



**MEETING OF THE  
TEMPLE CITY COUNCIL**

**MUNICIPAL BUILDING**

**2 NORTH MAIN STREET**

**THURSDAY, NOVEMBER 5, 2009**

**3:00 P.M.**

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

**WORKSHOP AGENDA**

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 5, 2009.
2. Discuss proposed traffic calming policy.
3. 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.*

4. Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the City Attorney. No final action will be taken.

5:00 P.M.

**MUNICIPAL BUILDING**

**2 NORTH MAIN STREET  
CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR**

**TEMPLE, TX**

**TEMPLE CITY COUNCIL**

**REGULAR MEETING AGENDA**

**I. CALL TO ORDER**

1. Invocation
2. Pledge of Allegiance

**II. PROCLAMATIONS**

3. Presentation of Proclamations:
  - (A) [Alzheimer's Disease Awareness Month](#) November, 2009
  - (B) [Pancreatic Cancer Awareness Month](#) November, 2009
  - (C) [Save a Life Day](#) November 7, 2009
  - (D) [Municipal Courts Week](#) November 22—6, 2009

**III. PRESENTATIONS & SPECIAL RECOGNITIONS**

4.
  - (A) Presentation from [Keep Temple Beautiful](#) regarding the recent tree planting on South 5<sup>th</sup> Street and recognition of participants.
  - (B) Recognition of the Parks and Leisure Services Department for being a finalist in the [2009 National Parks and Recreation Association Gold Medal Competition for Excellence](#).

#### **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. CONSENT AGENDA**

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

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

##### **Minutes:**

- (A) [October 14, 2009 Special Called Meeting](#)
- (B) [October 15, 2009 Special Called Meeting and Regular Meeting](#)

##### **Contracts, Leases & Bids:**

- (C) [2009-5859-R](#): Consider adopting a resolution authorizing change order #1 to the construction contract with Matous Construction, Ltd., of Belton for replacement of the drive for Clarifier #1 at the conventional water plant and for repairs to raw water headers at the membrane treatment plant in the amount of \$112,821.
- (D) [2009-5860-R](#): Consider adopting a resolution authorizing an emergency construction contract with Bell Contractors, Inc., of Belton to bore and install a new 6" waterline across FM 2271 near the intersection of FM 2305, related to the FM 2305 Waterline Relocation Project, in the amount of \$30,700.
- (E) [2009-5861-R](#): Consider adopting a resolution authorizing a construction contract with Dixon Paving, Inc. of Belton for the construction of a parking lot for Jones Park in the amount of \$27,150.
- (F) [2009-5862-R](#): Consider adopting a resolution authorizing a construction contract with TTG Utilities of Gatesville for construction of Phase I of the Friar's Creek Trail in the amount of \$222,566 and approving change order #1 in the amount of \$27,720.
- (G) [2009-5863-R](#): Consider adopting a resolution authorizing a construction contract with J. Reynolds & Co., Inc. of Saginaw to replace the Library roof in the amount of \$197,000 and rejecting all bids received for the re-roofing of the Library roof on July 1, 2008, and all proposals received for the re-roofing project on December 16, 2008.
- (H) [2009-5864-R](#): Consider adopting a resolution authorizing a professional services contract with Williams-Stackhouse, Inc. to capture Aerial Ortho Photography in an amount not to exceed \$71,131.

- (I) [2009-5865-R](#): Consider adopting a resolution authorizing a contract with Wellington-Royce Corporation from Atlanta, Georgia, for the purchase of a complete business aviation software system and wireless aviation fuel inventory system for the Draughon-Miller Central Texas Regional Airport in the amount of \$118,531.
- (J) [2009-5866-R](#): Consider adopting a resolution authorizing the purchase of one crane truck for the Utility Division from Sam Pack's Five Star Ford of Carrollton in the amount of \$59,761.
- (K) [2009-5867-R](#): Consider adopting a resolution authorizing the purchase of a Caterpillar 420E Integrated Tool Carrier (ITC) Backhoe Loader from Holt Caterpillar through the BuyBoard local government online purchasing cooperative in the amount of \$94,617.
- (L) [2009-5868-R](#): Consider adopting a resolution authorizing the purchase of a Video Acquisition System with RushWorks, of Flower Mound in the amount of \$27,684.

**Ordinance – Second & Final Reading:**

- (M) [2009-4321](#): SECOND READING – 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.
- (N) [2009-4323](#): SECOND READING – 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.
- (O) [2009-4324](#): SECOND READING – 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.

**Misc.:**

- (P) [2009-5869-R](#): Consider adopting a resolution authorizing the City to apply for the Wal-Mart Store and Sam's Club Giving Program grant in an amount not to exceed \$5000 for funding to purchase two (2) Masimo Rad-57, Hand-held Pulse CO Oximeters for Temple Fire and Rescue.
- (Q)
  1. [2009-5870-R](#): 1.Consider adopting a resolution authorizing the acceptance of a \$20,000 reimbursement grant from the U. S. Department of Homeland Security, through the Texas Division of Emergency Management, Homeland Security Grant Program and the State Homeland Security Grant Program for grant year 2009.
  2. Authorize the purchase of the following equipment:
    - (a) 2 year Partnership Program (extended warranty) and processor upgrade for the Hazmat ID., in the amount of \$11,950
    - (b) 2008 Yamaha Rhino 4 x 4, ATV, in the amount of \$8,050.
- (R) [2009-5871-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

- (S) [2009-5872-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

## **VI. REGULAR AGENDA**

### **ORDINANCES**

6. [2009-4325](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance authorizing the voluntary annexation of a 1.148 acre tract of land located in the vicinity of FM 2305 and Buck Lane.
7. [2009-4326](#): FIRST READING – PUBLIC HEARING - Z-FY-09-31: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Neighborhood Service District (NS) on a 0.6± acre tract of land identified as Tract 1, and from Agricultural District (A) to Urban Estate District (UE) on a 4± acre tract of land identified as Tract 2, all being part of the James Bowers Survey, Abstract 81, Bell County, Texas, Lazy G Ranch Subdivision, Block 1, Lots 7 - 11, presently not in the Temple City limits, all located on the south side of FM 2305, adjacent to Buck Lane.
8. [2009-4327](#): FIRST READING – PUBLIC HEARING - Z-FY-09-35: Consider adopting an ordinance authorizing a zoning change from General Retail District (GR) to Planned Development – General Retail District (PD-GR) on Lots 7 – 12, Block 2, Eugenia Terrace, located at 1402, 1414 and 1424 South 1st Street.
9. [2009-4322](#): SECOND READING – PUBLIC HEARING – Z-FY-09-37: Consider adopting an ordinance amending the Zoning Ordinance to regulate the use of property for the sale of alcoholic beverages for on- and off-premise consumption.

### **RESOLUTIONS**

10. [2009-5873-R](#): Consider adopting a resolution authorizing the purchase of three (3) vehicles from Sam Pack's Five Star Ford of Carrollton in the amount of \$43,657, four (4) vehicles from Planet Ford of Spring in the amount of \$75,429, and six (6) vehicles from Johnson Brothers Ford Lincoln Mercury of Temple in the amount of \$166,773.92.
11. [2009-5874-R](#): Consider adopting a resolution supporting the creation of the City of Temple Census 2010 Complete Count Committee.
12. [2009-5875-R](#): Consider adopting a resolution authorizing the execution by the City Manager of a development agreement with Panda Temple Power, L.L.C., for the sale of effluent for the operation of an electric generation facility.

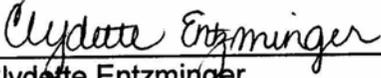
*Executive Session: Pursuant to Section 551.087 of the Government Code, the City Council may meet in executive session to discuss either commercial or financial information that the City has received from a business prospect that the City wishes to locate, stay or expand within the City limits and with 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.*

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

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I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 2:50 PM, on October 30, 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

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11/05/09  
Item #3(A)-(D)  
Regular Agenda  
Page 1 of 1

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

William A. Jones, III, Mayor

### **ITEM DESCRIPTION:** Presentation of Proclamations:

- |     |                                     |                     |
|-----|-------------------------------------|---------------------|
| (A) | Alzheimer's Disease Awareness Month | November, 2009      |
| (B) | Pancreatic Cancer Awareness Month   | November, 2009      |
| (C) | Save a Life Day                     | November 7, 2009    |
| (D) | Municipal Courts Week               | November 22—6, 2009 |

**STAFF RECOMMENDATION:** Present proclamations as presented in item description.

### **ITEM SUMMARY:**

- (A) The proclamation was requested by Mrs. Betty Decker. It will be received by members of the Alzheimer's Disease Family Awareness Group.
- (B) The proclamation was requested by, and will also be received by, Beth Duncan.
- (C) The proclamation was requested by, and will be received by, Rob & Pat Smith.
- (D) The proclamation was requested by, and will be received by, Municipal Court Judge Kathleen Person.

**FISCAL IMPACT:** None

**ATTACHMENTS:** None



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #4(A)-(B)  
Regular Agenda  
Page 1 of 2

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

William A. Jones, III, Mayor

**ITEM DESCRIPTION:** (A) Presentation from Keep Temple Beautiful regarding the recent tree planting on South 5<sup>th</sup> Street and recognition of participants.

(B) Recognition of the Parks and Leisure Services Department for being a finalist in the 2009 National Parks and Recreation Association Gold Medal Competition for Excellence.

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

**ITEM SUMMARY:** (A) Tanya Gray, Keep Temple Beautiful, will provide a report on the recent tree planting on South 5<sup>th</sup> Street held in conjunction with Make A Difference Day. Participants in this event will also be recognized.

(B) The Parks and Leisure Services Department has been recognized as a finalist in the 2009 National Parks and Recreation Association Gold Medal Competition for Excellence in Parks and Recreation Management. This is a national competition designed to recognize the best parks and recreation departments in the country.

**FISCAL IMPACT:** None

**ATTACHMENTS:** None



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(A)-(B)  
Consent Agenda  
Page 1 of 1

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

Clydette Entzminger, City Secretary

**ITEM DESCRIPTION:** Approve Minutes:

- (A) October 14, 2009 Special Called Meeting
- (B) October 15, 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 14, 2009 Special Called Meeting](#)  
[October 15, 2009 Special Called Meeting & Regular Meeting](#)

# **SPECIAL MEETING OF THE TEMPLE CITY COUNCIL**

**OCTOBER 14, 2009**

The City Council of the City of Temple, Texas conducted a Special Meeting on Wednesday, October 14, 2009 at 8:00 am in the City Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

**Present:**

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

**Absent:**

Councilmember Tony Jeter

**I. CALL TO ORDER**

**1. Invocation**

Councilmember Russell Schneider voiced the invocation.

**2. Pledge of Allegiance**

Mayor Pro Tem Patsy Luna led the Pledge of Allegiance.

**II. PUBLIC HEARINGS**

**3. 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.**

Tim Dolan, Planning Director, displayed an aerial photo of the property proposed for annexation. The property to the west and north is already in the City limits. James and Jan Kent submitted a petition for voluntary annexation of this 1.148 acre tract. The first public hearing will be conducted today to receive comments on the voluntary annexation of this tract into the City. The second public hearing will occur as part of the regular Council meeting scheduled for October 15th. The Municipal Service Plan has been prepared to address public services such as police, fire, solid waste, water, sewer, and parks. There are no residents in this area.

The Planning and Zoning Commission will consider rezoning this property at its October 19th meeting. A final plat will be presented to the Council in mid-November which will provide access to Buck Lane, getting traffic to FM 2305. Twenty feet of right of way is being dedicated adjacent to the property. Buck Lane is a County Road and will remain outside the City. The need for the future expansion and development of Buck Lane has been discussed with the applicant. Approximately 8 lots will have access to Buck lane, with one way in and out of the development.

Mayor Jones declared the public hearing open with regard to agenda item 3 and asked if anyone wished to address this item. There being no comments, Mayor Jones closed the public hearing.

Mayor Jones announced the second public hearing will be conducted as part of the October 15th regular meeting of the City Council. No action is required at this time.

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William A. Jones, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary

## TEMPLE CITY COUNCIL

OCTOBER 15, 2009

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, October 15, 2009, at 3:30 PM in the 3rd Floor Conference Room, 2 North Main Street.

### Present:

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

1. **Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, October 15, 2009.**

There was no discussion of regular meeting agenda items.

2. **Receive update from Jacobs Engineering Group regarding the Bird Creek Interceptor Improvement Project.**

Bruce Butscher, Director of Public Works, stated the Jacobs Engineering Group has been retained to design the entire Bird Creek Interceptor Improvement project, which begins at FM 2305, crosses the golf course, and ends south of Lions Park. The design is underway for phase 1, which is the area that crosses the golf course. He introduced representatives from Jacobs Engineering to present this report.

Mr. Drew Hardin, Jacobs Engineering, stated the purpose of this briefing to the Council was to provide an update on the current status of the project, to discuss potential impacts to the public and the proposed approach for the public communication plan. He began with a discussion of the required interceptor improvements and a review of the alternative route analysis. Three routes were evaluated, with four primary goals: 1) least cost; 2) least community impact; 3) least environmental impact; and 4) least project risk. Alternative A was selected and confirmed by the City Council in December, 2008.

Phase I includes the golf course area, Phase II is in the industrial/commercial area, Phase III is residential and Phase IV is through Lions Parks to the Brazos River Authority. Phase I is currently under design and construction has been pushed back to the fall of 2010 to coordinate with the golf course improvements. Final alignment options are being evaluated for Phases II and III and Jacobs is ready to meet with property owners to gather input and educate them on the project. Phase IV is dependent on the BRA Temple-Belton Regional Sewerage System Wastewater Treatment Plant and Lift Station construction. Phases II and III will have the highest public impact and are scheduled for construction in 2011. Mr. Hardin discussed the public communication plan and the schedule for open house and individual meetings.

Mayor Jones asked that the public meetings be delayed to begin in January 2010, instead of November and December as currently proposed. The Council engaged in discussion with Jacobs Engineering about the selected routes for Phase II and III, why these routes

were selected and how some of the potential impacts might be mitigated.

David Blackburn, City Manager, stated Bird Creek is the longest, oldest sewer line in the City and has more inflow/infiltration issues than anywhere else in the City. This is likely the largest single CIP project that has been undertaken by the City.

**3. Discuss possible Zoning Ordinance amendments relating to the on- and off-premise sale of alcoholic beverages in the City of Temple.**

Jonathan Graham, City Attorney, stated this item is included on the regular agenda for action on first reading of the ordinance. The goal is to have zoning controls in place if the liquor option election being conducted by Bell County is passed by the voters, in particular as it relates to off-premise sales of alcoholic beverages. The recommendation is to change the current single land use in the Zoning Ordinance into two uses, making package stores a separate use. Mr. Graham recommended this conservative approach which would only allow package stores by Conditional Use Permit in several non-residential zoning districts.

**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.**

Mayor Jones stated the Council would enter into executive session for the discussion of this item.

The worksession was reconvened at approximately 5:15 p.m., with no action being taken.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, October 15, 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**

Reverend Shelton C. Rhodes, Greater Zion Church of God in Christ, voiced the Invocation.

**2. Pledge of Allegiance**

Councilmember Russell Schneider 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.**

Dr. Vivian Baker, Superintendent, Belton ISD, gave a brief presentation to the City Council regarding the November 3rd Belton ISD Bond Election. She discussed the growth occurring in the district and previous bond programs implemented to address that growth. Dr. Baker stated the District's Long-Range Facilities Planning Committee established some priorities and guiding principles, prioritized the District's needs and prepared a ten-year facilities plan, with the results of that plan being four new middle schools and two traditional high schools. Phase I of the plan recommends a new middle school be constructed in the southern portion of the District at Highway 190 and Loop 121 and this is what is being proposed in the upcoming bond election. The total cost of the project is \$29M, which would represent a tax impact of 5.4 cents per \$100 valuation. Dr. Baker concluded her presentation with information regarding early voting and election day voting dates and times.

**III. PROCLAMATIONS & SPECIAL RECOGNITIONS**

**4. Presentation of Proclamations:**

**(A) Community Planning Month October, 2009**

Mayor Jones presented Tim Dolan, Planning Director, Planning Department Staff and Planning and Zoning Commissioners with this proclamation.

**(B) Czech Heritage Month October, 2009**

Mayor Jones read this proclamation. No one was present to receive.

**(C) Make A Difference Day October 24, 2009**

Mayor Jones presented Tanya Gray, Executive Director, Keep Temple Beautiful, with this proclamation.

**IV. PUBLIC COMMENTS**

There were no public comments made at this meeting.

**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.**

Tim Dolan, Planning Director, presented this item to the City Council. This is the second public hearing regarding a voluntary annexation petition submitted by James and Jan Kent for a 1.148 acre tract of land that contains no residents. The Municipal Services Plan has been prepared and provides for police, fire, solid waste, water, sewer and park services to the area. Mr. Dolan requested a public hearing be conducted today with no action taken. The first reading of the annexation ordinance

will be presented to the Council on November 5th.

Mayor Jones declared the public hearing open with regard to agenda item 5 and asked if anyone wished to address this item. There being none, Mayor Jones closed the public hearing.

## **VI. CONSENT AGENDA**

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

**(A) October 1, 2009 Special Called Meeting and Regular Meeting**

**(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.**

**(I) 2009-4319: 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.**

**(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.**

**(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.**

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

Motion passed unanimously.

## **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.**

Tim Dolan, Planning Director, presented this case to the City Council. The applicant is requesting 2F zoning to allow both single family housing and duplexes, which already exist in this area. He displayed aerial photos of the property and surrounding area. The future land use plan shows medium density use so the 2F zoning is appropriate. The property fronts Duke Drive, which is a local residential street on the Thoroughfare Plan. A 12" sewer line and a 6" water line serve the site. Mr. Dolan also displayed the surrounding zoning for this location which is conducive the proposed 2F zoning. Six notices were mailed to surrounding property owners, with one being received in

opposition of the requested zoning. The plat has been reviewed by the Planning and Zoning Commission. Both the staff and Planning and Zoning Commission unanimously recommended approval of the request for 2F zoning.

Mayor Jones declared the public hearing open with regard to agenda item 7 and asked if anyone wished to address this item. There being no comments, Mayor Jones closed the public hearing.

Motion by Councilmember Marty Janczak to adopt ordinance, with second reading set for November 5, 2009, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

**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.**

Tim Dolan, Planning Director, presented this item to the City Council. This item recommends amendments to the Zoning Ordinance to regulate the use of property for the on- and off- premise sales of alcoholic beverages. The major concern is with off-premise sales since the proposition before Temple voters, if approved, would add a new use category. The Planning and Zoning Commission will make a recommendation regarding the on-premise sales prior to the second reading of this ordinance on November 5th.

Mr. Dolan provided both existing and proposed definitions for off-premise consumption for beer and wine, as well as package stores. He also presented the existing land use tables relating to alcoholic beverage sales and the proposed amendments, which would create a separate land use for a package store. The recommendation is that package stores would only be allowed by Conditional Use Permit (CUP) in General Retail, Central Area, Commercial, Heavy and Light Industrial zoning districts. The CUP would require a site plan to be reviewed and approved by the Planning and Zoning Commission and the City Council. Site plan standards will also be presented to the City Council on November 5th, along with specific recommendations regarding on-remise consumption.

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 Councilmember Russell Schneider to adopt ordinance, with second reading set for November 5, 2009, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

**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.**

Jonathan Graham, City Attorney, presented this item to the City Council. He explained this item is unrelated to item 8 but is essentially a clean-up to Chapter 4 of the City Code of Ordinances relating to alcoholic beverages. It has been a number of years since this Chapter has been revised and these proposed changes bring our code into conformance with State law and our current practices. One substantive change is the issuance of two-year licenses, which has been implemented by the Texas Alcoholic Beverage Commission.

Mayor Jones declared the public hearing open with regard to agenda item 9 and asked if anyone wished to address this item. There being no comments, Mayor Jones closed the public hearing.

Motion by Councilmember Marty Janczak to adopt ordinance, with second reading set for November 5, 2009, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

**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.**

Jonathan Graham, City Attorney, presented this item to the City Council. He explained it is necessary at this time to remove several sections from our current Code as they are in conflict with State law. One provision relates to charitable, religious or educational organizations. Our current code provides an exemption for these organizations, however State law gives charitable organizations an exemption from state occupancy taxes only, and cities no longer have any authority to grant this exemption.

The second change relates to an exemption from hotel occupancy tax for State employees. A State law amendment recently changed the nature of this exemption, requiring the agency to pay both the state and local tax, but allowing them to apply for a refund. These refunds are processed through the State Comptroller.

Mayor Jones declared the public hearing open with regard to agenda item 10 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 set for November 5, 2009, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

- 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.**

This item was discussed in executive session during the Council worksession held prior to the regular meeting. No discussion occurred during the regular meeting.

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William A. Jones, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(C)  
Consent Agenda  
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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 change order #1 to the construction contract with Matous Construction, Ltd., of Belton for replacement of the drive for Clarifier #1 at the conventional water plant and for repairs to raw water headers at the membrane treatment plant in the amount of \$112,821.

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

**ITEM SUMMARY:** On July 16, 2009, Council authorized a construction contract with Matous Construction to perform rehabilitation work at the conventional water treatment plant on the mixed media filters and lagoon #4. Construction is currently underway and the project is proceeding as scheduled.

Over the past few months, the main drive in Clarifier #1 at the conventional water treatment plant (processing approximately four to six million gallons of water per day) has shown signs of failure similar to what was observed last spring with the failure of the drive on Clarifier #2. Late last spring, the drive on Clarifier #2 was replaced under an emergency contract to keep operations functioning through the summer months. Clarifier #1 is of similar age to Clarifier #2, with a comparable expected lifespan, and is now in need of replacement. Without this clarifier in operation, the plant's treatment capacity is significantly reduced. The attached proposal to replace the main drive on Clarifier #1 is \$95,091 and will allow the unit to function for another four to five years.

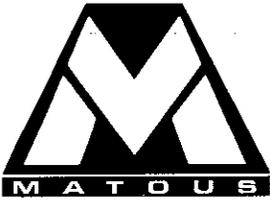
The attached change order also includes some minor repairs to the membrane water treatment plant. Since the membrane plant was placed into operation in 2004, several of the fittings on the raw water intake line have experienced numerous leaks at locations just before the water enters the membrane racks. These leaks appear to be a result of installation of Schedule 80 PVC pipe in lieu of the rigid stainless steel pipe originally intended for the facility. The PVC pipe has allowed deflections in the way the pipes fit together and has resulted in misalignment of tees, gaskets, and joints. Several of these fittings have been replaced over the years, but two leaks remain. The attached proposal also includes repair of these lines at the membrane plant in the amount of \$17,730.

**FISCAL IMPACT:** Funding in the amount of \$2,165,000 was appropriated in 561-5100-535-6924, project #100335 from the 2006 & 2008 Utility Revenue Bond Issues for the rehabilitation of Mixed Media Filters and the replacement of Lagoon #4.

After funding engineering related services in the amount of \$289,484, testing fees in the amount of \$799, and a construction contract in the amount of \$1,674,000 a balance of \$200,717 remains available to complete this additional work.

**ATTACHMENTS:**

[Contractor's Proposal](#)  
[Change Order #1](#)  
[Resolution](#)



# MATOUS CONSTRUCTION

## GENERAL CONTRACTORS

8602 N. Hwy. 317 • Belton, Texas 76513 • Office: (254) 780-1400 • Fax: (254) 780-2599

October 15, 2009

Mr. John B. Mitchell, P.E.  
Carollo Engineers  
8911 Capitol of Texas Hwy North, Suite 2200  
Austin, Texas 78759

Re: Temple WTP Filter/Lagoon Modifications  
Clarifier No. 1 Replacement – Membrane Valve Rack Repair

Dear John:

As per the Owners request, we offer the following for your review and consideration:

**Item 1. – PVC Repair at Valve Racks #2 & #7:** Provide material, labor, equipment and supervision to repair the following items:

1. Repair defective areas of the 10” PVC Membrane feed line for the above mentioned Valve Racks which includes the following:
  - Remove and replace existing piping and fittings on the defective areas of the 10” PVC Membrane Feed Line including the 10”x8” reducing rubber expansion joint coupling.
  - Piping material to be SCH 80 PVC.
  - Remove and dispose of all existing material.
  - All work to require a (2) day shutdown.
  - Delivery of material approximately (4) weeks after approval.

For the additional cost of.....\$17,730.00

**Item 2. – Clarifier No. 1 Drive Replacement:** Provide material, labor, equipment and supervision to repair the following:

1. Furnish and install one (1) Enviroquip, LTD 35” PD Clarifier Drive and 54” Dia Pier Support for Clarifier No. 1 which includes the following:
  - Install Shoring as required to support existing Floc Cone and structural beams.
  - Disconnect all motors, including mixers and drives.

- Cut plate at end of bridge to facilitate removal.
- Remove the existing bridge and handrail.
- Remove existing drive and dispose.
- 150 TN Crane Rental as required to remove and reinstall equipment.
- Install 35" PD Drive as manufactured by Enviroquip, including adapter plates to connect drive to drive cage.
- Install 54" Dia Center Pier Support.
- Reinstall existing bridge, handrail, mixers, grating, etc.
- Remove shoring.
- Check and level sludge rake arms after installation.
- Field electrical.
- Oil and lubricants for proposed unit.
- Start up by authorized Enviroquip representative.
- All work to be completed approximately (6) weeks after approval.

For the additional cost of.....\$82,591.00

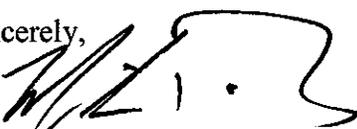
**Item 3. – Clarifier Drive Control Panels:** Provide material, labor and supervision to replace the following:

1. Furnish and install two (2) Clarifier Drive Control Panels to replace the existing Panels associated with Clarifiers No. 1 and No. 2 which includes the following:
  - 20" x 20" x 8" NEMA 4x SS enclosure.
  - Disconnect with door mounted disconnect assembly.
  - NEMA size 1 motor starter with adjustable trip point overloads.
  - 200 VA control power transformers.
  - Phase monitor relay.
  - On/Off selector switch, run/stop indicator lights and alarm silence/alarm reset push buttons.
  - Control relays for torque monitor control.
  - Alarm horn/light assembly.
  - Terminals for overtorque switch and remote alarm connections.
  - Control drawings and O&M information.

For the additional cost of.....\$12,500.00

Should you have any questions, please feel free to call.

Sincerely,



Mike Psencik

## CHANGE ORDER

**PROJECT: Rehabilitation of Conventional Water Treatment Plant Mixed Media Filters and Lagoon #4 Replacement Project**

**OWNER: City of Temple**

**CONTRACTOR: Matous Construction, Ltd.**

**ENGINEER: Carollo Engineers**

**CHANGE ORDER #: 1**

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

**Item 1. PVC Repair at Membrane Valve Racks #2 & #7:** Provide material, labor, equipment and supervision to remove and replace existing piping and fitting on the defective areas of the 10"  
**Sub-Total Add \$ 17,730.00**

**Item 2. Clarifier #1 Drive Replacement:** Provide material, labor, equipment and supervision to furnish and install one (1) Enviroquip, LTD 35" PD Clarifier Drive and 54" Dia Pier Support.  
**Sub-Total Add \$ 82,591.00**

**Item 3. Clarifier Drive Control Panels:** Provide material, labor and supervision to furnish and install two (2) Clarifier Drive Control Panels to replace the existing Pannels associated with Clarifiers #1 and #2.  
**Sub-Total Add \$ 12,500.00**

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

Original Contract Amount	\$ <u>1,674,000.00</u>
Previous Net Change in Contract Amount	\$ <u>-</u>
Net Change in Contract Amount	\$ <u>112,821.00</u>
Revised Contract Amount	\$ <u>1,786,821.00</u>
Original Contract Time	<u>220 days</u>
Previous Net Change in Contract Time	<u>0 days</u>
Net Change in Contract Time	<u>0 days</u>
Revised Contract Time	<u>220 days</u>
Original Final Completion Date	<u>May 6, 2010</u>
Revised Final Completion Date	<u>May 6, 2010</u>

Recommended By Engineer:

By: Hani E. Michel 10/28/09  
 Date

Approved By Contractor:

By: [Signature] 10/28/09  
 Date

Approved by City of Temple:

Approved as to Form:

By: \_\_\_\_\_

By: \_\_\_\_\_  
 City Attorney's Office Date

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CHANGE ORDER TO THE CONSTRUCTION CONTRACT WITH MATOUS CONSTRUCTION OF TEMPLE, TEXAS, FOR REHABILITATION WORK AT THE CONVENTIONAL WATER TREATMENT PLANT, TO PROVIDE FOR REPLACEMENT OF THE DRIVE FOR CLARIFIER #1 AND FOR REPAIRS OF RAW WATER HEADERS AT THE MEMBRANE TREATMENT PLANT, IN AN AMOUNT NOT TO EXCEED \$112,821; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on July 16, 2009, the City Council approved a construction contract with Matous Construction of Temple, Texas, for the rehabilitation of Mixed Media Filters 1 through 6 and Replacement of Lagoon #4 at the Conventional Water Treatment Plant;

**Whereas**, the Staff recommends approving a change order to the contract, for an amount not to exceed \$112,821, for replacement of the drive for Clarifier #1 at the conventional water plant and for repairs to raw water headers at the membrane treatment plant;

**Whereas**, funds are available for this project in Account No. 561-5100-535-6924, Project #100335; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute Change Order #1, in an amount not to exceed \$112,821, to the construction contract with Matous Construction of Temple, Texas, after approval as to form by the City Attorney, for rehabilitation work at the conventional water treatment plant to provide for replacement of the drive for Clarifier #1 and for repairs to raw water headers at the membrane treatment plant.

**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 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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

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 an emergency construction contract with Bell Contractors, Inc., of Belton to bore and install a new 6" waterline across FM 2271 near the intersection of FM 2305, related to the FM 2305 Waterline Relocation Project, in the amount of \$30,700.

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

**ITEM SUMMARY:** In March, 2006, Council authorized a professional services agreement with Kasberg, Patrick & Associates L.P. (KPA) for engineering and design services required for the relocation of City-owned utilities along FM 2305 from SH 317 to FM 2271. On January 9, 2007, bids were received for construction of the project. This project included relocation of water utilities along FM 2305 from SH 317 to Pepper Creek Tank west of FM 2271. TTG Utilities completed the work in the fall of 2008.

