects the nature of an establishment. The requirement to maintain a certain level of food sales could go away if the ballot item is successful and owner/operators get the appropriate State license. Staff will want to make sure that we’re not locating “on-premise” establishments that are bars or “near-bars” adjacent to areas that are incompatible with that use.

The necessity of moving forward with this item on relatively short-notice is triggered by the “wet election” for Temple being held on November 3, 2009 as called by the Bell County Commissioners. If approved by voters, the adoption of the ballot item will impact: (1) **the off-premise sale of alcohol in package stores** (distilled liquor and malt beverages)—currently only the sale of beer and wine for off-premise consumption is allowed under the City’s current “semi-wet” status; and (2) **the on-premise sale of alcohol by restaurants and restaurant/bars.**

We want to make sure that we have any necessary additional land use controls in place prior to the changes going into effect that passage of the ballot item would impact. As such we are recommending that Council approve any changes it wishes to make to the definitions and use tables for the on- and off-premise sale of alcohol no later than your November 5th meeting.

If the November 3rd ballot item is not approved by voters, we will likely recommend that you take no final action on November 5th on this item or that you possibly make only house cleaning changes to clean up the use tables in Section 7-100 *et seq.*

FISCAL IMPACT: N/A

ATTACHMENTS:

[P&Z Staff Report \(Z-FY-09-37\)](#)
[P&Z Minutes \(October 5, 2009\)](#)
[Ordinance](#)



PLANNING AND ZONING COMMISSION AGENDA ITEM

10/05/09

Item #2

Regular Agenda

Page 1 of 3

APPLICANT / DEVELOPMENT: City of Temple

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-09-37: Hold a public hearing to discuss and recommend action on a Text Amendment to Section 7-100 (Uses of Land & Buildings) of the City of Temple Zoning Ordinance to regulate the use of property for the off-premise sales of alcoholic beverages.

BACKGROUND:

The purpose of the public hearing is to receive a recommendation from the Commission on alcohol beverage sales for off-premise consumption in anticipation of the City Council's public hearing at its regularly scheduled meeting October 15, 2009, which the Council will consider several issues including the use of property for on- and off-premise sale of alcoholic beverages, with a second reading scheduled early in November (probably prior to the vote being officially canvassed for the November 3rd election. Staff has asked a representative from the Texas Alcoholic Beverage Commission to attend today's meeting.

Planning Staff focused initially on the off-premise sale of alcoholic beverages because Staff believes that if voters approve to make Temple "wet" in a November 3, 2009 special election, the impact on locations currently selling alcohol for off-premise consumption will be significant. If the November 3rd proposition is approved by voters, and no changes are made to the City's zoning ordinance, all current locations that sell beer and wine for off-premise consumption could arguably begin selling distilled spirits (i.e., become a package store) with appropriate licensing from the Texas Alcoholic Beverage Commission.

The use of property for the sale of alcohol for off-premise consumption is allowed as a matter of right in GR, CA, C, LI & HI districts, and by conditional use permit in MU and NS districts. This is depicted in the "**Existing Land Use Table**" below.

Given the large number of locations currently available for the sale of beer and wine for off-premise consumption, the Staff recommendation is to create a new use in "Retail and Service Types Uses," defined as "Off-Premise Consumption, Package Store," and redefines the existing use for beer and wine sales as "Off-Premise Consumption, Beer & Wine Store." These two proposed uses are depicted in the "**Proposed Land Use Table**" below and the revised definitions would read as follows:

(Existing)

ALCOHOLIC BEVERAGES, SALES FOR CONSUMPTION OFF-PREMISE

This is the standard use listing for a convenience store or similar facility where the sale of beer for off-premises consumption is an allowed use according to zoning standards.

(Proposed)

OFF-PREMISE CONSUMPTION, BEER & WINE SALES: Sales of beer or wine in unbroken original containers for off-premises consumption. (Delete the existing definition)

OFF-PREMISE CONSUMPTION, PACKAGE STORE: Sales of distilled liquors, wines and beers in unbroken original containers for off-premise consumption.

RETAIL AND SERVICE TYPE USES (Existing)								
ORDINANCE SECTION 7-109								
TYPE OF USE	DISTRICT	MU MIXED USE	NS NEIGHBORHOOD SERVICE	GR GENERAL RETAIL	CA CENTRAL AREA	C COMMERCIAL	LI LIGHT INDUSTRIAL	HI HEAVY INDUSTRIAL
ALCOHOL BEVERAGE SALES FOR CONSUMPTION OFF-PREMISES		C	C	•	•	•	•	•

RETAIL AND SERVICE TYPE USES (PROPOSED)								
ORDINANCE SECTION 7-109								
TYPE OF USE	DISTRICT	MU MIXED USE	NS NEIGHBORHOOD SERVICE	GR GENERAL RETAIL	CA CENTRAL AREA	C COMMERCIAL	LI LIGHT INDUSTRIAL	HI HEAVY INDUSTRIAL
OFF-PREMISES CONSUMPTION, BEER & WINE STORE		C	C	•	•	•	•	•
OFF-PREMISES CONSUMPTION, PACKAGE STORE				C	C	C	C	C

Staff's recommendation for the locations off-premise sale of beer and wine would be allowed remains unchanged from the current use table. Staff's recommendation for the off-premise sale of alcohol in a package store (highlighted in yellow in the Proposed Land Use Table) would be to allow the use of property for a package store only by conditional use permit and only in GR, CA, C, LI & HI zoning districts. This is a fairly conservative approach initially which would allow us over a period of time to assess the demand and impact of package stores on the community, and allows the community to create site plan design standards.

There are additional approaches adopted in other cities which offer alternatives or which could be added to the basic approach of just requiring a CUP. For example, package stores can be limited to certain areas of the city, or dispersed by separation requirements.

At the Commission's October 19th meeting, Staff will bring recommendations for possible changes to the zoning ordinance related to the "on-premise" sale of alcohol, which will also be potentially impacted by the November 3rd election and recommended site plan design standards

To recap: The City Council will be discussing possible changes to the zoning ordinance related to both off- and on-premise sales of alcohol on first reading at their October 15th meeting. They will have the benefit of the P&ZC's recommendation on off-premise sales of alcohol at that October 15th meeting, but they won't have the P&ZC's recommendation for on-premises sales of alcohol until the 1st meeting in November—which will allow the P&ZC to meet on October 19th and make a recommendation regarding on-premise sales.

Public Notice

The newspaper printed notice of the public hearing on September 24, 2009 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff requests the Commission recommend approval of Z-FY-09-37, to amend the City of Zoning Ordinance Section 7-100 (Uses of Land & Buildings), specifically Section 7-109 (Retail and Service Uses) subject to:

1. Allow a Conditional Use Permit only in the General Retail, Central Area, Commercial, Light Industrial and Heavy Industrial zoning districts for an 'off-premises package store'; thus prohibiting the use in all other zoning districts, and
2. Create a definition for off-premise package store, and
3. Delete the definition for alcoholic beverages, sales for consumption off-premises, replacing that definition with the term used off-premises beer/wine store, and
4. Call a public hearing October 19, 2009 to recommend the regulation for the use of on-premises consumption of alcoholic beverages.

FISCAL IMPACT: Not Applicable

ATTACHMENTS: None

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

MONDAY, OCTOBER 5, 2009

ACTION ITEMS

Item 2: Z-FY-09-37: Hold a public hearing to discuss and recommend action on a Text Amendment to Section 7-100 (Uses of Land & Buildings) of the City of Temple Zoning Ordinance to regulate the use of property for the off-premise sales of alcoholic beverages. (Applicant: City of Temple).

Mr. Tim Dolan stated if this item were recommended for approval it would move forward to October 15th City Council meeting for first reading and is scheduled for November 5th but may be moved up due to possible canvassing of votes. This matter concerned off-premise consumption and the Commission will also take a look at on-premises consumption at the October 15th meeting.

Mr. Dolan stated the definitions in front of the Commission focus on the idea of some existing definitions and Staff proposed definitions in anticipation of the vote to be successful on Tuesday, November 3rd. If the election did not turn out to be favorable, the Commission could still move forward with the recommendation approval for the Zoning Ordinance changes and the City Council is the final decision maker on any Zoning Ordinance amendment.

Mr. Dolan stated the existing definition focuses on alcohol beverage sales for consumption off-premise and trying to define and/or clarify those uses even more. The off-premise consumption for beer and wine sales would be the sales of those materials in unbroken original containers for off-premise consumption and Staff would recommend deletion of the previous definition and add the other definition for the off-premise consumption package store, which is still the sale of the distilled liquors, wines, or beers in the unbroken original containers for consumption off-premise.

Mr. Dolan stated Staff requests the Commission to recommend approval of Z-FY-09-37, to amend the City of Temple Zoning Ordinance Section 7-100 (Uses of Land & Buildings), specifically Section 7-109 (Retail and Service Uses) subject to:

1. Allow a Conditional Use Permit only in the General Retail, Central Area, Commercial, Light Industrial and Heavy Industrial zoning districts for an 'off-premise package store'; thus prohibiting the use in all other zoning districts, and
2. Create a definition for off-premise package store, and

3. Delete the definition for alcoholic beverages, sales for consumption off-premise, replacing that definition with the term used off-premise beer/wine store, and
4. Call a public hearing October 19, 2009 to recommend the regulation for the use of on-premises consumption of alcoholic beverages.

Mr. Dolan stated the use chart provided to the Commission focused on Section 7-109, Retail and Service uses. The Mixed Use (MU) district has a Conditional Use Permit (CUP) and when the MU district was approved in 2004/2005, it required a CUP when a use is next door to a residential use or residential district. Mr. Dolan stated the use of property for the alcohol for off-premise consumption is allowed as a matter of right in GR, CA, C, LI & HI districts, and by conditional use permit (CUP) in MU and NS districts.

Mr. Dolan stated given the large number of locations currently available for the sale of beer and wine for off-premise consumption, the Staff recommendation is to create a new use in "Retail and Service Types Uses," defined as "Off-Premise Consumption, Package Store," and redefine the existing use for beer and wine sales as "Off-Premise Consumption, Beer & Wine Store."