In the summer of 2009, an existing waterline conflict with a new TxDOT storm drain pipe was discovered at the intersection of FM 2305 and FM 2271. To avoid any potential delays to the TxDOT roadwork, the conflicting waterline was cut and capped at the intersection to allow roadway construction to proceed. As a result of the capped line, water quality within the distribution system at this location began to deteriorate. In addition, fire protection in the vicinity was also compromised.

As allowed by the Texas Local Government Code §252.022(a)(2) competitive sealed bidding was not conducted for this procurement due to the potential risk to the public health and safety as a result of this line being in place. Accordingly, on August 26, 2009, three (3) written quotes were received for construction of the project from three responsible vendors who have proven experience with the City. Per the attached quote tabulation, Bell Contractors submitted the low quote in the amount of \$30,700.

Bell Contractors began the work on August 31, 2009, and completed the work on September 11, 2009.

**FISCAL IMPACT:** Funding in the amount of \$2,700,000 has been appropriated for this project from the 2006 Utility Revenue Bond Issue in account 561-5200-535-6917, project # 100096. The total expenditures incurred on this project, which was completed in FY 2009, were \$2,652,671. A balance of \$47,328 remains available to fund the emergency contract in the amount of \$30,700.

**ATTACHMENTS:**

[Tabulation of Quotes Received  
Resolution](#)

Tabulation of Quotes Received  
 on August 26, 2009  
 Emergency Water Line Relocation on FM 2271 near FM 2305 Intersection

Description	Bidders		
	Bell Contractors, Inc. Belton	TTG Utilities LP Gatesville	Smetana & Associates CO., Inc. Temple
Total Bid	\$30,700.00	\$33,670.00	\$40,206.00
Project Schedule	10 Days	None Provided	26 Days

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING THE AUTHORIZATION OF THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT BETWEEN THE CITY OF TEMPLE, TEXAS, AND BELL CONTRACTORS, INC., OF BELTON, TEXAS, IN THE AMOUNT OF \$30,700 FOR THE EMERGENCY REPLACEMENT OF A 6-INCH WATERLINE ACROSS FM 2271 NEAR THE INTERSECTION OF FM 2305, RELATED TO THE FM 2305 WATERLINE RELOCATION PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, in the summer of 2009, an existing waterline conflict with a new TxDOT storm drain pipe was discovered at the intersection of FM 2305 and FM 2271 – to avoid any potential delays to the TxDOT roadwork, the conflicting waterline was cut and capped at the intersection to allow roadway construction to proceed;

**Whereas**, as a result of the capped line, water quality within the distribution system at this location began to deteriorate and fire protection in the vicinity was compromised;

**Whereas**, due to the emergency nature of the project, the Staff requested 3 written quotes from responsible vendors who have proven experience with the City to replace a 6-inch waterline across FM 2271 near the intersection of FM 2305 – the Staff recommends accepting the bid from Bell Contractors, Inc., of Belton, Texas, in the amount of \$30,700;

**Whereas**, funds are available for this project in Account 561-5200-535-6917, Project #100096; and

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

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

**Part 1:** The City Council ratifies the authorization of the City Manager to execute a construction contract, not to exceed \$30,700, between the City of Temple, Texas, and Bell Contractors, Inc., of Belton, Texas, after approval as to form by the City Attorney, for the emergency replacement of a 6-inch waterline across FM 2271 near the intersection of FM 2305, related to the FM 2305 Waterline Relocation Project.

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

PASSED AND APPROVED this the 5<sup>th</sup> day of November, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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

Ken Cicora, Director of Parks and Leisure Services

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a construction contract with Dixon Paving, Inc. of Belton for the construction of a parking lot for Jones Park in the amount of \$27,150.

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

**ITEM SUMMARY:** Jones Park is one of the original parks in Temple and is one of the most visible since it is located on West Avenue H. Over the past few years the Parks and Leisure Services Department has made several improvements to this park including restrooms, crushed granite pathways, and new playground equipment and benches. These new additions have greatly improved the appearance of the park and have contributed to increased visitation.

As part of the CDBG program, on September 29, 2009 the City of Temple received 7 bids to construct a new asphalt parking lot to be located on the west end of Jones Park. The bids ranged in price from a low of \$27,150 to a high of \$49,619 with Dixon Paving, Inc. submitting the low bid.

The parking lot will accommodate 25 vehicles, provide an ADA accessible pathway to the park restrooms, and was designed to preserve 3 large pecan trees that are located in the parking lot area.

This new asphalt parking lot will replace the existing gravel parking lot that is located adjacent to 23<sup>rd</sup> Street on the west end of Jones Park.

**FISCAL IMPACT:** Funding in the amount of \$50,437 is available in account 260-6100-571-65-16, project #100485 for the Jones Park CDBG project. The funds remaining after the construction of the parking lot will be used to purchase shade shelters for the park.

### **ATTACHMENTS:**

[Bid Tab](#)  
[Resolution](#)

Tabulation of Bids Received  
on September 29, 2009 at 3:00 p.m.  
CDBG Jones Park Extension

Description	Bidders			
	Alpha Constructors Temple	K&S Backhoe Gatesville	RT Schneider Construction Company Belton	Shallow Ford Construction Temple
Total Bid Price	\$34,604.00	\$44,242.44	\$32,012.00	\$33,611.35
Bid Bond (required at bid opening)	5%	5%	5%	5%

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

Description	Bidders			
	David D. Smith Construction Company Copperas Cove	Dixon Paving Belton	Myers Concrete Construction Wimberly	
Total Bid Price	\$32,359.00	\$27,150.00	\$49,619.00	
Bid Bond (required at bid opening)	5% not on our form	5%	5%	

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

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

*Belinda Matthe*

Belinda Matthe, Director of Purchasing

*29-Sep-09*

Date

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

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH DIXON PAVING, INC., OF BELTON, TEXAS, FOR CONSTRUCTION OF A PARKING LOT FOR JONES PARK, IN AN AMOUNT NOT TO EXCEED \$27,150; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on September 29, 2009 the City received 7 bids for construction of a parking lot at Jones Park;

**Whereas**, Staff recommends accepting the bid (\$27,150) from Dixon Paving of Belton, Texas;

**Whereas**, funds are available in Account No. 260-6100-571-6516, Project #100485; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a construction contract, for an amount not to exceed \$27,150, between the City of Temple and Dixon Paving, Inc., of Belton, Texas, after approval as to form by the City Attorney, for construction of a parking lot at Jones Park.

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

PASSED AND APPROVED this the 5<sup>th</sup> 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

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

Ken Cicora, Parks and Leisure Services Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a construction contract with TTG Utilities of Gatesville for construction of Phase I of the Friar's Creek Trail in the amount of \$222,566 and approving change order #1 in the amount of \$27,720.

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

**ITEM SUMMARY:** On October 19, 2009 the City of Temple received 5 bids for the construction of the Friar's Creek Trail project. The bid was developed with multiple options to maximize our flexibility in providing the best trail possible.

This project will consist of constructing a trail that will begin in South Temple Community Park and continue north along Friar's Creek, terminating at a point approximately 1050 feet north of Marlandwood Road. The trail will be 6 feet in width and will be constructed of standard concrete. The trail will also require two street crosswalks, one at Canyon Creek Drive and one at Marlandwood Road. Additional items in this project include erosion control measures, benches, minor landscaping and irrigation.

The low bidder for this project is TTG Utilities from Gatesville, Texas. TTG has provided construction services for the City of Temple in the past and has been found to be a very responsible company.

Staff recommends awarding:

Section 1 – Alternate 1 - South Temple Park (standard concrete)

Section 2 - Silverstone Park to Canyon Creek Drive

Section 3 - Crosswalk for Canyon Creek Drive

Section 4 – Alternate 1 - Canyon Creek to Marlandwood (standard concrete)

Section 6 - Crosswalk for Marlandwood

Total cost of the above is \$222,566.

Staff recommends rejecting:

- Section 1 – South Temple Park (pervious concrete)
- Section 4 – Canyon Creek to Marlandwood (pervious concrete)
- Section 5 – Alternate Trail Alignment (pervious concrete)
- Section 5 – Alternate 1 - Alternate Trail Alignment (standard concrete)
- Section 7 - Marlandwood to 5<sup>th</sup> Street (pervious concrete)
- Section 7 – Alternate 1 - Marlandwood to 5<sup>th</sup> Street (standard concrete)
- Deductive Alternate 1 – eliminate all irrigation
- Deductive Alternate 2. – eliminate all landscaping

Staff also recommends awarding change order #1 in the amount of \$27,720 for extending the hike trail approximately 1,050 linear feet north from Marlandwood Rd. to the low water crossing on Friars Creek.

**FISCAL IMPACT:** The City was awarded \$188,720 from the Texas Parks and Wildlife Department for a Texas Recreational Trails Fund Matching Grant with required matching funds of \$47,180 for a total project budget of \$235,900. Currently there is \$208,958 in project funds available in account 260-3500-552-65-16, project #100495, for constructing the trail after funding design and allocating funding for signage/landscaping and other miscellaneous costs. An additional \$41,328 is needed to construct the trail which includes the additional \$27,720 cost to extend the original proposed trail by approximately 1,050 linear feet.

A Budget Adjustment is attached for your consideration that reallocates \$41,328 from the Facility Improvements Account 361-2400-519-68-07, project #100407, available from savings on completed projects to the Friar's Creek Trail Account 361-3500-552-68-53, project #100495, to cover the additional funds needed. Total revised project costs including the additional 1,050 linear feet is \$277,228.

**ATTACHMENTS:**

- [Bid Tab](#)
- [Budget Adjustment](#)
- [Change Order #1](#)
- [Resolution](#)

**Tabulation of Bids Received  
on October 19, 2009 at 2:00 p.m.  
Friar's Creek Trail**

Description	Bidders				
	Westar Construction Georgetown	JHL Construction Gatesville	Barsh Company Waco	TCB Construction Austin	TTG Utilities Gatesville
Total Bid Price for Section 1- South Temple Park	\$94,657.40	\$54,336.00	\$66,847.00	\$80,818.30	\$65,475.20
Total Bid Price for Section 1 - Alternate 1 (standard concrete)	\$84,646.70	\$58,149.60	\$52,355.32	\$59,843.50	\$51,174.20
Total Bid Price for Section 2 - Silverstone Park to Canyon Creek Dr	\$118,050.00	\$95,655.00	\$72,505.00	\$89,055.00	\$75,180.00
Total Bid Price for Section 3 - Crosswalk for Canyon Creek Drive	\$28,500.00	\$29,450.00	\$17,748.00	\$14,690.00	\$14,770.00
Total Bid Price for Section 4 - Canyon Creek to Marlandwood	\$63,624.60	\$47,764.00	\$58,588.00	\$67,080.70	\$54,580.80
Total Bid Price for Section 4 -Alternate 1 (standard concrete)	\$56,184.30	\$50,598.40	\$47,959.00	\$51,491.50	\$43,951.80
Total Bid Price for Section 5 - Alternate Trail Alignment - north of Canyon Creek Drive	\$69,563.20	\$46,968.00	\$52,569.00	\$65,004.40	\$56,638.60
Total Bid Price for Section 5 - Alternate 1 (standard concrete)	\$62,935.60	\$49,492.80	\$43,037.88	\$51,118.00	\$47,170.60
Total Bid Price for Section 6 - Addendum - Crosswalk for Marlandwood	\$56,190.00	\$65,000.00	\$36,312.00	\$44,115.00	\$37,490.00
Total Bid Price for Section 7 - Addendum Trail Section - Marlandwood to 5th Street	\$67,934.20	\$52,058.00	\$59,068.00	\$71,313.90	\$55,066.60
Total Bid Price for Section 7 - Alternate 1 (standard concrete)	\$40,511.10	\$55,266.80	\$47,195.44	\$53,665.50	\$43,033.60
Total Bid Price for Deduct Alternate 1 (eliminate all irrigation)	-\$15,000.00	-\$9,250.00	-\$5,805.25	-\$3,760.00	-\$8,350.00
Total Bid Price for Deduct Alternate 2 (eliminate all landscaping)	-\$22,500.00	-\$5,000.00	-\$7,384.25	-\$13,207.50	-\$5,775.00
<b>Total Amount Recommended for Awarded</b>	<b>\$343,571.00</b>	<b>\$298,853.00</b>	<b>\$226,879.32</b>	<b>\$259,195.00</b>	<b>\$222,566.00</b>
Bid Bond (required at bid opening)	5%	5%	5%	5%	5%

Acknowledge Addendum	Yes	Yes	Yes	Yes	Yes
Bond Affidavit	Yes	Yes	Yes	None	Yes
Insurance Affidavit	Yes	Yes	Yes	Insurance Letter	Yes
Credit Check Authorization Form	Yes	Yes	Yes	Yes	Yes

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

*Belinda Matthe*

Belinda Matthe, Director of Purchasing

*19-Oct-09*

Date

Note: Highlighted bid is recommended

for Council approval.

### BUDGET ADJUSTMENT FORM

Use this form to make adjustments to your budget. All adjustments must balance within a Department.  
Adjustments should be rounded to the nearest \$1.

			+	-
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
361-3500-552-68-53	100495	Friar's Creek Trail	\$ 41,328	
361-2400-519-68-07	100407	Facility Improvements		41,328
<b>TOTAL.....</b>			<b>\$ 41,328</b>	<b>\$ 41,328</b>

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

Budget Adjustment to reallocate funds from savings on completed Facility Improvement projects to the Friar's Creek Trail account in order to fund the construction of an additional 1050 linear feet of the Friar's Creek Nature Trail. The City was awarded \$188,720 from the Texas Parks and Wildlife Department for a Texas Recreational Trails Fund Matching Grant with required matching funds of \$47,180 for a total project budget of \$235,900 to construct this approximately 1 mile long trail. The revised total estimated cost of the project including the additional 1050 linear feet will be \$277,228.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?       Yes       No

DATE OF COUNCIL MEETING      \_\_\_\_\_ 11/5/2009 \_\_\_\_\_

WITH AGENDA ITEM?       Yes       No

_____	_____	<input type="checkbox"/> Approved
Department Head/Division Director	Date	<input type="checkbox"/> Disapproved
_____	_____	<input type="checkbox"/> Approved
Finance	Date	<input type="checkbox"/> Disapproved
_____	_____	<input type="checkbox"/> Approved
City Manager	Date	<input type="checkbox"/> Disapproved

## CHANGE ORDER

**PROJECT: Friar's Creek Trail Project**  
**OWNER: City of Temple**  
**CONTRACTOR: TTG Utilities, LP**  
**ENGINEER:**  
**CHANGE ORDER #: 1**

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

**ITEM # 1:** Install 1050 linear feet of 6 foot wide concrete trail north of Marlandwood Drive to the low water crossing on Friar's Creek.

LUMP SUM AMOUNT: **\$27,720.00**

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

Original Contract Amount	\$ 222,566.00
Previous Net Change in Contract Amount	\$ 0.00
Net Change in Contract Amount	\$ 27,720.00
Revised Contract Amount	\$ 250,286.00
Original Contract Time	90 calendar days
Previous Net Change in Contract Time	N/A
Net Change in Contract Time	N/A
Revised Contract Time	90 calendar days
Original Final Completion Date	
Revised Final Completion Date	

<p>Contractor: <b>TTG Utilities, LP</b></p> <p>By _____  <div style="text-align: right; margin-right: 50px;">date</div></p> <p>Approved by City of Temple:</p> <p>By _____  <div style="text-align: right; margin-right: 50px;">date</div></p>	<p>Engineer/Architect/Contract Administrator:</p> <p>By _____  <div style="text-align: right; margin-right: 50px;">date</div></p> <p>Approved as to Form::</p> <p>By _____  City Attorney's Office <span style="float: right;">date</span></p>
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RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH TTG UTILITIES, LP, OF GATESVILLE, TEXAS, FOR CONSTRUCTION OF PHASE 1 OF THE FRIAR'S CREEK TRAIL, IN THE AMOUNT OF \$222,566; APPROVING CHANGE ORDER #1 IN THE AMOUNT OF \$27,720; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on October 19, 2009, the City received 5 bids for the construction of the Friar's Creek Trail project;

**Whereas**, the Staff recommends accepting the bid (\$222,566) received from TTG Utilities, LP, of Gatesville, Texas;

**Whereas**, the Staff also recommends awarding Change Order #1 to the contract, in the amount of \$27,720, for extending the hike trail approximately 1,050 linear feet north from Marlandwood Road to the low water crossing on Friar's Creek;

**Whereas**, funds are available for this project but an amendment to the FY2009-2010 budget needs to be approved to transfer the funds to the appropriate expense account; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a construction contract, in the amount of \$222,566, with TTG Utilities, LP, of Gatesville, Texas, after approval as to form by the City Attorney, for construction of Phase 1 of the Friar's Creek Trail project.

**Part 2:** The City Council authorizes the City Manager, or his designee, to execute Change Order #1, in the amount of \$27,720, to the contract with TTG Utilities, LP, after approval as to form by the City Attorney, to extend the hike trail approximately 1,050 linear feet north from Marlandwood Road to the low water crossing on Friar's Creek.

**Part 3:** The City Council approves an amendment to the FY2009-2010 budget, substantially in the form of the copy attached as Exhibit A, for this project.

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

PASSED AND APPROVED this the 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(G)  
Consent Agenda  
Page 1 of 2

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

Judy Duer, Library Director  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a construction contract with J. Reynolds & Co., Inc. of Saginaw to replace the Library roof in the amount of \$197,000 and rejecting all bids received for the re-roofing of the Library roof on July 1, 2008, and all proposals received for the re-roofing project on December 16, 2008.

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

**ITEM SUMMARY:** We are requesting authorization to enter into an agreement with J. Reynolds & Co., Inc. for \$197,000 to replace the roof of the Library. This project was initiated in 2008 when concerns were raised about the condition of the roof. Staff originally solicited bids for the roof replacement on July 1, 2008, when four (4) bids were received ranging from \$152,524 to \$313,400. However, after investigation of the bids, it was determined that the bid specifications were not clear, and therefore, the bids were not comparable, and for that reason, staff is requesting that Council reject all of these bids.

Staff engaged Amtech Building Sciences to design the roof replacement and the supporting bid specifications so the City could be ensured comparative bids and a quality roof replacement. Based on drawings and specifications prepared by Amtech, proposals were solicited on December 16, 2008, when ten (10) proposals were received ranging from \$247,152 to \$403,932. During this time period it was also determined that the Library had foundation issues which were going to cost over \$400,000 to remediate. Accordingly, staff did not see that adequate funding was available to replace the roof at that time and staff is now requesting that Council reject all proposals received on December 16, 2008.

Since no moisture testing had been done to the roof, this summer staff invested in a moisture test of the roof which indicated that there was indeed moisture within the current roofing system. Based on this finding, it was concluded that a less costly approach to fixing the roof via coating it was not a viable option. Consequently, staff re-engaged Amtech to revive their original specs and on October 20, 2008, eight (8) bids were received for the replacement of the Library roof. As shown on the attached bid tabulation, the bids ranged from \$192,047 to \$395,500.

Staff is not recommending award of the bid to the low bidder, Texas Roofing Company, as they did not submit a bid bond with coverage as specified within the invitation to bid. Staff is recommending award to the second lowest bidder, J. Reynolds & Co, Inc., for the alternate bid which consists of a 60 millimeter fully adhered white PVC roofing system with a thermoplastic membrane.

J. Reynolds has not performed work for the City previously. However, Amtech Building Sciences has worked with them on several jobs and deems them a qualified and responsible contractor.

**FISCAL IMPACT:** Funding for this project in the amount of \$130,132 was appropriated in account #361-4000-555-6808, project #100395 from the 2008 Certificate of Obligation Bond Issue to replace the roof at the Library. After funding professional services in the amount of \$17,560 and \$330 in miscellaneous costs related to the project a balance of \$112,242 is available for construction. A budget amendment is presented for Council's approval appropriating project savings from completed projects in the amount of \$84,758 to fund the remaining portion of the construction contract.

**ATTACHMENTS:**

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

Tabulation of Proposals Received  
on October 20, 2009 at 2:00 p.m.  
Temple Library Roof Replacement

Bidders				
	Skyline Construction Humble, TX	Advantage USSA Inc Spring Branch, TX	J. Reynolds & Company Saginaw, TX	Rain Seal Master Roofing & Sheet Metal Inc. Victoria, TX
Description				
Total Base Bid	No Bid	\$307,000.00	\$227,000.00	\$262,600.00
Add/Deduct Alternate	\$255,085.00	-\$8,000.00	-\$30,000.00	\$24,700.00
Alternate Bid	\$255,085.00	\$299,000.00	\$197,000.00	\$287,300.00
Bid Bond (required at bid opening)	5%	5%	5%	5%
Acknowledge Addendum	Yes	Yes	Yes	Yes
Bond Affidavit	No	Yes	Yes	Yes
Insurance Affidavit	No	Yes	Yes	Yes
Credit Check Authorization Form	Yes	Yes	Yes	No

Bidders				
	Topside Contracting San Antonio, TX	Marton Roofing Industries Houston, TX	Johnson Roofing Waco, TX	Texas Roofing Company, LP Austin, TX
Description				
Total Base Bid	\$355,018.00	\$395,500.00	\$272,805.00	\$239,403.00
Add/Deduct Alternate	-\$19,898.00	-\$16,500.00	-\$5,760.00	-\$47,356.00
Alternate Bid	\$335,120.00	\$379,000.00	\$267,045.00	\$192,047.00
Bid Bond (required at bid opening)	5%	5%	5%	5%; coverage not as specified
Acknowledge Addendum	Yes	Yes	Yes	Yes
Bond Affidavit	No	Yes	Yes	No
Insurance Affidavit	Yes	Yes	No	No
Credit Check Authorization Form	Yes	Yes	Yes	No

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

*Belinda Mattke*

*20-Oct-09*

Belinda Mattke, Director of Purchasing

Date

Bid recommended for Council Approval

Low bid, but bidder did not comply with bid bond requirements

### BUDGET ADJUSTMENT FORM

Use this form to make adjustments to your budget. All adjustments must balance within a Department.  
Adjustments should be rounded to the nearest \$1.

			+	-
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
361-4000-555-68-08	100395	Library Renovations	\$ 84,758	
361-1900-519-68-01	100407	Project Savings		2,149
361-2000-521-68-03	100407	Project Savings		421
361-2300-540-68-24	100407	Project Savings		10,763
361-3000-519-68-18	100407	Project Savings		2,639
361-3400-531-68-09	100407	Project Savings		12,498
361-3500-552-68-21	100407	Project Savings		14,417
361-3600-560-68-19	100407	Project Savings		41,871
<b>TOTAL.....</b>			<b>\$ 84,758</b>	<b>\$ 84,758</b>

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

This budget amendment appropriates additional funding from project savings to fund the library roof replacement. Project savings were generated from 2006 & 2008 Certificate of Obligation completed projects.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?  Yes  No

DATE OF COUNCIL MEETING November 5, 2009

WITH AGENDA ITEM?  Yes  No

Department Head/Division Director	Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
Finance	Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
City Manager	Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH J. REYNOLDS & CO., INC., OF SAGINAW, TEXAS, TO REPLACE THE LIBRARY ROOF, IN THE AMOUNT OF \$197,000; REJECTING ALL BIDS RECEIVED FOR THE RE-ROOFING OF THE LIBRARY ROOF ON JULY 1, 2008, AND ALL PROPOSALS RECEIVED FOR THE RE-ROOFING PROJECT ON DECEMBER 16, 2008; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on October 20, 2009, the City received 8 bids for the replacement of the Library roof;

**Whereas**, the Staff recommends accepting the bid (\$197,000) received from J. Reynolds & Co., Inc., of Saginaw, Texas;

**Whereas**, funds are available for this project but an amendment to the FY2009-2010 budget needs to be approved to transfer the funds to the appropriate expense account;

**Whereas**, all the bids received for the Library roofing project on July 1, 2008, and all the proposals received on December 16, 2008, need to be rejected by the City Council; 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, in the amount of \$197,000, with J. Reynolds & Co., Inc., of Saginaw, Texas, after approval as to form by the City Attorney, to replace the Library roof.

**Part 2:** The City Council rejects all the bids received on July 1, 2008, for re-roofing the Library, and rejects all proposals received on December 16, 2008, for the re-roofing project.

**Part 3:** The City Council approves an amendment to the FY2009-2010 budget, substantially in the form of the copy attached as Exhibit A, for this project.

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

PASSED AND APPROVED this the 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(H)  
Consent Agenda  
Page 1 of 2

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

Alan DeLoera, Information Technology Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a professional services contract with Williams-Stackhouse, Inc. to capture Aerial Ortho Photography in an amount not to exceed \$71,131.

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

**ITEM SUMMARY:** The Central Texas Council of Governments (CTCOG) will be capturing aerial photography for CTCOG's seven county region in December of this year at a one foot resolution. We currently have 6 inch resolution aerial photography which is the City standard for obtaining 2 foot contours for City mapping projects. CTCOG will have William-Stackhouse Inc. fly at a 6 inch resolution so that it will correlate with our current mapping standards and accuracies that Temple has in place.

The City was looking at capturing new aerial photography next fiscal year at a cost of approximately \$160,000 but because CTCOG already has a contract in place with William-Stackhouse and resources are already mobilized the City can take advantage of significant savings by purchasing the aerial photography this year.

After substantial research City staff has concluded that Williams-Stackhouse Inc. can provide us the service that best suits the needs of the City. They are very familiar with our geographic area, having created the original analytics that were used for the 1994, 1998 and 2006 aerial photography, and they have the necessary information to begin work immediately, including our survey control which was used to create the original analytics. Williams-Stackhouse Inc. has provided timely and quality work in the past with great product delivery; therefore, staff recommends Williams-Stackhouse as the Professional Services provider of the requested services and equipment.

**FISCAL IMPACT:** A budget adjustment is presented for Council's approval appropriating \$ 71,131, to account 351-1900-519-6241, project #100580, from General Fund Balance-Designated for Technology, account 110-0000-351-0943, to fund this contract with Williams-Stackhouse, Inc. to capture Aerial Ortho Photography

**ATTACHMENTS:**

Budget Amendment  
Resolution



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH WILLIAMS-STACKHOUSE, INC., TO CAPTURE AERIAL ORTHO PHOTOGRAPHY, IN AN AMOUNT NOT TO EXCEED \$71,131; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Central Texas Council of Governments (CTCOG) will be capturing aerial photography for CTCOG's seven county region in December of this year – CTCOG has agreed to have Williams-Stackhouse, Inc., fly at a 6-inch resolution so that it will correlate with our current mapping standards and accuracies that Temple has in place;

**Whereas**, the City was looking at capturing new aerial photography next fiscal year at a much higher cost, but because CTCOG already has a contract in place with Williams-Stackhouse, Inc., and resources are already mobilized, the City can take advantage of significant savings by purchasing the aerial photography this year;

**Whereas**, the cost of the project will not exceed \$71,131 and funds are available for this project, but an amendment to the FY2009-10 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a Professional Services Agreement in an amount not to exceed \$71,131, after approval as to form by the City Attorney, with Williams-Stackhouse, Inc., to capture aerial ortho photography.

**Part 2:** The City Council approves an amendment to the FY2009-2010 budget, substantially in the form of the copy attached as Exhibit A, for this project.

**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 **5<sup>th</sup>** day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(I)  
Consent Agenda  
Page 1 of 1

### DEPT./DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a contract with Wellington-Royce Corporation from Atlanta, Georgia, for the purchase of a complete business aviation software system and wireless aviation fuel inventory system for the Draughon-Miller Central Texas Regional Airport in the amount of \$118,531.

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

**ITEM SUMMARY:** In research of the software packages available, staff found that Wellington-Royce was the only company that provides a total integrated aviation package and that Wellington-Royce is the sole owner of the BASE software. Accordingly, in accordance with the Local Government Code section 252.022 staff is recommending this purchase as being exempt from the competitive procurement rules due to the copyrights attached to the software and the professional services associated with the implementation of the software. Wellington-Royce will offer the customer support, wireless fuel inventory system, accounting system and integrate with the City's financial system. Currently, the Airport completes customer invoices, daily cash and fuel inventory reports by hand and Finance enters the paper tickets into the City's financial system.

The Airport, IT, Finance and Purchasing staff devoted several months to evaluating Wellington-Royce's BASE System (Business Aviation Software Engine) and determined the aviation package would meet the requirements of the Airport and provide an accounting system that would interface with the City's financial system. Wellington-Royce is the only company that provides a total business aviation package.

The cost for the total system is \$118,531 and is comprised of the following:

-BASE Applications and 5 PC Licenses and FuelMaster Interface	\$12,620
-FuelMaster Wireless Fuel System (4 refuelers, 3 fuel tanks)	\$54,829
-IBM Server Hardware/Operating Software/UPS	\$ 9,572
-IBM Software/Hardware Maintenance for 3 years	\$ 6,635
-Implementation/Training Services (13 days)	\$ 7,800
-BASE System Software Support for 3 years	\$17,255
-Interface BASE GL to GMBA GL (City Financial System)	\$ 4,800
-Travel Expenses (3 times on-site)	<u>\$ 5,020</u>
<i>Complete Package Price</i>	<i>\$118,531</i>

As part of the aviation fuel contract negotiation with Western Petroleum, the City received \$65,000 in January 2009 to be used to upgrade the Airport's fueling operation. An additional \$53,531 is needed to fully fund the project. The City received an unexpected refund from cost savings on the airfield lighting and ramp project in the amount of \$38,442 and \$4,526 more than expected from the land reimbursement for the runway extension project. The City has also received a refund from the runway extension grant project due to cost savings and a reduction in the City's grant match from 10% to 5% in the amount of \$537,670.

It is recommended to use these refunds and cost savings to fund the additional \$53,531 needed for this project.

**FISCAL IMPACT:** Funds in the amount of \$65,000 are appropriated in account 110-3600-560-6221, project #100481. A budget adjustment is presented for Council's approval appropriating \$53,531 from the refunds and cost savings from Airport grant projects. These funds were received in FY 2009 and "roll" into General Fund Balance-Designated for Capital Projects-Unallocated as of September 30, 2009.

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

### BUDGET ADJUSTMENT FORM

Use this form to make adjustments to your budget. All adjustments must balance within a Department.  
Adjustments should be rounded to the nearest \$1.

ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION		
			+	-
			INCREASE	DECREASE
110-3600-560-62-21	100481	Computer Software	\$ 53,531	
110-0000-352-13-45		Designated Capital Projects-Unallocated		\$ 53,531
		<i>Do not post</i>		
<b>TOTAL.....</b>			\$ 53,531	\$ 53,531

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

To appropriate the additional funding required for the purchase of the business aviation software system and wireless fuel inventory system for the Draughton-Miller Central Texas Regional Airport. The total cost of the system is \$118,531. \$65,000 was received in January 2009 from Western Petroleum to be used for upgrades to the Airport's fueling operation. An additional \$53,531 is needed to fund the project. The City has received over \$580,000 from the Texas Department of Transportation from cost savings and reductions in grant matches from the airfield lighting and runway extension grant projects. These funds were received in FY 2009 and will "roll" into fund balance-Designated for Capital Projects-Unallocated as of 09/30/09. It is recommended to use these funds to supplement the purchase of this system.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?  Yes  No

DATE OF COUNCIL MEETING \_\_\_\_\_ 11/5/2009 \_\_\_\_\_

WITH AGENDA ITEM?  Yes  No

_____	_____	<input type="checkbox"/> Approved
Department Head/Division Director	Date	<input type="checkbox"/> Disapproved
_____	_____	<input type="checkbox"/> Approved
Finance	Date	<input type="checkbox"/> Disapproved
_____	_____	<input type="checkbox"/> Approved
City Manager	Date	<input type="checkbox"/> Disapproved

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH WELLINGTON-ROYCE CORPORATION OF ATLANTA, GEORGIA, FOR THE PURCHASE OF A COMPLETE BUSINESS AVIATION SOFTWARE SYSTEM AND WIRELESS FUEL INVENTORY SYSTEM FOR THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT, IN THE AMOUNT OF \$118,531; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, currently, the Airport completes customer invoices, daily cash and fuel inventory receipts by hand, and the Finance Department enters the paper tickets into the City's financial system;

**Whereas**, funds are available for the Airport to purchase a complete business aviation software system and wireless fuel inventory system which will greatly enhance the efficiency of Airport operations, as well as save valuable employee time;

**Whereas**, the Airport, IT, Finance and Purchasing staff devoted several months to evaluating Wellington-Royce Corporation's BASE System (Business Aviation Software Engine) and determined the aviation package would meet the requirements of the Airport and provide an accounting system that will interface with the City's financial system;

**Whereas**, in accordance with the Local Government Code, Section 252.022, the Staff is recommending the purchase as being exempt from the competitive procurement rules due to the copyrights attached to the software and the professional services associated with the implementation of the software;

**Whereas**, funds are available for this purchase but an amendment to the FY2009-2010 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a contract, for a cost not to exceed \$118,531, with Wellington-Royce

Corporation of Atlanta, Georgia, after approval as to form by the City Attorney, for the purchase of a complete business aviation software system and wireless fuel inventory system for the Draughon-Miller Central Texas Regional Airport.

**Part 2:** The City Council approves an amendment to the FY2009-2010 budget, substantially in the form of the copy attached as Exhibit A, for this project.

**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 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(J)  
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 crane truck for the Utility Division from Sam Pack's Five Star Ford of Carrollton in the amount of \$59,761.

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

**ITEM SUMMARY:** Included in the adopted FY 2010 budget is funding to replace a crane truck in the Utility Division of the Public Works Department. Personnel in the Utility Department operate a crane truck for various day to day tasks, including operation of water valves, transportation of pumps and utility equipment, and regular maintenance of the utility system. The crane truck identified to be replaced at this time was purchased in 2001, with an estimated lifetime of 10 years. Existing equipment will be transferred to the water plant for additional use.

Six bids for this purchase were received and opened on October 13, 2009. Sam Pack's Five Star Ford was the low bidder, submitting a bid in the amount of \$59,761.00. Based upon the low bid, staff recommends purchase of this equipment from Sam Pack's Five Star Ford in the amount of \$59,761.00.

**FISCAL IMPACT:** Funding in the amount of \$50,000 is appropriated in the FY 2010 Operating Budget in account #520-5200-535-62-13, project # 100563, for this purchase. A budget adjustment is presented for Council's approval to fund the remaining amount needed of \$9,761, \$3,000 from account #520-5400-535-62-20, project #100561 and \$6,761 from account #520-5200-535-23-27.

### **ATTACHMENTS:**

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



### BUDGET ADJUSTMENT FORM

Use this form to make adjustments to your budget. All adjustments must balance within a Department.  
Adjustments should be rounded to the nearest \$1.

		+	-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
520-5200-535-62-13	100563	Automotive	\$ 9,761	
520-5200-535-23-27		Water Mains		6,761
520-5400-535-62-20	100561	Heavy Equipment		3,000
<b>TOTAL.....</b>			<b>\$ 9,761</b>	<b>\$ 9,761</b>

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

Included in the FY 2010 Operating budget was \$50,000 for the purchase if a crane truck for the Utility Division of the Public Works Department. An additional \$9,761 is needed for the purchase. The additional funds needed will come from the Water Department's operating account in the amount of \$6,761 and from the Sewer Department's operating account in the amount of \$3,000.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?  Yes  No

DATE OF COUNCIL MEETING \_\_\_\_\_ 5-Nov-09 \_\_\_\_\_

WITH AGENDA ITEM?  Yes  No

Department Head/Division Director	Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
Finance	Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
City Manager	Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF ONE CRANE TRUCK FOR THE UTILITY DIVISION FROM SAM PACK'S FIVE STAR FORD OF CARROLLTON, TEXAS, IN THE AMOUNT OF \$59,761.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on October 13, 2009, the City received 6 bids for the purchase of one crane truck for the Utility Division;

**Whereas**, the Staff recommends accepting the bid (\$59,761.00) received from Sam Pack's Five Star Ford of Carrollton, Texas;

**Whereas**, funds are available for the purchase but an amendment to the FY2009-10 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

**Part 1:** The City Council authorizes the purchase of one crane truck for the Utility Division from Sam Pack's Five Star Ford of Carrollton, Texas, in the amount of \$59,761.00.

**Part 2:** The City Council approves an amendment to the FY2009-2010 budget, substantially in the form of the copy attached as Exhibit A, for this purchase.

**Part 3:** 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 4:** It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(K)  
Consent Agenda  
Page 1 of 1

### **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 the purchase of a Caterpillar 420E Integrated Tool Carrier (ITC) Backhoe Loader from Holt Caterpillar through the BuyBoard local government online purchasing cooperative in the amount of \$94,617.

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

**ITEM SUMMARY:** Currently, the Water Treatment Plant operates a 1990 Case 480F backhoe and a 1977 fork lift, both of which are in poor condition and deemed to be potential safety hazards for personnel excavating and loading and unloading chemicals. After consulting with the Superintendent of Fleet Services, the recommendation has been made that one of the Integrated Tool Carriers (ITC) with the fork attachment be moved from the Utility Service Division to the Water Treatment Plant. This machine will take the place of both outdated machines the Water Treatment Plant currently utilized and will resolve the potential safety issues. A new machine will be purchased by the Utility Service Division and assigned to the In-house Construction Crew for use in sanitary sewer line rehabilitation projects. The Utility Services Division currently has all attachments needed for the new machine except for a set of forks which will be sent with the other machine to the Water Treatment Plant.

The purchase price includes training for City personnel. All purchases through the BuyBoard meet Texas governmental competitive bid requirements.

**FISCAL IMPACT:** Funding in the amount of \$98,000 is available in account 520-5400-535-6220, project #100561, for the purchase of the ITC Backhoe Loader.

### **ATTACHMENTS:**

[Holt BuyBoard Proposal  
Resolution](#)

# HOLT®



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10/14/2009

CITY OF TEMPLE PURCHASING DEPT  
1159457  
3210 E AVE H BLDG C  
TEMPLE 76501-7659

#G15760905

Holt Cat would like to thank you for the opportunity to provide this proposal to you. THIS QUOTE IS  
BASED ON PURCHASING THROUGH BUYBOARD.

Thank you

*Jeremy Hawthorne*  
Jeremy Hawthorne

## ( 1 ) CATERPILLAR INC 420E IT4CS BACKHOE LOADER - ALL

### MACHINE SPECIFICATIONS

Machine ID:	Serial:
<b>Description</b>	<b>Ref. No.</b>
420E BHL IT ACERT TIER 3	2919209
BELT, SEAT, 2" SUSPENSION	2061747
COUNTERWEIGHT, 1075 LBS	2529984
LOCK, VANDALISM, PARALLEL LIFT	2160910
STABILIZER PADS, FLIP W/GUARD	1333362
MANUALS, ENGLISH	0P0572
FORK TINE, 2" X 5" X 48"	1956935
CARRIAGE, FORK	6W8832
PLATE GROUP - BOOM WEAR	2703204
BUCKET, 1.31 CYD GP IT	2511800
CUTTING EDGE, TWO PIECE, WIDE	9R5320
STICK, STANDARD	2970170
HYDRAULICS, BH, 5 FUNCTION	2971827
POWERTRAIN, 93 HP, 4WD, STD SHIFT	2985938
TIRES 4WD BIAS FIRESTONE	2823854
LINES, COMBINED AUX, STD STICK	2624201
CAB, DELUXE W/AC	2944948
DOMESTIC TRUCK	0P0210
INSTRUCTIONS, ANSI	2919200
BUCKET, 24" 6.2 CFT HD	2193387
QUICK COUPLER, PIN GRABBER, MAN.	1788850
PINS, SPARE	1783593
CONTROL, IT AUX ATTACHMENTS	2114258
COUPLING, QUICK DISCONNECT	1328769

*Includes: SET OF FILTERS & BELTS  
1- SET OF SERVICE MANUALS*

---

**QUOTE GRAND TOTAL**

**USD \$ 94,617**

### WARRANTY

Your Caterpillar dealer from the Red River to the Rio Grande  
Call 1-800-275-4658 for the HOLT CAT store nearest you, or visit our website  
[WWW.HOLTCAT.COM](http://WWW.HOLTCAT.COM)

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Tyler • Victoria • Waco • Weslaco**

12 month/ 1,500 Hour CAT Total Machine Warranty  
3 year/ 5,000 Hour Powertrain Warranty

**F.O.B./TERMS**

FOB CITY OF TEMPLE yard quoted.  
No applicable taxes or fees quoted.

**Your Caterpillar dealer from the Red River to the Rio Grande  
Call 1-800-275-4658 for the HOLT CAT store nearest you, or visit our website  
[WWW.HOLTCAT.COM](http://WWW.HOLTCAT.COM)**

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A CATERPILLAR 420E INTEGRATED TOOL CARRIER (ITC) BACKHOE LOADER FROM HOLT CATERPILLAR, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE, IN THE AMOUNT OF \$94,617.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, it has been recommended by Staff that one of the Integrated Tool Carriers (ITC) with a fork attachment be moved from the Utility Service Division to the Water Treatment Plant who has been operating equipment in poor condition to load an unload chemicals;

**Whereas**, a new Caterpillar 420E Integrated Tool Carrier (ITC) backhoe loader needs to be purchased for the Utility Service Division for use in sanitary sewer line rehabilitation projects;

**Whereas**, the Staff recommends purchasing the equipment from Holt Caterpillar, through the BuyBoard local government online purchasing cooperative, for a total purchase price of \$94,617.00;

**Whereas**, funds are available for the purchase in Account No. 520-5400-535-6220, Project # 100561; 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 Caterpillar 420E Integrated Tool Carrier (ITC) backhoe loader from Holt Caterpillar through the BuyBoard local government online purchasing cooperative, in the amount of \$94,617.00.

**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 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(L)  
Consent Agenda  
Page 1 of 2

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

Alan DeLoera, Information Technology Director  
Shannon Gowan, Director of Communications

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the purchase of a Video Acquisition System with RushWorks of Flower Mound in the amount of \$27,684.

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

**ITEM SUMMARY:** The City of Temple currently uses televising equipment that is approximately six years old and the current automated video cameras are starting to lose focus and are considered obsolete. This system is used in the City Council Chambers to capture and record the City Council meetings which then are aired on the City's Time Warner Cable Channel 10.

The new VDesk (Video Acquisition System) system will allow us to fully integrate PTZ (Pan-Tilt-Zoom) Camera controls along with graphic overlays, audio, and video output with our current Rushworks MultiZone Video server for Channel 10. These functions are currently not integrated which causes a lot of time being spent on editing and production when more time could be spent on producing more City video spotlights and programming. This new production system is designed to bring all of the studio controls into the hands of one person.

Rushworks is both the exclusive manufacturer and sole provider of the VDesk system. The VDesk solution is important since the City already has in place the Rushworks MultiZone application which already controls the cameras. Thus, by purchasing the VDesk video system versus another system, the VDesk system will seamlessly integrate and work with the camera system that is already in place. Accordingly, this purchase is recommended as a single source purchase as allowed and defined within the Local Government Code section 252.022.

**FISCAL IMPACT:** A budget adjustment is presented for Council's approval appropriating \$30,000 to account 110-1900-519-62-28, project # 190002, for the purchase of this system. Funding for this purchase is from the Public Education Government (PEG) Access Channel funds the City receives from Time Warner Cable's 1% franchise fee paid quarterly to the City. These funds are restricted for the funding of the City's government access channel.

**ATTACHMENTS:**

[Budget Adjustment  
Resolution](#)

### BUDGET ADJUSTMENT FORM

Use this form to make adjustments to your budget. All adjustments must balance within a Department.  
Adjustments should be rounded to the nearest \$1.

		+		-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE
110-1900-519-62-28	190002	PEG Expenditures	\$ 30,000		
110-0000-315-19-00		Designated for PEG Expenditures			30,000
		<b>DO NOT POST</b>			
<b>TOTAL.....</b>			\$ 30,000		\$ 30,000

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

To fund the purchase of a new video acquisition system for the Council chambers for broadcasting on Channel 10. Funding for this purchase is from funds collected from prior years for Public Education Government Access Channel (PEG). The PEG funds are designated from the Time Warner 1% franchise funds for PEG Channel and are restricted to funding for our government access channel.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?  Yes  No

DATE OF COUNCIL MEETING \_\_\_\_\_ 11/5/2009 \_\_\_\_\_

WITH AGENDA ITEM?  Yes  No

_____ Department Head/Division Director	_____ Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
_____ Finance	_____ Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
_____ City Manager	_____ Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A VIDEO ACQUISITION SYSTEM WITH RUSHWORKS OF FLOWER MOUND, TEXAS, IN THE AMOUNT OF \$27,684.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the City of Temple currently uses televising equipment that is approximately 6 years old and the current automated video cameras are starting to lose focus and are considered obsolete – this system is used in the City’s Council Chambers to capture and record the City Council meetings which then are aired on the City’s Time Warner Cable Channel 10;

**Whereas**, the Staff recommends purchasing a new video acquisition system from RushWorks of Flower Mound, Texas, who is the exclusive manufacturer and sole provider of the VDesk system – the VDesk is important since the City already has in place the RushWorks MultiZone application which already controls the cameras;

**Whereas**, in accordance with the Local Government Code, Section 252.022, this purchase is recommended as a single source purchase;

**Whereas**, funds are available for this purchase but an amendment to the FY2009-2010 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

**Part 1:** The City Council authorizes the purchase of a Video Acquisition System from RushWorks of Flower Mound, Texas, in the amount of \$27,684.00.

**Part 2:** The City Council approves an amendment to the FY2009-2010 budget, substantially in the form of the copy attached as Exhibit A, for this purchase.

**Part 3:** 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 4:** It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(M)  
Consent Agenda  
Page 1 of 2

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

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** SECOND READING – 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:** 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-09-34, 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

Feet 0 50 100 150 200  
J Stone 9.15.9

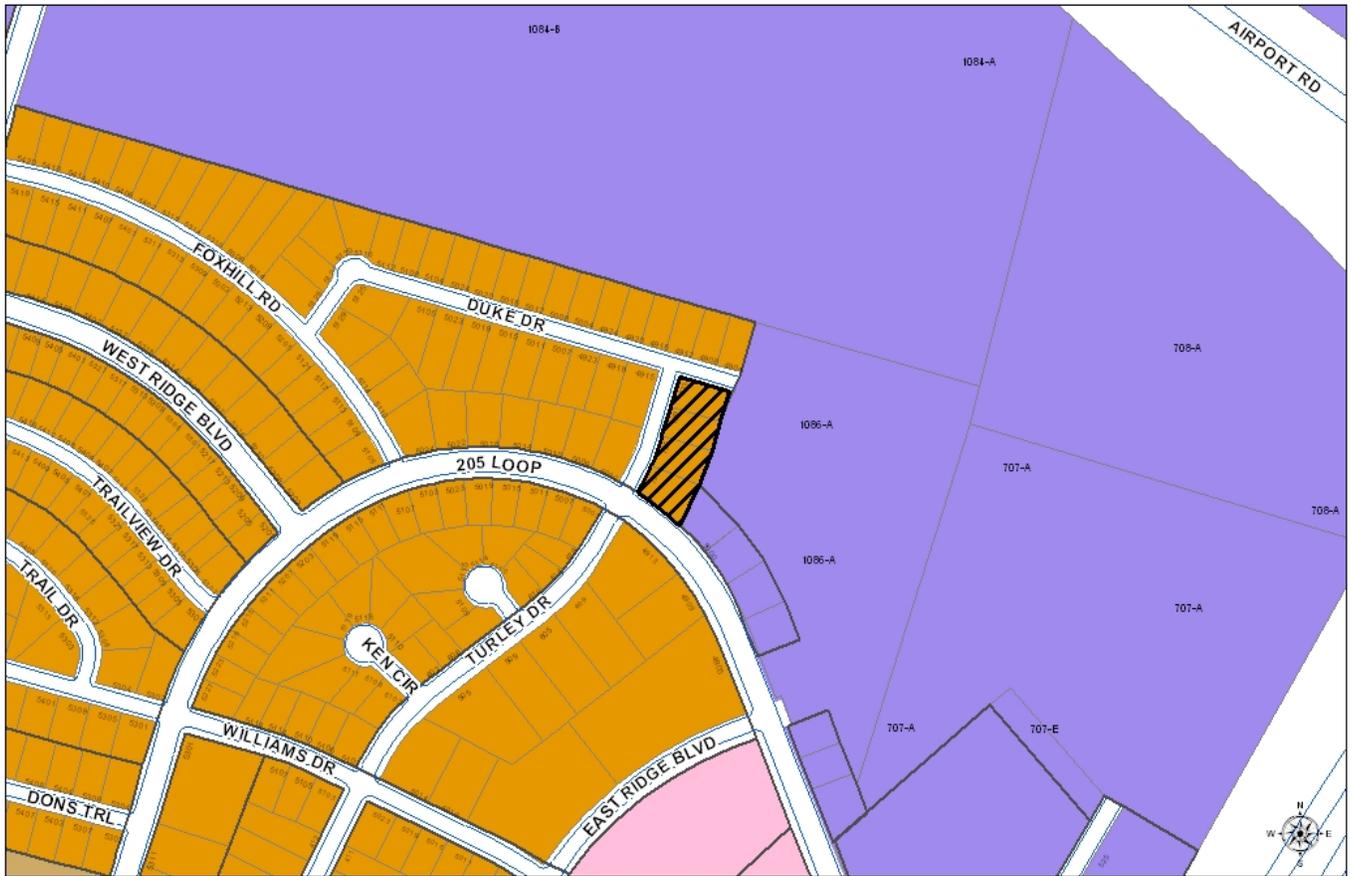




Z-FY-09-34

Proposed Zone Change of 4 Lots

West Ridge Phase IX



- |                 |                           |                         |                       |                                   |                      |
|-----------------|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Temple Boundary | Neighborhood Conservation | Auto-urban Residential  | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional |
| ZFY0934         | 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   |

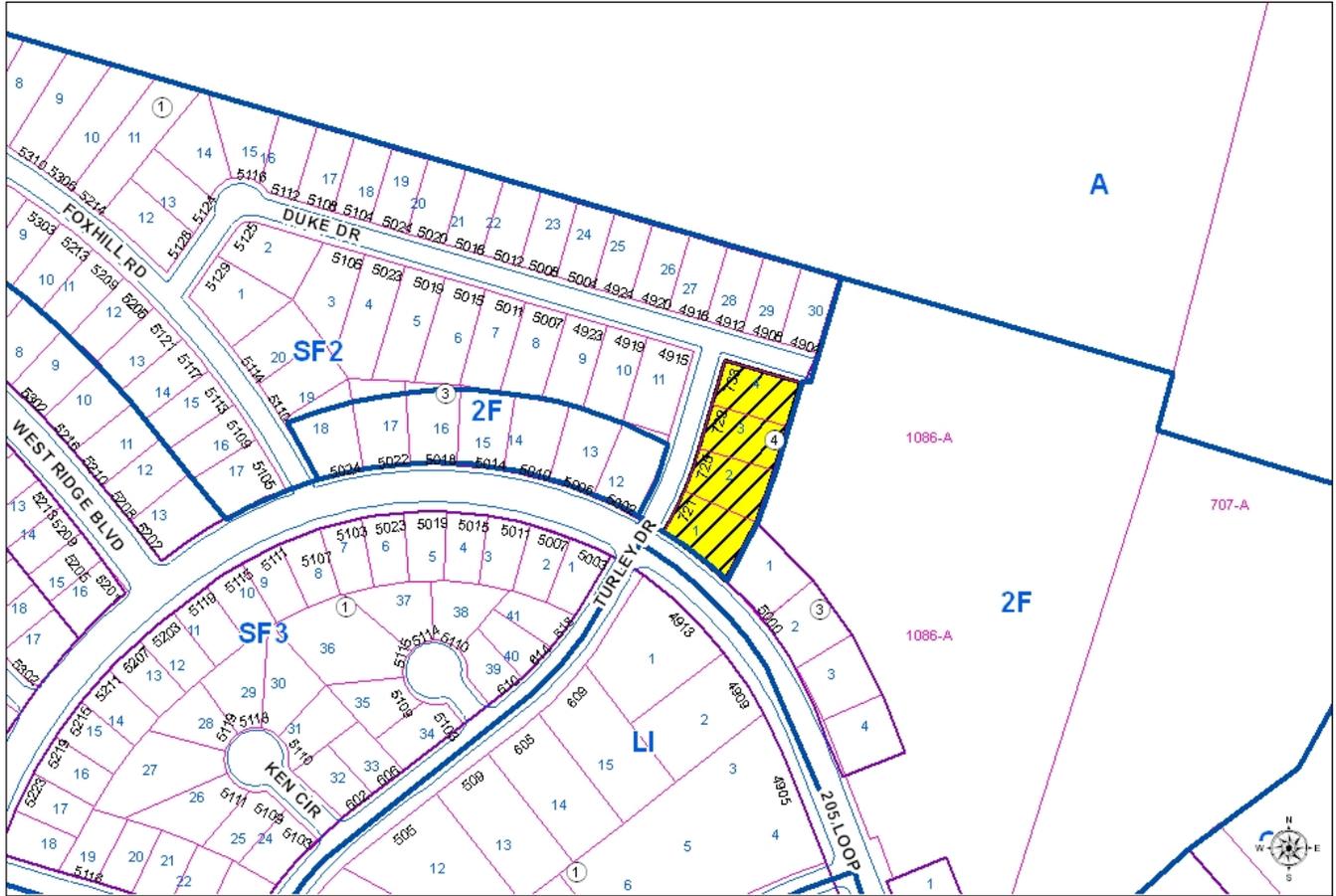
1 inch = 300 feet  
 J Stone 9.15.9



Z-FY-09-34

Proposed Zone Change of 4 Lots

West Ridge Phase IX



Current Temple Boundary ZFY0934

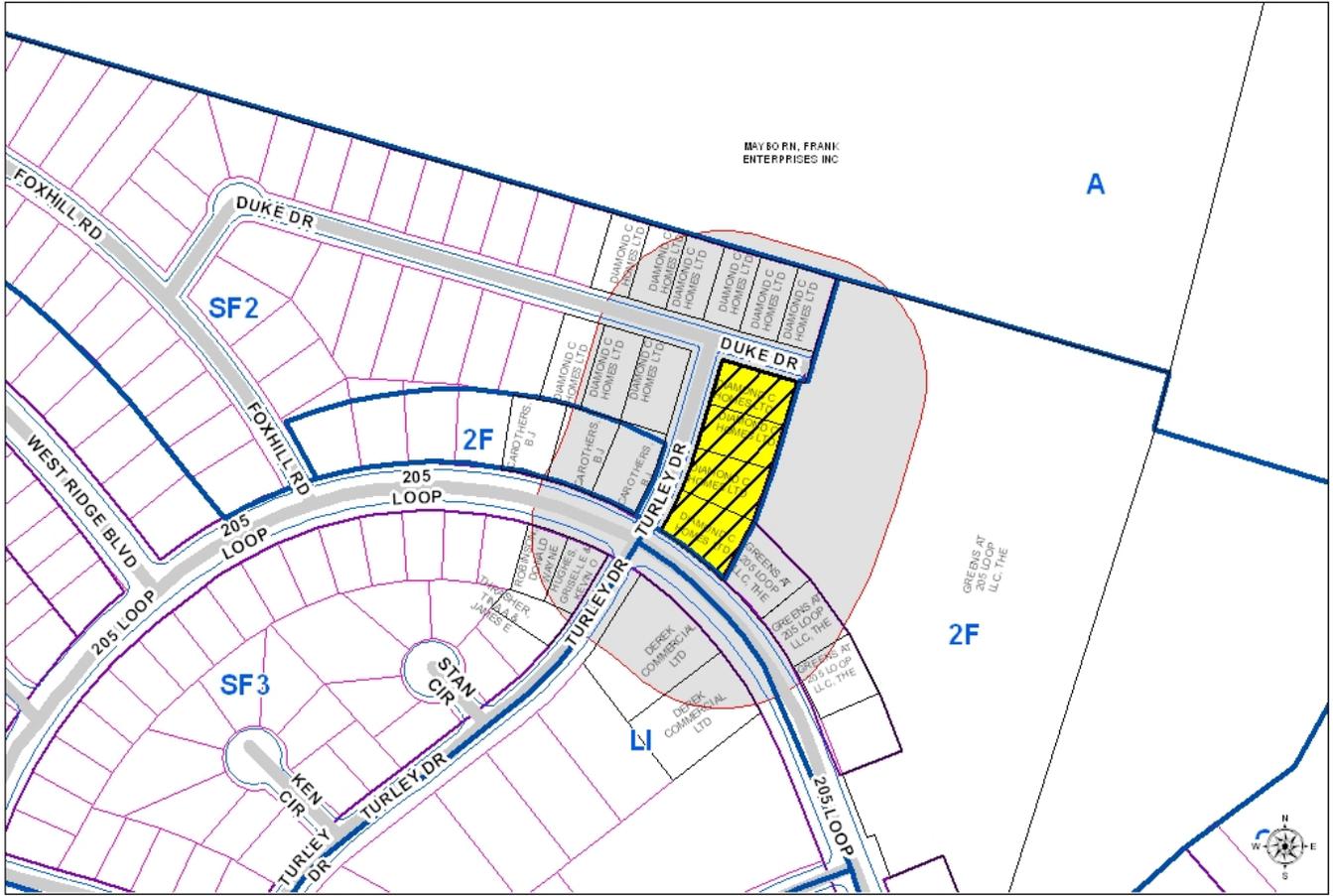
Feet 0 50 100 150 200  
J Stone 9.15.9



Z-FY-09-34

Proposed Zone Change of 4 Lots

West Ridge Phase IX



Current Temple Boundary
  ZFY0934
  ZFY0934

Feet 0 50 100 150 200  
  
 J Stone 9.15.9



# 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 Secret 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 **15<sup>th</sup>** day of **October**, 2009.

PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #5(N)  
Consent Agenda  
Page 1 of 1

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

Jonathan Graham, City Attorney  
Clydette Entzminger, City Secretary

**ITEM DESCRIPTION:** SECOND READING – 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:** Adopt ordinance as presented in item description, on second and final reading.

**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. 4-3~~2~~. 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,~~ 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,~~ 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. 4-25~~12~~. 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. 4-14~~21~~. 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.

~~Secs. 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 15<sup>th</sup> day of **October**, 2009.

PASSED AND APPROVED on Second Reading on the 5<sup>th</sup> day of **November** 2009.

THE CITY OF TEMPLE, TEXAS

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

ATTEST:

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Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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Item #5(O)  
Consent Agenda  
Page 1 of 1

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

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

**ITEM DESCRIPTION:** SECOND READING – 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:** Adopt ordinance as presented in item description, on second reading and final reading.

**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.

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**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 **15<sup>th</sup>** day of **October**, 2009.

PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** 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

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

Lonzo Wallace, Jr., Fire Chief

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the City to apply for the Wal-Mart Store and Sam's Club Giving Program grant in an amount not to exceed \$5000 for funding to purchase two (2) Masimo Rad-57, Hand-held Pulse CO Oximeters for Temple Fire and Rescue.

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

**ITEM SUMMARY:** The Wal-Mart Store and Sam's Club Giving Program has four main areas of focus: Education, Workforce Development, Health & Wellness and Environmental Sustainability. The program has a particular interest in supporting veterans and military families, traditionally underserved groups, individuals with disabilities and people impacted by natural disasters. Under this program, government entities are eligible to seek funding with a minimum grant award of \$1,000 and a maximum of \$5,000. The Masimo Company uses this grant to help find funding for departments to purchase the Rad-57 unit, which is a hand-held Pulse CO-Oximeter, Carbon Monoxide and Perfusion Index monitor.

Currently we do not have monitoring equipment that can be used on the emergency scene to determine the presence of Carbon Monoxide (SpCO) and to confirm that the blood is carrying the proper amount of oxygen through the body (SpO2). It is also very difficult to monitor the possibility of dehydration (Perfusion Index) in our firefighters.

The Rad-57 unit is a noninvasive instrument that provides fast and accurate results and can screen multiple firefighters in a short amount of time. This instrument is not limited to firefighters, but can also screen victims of similar incidents and allow for faster screening and transportation to a medical facility. This instrument will also allow the City of Temple Fire & Rescue to be compliant with NFPA 1584, Rehab Standard.

**FISCAL IMPACT:** The City is applying for a grant in an amount not to exceed \$5,000 from the Walmart Store and Sam's Club Giving Program. The grant has no matching funds requirement. If awarded the grant, a budget adjustment will be submitted to Council to appropriate the grant funds for the purchases described above.

Temple Fire & Rescue would be responsible for annual operating costs of the two (2) Masimo Rad-57, Hand-held Pulse CO-Oximeters which include four (4) AAA batteries for each 8 hours of use. The Masimo Rad-57, Hand-held Pulse CO-Oximeters do not require calibration.

**ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS; AUTHORIZING THE CITY TO APPLY FOR THE WAL-MART STORE AND SAM'S CLUB GIVING PROGRAM GRANT IN AN AMOUNT NOT TO EXCEED \$5,000 FOR FUNDING TO PURCHASE 2 MASIMO RAD-57, HAND-HELD PULSE CO OXIMETERS FOR THE TEMPLE FIRE AND RESCUE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Wal-Mart Store and Sam's Club Giving Program has 4 main areas of focus: education, workforce development, health & wellness and environmental sustainability – the program has a particular interest in supporting veterans and military families, traditionally underserved groups, individuals with disabilities and people impacted by natural disasters – under this program, government entities are eligible to seek funding with a minimum grant award of \$1,000 and a maximum of \$5,000;

**Whereas**, if grant funding is received, the Staff recommends using it to purchase 2 Maximo Rad-57, Hand-held Pulse CO Oximeters, which is a carbon monoxide and dehydration (perfusion index) monitor – this is a noninvasive instrument that provides fast and accurate results and can screen multiple firefighters in a short amount of time, as well as victims of similar incidents;

**Whereas**, this grant does not require matching funds by the City; 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 to apply for the Wal-Mart Store and Sam's Club Giving Program grant in an amount not to exceed \$5,000 for funding to purchase 2 Masimo Rad-57, Hand-held Pulse CO Oximeters for the Temple Fire and Rescue.

**Part 2:** The City Council accepts any funding received for this grant and authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for this grant or this purchase, which is contingent on the award of grant funds.

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III Mayor

APPROVED AS TO FORM:

ATTEST:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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

Lonzo Wallace, Jr., Fire Chief

**ITEM DESCRIPTION:** 1. Consider adopting a resolution authorizing the acceptance of a \$20,000 reimbursement grant from the U. S. Department of Homeland Security, through the Texas Division of Emergency Management, Homeland Security Grant Program and the State Homeland Security Grant Program for grant year 2009.

2. Authorize the purchase of the following equipment:

- (a) 2 year Partnership Program (extended warranty) and processor upgrade for the Hazmat ID., in the amount of \$11,950
- (b) 2008 Yamaha Rhino 4 x 4, ATV, in the amount of \$8,050.

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

**ITEM SUMMARY:** 1. The Federal Homeland Security Grant was initiated in 2001. The purpose of the annual grant was to facilitate communication between public safety agencies and to support the development of regional hazmat teams. Temple Fire & Rescue (TFR) has received this annual grant for Temple's regional Hazmat team over the last several years, as grant funds were available. TFR applied for a grant this year to carry out homeland security projects that will significantly improve local and regional terrorism prevention, preparedness, response and recover capabilities. There are no matching funds required for this grant.

2. With the \$20,000 in grant funds, we plan to purchase the following equipment:

- (A) The Hazmat ID is a portable, self-contained infrared spectrometer, used to identify unknown chemical liquids and solids on hazardous materials incidents. The partnership program is an extended warranty that covers all software updates, all parts and labor needed to repair the system in the event of a malfunction, free loaner unit provided by overnight carrier, refresher course , 24/7 Reach Back access to Ph.D., Chemist, Engineers and application scientists for spectral interpretation assistance and technical support. The system upgrade is all parts and labor to upgrade Hazmat ID system to the improved 400 MHz processor.

(B) 2008 Yamaha Rhino, Model 700 FI, 4 x 4, All Terrain Vehicle that is used to transport workers and equipment to rugged and remote hazardous material scenes. It can also assist in the deployment of the AreaRae, wireless gas detection system. It can assist in the reconnaissance of large-scale hazardous materials incident scenes, as well as assist with the removal of exhausted or injured team members to facilitate rapid treatment and/or transport to a medical facility.

**FISCAL IMPACT:** The grant is funded 100% through the Department of Homeland Security and there is no matching funds requirement.

A budget adjustment is submitted for Council's approval to appropriate the grant funds. Upon approval of this budget adjustment, funding will be available in the account 260-2200-522-6213, project #100582, for the purchase of the 2008 Yamaha Rhino and in account 260-2200-522-6211, project #100581 for the purchase of the Hazmat ID.

Annual operating cost :

Hazmat ID \$0.00

Yamaha Rhino \$250 per year for routine maintenance and fuel.

Temple Fire & Rescue would be responsible for annual operating costs

**ATTACHMENTS:**

[Budget Adjustment  
Resolution](#)

### BUDGET ADJUSTMENT FORM

Use this form to make adjustments to your budget. All adjustments must balance within a Department.  
Adjustments should be rounded to the nearest \$1.

			+	-
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
260-2200-522-62-13	100582	Automotive	\$ 8,050	
260-2200-522-62-11	100581	Instruments & Special Equipment	11,950	
260-0000-431-01-63		Federal Grants	20,000	
<b>TOTAL.....</b>			\$ 40,000	\$ -

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

Appropriate funds to recognize the receipt of grant funds from the U. S. Department of Homeland Security distributed through the Texas Division of Emergency Management, Homeland Security Grant Program and the State Homeland Security Grant Program for grant year 2009. Funds will be used to purchase Haz-Mat equipment including a 2008 Yamaha Rhino, Model 700 FI, 4 x 4, All Terrain Vehicle and Hazmat ID which is a portable, self-contained infrared spectrometer used to identify unknown chemical liquids and solids on hazardous materials incidents.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?  Yes  No

DATE OF COUNCIL MEETING 5-Nov-09

WITH AGENDA ITEM?  Yes  No

Department Head/Division Director	Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
Finance	Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
City Manager	Date	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS; AUTHORIZING THE ACCEPTANCE OF A \$20,000.00 REIMBURSEMENT GRANT FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY DISTRIBUTED THROUGH THE TEXAS DIVISION OF EMERGENCY MANAGEMENT, HOMELAND SECURITY GRANT PROGRAM AND THE STATE HOMELAND SECURITY GRANT PROGRAM FOR GRANT YEAR 2009; AUTHORIZING THE PURCHASE OF 2-YEAR PARTNERSHIP PROGRAM (EXTENDED WARRANTY) AND PROCESSOR UPGRADE FOR THE HAZMAT ID., IN THE AMOUNT OF \$11,950.00 AND A 2008 YAMAHA RHINO 4x4, ATV, IN THE AMOUNT OF \$8,050.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, Temple Fire & Rescue is eligible to receive a \$20,000.00 reimbursement grant from the U.S. Department of Homeland Security distributed through the Texas Division of Emergency Management, Homeland Security Grant Program and the State Homeland Security Grant Program for grant year 2009;

**Whereas**, the purpose of the annual grant is to facilitate communication between public service agencies and to support the development of regional hazmat teams;

**Whereas**, the Staff recommends using the grant funds to purchase a 2-year Partnership Program (extended warranty) and processor upgrade for the Hazmat ID., in the amount of \$11,950.00 and a 2008 Yamaha Rhino 4x4, in the amount of \$8,050.00;

**Whereas**, the City will not be required to provide a local match, but an amendment to the FY2009-10 budget needs to be approved to recognize receipt of the funds; and

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

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

**Part 1:** The City Council authorizes the acceptance of a \$20,000.00 reimbursement grant from the U.S. Department of Homeland Security distributed through the Texas Division of Emergency Management, Homeland Security Grant Program and the State Homeland Security Grant Program for grant year 2009.

**Part 2:** The City Council authorizes purchasing a 2-year Partnership Program (extended warranty) and processor upgrade for the Hazmat ID., in the amount of \$11,950.00, and a 2008 Yamaha Rhino 4x4, in the amount of \$8,050.00.

**Part 3:** 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 grant and these purchases.

**Part 4:** The City Council approves an amendment to the FY2009-2010 budget,

substantially in the form of the copy attached as Exhibit A, for this purpose.

**Part 5:** 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 **5<sup>th</sup>** 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

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

Traci Barnard, Director of Finance

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

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

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

**FISCAL IMPACT:** The total amount of budget amendments is \$97,910.

**ATTACHMENTS:**

[Budget amendments  
Resolution](#)

**CITY OF TEMPLE**

**BUDGET AMENDMENTS FOR FY 2009 BUDGET**

November 5, 2009

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
430-5700-580-7110		Bond Principal - 2008 CO's (Debt Service)	\$	35,000
430-5700-580-7211		Bond Interest - 2008 CO's	\$	21,770
430-5700-580-7211		Bond Interest - 2008 GO's	\$	41,140
<b>430-0000-354-0512</b>		<b>Debt Service Fund Balance - Reserved for Debt Service</b>		<b>\$ 97,910</b>

To adjust budget to the final amortization schedules for the 2008 CO and 2008 GO bond issues.

<b>TOTAL AMENDMENTS</b>	<b>\$ 97,910</b>	<b>\$ 97,910</b>
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**GENERAL FUND**

Beginning <b>Contingency</b> Balance	\$	-
Added to Contingency Sweep Account	\$	-
Carry forward from Prior Year	\$	-
Taken From Contingency	\$	-
Net Balance of Contingency Account	\$	-
Beginning <b>Judgments &amp; Damages</b> Contingency	\$	70,000
Added to Contingency Judgments & Damages from Council Contingency	\$	40,000
Taken From Judgments & Damages	\$	(109,657)
Net Balance of Judgments & Damages Contingency Account	\$	343
Beginning <b>SAFER Grant Match</b> Contingency	\$	46,821
Added to SAFER Grant Match Contingency	\$	-
Taken From SAFER Grant Match Contingency	\$	(41,968)
Net Balance of SAFER Grant Match Contingency Account	\$	4,853
Beginning <b>Compensation</b> Contingency	\$	184,700
Added to Compensation Contingency	\$	-
Taken From Compensation Contingency	\$	(184,700)
Net Balance of Compensation Contingency Account	\$	-
<b>Net Balance Council Contingency</b>	<b>\$</b>	<b>5,196</b>
Beginning Balance <b>Budget Sweep</b> Contingency	\$	-
Added to Budget Sweep Contingency	\$	-
Taken From Budget Sweep	\$	-
Net Balance of Budget Sweep Contingency Account	\$	-

**WATER & SEWER FUND**

Beginning <b>Contingency</b> Balance	\$	174,121
Added to Contingency Sweep Account	\$	-
Taken From Contingency	\$	(166,411)
Net Balance of Contingency Account	\$	7,710
Beginning <b>Compensation</b> Contingency	\$	34,334
Added to Compensation Contingency	\$	-
Taken From Compensation Contingency	\$	(34,334)
Net Balance of Compensation Contingency Account	\$	-
Beginning <b>Approach Mains</b> Contingency	\$	500,000
Added to Approach Mains Contingency	\$	-
Taken From Approach Mains Contingency	\$	(11,730)
Net Balance of Approach Mains Contingency Account	\$	488,270

**CITY OF TEMPLE**

**BUDGET AMENDMENTS FOR FY 2009 BUDGET**

November 5, 2009

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning <b>T-BRSS Future Plant Expansion</b> Contingency	\$	450,000
		Added to T-BRSS Future Plant Expansion Contingency	\$	-
		Taken From T-BRSS Future Plant Expansion Contingency	\$	(445,424)
		Net Balance of T-BRSS Future Plant Expansion Contingency	\$	4,576
		<b>Net Balance Water &amp; Sewer Fund Contingency</b>	<b>\$</b>	<b>500,556</b>
		<b>HOTEL/MOTEL TAX FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	75,221
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(18,600)
		Net Balance of Contingency Account	\$	56,621
		Beginning <b>Compensation</b> Contingency	\$	5,401
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(3,222)
		Net Balance of Compensation Contingency Account	\$	2,179
		<b>Net Balance Hotel/Motel Tax Fund Contingency</b>	<b>\$</b>	<b>58,800</b>
		<b>DRAINAGE FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		Beginning <b>Compensation</b> Contingency	\$	4,631
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(1,901)
		Net Balance of Compensation Contingency Account	\$	2,730
		<b>Net Balance Drainage Fund Contingency</b>	<b>\$</b>	<b>2,730</b>
		<b>FED/STATE GRANT FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	7,962
		Carry forward from Prior Year	\$	99,254
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(77,291)
		Net Balance of Contingency Account	\$	29,925

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

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

---

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

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

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

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

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

PASSED AND APPROVED this the 5<sup>th</sup> 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

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11/05/09  
Item #5(S)  
Consent Agenda  
Page 1 of 1

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

Traci Barnard, Director of Finance

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

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

**ITEM SUMMARY:** This item is to recommend various budget amendments, based on the adopted FY 2009-2010 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

**FISCAL IMPACT:** The total amount of budget amendments is \$29,065.

**ATTACHMENTS:**

[Budget amendments  
Resolution](#)

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2010 BUDGET**  
November 5, 2009

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-2000-521-6231	100579	Capital Equipment - OCU Seized Funds/Federal (Police Dept.)	\$ 18,886	
110-0000-313-0330		<b>Federal Seized Funds</b>		\$ 18,886
Use federal seized funds to purchase a Pane/Cargo Van with sliding side door and front driver and passenger seat only for SIU.				
110-2000-521-2516		Judgments & Damages (Police Dept.)	\$ 905	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		\$ 905
Attorney fees for lawsuit filed against City -- Steven Taylor v. City of Temple				
110-2000-521-2516		Judgments & Damages (Police Dept.)	\$ 4,677	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		\$ 4,677
(1) Deductible reimbursement to Texas Municipal League for attorney fees for a suit filed by Bruce Wayne Ervin against peace officers serving on a task force. Claim arises out of seizure of items in Ervin's possession when his premises were searched. Erwin is appealing a judgment for the officers (\$85); and (2) Deductible reimbursement to the Texas Municipal League for a lawsuit filed against the City by Karen Albright (\$4,592).				
110-3400-531-2516		Judgments & Damages (Streets)	\$ 104	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		\$ 104
Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City by Donald Heugatter seeking reimbursement for damage to his vehicle after it was struck by a street sweeper on July 7, 2009, at 1500 S. 45th Street.				
110-3500-552-2516		Judgments & Damages (Parks)	\$ 1,727	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		\$ 1,727
Deductible reimbursement to the Texas Municipal League for settlement of a claim filed as a result of a vehicle accident on July 27, 2009, involving a Parks vehicle which struck a vehicle owned by Yuri Williams.				
110-3700-524-2516		Judgments & Damages (Construction Safety)	\$ 190	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		\$ 190
Attorney fees for lawsuit filed against the City -- Centex Investments, Inc. v. City of Temple				
110-3700-524-2516		Judgments & Damages (Construction Safety)	\$ 1,076	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		\$ 1,076
Deductible reimbursement to the Texas Municipal League for a lawsuit filed against the City by Willis Martin, Jr., seeking reimbursement for alleged damage from purchasing a house he felt should have been demolished or repaired.				
110-4000-555-2225		Books & Periodicals (Library)	\$ 1,500	
110-0000-314-1917		<b>Reserve for Library</b>		\$ 1,500
Purchase history books with MacGregor Trust funds.				

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2010 BUDGET**  
November 5, 2009

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
<b>TOTAL AMENDMENTS</b>			<b>\$ 29,065</b>	<b>\$ 29,065</b>
<b>GENERAL FUND</b>				
		Beginning <b>Contingency</b> Balance	\$ -	
		Added to Contingency Sweep Account	\$ -	
		Carry forward from Prior Year	\$ -	
		Taken From Contingency	\$ -	
		Net Balance of Contingency Account	\$ -	
		Beginning <b>Judgments &amp; Damages</b> Contingency	\$ 77,833	
		Added to Contingency Judgments & Damages from Council Contingency	\$ -	
		Taken From Judgments & Damages	\$ (8,679)	
		Net Balance of Judgments & Damages Contingency Account	\$ 69,154	
		Beginning <b>Fuel</b> Contingency	\$ 125,000	
		Added to Fuel Contingency	\$ -	
		Taken From Fuel Contingency	\$ -	
		Net Balance of Fuel Contingency Account	\$ 125,000	
		Beginning <b>Solid Waste - Future Capital Replacement</b> Contingency	\$ 48,400	
		Added to Solid Waste - Future Capital Replacement Contingency	\$ -	
		Taken From Solid Waste - Future Capital Replacement Contingency	\$ -	
		Net Balance of Solid Waste - Future Capital Replacement Contingency Account	\$ 48,400	
		<b>Net Balance Council Contingency</b>	<b>\$ 242,554</b>	
		Beginning Balance <b>Budget Sweep</b> Contingency	\$ -	
		Added to Budget Sweep Contingency	\$ -	
		Taken From Budget Sweep	\$ -	
		Net Balance of Budget Sweep Contingency Account	\$ -	
<b>WATER &amp; SEWER FUND</b>				
		Beginning <b>Contingency</b> Balance	\$ 247,423	
		Added to Contingency Sweep Account	\$ -	
		Taken From Contingency	\$ -	
		Net Balance of Contingency Account	\$ 247,423	
<b>HOTEL/MOTEL TAX FUND</b>				
		Beginning <b>Contingency</b> Balance	\$ 26,336	
		Added to Contingency Sweep Account	\$ -	
		Taken From Contingency	\$ -	
		Net Balance of Contingency Account	\$ 26,336	
<b>DRAINAGE FUND</b>				
		Beginning <b>Contingency</b> Balance	\$ -	
		Added to Contingency Sweep Account	\$ -	
		Taken From Contingency	\$ -	
		Net Balance of Contingency Account	\$ -	
<b>FED/STATE GRANT FUND</b>				
		Beginning <b>Contingency</b> Balance	\$ 15,243	
		Carry forward from Prior Year	\$ -	
		Added to Contingency Sweep Account	\$ -	
		Taken From Contingency	\$ -	
		Net Balance of Contingency Account	\$ 15,243	

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2009-2010 CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on the 3<sup>rd</sup> day of September, 2009, the City Council approved a budget for the 2009-2010 fiscal year; and

**Whereas**, the City Council deems it in the public interest to make certain amendments to the 2009-2010 City Budget.

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

**Part 1**: The City Council approves amending the 2009-2010 City Budget by adopting the budget amendments which are more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

PASSED AND APPROVED this the 5<sup>th</sup> 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

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11/05/09  
Item #6  
Regular Agenda  
Page 1 of 1

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

Tim Dolan, AICP, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – Consider adopting an ordinance authorizing the voluntary annexation of a 1.148 acre tract of land located in the vicinity of FM 2305 and Buck Lane.

**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 19, 2009.

**ITEM SUMMARY:** On September 17, 2009, the Council accepted a petition for voluntary annexation filed by Jim and Jan Kent 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 line. The Council directed the staff to prepare a municipal services plan for this tract.

Voluntary annexation is governed by Section 43.028 of the Texas Local Government Code and applies only to the annexation of an area that is: (1) less than one-half mile in width; (2) contiguous to the annexing municipality, and (3) vacant and without residents or on which fewer than three qualified voters reside. The landowner's petition met the statutory requirements and was granted.

Public hearings were conducted on October 14, 2009 (special meeting) and October 15, 2009 (regular meeting) and the proposed municipal services plan for the area under consideration for annexation has been prepared. No public comments were received at either hearing.

**FISCAL IMPACT:** No immediate impact. Obligation to provide police and fire services. 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:**

[Petition](#)  
[Maps](#)  
[Service Plan](#)  
[Ordinance](#)

VOLUNTARY PETITION FOR ANNEXATION

August 26, 2009

To the City Council of the City of Temple:

*gmk 9/2/09*  
*gmk 9/2/09*  
*1.148*

We are the owners of an approximately ~~1.427~~ acre tract of land (hereinafter the Tract), more particularly described as follows:

Exhibit 'A', consisting of two parts, Part 1, a sketch plan of this tract, and Part 2, a metes and bounds description, is attached hereto and made a part hereof by reference for all pertinent purposes

Said tract of land is one-half mile or less in width; contiguous to the current limits of the City of Temple or which will be at the time this petition is considered by the City Council; and has less than three qualified voters as residents. We are petitioning the City Council to take the appropriate action to annex said Tract pursuant to Section 43.028 of the Local Government Code.

*James L. Kent*  
\_\_\_\_\_  
James L. Kent, Owner

*Jan M. Kent*  
\_\_\_\_\_  
Jan M. Kent, Owner

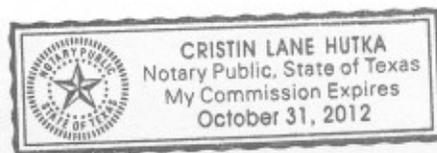
STATE OF TEXAS

COUNTY OF BELL

BEFORE ME, the undersigned authority, personally appeared James L. Kent, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same, for the purpose and consideration therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE this 26 day of August, 2009.

*Cristin Lane Hutka*  
\_\_\_\_\_  
Notary Public, State of Texas

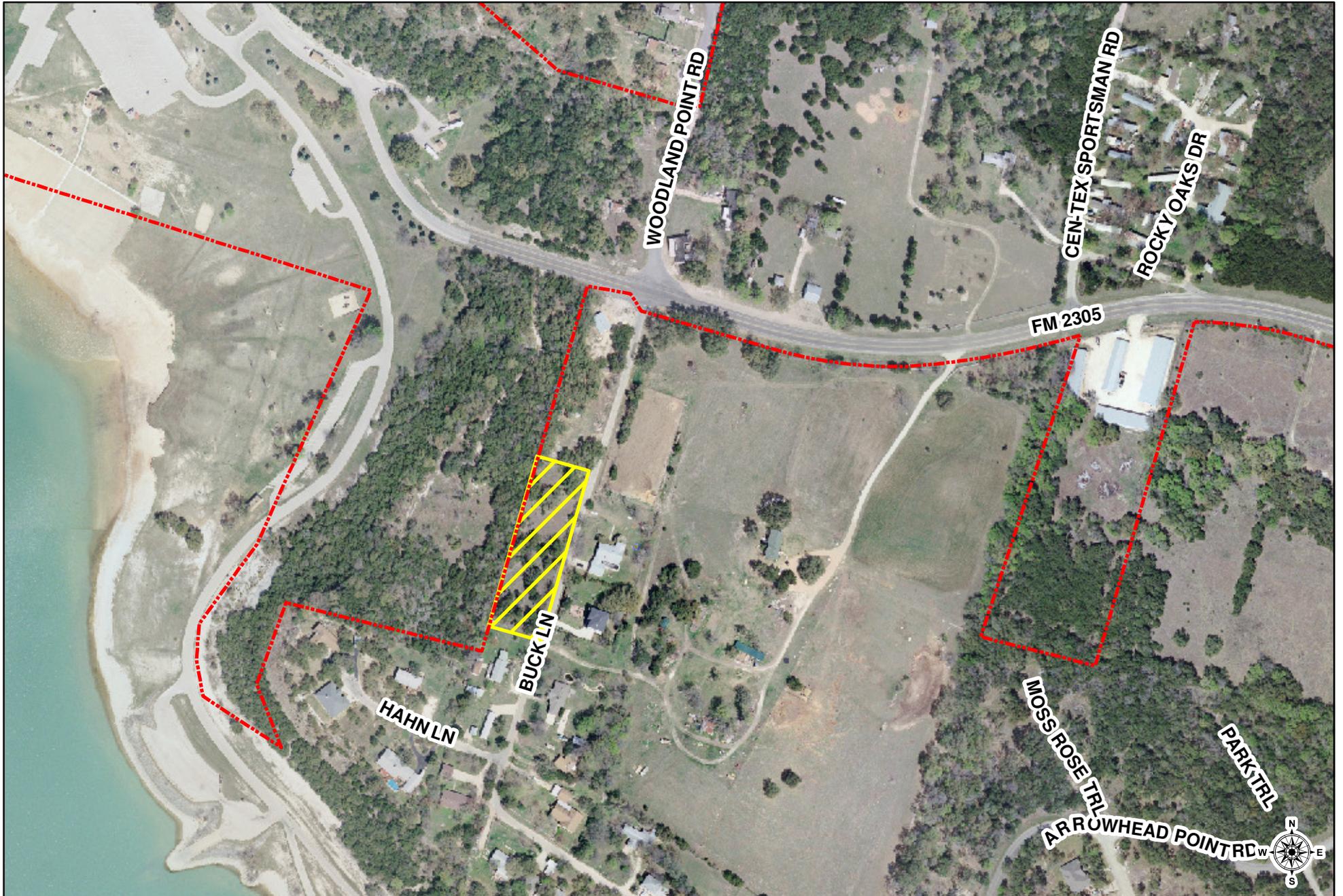




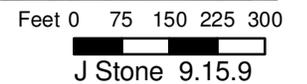
Z-FY-09-33

Proposed Annexation of 1.148 Acres

Buck Lane (Western ETJ)



 Current Temple Boundary  ZFY0933



## FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

August 26, 2009

Surveyor's Field Notes for:

**1.148 ACRES**, situated in the JAMES BOWERS SURVEY, ABSTRACT 81, Bell County, Texas, and being all of Lots 7, 8, 9, 10, and 11, Block 1, LAZY G RANCH SUBDIVISION, an addition in Bell County, Texas, according to the plat of record in Cabinet A, Slide 135-D, Plat Records of Bell County, Texas, and being more particularly described as follows:

**BEGINNING** at a 5/8" iron rod found at the northeast corner of said Lot 7, being on the west line of a public roadway known as Buck Lane, being the southeast corner of Lot 6, for the northeast corner of the herein described tract;

**THENCE**, in a southerly direction, with the west line of said Buck Lane, **S 16° 59' 02" W – 400.03'** (*Record S 18° 36' W – 400'*), to a 1/2" iron rod found at the southeast corner of said Lot 11, being the northeast corner of Lot 12, for the southeast corner of the herein described tract;

**THENCE**, in a westerly direction, with the north line of said Lot 12, **N 73° 00' 00" W – 125.00'** (*Record 125'*), to a 5/8" iron rod found on the east line of a called 3.895 Acre tract conveyed to James L. Kent and wife, Jan M. Kent in Volume 4581, Page 292, Official Public Records of Real Property, Bell County, Texas, for the southwest corner of the herein described tract;

**THENCE**, in a northerly direction, with the east line of said 3.895 Acre tract, same being the west line of said Block 1, **N 16° 58' 53" E – 400.00'** (*Record N 18° 36' E – 400'*), to a steel spindle found at the northwest corner of said Lot 7, for the northwest corner of the herein described tract;

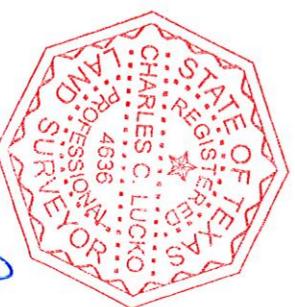
**THENCE**, in an easterly direction, with the north line of said Lot 7, same being the south line of said Lot 6, **S 73° 00' 51" E – 125.02'** (*Record 125'*), to the **POINT OF BEGINNING** and containing 1.148 Acres of Land.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 501. The theta angle at City Monument No. 501 is 01° 27' 57". The combined correction factor (CCF) is 0.999853. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City monument No. 501 to the northeast corner of Tract 1 is S 31° 54' 43" W 3324.68 feet. Published City coordinates for project reference point 501 are N. = 10,388,956.44 E. = 3,186,885.77

This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.

**ALL COUNTY SURVEYING, INC.**  
**1-800-749-PLAT**

server/projects/pro090000/090400/090447/090447-Annex.doc



Charles C. Lucko  
 Registered Professional Land Surveyor  
 Registration No. 4636

A handwritten signature in blue ink, appearing to read "Chuck Lucko", written over the printed name and registration information.

# EXHIBIT SKETCH - PROPOSED ANNEXATION 1.148 ACRE OF LAND

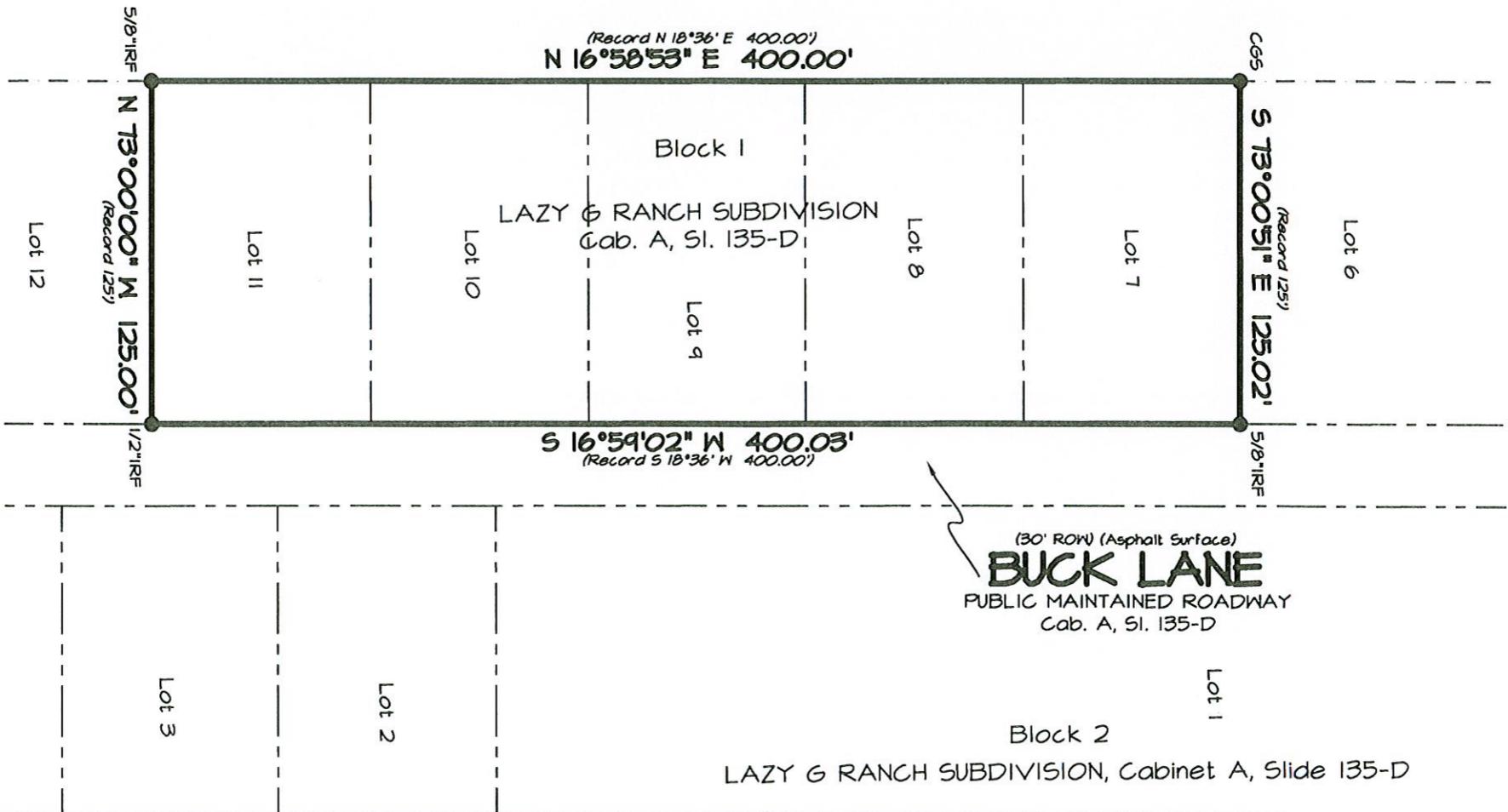
Being part of the JAMES BOWERS SURVEY, ABSTRACT NO. 81, Bell County, Texas, being all of LOTS 7, 8, 9, 10, and 11, BLOCK 1, of the LAZY G RANCH SUBDIVISION, an addition in Bell County, Texas, according to the plat of record in Cabinet A, Slide 135-D, Plat Records of Bell County, Texas.



IRF - Iron Rod Found  
CG5- Steel Spindle

CALLED 3.895 ACRES  
JAMES L. KENT and wife,  
JAN M. KENT  
Vol. 4581, Pg. 292

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 501. The theta angle at City Monument No. 501 is  $01^{\circ} 27' 57''$ . The combined correction factor (CCF) is 0.999853. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City monument No. 501 to the northeast corner of Tract 1 is  $S 31^{\circ} 54' 43'' W 3324.68$  feet. Published City coordinates for project reference point 501 are N: = 10,388,956.44 E: = 3,186,885.77



ALL COUNTY SURVEYING, INC.



- Surveying
- Mapping
- Construction Layout

1303 South 21st Street  
Temple, Texas 76504  
254-778-2272 Killeen 254-634-4636  
Fax 254-774-7608

Scale:  $1'' = 60'$   
Job No.: 090447.3  
Dwg No.: 09044703-Annex  
Drawn by: SLW  
Surveyor: CCL # 4636  
Copyright 2009 All County Surveying, Inc.

Aug 26, 2009 - 5:46pm

**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

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

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ANNEXING ADJACENT AND CONTIGUOUS TERRITORY CONSISTING OF 1.148 ACRE TRACT OF LAND LOCATED IN THE VICINITY OF FM 2305 AND BUCK LANE AND APPROVING A SERVICE PLAN FOR THIS TRACT PROPOSED TO BE ANNEXED; FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; PROVIDING THAT SUCH AREA SHALL BECOME A PART OF THE CITY AND THAT THE OWNERS AND INHABITANTS THEREOF, IF ANY, SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BE BOUND BY THE ACTS AND ORDINANCES NOW IN EFFECT AND TO BE HEREAFTER ADOPTED; PROVIDING A ZONING CLASSIFICATION FOR SAID PROPERTY PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the City of Temple is a home-rule city authorized by State law and the City Charter to annex territory lying adjacent and contiguous to the City, or portions of property currently subject to a development agreement within the City's ETJ;

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

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

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

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

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

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

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

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

**Part 2:** The property consisting of 1.148 acres described in Exhibit "A," attached hereto and incorporated herein for all purposes (hereinafter referred to as the "Property"), is hereby annexed and brought within the corporate limits of the City of Temple, Bell County, Texas, and is made an integral part thereof, in accordance with the request in the *Petition for Annexation* accepted by the City of Temple, Texas, attached hereto and made a part hereof for all purposes as Exhibit "B."

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

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

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

**Part 6:** The annexed Property shall, in compliance with the Zoning Ordinance of the City of Temple, be zoned as "UE," *Urban Estate* as shown on the map made a part hereof and attached hereto as Exhibit "D."

**Part 7:** The annexed Property shall be included in, and become a part of, the City of Temple City Council Election District Number 4.

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

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

of the annexed area to conform to the Council's intention and to insure that the boundary description closes.

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

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

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

PASSED AND APPROVED on Second and Final Reading on the **19<sup>th</sup>** day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #7  
Regular Agenda  
Page 1 of 2

### DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-31: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Neighborhood Service District (NS) on a 0.6± acre tract of land identified as Tract 1, and from Agricultural District (A) to Urban Estate District (UE) on a 4± acre tract of land identified as Tract 2, all being part of the James Bowers Survey, Abstract 81, Bell County, Texas, Lazy G Ranch Subdivision, Block 1, Lots 7 - 11, presently not in the Temple City limits, all located on the south side of FM 2305, adjacent to Buck Lane.

**P&Z COMMISSION RECOMMENDATION:** At its October 19, 2009 meeting, the Planning and Zoning Commission voted 5/0 in accordance with staff recommendation to recommend approval of a zoning change from Agricultural (A) to Neighborhood Service District (NS) and Agricultural (A) to Urban Estate District (UE) 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.

Commissioners Secret, Talley and Dusek were absent. Commissioner Staats abstained.

**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 19, 2009.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-31, from the Planning and Zoning meeting, October 19, 2009. The purpose of this rezoning is to allow the use of large lot single family development and a neighborhood services development, the most restrictive commercial zoning district. Earlier in the agenda the Council will approve, on first reading, the annexation of 1.148 acres as part of the voluntary annexation case for the Lazy G Ranch Subdivision, Block 1, Lots 7 – 11, for an urban estate residential subdivision.

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

The final plat for this development will be presented to Council for consideration at the November 19 Council meeting.

A total of three notices were sent out. As of Tuesday, October 27th at 5 PM, none were returned. The newspaper printed notice of the public hearing on October 8, 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-09-31)  
P&Z Minutes (October 19, 2009)  
Ordinance



**Z-FY-09-31**

Rezone of 5.043 Acres

Proposed Sunset Ridge at the Lake Subdivision



Current Temple Boundary ZFY0931

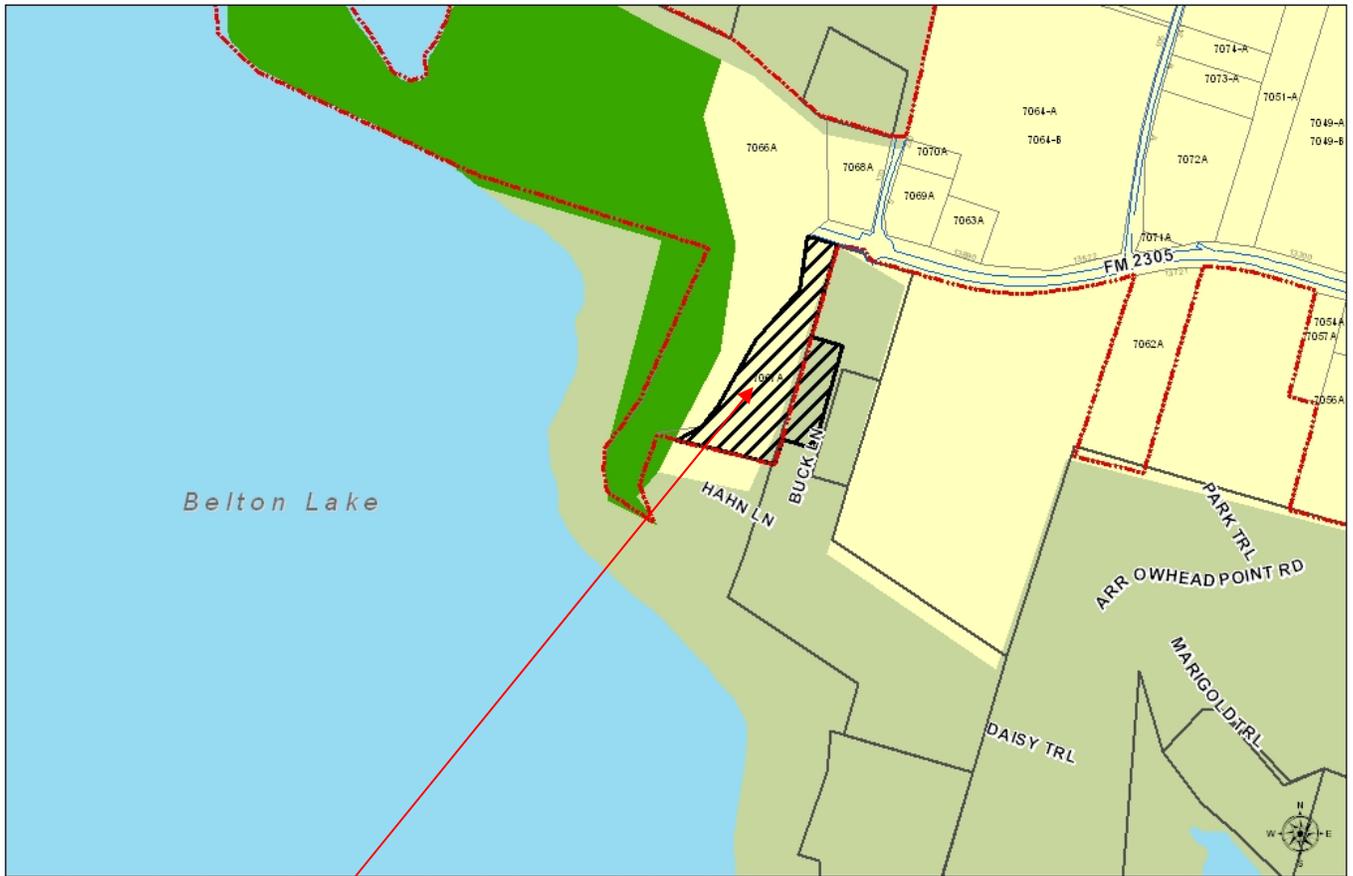
Feet 0 75 150 225 300  
J Stone 9.15.9



Z-FY-09-31

Rezone of 5.043 Acres

Proposed Sunset Ridge at the Lake Subdivision



- |                 |                           |                         |                       |                                   |                      |
|-----------------|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Temple Boundary | Neighborhood Conservation | Auto-urban Residential  | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional |
| ZFY0931         | 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   |

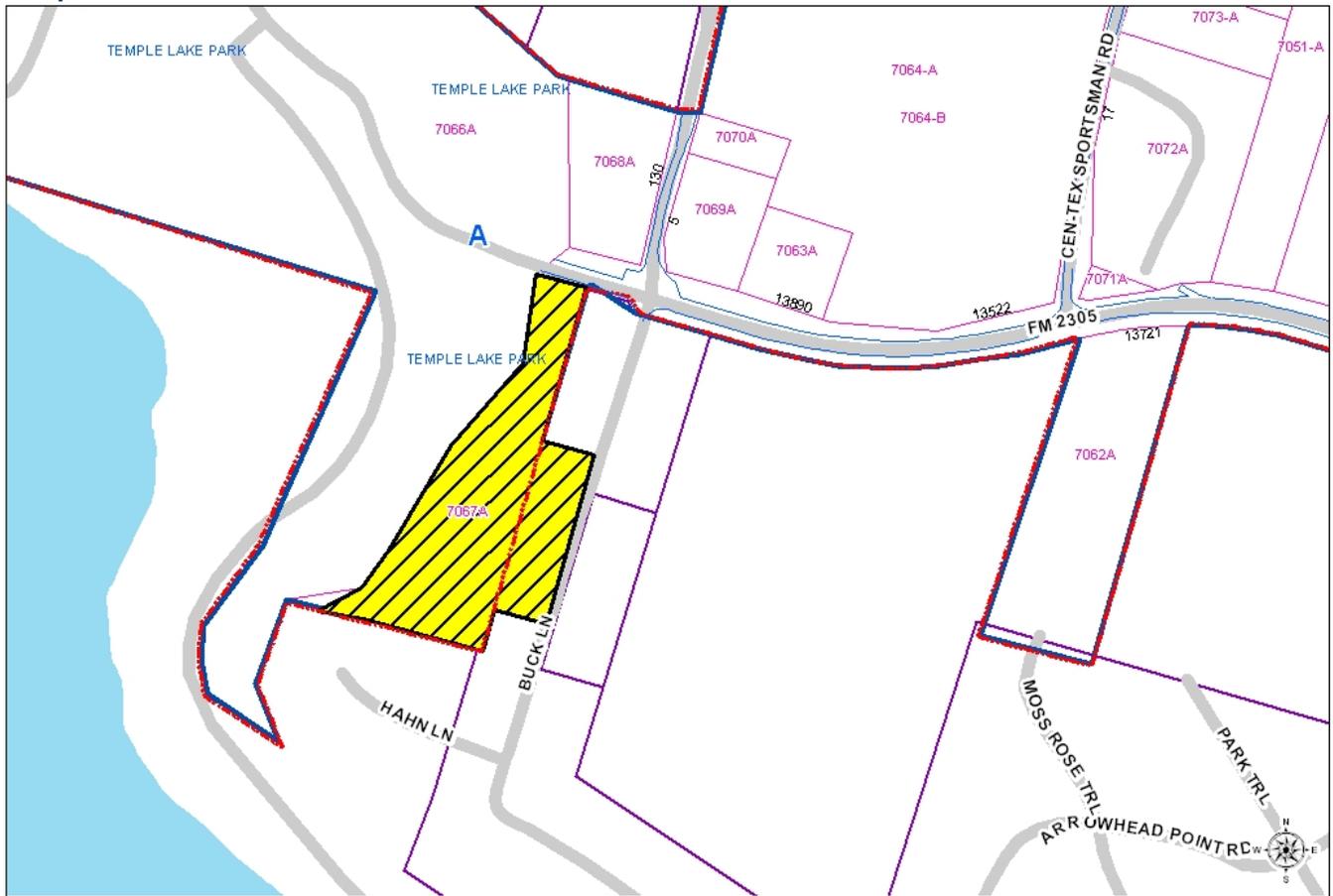
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J Stone 9.15.9



**Z-FY-09-31**

Rezone of 5.043 Acres

Proposed Sunset Ridge at the Lake Subdivision



Current Temple Boundary  ZFY0931

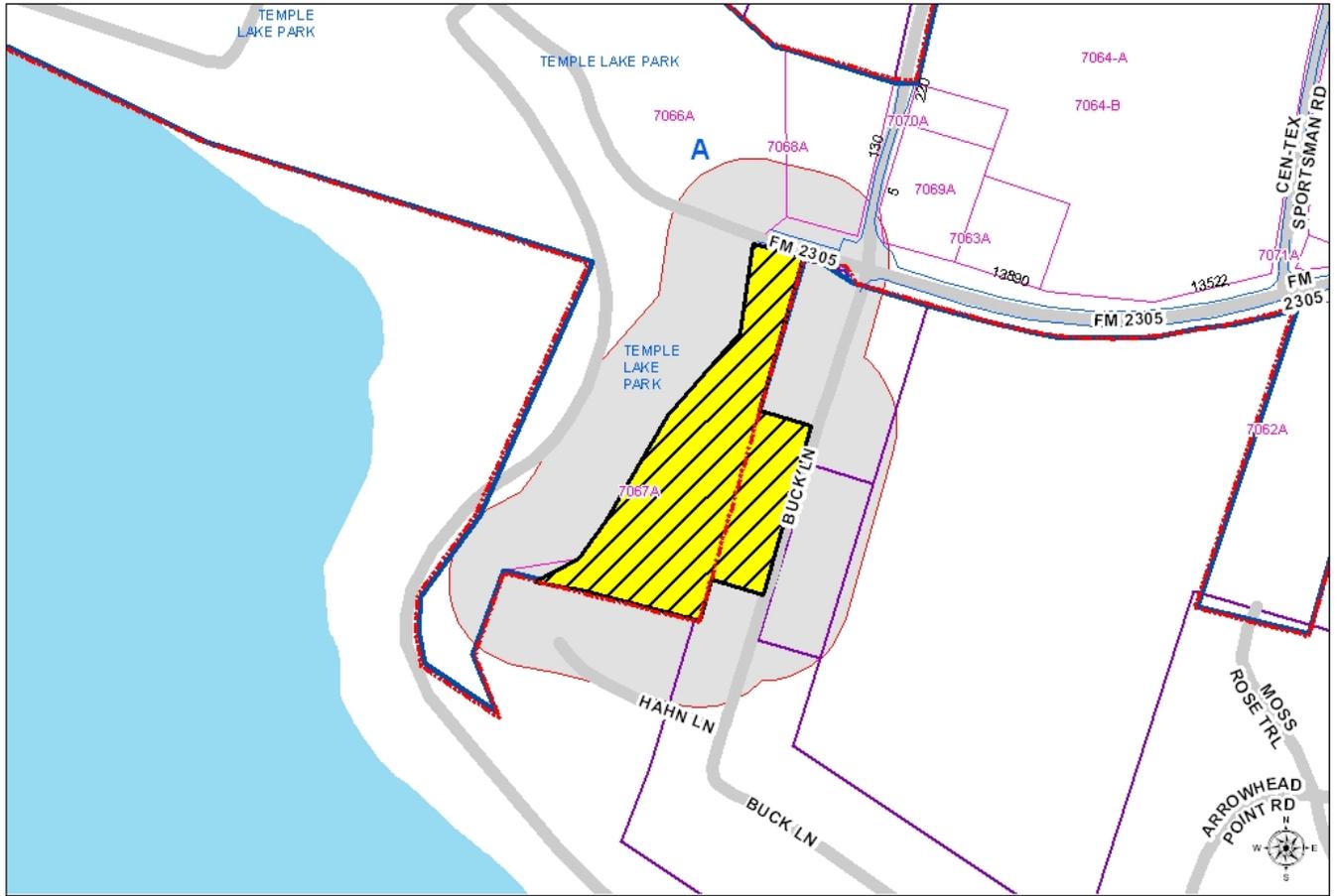
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J Stone 9.15.9



**Z-FY-09-31**

Rezone of 5.043 Acres

Proposed Sunset Ridge at the Lake Subdivision



Current Temple Boundary ZFY0931 ZFY0931

Feet 0 75 150 225 300  
J Stone 9.15.9



# PLANNING AND ZONING COMMISSION AGENDA ITEM

10/19/09

Item #2

Regular Agenda

Page 1 of 2

**APPLICANT / DEVELOPMENT:** All County Surveying for James & Jan Kent All County

**CASE MANAGER:** Tim Dolan, AICP, Planning & Zoning Commission

**ITEM DESCRIPTION: Z-FY-09-31:** Hold a public hearing to discuss and recommend action on a zoning district change request from Agricultural District (A) to Neighborhood Service District (NS) on a 0.6± acre track of land identified as Tract 1, and from Agricultural District (A) to Urban Estate District (UE) on a 4± acre track of land identified as Tract 2, all being part of the James Bowers Survey, Abstract 81, Bell County, Texas, Lazy G Ranch Subdivision, Block 1, Lots 7 - 11, presently not in the Temple City Limits, all located on the south side of FM 2305, adjacent to Buck Lane.

## **BACKGROUND:**

The applicant sought voluntary annexation to have access to City utilities and access for larger lots with frontage on Buck Lane. The Council scheduled the two required public hearings to receive comment as part of the annexation process. The purpose of the agenda report is to receive comment on the proposed zoning and to consider a Final Plat (Next Agenda Item). The Council will consider the final annexation and zoning at its meetings, November 5 and November 19, 2009.

## **Surrounding Property and Uses**

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

## **Future Land Use and Character**

The Future Land Use and Character Plan show the area for Estate Residential Use and the requested zoning of Urban Estate (UE) conforms to the Future Land Use and Character Plan. The Comprehensive Plan Choice's 08 recommends Neighborhood Service (NS) to complement UE areas since it is the most restrictive commercial zoning district and NS uses also conform to the Future Land Use and Character Plan.

## **Thoroughfare Plan**

The proposed UE will have lot frontage and access to Buck Lane, a county road, and will remain a county road after annexation. The pavement width (28-30') width, developed to rural standards is sufficient for UE sized lots.

## **Availability of Public Facilities**

A three-inch water line serves the proposed UE lots, and a four-inch water line serves the proposed NS lot. All lots will be required to use on-site sewage facilities (septic tanks).

## **Development Regulations – UE & NS**

The purpose of the Urban Estate Zoning District (UE) is to permit detached single family residential uses and related accessory uses on lots 22,500 square feet in size. The urban estate district accommodates large lot single family residential developments. This district is suitable for estate development or areas in which it is desirable to permit only low-density development. Projects should typically be rural in character and well buffered from more intensely developed uses.

The purpose of the Neighborhood Service Zoning District (NS) is to permit limited retail services, usually for a small neighborhood area, with uses such as a convenience store, bank, barber or beauty shop, small cleaners, or florist, as well as any residential use except apartments. Maximum building height of 2 ½ service stories. The neighborhood service district is the most restrictive retail district and is intended to provide day-to-day retail and service needs for residential neighborhood service 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.

All dimensional standards appear in the following tables.

<b>Urban Estate Residential Use Standards</b>	
Building Height	Maximum building height of three stories.
Minimum Lot Width	80'
Minimum Lot Depth	125'
Minimum Front Yard	30'
Minimum Side Yard (interior, street side)	15' both sides
Minimum Rear Yard Setback	10'
Minimum Building Area	550 square feet
<b>Neighborhood Service Commercial Standards</b>	
Building Height	Maximum building height of two and one-half stories.
Minimum Lot Width	50'
Minimum Lot Depth	100'
Minimum Front Yard	15'
Minimum Side Yard (interior, street side)	10' interior, 15' street side
Minimum Rear Yard Setback	10'
Minimum Building Area	NA

Public Notice

A total of three notices were sent out, with no notices returned. The letters mailed and the newspaper printed notice of the public hearing on October 8, 2009 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:**

Staff requests the Commission approve Z-FY-09-31 subject to the Commission finding the request:

1. Conforms to the Future Lands Use and Character Plan for urban estate and suburban commercial uses; and
2. Conforms to the Thoroughfare Plan for the requested UE area to have lot access to Buck Lane, a rural residential street and for the requested NS area to have access to FM 2305; and
3. Conforms to the Availability of Utility Plan for water and lot area sufficient size for septic service.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

- Aerial
- Land Use and Character Map
- Zoning Map
- Notice Map
- Utility Map

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

**MONDAY, OCTOBER 19, 2009**

**ACTION ITEMS**

**Item 2: Z-FY-09-31:** Hold a public hearing to discuss and recommend action on a zoning district change request from Agricultural District (A) to Neighborhood Service District (NS) on a 0.6± acre track of land identified as Tract 1, and from Agricultural District (A) to Urban Estate District (UE) on a 4± acre track of land identified as Tract 2, all being part of the James Bowers Survey, Abstract 81, Bell County, Texas, Lazy G Ranch Subdivision, Block 1, Lots 7 - 11, presently not in the Temple City Limits, all located on the south side of FM 2305, adjacent to Temple Lake Park and Buck Lane. (Applicant: All County Surveying for James & Jan Kent)

Chair Pilkington stated Items 2 and 3 would be presented together, but separate motions and seconds would be required.

Commissioner Staats stated he would abstain from these two Items and submitted his Affidavits to Staff.

Mr. Tim Dolan, Planning Director, stated the public hearing tonight was to change zoning from Agricultural (A) to planned Urban Estates (UE) and also some property planned for Neighborhood Service (NS) all on the south side of FM 2305, adjacent to Temple Lake Park and Buck Lane. This process also includes annexation for this property. The area to the east is actually in the county that is being annexed which is 1.14± acre tract and would have access to Buck Lane which would remain a county road. The area to the west is inside the city limits.

Mr. Dolan stated the Future Land Use and Character Plan showed this area for estate residential uses. The existing utilities are in place for water service to FM 2305 and a water line goes down Buck Lane. This was an independently owned utility which had been taken over by the City of Temple.

Mr. Dolan stated the Staff recommendation was to approve this zoning request since it conformed to the Future Land Use and Character Plan for the UE, the Thoroughfare Plan for Buck Lane was the rural residential road, and the availability of the water lines to these lots. These lots would be served by septic services since there is no sewer service in the area.

Mr. Dolan stated the final plat is for the five (5) residential lots and one (1) commercial lot on the 5± acre area and there is a developer's requested exception to Chapter 12 of the Fire Code for the City of Temple Code of

Ordinances and the requested zoning was Urban Estate (UE) and Neighborhood Service (NS).

Mr. Dolan stated the area highlighted was the Lazy G Ranch Subdivision, Block 1, Lots 7 through 11, which is a platted lot having access to Buck Lane. The lots planned are UE lots that vary from over half an acre to 1.3 acre. NS is being planned for the south and a one foot non-encroachment easement is in the TxDot right-of-way with a driveway access, which TxDot had reviewed.

Mr. Dolan stated as part of the building permit for this lot, it would have a 6 foot sidewalk with accessibility standards to be built along the arterial road. Mr. Dolan stated the utility plan showed the 3" and 2" water lines which are available there.

Mr. Dolan stated the letter signed by the owners' applicant which requested the developer's requested exception to the Fire Code for fire hydrant placement. From discussion with the Fire Marshall, knowing there will be driveways built which meets requirements of the Fire code for any structure 150' outside of the fire apparatus road.

Mr. Dolan stated Staff recommended approval of the final plat subject to finding the fact for the developer's requested exception to Chapter 12 of the Fire Code regarding hydrant location and pressure for the City of Temple's Code of Ordinances to allow the placement of existing hydrants since the construction of the residential driveways will need to meet the requirements of the Fire Code.

Mr. Dolan stated these items needed to be considered with separate hearings, motions and seconds for the plat and zoning request.

Chair Pilkington opened the public hearing for the zoning case, Z-FY-09-31.

Mr. Jim Kent, owner of the land, approached the Commission to answer any questions. There being none, Chair Pilkington closed the public hearing.

Commissioner Pope made a motion to approve the zoning district change request from A to NS district on 0.6 acre tract of land identified as Tract 1, and A to UE district on a 4 acre track of land identified as Tract 2, all being part of the James Bowers Survey, Abstract 81, Bell County, Texas, Lazy G Ranch Subdivision, Block 1, Lots 7 - 11, presently not in the Temple City Limits, all located on the south side of FM 2305, adjacent to Temple Lake Park and Buck Lane and Commissioner Barton made a second.

*Motion passed: (5:0)*

Commissioner Staats abstained

Commissioners Dusek, Secretst and Vice-Chair Talley absent.

Commissioner Pope made a motion to approve the final plat of Sunset Ridge At The Lake, 5 residential lots and one commercial lot on 5.05 ± acres, being a replat of Lazy G Ranch Addition, Block 1, Lots 7 to 11, located on the south side of FM 2305 adjacent to Buck Lane subject to the developer's requested exception to Chapter 12 of the City of Temple Code of Ordinances and Commissioner Martin made the second.

*Motion passed: (5:0)*

Commissioner Staats abstained

Commissioners Dusek, Secrest and Vice-Chair Talley absent.

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

[PLANNING NO. Z-FY-09-31]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO NEIGHBORHOOD SERVICE DISTRICT (NS) ON AN APPROXIMATELY 0.6 ACRE TRACT OF LAND IDENTIFIED AS TRACT 1, AND FROM AGRICULTURAL DISTRICT (A) TO URBAN ESTATE DISTRICT (UE) ON AN APPROXIMATELY 4 ACRE TRACT OF LAND IDENTIFIED AS TRACT 2, ALL BEING PART OF THE JAMES BOWERS SURVEY, ABSTRACT 81, BELL COUNTY, TEXAS, LAZY G RANCH SUBDIVISION, BLOCK 1, LOTS 7—11, PRESENTLY NOT IN THE TEMPLE CITY LIMITS, ALL LOCATED ON THE SOUTH SIDE OF FM 2305, ADJACENT TO BUCK LANE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves a zoning change from Agricultural District (A) to Neighborhood Service District (NS) on an approximately 0.6 acre tract of land identified as Tract 1, and from Agricultural District (A) to Urban Estate District (UE) on an approximately 4 acre tract of land identified as Tract 2, all being part of the James Bowers Survey, Abstract 81, Bell County, Texas, Lazy G Ranch Subdivision, Block 1, Lots 7—11, presently not in the Temple city limits, all located on the south side of FM 2305, adjacent to Buck Lane, 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 **5<sup>th</sup>** day of **November**, 2009.

PASSED AND APPROVED on Second Reading on the **19<sup>th</sup>** day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #8  
Regular Agenda  
Page 1 of 3

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

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-35: Consider adopting an ordinance authorizing a zoning change from General Retail District (GR) to Planned Development – General Retail District (PD-GR) on Lots 7 – 12, Block 2, Eugenia Terrace, located at 1402, 1414 and 1424 South 1st Street.

**P&Z COMMISSION RECOMMENDATION:** At its October 19, 2009 meeting, the Planning and Zoning Commission voted 6/0 in accordance with staff recommendation to recommend approval of Planned Development application Z-FY-09-35, including the binding site development plan and building elevations, with the following stipulations:

1. In the event of a conflict between this development plan and the text of the PD ordinance for this project, the stricter standard applies;
2. All standards of the Zoning Ordinance apply unless this development plan or the text of the PD ordinance for this project specifically modifies such standards;
3. The front façade of the existing building must be composed of the existing natural limestone with the addition of tan EIFS and soapstone accents to the upper half of the garage wall;
4. Natural limestone must be applied to the column between the overhead doors on the front façade of the existing building;
5. The corrugated metal on the north and south facades of the existing building must be painted tan to match the required EIFS;
6. The facades of the proposed addition must comply with the submitted building elevations and be composed of natural limestone and tan EIFS that matches the EIFS on the front and side facades of the existing building;
7. A maximum of three truck rental parking spaces are permitted on the subject property; and
8. Such spaces must only be used for customer pick-up and drop-off activities.

Commissioners Dusek, Secrest and Talley were absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adopting for November 19, 2009.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-35, from the Planning and Zoning meeting, October 19, 2009. This Planned Development (PD) application is submitted after a significant amount of time of the City working with the applicant to correct various code enforcement violations. The goal of this request is to:

1. Guide development on the property so that any existing known code violations are corrected;
2. Allow the property owner to conduct his minor vehicle servicing, truck rental and retail tire business on the site while improving the appearance of S. 1st Street, a Strategic Investment Zone and an important corridor in the Temple Medical and Education District (TMED) area of the City; and
3. Incorporate on the property some of the site design elements that the unadopted TMED Design Standards and Guidelines recommend.

### **REQUESTED FLEXIBILITY AND ENHANCED SITE DESIGN ELEMENTS**

The purpose of a PD is to grant flexibility to an applicant in regard to site and building design, land use and setbacks in exchange for enhanced site design elements that go “above and beyond” what is required in the Zoning Ordinance. The TMED Design Standards and Guidelines serve as a guide for providing enhanced site design elements. Staff is proposing a grant of approximately \$40,000 to assist the applicant in installing those site design elements that the TMED Design Standards and Guidelines recommend and that are significantly more expensive than the base site design elements that the Zoning Ordinance requires. The grant will be presented to the Council at second reading of this PD case.