(Proposed Language)

OFF-PREMISE CONSUMPTION, BEER & WINE SALES:

Sales of beer or wine in unbroken original containers for off-premise consumption. (Delete the existing definition)

OFF-PREMISE CONSUMPTION, PACKAGE STORE: Sales of distilled liquors, wines and beers in unbroken original containers for off-premise consumption.

Mr. Dolan stated the CUP is a use not typically allowed in a zoning district and required a site plan to be reviewed by the Planning & Zoning Commission and moved to City Council for review and adopted as part of an Ordinance. Mr. Dolan stated some items to look for would be proximity to the developed area for MS or NS area, how it impacts the area, and located on some type of collector or arterial road, not a local residential street.

Mr. Dolan stated in order to be prepared for the proposed use chart, Staff would recommend changing the wording as described as off-premise consumption beer and wine store, and those uses would remain the same and still require a CUP in the MU, NS, and by right in the GR, CA, C, HI, and LI districts. Mr. Dolan asked the Commission to take a look at the idea of off-premise consumption package store. Staff has recommended the Commission look at this in a much more conservative way and look at the CUP in the GR, CA, C, HI, and LI districts. Staff does not feel this use is conducive to either a MU or NS zoning district and these uses are not allowed

in any other zoning district. For the CUP a site plan would be required for the request to come forward to both the P&Z Commission and City Council.

Mr. Dolan stated a representative was in attendance from TABC and would be able to answer any specific questions about the licensing and operations of these facilities the Commission might have in regard to this matter.

Mr. Dolan summed up for the Commission the City Council will be discussing possible changes to the zoning ordinance related to both off- and on-premise sales of alcohol on first reading at their October 15th meeting. They will have the benefit of the P&Z's recommendation on off-premise sales of alcohol at that October 15th meeting, but they won't have the P&Z's recommendation on on-premises sales of alcohol until the 1st meeting in November—which will allow the P&Z to meet on October 19th and make a recommendation on on-premise sales.

With no further discussion, Chair Pilkington opened the public hearing. Mr. Daniel Garcia, TABC representative approached the Commission.

Vice-Chair Talley asked if the desire were for a beer and wine store as well as a package store, would two separate CUPs be required and Commissioner Barton stated there were cases such as in Dallas where a beer and wine store was in one building and a package store in the next building and Mr. Dolan and Mr. Garcia stated this was correct.

Mr. Dolan stated in the use chart a CUP is still required for MU and NS zoning district. Mr. Graham stated there really was no overlap and they were not proposing this for a package store. Mr. Graham stated there were probably no situations where you had both but they are two different licenses.

Commissioner Barton asked if there were a beer and wine store and if the person owned the building in GR and wanted to have a package store put in, he could just build a wall and separate the beer and wine and get a CUP to get the packaging store in.

Chair Pilkington asked if it was possible to sell beer and wine in the same store with the liquor. Mr. Garcia stated yes, with requirements and regulations. The requirement would be on the package store versus wine and beer is two different sales for off-premise consumption so that would be the difference.

Mr. Garcia stated a package store and wine and beer are two separate issues and there are different hours and regulations regarding each of them.

Mr. Dolan asked if a person wanted to sell beer and wine, what was the physical separation that was needed for the beer and wine and distilled spirits and Mr. Garcia stated it would have to be through a solid wall since the package stores have different regulations and hours than off-premise.

Ms. Sarah Gardner-Cox stated Twin Liquors in Austin operated off of the stricter hours of the package store and they don't have to have a solid wall and Mr. Garcia replied there may be a City Ordinance or something in place that prohibits that per hamlet.

Commissioner Barton stated if the liquor store were selling beer, they could not sell beer on Sunday; where if you have beer and wine, you could sell Sunday after 12. If an owner wanted to be able to sell beer and wine on a Sunday, you put a wall up and change the hours.

Mr. Dolan asked if separate points of ingress and egress were required into the beer and wine and the distilled spirits area and Mr. Garcia said these were two different things. The package store could sell all distilled spirits, ale, whiskey and then a different license would be needed for beer for off-premise consumption and that would encompass the wines too.

Commissioner Staats asked Mr. Dolan if the Central Area basically covered the downtown area and Mr. Dolan stated it also goes into some residential areas and areas along Avenues G and H.

Mr. Dolan stated a beer and wine store in the CA district is allowed by right but it would not be for a package store. In order to open a liquor store, one would need to go through the CUP process which required a site plan to be reviewed by both P&Z Commission and City Council. Mr. Dolan stated additional requirements could also be added to the CUP if desired. Mr. Dolan stated a CUP may also be revoked if it were not complied with.

Commissioner Staats asked if the CA were included in the change, that did not necessarily mean there would be approval to open a package store to go downtown and Mr. Dolan confirmed that was correct since the use was not typically allowed in that zoning district.

Commissioner Staats stated his concern was there would be multiple package stores opened in the downtown area which was not good for the town. Chair Pilkington agreed.