The binding site development plan and building elevations differ from a standard site plan and elevations in the following ways:

#### **Parking**

- The base zoning district for the property, GR, does not allow a moving truck rental establishment. The applicant requests to be able to use the site for parking of rental trucks for pick-up and drop-off purposes only.
- The parking requirements for a tire store or a minor auto service establishment are one space per 200 square feet of floor area of the buildings on the site. Due to space constraints, the applicant requests one space per 250 square feet instead.

#### **Landscaping**

- The landscaping standards in the Zoning Ordinance require that five percent of the site be landscaped. The subject property is 31,288 square feet in area. Landscaping is proposed in the rights-of-way of S. 1<sup>st</sup> Street and W. Avenue N. The applicant proposes 5,334 square feet (17% of the site) of groundcover landscaping on the private and public property in the form of irrigated Asian Jasmine or similar species.
- The Zoning Ordinance requires one tree of any native species per 40 feet of street frontage. Thirteen trees or 39 shrubs would normally be required under the base standards. The TMED Design Standards and Guidelines recommend one Lacy Bark Elm per 25 feet of street frontage, one rose bush of the Knock Out cultivar per three feet of street frontage and it recommends that half of the shrub plantings be evergreen. The binding site development plan shows five proposed Lacy Bark Elms, three preserved Pecan trees and nine proposed Texas Redbuds or Crepe Myrtles. A total of nine trees are proposed along S. 1<sup>st</sup> Street and a total of five trees are proposed along W. Avenue N. The plan shows 19 Knock Out roses and 21

Texas Sage plants. In addition, the Lacy Bark Elms along S. 1<sup>st</sup> Street will be in tree wells on the sidewalk and have decorative tree grates, in compliance with the TMED Design Standards and Guidelines.

#### Masonry

- The masonry standards in the Zoning Ordinance apply to new construction. The applicant proposes masonry in the form of natural limestone, soapstone medallion accents and Exterior Insulation Finishing System (EIFS) for the existing building and the detached addition.
- The corrugated metal on the south and north sides of the existing building is proposed to be painted tan to match the EIFS.

#### Sidewalks

- The Zoning Ordinance requires new development along an arterial street (such as S. 1<sup>st</sup> Street) to provide a sidewalk a minimum of six feet in width. The TMED Design Standards and Guidelines recommend sidewalks a minimum of 10 feet in width. The applicant proposes to split the difference with a sidewalk eight feet in width due to site constraints and drainage that TxDOT requires along S. 1<sup>st</sup> Street.

#### Public Notice

Twenty notices of the Planning and Zoning Commission hearing were sent out. As of Friday, October 16 at 11 AM, one notice was returned in favor of and no notices were returned in opposition of the request. The newspaper printed notice of the Planning and Zoning Commission hearing on October 8, 2009 in accordance with state law and local ordinance

**FISCAL IMPACT:** None

#### **ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Binding Site Development Plan  
Binding Building Elevations  
Notice Map  
P&Z Staff Report (Z-FY-09-35)  
P&Z Minutes (10/19/09)  
Ordinance



Z-FY-09-35

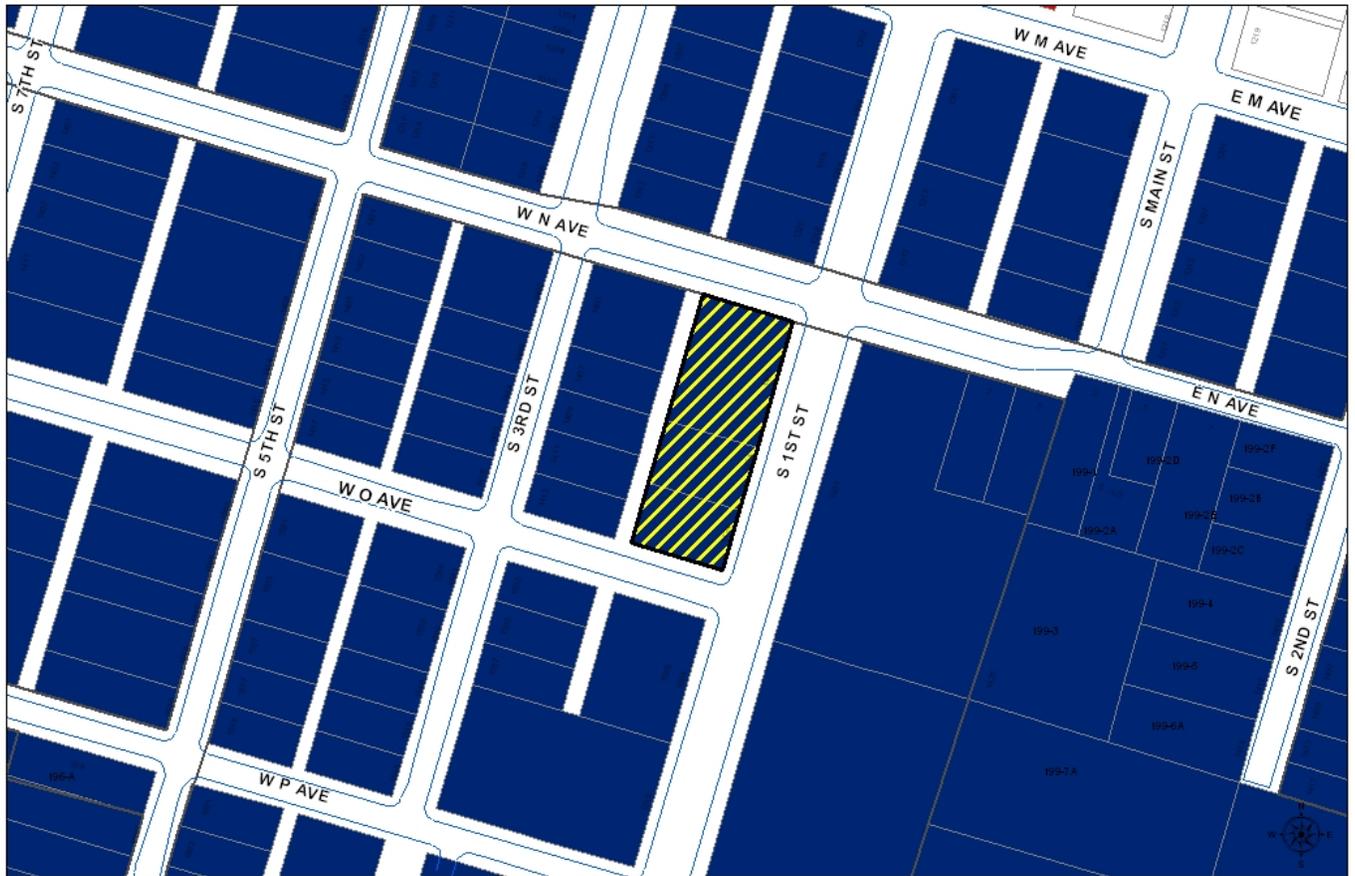
Proposed PD: Truck Rental, Tire Sales & Minor Auto Repair

1402 S 1st St



 ZFY0935

Feet 0 25 50 75 100  
J Stone 9.15.9



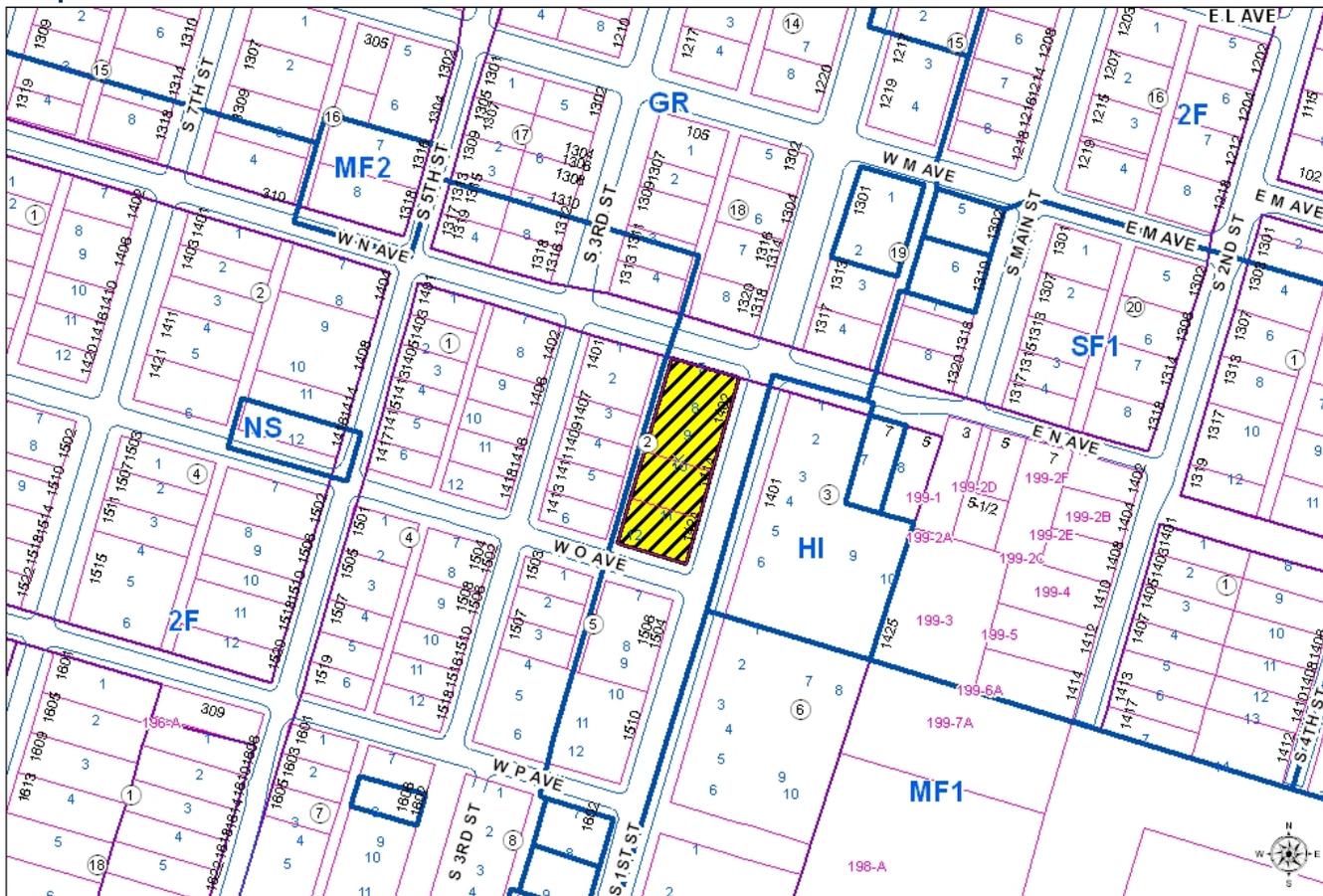
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|-----------------|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Temple Boundary | Neighborhood Conservation | Auto-urban Residential  | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional |
| ZFY0935, <Null> | 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 = 150 feet  
J Stone 9.15.9



Z-FY-09-35

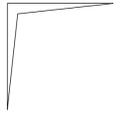
Proposed PD: Truck Rental, Tire Sales & Minor Auto Repair

1402 S 1st St



 ZFY0935

Feet 0 50 100 150 200  
J Stone 9.15.9



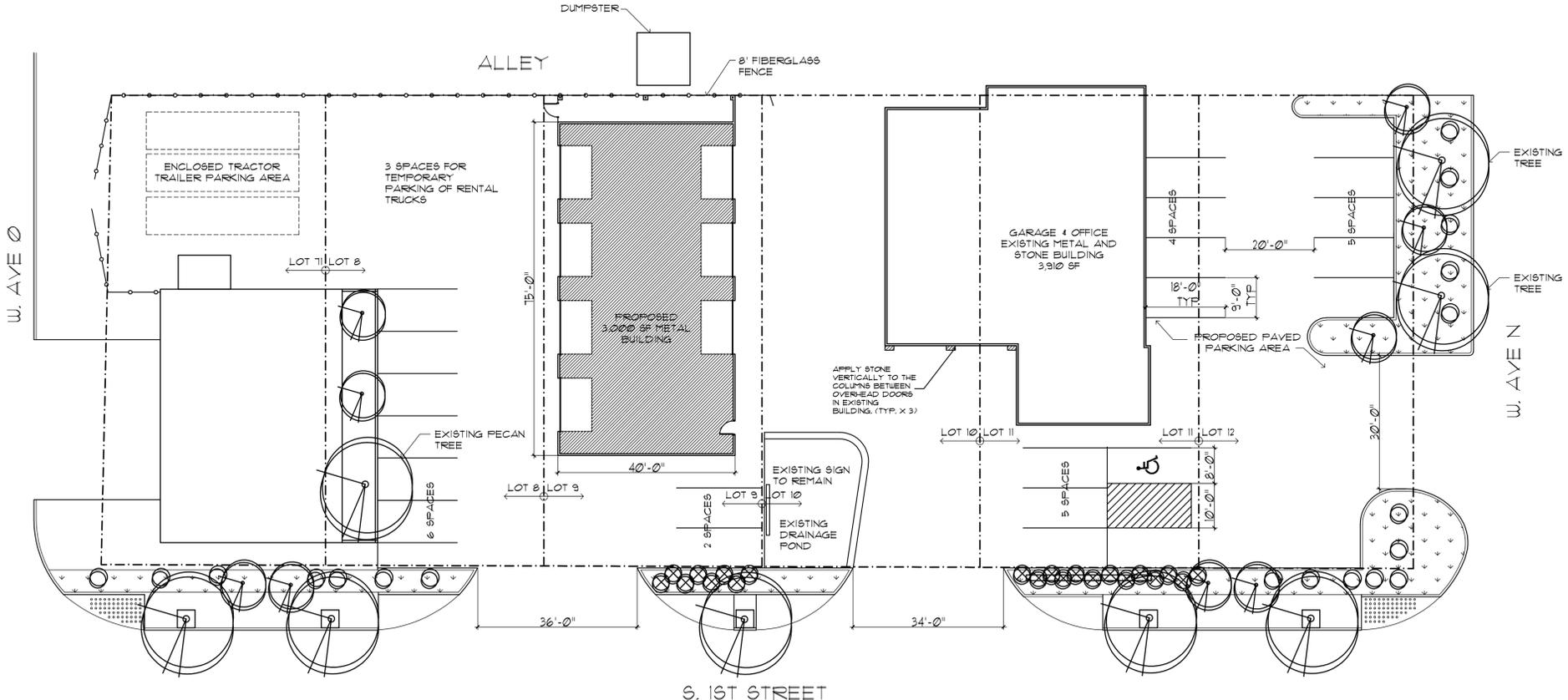
LANDSCAPING REQUIREMENTS	
PROPERTY AREA:	31288 SF (PRIVATE)
LANDSCAPED AREA-PRIVATE:	1743 SF (5.6%)
LANDSCAPED AREA-PUBLIC:	3591 SF
	5334 TOTAL (17%)
STREET FRONTAGE: 236 ft. - 1st Street, 106 ft. Ave. N, 114 ft. Ave. O + 516 ft. total	
TREES REQUIRED:	12 - 1st Street, 4 - Ave. N, 5 - Ave. O
TREES PROVIDED:	9 - 1st Street, 5 - Ave. N, 0 - Ave. O
SHRUBS PROVIDED:	33 - 1st Street, 1 - Ave. N, 0 - Ave. O

PARKING	
EXISTING SF:	3,910 SF
PROPOSED ADDITION SF:	3,000
TOTAL SF	6,910
PARKING RATIO:	1 SPACE PER 250 SF
PARKING SPACES REQUIRED:	22
PARKING SPACES PROVIDED:	22

**NOTES**

- ALL SIDEWALKS, CROSS WALKS (AT DRIVEWAYS) AND RAMP(S) MUST BE ADA COMPLIANT. ADA RAMP(S) TO BE PROVIDED AT THE INTERSECTIONS OF AVE O AND AVE N WITH TRUNCATED DOME SURFACE.
- REGARDLESS OF SCALE, ALL CURB RADIUS ALONG S. 1ST STREET ARE INTENDED TO BE 25'

LANDSCAPE LEGEND	
	LACY BARK ELM OR LIVE OAK (MIN 5" IN HEIGHT AND 2" CALIPER) PROVIDED BY THE CITY
	SINGLE TRUCK NATCHEZ CREPE MYRTLE OR TEXAS REDBUD (MIN 5' HEIGHT)
	KNOCK OUT ROSE (MIN 5 GALLON)
	TEXAS SAGE OR SIMILAR EVERGREEN SPECIES (MIN 5 GALLON)
	TREE GRATE PER TMD STANDARD (4'X4')
	LANDSCAPED AREA COMPOSED OF ASIAN JASMINE OR SIMILAR SPECIES



**1** PROPOSED SITE PLAN  
1/16" = 1'-0"



**Architectural Edge Inc.**

3010 Scott Blvd.  
Suite 102  
Temple, Texas  
76504

254.771.2054 P  
254.773.2144 F

•architecture•  
•design services•  
•consultation•  
email@archedge.com



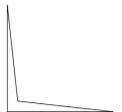
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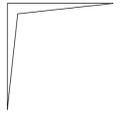
**EZ Tire & Lube**  
**SITE PLAN**  
City of Temple  
Temple, TX

09.30.09  
RP  
TLM  
10/27/09

proj. date:  
proj. no.:  
drawn by:  
checked by:  
revision 1:  
revision 2:  
revision 3:

sheet no.  
**A-1.0**



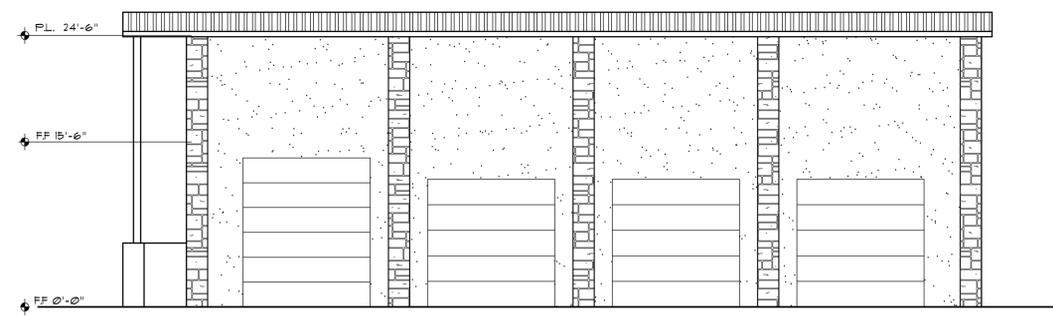


**Architectural  
Edge Inc.**

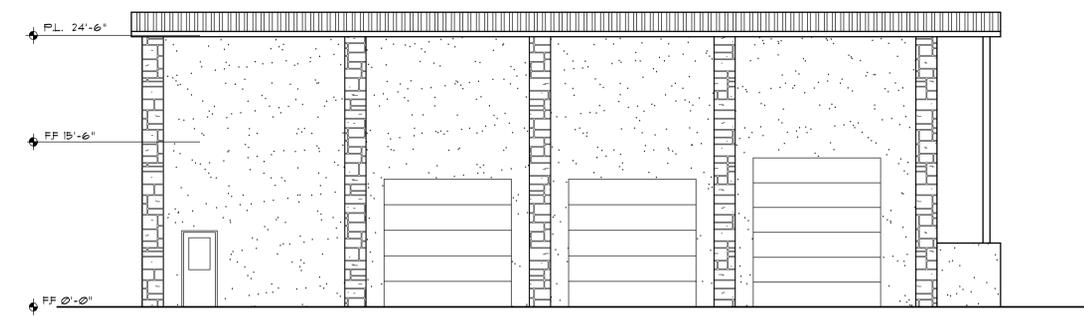
3010 Scott Blvd.  
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•architecture•  
•design services•  
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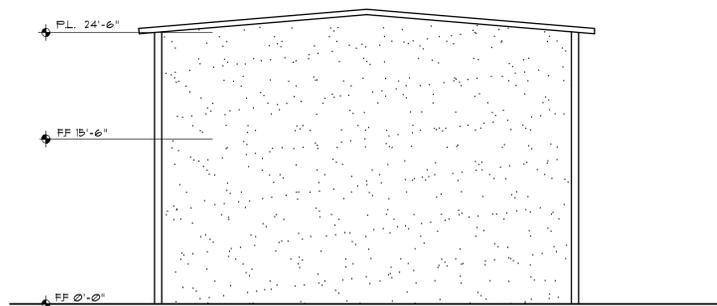
**4 NORTH ELEVATION**  
1/8" = 1'-0"



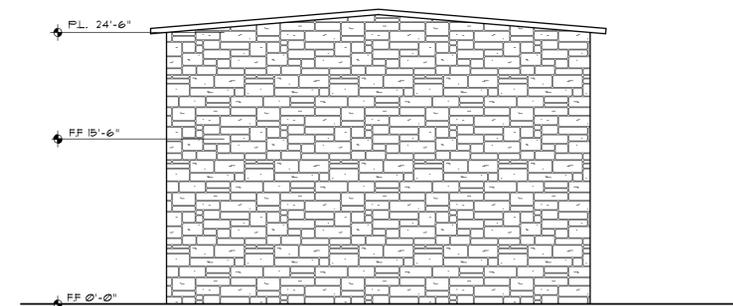
**3 SOUTH ELEVATION**  
1/8" = 1'-0"

**GENERAL NOTES**

- BUILDING OCCUPANCY IS S-1 AND CONSTRUCTED AS TYPE IIB CONSTRUCTION
- TYPE IIB CONSTRUCTION PROHIBITS THE USE OF WOOD STRUCTURE AND DOES NOT HAVE AN AUTOMATIC FIRE SUPPRESSION SYSTEM
- MAXIMUM ALLOWABLE SQUARE FOOTAGE ON SECOND FLOOR IS 2,000 SF, AND MUST BE USED AS STORAGE.



**2 EAST ELEVATION**  
1/8" = 1'-0"



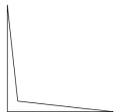
**1 WEST ELEVATION**  
1/8" = 1'-0"

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**EZ Tire & Lube**  
City of Temple  
Temple, TX

09.30.09 RP  
proj. date:  
proj. no.:  
drawn by:  
checked by:  
revision 1:  
revision 2:  
revision 3:

sheet no.  
**A-2.0**

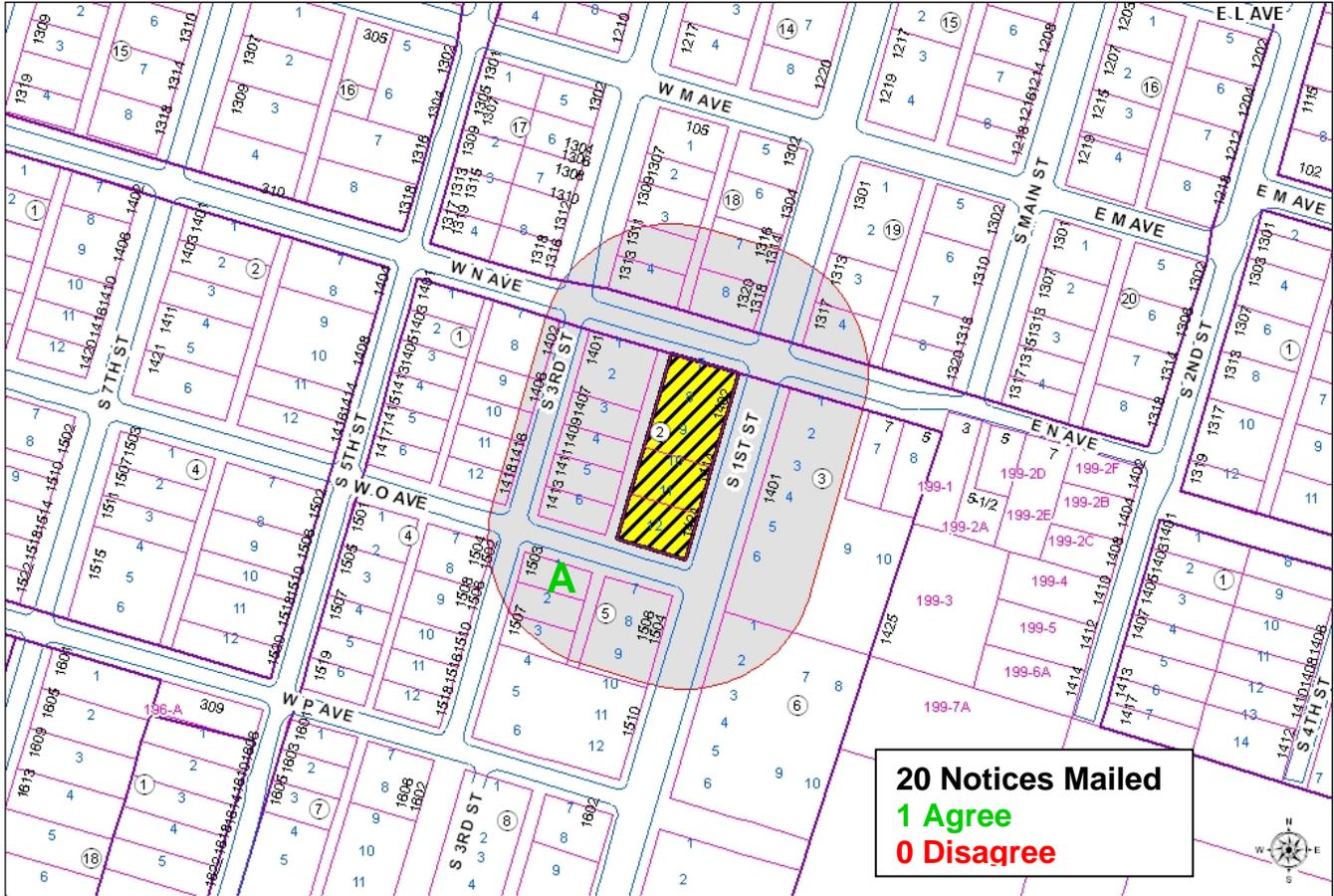




Z-FY-09-35

Proposed PD: Truck Rental, Tire Sales & Minor Auto Repair

1402 S 1st St



 ZFY0935  ZFY0935 Buffer

Feet 0 50 100 150 200

J Stone 9.15.9



# PLANNING AND ZONING COMMISSION AGENDA ITEM

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10/19/09  
Item #4  
Regular Agenda  
Page 1 of 5

**APPLICANT / DEVELOPMENT:** Kelum Pelawata

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

**ITEM DESCRIPTION:** Z-FY-09-35 Hold a public hearing to discuss and recommend action on a zone change request from General Retail District (GR) to Planned Development – General Retail District (PD-GR) on Lots 7 – 12, Block 2, Eugenia Terrace, located at 1402, 1414 and 1424 South 1<sup>st</sup> Street. (Kellum Pelawata)

**BACKGROUND:** This Planned Development (PD) application is submitted after a significant amount of time of the City working with the applicant to correct various code enforcement violations. The goal of this request is to:

- (1) Guide development on the property so that any remaining code violations are corrected;
- (2) Allow the property owner to conduct his minor vehicle servicing, truck rental and retail tire business on the site in a way that has as little negative impact as possible on S. 1<sup>st</sup> Street, an important corridor in the Temple Medical and Educational District (TMED) area of the City; and
- (3) Incorporate on the property some of the site design elements that the unadopted TMED Design Standards and Guidelines recommend.

The purpose of a PD is to grant flexibility to an applicant in regard to site and building design, land use and setbacks in exchange for enhanced site design elements that go “above and beyond” what is required in the Zoning Ordinance. The review process is based on negotiation. The Planning and Zoning Commission and City Council may recommend and approve modifications to the Staff recommendation, binding site development plan and building elevations if they believe such modifications would better serve the public interest. The City Attorney’s Office, the City Manager’s Office and the Planning Department have had several meetings with the applicant in order to strike a balance between his needs and the needs of the public. Any modification to the approved binding site development plan, building elevations or PD conditions would require a recommendation from the Planning and Zoning Commission and approval from the City Council.

The Assistant City Manager has approved approximately \$40,000 in grant money to assist the applicant in installing those site design elements that the TMED Design Standards and Guidelines recommend and that are significantly more expensive than the base site design elements that the Zoning Ordinance requires.

## REQUESTED FLEXIBILITY AND ENHANCED SITE DESIGN ELEMENTS

### Parking

The base zoning district for the property, GR, does not allow a moving truck rental establishment. The applicant requests to be able to use the site for parking of rental trucks for pick-up and drop-off purposes only. The binding site development plan shows three parking spaces for such activity.

The parking requirements for a tire store or a minor auto service establishment are one space per 200 square feet of floor area of the buildings on the site. Due to space constraints, the applicant requests one space per 250 square feet instead. The binding site development plan shows 22 parking spaces, in compliance with the request.

### Landscaping

The landscaping standards in the Zoning Ordinance require that five percent of the site be landscaped with living ground cover if the proposed building addition is at least double the size of the existing building. Three percent of the site may be landscaped if the public right-of-way is landscaped. If he were applying simply for a building permit, the applicant would not be required to provide landscaping. The applicant wishes to provide landscaping but not to the extent required if he were doubling the size of the existing building. The subject property is 32,400 square feet in area. Five percent of the subject property lot area is 1,620 square feet. Landscaping is proposed in the rights-of-way of S. 1<sup>st</sup> Street and W. Avenue N. The applicant requests that no landscaping be required for the W. Avenue O right-of-way and that the three percent landscaping rule be applied to the property. Three percent of 32,400 square feet is 972. The applicant proposes 1,100 square feet of groundcover landscaping in the form of irrigated Asian Jasmine or similar species.

The Zoning Ordinance requires one tree of any native species per 40 feet of street frontage. Thirteen trees or 39 shrubs would normally be required under the base standards. The TMED Design Standards and Guidelines recommend one Lacy Bark Elm per 25 feet of street frontage, one rose bush of the Knock Out cultivar per three feet of street frontage and it recommends that half of the shrub plantings be evergreen. The binding site development plan shows five proposed Lacy Bark Elms along S. 1<sup>st</sup> Street and W. Avenue N, three preserved Pecan trees and two proposed Texas Redbuds or Crepe Myrtles. The plan shows 19 Knock Out roses and 21 Texas Sage plants along these same street frontages. The evergreen Texas Sages will function to partially screen the parking spaces along S. 1<sup>st</sup> Street. In addition, in compliance with the TMED Design Standards and Guidelines recommendations, the Elms along S. 1<sup>st</sup> Street will be in wells on the sidewalks and have decorative tree grates.