Vice-Chair Talley asked whether the TABC was the "watchdog" of all the package and beer and wine stores. Mr. Garcia stated they regulate everything from the distributor to the retailer and if there were any type of misconduct referring to alcohol sales and service, the TABC should be contacted and not the City.

Mr. Graham stated the TABC enforced the licenses issued but in addition to package stores, if a CUP is issued and any conditions are violated, the City can pull the CUP. Chair Pilkington asked if the Commission could include provisions above and beyond the TABC's regulations and this was confirmed.

Commissioner Staats stated he was concerned that CA was included and Chair Pilkington agreed. Commissioner Barton stated anytime anyone wanted to open a package store, it would have to come before P&Z Commission and they could vote no. Commissioner Barton did not feel the P&Z Commission nor City Council would approve these requests. Commissioner Staats stated he did not want “any” downtown and Commissioner Barton stated he would have that opportunity when someone applied for a request.

Mr. Dolan stated at the October 19th meeting, site plan standards could be brought for the Commissioner to look at issues such as parking, lighting standards, etc., in preparation for any requests that should possibly come forward. This would also allow the Commission to consider and come up with additional site plan standards.

Mr. Graham stated this is a conservative approach and is not allowing a package store anywhere as a matter of right. Every possible site has to be individually approved. Mr. Graham stated this could also be made part of a motion, to exclude CA from the list and that would go to the City Council. In addition to those requirements, there are state law requirements in place for businesses selling alcoholic beverages to be certain distances from schools, hospitals, churches, etc. Mr. Graham also stated these businesses may also choose to increase the maximum separation distances required.

Commissioner Staats stated by removing CA it would eliminate argument and moved to make a motion that CA be removed from the list for possible package store locations. Commissioner Staats also stated on Avenues G and H there were some facilities located there which helped people that have problems with “that stuff” and he was opposed to having a package store in the downtown area, did not feel it was necessary, and felt residents in a CA area would not be receptive to the possibility of one being in the area.

Commissioner Staats made a motion that on the Staff recommendation for Z-FY-09-37 creating new standards for the off-premise consumption package stores, the areas zoned GR, C, HI and LI be the only districts considered for approval for the zoning change for a CUP for off-premise consumption along with the previous four other Staff recommendations. Vice-Chair Talley made a second to have discussion.

Commissioner Barton asked for clarification on the CA area and what would be eliminated. Mr. Dolan stated the CA would be the area thought of as downtown, off of Avenues G and H down south, and some areas near the north side of Temple and east of I35 moving to Temple.

Commissioner Secrest asked why CA was in the list to begin with along with the others. Mr. Dolan stated it was more conservative to look at the use of a CUP since when you satisfy the distance requirements one could open it by

right. The CUP process allowed for the review of a site plan and if the standards could not be met, the Commission is not required to recommend approval. Commissioner Barton stated the most conservative would be to take it out--"Conservative is having a CUP; the 'most conservative' is having it out altogether."

Commissioner Martin disagreed that there is not a single place in the CA for a liquor store; one had to get a CUP and go through the P&Z, then City Council.

Chair Pilkington stated the CA area is walkable from several areas where these stores should not be available.

Commissioner Staats stated he was not against package stores; he was against having them downtown and especially on Avenues G and H. Commissioner Barton stated eliminating CA would not stop the stores from being close to undesirable locations since a CUP is requested for other zoning districts.

Vice-Chair Talley asked Mr. Graham if there were problems with eliminating CA and any present ordinances that say you cannot eliminate an area. Mr. Graham stated he did not think there was a problem with doing this; if there were a gray location in the downtown area, the Commission could come back and amend the Ordinance to allow something.

Discussion followed regarding clarification of the CA area, Pytheas map, and CUP requirements.

Commissioner Staats stated there was plenty of additional area around the CA that was available for package stores and the downtown area CA area should not be considered. Commissioner Staats wanted to stand on his previous motion.

Motion failed: (3:5)

Commissioner Staats, Vice-Chair Talley and Chair Pilkington voted in favor;
Commissioners Dusek, Secrest, Barton, Martin and Hurd voted in opposition;
Commissioner Pope absent

Commissioner Martin made a motion for all five of Staff's recommendations for new standards of off-premise consumption package stores requiring CUP in areas of GR, CA, C, HI and LI zoning district. Commissioner Hurd made the second.

Motion passed: (8:0)

Commissioner Pope absent

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 91-2101, THE ZONING ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AMENDING SECTION 7-100, "USE OF LAND AND BUILDINGS," SECTION 7-109, "RETAIL AND SERVICE TYPE USES," TO REGULATE THE USE OF PROPERTY FOR THE OFF-PREMISE SALES OF ALCOHOLIC BEVERAGES; AMENDING SECTION 21, "DEFINITIONS," TO REVISE AND ADD DEFINITIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

—

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

Part 1: The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, by amending Section 7-100, entitled, "Use of Land and Buildings," Section 7-109, entitled, "Retail and Service Type Uses," in accordance with the chart attached hereto as Exhibit "A."

Part 2: The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, by amending Section 21, entitled, "Definitions," as follows:

...

~~**ALCOHOLIC BEVERAGES, SALES FOR CONSUMPTION OFF-PREMISES.**~~
~~This is the standard use listing for a convenience store or similar facility where the sale of beer for off-premises consumption is an allowed use according to zoning standards.~~

ALCOHOLIC BEVERAGES, OFF-PREMISE CONSUMPTION, BEER & WINE SALES. Sales of beer or wine in unbroken original containers for off-premises consumption.

ALCOHOLIC BEVERAGES, OFF-PREMISE CONSUMPTION, PACKAGE STORE. Sales of distilled liquors, wines and beers in unbroken original containers for off-premises consumption.

...

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: Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 5: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: 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 **15th** day of **October**, 2009.

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

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

EXHIBIT “A”

RETAIL AND SERVICE TYPE USES (Existing)							
ORDINANCE SECTION 7-109							
<div>DISTRICT</div> <div>TYPE OF USE</div>	<u>MU</u> MIXED USE	<u>NS</u> NEIGHBORHOOD SERVICE	<u>GR</u> GENERAL RETAIL	<u>CA</u> CENTRAL AREA	<u>C</u> COMMERCIAL	<u>LI</u> LIGHT INDUSTRIAL	<u>HI</u> HEAVY INDUSTRIAL
ALCOHOL BEVERAGE SALES FOR CONSUMPTION OFF-PREMISES	C	C	•	•	•	•	•

RETAIL AND SERVICE TYPE USES (PROPOSED)							
ORDINANCE SECTION 7-109							
<div>DISTRICT</div> <div>TYPE OF USE</div>	<u>MU</u> MIXED USE	<u>NS</u> NEIGHBORHOOD SERVICE	<u>GR</u> GENERAL RETAIL	<u>CA</u> CENTRAL AREA	<u>C</u> COMMERCIAL	<u>LI</u> LIGHT INDUSTRIAL	<u>HI</u> HEAVY INDUSTRIAL
OFF-PREMISES CONSUMPTION, BEER & WINE STORE	C	C	•	•	•	•	•
OFF-PREMISES CONSUMPTION, PACKAGE STORE			C	C	C	C	C



COUNCIL AGENDA ITEM MEMORANDUM

10/15/09
Item #9
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney
Clydetta Entzminger, City Secretary

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending Chapter 4, “Alcoholic Beverages,” of the Code of Ordinances of the City of Temple, Texas, relating to the issuance of permits for the sale of alcoholic beverages and making non-substantive changes to reorganize the chapter and conform to state law.

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

ITEM SUMMARY: Chapter 4, “Alcoholic Beverages,” of the City’s Code of Ordinances, has not been substantially amended for many years. Staff is recommending revisions indicated in the attached ordinance to bring this code into compliance with state law, the Texas Alcoholic Beverage Code. A few of the sections have also been reorganized with non-substantive changes for clarity.

A number of revisions relate to bringing the ordinance into compliance with the current procedures for the issuance of alcoholic beverage licenses. State law authorizes cities to issue licenses, with a few exceptions, and collect one-half of the state license fee for each permit issued within the City and we have done so for many years. Effective September 1, 2009, the State began issuing licenses for a two-year term and the City also changed procedures to remain consistent with the licensing of establishments within the City.

The proposed amendments reflect the current procedures in place and are in compliance with the Texas Alcoholic Beverage Code. No substantive changes are proposed.

FISCAL IMPACT: None associated with this action. The City receives approximately \$20,000 annually for the issuance of alcoholic beverage licenses.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 4, "ALCOHOLIC BEVERAGES," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE RELATING TO THE ISSUANCE OF PERMITS FOR THE SALE OF ALCOHOLIC BEVERAGES AND MAKING NON-SUBSTANTIVE CHANGES TO REORGANIZE THE CHAPTER AND CONFORM TO STATE LAW; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A REPEALER; PROVIDING A PENALTY OF NOT LESS THAN FIFTY (\$50.00) DOLLARS NOR MORE THAN FIVE HUNDRED (\$500.00) DOLLARS; 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 4, "Alcoholic Beverages," of the Code of Ordinances of the City of Temple, Texas, is amended to read as follows:

Chapter 4

ALCOHOLIC BEVERAGES

ARTICLE I. ~~IN GENERAL~~ EXTENDED HOURS

Sec. 4-1. Extended hours for consumption or possession of alcoholic beverages in public places.

The City of Temple is an "extended hours area" as that term is defined in the Texas Alcoholic Beverage Code. (Ref. V.T.C.A., Alcoholic Beverage Code § 105.06) ~~It shall be lawful for any person within the corporate limits of the City of Temple to consume any alcoholic beverage in a public place or to possess any alcoholic beverage in a public place for the purpose of consuming the same in such public place during the extended hours authorized under Chapter 105 of the Texas Alcoholic Beverage Code (T.A.B.C.).~~

Comment: TABCode establishes the offenses for violating hours. Chapter 105 establishes special hours now for certain sports venues, wineries, and special events. No need to repeat all that in Temple's Code.

Sec. 4-2. ~~Private club late hours permittees; extended hours for consumption, etc., of alcoholic beverages.~~

~~It shall be lawful for the holder of a private club late hours permit within the corporate limits of the City of Temple to permit persons to consume or be served alcoholic beverages during the~~

~~extended hours authorized under Chapter 105 of the Texas Alcoholic Beverage Code (T.A.B.C.).~~

ARTICLE II. SPACING

Sec. 4-32. Sales near school, church or hospital.

It **is an offense** ~~shall be unlawful~~ for any person to sell alcoholic beverages at a place of business which is within ~~three hundred (300) feet~~ of a church, public school or public hospital. (Ref. **V.T.C.A., Alcoholic Beverage Code § 109.33 of the T.A.B.C.**)

Sec. 4-3. Measurement for church or public hospital.

~~In the case of a church or public hospital, t~~ **The** measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

Sec. 4-4. Measurement for public school.

~~In the case of a public school, t~~ **The** measurement of the distance between the place of business where alcoholic beverages are sold and the public school shall be:

(a) in a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections; **or**

(b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

Sections 4-5 through 4-10 reserved.

~~ARTICLE II BEER GENERALLY~~

Sec. 4-12. — Retail dealers on premises late hours licenses; extended hours for sale of beer.

~~It shall be lawful for the holder of a retail dealers on premise late hours license within the corporate limits of the City of Temple to sell beer or offer the same for sale during the extended hours authorized under Chapter 105 of the Texas Alcoholic Beverage Code (T.A.B.C.).~~

Secs. 4-13 — 4-20. Reserved.

**ARTICLE III. LICENSE AND PERMIT FEES
TO MANUFACTURE, SELL OR DISTRIBUTE BEER**

Comment: All Sections deleted in this Article are provided for in the TABCode

~~Sec. 4-21. Required.~~

~~It shall be unlawful for any person to manufacture or brew for the purpose of sale, or for home consumption, to sell or distribute any beer without first having applied for and secured a license as required by the terms of this article. No license or permit is required for home production of 200 gallons or less.~~

~~Sec. 4-22. Application.~~

~~Any person desiring a license required by this article shall make application therefor to the City Secretary by filing a true and correct copy of the petition required to be filed by the applicant in order to obtain a state license.~~

Sec. 4-23~~11~~. Fees prescribed ~~Alcoholic beverage license and permit fees.~~

A license fee and permit fee is levied in the amount of one-half of the state license and permit fees for each permit issued for premises located within the City, except for permits that are exempted from municipal fees. The city license and permit fees shall be paid to the City at the same time that the state license and permit fees are paid to the state. (Ref. V.T.C.A. Alcoholic Beverage Code § 11.38, § 61.36.)

~~Before any license required by the terms of this article shall be issued, the license fee shall be paid to the City Secretary. Annual license fees required for the licenses required by this article shall be as follows:~~

- ~~(1) For a license authorizing the manufacture and/or sale by a manufacturer, three hundred seventy five dollars (\$375.00). (See Article 62.02 T.A.B.C.).~~
- ~~(2) For a license to a general distributor, one hundred fifty dollars (\$150.00). (See Article 64.02, T.A.B.C.).~~
- ~~(3) For a license to a local distributor, thirty seven dollars and fifty cents (\$37.50). (See Article 65.02 T.A.B.C.).~~
- ~~(4) For a license authorizing the sale of beer by a retail dealer for consumption on or off the premises where sold, seventy five dollars (\$75.00). (See Article 69.02 T.A.B.C.).~~
- ~~(5) For a license authorizing the sale of beer by a retail dealer in the original container direct to the consumer, but not for resale, and not to be consumed on the premises where sold, thirty dollars (\$30.00). (See Article 26.02 T.A.B.C.).~~

- ~~(6) For a late hours permit for sale of beer for consumption on the premises on Sunday between the hours of 1:00 p.m. and 2:00 a.m., in an area where the sale of beer during these hours is authorized by the Texas Alcoholic Beverage Code, one hundred twenty-five dollars (\$125.00). (See Article 70.02 T.A.B.C.).~~

Sec. 4-24. Separate license for each place of business.

~~No manufacturer, general distributor, local distributor or retail dealer in beer shall carry on such business at more than one place under the same license, but a separate license must be obtained for each place of business.~~

Comment: Covered by TABCode.

Sec. 4-2512. Display.

It is an offense ~~shall be unlawful~~ for any person licensed under this article to fail to display such the City license and keep the same displayed in a conspicuous place in the place of business licensed.

Sec. 4-26. Change of Location.

~~If licensee desires to change the location of his place of business, he may file an application for a change of location at no charge. The City Secretary or administrator may deny the application on any ground for which an original application may be denied.~~

Sec. 4-27. Term and renewal.

~~All licenses issued under this article shall be valid for a term of twelve (12) months from the date of issuance thereof and shall be renewable upon payment of the prescribed fee and compliance with all provisions of this article.~~

Sections 4-13 through 4-20 reserved.

ARTICLE IV. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

Sec. 4-1421. Sale of alcoholic beverages on city property prohibited except where specially permitted.

(a) **City Property.** It shall be unlawful for any person to sell alcoholic beverages in any public park of the city, or on or in other publicly owned property, save and except that the city and concessionaires or caterers having a contract with the city to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within

the Sammons Park Restaurant, Clubhouse, and deck exclusively. The city manager or his designee may authorize a special event permit for the sale of alcoholic beverages on city property other than a city park.

(b) **Criteria for Permits.** The City Council shall from time to time by resolution establish criteria for special event permit applications and approvals under this section.

~~Sees. 4-5 — 4-11. Reserved.~~

Part 2: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

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 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: 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: 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 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 **15th** day of **October**, 2009.

PASSED AND APPROVED on Second Reading on the **5th** day of **November** 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

10/15/09
Item #10
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney
Sarah Gardner-Cox, Deputy City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending Chapter 35, "Taxation," of the City Code to conform certain provisions therein relating to the local hotel occupancy tax to State law.

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

ITEM SUMMARY: Three changes to Section 35-9 are needed to remove exemptions from the application of our local hotel occupancy tax that are in conflict with current State law.

First, our code currently allows for an exemption from the hotel occupancy tax for all charitable, religious or educational organizations. While these organizations are exempt from paying state hotel occupancy taxes, they are not exempt from municipal or county hotel occupancy taxes under State law, and State law controls over our local ordinance.

Secondly, our code currently allows for an exemption from the hotel occupancy tax for all state agency employees. State law has changed the nature of this exemption, requiring the agency to pay both state and city hotel occupancy tax, but allowing them to apply for a refund. All refunds for state hotel occupancy tax are processed through the State Comptroller; conversely, all city hotel occupancy tax rate refunds would be processed through the City. In addition to changing our code to reflect the need to collect the tax from the state employee, the City must also outline a procedure describing how a state agency is able to request a refund of such taxes.

FISCAL IMPACT: None

ATTACHMENTS:
[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 35, "TAXATION," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE BY AMENDING SECTION 35-9, ENTITLED "HOTEL OCCUPANCY TAX—LEVY, RATE, EXCEPTIONS," TO CONFORM WITH CURRENT STATE LAW; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, certain changes need to be made to Section 35-9, entitled, "Hotel Occupancy Tax—Tax, Levy, Exceptions," to remove exemptions from the application of our local hotel occupancy tax that are in conflict with current State law; and

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

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

Part 1: Chapter 35, "Taxation," of the Code of Ordinances of the City of Temple, Texas, is amended to amend Section 35-9, entitled, "Hotel Occupancy Tax—Levy, Rate, Exceptions," to read as follows:

Sec. 35-9. Hotel Occupancy Tax—Levy, Rate, Exceptions.

(a) There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel, where the cost of occupancy is at a rate of two dollars (\$2.00) or more per day. The tax is hereby set and established at seven (7) percent of the consideration paid by the occupancy of such room, space or facility to such hotel, exclusion of other occupancy taxes imposed by other governmental agencies.

(b) No tax shall be imposed hereunder upon a permanent resident of a hotel.

~~(c) No tax shall be imposed hereunder upon a corporation or other association organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual or upon any other corporation, association, foundation or entity which is exempted from this tax by Chapter 351 of the Tax Code.~~

~~(d) No tax shall be imposed on employees of state agencies, boards, commissions and institutions (except institutions of higher education) traveling on official business who have a special Hotel Tax Exemption Photo ID or Tax Exempt Card.~~

(e **c**) No tax shall be imposed on employees of the United States government, including military personnel, traveling on official business.

Part 2: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

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 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: 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 **15th** day of **October**, 2009.

PASSED AND APPROVED on Second Reading on the **5th** day of **November**, 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

10/15/09
Item #11
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney
David Blackburn, City Manager

ITEM DESCRIPTION: Discuss the terms of a development agreement with Panda Temple Power, L.L.C., for the sale of effluent and potable water for the operation of an electric generation facility.

Executive Session: Pursuant to Section 551.087 of the Government Code, the City Council may meet in executive session to discuss either commercial or financial information that the City has received from a business prospect that the City wishes to locate, stay or expand within the City limits and with which the City is conducting economic development negotiations, or to deliberate the offer of a financial or other incentive to a business prospect the public discussion of which would adversely affect ongoing economic development negotiations.

STAFF RECOMMENDATION: Posted for discussion only today; no final action is anticipated.

ITEM SUMMARY: ***Synopsis.*** In August, 2008, the City Council authorized a development agreement with Panda Temple Power, L.L.C. Panda's proposed development in Temple has changed considerably since that agreement was authorized by the City Council and it was never executed by the parties. Rather, **we have negotiated a revised agreement that reflects the reduced scope of Panda's plans for a Temple facility. The resolution authorizes the execution of an agreement with Panda Temple Power, L.L.C. (Panda) that commits the City to sell effluent from the City's Doshier Farm Wastewater Treatment Plant to provide water for the operation of an electric generation facility in southeast Temple.**

Analysis. Two years ago, the City was approached by Panda about the purchase of effluent from the City's two wastewater treatment plants. Panda proposes the construction of an approximately 1100 megawatt electric generation plant in southeast Temple. Panda is now proposing a facility about half that size (550 megawatts) and is proposing to use effluent from only the City's own Doshier Farm WWTP with potable water as a backup source. The proposed plant uses gas turbines to generate electricity and uses water (effluent) to generate steam and cool the system. Panda has yet to complete the design for their proposed facility, but their preliminary data suggests that they will need somewhere between 4-5 million gallons of water per day (m.g.d.) of effluent for peak operations. Their actual usage will vary from day to day depending on weather and demand for electricity.

The proposed agreement between the City and Panda has the following major elements:

- ✓ **Term:** Initial term of 20 years; renewable by the mutual agreement
- ✓ **Sale of Effluent:** City agrees to provide up to an agreed maximum volume of effluent or potable water to Panda for their operations
 - City will provide treated effluent to Panda with potable water as a backup source, only if effluent supply is insufficient
 - Effluent sold “as is” without implied or express warranties as to fitness for a particular purpose; City does commit to maintaining its WW permits and using best efforts to produce effluent that meets requirements of permits
 - **Potable water** is backup source of water—the City is offering the potable under the same terms and conditions as any other customer of the City’s water system (Panda will pay same rates other users of the system pay). The infrastructure in place can currently likely only deliver about 1 m.g.d. per day—we are not guaranteeing that the supply of potable water will meet all of their needs in the event that the volume of treated effluent from Doshier Farm WWTP is cut off or is insufficient.
- ✓ **Infrastructure:** Panda to construct at their cost and dedicate to City infrastructure to transmit effluent from the Doshier Farm WWTP
- ✓ **Compensation to City:**
 - An **Option fee** to reserve effluent during construction (pre-operations) phase; **(\$12,000/per each 6 months** in years 1 & 2; increasing to **\$16,000 for each 6 months** in years 3 & 4)
 - A **Demand charge** that effectively sets a minimum compensation to the City for reserving the maximum amount of effluent that Panda can request for the purchase of effluent each month that the plant is operation (initially **\$12,000/month**), but with both a ratcheting mechanism that could lead to percentage adjustments in the monthly demand charge over a period of time as Doshier Farm WWTP produces more effluent
 - A **Commodity charge** that is the price per thousand gallons of effluent (initially 34¢ per 1,000 gallons but with a ratcheting mechanism on it as well that could raise the commodity charge to 55¢ per 1,000 gallons) when the volume of treated effluent made available to Panda out of Doshier Farm WWTP reaches a certain level
 - Reimbursement to City for Repairs to Infrastructure: Panda to reimburse the City for repairs needed to the delivery infrastructure during the term of the Agreement
 - **CPI adjustments** to the **Demand and Commodity charges** payable to the City during the term of the Agreement
- ✓ Panda required to get and maintain all necessary permits
 - Their current design is for a “zero discharge” operation—no wastewater will be returned to the City’s wastewater treatment facility
 - If that changes, they would pay the same rates as other users of the WW system, and would be required to comply with the City’s Pretreatment Ordinance

FISCAL IMPACT: The City will earn revenue under the contract, principally from the payment of an option fee (\$12,000/per 6 months initially) by Panda prior to operations being commenced (the design and construction stage) and from demand and commodity charges once operations commence. Panda will construct the infrastructure necessary to deliver effluent to their proposed facility, and will reimburse the City for the operating costs of maintaining that flow of effluent (either directly or through a surcharge to the commodity charge).

To provide some estimate of what revenue the City might derive under the agreement, assuming an 18 month construction period and an average daily volume of 3.0 million gallons per day of effluent and 700,000 gallons of potable water per day delivered to Panda in the first year of the Agreement:

- (1) **Option fees:** the City would earn \$36,000 (3 x \$12,000) in option fees;
- (2) **Demand Charges** of not less than about \$144,000 (12 x \$12,000) for the first 12 months assuming continuous operation; and
- (3) **Commodity charges** at an estimated 40.3¢ per 1,000 gallons for effluent

Effective rate = \$. 55 – ((700,000 x 30 ÷ 30,000,000) x \$.21) = \$.403

Which results in earnings from commodity charges for the year of 3,000 x \$.403 x 365 = \$441,285

This estimate (which is likely scenario) suggests that the ongoing, recurring revenue from the sale of effluent to Panda each year will generate in the range of \$500-600K annually from demand and commodity charges. The City would earn another \$36,000 in option fees in our example. Not calculated into our revenue in our example would be the income from selling a flat average of 700,000 gallons on potable water daily. The agreement also has an annual inflation adjustment for the demand and commodity charges over the 20 year life of the agreement.

The hardest element of any revenue stream to predict is the commodity charge portion of the equation, since the actual volume of effluent delivered to Panda is likely to vary considerably, and the minimum and maximum volumes that we're likely to transmit are still being calculated based on design considerations and the demand for electricity that Panda will experience. On the high end, the agreement anticipates the average daily volumes of effluent at somewhere between 4 and 5 m.g.d., and in my example, I've conservatively used 3 m.g.d. of treated effluent and 700,000 gallons per day of potable water.

ATTACHMENTS: None