### Masonry

The masonry standards in the Zoning Ordinance apply to new construction. For the existing building and the proposed detached addition shown on the binding site development plan and building elevations, the applicant proposes masonry in the form of natural limestone, soapstone medallion accents and synthetic stucco, also known as Exterior Insulation Finishing System (EIFS). The corrugated metal on the south and north sides of the building is proposed to be painted tan to match the EIFS. The following images show approximations of the front and side facades after the addition of natural limestone and EIFS. The proposed building addition for the property is detached, rather than attached, as the photos below indicate.



- Limestone
- Tan Colored EIFS
- Soapstone Medallions
- Painted Metal Siding

**Sidewalks**

The Zoning Ordinance requires new development along an arterial street (such as S. 1<sup>st</sup> Street) to provide a sidewalk a minimum of six feet in width. The TMED Design Standards and Guidelines recommend sidewalks a minimum of 10 feet in width. The applicant proposes to split the difference with a sidewalk eight feet in width.

**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
North	GR	W. Ave. N / Multiple-family dwelling	
East	HI	S. 1 <sup>st</sup> St. / Building material sales	

Direction	Zoning	Current Land Use	Photo
South	GR	W. Ave. O / Minor vehicle service	
West	2F	Alley / Single- family dwellings	

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

#### Future Land Use and Character

The Future Land Use and Character Map designates the property as TMED. The redevelopment of the property in the form of the PD request, along with the features of the binding site development plan and building elevations, complies with the Future Land Use and Character Map.

#### Thoroughfare Plan

The Thoroughfare Plan designates South 1<sup>st</sup> Street as a major arterial. The PD request complies with the Thoroughfare Plan.

#### Availability of Public Facilities

A six-inch water line and a six-inch sewer line serve the subject property. Public facilities are available.

#### Public Notice

Twenty notices were sent out. As of Friday, October 16 at 11 AM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the public hearing on October 8, 2009 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of the Planned Development application Z-FY-09-35, including the binding site development plan and building elevations, with the following stipulations:

1. In the event of a conflict between this development plan and the text of the PD ordinance for this project, the stricter standard applies;
2. All standards of the Zoning Ordinance apply unless this development plan or the text of the PD ordinance for this project specifically modifies such standards;
3. The front façade of the existing building must be composed of the existing natural limestone with the addition of tan EIFS and soapstone accents to the upper half of the garage wall;

4. Natural limestone must be applied to the column between the overhead doors on the front façade of the existing building;
5. The corrugated metal on the north and south facades of the existing building must be painted tan to match the required EIFS;
6. The facades of the proposed addition must comply with the submitted building elevations and be composed of natural limestone and tan EIFS that matches the EIFS on the front and side facades of the existing building;
7. A maximum of three truck rental parking spaces are permitted on the subject property; and
8. Such spaces must only be used for customer pick-up and drop-off activities.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Zoning Map

Land Use and Character Map

Aerial

Binding Site Development Plan

Binding Building Elevations

Notice Map

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

**MONDAY, OCTOBER 19, 2009**

**ACTION ITEMS**

**Item 4: Z-FY-09-35:** Hold a public hearing to discuss and recommend action on a zoning district change request from General Retail District (GR) to Planned Development – General Retail District (PD-GR) on Lots 7 – 12, Block 2, Eugenia Terrace, located at 1402, 1414 and 1424 South 1st Street. (Applicant: Kellum Pelawata)

Mr. Mabry stated this Planned Development (PD) application was submitted after a significant amount of time of the City working with the applicant to correct various code enforcement violations. The goal of this request is to:

- (1) Guide development on the property so that any remaining code violations are corrected;
- (2) Allow the property owner to conduct his minor vehicle servicing, truck rental and retail tire business on the site in a way that has as little negative impact as possible on S. 1st Street, an important corridor in the Temple Medical and Educational District (TMED) area of the City; and
- (3) Incorporate on the property some of the site design elements that the unadopted TMED Design Standards and Guidelines recommend.

Mr. Mabry explained the purpose of a PD is to grant flexibility to an applicant in regard to site and building design, land use and setbacks in exchange for enhanced site design elements that go “above and beyond” what is required in the Zoning Ordinance. The review process is based on negotiation. The Planning and Zoning Commission and City Council may recommend and approve modifications to the Staff recommendation, binding site development plan and building elevations if they believe such modifications would better serve the public interest. The City Attorney’s Office, the City Manager’s Office and the Planning Department have had several meetings with the applicant in order to strike a balance between his needs and the needs of the public. Any modification to the approved binding site development plan, building elevations or PD conditions would require a recommendation from the Planning and Zoning Commission and approval from the City Council.

Mr. Mabry stated the Assistant City Manager has approved approximately \$40,000 in grant money to assist the applicant in installing those site design elements that the TMED Design Standards and Guidelines recommend and

that are significantly more expensive than the base site design elements that the Zoning Ordinance requires.

Mr. Mabry stated the parking requirements for a tire store or a minor auto service establishment are one space per 200 square feet of floor area of the buildings on the site. Due to space constraints, the applicant requests one space per 250 square feet instead. The binding site development plan shows 22 parking spaces, in compliance with the request, in addition to the three (3) temporary parking spaces provided for pick up and drop off of rental trucks.

Mr. Mabry stated the landscaping standards in the Zoning Ordinance required five (5) percent of the site be landscaped with living ground cover if the proposed building addition is at least double the size of the existing building. Three (3) percent of the site may be landscaped if the public right-of-way is landscaped. If applicant were applying simply for a building permit, the applicant would not be required to provide landscaping. Mr. Mabry stated the applicant wished to provide landscaping but not to the extent required if he were doubling the size of the existing building. The subject property is 32,400 square feet in area. Five (5) percent of the subject property lot area is 1,620 square feet. Landscaping is proposed in the rights-of-way of S. 1st Street and W. Avenue N. The applicant requested no landscaping be required for the W. Avenue O right-of-way and that the three (3) percent landscaping rule be applied to the property. Mr. Mabry stated three (3) percent of 32,400 square feet is 972. The applicant proposes 1,100 square feet of groundcover landscaping in the form of irrigated Asian Jasmine or similar species.

Mr. Mabry stated the Zoning Ordinance required one tree of any native species per 40 feet of street frontage. Thirteen trees or 39 shrubs would normally be required under the base standards. The TMED Design Standards and Guidelines recommend one Lacy Bark Elm per 25 feet of street frontage, one rose bush of the Knock Out cultivar per three feet of street frontage and it recommends that half of the shrub plantings be evergreen. Mr. Mabry also stated the binding site development plan showed five (5) proposed Lacy Bark Elms along S. 1st Street and W. Avenue N, three preserved Pecan trees and two proposed Texas Redbuds or Crepe Myrtles. The plan showed 19 Knock Out roses and 21 Texas Sage plants along these same street frontages. The evergreen Texas Sages will function to partially screen the parking spaces along S. 1st Street. Mr. Mabry stated in addition, in compliance with the TMED Design Standards and Guidelines recommendations, the Elms along S. 1st Street will be in wells on the sidewalks and have decorative tree grates.

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Finishing System (EIFS). The corrugated metal on the south and north sides of the building is proposed to be painted tan to match the EIFS. The images shown gave approximations of the front and side facades after the addition of natural limestone and EIFS. The proposed building addition for the property was detached, rather than attached

Mr. Mabry stated 20 notices were sent out; one returned in favor of the request and zero in opposition.

Mr. Mabry stated Staff recommended approval of the Planned Development application Z-FY-09-35, including the binding site development plan and building elevations, with the following stipulations:

1. In the event of a conflict between this development plan and the text of the PD ordinance for this project, the stricter standard applied;
2. All standards of the Zoning Ordinance apply unless this development plan or the text of the PD ordinance for this project specifically modified such standards;
3. The front façade of the existing building must be composed of the existing natural limestone with the addition of tan EIFS and soapstone accents to the upper half of the garage wall;
4. Natural limestone must be applied to the column between the overhead doors on the front façade of the existing building;
5. The corrugated metal on the north and south facades of the existing building must be painted tan to match the required EIFS;
6. The facades of the proposed addition must comply with the submitted building elevations and be composed of natural limestone and tan EIFS that matches the EIFS on the front and side facades of the existing building;
7. A maximum of three truck rental parking spaces are permitted on the subject property; and
8. Such spaces must only be used for customer pick-up and drop-off activities.

Chair Pilkington opened the public hearing for comment.

Ms. Tanya Mikeska, architect for and representing the applicant, approached the Commission and stated this issue had been discussed with both the City

and the applicant and Mr. Pelawatta had agreed to the terms. Ms. Mikeska offered to answer any questions from the Commission.

Commissioner Barton asked if the applicant owned the old rock florist building and Ms. Mikeska responded yes. Commissioner Barton also asked if anything would be done to that building. Ms. Mikeska said no, the applicant tried to get some parking on the south end, the Avenue O side, but it was agreed from both City and applicant it was too visible for parking. Currently, there are no modifications short of fencing to the west side of the building.

Commissioner Staats asked if the building was currently being used for anything and Ms. Mikeska responded "storage" and no changes or updates were going into that building.

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

Commissioner Martin made a motion to approve the PD including the 8 stipulations provided by the City and Commissioner Hurd made the second.

*Motion passed: (6:0)*

Commissioners Dusek, Secret and Vice-Chair Talley absent.

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

[PLANNING NO. Z-FY-09-35]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM GENERAL RETAIL DISTRICT (GR) TO PLANNED DEVELOPMENT—GENERAL RETAIL DISTRICT (PD-GR) ON LOTS 7—12, BLOCK 2, EUGENIA TERRACE, LOCATED AT 1402, 1414, AND 1424 SOUTH 1<sup>ST</sup> STREET, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the owner of the property located on Lots 7—12, Block 2, Eugenia Terrace, located at 1402, 1414, and 1424 South 1<sup>st</sup> Street, has requested that the property be rezoned from General Retail District (GR) to Planned Development—General Retail District (PD-GR); and

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

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

**Part 1:** The City Council approves a zoning change from General Retail District (GR) to Planned Development—General Retail District (PD-GR) on Lots 7—12, Block 2, Eugenia Terrace, located at 1402, 1414 and 1424 South 1<sup>st</sup> Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

**Part 2:** In accordance with Sections 7-500 through 7-509 of the Comprehensive Zoning Ordinance of the City of Temple, Texas, Ordinance No. 91-2101, is amended by changing the zoning classification of the property described in Part 1 above, to Planned Development—General Retail District (PD-GR), and shall comply with all applicable sections of the Code of Ordinances of the City of Temple, Texas, and all local, State and Federal laws and regulations as they may now read or hereafter be amended, including but not limited to the following conditions:

- (a) The use and development standards of the property shall conform to the requirements of the General Retail District;

- (b) Moving truck rental is allowed;
- (c) In the event of a conflict between the development plan, attached hereto as Exhibit B, and the text of this ordinance, the stricter standard applies;
- (d) All standards of the Zoning Ordinance apply unless the development plan or the text of this ordinance specifically modifies such standards;
- (e) The front façade of the existing building must be composed of the existing natural limestone with the addition of tan EIFS and soapstone accents to the upper half of the garage wall;
- (f) Natural limestone must be applied to the column between the overhead doors on the front façade of the existing building;
- (g) The corrugated metal on the north and south facades of the existing building must be painted tan to match the required EIFS;
- (h) The facades of the proposed addition must comply with the submitted building elevations and be composed of natural limestone and tan EIFS that matches the EIFS on the front and side facades of the existing building;
- (i) A maximum of three truck rental parking spaces are permitted on the subject property; and
- (j) Such spaces must only be used for customer pick-up and drop-off activities.

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

**Part 3:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

**Part 4:** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs 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 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 **5<sup>th</sup>** day of **November**, 2009.

PASSED AND APPROVED on Second Reading on the **19<sup>th</sup>** 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

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11/05/09  
Item #9  
Regular Agenda  
Page 1 of 3

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

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

**ITEM DESCRIPTION:** SECOND READING – PUBLIC HEARING – Z-FY-09-37: Consider adopting an ordinance amending the Zoning Ordinance to regulate the use of property for the sale of alcoholic beverages for on- and off-premise consumption.

### **PLANNING & ZONING COMMISSION RECOMMENDATION:** (October 5, 2009)

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;
2. Clarified the definition for off-premises alcohol sales/beer & wine store (deleting the generic definition for alcoholic beverages, sales for consumption off-premises); and
3. 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.

### **PLANNING & ZONING COMMISSION RECOMMENDATION:** (October 19, 2009)

The Staff recommended and the P&ZC concurred in the need for some minor changes to the definitions for, and terminology relating to, the sale of alcohol for on-premise consumption contained in the definitions, land use table and conditional use permit sections of the Zoning Ordinance.

The Staff recommended and the P&ZC concurred amending the Zoning Ordinance to add a new section specifically relating to site plan standards for conditional use permits for the sale of alcohol for off-premise consumption:

#### 7-611.5 CONDITIONAL USE PERMITS (CUP) SITE PLAN STANDARDS FOR OFF-PREMISES COMSUMPTION, PACKAGE STORE.

In addition to the general Conditional Use Permit standards in Sec. 7-600 above, the following conditions apply to Conditional Use Permits allowing an off-premise consumption package store.

1. Such use must comply with Chapter 4, "Alcoholic Beverages," of the City Code;
2. Outdoor lighting must comply with the standards in Sec. 7-566(G) of the Zoning Ordinance;
3. If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys;
4. The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;
5. An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
6. Parking (in any zoning district including in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances);
7. Window signs are prohibited; and
8. Lighted advertising signs must be turned off at closing time.

**STAFF RECOMMENDATION:** Conduct public hearing and 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-09-37, from the P&ZC meetings, October 5th and October 19th:

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 Sales for Off-Premise Consumption (To Go).** 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 sale of alcohol for off-premise consumption: **one for beer and wine, and one for package stores.**

We are recommending that the sale of beer and wine for off-premise consumption 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 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 Sales for On-Premise Consumption.** The Planning & Zoning Commission met on October 19<sup>th</sup> and recommended house-cleaning changes to the definitions related to the sale of alcohol for on-premise consumption to improve the consistency of terms used in the definition, land use tables and conditional use permit section.

The P&ZC also recommended the site plan standards referenced above for CUPs for off-premise consumption.

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 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 sale of alcohol for on-premise consumption.**

**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 sale of alcohol for on- and off-premise consumption no later than your November 5<sup>th</sup> meeting.

**If the November 3<sup>rd</sup> ballot item is not approved by voters, we will likely recommend that you make only house cleaning changes to clean up the zoning language.**

**FISCAL IMPACT:** N/A

**ATTACHMENTS:**

- [P&Z Minutes \(October 5, 2009\)](#)
- [P&Z Minutes \(October 19, 2009\)](#)
- [P&Z Staff Report \(Z-FY-09-37\)](#)
- [P&Z Staff Report \(Z-FY-10-01\)](#)
- [P&Z Staff Report \(Z-FY-10-02\)](#)
- [Ordinance](#)

**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 Secret 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, Secret, 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



# PLANNING AND ZONING COMMISSION AGENDA ITEM

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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 3<sup>rd</sup> 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 3<sup>rd</sup> 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.

<b>RETAIL AND SERVICE TYPE USES (Existing)</b>								
<b>ORDINANCE SECTION 7-109</b>								
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	•	•	•	•	•

<b>RETAIL AND SERVICE TYPE USES (PROPOSED)</b>								
<b>ORDINANCE SECTION 7-109</b>								
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 19<sup>th</sup> 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 3<sup>rd</sup> 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 15<sup>th</sup> meeting. They will have the benefit of the P&ZC's recommendation on off-premise sales of alcohol at that October 15<sup>th</sup> meeting, but they won't have the P&ZC's recommendation for on-premises sales of alcohol until the 1<sup>st</sup> meeting in November—which will allow the P&ZC to meet on October 19<sup>th</sup> 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



# PLANNING AND ZONING COMMISSION AGENDA ITEM

10/15/09  
Item #5  
Regular Agenda  
Page 1 of 6

**APPLICANT / DEVELOPMENT:** City of Temple

**CASE MANAGER:** Tim Dolan, AICP, Planning Director

**Z-FY-10-01:** Hold a public hearing to discuss and recommend action to consider a text amendment to Section 7-100 (Uses of Land & Buildings) of the City of Temple Zoning Ordinance to regulate the use of on-premises sales of alcoholic beverages. (Applicant: City of Temple)

**BACKGROUND:**

The purpose of the public hearing is to receive a recommendation from the Commission on alcohol beverage sales for on-premise consumption in response of the City Council's public hearing from its regularly scheduled meeting October 15, 2009. The Council considered several issues including the use of property for on- and off-premise sale of alcoholic beverages, with a second reading scheduled November 5th (prior to the vote being officially canvassed for the November 3<sup>rd</sup> election, which is scheduled November 8, 2009. (Staff again asked a representative from the Texas Alcoholic Beverage Commission to attend today's meeting.) (At your meeting October 5, the Commission recommended a CUP for an off-premises package store in the GR, C, CA, HI and LI zoning districts when the Planning Staff focused initially on the off-premise sale of alcoholic beverages.) The following use chart shows the zoning districts for the various types of on-premises sales of alcoholic beverages with highlighted language in yellow and deleted language struck through.

TABLE 7-109  
Retail and Service Uses (condensed0

	MU	O-1	O-2	NS	GR	CA	C	LI	HI
ALCOHOLIC BEVERAGES SALES/ <del>FOR ON-PREMISE CONSUMPTION ON SITE:</del>									
a) BEER <del>AND WINE</del> ONLY LESS THAN 75% REVENUE FROM ALCOHOL*	C			C	•	•	•	•	•
b) <del>ALL ALCOHOLIC BEVERAGES MIXED DRINKS (INCL. BEER)</del> 75% OR MORE REVENUE FROM ALCOHOL*			C		C	C	C	C	C
c) <del>ALL ALCOHOLIC BEVERAGES MIXED DRINKS (INCL. BEER)</del> >50% AND <75% REVENUE FROM ALCOHOL*			C	C	C	C	C	C	C
d) <del>ALL ALCOHOLIC BEVERAGES MIXED DRINKS (INCL. BEER)</del> 50% OR LESS REVENUE FROM ALCOHOL*	C		C	C	C	•	C	C	C

\*If alcohol sales are planned, must conform to appropriate listing and its standards, including distances from other uses (See Chapter 4, Code of Ordinances, and Section 7-611 of the Zoning Ordinance).

Staff will also clear up small items to update and ensure the definitions conform to the Land Use Chart plus clear up the CUP requirements, and those items follow the land use chart.

Public Notice

The newspaper printed notice of the public hearing October 6, 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) of the City of Temple Zoning Ordinance to regulate the use of on-premises sales of alcoholic beverages

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:** Definitions, CUP Requirements (added language highlighted, deleted language struck through)

**ALCOHOLIC BEVERAGES, SALE OF BEER AND WINE ONLY FOR ON-PREMISE CONSUMPTION - LESS THAN 75% GROSS REVENUE FROM ALCOHOL SALES.** This is the standard **land** use listing which will solely allow the serving of beer **for sale of beer and wine only** for on-premise consumption where the gross revenue from the on-premise sales of beer **and wine** is less than 75% of total gross revenue. Allowed as a permitted use in Central Area, Commercial, Light Industrial, and Heavy Industrial districts, and by conditional use permit in General Retail, Neighborhood Service, and 0-2 Office districts.

**ALCOHOLIC BEVERAGES, SALE OF ALL ALCOHOLIC BEVERAGES BEER ONLY FOR ON-PREMISE CONSUMPTION - EQUAL TO OR EXCEEDING 75% OF GROSS REVENUE FROM ALCOHOL SALES.** This is the standard **land** use listing which will solely allow the serving of beer **for sale of all alcoholic beverages** for on-premise consumption where the gross revenue from on-premise sales of beer **alcoholic beverages** equals or exceeds 75% of gross revenues. Allowed by conditional use permit in 0-2 Office, General Retail, Central Area, Commercial, Light Industrial, and Heavy Industrial districts.

**ALCOHOLIC BEVERAGES, SALE OF MIXED DRINKS ALL ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION - LESS THAN 75% GROSS REVENUE FROM ALCOHOL SALES.** This is the typical **land** use listing which will allow the serving of **for sale of all** alcoholic beverages for on-premise consumption where the gross revenue from the on-premise sales of alcoholic beverages is **greater than 50% and** less than 75% of total gross revenue. Allowed by conditional use permit in 0-2 Office, Neighborhood Service, General Retail, Central Area, Commercial, Light Industrial, and Heavy Industrial districts.

**ALCOHOLIC BEVERAGES, SALE OF MIXED DRINKS ALL ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION - EQUAL TO OR EXCEEDING 75% OF GROSS REVENUE FROM ALCOHOL SALES.** This is the standard **land** use listing which will allow the serving of **for sale of all** alcoholic beverages for on-premise consumption where the gross revenue from on-premise sales of alcohol beverages equals or exceeds 75% **is 50% or less** of gross revenues. Allowed by conditional use permit in 0-2 Office, General Retail, Central Area, Commercial, Light Industrial, and Heavy Industrial districts.

**7-610 CONDITIONAL USE PERMITS FOR SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION** ~~ON-PREMISE SALE OF BEER OR MIXED DRINKS.~~

(a) A conditional use permit is required to allow ~~sale~~ certain categories of alcoholic beverages for on-premise consumption ~~on premise sale of beer or mixed drinks (including beer)~~ as shown in the land use chart, Section 7-1057, Entertainment and Recreational Uses.

(b) The following general conditions apply to all conditional use permits allowing the sale of alcoholic beverages for on-premise consumption ~~of beer or mixed drinks (including beer)~~.

1. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within twenty-four months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet ~~the~~ his obligations hereunder.
6. The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is ~~(a)~~ incompatible with the surrounding uses of property, or ~~(2)~~ detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
9. A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.

10. All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

- (c) The following conditions apply to conditional use permits allowing the **sale of alcoholic beverages for** on-premise **consumption** ~~sale of mixed drinks (including beer)~~, where the gross revenue from the ~~on-premise~~ sale of alcoholic beverages is less than 75% of the total gross revenue of the establishment, including establishments in Central Area District where sale of alcoholic beverages is more than 50% and less than 75% of the total gross revenue of the establishment.

No conditional use permit may be granted if the establishment for which a permit is sought is within ~~three hundred (300)~~ feet of a church, public school or public hospital. 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, ~~shall be along the property lines of the street fronts and from front door to front door~~, and in a direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public **or private** school shall be:

- (1) In a direct line from the property line of the public **or private** school to the property line of the place of business, and in a direct line across intersections; or
- (2) 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 permittee is located.

- (d) The following conditions apply to conditional use permits allowing the **sale of all alcoholic beverages for** on-premise ~~sale of beer only or mixed drinks (including beer)~~ **consumption**, where the gross revenue from the on-premise sale of alcoholic beverages is 75% or more of the total gross revenue of the establishment.

No conditional use permit may be granted if the establishment for which a permit is sought is within three hundred ~~(300)~~ feet of a church, public **or private** school ~~or denominational school~~, public hospital, publicly owned park, or any residentially zoned or developed lot. The measurement of the distance between the place of business where alcoholic beverages are sold and a protected use shall be made in a straight line from the perimeter of the premises to be permitted to the nearest property line of a church, public or **private** ~~denominational~~ school, hospital, publicly owned park, any residentially zoned district, residential lot, or any residential development. A location in a multi-storied building on other than the ground floor will be treated as though it were on the ground floor for purpose of this straight line distance measurement between property lines.



# PLANNING AND ZONING COMMISSION AGENDA ITEM

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10/19/09  
Item #7  
Regular Agenda  
Page 1 of 1

**APPLICANT / DEVELOPMENT:** City of Temple

**CASE MANAGER:** Tim Dolan, AICP, Planning Director

**Z-FY-10-02:** Hold a public hearing to discuss and recommend action to consider text amendments to Section 7-611.5 (Site Plan Standards for Off-Premises Package Stores) for site plan standards required for off-premises package stores.

**BACKGROUND:**

The purpose of the public hearing is to receive a recommendation from the Commission site plan standards required for off-premises package stores. At your meeting October 5, the Commission recommended a CUP for an off-premises package store in the GR, CA, CA, HI, and LI zoning districts when the Planning Staff initially focused on the off-premises sale of alcoholic beverages. The language shows suggested requirements for an off-premises package store. The item would be scheduled for the City Council meeting for a public hearing November 5 and second reading November 19, 2009.

**Public Notice**

The newspaper printed notice of the public hearing October 6, 2009 in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:**

Staff requests the Commission recommend approval of Z-FY-10-02 to amend the City of Temple Zoning Ordinance to amend Section 7-611.5 (Site Plan Standards for Off-Premises Package Stores) for site plan standards required for off-premises package stores.

**ATTACHMENTS:** Proposed CUP Standards

**Add Sec. 7-611.5 of the Zoning Ordinance to read:**

**7-611.5 CONDITIONAL USE PERMITS (CUP) SITE PLAN STANDARDS FOR OFF-PREMISES CONSUMPTION, PACKAGE STORE.**

In addition to the general Conditional Use Permit standards in Sec. 7-600 above, the following conditions apply to Conditional Use Permits allowing an off-premise consumption package store.

1. Such use must comply with Chapter 4 of the City Code, and
2. Outdoor lighting must comply with the standards in Sec. 7-566G, and
3. A pick-up window must be visible from the public right-of-way, excluding alleys, and
4. Vehicle stacking behind the pick-up window must be a minimum 60' space, and,
5. An escape lane must be provided parallel to the drive-through lane from the beginning of the drive-through lane, and
6. Parking must be provided on-site, one space for each 250 square feet of total floor area, and
7. Window signs are prohibited.

ORDINANCE NO. 2009-4322

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 7-105, "RECREATIONAL AND ENTERTAINMENT USES," AMENDING SECTION 7-109, "RETAIL AND SERVICE TYPE USES," AMENDING SECTION 7-611, CONDITIONAL USE PERMITS FOR ON PREMISE SALE OF BEER OR MIXED DRINKS, AND ADDING SECTION 7-611.5, "CONDITIONAL USE PERMITS (CUP) SITE PLAN STANDARDS FOR OFF-PREMISE CONSUMPTION, PACKAGE STORE," TO REGULATE THE USE OF PROPERTY FOR SALES OF ALCOHOLIC BEVERAGES FOR ON-PREMISE AND OFF-PREMISE CONSUMPTION; AND 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.

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**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 7-105, entitled, "Recreational and Entertainment Uses," and 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 7-611, Conditional Use Permits for On Premise Sale of Beer or Mixed Drinks, as follows:

**7-610 CONDITIONAL USE PERMITS FOR SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION ~~ON-PREMISE SALE OF BEER OR MIXED DRINKS.~~**

- (a) A conditional use permit is required to allow sale certain categories of alcoholic beverages for on-premise consumption ~~on-premise sale of beer or mixed drinks (including beer)~~ as shown in the land use chart, Section 7-105~~7~~, Entertainment and Recreational Uses.

(b) The following general conditions apply to all conditional use permits allowing the sale of alcoholic beverages for on-premise consumption of beer or mixed drinks (including beer).

1. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (6) months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet the his obligations hereunder.
6. The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is ~~(a)~~ incompatible with the surrounding uses of property; or ~~(2)~~ detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.

9. A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.

10. All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

- (c) The following conditions apply to conditional use permits allowing the sale of alcoholic beverages for on-premise consumption ~~sale of mixed drinks (including beer)~~, where the gross revenue from the on-premise sale of alcoholic beverages is less than 75% of the total gross revenue of the establishment, including establishments in Central Area District where sale of alcoholic beverages is more than 50% and less than 75% of the total gross revenue of the establishment.

No conditional use permit may be granted if the establishment for which a permit is sought is within ~~three hundred (300)~~ feet of a church, public school or public hospital. 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, ~~shall be along the property lines of the street fronts and from front door to front door~~, and in a direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public ~~or private~~ school shall be:

- (1) In a direct line from the property line of the public ~~or private~~ school to the property line of the place of business, and in a direct line across intersections; or
- (2) 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 permittee is located.

- (d) The following conditions apply to conditional use permits allowing the sale of all alcoholic beverages for on-premise sale of beer only or mixed drinks ~~(including beer)~~ consumption, where the gross revenue from the on-premise sale of alcoholic beverages is 75% or more of the total gross revenue of the establishment.

No conditional use permit may be granted if the establishment for which a permit is sought is within three ~~hundred (300)~~ feet of a church, public ~~or private~~ school ~~or denominational school~~, public hospital, publicly owned park, or any residentially zoned or developed lot. The measurement of the

distance between the place of business where alcoholic beverages are sold and a protected use shall be made in a straight line from the perimeter of the premises to be permitted to the nearest property line of a church, public or private denominational school, hospital, publicly owned park, any residentially zoned district, residential lot, or any residential development. A location in a multi-storied building on other than the ground floor will be treated as though it were on the ground floor for purpose of this straight line distance measurement between property lines.

**Part 3:** The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, by adding Section 7-611.5, “Conditional Use Permits (CUP) Site Plan Standards For Off-Premise Consumption, Package Store,” as follows:

**7-611.5 CONDITIONAL USE PERMITS (CUP) SITE PLAN STANDARDS FOR OFF-PREMISE CONSUMPTION, PACKAGE STORE**

In addition to the general Conditional Use Permit standards in Sec. 7-600 above, the following conditions apply to Conditional Use Permits allowing an off-premise consumption package store:

1. Such use must comply with Chapter 4, “Alcoholic Beverages,” of the City Code;
2. Outdoor lighting must comply with the standards in Sec. 7-566G of the Zoning Ordinance;
3. If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys;
4. The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;
5. An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
6. Parking (in any zoning district including in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances);
7. Window signs are prohibited; and
8. Lighted advertising signs must be turned off at closing time.

**Part 3:** 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.

**ALCOHOLIC BEVERAGES, SALE OF BEER AND WINE ONLY FOR ON-PREMISE CONSUMPTION - LESS THAN 75% GROSS REVENUE FROM ALCOHOL SALES.** This is the standard land use listing which will solely allow the serving of beer for sale of beer and wine only for on-premise consumption where the gross revenue from the on-premise sales of beer and wine is less than 75% of total gross revenue. Allowed as a permitted use in Central Area, Commercial, Light Industrial, and Heavy Industrial districts, and by conditional use permit in General Retail, Neighborhood Service, and O-2 Office districts.

**ALCOHOLIC BEVERAGES, SALE OF ALL ALCOHOLIC BEVERAGES BEER ONLY FOR ON-PREMISE CONSUMPTION - EQUAL TO OR EXCEEDING 75% OF GROSS REVENUE FROM ALCOHOL SALES.** This is the standard land use listing which will solely allow the serving of beer for sale of all alcoholic beverages for on-premise consumption where the gross revenue from on-premise sales of beer alcoholic beverages equals or exceeds 75% of gross revenues. Allowed by conditional use permit in O-2 Office, General Retail, Central Area, Commercial, Light Industrial, and Heavy Industrial districts.

**ALCOHOLIC BEVERAGES, SALE OF MIXED DRINKS ALL ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION - LESS THAN 75% GROSS REVENUE FROM ALCOHOL SALES.** This is the typical land use listing which will allow the serving of for sale of all alcoholic beverages for on-premise consumption where the gross revenue from the on-premise sales of alcoholic beverages is greater than 50% and less than 75% of total gross revenue. Allowed by conditional use permit in O-2 Office, Neighborhood Service, General Retail, Central Area, Commercial, Light Industrial, and Heavy Industrial districts.

**ALCOHOLIC BEVERAGES, SALE OF MIXED DRINKS ALL ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION - EQUAL TO OR EXCEEDING 75% OF GROSS REVENUE FROM ALCOHOL SALES.** This is the standard land use listing which will allow the serving of for sale of all alcoholic beverages for on-premise consumption where the gross revenue from on-premise sales of alcohol beverages equals or exceeds 75% is 50% or less of gross revenues. Allowed by conditional use permit in O-2 Office, General Retail, Central Area, Commercial, Light Industrial, and Heavy Industrial districts.

...

**FOOD AND BEVERAGE SALES STORE (CONVENIENCE) -** A retail establishment of less than 2,500 square feet of total floor area selling a variety of consumables, notions and/or similar items, usually serving as a convenient outlet to a neighborhood. This activity

can include the retail sale and self-service dispensing of gasoline or other fuels. Where the retail sale and self-service dispensing of gasoline or other fuels is carried out, this activity shall be limited to general retail or less restrictive zoning. ~~The sale of beer for off-premises consumption is allowed, if not otherwise prohibited.~~

**FOOD AND BEVERAGE SALES STORE** - A retail establishment of greater than 2,500 square feet of total floor area, selling a variety of consumables, notions and/or similar items, usually serving a significant market area. ~~The sale of beer for off-premises consumption is allowed, if not otherwise prohibited.~~

...

**Part 5:** If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**Part 6:** 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 7:** This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

**Part 8:** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **15<sup>th</sup>** day of **October**, 2009.

PASSED AND APPROVED on Second Reading and Public Hearing on the **5<sup>th</sup>** 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”

RECREATIONAL AND ENTERTAINMENT USES									
ORDINANCE SECTION 7-105									
	Nonresidential Districts								
	MU	O-1	O-2	NS	GR	CA	C	LI	HI
ALCOHOLIC BEVERAGES SALES/ <b>FOR ON-PREMISE CONSUMPTION ON-SITE:</b>									
a) BEER <b>AND WINE</b> ONLY LESS THAN 75% REVENUE FROM ALCOHOL*	C			C	•	•	•	•	•
b) <b>ALL ALCOHOLIC BEVERAGES MIXED DRINKS (INCL. BEER)</b> 75% OR MORE REVENUE FROM ALCOHOL*			C		C	C	C	C	C
c) <b>ALL ALCOHOLIC BEVERAGES MIXED DRINKS (INCL. BEER)</b> >50% AND <75% REVENUE FROM ALCOHOL*			C	C	C	C	C	C	C
d) <b>ALL ALCOHOLIC BEVERAGES MIXED DRINKS (INCL. BEER)</b> 50% OR LESS REVENUE FROM ALCOHOL*	C		C	C	C	•	C	C	C

\*If alcohol sales are planned, must conform to appropriate listing and its standards, including distances from other uses (See Chapter 4, Code of Ordinances, and Sections 7-611 and 7-611.5 of the Zoning Ordinance).

RETAIL AND SERVICE TYPE USES									
ORDINANCE SECTION 7-109									
	Nonresidential Districts								
	MU	O-1	O-2	NS	GR	CA	C	LI	HI
ALCOHOL BEVERAGE SALES FOR OFF-PREMISES CONSUMPTION	Ⓞ			Ⓞ	•	•	•	•	•
<b>ALCOHOLIC BEVERAGE SALES OFF-PREMISE CONSUMPTION, BEER AND WINE STORE</b>	C			C	•	•	•	•	•
<b>ALCOHOLIC BEVERAGE SALES OFF-PREMISE CONSUMPTION, PACKAGE STORE</b>					C	C	C	C	C



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #10  
Regular Agenda  
Page 1 of 4

### DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing  
Sam Weed, Fleet Superintendent

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the purchase of three (3) vehicles from Sam Pack's Five Star Ford of Carrollton in the amount of \$43,657, four (4) vehicles from Planet Ford of Spring in the amount of \$75,429, and six (6) vehicles from Johnson Brothers Ford Lincoln Mercury of Temple in the amount of \$166,773.92.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description or consider local preference options as noted below.

**ITEM SUMMARY:** On October 27, 2009, five (5) vendors submitted pricing on seven (7) independent pickup truck bids.

Staff recommends award of the following two (2) bids to **Sam Pack's Five Star Ford:**

### **Bid Tab #1-Mid-Size Pickup :**

Bid Tab #	Description	Qty	Account	Project #	Budget	Recommended Bid	Local Preference Option
1	Parks (replaces asset 11783)	1	110-5935-552-6213	100536	\$ 15,000.00	\$ 12,596.00	\$ 12,833.00
<b>Sub-Total for one (1) Mid-Size Pickup</b>					<b>\$ 15,000.00</b>	<b>\$ 12,596.00</b>	<b>\$ 12,833.00</b>

**Bid Tab #2-Two (2) Mid-Size Extended Cab Pickups:**

Bid Tab #	Description	Qty	Account	Project #	Budget	Recommended Bid	Local Preference Option
2	Fleet Services (replaces Asset #10369)	1	110-5900-519-6213	100516	\$ 15,000.00	\$ 15,268.00	\$15,282.20
2	Drainage (replaces Asset #11147)	1	292-2900-534-6213	100552	\$ 15,000.00	\$ 15,793.00	\$15,997.20
<b>Sub-Total for two (2) Mid-Size Extended Cab Pickups</b>					<b>\$ 30,000.00</b>	<b>\$ 31,061.00</b>	<b>\$ 31,279.40</b>

Exceptions taken by Sam Pack's Five Star Ford were routine in nature and did not impact the overall quality of the vehicle. The City has done business with Sam Pack's Five Star Ford in the past and finds them to be a responsible vendor.

In accordance with the City's adopted Local Preference Policy, Council does have the option to award all three (3) of these trucks to Johnson Brothers Ford Lincoln Mercury of Temple in the amount of \$44,112.40, versus the low bid of \$43,657.00 from Sam Pack's Five Star Ford, a \$455.40 spread. Johnson Brother's bid is 1% higher than Sam Pack's low bid.

\*\*\*\*\*

Staff recommends award of the following two (2) bids to **Planet Ford:**

**Bid Tab #3-Three (3) ½ Ton Pickups:**

Bid Tab #	Description	Qty	Account	Project #	Budget	Recommended Bid	Local Preference Option
3	Water Metering (replaces Asset #10639 & #11462)	2	520-5300-535-6213	100554	\$ 43,000.00	\$ 36,044.00	\$36,128.40
3	Solid Waste (replaces Asset #10637)	1	110-5900-540-6213	100530	\$ 21,500.00	\$ 18,022.00	\$18,064.20
<b>Sub-Total for three (3) ½ Ton Pickups</b>					<b>\$ 64,500.00</b>	<b>\$ 54,066.00</b>	<b>\$ 54,192.60</b>

**Bid Tab #4-1/2 Ton Crew/Quad Cab Pickup:**

Bid Tab #	Description	Qty	Account	Project #	Budget	Recommended Bid	Local Preference Option
4	Fire (replaces Ford Taurus)	1	110-5900-522-6213	100526	\$ 24,500.00	\$ 21,363.00	\$ 21,737.00
<b>Sub-Total for one (1) ½ Ton Crew/Quad Cab Pickup</b>					<b>\$ 24,500.00</b>	<b>\$ 21,363.00</b>	<b>\$ 21,737.00</b>

Planet Ford did not take any exceptions to the bid specifications. The City has done business with Planet Ford in the past and finds them to be a responsible vendor.

In accordance with the City's adopted Local Preference Policy, Council does have the option to award all four (4) of these trucks to Johnson Brothers Ford Lincoln Mercury of Temple in the amount of \$75,929.60, versus the low bid of \$75,429.00 from Planet Ford, a \$500.60 spread. Johnson Brother's bid is less than 1% higher than Planet Ford's low bid.

\*\*\*\*\*

Staff recommends award of the following three (3) bids to Johnson Brothers Ford Lincoln-Mercury, the low bidder on the following three trucks:

**Bid Tab #5-3/4 Ton Crew/Quad Cab Pickup:**

Bid Tab #	Description	Qty	Account	Project #	Budget	Recommended Bid	Local Preference Option
5	Parks (replaces Asset #10206)	1	110-5935-552-6213	100537	\$ 25,000.00	\$ 23,201.32	N/A
<b>Sub-Total for one (1) ¾ Ton Crew/Quad Cab Pickup</b>					<b>\$ 25,000.00</b>	<b>\$ 23,201.32</b>	

**Bid Tab #6-One Ton Crew/Quad Cab Pickup:**

Bid Tab #	Description	Qty	Account	Project #	Budget	Recommended Bid	Local Preference Option
6	Parks (replaces Asset #10486)	1	110-5935-552-6213	100538	\$ 31,500.00	\$ 24,301.32	N/A
<b>Sub-Total for one (1) One Ton Crew/Quad Cab Pickup</b>					<b>\$ 31,500.00</b>	<b>\$ 24,301.32</b>	

**Bid Tab #7-One Ton Crew/Quad Cab & Chassis with Special Purpose Body:**

Bid Tab #	Description	Qty	Account	Project #	Budget	Recommended Bid	Local Pref Option
7	Parks (replaces Asset #10213 & #10214)	2	110-5935-552-6213	100534 & 100535	\$ 63,000.00	\$ 59,635.64	N/A
7	Water Distribution (replaces Asset #10479)	1	520-5200-535-6213	100562	\$ 34,500.00	\$ 29,817.82	N/A
7	Sewer Collection (replaces Asset #11475)	1	520-5400-535-6213	100556	\$ 34,500.00	\$ 29,817.82	N/A
<b>Sub-Total for four (4) One Ton Crew with Special Bodies</b>					<b>\$132,000.00</b>	<b>\$ 119,271.28</b>	

Exceptions taken by Johnson Brothers Ford Lincoln Mercury were routine in nature and did not impact the overall quality of the vehicle. The total purchase recommended to Johnson Brothers as identified on Bid Tabulations 5-7 total \$166,773.92. The City has done business with Johnson Brothers in the past and finds them to be a responsible vendor.

**FISCAL IMPACT:** Funding for the purchase of the 13 vehicles identified above were included in the Council-adopted FY 2010 budget in the accounts as defined in the Item Summary above in the amount of \$322,500. Total funding needed for the purchases is \$285,859.92 resulting in a savings over budget in the amount of \$36,640.00.

**ATTACHMENTS:**  
[Bid Tabulations \(7\)](#)  
[Resolution](#)

# Bid Tabulation #1

## Tabulation of Bids Received on October 27, 2009 at 2:30 p.m. Mid-Size Pickup

Description	Bidders				
	Sam Pack's Five Star Ford Carrollton, TX	Grand Prairie Ford Grand Prairie, TX	Planet Ford Spring, TX	Stanley Ford Belton, TX	Johnson Bros Ford L-M Temple, TX
<b>Total Base Bid</b>	\$10,922.00	\$11,552.00	\$10,886.00		\$11,011.00
Headache Rack	\$325.00	\$350.00	\$424.00		\$375.00
Sprayed-on Bed Liner	\$399.00	\$375.00	\$395.00		\$375.00
Amber Overhead Light Bar	\$415.00	\$435.00	\$484.00		\$485.00
Toolbox	\$535.00	\$525.00	\$535.00		\$587.00
<b>Total Bid Price</b>	<b>\$12,596.00</b>	\$13,237.00	\$12,724.00	NO BID	<b>\$12,833.00</b>
Delivery	Yes	Yes	Yes		No, due to Ford prod sched
Local Preference?	No	No	No		Yes
Exceptions?	Yes	Yes	None		Yes
Acknowledge Addendums	Yes	Yes	Yes		Yes
Credit Check Authorization	Yes	Yes	Yes		Yes

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

**Belinda Mattke**

Belinda Mattke, Director of Purchasing

**27-Oct-09**

Date

**Note: Highlighted bid is recommended  
for Council approval.  
Local Vendor who claimed local preference and is  
within 5% of the low bidder**

## Bid Tabulation #2

### Tabulation of Bids Received on October 27, 2009 at 2:30 p.m. Mid-Size Extended Cab Pickups

		Bidders									
		Sam Pack's Five Star Ford Carrollton, TX		Grand Prairie Ford Grand Prairie, TX		Planet Ford Spring, TX		Stanley Ford Belton, TX		Johnson Bros Ford L-M Temple, TX	
Description	Qty	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
<b>Total Base Bid</b>	2	\$14,544.00	\$29,088.00	\$15,098.00	\$30,196.00	\$14,453.00	\$28,906.00			\$14,532.20	\$29,064.40
Headache Rack	2	\$325.00	\$650.00	\$350.00	\$700.00	\$424.00	\$848.00			\$375.00	\$750.00
Sprayed-on Bed Liner	2	\$399.00	\$798.00	\$375.00	\$750.00	\$395.00	\$790.00			\$375.00	\$750.00
Toolbox	1	\$525.00	\$525.00	\$525.00	\$525.00	\$640.00	\$640.00			\$715.00	\$715.00
<b>Total Bid Price</b>		<b>\$31,061.00</b>		\$32,171.00		\$31,184.00		No Bid		<b>\$31,279.40</b>	
Delivery		Yes		Yes		Yes				No, due to Ford Prod Sched	
Local Preference?		No		No		No				No	
Exceptions?		None		Yes		Yes				None	
Acknowledge Addendums		Yes		Yes		Yes				Yes	
Credit Check Authorization		Yes		Yes		Yes				Yes	

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

**Belinda Mattke**

Belinda Mattke, Director of Purchasing

**27-Oct-09**

Date

**Note: Highlighted bid is recommended  
for Council approval.  
Local Vendor who claimed local preference  
and is within 5% of the low bidder**

## Bid Tabulation #3

### Tabulation of Bids Received on October 27, 2009 at 2:30 p.m. 1/2 Ton Pickups

		Bidders									
		Sam Pack's Five Star Ford Carrollton, TX		Grand Prairie Ford Grand Prairie, TX		Planet Ford Spring, TX		Stanley Ford Belton, TX		Johnson Bros Ford L-M Temple, TX	
Description	Qty	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
<b>Total Base Bid</b>	3	\$14,655.00	\$43,965.00	\$15,086.00	\$45,258.00	\$14,116.00	\$42,348.00	\$14,638.95	\$43,916.85	\$14,664.20	\$43,992.60
Sprayed on Bed Liner	3	\$399.00	\$1,197.00	\$375.00	\$1,125.00	\$395.00	\$1,185.00	\$550.00	\$1,650.00	\$450.00	\$1,350.00
Headache Rack	3	\$325.00	\$975.00	\$350.00	\$1,050.00	\$415.00	\$1,245.00	\$375.00	\$1,125.00	\$375.00	\$1,125.00
Toolbox	3	\$555.00	\$1,665.00	\$555.00	\$1,665.00	\$576.00	\$1,728.00	\$650.00	\$1,950.00	\$630.00	\$1,890.00
Back-up Alarm	3	\$50.00	\$150.00	\$75.00	\$225.00	\$90.00	\$270.00	\$55.00	\$165.00	\$55.00	\$165.00
Entry Steps	3	\$375.00	\$1,125.00	\$350.00	\$1,050.00	\$330.00	\$990.00	\$250.00	\$750.00	\$195.00	\$585.00
Light Bar	3	\$2,049.00	\$6,147.00	\$2,175.00	\$6,525.00	\$2,100.00	\$6,300.00	\$1,850.00	\$5,550.00	\$1,695.00	\$5,085.00
<b>Total Bid Price</b>		\$55,224.00		\$56,898.00		\$54,066.00		\$55,106.85		\$54,192.60	
Delivery		Yes		Yes		Yes		Yes		Yes	
Local Preference?		No		No		No		No		No	
Exceptions?		Yes		Yes		None		Yes		None	
Acknowledge Addendums		Yes		Yes		No		Yes		Yes	
Credit Check Authorization		Yes		Yes		Yes		Yes		Yes	

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

**Belinda Mattke**

Belinda Mattke, Director of Purchasing

**27-Oct-09**

Date

**Note: Highlighted bid is recommended  
for Council approval.  
Local Vendor who claimed local preference  
and is within 5% of the low bidder**

## Bid Tabulation #4

### Tabulation of Bids Received on October 27, 2009 at 2:30 p.m. 1/2-Ton Crew/Quad Cab Pickup

Description	Bidders				
	Sam Pack's Five Star Ford Carrollton, TX	Grand Prairie Ford Grand Prairie, TX	Planet Ford Spring, TX	Stanley Ford Belton, TX	Johnson Bros Ford L-M Temple, TX
<b>Total Base Bid</b>	\$20,762.00	\$20,529.00	\$19,557.00	\$19,811.95	\$20,107.00
Headache Rack	\$325.00	\$350.00	\$415.00	\$375.00	\$375.00
Sprayed-on Bed Liner	\$399.00	\$375.00	\$395.00	\$550.00	\$375.00
Toolbox	\$555.00	\$555.00	\$576.00	\$630.00	\$630.00
Entry Steps	\$375.00	\$375.00	\$330.00	\$250.00	\$195.00
Back-up Alarm	\$50.00	\$75.00	\$90.00	\$55.00	\$55.00
<b>Total Bid Price</b>	\$22,466.00	\$22,259.00	\$21,363.00	\$21,671.95	\$21,737.00
Delivery	Yes	Yes	Yes	Yes	No, due to Ford prod sched
Local Preference?	No	No	No	No	Yes
Exceptions?	Yes	None	None	Yes	No
Acknowledge Addendums	Yes	Yes	Yes	Yes	Yes
Credit Check Authorization	Yes	Yes	Yes	Yes	Yes

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

**Belinda Mattke**

**27-Oct-09**

Belinda Mattke, Director of Purchasing

Date

**Note: Highlighted bid is recommended  
for Council approval.  
Local Vendor who claimed local preference and is  
within 5% of the low bidder**

## Bid Tabulation #5

### Tabulation of Bids Received on October 27, 2009 at 2:30 p.m. 3/4-Ton Crew/Quad Cab Pickup

Description	Bidders				
	Sam Pack's Five Star Ford Carrollton, TX	Grand Prairie Ford Grand Prairie, TX	Planet Ford Spring, TX	Stanley Ford Belton, TX	Johnson Bros Ford L-M Temple, TX
<b>Total Base Bid</b>	\$19,857.00	\$20,299.00	\$19,066.00	\$19,541.07	\$19,606.32
Mounted Spot Light	\$390.00	\$355.00	\$330.00	\$250.00	\$250.00
Sprayed-on Bed Liner	\$399.00	\$375.00	\$395.00	\$550.00	\$450.00
Headache Rack	\$325.00	\$350.00	\$415.00	\$375.00	\$375.00
Entry Steps	\$375.00	\$355.00	\$330.00	\$250.00	\$195.00
Toolbox	\$530.00	\$355.00	\$576.00	\$630.00	\$630.00
Light Bar	\$2,049.00	\$2,175.00	\$2,340.00	\$1,850.00	\$1,695.00
<b>Total Bid Price</b>	\$23,925.00	\$24,264.00	\$23,452.00	\$23,446.07	\$23,201.32
Delivery	Yes	Yes	Yes	Yes	No, due to Ford prod sched
Local Preference?	No	No	No	No	Yes
Exceptions?	Yes	Yes	None	None	Yes
Acknowledge Addendums	Yes	Yes	Yes	Yes	Yes
Credit Check Authorization	Yes	Yes	Yes	Yes	Yes

Must order by 11-15-09

Must order by 11-26-09

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

**Belinda Mattke**

**27-Oct-09**

Belinda Mattke, Director of Purchasing

Date

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

## Bid Tabulation #6

### Tabulation of Bids Received on October 27, 2009 at 2:30 p.m. One-Ton Crew/Quad Cab Pickup

Description	Bidders				
	Sam Pack's Five Star Ford Carrollton, TX	Grand Prairie Ford Grand Prairie, TX	Planet Ford Spring, TX	Stanley Ford Belton, TX	Johnson Bros Ford L-M Temple, TX
<b>Total Base Bid</b>	\$21,041.00	\$21,676.00	\$21,886.00	\$20,340.07	\$20,606.32
Sprayed-on Bed Liner	\$399.00	\$375.00	\$395.00	\$550.00	\$450.00
Class 3 Receiver Hitch	included in base bid	included in base bid	\$75.00	included in base bid	included in base bid
Tool Boxes (2)	\$1,040.00	\$1,080.00	\$1,270.00	\$1,260.00	\$630.00
Headache Rack	\$350.00	\$350.00	\$415.00	\$375.00	\$375.00
Back-up Alarm	\$50.00	\$75.00	\$90.00	\$55.00	\$55.00
Rear Grill	\$325.00	\$275.00	\$330.00	\$295.00	\$295.00
Entry Steps	no bid	\$375.00	no bid	no bid	\$195.00
Light Bar	\$2,049.00	\$2,175.00	\$2,340.00	\$1,850.00	\$1,695.00
<b>Total Bid Price</b>	\$25,254.00	\$26,381.00	\$26,801.00	\$24,725.07	\$24,301.32
Delivery	Yes	Yes	Yes	Yes	No, due to Ford prod sched
Local Preference?	No	No	No	No	Yes
Exceptions?	Yes	Yes	None	Yes	Yes
Acknowledge Addendums	Yes	Yes	Yes	Yes	Yes
Credit Check Authorization	Yes	Yes	Yes	Yes	Yes

Must order by 11-15-09

Must order by 11-26-09

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

**Belinda Mattke**

**27-Oct-09**

Belinda Mattke, Director of Purchasing

Date

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

## Bid Tabulation #7

### Tabulation of Bids Received on October 27, 2009 at 2:30 p.m. One-Ton Crew/Quad Cab & Chassis with Special Purpose Bodies

		Bidders									
		Sam Pack's Five Star Ford Carrollton, TX		Grand Prairie Ford Grand Prairie, TX		Planet Ford Spring, TX		Stanley Ford Belton, TX		Johnson Bros Ford L-M Temple, TX	
Description	Qty	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
<b>Total Base Bid</b>	4	\$30,412.00	\$121,648.00	\$32,994.00	\$131,976.00	\$30,684.00	\$122,736.00			\$29,775.32	\$119,101.28
Shop/Service Manuals on CD/Rom	1	no bid		\$2,495.00	\$2,495.00	\$400.00	\$400.00			\$170.00	\$170.00
<b>Total Bid Price</b>		\$121,648.00		\$134,471.00		\$123,136.00		No Bid		\$119,271.28	
Delivery		Yes		Yes		Yes				No, due to Ford Prod Sched	
Local Preference?		No		No		No				No	
Exceptions?		None		None		None				Yes	
Acknowledge Addendums		Yes		Yes		No				Yes	
Credit Check Authorization		Yes		Yes		Yes				Yes	

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

**Belinda Mattke**

Belinda Mattke, Director of Purchasing

**27-Oct-09**

Date

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

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF 3 VEHICLES FROM SAM PACK'S FIVE STAR FORD OF CARROLLTON, TEXAS, IN THE AMOUNT OF \$43,657; 4 VEHICLES FROM PLANET FORD OF SPRING, TEXAS, IN THE AMOUNT OF \$75,429; AND 6 VEHICLES FROM JOHNSON BROTHERS FORD LINCOLN MERCURY OF TEMPLE, TEXAS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on October 27, 2009, 5 vendors submitted pricing on 7 independent pickup truck bids;

**Whereas**, the Staff recommends: award of the bid (\$43,657) for 1 mid-size pickup and 2 mid-size extended cab pickups for the Parks, Fleet Services, and Drainage Departments (3 vehicles) to Sam Pack's Five Star Ford of Carrollton, Texas; award of the bid (\$75,429) for 3 ½-ton pickups and 1 ½-ton crew/quad cab pickup for the Water Metering, Solid Waste and Fire Departments (4 vehicles) to Planet Ford of Spring, Texas; and award of the bid (\$166,773.92) for 1 ¾-ton crew/quad cab pickup, 1 one-ton crew/quad cab pickup and 4 one-ton crew with special bodies for the Parks, Water Distribution and Sewer Collection departments (6 vehicles) to Johnson Brothers Ford Lincoln-Mercury;

**Whereas**, funding for the purchase of the 13 vehicles is included in the Council-adopted FY 2010 budget for each department; and

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

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

**Part 1:** The City Council authorizes the purchase of 3 vehicles from Sam Pack's Five Star Ford of Carrollton, Texas, in the amount of \$43,657; 4 vehicles from Planet Ford of Spring, Texas, in the amount of \$75,429; and 6 vehicles from Johnson Brothers Ford Lincoln Mercury of Temple, Texas, in the amount of \$166,773.92.

**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 these purchases.

**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 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #11  
Regular Agenda  
Page 1 of 1

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

Mayor William A. Jones, III

**ITEM DESCRIPTION:** Consider adopting a resolution supporting the creation of the City of Temple Census 2010 Complete Count Committee.

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

**ITEM SUMMARY:** The Constitution of the United States mandates a census every 10 years to determine the number of seats each state will have in the U.S. House of Representatives. States also use the totals to redraw their legislative districts. Our City's political representation in the U.S. Congress and in the State Legislature, as well as the amount of federal funding we are allocated, depends on the census derived population totals.

The success of the 2010 Census is very important to our community and therefore should be a cooperative effort by the community, in partnership with the U.S. Census Bureau, to ensure the most complete and accurate count possible. In order to achieve this goal, we are recommending the City Council support the creation of a City of Temple Census 2010 Complete Count Committee. This committee will be a group of volunteers with the goal of increasing awareness about the census and motivating residents in the community to respond. They will design and implement a census awareness campaign targeted to our specific community, working with assigned partnership specialists from the Dallas Regional Census Center. A chair should be appointed and the committee members selected as soon as possible to allow time for training and organization prior to January 2010, when the committee's work will begin. The committee's charge will be completed in April 2010.

**FISCAL IMPACT:** There is no fiscal impact associated with this item. However, some in-kind funds for office supplies, copies, etc. will be associated with assisting the committee with its work.

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SUPPORTING THE CREATION OF THE CITY OF TEMPLE CENSUS 2010 COMPLETE COUNT COMMITTEE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the United States Constitution mandates a census every 10 years to determine the number of seats each state will have in the U.S. House of Representatives;

**Whereas**, the community's political representation in the U.S. Congress and in the State Legislature depends on census-derived population totals;

**Whereas**, the share of Federal funding allocated to the City of Temple each year is determined, in large part, by census-derived population totals;

**Whereas**, the information collected in the Census 2010 efforts is crucial to the City of Temple's services and infrastructure planning;

**Whereas**, the success of the Census 2010 count in the City of Temple is vitally important to the community as a whole;

**Whereas**, a cooperative effort by the community, and partnership with the Census Bureau, are imperative if the City of Temple is to be ensured the most complete and accurate count possible;

**Whereas**, this effort will require coordination among local officials and representatives of the community, cooperation of media and business representatives, and close partnership with the Census Bureau to keep the community informed and involved in local activities before, during, and after the Census on April 1, 2010; and

**Whereas**, the City Council supports the formation of the City of Temple Census 2010 Complete Count Committee to create community awareness in the importance of responding to 2010 Census.

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

**Part 1:** The City Council of the City of Temple, Texas, supports the creation of the City of Temple Census 2010 Complete Count Committee and requests full

participation from the Committee's membership to wholly embark on this important endeavor.

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

PASSED AND APPROVED this the 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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11/05/09  
Item #12  
Regular Agenda  
Page 1 of 3

### DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney  
David Blackburn, City Manager

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the execution by the City Manager of a development agreement with Panda Temple Power, L.L.C., for the sale of effluent for the operation of a gas-fired electric generation 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.*

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

**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 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/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

As this agenda item is being placed on the Agenda, Panda has asked whether the City would consider extending the term of the agreement to thirty years. Panda has also indicated that they are open to considering offering the City the opportunity to become an equity partner in the power plant as well as to purchase electricity from Panda.

Becoming an equity partner would allow the City to purchase a quantity of electricity to meet the City's needs with an excess quantity being available for sale to 3<sup>rd</sup> parties—with the City receiving its share of the revenue from the sale of any excess power owned over what the City actually needs from time to time. **We hope to have these issues (30 year term & equity participation in the power plant) negotiated by next week and will likely brief the City Council in executive session. It's in the City's best interests to reach an agreement on the extension of term issue and the equity issue at the same time as we execute an agreement on the sale of effluent to Panda.**

**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** of 40.3¢ per 1,000 gallons for effluent

$$\text{Effective rate} = \$ .55 - ((700,000 \times 30 \div 30,000,000) \times \$ .21) = \$ .403$$

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

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:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A DEVELOPMENT AGREEMENT WITH PANDA TEMPLE POWER, L.L.C., FOR THE SALE OF EFFLUENT AND THE OPERATION OF A GAS-FIRED ELECTRIC GENERATION POWER PLANT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, Panda Temple Power, L.L.C., plans to construct an approximately 550 megawatt electric generation plant in southeast Temple – the proposed plant will use gas turbines to generate electricity and use water (effluent) to generate steam and cool the system;

**Whereas**, the company desires to purchase effluent from the City’s Doshier Farm Wastewater Treatment Plant and the Temple-Belton Regional Sewer System (T-BRSS) Plant to provide water for the operation of the electric generation facility;

**Whereas**, the Staff recommends entering into a 20-year development agreement with Panda obligating the City to provide up to an agreed maximum volume of effluent or potable water to Panda for their operations;

**Whereas**, the City will earn revenue under the contract, principally from the payment of an option fee 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; 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 development agreement with Panda Temple Power, L.L.C., after approval as to form by the City Attorney, for the sale of effluent for the operation of a gas-fired electric generation power plant in southeast 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 5<sup>th</sup> day of **November**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney