



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd FLOOR – CONFERENCE ROOM

THURSDAY, AUGUST 4, 2011

4:00 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, August 4, 2011.
2. Discuss the proposed FY 2011-2012 budget and related issues.
3. Discuss the City's purchasing procedures relating to annual contract bidding and renewals.
4. Discuss upcoming appointments to various City boards and commissions.
5. 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 plans for the City Manager, City Attorney, Director of Finance, City Secretary and Municipal Court Judge. No final action will be taken.

5:00 P.M.

MUNICIPAL BUILDING

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

TEMPLE, TX

TEMPLE CITY COUNCIL

REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PUBLIC 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.

III. BUDGET ITEMS

3. A) PUBLIC HEARING - Receive presentation by the City Manager and conduct a public hearing on the proposed [2011-2012 operating budget](#).

(B) [2011-6363-R](#): Discuss proposed tax rate and consider adopting a resolution scheduling the adoption of the proposed tax rate for September 1, 2011.

IV. CONSENT AGENDA

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

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

Minutes

- (A) [July 14, 2011 Special Called Meeting](#)
- (B) [July 21, 2011 Special Called and Regular Meeting](#)

Contracts, Leases & Bid

- (C) [2011-6364-R](#): Consider adopting a resolution authorizing a contract with Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$65,600.

Ordinance – Second & Final Reading

- (D) [2011-4458](#): SECOND READING – Consider adopting an ordinance establishing the prima facie speed limit on FM 2305, within the City limits.
- (E)
 - 1. [2011-4459](#): SECOND READING – Consider adopting an ordinance authorizing the annexation of a 3-acre tract of land located on the east side of State Highway 36, north of Moffat Road, part of Outblock 10790-A, more commonly known as 10740 W. State Highway 36.
 - 2. [2011-4460](#): SECOND READING – Z-FY-11-28: Consider adopting an ordinance authorizing a zoning change from Agriculture District (AG) to Commercial District (C) on three acres out of land not presently in the Temple City Limits, being part of Sara Fitzhenry Survey, Abstract Number 312, Bell County, Texas, located on the Northeast side of State Highway 36, across from the CEFCO Convenience Store.

Misc.

- (F) [2011-6365-R](#): Consider adopting a resolution authorizing a change in the designated use of the Casa Hispanica building located at 801 South Main Street to a community center.
- (G) [2011-6366-R](#): Consider adopting a resolution authorizing grant matching funds to the Hill Country Transit District (The HOP) for New Freedom Bus Shelters in the amount of \$27,740.
- (H) [2011-6367-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

V. REGULAR AGENDA

ORDINANCES

- 5. [2011-4461](#): FIRST READING – PUBLIC HEARING: Consider adopting an ordinance approving rate tariffs that reflect the negotiated rate change between the City and Atmos Mid-Tex pursuant to the Rate Review Mechanism (RRM) process.

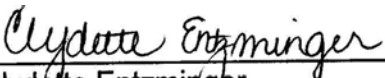
6. [2011-4462](#): FIRST READING – PUBLIC HEARING – A-FY-11-06: Consider adopting an ordinance abandoning 245.70 feet of West Irvin Avenue with an 80-foot right-of-way, between North 33rd Street and North 31st Street, located between the north portions of Lots 1 and 2, Block 1 and the south portions of Lots 1 and 2, Block 3 of Keaton Addition; and reserving a public drainage and utility easement in the entire abandoned right-of-way.
7. [2011-4463](#): FIRST READING – PUBLIC HEARING - Z-FY-11-32: Consider adopting an ordinance authorizing a zoning change from Agricultural District (AG) to General Retail District (GR) on Outblock 2064-A and from Agricultural District (AG) to Single Family Two (SF2) on Outblock 2065-A, Baldwin Robertson Survey, Abstract 17, on 15.922 acres, located southeast corner of North Pea Ridge Road and Stonehollow Drive.
8. [2011-4464](#): FIRST READING – PUBLIC HEARING - Z-FY-11-34: Consider adopting an ordinance authorizing a zoning change from Agriculture District (AG) to Commercial District (C) on 4.699 acres located on the south side of FM 2305, west of Arrowhead Point Road, more commonly known as 13721 West Adams Avenue.

RESOLUTIONS

9. Consider adopting resolutions:
 - (A) [2011-6368-R](#): Appointing the City Secretary for the City of Temple and setting the compensation for the position, effective October 1, 2011
 - (B) [2011-6369-R](#): Changing the position of the Municipal Court Judge to full time and setting the compensation for the position, effective October 1, 2011.

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 11:30 AM, on July 29, 2011.


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 _____ 2011. _____



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
Item #3
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager
Traci Barnard, Director of Finance

ITEM DESCRIPTION: (A) PUBLIC HEARING - Receive presentation by the City Manager and conduct a public hearing on the proposed 2011-2012 operating budget.

(B) Discuss proposed tax rate and consider adopting a resolution scheduling the adoption of the proposed tax rate for September 1, 2011.

STAFF RECOMMENDATION: (A) Receive presentation and conduct public hearing. Final action is to be taken by the Council at their September 1st meeting; (B) Adopt resolution as presented in item description.

ITEM SUMMARY: (A) **Budget- Public Hearing** - The City Manager's recommended budget was filed in accordance with the City Charter on June 24, 2011. Council has met for budget related work sessions on July 7th, 14th, 21st and 28th.

This is the initial public hearing on the proposed 2011-2012 budget, and complies with the State and Charter requirements that must be met before the budget can be adopted by the Council. A supplemental second public hearing on the budget will be conducted at the September 1st Council meeting, prior to budget adoption.

(B) Proposed Tax Rate – Resolution setting date for adoption - The proposed tax rate will be presented and discussed at the 5:00 pm meeting, prior to adoption of a resolution scheduling the adoption of the proposed tax rate for September 1st.

These proposed meeting dates and publication schedules comply with the Truth-In-Taxation requirements set forth by State Law and the City Charter.

FISCAL IMPACT:

(A) Budget: The proposed FY 2012 budget as filed on June 24, 2011:

	Adopted Budget FY 2011	Filed Budget FY 2012	% Increase/ (Decrease)
Revenues/Other Sources			
General Fund	\$ 52,857,911	\$ 55,869,855	5.70%
Water & Wastewater Fund	26,388,878	26,847,261	1.74%
Debt Service Fund	7,614,585	8,061,085	5.86%
Hotel/Motel Tax Fund	1,260,750	1,399,450	11.00%
Federal/State Grant Fund	615,438	523,888	-14.88%
Drainage Fund	999,373	1,089,967	9.07%
Internal Service Fund	-	2,552,768	0.00%
Reinvestment Zone No. 1 Fund	4,615,077	5,405,956	17.14%
Total Revenues/Other Sources	\$ 94,352,012	\$ 101,750,230	7.84%

	Adopted Budget FY 2011	Filed Budget FY 2012	% Increase/ (Decrease)
Expenditures/Transfers			
General Fund	\$ 54,861,735 ⁽¹⁾	\$ 58,888,747 ⁽²⁾	7.34%
Water & Wastewater Fund	26,489,243	27,237,261	2.82%
Debt Service Fund	7,914,745	8,361,085	5.64%
Hotel/Motel Tax Fund	1,260,750	1,399,450	11.00%
Federal/State Grant Fund	615,438	523,888	-14.88%
Drainage Fund	1,199,873	1,756,471	46.39%
Internal Service Fund	-	2,884,039	0.00%
Reinvestment Zone No. 1 Fund	4,592,675	7,806,653	69.98%
Total Expenditures/Transfers	\$ 96,934,459	\$ 108,857,594	12.30%

⁽¹⁾ Includes \$2,003,824 in Capital (\$995,000); TEDC Matrix allocation (\$295,068); Strategic Investment Zone (\$85,000); and Self Insurance Start Up Cost (\$628,756) funded with Undesignated Fund Balance - Capital Projects

⁽²⁾ Includes \$3,018,892 in Capital (\$1,519,400); TEDC Matrix allocation (\$399,492); Strategic Investment Zone (\$100,000); and Street Improvements (\$1,000,000) funded with Undesignated Fund Balance - Capital Projects

Changes from the preliminary budget filed on June 24, 2011 to the proposed budget as presented August 4, 2011, with a proposed tax rate of 56.79¢. Adjustments are as indicated on the attached documents.

	Adopted Budget FY 2011	PROPOSED Budget FY 2012	% Increase/ (Decrease)
Revenues/Other Sources			
General Fund	\$ 52,857,911	\$ 55,711,585	5.40%
Water & Wastewater Fund	26,388,878	26,847,261	1.74%
Debt Service Fund	7,614,585	8,061,085	5.86%
Hotel/Motel Tax Fund	1,260,750	1,399,450	11.00%
Federal/State Grant Fund	615,438	523,888	-14.88%
Drainage Fund	999,373	1,089,967	9.07%
Internal Service Fund	-	2,552,768	0.00%
Reinvestment Zone No. 1 Fund	4,615,077	5,405,956	17.14%
Total Revenues/Other Sources	\$ 94,352,012	\$ 101,591,960	7.67%

	Adopted Budget FY 2011	PROPOSED Budget FY 2012	% Increase/ (Decrease)
Expenditures/Transfers			
General Fund	\$ 54,861,735 ⁽¹⁾	\$ 58,730,477 ⁽²⁾	7.05%
Water & Wastewater Fund	26,489,243	27,237,261	2.82%
Debt Service Fund	7,914,745	8,361,085	5.64%
Hotel/Motel Tax Fund	1,260,750	1,399,450	11.00%
Federal/State Grant Fund	615,438	523,888	-14.88%
Drainage Fund	1,199,873	1,756,471	46.39%
Internal Service Fund	-	2,884,039	0.00%
Reinvestment Zone No. 1 Fund	4,592,675	6,606,653	43.85%
Total Expenditures/Transfers	\$ 96,934,459	\$ 107,499,324	10.90%

⁽¹⁾ Includes \$2,003,824 in Capital (\$995,000); TEDC Matrix allocation (\$295,068); Strategic Investment Zone (\$85,000); and Self Insurance Start Up Cost (\$628,756) funded with Undesignated Fund Balance - Capital Projects

⁽²⁾ Includes \$3,018,892 in Capital (\$1,519,400); TEDC Matrix allocation (\$399,492); Strategic Investment Zone (\$100,000); and Street Improvements (\$1,000,000) funded with Undesignated Fund Balance - Capital Projects

(B) Tax Rate: The proposed tax rate for FY 2012 is 56.79¢. This rate is comprised of two components, maintenance and operations (M&O) of 32.40¢ and the interest & sinking (I&S) rate of 24.39¢. The proposed tax rate represents a 1.94% increase above the effective tax rate of 55.71¢. The current FY 2011 tax rate is 56.79¢.

	2011	2012	+/-
I & S Rate	\$ 0.2379	\$ 0.2439	\$ 0.0060
M& O Rate	0.3300	0.3240	(0.0060)
Total Rate	<u>0.5679</u>	<u>0.5679</u>	<u>-</u>

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

Note: The tax rate proposed in the budget document filed on June 24, 2011 was 56.79¢. The rate was developed based on estimates. Subsequent to the budget filing, staff received the Certified Roll and the Effective Tax Rate calculations.

ATTACHMENTS:

[FY 2011-2012 Budget Message](#)
[Schedule of Adjustments](#)
[Resolution](#)



June 24, 2011

Honorable Mayor and City Council,

I am pleased to present the Preliminary Fiscal Year 2011-2012 Budget (FY 2012 Budget) for the City of Temple totaling \$108,857,594 for all funds. Of this amount, \$100,616,684 is proposed for the operations and maintenance budget which includes debt service and transfers and \$8,240,910 is proposed for routine capital for the general operating budget which includes equipment and public infrastructure projects. In accordance with current fiscal and financial policies, \$4,976,601 of the routine capital is funded with fund balance or retained earnings. The breakdown of this amount is as follows:

- ▶ \$2,400,697 – Reinvestment Zone No. 1
- ▶ \$1,519,400 – General Fund
- ▶ \$666,504 – Drainage Fund
- ▶ \$390,000 – Water & Sewer Unreserved Retained Earnings

As in previous years, the FY 2012 Preliminary Budget is a balanced budget under the policies and parameters discussed in earlier planning sessions with the City Council.

In addition, \$8,218,990 is proposed for capital improvements programs (CIP). The CIP allocated in FY 2012 can be divided into four categories:

- ▶ Routine Capital Recommended for Limited Tax Note Funding (L.T.N. CIP) - \$2,075,000
- ▶ Multi-year Non-Routine Capital Recommended for Utility Revenue Bond Funding (U.R. CIP) - \$1,600,000 (Proposed projects will be funded with project savings)
- ▶ Multi-year Non-Routine Capital Recommended for General Obligation Bond Funding (G.O.CIP) - \$933,990 (Proposed projects will be funded with project savings)
- ▶ Multi-year Non-Routine Capital Recommended for Water and Sewer Unreserved Retained Earnings Funding- \$3,610,000

The FY 2012 Preliminary Budget recommends no increases in the tax rate, water & sewer rates, or solid waste rates.

Budget Development & Background

Budget Process- The budget is now a year round process and the framework for the development of this budget continued to be very similar to previous budgets. Planning and work for this budget began in late 2010 with the City Manager working on timelines and issue identification. Through late 2010 and early 2011, the Manager worked with Finance to develop the budget calendar and process for the FY 2012 Budget.

In January, the City Manager held a planning retreat with Departments to identify and discuss issues for the upcoming budget and in February, City Manager and Finance staff met with Departments to conduct a status review of current year budget and performance indicators and provide initial direction regarding issues identified in the planning retreat.

In mid February, the City Council held a strategic planning retreat to review and, as might be needed, update the City's strategic plan, "Temple Tomorrow: Strategic Vision and Plan". This plan establishes the mission and vision of the City, identifies four major areas of focus, and establishes the City's goals and objectives. The areas of focus identified in the Plan are: Expand the Tax Base, Grow Health and Bioscience, Improve the Transportation Infrastructure, and Nurture our Community. These focus areas and their associated goals and objectives guided the development of the FY 2012 Budget. During the planning retreat, Council also reviewed the budget calendar and parameters and received information regarding potential budget issues identified by staff.

From February through the delivery of the FY 2012 Budget, staff has worked countless hours on preparing, reviewing, researching and responding to questions from Finance and the Manager relating to the programs and services this Preliminary Budget recommends.

Budget Approach- The FY 2012 Budget continues the 'activity-based' perspective began in FY 2010. Each Department was asked to identify each and every activity that they provide. They were also asked to identify the cost for providing each activity. This 'activity-based' approach allows for better identification of the services and service levels that we provide. While this approach serves our processes well during any budget process, I believe the approach is particularly helpful in times where resources are challenged.

Budget Challenges & Opportunities - The national recession that began in 2008 continues to have an impact on our local economy and has impacted the development and content of the FY 2012 Budget. While Temple's diverse economy has proved more stable than many, our community has not been immune from the continuing recession and the challenges resulting from such.

Sales Tax revenue, our single largest source of revenue for the General Fund, had experienced decline in FY 2009 and FY 2010. Overall budgeted sales tax revenues in the General Fund were down 3.15% from FY 2009 to FY 2010. Accordingly, FY 2011 General Fund budgeted revenues for sales tax were down 3.27% as compared to FY 2010 Adopted Budget.

Property tax revenue, the second major source of revenue for the General Fund, has also been impacted over the past couple of budgets. In fact, the FY 2011 Budget saw, for the first time in modern history, a tax roll that presented lower overall property values than in the previous years' tax roll. While the percentage decrease (0.59%) was relatively minor, the significance of 'a' decrease in property values cannot be overstated. Thus, overall budgeted revenues for property tax revenues for the past couple of fiscal years has been, at best, somewhat flat.

Accordingly, FY 2011 General Fund budgeted revenues were down 0.84% as compared to FY 2010 Adopted Budget.

As a result of these revenue forecasts, and a directive to maintain the tax rate, Departments were asked to 'hold the line' for the past couple of budgets.. 'Hold the line' meant we were to strive to maintain current service levels within existing budgeted resources. Departments responded with even more conservative budgets that held expenditures down to a degree that allowed us the opportunity to continue to rely upon the flat, or in some instances, decreased revenue streams without significant impacts to our programs and services.

While there are signs that the national, state and local economies are rebounding, they have still not returned to 2008 levels. Accordingly, the directive to 'hold the line' for existing programs and services was issued once again for the development of the FY 2012 Budget.

This being said, the FY 2012 Budget does forecast revenue increases in sales and property tax revenues. The increase in sales tax revenue is forecasted based upon the trend we have seen developing over the past several months, an average of 6.04% increase over last year's sales tax revenue. The increase in property tax revenue is based upon new construction and new valuations, which should result in a net increase to the property tax rolls. Accordingly, the FY 2012 Budget forecasts a 4.3% increase in property tax values.

Both of these sets of numbers, for sales tax and property tax, provide basis for a more optimistic outlook for the FY 2012 Budget, and more specifically, for the revenue forecasts associated with the FY 2012 Budget.

Finally, with regard to budget challenges, a statement about the financial condition of the City is merited. While certainly affected by the recession, the City of Temple continues to be in a strong financial position. The reason we have continued to weather this recession as well as we have has been due, in no small way, to conservative budgeting policies and practices, a diverse economy, strong bond ratings, and healthy fund balances

Budget 'Fence Posts'- This year's budget, as with every budget I have presented you, has been developed within the framework of the strategic plan priorities adopted by the City Council and the budget parameters, or 'fence posts', that were briefed to the Council at the February 10 planning retreat and the March 3 and May 19, 2011 work sessions. Those 'fence posts' are:

1. Maintain fiscal soundness;
2. Maintain core services;
3. Focus on people;
4. Align strategic, financial & tactical plan.

Significant Budget Highlights

With this background, I would like to highlight a few areas of general priority and significant issues addressed in the FY 2012 Budget.

Property Tax Rate-

The preliminary tax rate for FY 2012 is proposed at 56.79¢ per \$100 valuation; this rate reflects no change from the current tax rate.

This rate is based on a preliminary appraisal of \$3,339,664,110 (net taxable value not adjusted for frozen values). The tax rate is comprised of two components, the Maintenance and Operations rate (M&O) and the Interest Sinking rate (I&S). This year's proposed tax rate is 32.62¢ for the M&O rate and 24.17¢ for the I&S rate.

The following chart presents the components of the total proposed tax rate for FY 2012 and the actual tax rate for the past two years.

<i>TAX RATE BY FUND</i>	<i>Fiscal Year 09-10</i>	<i>Fiscal Year 10-11</i>	<i>Fiscal Year 11-12</i>	<i>RATE CHANGE</i>
General (M&O)	31.73¢	33.00¢	32.62¢	(0.38¢)
Debt (I&S)	24.73¢	23.79¢	24.17¢	0.38¢
TOTAL (Per \$100 Valuation)	56.46¢	56.79¢	56.79¢	0.00¢

The certified appraisal roll for Ad Valorem taxes will not be available from the Appraisal District of Bell County until late July. Therefore, the proposed tax rate is based on assumptions and may require adjustments prior to the final adoption of the budget to reflect the current parameters set forth by Council. Depending upon the Appraisal District's final roll, your July 28th Budget Work Session and your August 4th meeting where you set the preliminary tax rate could be significant, substantive meetings.

Property tax is a significant source of revenue for the City. In the FY 2012 Budget, property tax accounts for 20.07% of the General Fund budgeted revenues and is the second largest revenue source of the General Fund.

Sales Tax Revenue- While much attention is focused on the property tax rate number, our single largest source of revenue for the General Fund continues to be sales tax revenue. In the FY 2012 Budget, sales tax is projected to account for 28% of the General Fund budgeted revenues and continues to be the single largest revenue source of the General Fund.

As noted in the introduction, our sales tax revenues over the past couple of budgets has experienced actual declines. But, over the course of the past 5 years, our sales tax revenue has increased an average of 2.93%. In addition, the trend over the current fiscal year is good. The FY 2011 Budget is currently forecasting a 6.04% increase in sales tax revenue compared to FY 2010 actual sales tax revenue.

Accordingly, the FY 2012 Budget estimates \$15,800,000 in sales tax revenue, a 6.76% increase in sales tax revenue over budgeted FY 2011 sales tax revenue.

Sammons Golf Course- The FY 2011 Budget included funding in the amount of \$591,363 for the improvements to the Golf Course. This funding was allocated from the General Obligation Bond approved by the voters in November 2007 and from unreserved fund balance designated for capital expenditures. The course improvements include: 1) re-surfacing all 18 greens; 2) upgrading the irrigation system for the golf course; and 3) redesigning the course and adding much needed length. These improvements are both significant and critical to our long term success in providing golf recreation to our residents.

In January 2011, the Golf Course was closed in order to allow the improvements to begin. The timing and execution of these improvements was just as critical as the improvements themselves. In order to minimize impacts on play and budget, the improvements were scheduled in concert with a public works project, Bird Creek Wastewater Line Phase 1, which replaced a deteriorated sewer pipe that ran through the course.

The FY 2012 Budget reflects the reopening of the course and the second phase of a three phase plan to transition the golf course to a self-sustaining operation.

Street Maintenance- Temple maintains 942 lane miles of streets and paved alleys. In FY 2010, Temple's Street Department completed a year-long comprehensive Pavement Condition Assessment ('PCA') for all city streets and alleys. (State maintained roads were not included in the assessment.) The PCA found the overall condition of our streets to be in good condition. The PCA also found significant challenges ahead for the City to maintain the overall good condition of the majority of our streets and recommended investing approximately \$3,000,000 a year in maintenance in order to maintain current conditions.

The report recommends, among other things, a comprehensive street maintenance program that includes several more aggressive maintenance approaches including activities such as crack seal, seal coat, overlay, and reconstruction. Routine and preventative maintenance strategies such as crack seal and seal coat provide an extended pavement life at a cost that is far less than street rehabilitation and reconstruction. The goal of the maintenance strategy is to get arterials, collectors and locals on 30, 36, 45 year overlay cycles, respectively, by implementing a systematic crack seal and seal coat program.

The FY 2011 Budget funded the first phase of a multi-year approach to work toward the recommended maintenance strategy. The first phase of that strategy was the establishment of a five member year-round crack sealing crew. The second phase, an enhanced seal coat program in the amount of \$1,000,000 from unreserved fund balance designated for capital expenditures is recommended in the FY 2012 Budget. This funding will allow approximately 60 additional lane miles of streets to be seal coated.

We have not been, and this budget does not propose, funding street maintenance at a level which will provide sustainable infrastructure. Current revenues and available resources simply do not allow for such. However, the phased multi-year approach began in FY 2011 and continued in this FY 2012 Budget continues to take meaningful and significant steps toward providing a sustainable approach to maintenance of our streets.

Our Primary Asset: Our People- You have heard me say many times that our most important asset isn't our brick and mortar, it isn't our trucks or tools...it is our people. The City of Temple is a service based organization and our people are our number one asset. What we are and the priority we place on our people doesn't change with the economy. However, personnel-related expenditures are also our largest category of expenses and, as such, one of the most significant impacts that can be made to align our expenditures with our available resources is in this area.

Health Insurance. The offering of group health insurance is a key and critical benefit for the organization. The City has generously provided for a group health insurance plan for many years. The plan design has been modified many times over the years to align costs with available resources. In FY 2011, the City transitioned to a self-funded insurance plan in an effort to allow the City, and the employees, to take greater ownership and management of our health insurance benefit. The FY 2011 Budget included the first year of start up costs for the self funded plan by using a portion of the unallocated fund balances in each of the major funds. To date, the self-funding plan is performing very well with claims below expected levels. This budget recommends that the City continue with the self funded approach begun in the past fiscal year.

While our self funding approach has, and will, help us manage our costs relating to the provision of group health insurance, costs are expected to rise. The FY 2012 Budget proposes that both the City and employees participate equally in the increased cost for health insurance. Accordingly, the budget includes a 6% increase in the contribution to our group health insurance.

Retirement Fund. Another key benefit area is the TMRS employee retirement fund. Thanks to the work and strategies that began in the FY 2009 Budget, and the work of TMRS in past and current Legislative Sessions, funding and benefits for the fourth year of an eight year plan are being recommended. The FY 2012 Budget recommends funding in the amount of \$4,380,923 for the 4th year of the 8 year installment plan that we have committed to fund with TMRS. Substantial work still remains ahead in coming budget years to insure both benefit and funding levels are sustainable, but the presence of our City Attorney on the TML Advisory Board relative to TMRS issues should position us well to both advocate and impact the process.

Compensation. For two consecutive years no compensation adjustments have been provided to general government employees. During this period the only adjustments in pay have been for step increases for eligible civil service employees in police and fire. The FY 2012 Budget recommends a one-time lump sum payment equal to 3% of salary for all regular full-time employees.

Police - Past increases in staffing levels for sworn police officers have relied on Federal grant programs. While this has been a successful strategy in the past, it is my belief that this is no longer a viable strategy. Current grant program criteria are focused toward communities who have laid off police officers and whose local economic conditions are generally very poor and neither of these conditions is true for Temple.

Currently under development is a multi-year staffing plan for the Police Department. I anticipate presenting Council with the staffing needs and plan later this summer or early this fall. In the meantime, I have included in the FY 2012 Budget a recommendation for staffing- an additional two officers to enhance the Traffic Enforcement Unit. The addition of the Traffic Enforcement Unit in FY 2003 has proven to be very successful. In 2002, the year prior to establishing the unit, there were 2,195 traffic collisions and 16 traffic fatalities. In 2010, there were 1,740 collisions and 4 traffic fatalities, a decline of 21% and 75% respectively. The enhancement to the Traffic Enforcement Unit will continue these efforts to provide a safer traveling environment for both citizens and visitors of Temple.

The FY 2012 Budget also continues a commitment to the take home police car program and has programmed the replacement of 10 patrol vehicles at a cost of \$350,000. In addition, the FY 2012 Budget proposes to replace 8 unmarked units in the Police Department at a cost of \$128,000.

Fire - In May 2008, the voters of Temple approved a General Obligation bond which included funding for the construction of a new fire facility. This facility will include Station 8 as well as a new training center and emergency operation center for Temple. The facility is located on Airport Road and construction is scheduled for completion in Summer 2011.

The FY 2012 Budget includes funding for the staffing of Station 8 as well as for the fire apparatus needed to provide emergency fire and medical response. In 2009, the City received a federal grant for 4 firefighters to assist in the staffing of the station. The City has filed subsequent grant applications for the remaining firefighters needed; however those grant applications have not been successful. Much like in the police staffing area, current grant program criteria are focused toward communities who have laid off firefighters and it is my belief that relying on grant funding for the remaining personnel needed to staff Station 8 is not viable.

This budget recommends funding the additional personnel needed to staff the station, at a cost of \$178,967. While this staffing level does not meet the goals set out in the Fire Master Plan, it is consistent with current staffing levels and will allow us to open Station 8.

In addition, this Preliminary Budget recommends purchasing the engine needed for Station 8 (\$650,000) and a 'Quick Response Vehicle', or 'QRV' (\$142,000). A second QRV purchase is also recommended, bringing the total fire apparatus recommendations to \$934,000.

Municipal Court. The FY 2012 Budget recommends funding to support a full time municipal judge and a juvenile case manager. The total new funding allocated for these additions is \$65,103.

Other New Programs and Increasing Costs- In addition to the specific areas mentioned above, the FY 2012 Budget includes funding for several program areas with new or increased costs not included in the past years adopted budget. These include such areas as the mowing of TxDOT right of way areas; additional funding for maintenance of the illumination of TxDOT roadways; opening of Clark Swimming Pool; and the continuation of the reinstated contract with the state lobbyist. Also reflected in the FY 2012 Budget is the increased cost of fuel which affects the majority of the programs and service areas of the City from solid waste collection, police patrol, code enforcement, metering, etc.

The impact and significance of the new programs and increased costs for maintaining our existing programs cannot be overstated. Costs for both are substantial. The increased costs associated with fuel alone are \$435,850.

Highlights by Fund

General Fund Revenues- Total revenues for the FY 2012 General Fund Budget are presented at \$55,869,855, an increase of 5.7% compared to the FY 2011 adopted budget. As already mentioned, the increase in revenues can be attributable to increases in sales tax revenue and property tax values.

The three largest sources of revenue for the General Fund are sales tax, property tax, and solid waste charges. As mentioned above, sales tax is the single largest source of revenue for the General Fund and is projected to account for \$15,800,000 or 28% of budgeted revenues. This represents a 6.76% increase from the FY 2011 sales tax revenue adopted budget of \$14,800,000.

Property tax revenue is the second largest source of revenue for the General Fund and is projected to account for \$11,213,134 and 20.07% of budgeted revenues. This represents a 3.18% increase from the FY 2011 property tax revenue adopted budget of \$10,867,304. FY 2012 property tax revenue will be generated from a proposed tax rate of 56.79¢ per \$100 valuation.

Charges associated with solid waste services represent the third largest source of revenue for the General Fund and are projected to account for 15.05% of total General Fund revenues. \$8,409,750 in solid waste revenue is projected for FY 2012, representing a 3.13% increase from the FY 2011 solid waste revenue adopted budget of \$8,154,636. These revenues are based on rates that remain unchanged from current year.

General Fund Expenditures- Total expenditures for the FY 2012 General Fund Budget are presented at \$58,888,747, an increase of 7.34% compared to the FY 2011 adopted budget. As noted above, two significant areas of emphasis in the FY 2012 Budget have contributed to almost half of this increase...streets maintenance and public safety.

In addition to 'holding the line' for services provided directly by the City, the FY 2012 Budget for funding provided to Public Service Agencies ('PSAs') is also proposed to be maintained at a comparable level as compared to FY 2011. As you are aware, the PSAs provide much needed services to the community and our support to them 'leverages' their resources with ours. It is a 'win-win' situation. However, just as City departments have been impacted by constrained resource levels, the recommended funding levels for our PSAs in the FY 2012 Budget are also impacted. The FY 2011 adopted budget included \$586,862 in funding to thirteen public service agencies. In FY 2012, sixteen public service agencies requested \$762,112 in funding. The FY 2012 Budget recommends \$589,252 in funding for thirteen organizations. Many of these organizations are funded through the City's General Fund. Organizations whose services are eligible for funding by hotel/motel tax revenues are funded through the City's Hotel/Motel Tax Fund.

One of the strategic focus areas identified in our Strategic Plan is to 'expand the tax base'. In order for us to continue to meet the demands for current service, and in order for us to meet the needs of projected growth and development, it is critical that this objective be met. As Council will recall, the FY 2008 Budget set historic, unprecedented levels of funding for economic development. The funding levels were increased by almost 100%, from around \$1,000,000 annually to almost \$2,000,000 annually. This increase also included funding a 'matrix incentive pool' at \$800,000. This 'matrix incentive pool' was intended to be funding for economic development incentives relating to economic development agreements with new and/or expanding businesses. The commitment made in the FY 2008 Budget was to maintain this matrix incentive pool at a level of \$800,000. The FY 2012 Budget continues that commitment and includes a \$399,492 'placeholder' investment to maintain the matrix funding level. It is anticipated that additional discussions with TEDC will clarify the actual level of funding needed and that such discussions will occur between the filing of this Preliminary Budget and adoption of the final FY 2012 Budget in September.

Capital Improvements Program- The City of Temple continues to manage the largest capital improvement program in the history of the community. As of March 31, 2011, a total of \$109,238,541 has been allocated for various capital projects including such improvements as water and sewer infrastructure, transportation infrastructure, parks improvements, and public safety infrastructure. Funding sources for these projects can be identified in eight major areas:

- ▶ Utility Revenue Bonds
- ▶ General Obligation Bonds
- ▶ Certificates of Obligation
- ▶ General Operating Budget Funding
- ▶ Limited Tax Notes
- ▶ TxDOT Pass Through Finance Agreement
- ▶ Grants
- ▶ Reinvestment Zone No. 1

During FY 2011, several major capital projects are underway or have been completed such as the Lions Park Multi-Use Fields, Golf Course Improvements, 5th Street Hike & Bike Trail, 1st Street Improvements, Central Fire Station, Fire Station 8/Training Center/EOC, Library Improvements, Bird Creek Wastewater Interceptor, and TBRSS Wastewater Plant Expansion preliminary design.

These improvements were funded by CO bonds, GO bonds, utility revenue bonds, grants, Reinvestment Zone funding, and general operating capital.

During FY 2012, the City of Temple is anticipated to begin construction on the single largest capital improvement project ever undertaken by the community- the expansion of the NW Loop 363. This is a significant project for the City and one that has been a desire of the community for many decades. The project includes upgrading approximately four miles of the existing two lane NW Loop from just west of the BNSF railroad crossing to FM 2305. This will create a continuous four lane highway from the NW Loop at I-35 to the SW Loop at I-35. The project includes grade separated interchanges at both SH 36/Airport Road and Wendland Road.

Current project cost estimates are in the \$46,000,000 range, with approximately \$35 million funded through TxDOT (Category 12 and Pass-Thru Financing funds) and approximately \$11 million funded through the City of Temple. The project is scheduled to be completed in Summer 2014.

The FY 2012 Budget includes \$8,240,910 for routine capital for the general operating budget which includes equipment and public infrastructure projects that are underway and/or planned for this fiscal year. In accordance with current fiscal and financial policies, \$4,976,601 of the routine capital is funded with fund balance or retained earnings. The breakdown of this amount is as follows:

- ▶ \$2,400,697 – Reinvestment Zone No. 1
- ▶ \$1,519,400 – General Fund
- ▶ \$666,504 – Drainage Fund
- ▶ \$390,000 – Water & Sewer Unreserved Retained Earnings

Within the Capital Improvement Projects section of this document, the specific projects recommended are listed within three categories. The categories are routine capital, multi-year non-routine capital, and projects identified for future funding.

Water and Wastewater Fund- Total revenues for the FY 2012 Water and Wastewater Fund Budget are presented at \$26,847,261, an increase of 1.74% compared to the FY 2011 adopted budget. No rate changes are proposed for water and wastewater service.

Expenses, capital improvements, and debt service for the FY 2012 Water and Wastewater Fund Budget are presented at \$27,237,261, an increase of 2.82% compared with prior year. The capital improvements include the allocation of \$1,770,750 to continue the long-term replacement program of water and sewer infrastructures and equipment needs.

Hotel and Motel Fund- Total revenues and expenditures for Hotel/Motel Fund Budget are presented at \$1,399,450, an increase of 11.00% compared to the FY 2011 adopted budget. Funding for the Mayborn Center program as well as the Tourism/Marketing program are funded through the Hotel/Motel Tax Fund. Public Service Agencies whose services are eligible for funding by hotel/motel tax revenues are also funded through the Hotel/Motel Tax Fund.

Federal and State Grant Fund- Total revenues and expenditures for Federal and State Grant Fund Budget are presented at \$523,888, a decrease of 14.88% compared to the FY 2011 adopted budget. Total revenues include the award of the Community Development Block Grant (CDBG) at \$466,842. The proposed allocation of CDBG funds are as follows: public service agencies \$60,000, code enforcement \$100,000, sidewalk improvements \$123,475, park improvements \$90,000, and general administration \$93,367. The FY 2012 Budget proposes that the administration of the CDBG program no longer be contracted out, but instead be conducted in-house.

Also included in the Grant Fund are revenues and expenses related to the Energy Efficiency and Conservation Block Grant at \$57,046. These funds have been awarded for the Sustainability and Grant Manager position and for the construction of the 5th Street Hike & Bike Trail.

Drainage Fund- Total revenues are presented at \$1,089,967, a 9.07% increase from prior year. Expenditures are presented at \$1,756,471, an increase of 46.39% compared to the FY 2011 adopted budget. The expenditures of the drainage fund represent personnel, operational, and capital cost related to maintenance of existing drainage systems.

FY 2012 is the fourth year of the Texas Pollutant Discharge Elimination System ('TPDES') program that is required by the Texas Commission on Environmental Quality ('TCEQ'). As I mentioned in the past, I consider this program to be an unfunded mandate from the State. The multi-year plan required by the State, and adopted by Council in 2008, includes fee increases over several years to fund this program. In FY 2009, the first drainage fee increase was implemented. The FY 2010 and FY 2011 Budget did not include a fee increase and the FY 2012 Preliminary Budget also proposes no increase to the drainage fee for the purpose of funding the TPDES plan.

However, a 25¢ increase to the drainage fee is included in the FY 2012 Budget in order to fund the Drainage Fund's portion of the mowing crew that was established mid-year in FY 2011 and will divide time between mowing of TxDOT right-of-ways and maintaining drainage channels.

Conclusion

I have attempted to provide you with a brief synopsis of the Preliminary Budget for FY 2012. Developing the budget is a team effort that requires participation and input by citizens, City Council and City staff. My thanks to all of the Department and Division Heads who helped put this Preliminary Budget together. Their ability to respond, many times on short notice, to my inquiries and requests for additional information was appreciated and helpful.

I also want to extend a special word of appreciation to Director of Finance, Traci Barnard and her staff for the many hours of work and effort they put in toward the development of this Preliminary Budget. Of special note is the work done by Assistant Finance Director Melissa Przybylski, Budget Analyst Miranda Hennig, Senior Accountant Kiyoko McDonald, and Accountant Stacey Hawkins. I also need to recognize Assistant City Manager Kim Foutz, Assistant to the City Manager Brynn Reynolds for their work and input into the development of this Preliminary FY 2012 Budget. Quite simply, this document could not have been produced without them.

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

Respectfully Submitted,



David Blackburn
City Manager
City of Temple, Texas

FY 2012

GENERAL FUND PROPOSED BUDGET

SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 6-24-11	Current as of 8-4-11	
Projected Revenues	\$ 55,869,855	\$ 55,711,585	\$ (158,270) ^A
Proposed Budget Expenditures	58,766,003	58,607,733	(158,270) ^B
Excess Revenues Over (Under) Expenditures	(2,896,148)	(2,896,148)	-
Transfers In (Out):			
Less: Transfer Out To Debt Service Fund -			
Energy Loan	(98,438)	(98,438)	-
Mobile Data Laptop Replacements	(5,780)	(5,780)	-
Commercial Solid Waste Trucks	(18,526)	(18,526)	-
Total Transfer In (Out)	(122,744)	(122,744)	-
Excess Revenues Over (Under) Expenditures for FY 2012	\$ (3,018,892)	\$ (3,018,892)	\$0.00
Recommended Use of Undesignated Fund Balance-Capital Projects			
-Capital Equipment Funding	\$ 1,519,400	\$ 1,519,400	\$ -
-TEDC Matrix Funding	399,492	399,492	-
-Strategic Investment Zone Funding	100,000	100,000	-
-Street Improvements	1,000,000	1,000,000	-
	\$ 3,018,892	\$ 3,018,892	\$ -

Explanation of Changes from Filed Budget to Proposed Budget @ 8/4/2011:

^A **Revenue Changes:**

Required adjustment from preliminary to certified roll	\$ (158,270)
Total Revenue Changes	\$ (158,270)

^B **Expenditure Changes:**

Police budget changes for operational items - correction	\$ (17,835)
Operational expenses related to new Fire Fighter positions - correction	25,293
Increase to Compensation Contingency to include Regular Part-Time positions with benefits	23,600
City Secretary position	(28,747)
Net change to Council Contingency	(56,859)
Decrease Seal Coating Program	(103,722)
Total Expenditures Changes	\$ (158,270)
Net Revenue Over (Under) Expenditures	\$ -

FY 2012

DEBT SERVICE FUND PROPOSED BUDGET

SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 6-24-11	Current as of 8-4-11	
Projected Revenues	\$ 7,917,970	\$ 7,917,970	\$ - ^A
Proposed Budget Expenditures	8,361,085	8,361,085	-
Excess Revenues Over (Under) Expenditures	\$ (443,115)	\$ (443,115)	-
Transfers In (Out):			
Plus: Transfer In From Hotel/Motel Fund [Energy Program]	20,371	20,371	-
Plus: Transfer In From General Fund -			
Energy Loan	98,438	98,438	
Mobile Data Laptop Replacements	5,780	5,780	
Commercial Solid Waste Trucks	18,526	18,526	-
Excess Revenues Over (Under) Expenditures for FY 2012	\$ (300,000)	\$ (300,000)	\$ -
Recommended Use of Undesignated Fund Balance			-
	\$ (300,000)	\$ (300,000)	\$ -

Explanation of Changes from Filed Budget to Proposed Budget @ 8/4/2011:

^A **Revenue Changes:**

Required adjustment from preliminary to certified roll	\$ (509)
Increased line item for penalty and interest (offset for property tax adjustment)	509
Total Revenue Changes	\$ -

^B **Expenditure Changes:**

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

FY 2012

REINVESTMENT ZONE NO. 1 FUND PROPOSED BUDGET

SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET

	Proposed Budget ¹		Increase (Decrease)
	Filed Copy as of 6-24-11	Current as of 8-4-11	
Projected Revenues	\$ 5,405,956	\$ 5,405,956	\$ - ^A
Proposed Budget Expenditures	7,806,653	6,606,653	(1,200,000) ^B
Excess Revenues Over (Under) Expenditures for FY 2012	\$ (2,400,697)	\$ (1,200,697)	\$ 1,200,000

¹ - As amended in Financing Plan approved by Council on July 21, 2011

Explanation of Changes from Filed Budget to Proposed Budget @ 8/4/2011:

^A **Revenue Changes:**

Total Revenue Changes	\$ -
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^B **Expenditure Changes:**

Reallocated funding for Outer Loop from FY 2012 to FY 2011	\$ (1,200,000)
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Total Expenditures Changes	\$ (1,200,000)
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Net Revenue Over (Under) Expenditures	\$ 1,200,000
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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SCHEDULING THE ADOPTION OF THE PROPOSED TAX RATE FOR SEPTEMBER 1, 2011; DECLARING FINDINGS OF FACTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Whereas, the proposed tax rate of \$0.5679 per \$100 of assessed property valuation represents a 1.94% increase above the effective tax rate of \$0.5571 – the current FY 2011 tax rate is \$0.5679; and

Whereas, the City Council has determined that it is in the public interest to schedule the adoption of the proposed tax rate for September 1, 2011.

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

Part 1: The City Council sets the proposed tax rate at \$0.5679 per \$100 of assessed property valuation, and schedules the adoption of the proposed tax rate for September 1, 2011, at the regular scheduled meeting at 5:00 p.m. in the City Council Chambers on the second floor of the Municipal Building located at Main and Central in Temple, Texas.

Part 2: 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 4th day of August, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
Item #4(A-B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

- (A) July 14, 2011 Special Called Meeting
- (B) July 21, 2011 Special Called and Regular Meeting

STAFF RECOMMENDATION: Approve minutes as presented in item description.

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

FISCAL IMPACT: N/A

ATTACHMENTS:

July 14, 2011 Special Called Meeting
July 21, 2011 Special Called and Regular Meeting

SPECIAL MEETING OF THE TEMPLE CITY COUNCIL

JULY 14, 2011

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, July 14, 2011, at 3:00 PM at the Municipal Building, 2 North Main Street, 3rd Floor Conference Room, Temple, TX 76501.

Present:

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

1. Discuss the proposed FY 2011-2012 budget and related issues.

David Blackburn, City Manager, presented this item to the City Council. He began by presenting the list of Public Service Agencies funded in the proposed budget.

Councilmember Dunn stated the Bell County Expo Center requested funding for a marketing person. He asked if that request was not funded because it would be an ongoing expense for that organization.

Mr. Blackburn replied that was one consideration, as well as the nature of the request. The only new request funded was for Temple College, which was a one-time request.

Mayor Pro Tem Schneider stated he would like to consider rotating the public service agency funding annually but he understands the issues with doing that. The Ronald McDonald House was not funded this year, in part because they missed the deadline and did not submit an application.

Kim Foutz, Assistant City Manager, provided the City Council with an update on the Strategic Investment Zones (SIZs). She provided some background information about how the program began and some of the objectives. The original SIZ Committee recommended ten SIZ corridors and to date, three SIZ grant districts have been created, the South 1st Street/Downtown Corridor, North 3rd Street Corridor and Avenue G and H Corridor. Mrs. Foutz outlined the incentives available to property owners in each of these districts, as well as the funding that has been appropriated by Council annually for these matching grants. A summary overview was presented of the results of the program to date and the SIZ code enforcement activity relating to signs, junk debris, grassy lots, junk vehicles, etc. The City Manager's proposed budget for FY 2012 continues funding for the SIZ program in the amount of \$100,000. Council has expressed the desire to consider the SIZ applications on a case by case basis after the annual budget allocation is obligated. It has also been suggested that the program criteria be revised, Mrs. Foutz stated.

Mr. Blackburn stated some modifications to the program criteria will come to Council for approval if the program remains funded in the budget.

Mayor Pro Tem Schneider stated this is a great program but each year we exceed the amount of funds budgeted. He expressed his concern with some of the criteria, including the timeframe to use the funds.

Mayor Jones acknowledged the need to better manage the funds allocated for this program in order to accomplish more.

Councilmember Dunn stated the SIZ program is a great economic tool for the redevelopment of the older area of the City. He would like to see it be a competitive process, with the requirement that the property owner keep and maintain the property for a certain period of time if they receive a grant from the City. He agreed with looking at each project more selectively in the future.

- 2. Executive Session: Chapter 551, Government Code, §551.074 - Personnel Matter - The City Council will meet in executive session to discuss the employment, evaluation, duties and work plans for the City Manager, City Attorney, Director of Finance, City Secretary and Municipal Court Judge. No final action will be taken.**

Mayor Jones stated the City Council would enter into executive session at this time, approximately 4:34 p.m. No action was taken regarding this item.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

TEMPLE CITY COUNCIL

JULY 21, 2011

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, July 21, 2011, at 2:30 P.M., at Fire Station No. 8/ EOC/ Training Center, 7268 Airport Road.

Present:

Councilmember Danny Dunn

Councilmember Perry Cloud

Mayor Pro Tem Russell Schneider

Councilmember Judy Morales

Mayor William A. Jones, III

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, July 21, 2011.

Regular Agenda Item #6 - CDBG Budget: Councilmember Morales indicated she would abstain from the discussion and vote on this item.

Consent Agenda Item #7(D) - Police Headquarters Change Orders: Councilmember Dunn asked that this item be removed from the Consent Agenda for presentation. Mayor Pro Tem Schneider stated he would abstain from the discussion and vote on this item.

Consent Agenda Item #7(J) - Z-FY-11-27: Mayor Jones asked that this item be removed from the Consent Agenda for presentation.

2. Discuss the proposed FY 2011-2012 budget and related issues.

Item 2 was presented after item 3.

David Blackburn, City Manager, stated another budget related issue would be presented at this work session, Phase 2 of the Unified Development Code.

Brian Mabry, Planning Director, began the discussion by identifying the broad category of Code challenges to be presented - development review; terminology; uses and districts; and dimensional and design standards. For each of these categories, Mr. Mabry noted several issues and gave sample topics for discussion, as well as example photos.

Autumn Speer, Director of Community Services, presented several special projects for discussion and consideration by the City Council. These included issues such as temporary storage and donation boxes; sidewalks; Trails Master Plan implementation; downtown design standards; and 1st Street and 3rd Street Overlays (Avenue M to Mayborn Center). She presented the issues associated with each special project identified and explained sample topics for discussion.

Mr. Blackburn encouraged the City Council to adopt a new immediate action plan from the Comprehensive Plan by October 1st.

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

Matter - The City Council will meet in executive session to discuss the employment, evaluation, duties and work plans for the City Manager, City Attorney, Director of Finance, City Secretary and Municipal Court Judge. No final action will be taken.

Mayor Jones stated the City Council would enter into executive session at this time, approximately 3:00 p.m. The regular session was reconvened at approximately 4:00 p.m. with no action being taken.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, July 21, 2011 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Russell Schneider
Mayor William A. Jones, III
Councilmember Danny Dunn
Councilmember Judy Morales
Councilmember Perry Cloud

I. CALL TO ORDER

1. Invocation

Thomas Pechal, Temple Fire & Rescue, voiced the Invocation.

2. Pledge of Allegiance

Several of the Junior Fire Cadets in attendance led the Pledge of Allegiance.

II. PUBLIC APPEARANCE

3. Receive comments from Ms. Mary K. Johnson regarding Temple Police and the Water Business Department.

Mary Johnson, 1015 South Main Street, Apt. B, addressed the City Council and read a prepared statement. She presented her concerns to the Council regarding the Temple Police Department. Her list of negative encounters with that department include racial profiling, harassment, retaliation and discrimination in the form of excessive traffic stops, refusal to arbitrate public safety events and excessive traffic citations. Ms. Johnson requested a formal investigation of her concerns be conducted.

The next issue Ms. Johnson addressed was regarding the City Water Department. She stated she lives in an apartment with 2 bedrooms and paid \$88 for water in this 1,000 square foot apartment. She asked the Council to poll her neighbors because no one is probably paying as much as her.

III. PROCLAMATIONS & SPECIAL RECOGNITIONS

4. Recognition of the 2011 Junior Fire Cadet Program

Thomas Pechal, Temple Fire and Rescue, presented this recognition of the 13th year of the Junior Fire Cadet Program. He showed a brief video of some of the activities conducted during this year's program. Mr. Pechal also expressed his support to all of those who make this program possible. He presented Councilmember Dunn with a t-shirt from the Temple Junior Fire Cadet program in appreciation for his attendance and participation in this year's graduation ceremony.

IV. PUBLIC HEARING

5. Conduct a public hearing to receive comments and questions concerning the 2010 Drinking Water Quality Report (Consumer Confidence Report).

Nicole Torralva, Director of Public Works, presented the 2010 Report to the City Council. The Consumer Confidence Report (CCR) is an annual water quality analysis of the City's drinking water, which is required by the Texas Commission on Environment Quality (TCEQ) to be delivered to all customers. This has been completed by including the CCR in all utility billing cycles, both by mail and electronically, as well as making it available on the City's website, at the Utility Business Office, the Public Library, and through the office of Public Works Administration.

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

There being no comments, Mayor Jones closed the public hearing. No action was required regarding this item.

V. BUDGET ITEMS

6. 2011-6339-R: PUBLIC HEARING - Conduct a final public hearing and consider adopting a resolution approving the Community Development Block Grant (CDBG) 2011-2012 Annual Action Plan and Budget, including the funding recommendations for public service agencies from the Community Services Advisory Board.

Lois Whitley, Finance Department, presented this item to the City Council. This is the second and final public hearing as required by HUD for the 2010 Annual Action Plan, which is the second year of the 5-year Consolidated Plan. \$466,842 was received by the City this year. She summarized the proposed allocation of these funds. Ms. Whitley also presented the advisory board and staff recommendations for funding of public service agencies. Three citizen meetings were conducted during March and April, followed by submission of the proposed budget to the Council in June which began the 30-day comment period.

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

There being no comments, Mayor Jones closed the public hearing with regard to agenda item 6.

Motion by Councilmember Danny Dunn to adopt resolution, seconded by

Councilmember Russell Schneider.

Councilmember Judy Morales abstained. The other Councilmembers voted aye. The motion passed.

VI. PUBLIC COMMENTS

There were no public comments made as part of this meeting.

VII. CONSENT AGENDA

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

(A) July 7, 2011 Special Called and Regular Meeting

(B) 2011-6340-R: Consider adopting a resolution authorizing a professional services agreement with Jacobs Engineering Group, Inc. of Austin for services required for Preliminary Engineering related to drainage improvements to the reach of Bird Creek between IH 35 and Loop 363 in an amount not to exceed \$56,156.

(C) 2011-6341-R: Consider adopting a resolution authorizing a construction contract with Bell Contractors, Inc., of Belton for construction activities required to rehabilitate the sewer lines located at Dunbar Road, Avenue M and Avenue N in an amount not to exceed \$147,682.80.

(D) 2011-6342-R: Consider adopting a resolution authorizing project scope change orders to the Police Headquarters construction contract with American Constructors, Inc. of Austin in an estimated amount of \$213,000, and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.

(E) 2011-6343-R: Consider adopting a resolution authorizing the renewal of a Cooperative Working Agreement with Bell County for the Bell County Crime Coalition project that is administered by the Bell County Juvenile Probation Department.

(F) 2011-6344-R: Consider adopting a resolution authorizing a Memorandum of Understanding with the City of Killeen and Bell County to establish the rights, duties, administration and division of funds received under the 2011 Edward Byrne Memorial Justice Assistance Grant (JAG) program Award.

(G) 2011-6345-R: Consider adopting a resolution authorizing the purchase of two (2) police canines, including training, from US K9 Unlimited of Kaplan, Louisiana, in the amount of \$27,800.

(H) 2011-6346-R: Consider adopting a resolution authorizing the purchase of five (5) DVR systems for the Police Department from L-3 Mobile-Vision,

Inc. of Boonton, New Jersey, utilizing the Houston-Galveston Area Council Interlocal Cooperative (HGAC) in the amount of \$24,762.50, and authorizing a service agreement with All Points Communications of Georgetown for the installation of the systems in the amount of \$2,560 for a total project cost of \$27,322.50.

(I) 2011-6347-R: Consider adopting a resolution authorizing the purchase of audio visual professional services for the new Fire Station 8/EOC/Training Center from InHouse Systems, Inc. in an amount not to exceed \$31,500.

(J) 2011-4450: SECOND READING - Z-FY-11-27: Consider adopting an ordinance authorizing a zoning change from Office One District (O1) to Office Two District (O2) on Lots 1 and 2, Block 1, Mullins Southwest Addition, located at 5293 and 5297 South 31st Street. (Note: Approval of this item on consent agenda will rezone the subject property to PD-O1, as approved on first reading by the City Council and with concurrence of applicant.)

(K) 2011-4451: SECOND READING - Z-FY-11-31: Consider adopting an ordinance authoring amendments to Article 1 and Section 3.6.4 of the Unified Development Code to establish provisions pursuant to Chapter 245 of the Texas Local Government Code allowing for the vesting of a development project under standards that are in effect on the date that the original application or a master plan for a development was filed, to change the expiration date for a Preliminary Plat from two years after it is approved to five years and to allow an Administrative Extension procedure for expired Preliminary Plats.

(L) 2011-4453: SECOND READING - Z-FY-11-29(B): Consider adopting an ordinance authorizing a zoning change from Agricultural District (AG) to Single Family Two District (SF2), Commercial District (C), and Multiple Family Two District (MF2) on 210.26 ± acres, situated in the Baldwin Robertson Survey, Abstract 17, Bell County, Texas, located at the southeast corner of SH 317 and Prairie View Road. (Note: Approval of this item on consent agenda will rezone the subject property to SF2, GR and MF2, as approved on first reading by the City Council and with the concurrence of the applicant.)

(M) 2011-4454: SECOND READING - Consider adopting an ordinances amending the Code of Ordinances by adding a new Chapter 27, "Storm Water Management" and include a section entitled "Erosion and Sedimentation Control" per the City of Temple's Storm Water Management Program and as required by Texas Commission on Environmental Quality (TCEQ).

(N) 2011-4454: SECOND READING - Consider amending the Code of Ordinances by adding a new section entitled "Illicit Discharge" to Chapter 27, "Storm Water Management" per the City of Temple's Storm Water Management Program and as required by Texas Commission on Environmental Quality (TCEQ).

(O) 1. 2011-4455: SECOND READING - Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans to reallocate funding in the amount of \$1,200,000 from FY 2012 to FY 2011, Outer Loop (from Wendland Road to IH-35 North), Line 300; recognize additional ad valorem tax revenue in the amount of \$558,506, Line 4, and reallocate funding of \$1,300,000 to Line 505, Airport Corporate Hangar Development from reprioritizing \$741,494 of funds from Line 300 and recognizing additional revenue of \$558,506 from Line 4.

2. 2011-6348-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP for design, bidding, construction administration, special services and on-site representation of the corporate hangar development project phase 1 at the Draughon-Miller Central Texas Regional Airport in the amount of \$191,965.

3. 2011-6349-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, for engineering services required to prepare preliminary engineering design for the Outer Loop between Wendland Road to IH-35 for an amount not to exceed \$150,655.

(P) 2011-4456: SECOND READING - Consider adopting an ordinance ordering a Charter Amendment election for November 8, 2011 so submit to the voters a proposed charter amendment to create a minimum staffing level for the number of police officers authorized for the City of Temple Police Department.

(Q) 2011-6350-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

Motion by Councilmember Judy Morales to adopt resolution approving Consent Agenda, with exception of items 7(D) and 7(J), seconded by Councilmember Perry Cloud.

Motion passed unanimously.

(D) 2011-6342-R: Consider adopting a resolution authorizing project scope change orders to the Police Headquarters construction contract with American Constructors, Inc. of Austin in an estimated amount of \$213,000, and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.

Belinda Mattke, Purchasing Director, presented this item to the City Council. This item recommends approval of seven change orders to the contract with American Constructors. She provided the timeline for this renovation project. The project is currently on schedule and under budget. No new funds are needed to fund these change orders. Ms. Mattke reviewed the scope of each of the proposed change orders. She also presented a project cost summary.

Mr. Blackburn stated it is not uncommon for change orders to come forward after a project has begun. Some of these are designed to reduce future operating costs of the facility. There is no relation to the funds allocated in item 7(G), the purchase of police canines, and these funds.

Councilmember Dunn stated change orders are understandable and important. However, just because we have money he stated he was not comfortable with approving all of the change orders presented. He indicated he would like to remove the carpet replacement and terrazzo floor refinishing change orders.

Ms. Mattke stated direction is needed from Council as several of these items have a long lead time and can affect the timing of the project.

Councilmember Cloud agreed that change orders 5 and 6 are more maintenance type items instead of value added items.

Traci Barnard, Director of Finance, reminded Council these bonds have not been issued as they are awaiting the final cost of the project.

Motion by Councilmember Danny Dunn to adopt resolution authorizing change orders 1 through 5 totalling \$170,000, and tabling 6 and 7 for further review, seconded by Councilmember Judy Morales.

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

(J) 2011-4450: SECOND READING - Z-FY-11-27: Consider adopting an ordinance authorizing a zoning change from Office One District (O1) to Office Two District (O2) on Lots 1 and 2, Block 1, Mullins Southwest Addition, located at 5293 and 5297 South 31st Street. (Note: Approval of this item on consent agenda will rezone the subject property to PD-O1, as approved on first reading by the City Council and with concurrence of applicant.)

Brian Mabry, Planning Director, presented this item to the City Council. The current zoning is O-1 for this property located adjacent to South 31st street at Sleepy Hollow Drive. Some of the established uses are not consistent with the current O-1 zoning. The applicant originally requested O-2 zoning but after public input the request has evolved to PD-O1 zoning. Mr. Mabry showed an aerial photo of the property, surrounding properties, and the grill at the rear of the Red Door Restaurant property. Mr. Mabry reviewed the Thoroughfare Plan, surrounding zoning, and the history of public and private meetings held with residents, staff and at the Planning and Zoning Commission meeting. He presented the recommendation from the Planning and Zoning Commission and then the staff recommendation, which came after another meeting with the residents and applicant. Mr. Mabry also displayed the planned development site plan for Tuscan Square. Sixty-five notices were mailed to surrounding property owners, with five being returned in favor and 4 in disapproval.

Councilmember Dunn stated he was in favor of limiting the number of particular uses consistent with the Planning and Zoning Commission recommendation

because of the increase in traffic that will be generated.

Mayor Pro Tem Schneider stated it would be a burden to keep up with the number and type of businesses in that development.

Motion by Councilmember Russell Schneider to adopt ordinance as approved on first reading with staff recommendation. Motion was amended to allow only the existing outdoor cooking area in existence at this time, seconded by Councilmember Perry Cloud.

Motion passed unanimously.

VII. REGULAR AGENDA

ORDINANCES

- 8. 2011-4457: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance amending the Code of Ordinances, Chapter 6, "Animals and Fowl", Sec 6-18, Definitions of Wild Animal, to amend the definition of alligator and crocodile to those over 2.5 feet long.**

Walter Hetzel, Animal Services Director, presented this item to the City Council. The current wording of the City ordinance prohibits the possession of any crocodile or alligator based on a danger to the public. The suggested wording would delineate, by size, which alligators and crocodiles are not allowed and still give citizens authority to possess small ones that have little potential to cause harm. The request is that only those over 2.5 feet be disallowed.

Councilmember Cloud expressed his concern with opening this option up to everyone. What happens when these alligators get larger?

Mr. Hetzel stated the City would either euthanize them or recommend the owner take them to a place where allowed. Some would likely be dropped off in streams but they would not survive cold weather.

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 Danny Dunn to adopt ordinance, with second reading and final adoption set for August 4, 2011, seconded by Councilmember Russell Schneider.

Councilmember Russell Schneider, and Councilmember Danny Dunn voted aye. The other members voted nay. The motion failed.

- 9. 2011-4458: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance establishing the prima facie speed limit on FM 2305, within the City limits.**

Nicole Torralva, Director of Public Works, presented this item to the City Council. Holy Trinity Catholic High School has requested that a School Zone be established on FM 2305 for their school. This prompted a traffic study by TxDOT to be performed. Based on Traffic Engineering Studies by the State, TxDOT has requested that the City adopt an ordinance setting the prima facie speed limits on FM 2305. Ms. Torralva displayed the recommended speed limits on a map. The City is required by TxDOT to re-adopt this speed limit at this time with changes being posted. The cost to install new mast arm type flashing beacons at Holy Trinity High School which will be funded with Child Safety Fees. These fees are collected by the County on behalf of the City and must be spent on programs designed to enhance child safety.

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 Perry Cloud to adopt ordinance, with second reading and final adoption set for August 4, 2011, seconded by Councilmember Perry Cloud.

Motion passed unanimously.

- 10. (A) 2011-4459: FIRST READING - PUBLIC HEARING -Consider adopting an ordinance authorizing the annexation of a 3-acre tract of land located on the east side of State Highway 36, north of Moffat Road, part of Outblock 10790-A, more commonly known as 10740 W. State Highway 36.**

(B) 2011-4460: FIRST READING - PUBLIC HEARING - Z-FY-11-28: Consider adopting an ordinance authorizing a zoning change from Agriculture District (AG) to Commercial District (C) on three acres out of land not presently in the Temple City Limits, being part of Sara Fitzhenry Survey, Abstract Number 312, Bell County, Texas, located on the Northeast side of State Highway 36, across from the CEFCO Convenience Store.

Brian Mabry, Planning Director, presented items 10(A) and (B) to the City Council. The Council adopted a resolution accepting the voluntary petition for annexation and authorizing staff to create a municipal service plan. The property has a non-annexation agreement in place that would trigger annexation if the property were to be developed further, which the applicant is requesting. Mr. Mabry showed an aerial photo of the property and reviewed the municipal services plan.

Regarding item (B), commercial zoning is required to expand the existing boat storage use on the property. Mr. Mabry showed photos of the surrounding properties. He explained the request is not consistent with the Future Land Use Plan but it is an appropriate use for this property. There are no City utilities in place and none are anticipated. Two notices were mailed to surrounding property owners and none were returned. The Planning and Zoning Commission recommended approval of the rezoning.

Mayor Jones declared the public hearing open with regard to agenda items 10 (A) & (B) and asked if anyone wished to address these items.

Mr. Carl Pearson, 3814 Wendy Oaks, addressed the Council representing the applicant, Mr. Lawson. The plan is to add to the existing storage buildings on the property.

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

Motion by Councilmember Russell Schneider to adopt ordinances (A) and (B), with second reading and final adoption set for August 4, 2011, seconded by Councilmember Perry Cloud.

Motion passed unanimously.

BOARD APPOINTMENTS

- 11. 2011-6351-R: Consider adopting a resolution appointing members to the following City boards and commissions:**

(A) Airport Advisory Board - one member to fill an unexpired term of the Temple Economic Development Corporation representative through September 1, 2013

It was recommended that Jim Kent be appointed to this vacant position.

(B) Temple Public Safety Advisory Board - two members to fill unexpired terms through September 1, 2011 and September 1, 2013

It was recommended that Billy Rowton be appointed to fill the unexpired term through September 1, 2011 and that Rebecca Rucker be appointed to fill the unexpired term through September 1, 2013.

(C) Citizen Advisory Committee on Redistricting - one member to fill vacated District 2 representative position

It was recommended that John Davis be appointed to fill this vacant position.

Motion by Councilmember Danny Dunn to adopt resolution, seconded by Councilmember Judy Morales.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
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Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$65,600.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to engage the audit firm of Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual audit of the City of Temple. This will be the second year of a five year contract for audit services. The contract will be renewed annually. Staff anticipates the audit will be completed and presented to the Council in February 2012.

Listed below are the cost proposals related to audit services:

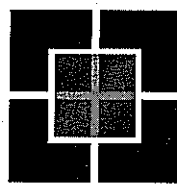
	Fiscal Year Ending	Base Fee
Second Year	2011	\$ 65,600
Third Year	2012	67,200
Fourth Year	2013	68,900
Fifth Year	2014	70,500

Per the Local Government Code Section 252.022, professional services are exempt from the competitive bidding rules.

FISCAL IMPACT: \$65,600 is proposed in the FY 2011-2012 preliminary budget filed on June 24, 2011. The fee for FY 2011 is impacted by the implementation of new GASB pronouncements, new governmental sampling guidelines, and the American Recovery and Reinvestment Act (ARRA) funds spent in 2011 will, by definition, increase the audit risk.

ATTACHMENTS:

[Engagement letter](#)
[Resolution](#)



BROCKWAY
GERSBACH
FRANKLIN &
NIEMEIER, P.C.

CERTIFIED PUBLIC ACCOUNTANTS

July 13, 2011

Honorable Mayor and
Members of the City Council
Temple, Texas

We are pleased to confirm our understanding of the services we are to provide the City of Temple, Texas for the year ended September 30, 2011. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the City of Temple, Texas as of and for the year ended September 30, 2011. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the City of Temple, Texas' basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to City of Temple, Texas' RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Budgetary Comparison Schedules
3. GASB – Required Supplementary Pension and OPEB Schedules

We have also been engaged to report on the supplementary information other than RSI also accompanies the City of Temple, Texas' financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

1. Combining and Individual Fund Statements and Schedules
2. Schedule of Expenditures of Federal Awards

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and for which our auditor's report will not provide an opinion or any assurance.

1. Introductory Section
2. Statistical Data

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U. S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the basic financial statements taken as a whole. The objective also includes reporting on—

- Internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

The reports on internal control and compliance will each include a statement that the report is intended solely for the information and use of management, the body of individuals charged with governance, others within the entity, specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major program(s) in accordance with OMB Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports. If our opinions on the financial statements or the Single Audit compliance opinions are other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards in accordance with the requirements of OMB Circular A-133. As part of the audit, we will assist with preparation of your financial statements, schedule of expenditures of federal awards, and related notes. You are responsible for making all management decisions and performing all management functions relating to the financial statements, schedule of expenditures of federal awards, and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and the schedule of expenditures of federal awards and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any nonaudit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Honorable Mayor and
Members of the City Council
Temple, Texas
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Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met that there is reasonable assurance that government programs are administered in compliance with compliance requirements. You are also responsible for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Temple, Texas and the respective changes in financial position and, where applicable, cash flows in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for ensuring that management and financial information is reliable and properly recorded. Your responsibilities also include including identifying significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws and regulations, contracts, agreements and grants. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan. You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to present the supplementary information with the audited financial statements.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because an audit is designed to provide reasonable, but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that comes to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will also require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Controls

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

Honorable Mayor and
Members of the City Council
Temple, Texas
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An audit is not designed to provide assurance on internal control or to identify significant deficiencies. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and OMB Circular A-133.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City of Temple, Texas' compliance with applicable laws and regulations and the provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Circular A-133 Compliance Supplement* and for the types of compliance requirements that could have a direct and material effect on each of City of Temple, Texas' major programs. The purpose of those procedures will be to express an opinion on Texas' compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

Engagement Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

Honorable Mayor and
Members of the City Council
Temple, Texas
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At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits.

The audit documentation for this engagement is the property of Brockway, Gersbach, Franklin & Niemeier, P. C. and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to a federal agency providing direct or indirect funding or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Brockway, Gersbach, Franklin & Niemeier, P. C. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release or for any additional period requested by the City. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit in July, 2011 and to issue our reports no later than February, 2012. Steve Niemeier is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services will be at our standard rates, except we agree that our gross fee, including expenses, will not exceed \$ 65,600. Our standard hourly rates vary accordingly to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

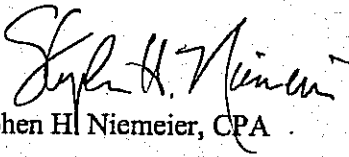
Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2009 peer review report accompanies this letter.

Honorable Mayor and
Members of the City Council
Temple, Texas
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We appreciate the opportunity to be of service to the City of Temple, Texas and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,

BROCKWAY, GERSBACH, FRANKLIN & NIEMEIER, P.C.



Stephen H. Niemeier, CPA

RESPONSE:

This letter correctly sets forth the understanding of the City of Temple, Texas

By: _____

Title: _____

Date: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING A CONTRACT WITH BROCKWAY, GERSBACH, FRANKLIN
AND NIEMEIER, P.C., TO PERFORM THE ANNUAL CITY OF TEMPLE
AUDIT, FOR AN AMOUNT NOT TO EXCEED \$65,600; AND PROVIDING AN
OPEN MEETINGS CLAUSE.

Whereas, the Staff recommends engaging the audit firm of Brockway, Gersbach, Franklin and Niemeier, P.C., to perform the annual audit for the City of Temple;

Whereas, this will be the second year of a 5-year contract for audit services;

Whereas, funds will be available for this service in the FY2011-12 proposed budget filed on June 24, 2011; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an agreement, not to exceed \$65,600, between the City of Temple and Brockway, Gersbach, Franklin and Niemeier, P.C., after approval as to form by the City Attorney, to perform the annual City of Temple audit.

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 **4th** day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
Item #4(D)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva P.E., Director of Public Works

Kenny Henderson, Superintendent of Street and Drainage Services

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance establishing the prima facie speed limit on FM 2305, within the City limits.

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

ITEM SUMMARY: Holy Trinity Catholic High School has requested that a School Zone be established on FM 2305 for their school. This prompted a traffic study by TxDOT to be performed. Based on Traffic Engineering Studies by the State, TxDOT has requested that the City adopt an ordinance setting the prima facie speed limits on FM 2305. The section of highway is described as follows:

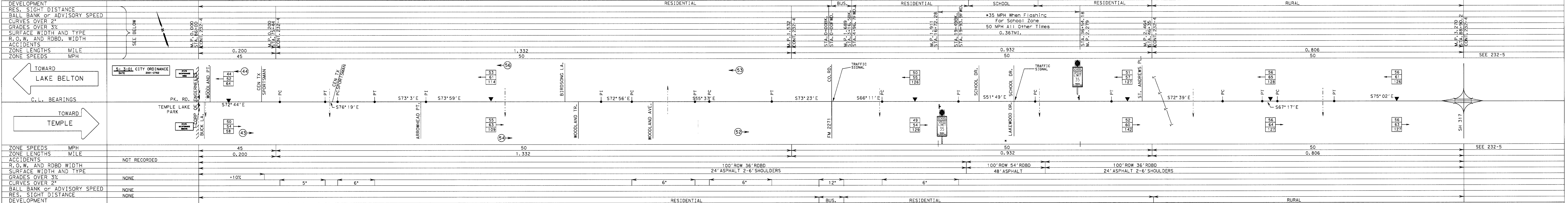
Starting at M.P. 0.000, the speed limit shall be 45 MPH for a distance of 0.200 miles. The speed limit shall then be 50 MPH for a distance of 1.332 miles. The speed limit shall then be 50 MPH for a distance of 0.932 miles, except in times of ingress and egress, the speed limit shall be 35 MPH for a distance of .367 miles when flashing for School Zone. The speed limit shall then be 50 MPH for a distance of 3.216 miles, except in times of ingress and egress, the speed limit shall be 35 MPH for a distance of 0.151 miles when flashing for School Zone ending at M.P. 1.969.

The City is required by TxDOT to re-adopt this speed limit at this time with changes being posted.

FISCAL IMPACT: The cost to install new mast arm type flashing beacons at Holy Trinity High School is \$17,518.01 which will be funded with Child Safety Fees. These fees are collected by the County on behalf of the City and must be spent on programs designed to enhance child safety.

ATTACHMENTS:

[Location Map](#)
[Ordinance](#)



DIST. WACO	COUNTY BELL	MINUTE NO. 108474	DATE 3/29/01
HIGHWAY FM 2305 CITY TEMPLE (INC.)		REPLACES 107806	DATE 3/25/99
DATE OF SURVEY 1/25/11	SCALE 1" = 400'	REPLACED BY 106847	DATE 6/18/96
		CANCELED BY	DATE / /
LIMITS OF ZONE			
SECTION ONE	LENGTH 1.532 MILES	SECTION TWO	LENGTH MILES
STA. OR M.P.	CONT. & SECT.	PROJECT	
BEGINS	M.P. 0.000	232-4	
	LAKE BELTON		
ENDS	M.P. 1.532	232-4	
	TEMPLE W. CITY LIMIT		

42	85 PERCENTILE SPEED
62	TOP SPEED MEASURED
125	NUMBER OF CARS CHECKED
●	FATAL ACCIDENT
●	PERSONAL INJURY ACCIDENT
○	PROPERTY DAMAGE ACCIDENT
■	INDICATES SECTION ZONED BY COMMISSION MINUTE

SPEED ZONE

INDICATES DRIVE THROUGH SPEED DRIVE CONDUCTED BY: GARY SCOTT 1-26-11

MAP 2 OF 2

DEVELOPMENT
RES. SIGHT DISTANCE
BALL BANK or ADVISORY SPEED
CURVES OVER 2°
GRADES OVER 3%
SURFACE WIDTH AND TYPE
R.O.W. AND RDBD. WIDTH
ACCIDENTS
ZONE LENGTHS MILE
ZONE SPEEDS MPH

TOWARD
LAKE BELTON
C.L. BEARINGS
TOWARD
TEMPLE

ZONE SPEEDS MPH
ZONE LENGTHS MILE
ACCIDENTS
R.O.W. AND RDBD WIDTH
SURFACE WIDTH AND TYPE
GRADES OVER 3%
CURVES OVER 2°
BALL BANK or ADVISORY SPEED
RES. SIGHT DISTANCE
DEVELOPMENT

DIST. WACO COUNTY BELL		MINUTE NO.	DATE	/	/
HIGHWAY FM 2305 CITY TEMPLE (INC.)		REPLACES	DATE	/	/
DATE OF SURVEY 1 / 25 / 11		REPLACED BY	DATE	/	/
SCALE 1" = 400'		CANCELED BY	DATE	/	/
LIMITS OF ZONE					
SECTION ONE		LENGTH	SECTION TWO		LENGTH
MILES			MILES		
BEGINS	STA. OR M.P.	CONT. & SECT.	PROJECT	BEGINS	STA. OR M.P.
					CONT. & SECT.
					PROJECT
ENDS	STA. OR M.P.	CONT. & SECT.	PROJECT	ENDS	STA. OR M.P.
					CONT. & SECT.
					PROJECT

232-5+ .dgn

5-3-01 CITY ORDINANCE
DATE 2001-2762

SEE BELOW

SEE 232-4

SEE 232-4

NOT RECORDED

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STA. 20+00
CONT. 232-5
M.P. 10.000

SH 317

SEE 232-4

NOT RECORDED

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S72°55'47"E

S75°5'35"E

N71°43'15"E

S72°34'19"E

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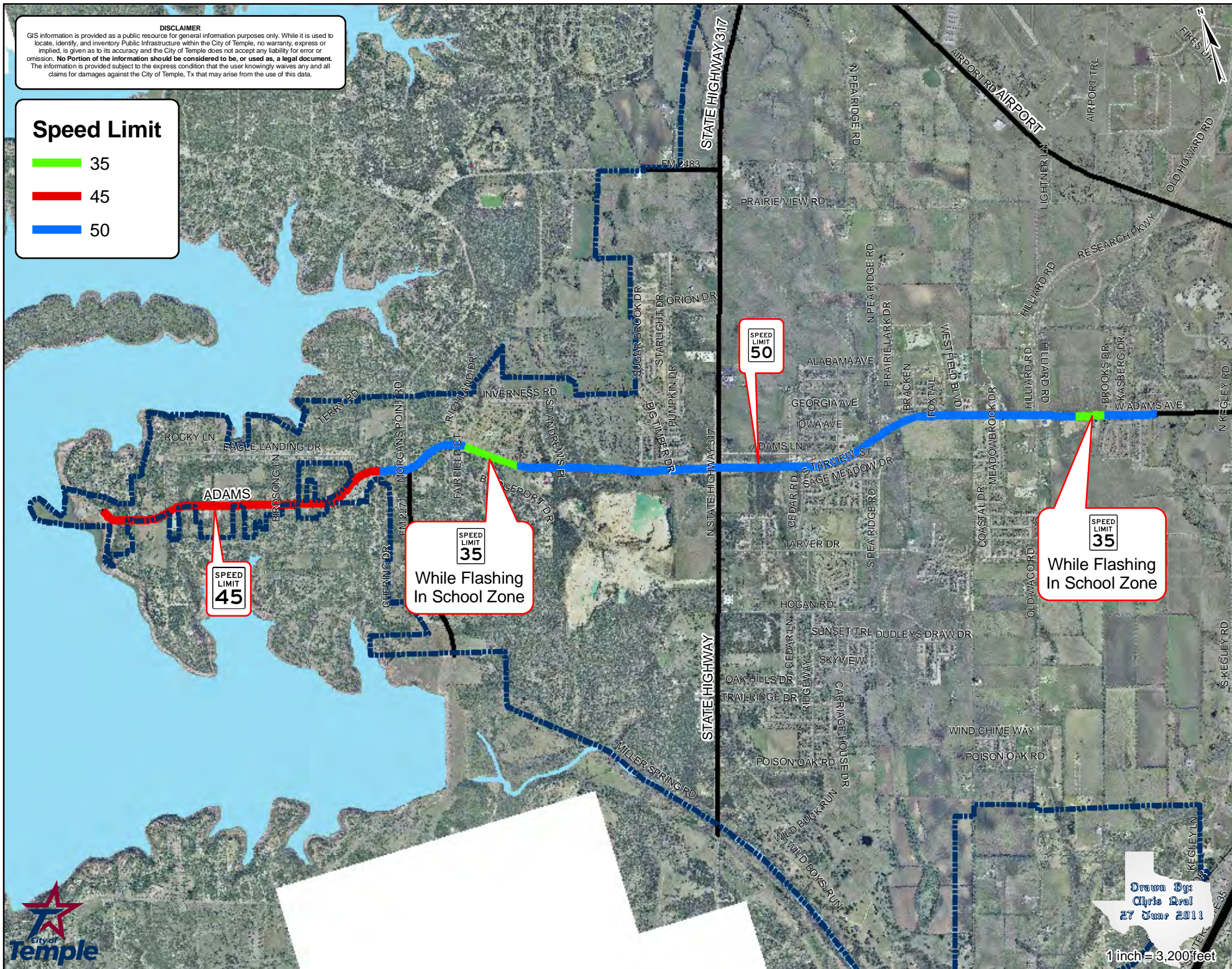
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DISCLAIMER

GIS information is provided as a public resource for general information purposes only. While it is used to locate, identify, and inventory Public Infrastructure within the City of Temple, no warranty, express or implied, is given as to its accuracy and the City of Temple does not accept any liability for error or omission. **No Portion of the information should be considered to be, or used as, a legal document.** The information is provided subject to the express condition that the user knowingly waives any and all claims for damages against the City of Temple, Tx that may arise from the use of this data.

Speed Limit

- 35
- 45
- 50



Drawn By:
Chris Drol
27 June 2011

1 inch = 3,200 feet

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, PROVIDING FOR REASONABLE AND SAFE PRIMA FACIE MAXIMUM SPEED OF MOTOR VEHICLES ON FM 2305, WITHIN THE CITY LIMITS; PROVIDING A REPEALER; PROVIDING FOR A PENALTY FOR VIOLATIONS NOT TO EXCEED \$500 FOR EACH VIOLATION; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, an engineering and traffic investigation has been made to determine the reasonable and prudent prima facie maximum speed for motor vehicles on FM 2305 in front of the Holy Trinity Catholic High School;

WHEREAS, these traffic investigations and engineering studies have determined the reasonable and safe prima facie maximum speed limits, as more fully described herein; and

WHEREAS, the City Council has considered the matter and deems it in the public interest to approve these speed limits for the benefit of the citizens for the promotion of the public health, welfare, and safety.

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

Part 1: The City Council finds that the reasonable and prudent prima facie maximum speed limits for vehicular traffic on FM 2305 in front of the Holy Trinity Catholic High School are as follows:

Starting at M.P. 0.000, the speed limit shall be 45 MPH for a distance of 0.200 miles. The speed limit shall then be 50 MPH for a distance of 1.332 miles. The speed limit shall then be 50 MPH for a distance of 0.932 miles, except in times of ingress and egress, the speed limit shall be 35 MPH for a distance of .367 miles when flashing for School Zone. The speed limit shall then be 50 MPH for a distance of 3.216 miles, except in times of ingress and egress, the speed limit shall be 35 MPH for a distance of 0.151 miles when flashing for School Zone ending at M.P. 1.969.

Part 2: It shall be unlawful for any person to drive or operate a motor vehicle, bicycle, or other vehicle of any kind, whether or not motor powered, on that portion of the roadways described above under the conditions described herein, at a speed greater than is reasonable and prudent under the circumstances then existing, but any speed in excess of the reasonable and prudent prima facie maximum speed limits as set forth in Part 1 hereof shall be prima facie evidence that such speed is not reasonable or prudent and that it is unlawful.

Part 3: All ordinances or parts of ordinances in conflict with the provisions of this

ordinance are to the extent of such conflict hereby repealed.

Part 4: A person who violates a provision of this ordinance is guilty of a separate offense for each day or portion of a day which the offense is committed, continued, or permitted, and each offense is punishable by a fine not to exceed \$500.

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

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

Part 7: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading on the **21st** day of **July**, 2011.

PASSED AND APPROVED on Second Reading on the **4th** day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
Item #4(E-1)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: SECOND READING – Receive public comments and consider adopting an ordinance authorizing the annexation of a 3-acre tract of land located on the east side of State Highway 36, north of Moffat Road, part of Outblock 10790-A, more commonly known as 10740 W. State Highway 36.

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

ITEM SUMMARY: This annexation tracks with rezoning case Z-FY-11-28, a request to go from Agricultural (the default zoning district upon annexation) to Commercial.

The property is located near the intersection of State Highway 36 and Moffat Road and contains approximately three acres. The property includes an existing boat storage facility. The property owner, who signed a non-annexation agreement with the City in 2007, wishes to add more boat storage units to the property. Under the terms of the non-annexation agreement, any future development requires that the applicant submit a voluntary request for annexation.

On June 2, 2011, the City Council adopted a resolution directing City staff to create a Municipal Service Plan and public hearing schedule in anticipation of the annexation of the subject property. On June 16 and 17, City staff presented the Municipal Service Plan for the property at two public hearings. No one spoke in favor of or in opposition to the request at either hearing.

This meeting is the last opportunity for the Council to receive citizen comments regarding the proposed annexation. Following the public hearing, staff recommends the Council approve the ordinance on first reading. The second and final reading will be conducted on Thursday, August 4, 2011, at the regular City Council meeting.

FISCAL IMPACT: Future tax revenue. 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:

Municipal Service Plan
Field Notes of Study Area
Map of Study Area
Ordinance

CITY OF TEMPLE

ANNEXATION SERVICE PLAN—VOLUNTARY ANNEXATION – LAWSON

For approximately 3± acre tract of land located on the east side of State Highway 36, north of Moffat Road, part of Outblock 10790-A, more commonly known as 10740 W. State Highway 36, located in Bell County, and being more particularly described as Exhibit “A” and depicted as Exhibit “B” of the Annexation Ordinance (2011-####).

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 5 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 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.

10. MOWING

The City will provide right-of-way mowing services adjacent 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 _____, 2011.

City of Temple, Texas

Mayor

ATTEST:

City Secretary

EXHIBIT A

Field Notes for a 3.00 acre tract of land out of the Sarah Fitzhenry Survey, Abstract #312, Bell County, Texas, and also being a part of a 15.00 acre tract of land described in a deed to Frank J. Lawson, recorded in Volume 4149, page 773 of the Deed Records of Bell County, Texas, said 3.000 acre tract being more fully described as follows:

Beginning at a 5/8" iron rod found in the North line of State Highway 36 for the Southwest corner of this tract of land , the Southwest corner of the aforementioned 15.00 acre tract of land and the Southwest corner of a 11.54 acre tract of land described in a deed to C. B. B. PROPERTIES, recorded in Document #2009-28362 of the Deed Records of Bell County, Texas.

Thence: North 27° 59' 04" West, 77.99 feet, (Deed North 26° 26' 29" West, 77.69 feet) with the South line of this tract of land, the South line of the aforementioned 15.00 acre tract of land and the North line of SH 36, to a Tex-Dot Monument an angle point in the South line of this tract of land, an angle point in the South line of the said 15.00 acre tract of land, and an angle point in the North line of SH 36.

Thence: North 45° 39' 51" West, 25.00 feet, (Deed North 43° 18' 49" West) continuing with the South line of this tract of land, the South line of the aforementioned 15.00 acre tract of land and the North line of SH 36 to a cotton spindle set in a gravel drive for the Southwest corner of this tract of land.

Thence: With the West line of this tract of land to wit:

North 44° 03' 04" East, 29.27 feet, an IRS w/ Cap#2181.
North 58° 39' 35" East, 81.11 feet, an IRS w/ Cap#2181.
North 30° 23' 35" East, 82.23 feet, an IRS w/ Cap#2181.
North 10° 10' 09" East, 63.25 feet, a Cotton Spindle Set.
North 47° 57' 48" East, 152.88 feet, an IRS w/ Cap#2181.
South 43° 45' 57" East, 81.28 feet, an IRS w/ Cap#2181.
North 48° 37' 31" East, 81.06 feet, an IRS w/ Cap#2181
North 41° 22' 29" West, 90.38 feet, an IRS w/ Cap#2181, and
North 48° 37' 31" East, 453.19 feet, to an IRS w/ Cap#2181 for the Northwest corner of this tract of land.

Thence: South 41° 22' 29" East, 165.00 feet with the North line of this tract of land to an iron rod set w/ cap#2181 in the East line of the aforementioned 15.00 acre tract of land and in the West line of the aforementioned 11.54 acre tract of land for the Northwest corner of this tract of land.

Thence: South 48° 37' 31" West, 943.37 feet with the East line of this tract of land, the East line of the aforementioned 15.00 acre tract of land and the West line of the aforementioned 11.54 acre tract of land to the place of BEGINNING, containing 3.00 acres.

Bearing Basis for this survey is Grid North, NAD 83, Zone 4203, Convergence = 1° 28' 54".

STATE OF TEXAS:
COUNTY OF BELL

KNOW ALL MEN BY THESE PRESENTS, that I, Carl B. Pearson, Registered Professional Land Surveyor, do hereby certify that I did cause to be surveyed on the ground on the 11th day of March, 2011, the above described tract of land and to the best of my knowledge and belief, said description is true and accurate.

IN WITNESS THEREOF, my hand and seal, this 11th day of April, 2011.

Carl B. Pearson
Registered Professional Land Surveyor
Seal No. 2181

TEMPLE CIVIL ENGINEERING
P.O. BOX 1129
TEMPLE, TEXAS 76503-1129



PART ONE - PLATS
PART TWO - FIELD NOTES
FNS - 8286

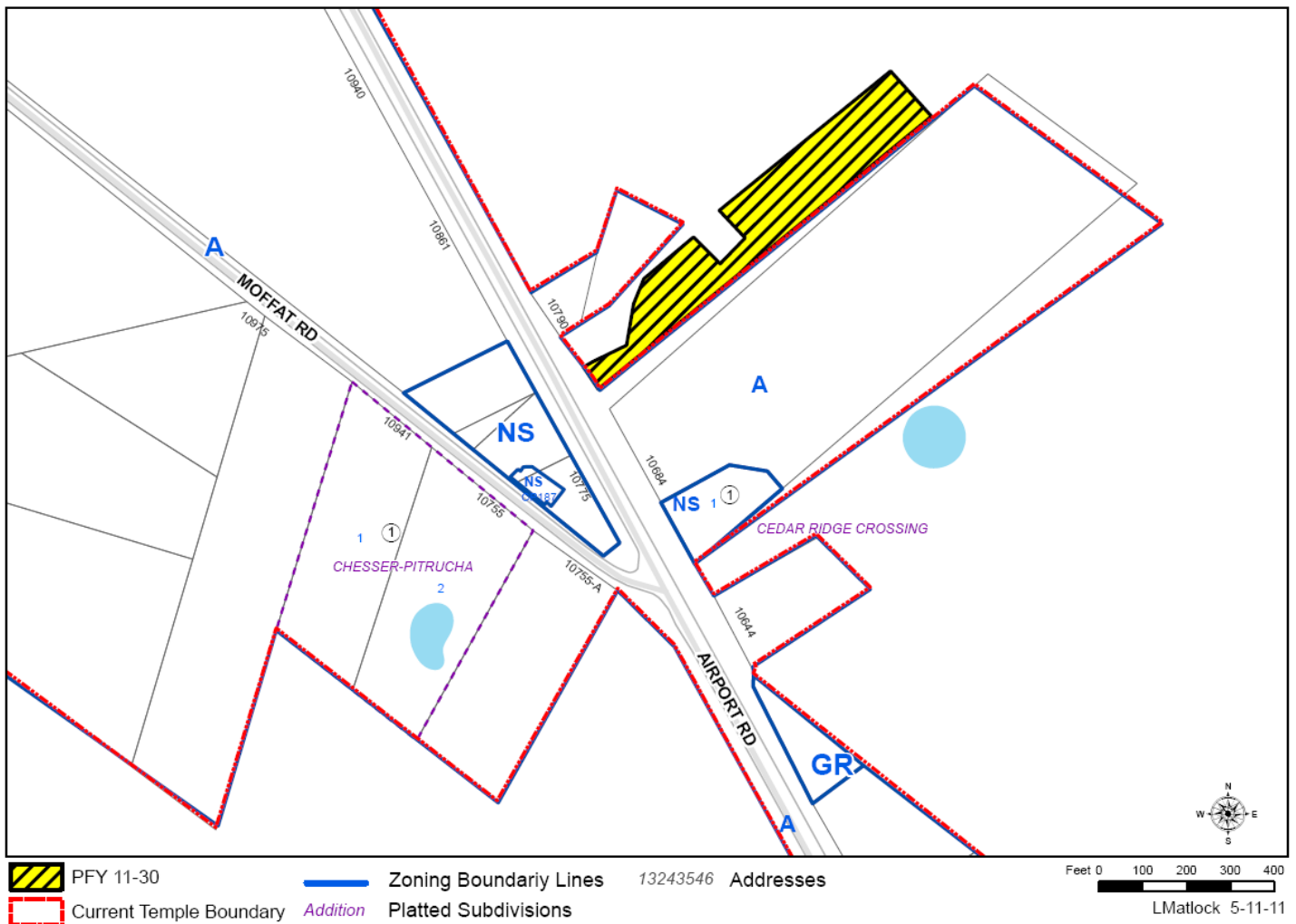


Exhibit 'B'

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ANNEXING ADJACENT AND CONTIGUOUS TERRITORY CONSISTING OF A 3-ACRE TRACT OF LAND LOCATED ON THE EAST SIDE OF STATE HIGHWAY 36, NORTH OF MOFFAT ROAD, PART OF OUTBLOCK 10790-A, MORE COMMONLY KNOWN AS 10740 WEST STATE HIGHWAY 36, 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.

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 3 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 *Commercial District*, 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 **21st** day of **July**, 2011.

PASSED AND APPROVED on Second and Final Reading on the **4th** day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
Item #4(E-2)
Consent Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-11-28: Consider adopting an ordinance authorizing a zoning change from Agriculture District (AG) to Commercial District (C) on three acres out of land not presently in the Temple City Limits, being part of Sara Fitzhenry Survey, Abstract Number 312, Bell County, Texas, located on the Northeast side of State Highway 36, across from the CEFCO Convenience Store.

P&Z COMMISSION RECOMMENDATION: At its June 20, 2011, meeting, the Planning and Zoning Commission voted 8/0 to recommend approval of a rezoning from AG to C.

Commissioner Pope absent.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description on second and final reading, for the following reasons:

1. The request does not comply with the Future Land Use and Character Map. However it is a smaller property with an existing use at the intersection of an Arterial and a Collector.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities are available to serve the property.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-28, from the Planning and Zoning meeting, June 20, 2011.

This rezoning request tracks with a voluntary annexation request on which the City Council will also make a final decision (second reading) on August 4. The applicant has requested the rezoning from AG (the default zoning district upon annexation) to C as the property being voluntarily annexed contains an established boat storage facility that the owner wants to expand.

The property was subject to involuntary annexation in late 2007 but the owner, along with several others in the area, signed a non-annexation agreement that stipulates that further development automatically triggers the annexation process.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	N*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	N*
STP	Temple Trails Master Plan Map	Y*

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map (FLUCM) designates the property as Agricultural. The rezoning request does not comply with the FLUCM. However, it is at the intersection of an Arterial and a Collector. This type of area within a city can easily develop into a nonresidential node, however, timing of utility and roadway infrastructure is usually a restricting factor, making a larger property expensive to service with fire and emergency service.

Staff recommends approval above due to the relatively small size of the property. However, a Commercial rezoning request for greenfield development on a larger property in the same or similar location may receive a negative Staff recommendation.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates State Highway 36/ Airport Road as a major arterial. This road has been built for major highway speed traffic. The rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

No City of Temple water and sewer lines are currently in place to serve this property. Water is available from a rural cooperative. The development is a warehouse with no on-site employees and no septic tank facilities at the present time.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan does not designate any trails in this area. This rezoning will not trigger dedication for the Trails Master Plan.

DEVELOPMENT REGULATIONS:

The C, Commercial zoning district is more intense retail district and allows for retail sales and restaurants or offices and most residential uses except apartments. It also allows more intense uses such as major vehicle repair and storage, warehousing and package stores by right. The district may allow natural resources storing/extraction, outdoor auto storage and kennels with a Conditional Use

Permit approval. There is no minimum lot area, width or depth unless bounded by a residential district. Any legal height building is allowed but could be required to be setback if over a certain height and next to a residential district.

PUBLIC NOTICE:

Two notices to property owners within 200-feet of the subject property were sent regarding the Planning and Zoning Commission public hearing. As of Wednesday, June 14th, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on May 26th, 2011, in accordance with state law and local ordinance. Seven courtesy notices were sent out to property owners within 300 feet of the subject property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

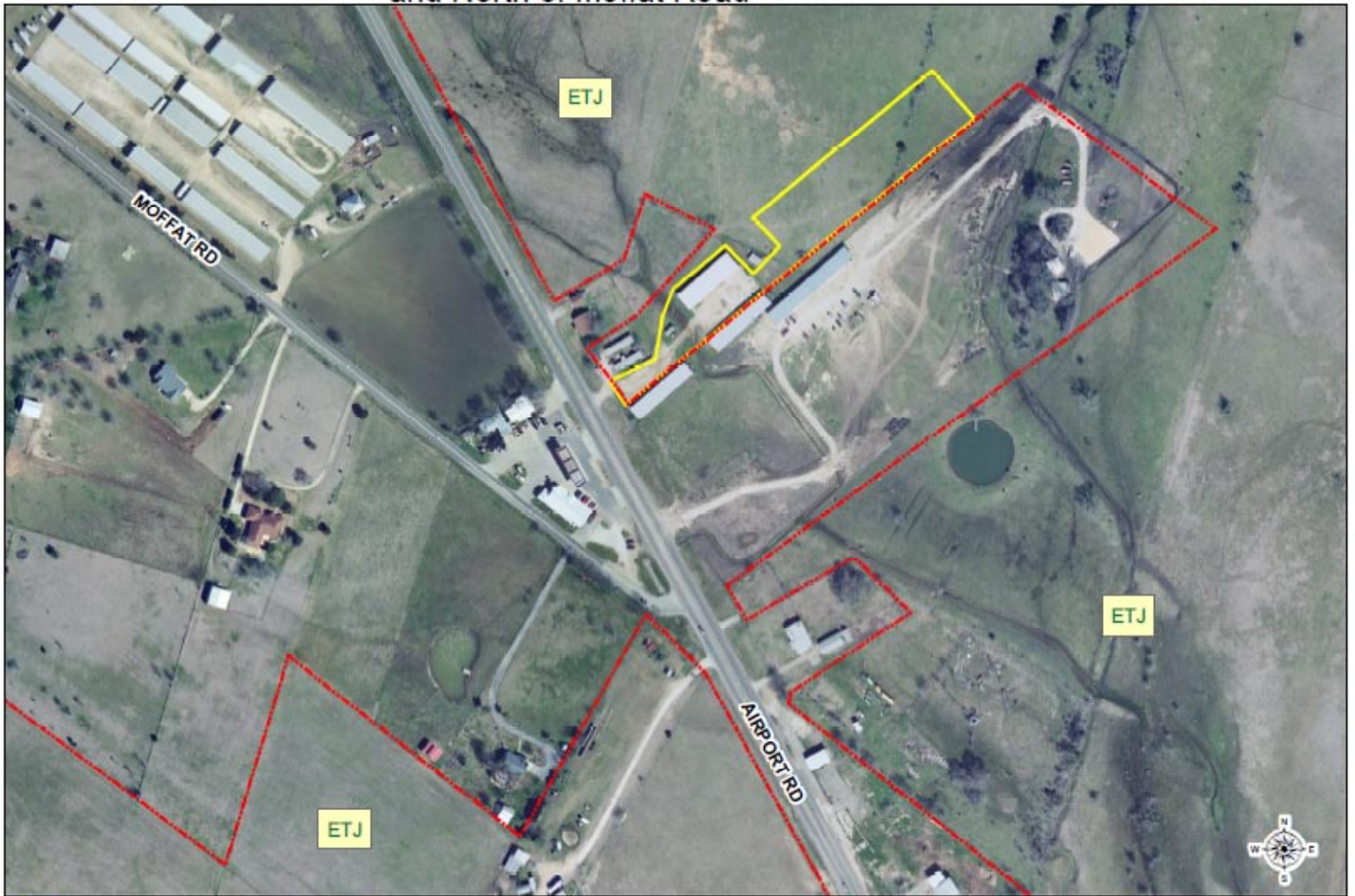
Aerial Map
Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
Notice Map
P&Z Staff Report (Z-FY-11-28)
P&Z Minutes (June 20, 2011)
Ordinance



Z-FY-11-28

Zoning Change AG to C
Northeast Side of SH 36
and North of Moffat Road

Proposed Lawson Annexation
3 acres - 10740 State Hwy 36



ZFY 11-28



Extra Territorial Jurisdiction



Current Temple Boundary

Feet 0 100 200 300 400

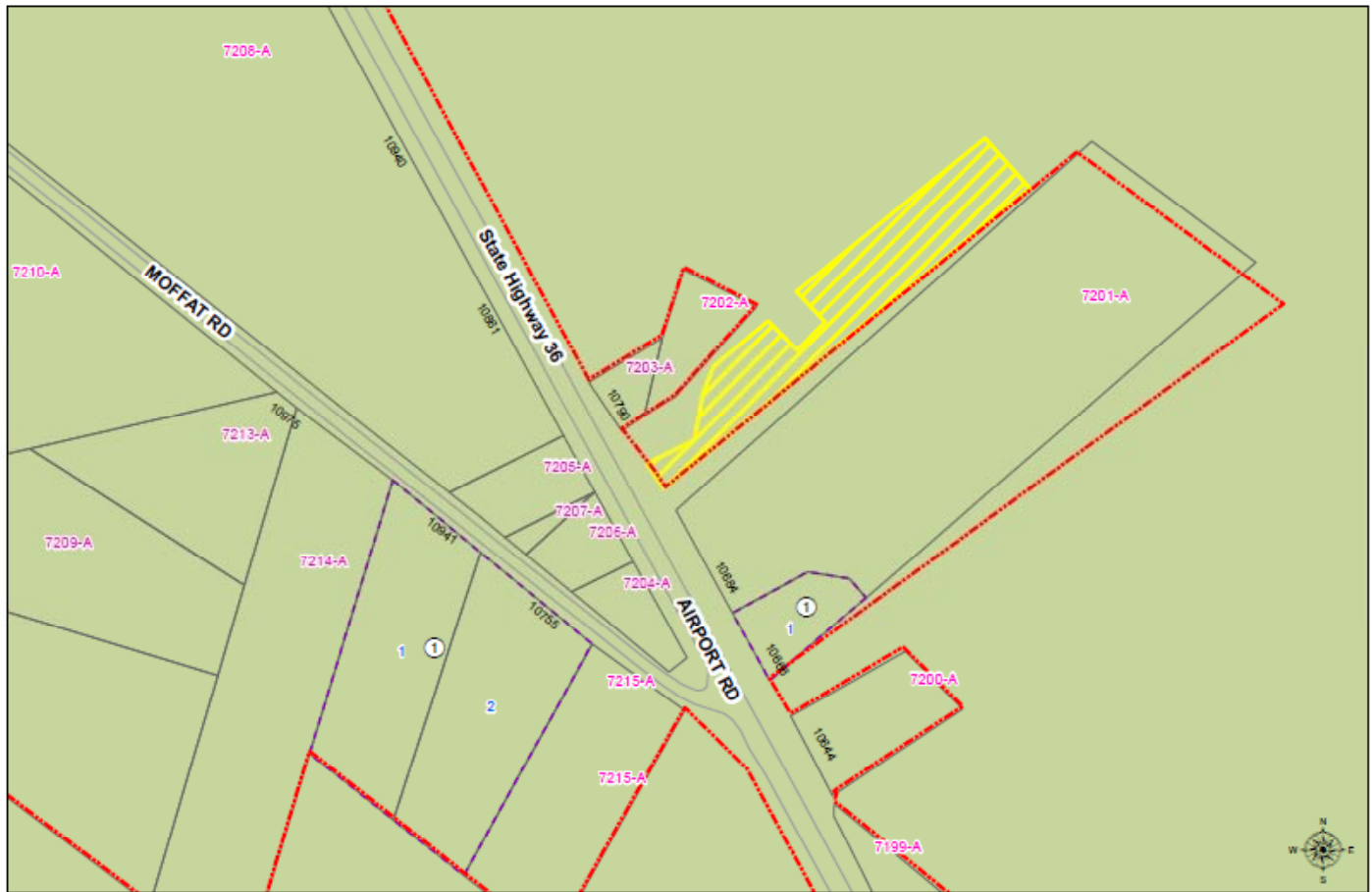
LMatlock 5-11-11



Z-FY-11-28

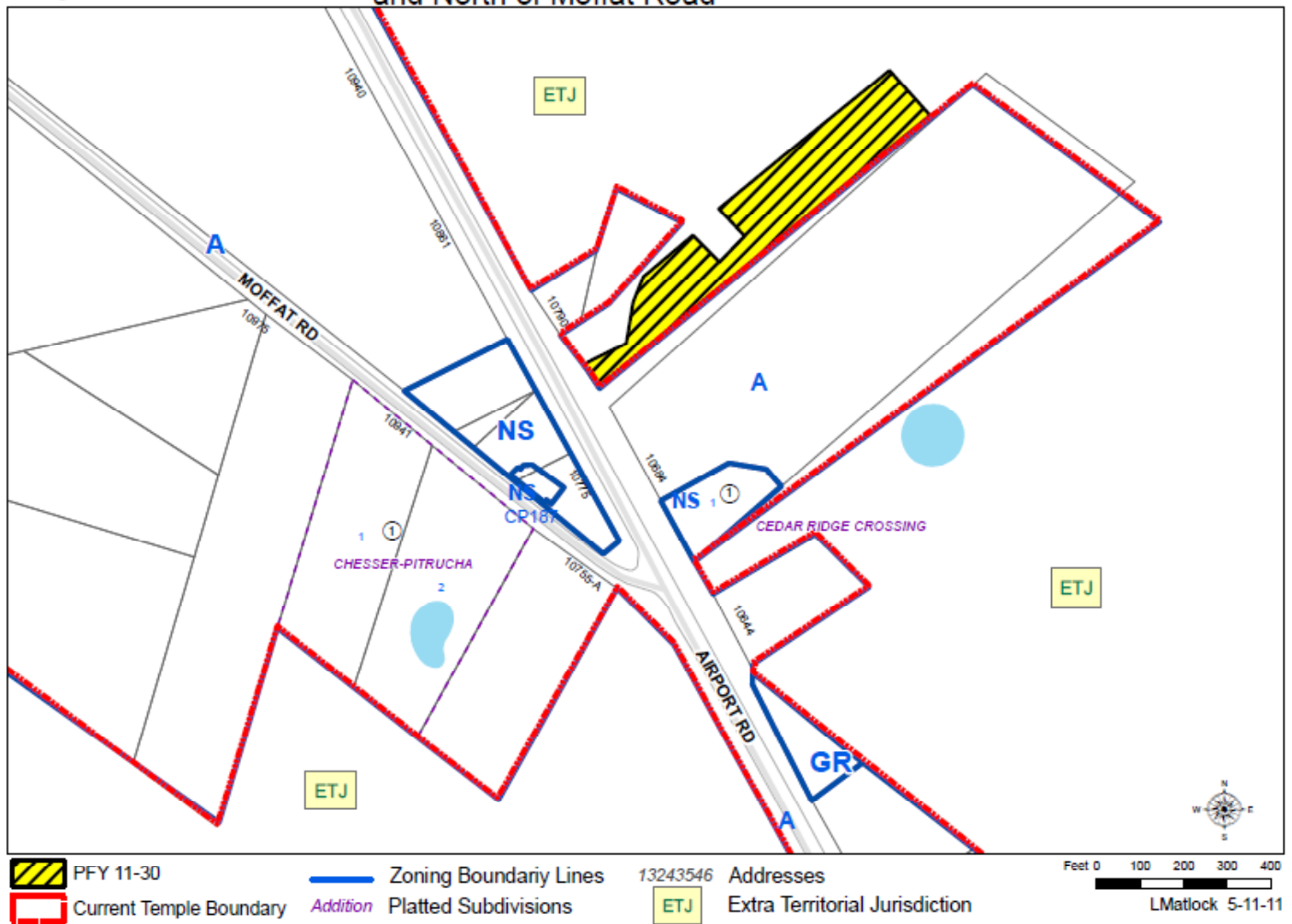
Northeast Side of SH 36
and North of Moffat Road

3 acres 10740 State Hwy 36



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY-11-28 | Auto-Urban Mixed Use | Business Park | Neighborhood Conservation | Suburban Commercial | Urban Center |
| Agricultural/Rural | Auto-Urban Multi-Family | Estate Residential | Parks & Open Space | Suburban Residential | |
| Auto-Urban Commercial | Auto-Urban Residential | Industrial | Public Institutional | Temple Medical Education District | |

1 inch = 276 feet
LMatlock Planning 5.24.11







Z-FY-11-28


**Zoning Change AG to C
Northeast Side of SH 36
and North of Moffat Road**

**Proposed Lawson Annexation
3 acres - 10740 State Hwy 36**




 PFY 11-28

 Extra Territorial Jurisdiction

 Major Arterial

Feet 0 100 200 300 400

 Current Temple Boundary

 Collector

LMatlock 5-11-11



Z-FY-11-28

**Zoning Change AG to C
Northeast Side of SH 36
and North of Moffat Road**

**Proposed Lawson Annexation
3 acres - 10740 State Hwy 36**



ZFY 1128

Water Lines

Fire Hydrants

Current Temple Boundary

Sewer Lines

Extra Territorial Jurisdiction

Feet 0 100 200 300 400

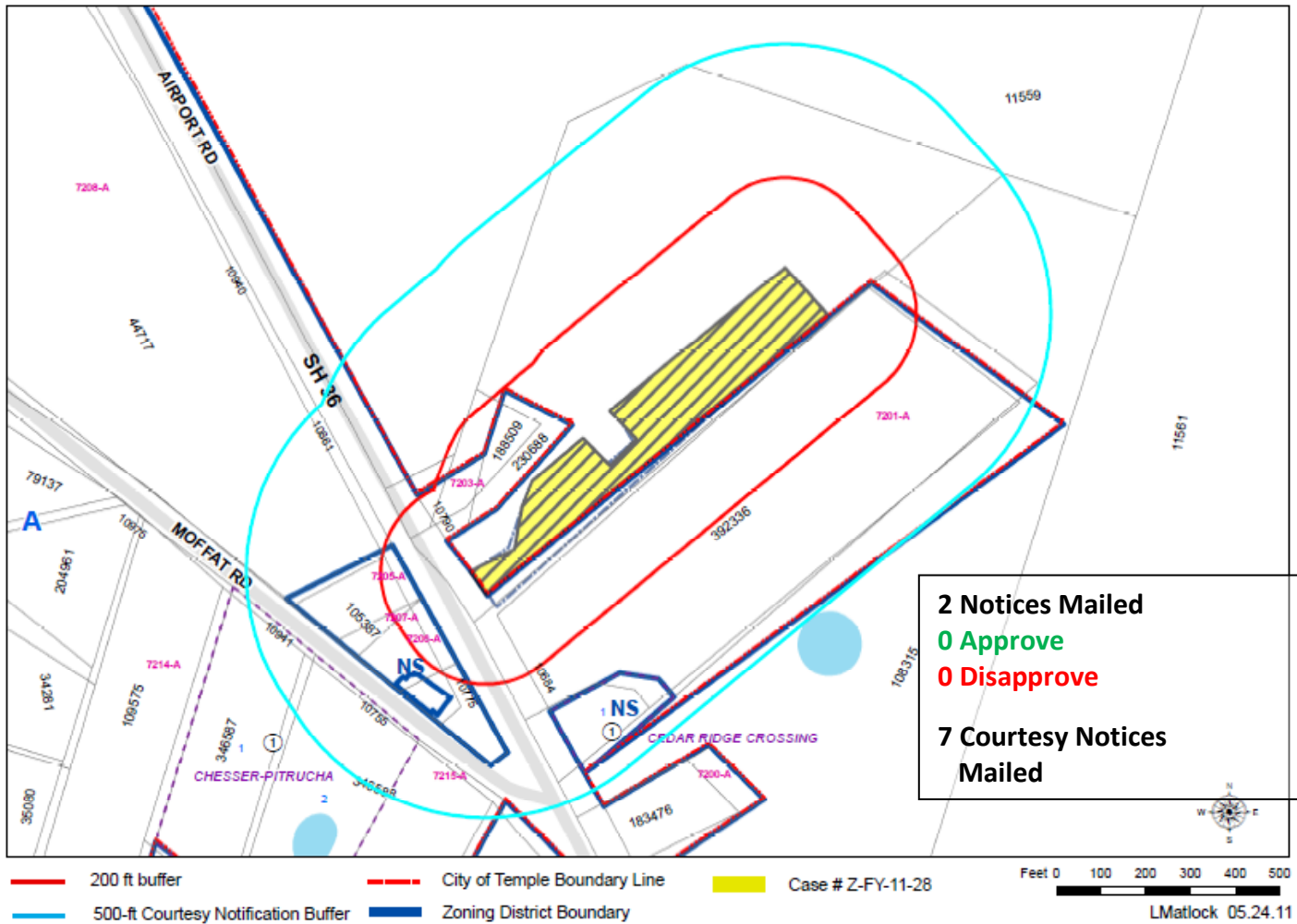
LMatlock 5-11-11



Z-FY-11-28

**Proposed Lawson Annexation
3 Acres - 10740 SH 36**

**Northeast Side of SH 36 and
North of Moffat Road**



PLANNING AND ZONING COMMISSION AGENDA ITEM

6/20/11
Item #3
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Frank J. Lawson, Owner

CASE MANAGER: Leslie Matlock, AICP, Senior Planner


ITEM DESCRIPTION: Z-FY-11-28 Hold a public hearing to discuss and recommend action on a rezoning from Agriculture District (AG) to Commercial District (C) on three acres out of land not presently in the Temple City Limits, being part of Sara Fitzhenry Survey, Abstract Number 312, Bell County, Texas, located on the Northeast side of state Highway 36, across from the CEFCO Convenience Store.

BACKGROUND: The applicant has requested the rezoning from AG to C as the property being voluntarily annexed contains established commercial development that the owner wants to expand. This rezoning request tracks with a voluntary annexation request on which the City Council will make a final decision on August 4. The property was subject to involuntary annexation in late 2007 but the owner, along with several others in the area, signed a non-annexation agreement that stipulates that further development will automatically trigger the annexation process.

SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	AG (C proposed)	Existing Self Storage Business and undeveloped land. (pad site on far northern side started for additional storage building)	

Direction	Zoning	Current Land Use	Photo
North	Temple ETJ	Undeveloped Land	
South	NS	Fuel Station and Convenience Store	
East	AG	Contractor/ Warehouse - type Business Uses	

Direction	Zoning	Current Land Use	Photo
West	Temple ETJ	Residential Uses and Undeveloped Land (One house and two manufactured homes)	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	N*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	N*
STP	Temple Trails Master Plan Map	Y*

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map (FLUCM) designates the property as Agricultural. The rezoning request does not comply with the FLUCM. However, it is at the intersection of an Arterial and a Collector. This type area within in a city can easily develop into a nonresidential node, however, timing of utility and roadway infrastructure is usually a restricting factor, making a larger property expensive to service with fire and emergency service.

Staff recommends approval below due to the relatively small size of the property. However, a Commercial rezoning request for greenfield development on a larger property in the same or similar location would likely receive a negative Staff recommendation.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates State Highway 36/ Airport Road as a major arterial. This road has been built for major highway speed traffic. The rezoning request complies with the T-plan.

Availability of Public Facilities (CP Goal 4.1)

No City of Temple water and sewer lines are in place to serve this property at the present time. Water is available from a rural cooperative. The development is a warehouse with no facilities at the present time.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan does not designate any trails in this area. This rezoning will not trigger dedication for the Trails Master Plan.

DEVELOPMENT REGULATIONS:

The C, Commercial zoning district is more intense retail district and allows for retail sales and restaurants or offices and most residential uses except apartments. It also allows more intense uses such as major vehicle repair and storage, warehousing and package stores by right. The district may allow natural resources storing/extraction, outdoor auto storage and kennels with a Conditional Use Permit approval. There is no minimum lot area, width or depth unless bounded by a residential district. Any legal height building is allowed but could be required to be setback if over a certain height and next to a residential district.

PUBLIC NOTICE:

Two notices to property owners within 200-feet of the subject property were sent regarding the Planning and Zoning Commission public hearing. As of Wednesday, June 14th, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on May 26th, 2011, in accordance with state law and local ordinance. Seven courtesy notices were sent out to property owners within 500 feet of the subject property.

STAFF RECOMMENDATION: Staff does recommends approval of the rezoning for case Z-FY-11-28 for the following reasons:

1. The request does not comply with the Future Land Use and Character Map. However it is a smaller property with an existing use at the intersection of an Arterial and a Collector.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial](#)

[Land Use and Character Map](#)

[Zoning Map](#)

[Thoroughfare Plan Map](#)

[Utility Map](#)

[Flood Plain Map](#)

[Notice Map](#)

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

MONDAY, JUNE 20, 2011

ACTION ITEMS

Item 3: Z-FY-11-28 - Hold a public hearing to discuss and recommend action on a rezoning from Agriculture District (AG) to Commercial District (C) on three acres out of land not presently in the Temple City Limits, being part of Sara Fitzhenry Survey, Abstract Number 312, Bell County, Texas, located on the Northeast side of state Highway 36, across from the CEFCO Convenience Store. (Frank Lawson)

Ms. Leslie Matlock, Senior Planner, stated this was a rezoning request from Agricultural (AG) to Commercial (C) on property already half developed with storage warehouses. During the 2008 involuntary annexation the applicant had a non-expansion agreement and was purposely omitted from the annexation. The applicant would like to expand his storage warehouses with four additional buildings and is now voluntarily asking to be annexed. The annexation and zoning request will track together.

Newly annexed territory is normally given a temporary zoning of AG and a permanent zoning can be established as the land is being annexed. The permanent zoning must be requested before any building permit or Certificate of Occupancy can be applied for.

Surrounding properties include agricultural uses to the north (in the ETJ), contractor offices to the south, Cefco Convenience Store to the east, and two mobile homes to the west (outside of City limits). The Future Land Use and Character Map designate this area as being AG, which includes the Commercial uses.

The Thoroughfare Plan shows Highway 36 to be a major arterial and Moffat Road as a collector. There are no City services to this point but there is a rural water supply that services the area and at present, lots that required sewage have septic.

Two notices were mailed along with seven courtesy notices. No notices have been received in response to this item.

Staff recommends approval of this request from AG to C. Even though it does not comply with the Future Land Use and Character Map, it does have an existing use. The business is located at the intersection of a major arterial and a collector and complies with the Thoroughfare Plan. Services are available to the area.

The public hearing for this matter was left opened from the last meeting so Chair Talley asked if there were any speakers. There being none, Chair Talley closed the public hearing.

Commissioner Sears made a motion to approve Z-FY-11-28 from Agricultural to Commercial and Commissioner Rhoads made a second.

Motion passed: (8:0)

Commissioner Pope absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-28]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURE DISTRICT (AG) TO COMMERCIAL DISTRICT (C) ON THREE ACRES OF LAND, BEING PART OF THE SARA FITZHENRY SURVEY, ABSTRACT NUMBER 312, BELL COUNTY, TEXAS, LOCATED ON THE NORTHEAST SIDE OF STATE HIGHWAY 36, ACROSS FROM THE CEFCO CONVENIENCE STORE; 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 rezoning from Agriculture District (AG) to Commercial District (C) on three acres of land, being part of the Sara Fitzhenry Survey, Abstract Number 312, Bell County, Texas, located on the northeast side of State Highway 36, across from the CEFCO Convenience Store, 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 **21st** day of **July**, 2011.

PASSED AND APPROVED on Second Reading on the **4th** day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
Item #4(F)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing a change in the designated use of the Casa Hispanica building located at 801 South Main Street to a community center.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In 2002, Community Development Block Grant (CDBG) funds were used to replace the structure known as Casa Hispanica at 801 South Main Street. The building was designated for use as a senior citizen center. Staff is now proposing to change the designated use of the building to a community center.

Over the past years, the building was made available to and used by senior organizations in the neighborhood as a meeting or gathering place. It was a volunteer operated senior center. The volunteer group that operated the center disbanded in 2006. City staff now has plans to have the center open to the public at designated times for activities. Changing the designated use to a community center will allow the building to be used by other citizens in the area in addition to senior citizens.

Since the building was constructed using CDBG funds, the U.S. Department of Housing and Urban Development (HUD) requires that the City provide affected citizens with notice of and opportunity to comment on the proposed change. An ad was placed in the Temple Daily Telegram on June 27, 2011 and public hearings were held on July 12, 2011 at the Municipal Building and the Wilson Park Recreation Center for comments on the proposed change. No comments were received.

FISCAL IMPACT: None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING CHANGING THE DESIGNATED USE OF THE CASA HISPANICA BUILDING LOCATED AT 801 SOUTH MAIN STREET TO A COMMUNITY CENTER; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in 2002, Community Development Block Grant (CDBG) funds were used to replace the structure known as Casa Hispanica located at 801 South Main Street – the building was designated for use as a senior citizen center;

Whereas, since that time, the volunteer group that operated the center has disbanded, and the Staff recommends changing the designated use of the building to a community center so that other citizens in the area can use it;

Whereas, since the building was constructed using CDBG funds, the U.S. Department of Housing and Urban Development (HUD) requires that the City provide affected citizens with notice of and opportunity to comment on the proposed change -- two public hearings were held and there were not comments; 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 changing the designated use of the Casa Hispanica building located at 801 South Main Street to a “community center.”

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 **4th** day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
Item #4(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing grant matching funds to the Hill Country Transit District (The HOP) for New Freedom Bus Shelters in the amount of \$27,740.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In 2009 the Hill Country Transit District received a grant for bus shelters. At the October 21, 2010 Council Workshop, Mr. Robert Ator, the general manager for HOP, presented details on shelter design and locations.

The HOP has designated \$527,000 for shelters in Temple. The original project called for approximately 31 shelters with the actual number varying depending on the cost of installation. The project was divided into two phases. The bids for phase I came in favorably, with an average cost of \$12,000. Therefore it is anticipated that a total of 40 shelters will be installed.

The first phase of shelters, which included 25 installations, is now complete. The second phase is about to begin with final project completion anticipated to be April 2012.

FISCAL IMPACT: The total required local contribution grant match is 20%. HCTD has provided half of the local match, with the other half of the 20% coming from the cities. Temple's 10% share for the entire project is \$51,740 with \$24,000 having already been paid. This leaves \$27,740 remaining to complete the City's contribution. Funding is available in General Fund Balance-Designated for Capital Projects - Unallocated.

A budget adjustment is presented for Council's approval designating \$27,740 from account 110-0000-352-13-45 General Fund Balance-Designated for Capital Projects-Unallocated for the additional amount needed for the City's 10% match.

ATTACHMENTS:

[Budget Adjustment
Resolution](#)

FY 2011**BUDGET ADJUSTMENT FORM**

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

Adjustments should be rounded to the nearest \$1.

			+		-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
110-0000-352-13-45		Designated Cap Proj - HOP Grant Match	\$ 27,740			
110-0000-352-13-45		Designated Cap Proj - Unallocated			27,740	
		Do not post				
TOTAL.....			\$ 27,740		\$ 27,740	

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

This budget adjustment appropriates fund balance to provide the City's 10% match to cover the second phase of HOP bus shelter installation. The HOP has designated \$527,000 for the installation of 40 bus shelters in Temple. The first phase of this project is complete with 25 shelters having been installed. The second phase will install the remaining 15 shelters. The City of Temple's 10% match for the entire project is \$51,740 with \$24,000 having already been paid.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

4-Aug-11

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING MATCHING FUNDS TO THE HILL COUNTRY TRANSIT DISTRICT (THE HOP) FOR NEW FREEDOM BUS SHELTERS, IN THE AMOUNT OF \$27,740; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in 2009, Hill Country Transit District (The HOP) received a grant for bus shelters – it is anticipated that 40 shelters will be installed;

Whereas, the first phase of shelters (25) is now complete and the second phase will begin soon with project completion anticipated to be April, 2012;

Whereas, the total required local contribution grant match is 20% -- Hill Country Transit District provided half of the local match, with the other half of the 20% coming from cities;

Whereas, the City's 10% share for the entire project is \$51,740, with \$24,000 having already been paid, which leaves \$27,740 remaining to complete the City's contribution;

Whereas, funds are available for this project but an amendment to the FY2010-2011 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 grant matching funds to the Hill County Transit District (The HOP) for New Freedom Bus Shelters, in the amount of \$27,740.

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 project.

Part 3: The City Council approves an amendment to the FY2010-2011 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 **4th** day of **August**, 2011.

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 2010-2011.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2010-2011 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$25,026.

ATTACHMENTS:

[Budget amendments](#)
[Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
August 4, 2011

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-2042-521-6213	100822	Automotive (Police)	\$ 8,525	
110-0000-442-0725		OCU State Seized Funds		\$ 8,525
Seized 2003 GMC Yukon placed in service.				
110-2020-521-2533		DARE CJD Expenditures (Police)	\$ 560	
110-0000-442-0723		DARE Donations		\$ 280
110-0000-442-0723		DARE Donations		\$ 130
110-0000-442-0723		DARE Donations		\$ 150
Money collected from GREAT Camp Registration				
110-3232-551-2513		Special Services (Recreation)	\$ 2,000	
110-0000-445-1590		Special Events/Classes		\$ 2,000
Additional funds are needed in Special Services to pay for the usage of a BISD campus for programming. Special Events/Classes is being increased due to an increase in revenue for classes and summer camps.				
110-3500-552-2516		Judgments & Damages (Parks)	\$ 140	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 140
Settlement of claim filed against the City seeking reimbursement for damage to a vehicle by a rock thrown by a mower on July 18, 2011, while parked at the PALS Administration Office.				
351-3600-560-6221	100481	Computer Software - Inventory Software (Airport)	\$ 2,372	
351-3600-560-6222	100705	Machinery & Equipment - Tractor		\$ 2,372
Appropriate project savings				
351-3600-560-6221	100481	Computer Software - Inventory Software	\$ 1,748	
351-0000-461-0111		Interest Income		\$ 54
351-0000-315-1116		Reserve for Future Expenditures		\$ 1,694
Appropriate unallocated interest earnings on the 2005 Revenue Bonds				
This budget adjustment appropriates all remaining funds from the 2005 Taxable Revenue Bond issue. After approval of this budget adjustment, all funds associated with the 2005 Taxable Revenue Bonds will be expended.				
361-0000-490-2582		Transfer In		\$ 4,354
361-0000-315-1116		Reserved for Future Expenditures	\$ 4,354	
110-9100-591-8161		Transfer Out - 2006/08 CO's	\$ 4,354	
110-0000-352-1345		Designated for Capital Projects - Unallocated		\$ 4,354
This budget adjustment corrects the FY 2010 carry forwards. Funds should have been carried forward for the Library Renovation project.				
520-5100-535-2516		Judgments & Damages (Water Treatment Plant)	\$ 973	
520-5000-535-6532		Contingency		\$ 973

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
August 4, 2011

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Settlement of claim filed against the City seeking reimbursement for damages paid for body repair on a 2008 Mazda that was dented by the door of a City vehicle on July 8, 2011		
TOTAL AMENDMENTS			\$ 25,026	\$ 25,026
GENERAL FUND				
		Beginning Contingency Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		Beginning Judgments & Damages Contingency	\$	80,000
		Added to Contingency Judgments & Damages from Council Contingency	\$	-
		Taken From Judgments & Damages	\$	(79,324)
		Net Balance of Judgments & Damages Contingency Account	\$	676
		Beginning Fuel Contingency	\$	55,841
		Added to Fuel Contingency	\$	-
		Taken From Fuel Contingency	\$	-
		Net Balance of Fuel Contingency Account	\$	55,841
		Beginning Self Insurance Start Up Cost Contingency	\$	628,756
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	(628,756)
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	-
		Net Balance Council Contingency	\$	56,517
		Beginning Balance Budget Sweep Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
WATER & SEWER FUND				
		Beginning Contingency Balance	\$	50,000
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(26,345)
		Net Balance of Contingency Account	\$	23,655
		Beginning Self Insurance Start Up Cost Contingency	\$	100,365
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	(100,365)
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	-
		Net Balance Water & Sewer Fund Contingency	\$	23,655
HOTEL/MOTEL TAX FUND				
		Beginning Self Insurance Start Up Cost Contingency	\$	10,968
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	(10,968)
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	-

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
August 4, 2011

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
		DRAINAGE FUND		
		Beginning Self Insurance Start Up Cost Contingency	\$	9,911
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	(9,911)
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	-
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	2,284
		Carry forward from Prior Year	\$	25,229
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(27,513)
		Net Balance of Contingency Account	\$	-

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE
2010-2011 CITY BUDGET; AND PROVIDING AN OPEN
MEETINGS CLAUSE.

Whereas, on the 2nd day of September, 2010, the City Council approved a budget for the 2010-2011 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2010-2011 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 2010-2011 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 4th day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING: Consider adopting an ordinance approving rate tariffs that reflect the negotiated rate change between the City and Atmos Mid-Tex pursuant to the Rate Review Mechanism (RRM) process.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading final adopt for August 18, 2011.

ITEM SUMMARY: The City, along with approximately 154 other cities served by Atmos Energy Mid-Tex Division (“Atmos Mid-Tex” or “Company”), is a member of the Atmos Cities Steering Committee (“ACSC” or “Steering Committee”). On or about April 1, 2011, Atmos Mid-Tex filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism (“RRM”) tariff approved by the City as part of the settlement of the Atmos Mid-Tex 2007 Statement of Intent to increase rates. This is the fourth annual RRM filing.

The Atmos Mid-Tex RRM filing sought a \$15.7 million rate increase. The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its request to increase rates. The Ordinance and attached rate and RRM tariffs are the result of negotiations between ACSC and the Company to resolve issues raised by ACSC during the review and evaluation of ACSC’s RRM filing. The Ordinance resolves the Company’s RRM filing by authorizing supplemental revenue of \$6.6 million to be recovered through the customer charge component of rates to cover direct incremental costs associated with a steel service line replacement program approved as part of last year’s rate adjustment. All other relief requested by Atmos Mid-Tex is denied.

The ACSC Settlement Committee and ACSC legal counsel recommend that all ACSC Cities adopt the Ordinance implementing the rate change.

RRM Background:

The RRM tariff was approved by ACSC Cities as part of the settlement agreement to resolve the Atmos Mid-Tex 2007 system-wide rate filing at the Railroad Commission. Atmos Mid-Tex’s current action represents an extension to the three-year trial project known as the Rate Review Mechanism (“RRM”) process. The RRM process was created collaboratively by ACSC and Atmos Mid-Tex as an alternative to the legislatively authorized GRIP surcharge process. ACSC opposed GRIP because it constituted piecemeal ratemaking, did not allow any reasonableness review, and did not allow

participation by cities or recovery of cities' rate case expenses. The RRM process has allowed for a more comprehensive rate review and annual adjustment as a substitute for GRIP filings during the three-year trial period specified by the tariff.

Purpose of the Ordinance:

Rates cannot change and the Settlement Agreement with Atmos Mid-Tex cannot be implemented without passage of rate ordinances by cities. No related matter is pending at the Railroad Commission. The purpose of the Ordinance is to approve rate tariffs ("Attachment A") that reflect the negotiated rate change pursuant to the RRM process and to ratify a Settlement Agreement recommended by the ACSC Settlement Committee and Executive Committee.

As a result of the negotiations, ACSC was able to reduce the Company's requested \$15.7 million RRM increase to \$6.6 million, allowing only incremental revenues necessary to cover direct costs associated with the steel service line replacement program approved by ACSC Cities in 2010. Approval of the Ordinance will result in the implementation of new rates that increase Atmos Mid-Tex's revenues effective September 1, 2011.

Reasons Justifying Approval of the Negotiated Resolution:

During the time that the City has retained original jurisdiction in this case, consultants working on behalf of ACSC cities have investigated the support for the Company's requested rate increase. While the evidence does not support the \$15.7 million increase requested by the Company, ACSC consultants agree that the Company can justify an increase in revenues of \$6.6 million, a result consistent with Cities' approval of a steel service line replacement program last year. The agreement on \$6.6 million is a compromise between the positions of the parties.

The Settlement Agreement of 2010 which included an extension of the RRM process, included an allowance for recovery of direct costs, excluding overheads, of the steel service line replacement program. Current year recovery factors of \$00.15 for residential customers and \$00.41 for commercial customers per month were authorized last year. The 2010 Settlement Agreement contemplated that the steel service line replacement program would be adjusted annually, but shall be capped at \$00.44 cents for residential customers and \$1.22 for commercial customers. The increase in this case is consistent with the caps contemplated last year for the steel service line replacement program, and nothing more.

The alternative to a settlement of the RRM filing would be a contested case proceeding before the Railroad Commission on the Company's current application, would take several months and cost ratepayers millions of dollars in rate case expenses, and would not likely produce a result more favorable than that to be produced by the settlement. The ACSC Settlement Committee recommends that ACSC members take action to approve the Ordinance authorizing new rate tariffs.

Changes to Customer Charges:

The Settlement Agreement approved in 2010 contemplated that incremental revenues to cover future steel service line replacement costs would be recovered through customer charges. Consistent with that approach, the \$6.6 million in additional revenues to be recovered following passage of the Ordinance is accomplished by increasing customer charges.

The tariffs to be approved by the Ordinance set monthly customer charges at \$7.50 (increase of \$0.33 per month) and \$16.75 (increase of \$0.88 per month) for residential and commercial customers, respectively.

The commodity portion of the commercial rate will decline slightly from existing rates.

FISCAL IMPACT: None.

ATTACHMENTS:

[Attachment "A" Tariffs
Ordinance](#)

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	All Cities except the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 9/1/2011	

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Mcf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 7.50 per month
Commodity Charge – All Mcf	\$ 2.5116 per Mcf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	All Cities except the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 9/1/2011	

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 3,000 Mcf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Mcf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 16.75 per month
Commodity Charge - All Mcf	\$ 1.0217 per Mcf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	All Cities except the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 9/1/2011	

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 450.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2750 per MMBtu
Next 3,500 MMBtu	\$ 0.2015 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0433 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	All Cities except the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 9/1/2011	

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	All Cities except the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 9/1/2011	

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 450.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2750 per MMBtu
Next 3,500 MMBtu	\$ 0.2015 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0433 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	All Cities except the City of Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 9/1/2011	

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

Curtailement Overpull Fee

Upon notification by Company of an event of curtailement or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailement or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

ORDINANCE NO. 2011-4461

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC" OR "STEERING COMMITTEE") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") REGARDING THE COMPANY'S FOURTH ANNUAL RATE REVIEW MECHANISM ("RRM") FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; REPEALING CONFLICTING RESOLUTIONS OR ORDINANCES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

Whereas, the City of Temple, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex;

Whereas, the City is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"), a coalition of approximately 154 similarly situated cities served by Atmos Mid-Tex that have joined together to facilitate the review of and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area (such participating cities are referred to herein as "ACSC Cities");

Whereas, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC Cities and the Company worked collaboratively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three-year experiment by ACSC Cities as a substitute to the current GRIP process instituted by the Legislature;

Whereas, the City took action in 2008 to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company's 2007 rate case and authorizing the RRM Tariff;

Whereas, the 2008 Settlement Agreement contemplates reimbursement of ACSC Cities' reasonable expenses associated with RRM applications;

Whereas, the Steering Committee and Atmos Mid-Tex agreed to extend the RRM process in reaching a settlement in 2010 on the third RRM filing;

Whereas, on or about April 1, 2011, the Company filed with the city its fourth annual RRM filing, requesting to increase natural gas base rates by \$15.7 million;

Whereas, ACSC coordinated its review of Atmos Mid-Tex's RRM filing by designating a Settlement Committee made up of ACSC representatives, assisted by ACSC attorneys and consultants, to resolve issues identified by ACSC in the Company's RRM filing;

Whereas, independent analysis by ACSC's rate expert concluded that Atmos Mid-Tex is unable to justify an increase over current rates except for undisputed costs of \$6.6 million to cover the steel service line replacement program initiated in 2010;

Whereas, the ACSC Settlement Committee, as well as ACSC lawyers and consultants, recommend that ACSC Cities approve the attached rate tariffs ("Attachment A" to this Ordinance), which will increase the Company's revenue requirement by \$6.6 million to extend current recovery of incremental direct costs of the steel service line replacement program authorized by ACSC Cities in ordinances passed in 2010; and

Whereas, the attached tariffs implementing new rates are consistent with the negotiated resolution reached by ACSC Cities and are just, reasonable, and in the public interest.

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

Part 1: That the findings set forth in this Ordinance are hereby in all things approved.

Part 2: That the City Council finds the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable and new tariffs which are attached hereto and incorporated herein as Attachment A, are just and reasonable and are hereby adopted.

Part 3: That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC Cities in processing the Company's rate application.

Part 4: That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Part 5: That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Part 6: That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Part 7: That this Ordinance shall become effective from and after its passage with rates authorized by attached Tariffs to be effective for bills rendered on or after September 1, 2011.

Part 8: That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of David Park, Vice President Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ

Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED AND APPROVED on First Reading and Public Hearing this **4th** day of **August**, 2011.

PASSED AND APPROVED on Second Reading on the **18th** day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
Item #6
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – A-FY-11-06: Consider adopting an ordinance abandoning 245.70 feet of West Irvin Avenue with an 80-foot right-of-way, between North 33rd Street and North 31st Street, located between the north portions of Lots 1 and 2, Block 1 and the south portions of Lots 1 and 2, Block 3 of Keaton Addition; and reserving a public drainage and utility easement in the entire abandoned right-of-way.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented, on first reading, and schedule second reading and final adoption for August 18, 2011.

ITEM SUMMARY: The applicant, TomJack Investments, requests this street abandonment to allow the enlargement of its business at 820 North 31st Street. If approved, TomJack Investments plans to use the abandoned right-of-way for a storage yard and driveway. This portion of West Irvin Avenue is unimproved, as well as West 33rd Street.

Planning staff contacted all utility providers, including all divisions of the Public Works Department, the Fire Department, and Police Department regarding the proposed street abandonment. There are no objections to the abandonment request, but a public drainage and utility easement is needed to protect existing utilities in the right-of-way.

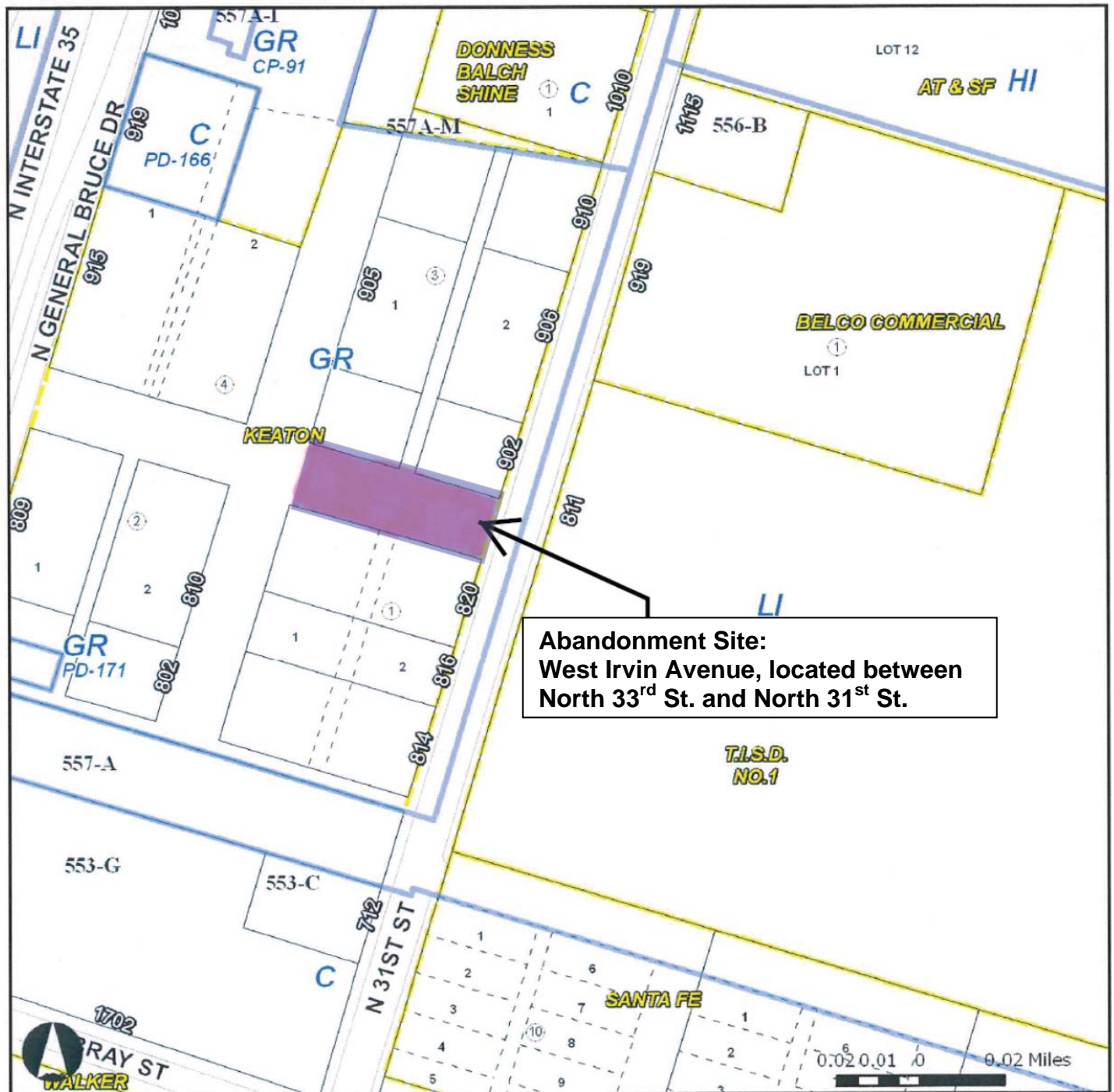
FISCAL IMPACT: If approved, both abutting property owners will be allowed to purchase their half of the abandoned right-of-way, which has a total fair market value of \$11,000. As of Tuesday, July 26, 2011, the adjacent property owner to the north has not expressed interest in purchasing his abutting half of the right-of-way.

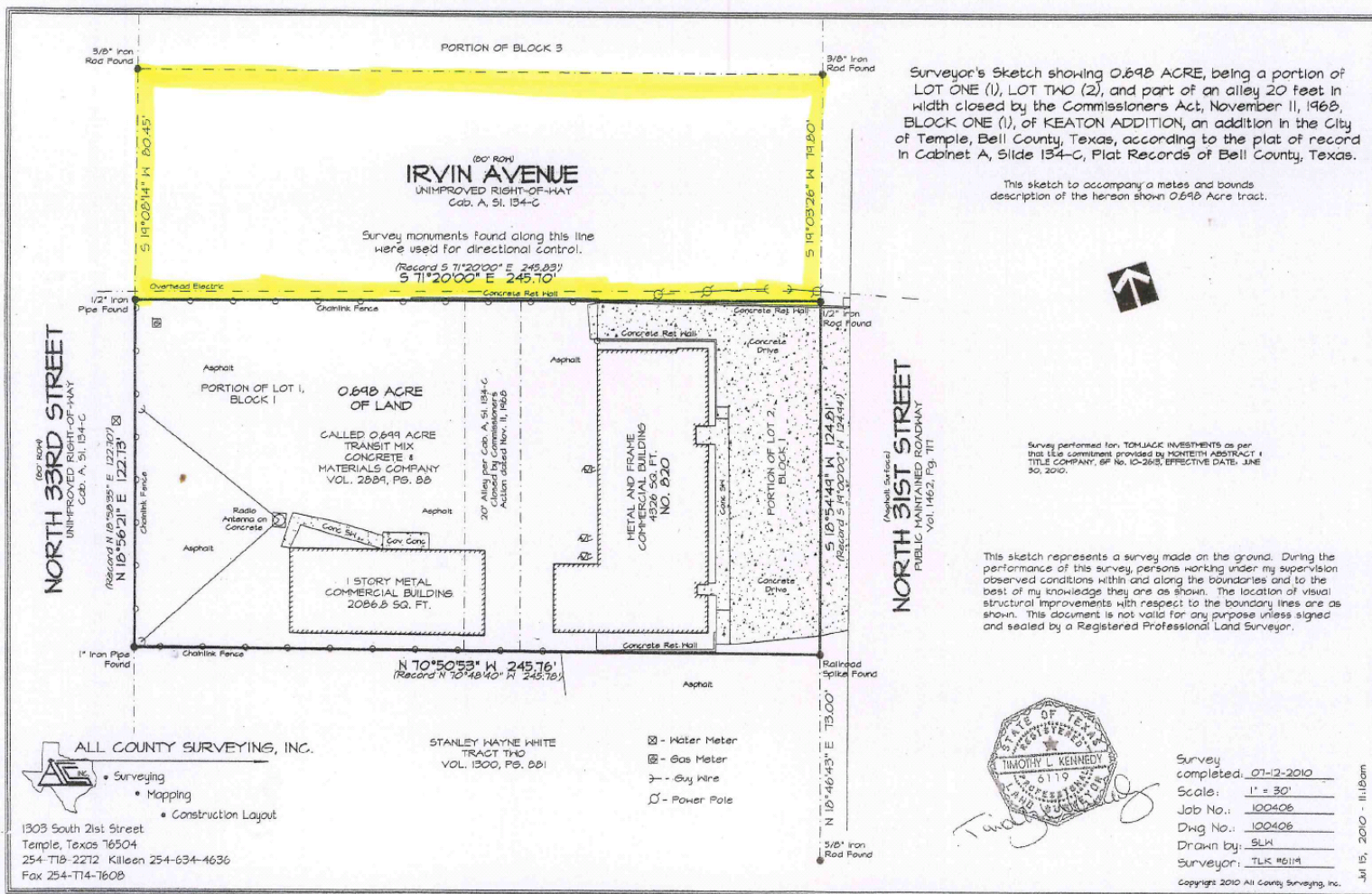
ATTACHMENTS:

[Aerial](#)
[Vicinity Map](#)
[Survey](#)
[Ordinance](#)

City of Temple







ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ABANDONING 245.70 FEET OF WEST IRVIN AVENUE WITH AN 80-FOOT RIGHT-OF-WAY, BETWEEN NORTH 33RD STREET AND NORTH 31ST STREET, LOCATED BETWEEN THE NORTH PORTIONS OF LOTS 1 AND 2, BLOCK 1 AND THE SOUTH PORTIONS OF LOTS 1 AND 2, BLOCK 3, KEATON ADDITION; RESERVING A PUBLIC DRAINAGE AND UTILITY EASEMENT IN THE ENTIRE ABANDONED RIGHT-OF-WAY; DECLARING FINDINGS OF FACT; AUTHORIZING CONVEYANCE OF SUCH PROPERTY BY A DEED WITHOUT WARRANTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has a request from TomJack Investments to abandon 245.70 feet of West Irvin Avenue with an 80-foot right-of-way, between North 33rd Street and North 31st Street, located between the north portions of Lots 1 and 2, Block 1 and the south portions of Lots 1 and 2, Block 3 of Keaton Addition;

Whereas, the City and other public utility providers need to retain a public drainage and utility easement throughout the road proposed to be abandoned;

Whereas, the road is not necessary for the purpose of serving the general public or the owners of adjacent land for purposes of vehicular access; and

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

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

Part 1: The City Council abandons 245.70 feet of West Irvin Avenue with an 80-foot right-of-way, between North 33rd Street and North 31st Street, located between the north portions of Lots 1 and 2, Block 1 and the south portions of Lots 1 and 2, Block 3 of Keaton Addition, more fully described by metes and bounds contained in field notes in Exhibit A, attached hereto for all purposes, and reserves a public drainage and utility easement in the entire abandoned right-of-way.

Part 2: The City Council authorizes the Mayor of the City of Temple, Texas, for the consideration set out in Part 3, to execute a Deed Without Warranty conveying the rights and interests of the City of Temple, Texas, to the abutting property owners, reserving a public drainage and utility easement in the entire abandoned right-of-way, which when done, shall be and become a binding act and deed of the City of Temple.

Part 3: As consideration for the conveyance described in Part 2 hereof, the abutting property owners shall pay, proportionately, to the City of Temple the fair market value of \$11,000.

Part 4: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 5: 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 **4th** day of **August**, 2011.

PASSED AND APPROVED on Second Reading the **18th** day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney

STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the _____ day of August, 2011, by WILLIAM A. JONES, III, Mayor of the City of Temple, Texas.

Notary Public, State of Texas



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11
Item #7
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-32: Consider adopting an ordinance authorizing a zoning change from Agricultural District (AG) to General Retail District (GR) on Outblock 2064-A and from Agricultural District (AG) to Single Family Two (SF2) on Outblock 2065-A, Baldwin Robertson Survey, Abstract 17, on 15.922 acres, located southeast corner of North Pea Ridge Road and Stonehollow Drive.

P&Z COMMISSION RECOMMENDATION: At its July 5, 2011, meeting, the Planning and Zoning Commission voted 8-0 to recommend a rezoning from AG to SF2 and GR as requested.

Commissioner Pope was absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for August 18, 2011.

Staff recommends approval for the following reasons:

1. The request partially complies with the Future Land Use and Character Map.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities are available to serve the property.

Staff originally recommended to the Planning and Zoning Commission NS, Neighborhood Service, rather than GR due to the request not fully complying with the Future Land Use and Character Map, as described on the next page.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-32, from the Planning and Zoning meeting, July 5, 2011.

The applicant, Turley Associates for Kiella Land Investments, has requested the rezoning from AG to GR and AG to SF-2 for future residential and retail development.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

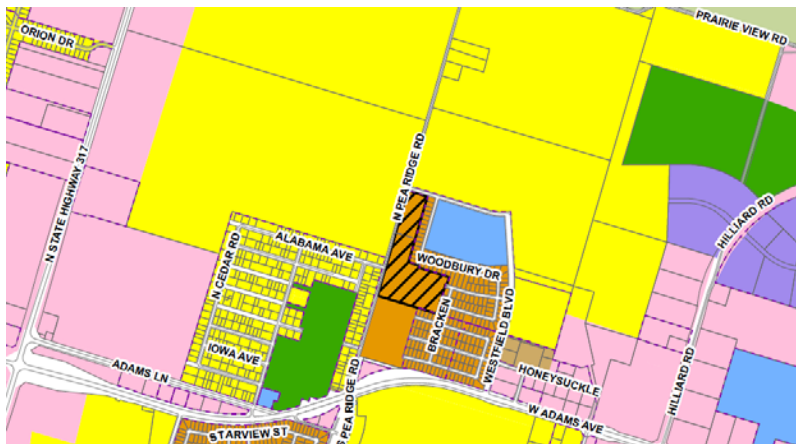
Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character (FLUP)	Y & N *
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y*

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character Map (FLUCM) (CP Map 3.1)

The FLUCM designates the entire property as Auto Urban Residential. The Single Family Two rezoning request complies with the FLUCM.

The General Retail rezoning request does not generally comply with the FLUCM. This corner of the property where GR is requested is approximately ½ mile from W. Adams Avenue and is surrounded by future residential uses according to the map. According to the district's purpose statement in the Unified Development Code, GR is more appropriate for major or minor arterials intersected by collectors or other arterials. However, due to the relatively small size of the subject property (2.3 acres), the requested zoning district may be acceptable at this corner. It could be a reasonable node for a small retail development since one of the adjacent streets, Stonehollow, is built as a divided two-lane local street with enough right-of-way for a collector but with the paved width of a local street.



Inset of the Future Land Use Plan Map of categories surrounding the subject area.

- Brown and yellow are residential.
- Pink is Commercial.
- Purple is Business Park
- Green is park and blue is institutional, such as a school or City building.
- Light Green is Agricultural

A site-focused Future Land Use Plan

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates N. Pea Ridge Road a proposed minor arterial. When built to its full extent, this proposed minor arterial will be able to handle the increased load that this rezoning may create. Other roads that are impacted are classed as local roads. The rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A 6- and an 8-inch water line and sewer line are available near the property. Public facilities are available for extension to the property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan designates land west of the subject property as a future community-wide connector trail. It also shows a future Local Collector Trail to the north of the subject property. The Trails Master Plan has no effect on the subject property.

DEVELOPMENT REGULATIONS:

The SF-2 zoning district permits single-family detached residences and related accessory structures and provides for smaller single-family lots. This district may also be used as a transition from the SF1 district to less restrictive or denser residential zoning districts. Typical prohibited uses include single-family attached dwellings, duplexes, patio homes, townhouses, and apartments. The SF-2 zoning district has a minimum lot area of 5,000 square feet and a maximum height limitation of 2 ½ stories.

The GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments, with a maximum building height of 3 stories. There is no minimum lot area, width or depth. The building setback for the front yard is 15 feet from the front property line. There is a minimum side yard setback of 10 feet. If a residential use borders the property, then a 10-foot rear setback is required along with a wood fence, masonry wall or evergreen vegetative screen.

PUBLIC NOTICE:

Nine notices were sent regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. As of Friday, July 1st, at 5 PM, 2 notices were returned in favor of and 3 notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 20, 2011, in accordance with state law and local ordinance. Fifty two courtesy notices were sent out to property owners within an additional 300 feet of the subject property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial Map](#)
[Land Use and Character Map](#)
[Zoning Map](#)
[Thoroughfare Plan Map](#)
[Utility Map](#)
[Notice Map](#)
[Response Letters](#)
[P&Z Staff Report \(Z-FY-11-32\)](#)
[P&Z Minutes \(July 5, 2011\)](#)
[Ordinance](#)



Z-FY-11-32

Portion of Outblock 2064-A - AG to GR and
Outblock 2065-A and Remainder of 2064-A - AG to SF2

East of N. Pea Ridge Rd
South of Stonehollow Dr



Z-FY 11-32

GR - General Retail District
SF-2 - Single Family Two District

Feet 0 200 400 600 800

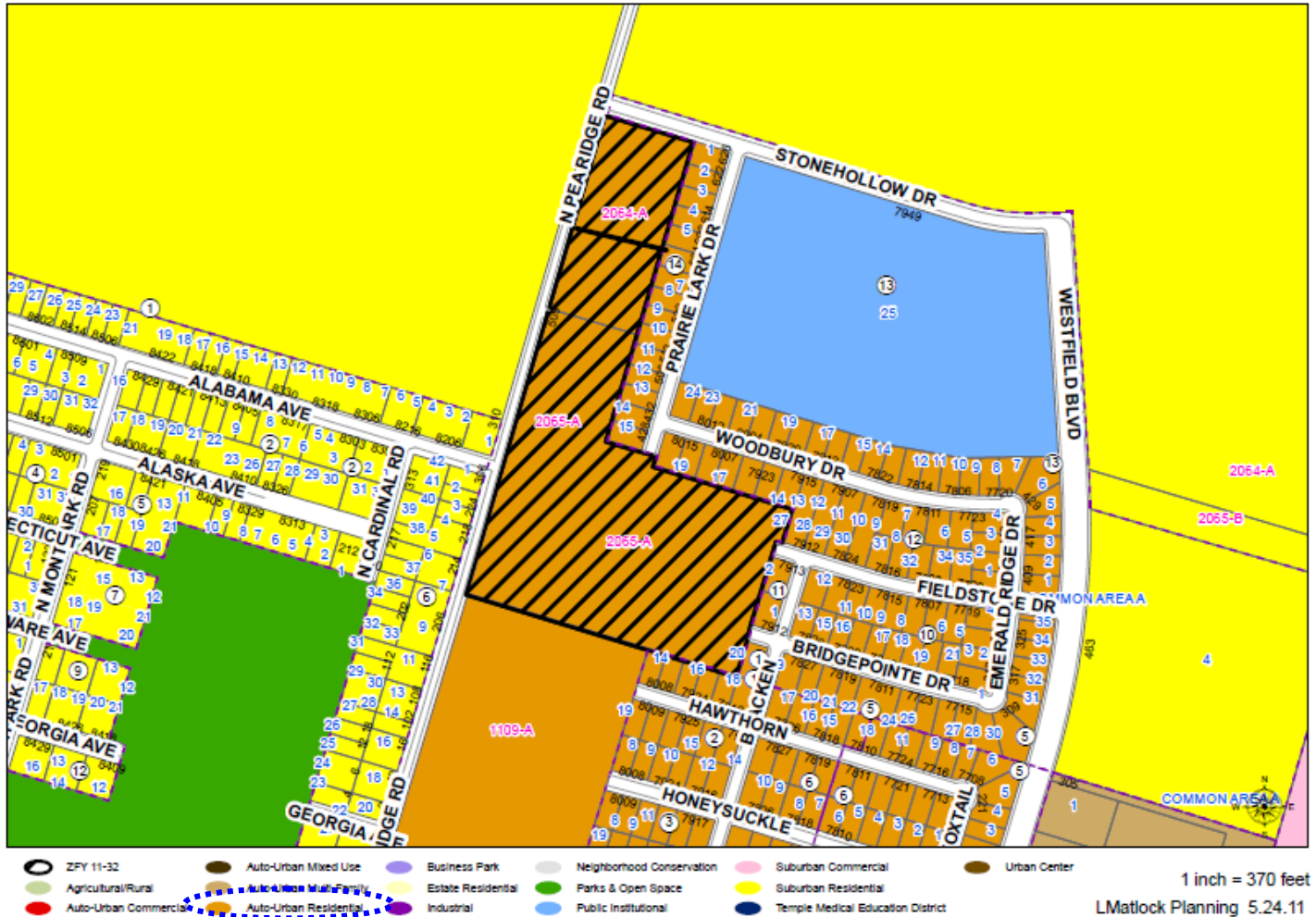
LMatlock 05.24.11



Z-FY-11-32

Portion of Outblock 2064-A -
AG to GR and Outblock 2065-A
and Remainder of 2064-A - AG to SF2

East of N. Pea Ridge Road
South of Stonehollow Drive





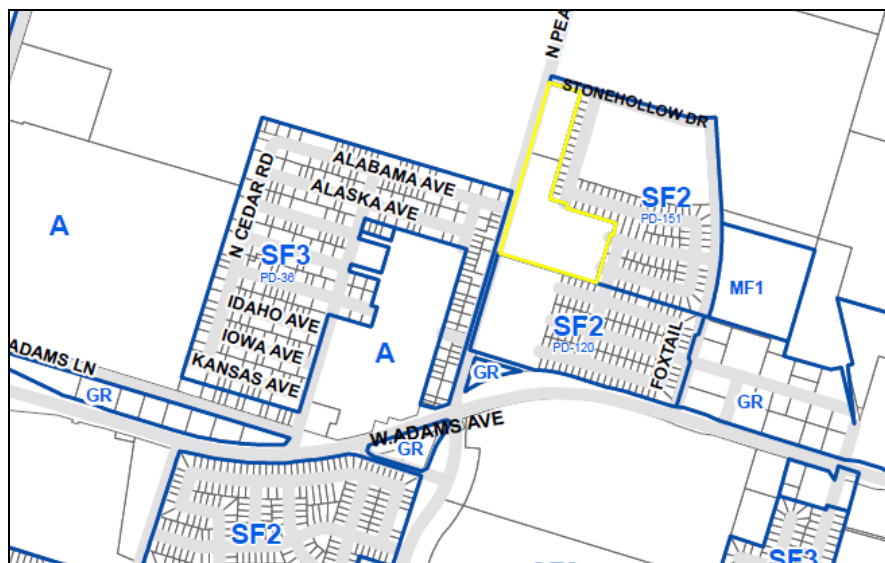
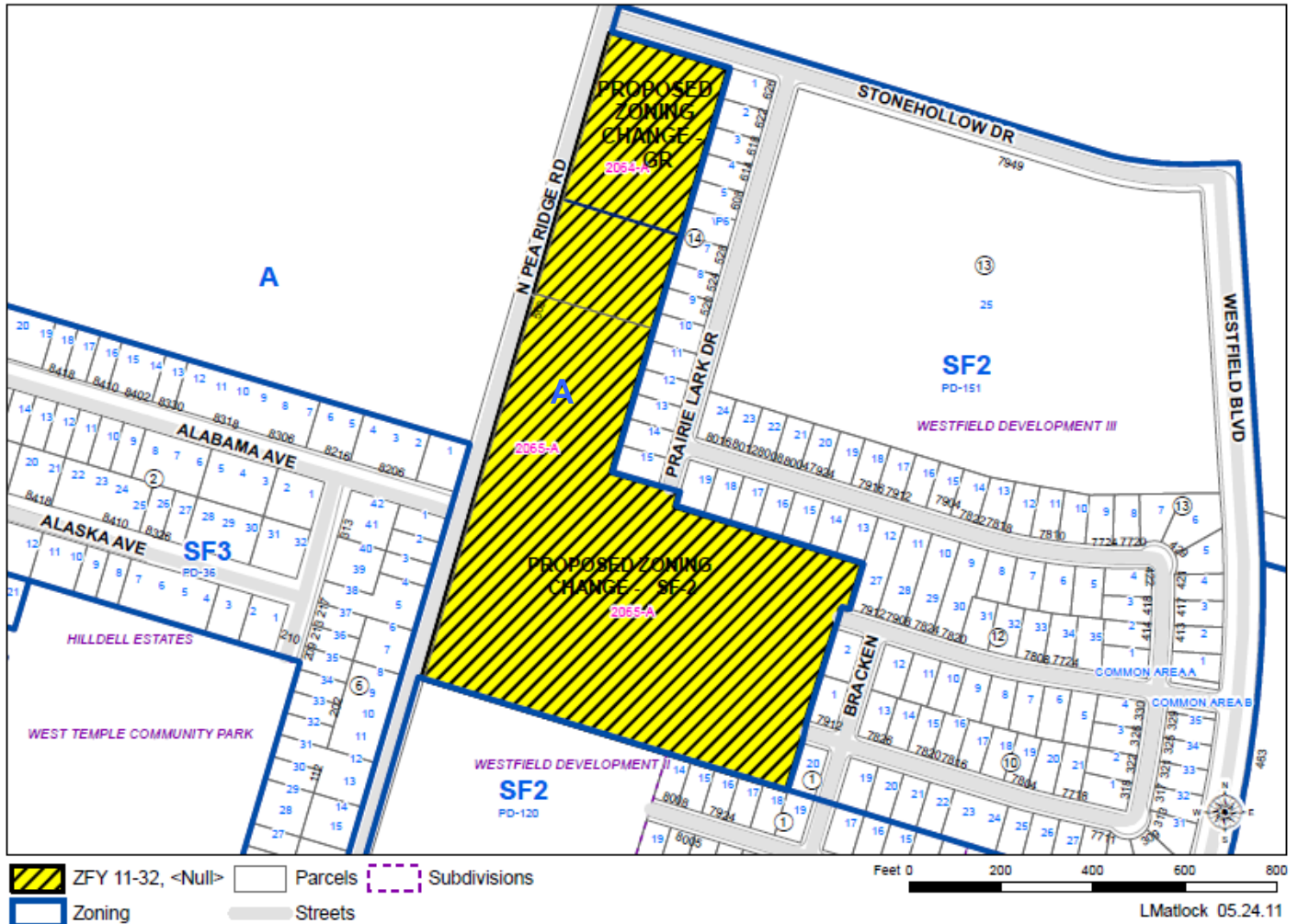
Z-FY-11-32

Portion of Outblock 2064-A - AG to GR and

Outblock 2065-A and Remainder of 2064-A - AG to SF2

East of N. Pea Ridge Rd

South of Stonehollow Dr



Zoning Map inset provided to show the zoning of the larger area.

GR, General Retail zoning is currently clustered along W. Adams Ave. which is a Major Arterial.



Z-FY-11-32

Portion of Outblock 2064-A - AG to GR and
Outblock 2065-A and Remainder of 2064-A - AG to SF2

East of N. Pea Ridge,
South of Stonehollow



Proposed Minor Arterial

GR - General Retail District

SF2 - Single Family Two District



ZFY 11-32

Feet 0 200 400 600 800 1,000 1,200

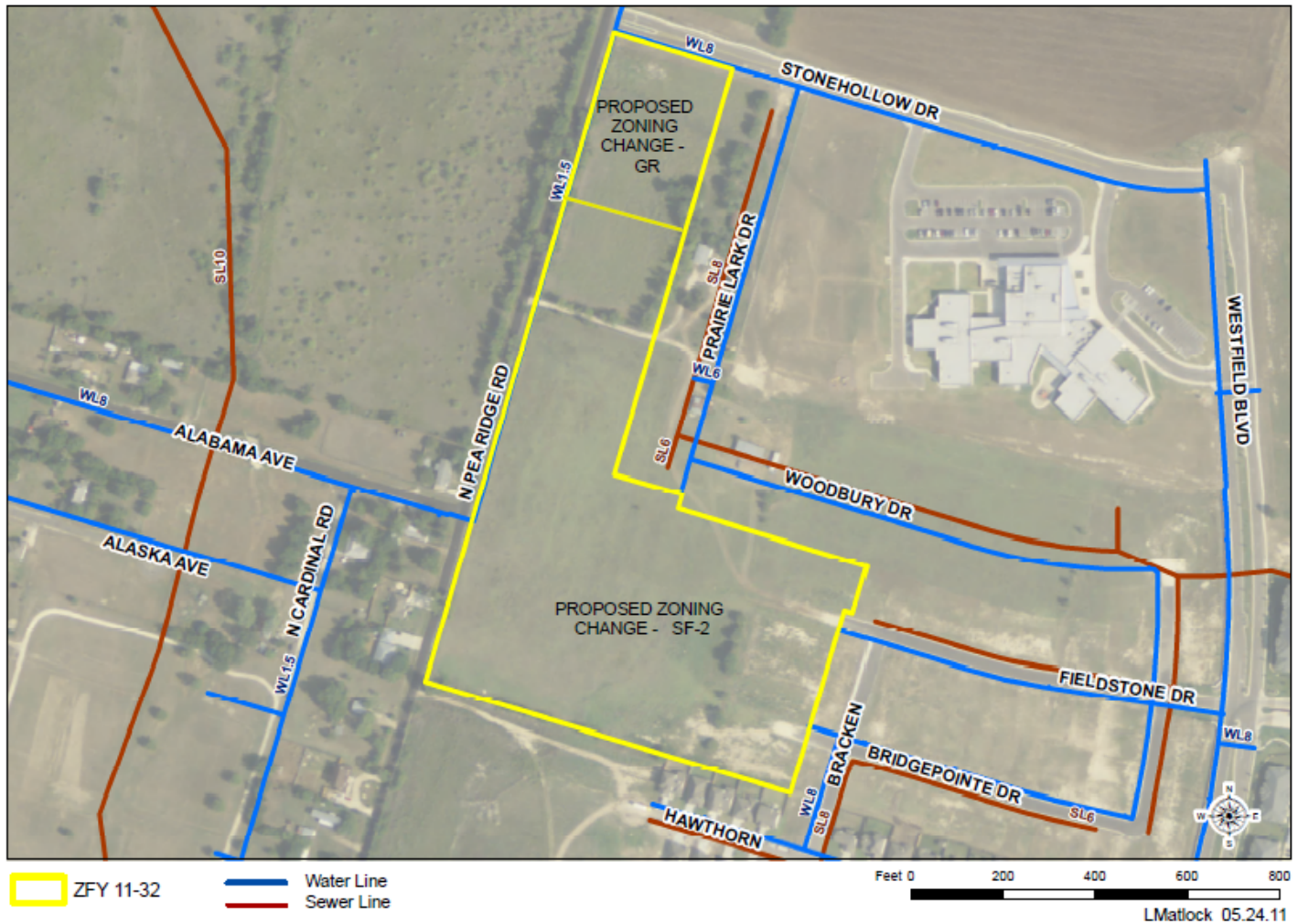
LMatlock 05.24.11



Z-FY-11-32

Portion of Outblock 2064-A - AG to GR and
Outblock 2065-A and Remainder of 2064-A - AG to SF2

East of N. Pea Ridge Rd
South of Stonehollow Dr





Z-FY-11-32

Portion of Outblock 2064-A - AG to GR and
Outblock 2065-A and Remainder of 2064-A - AG to SF2

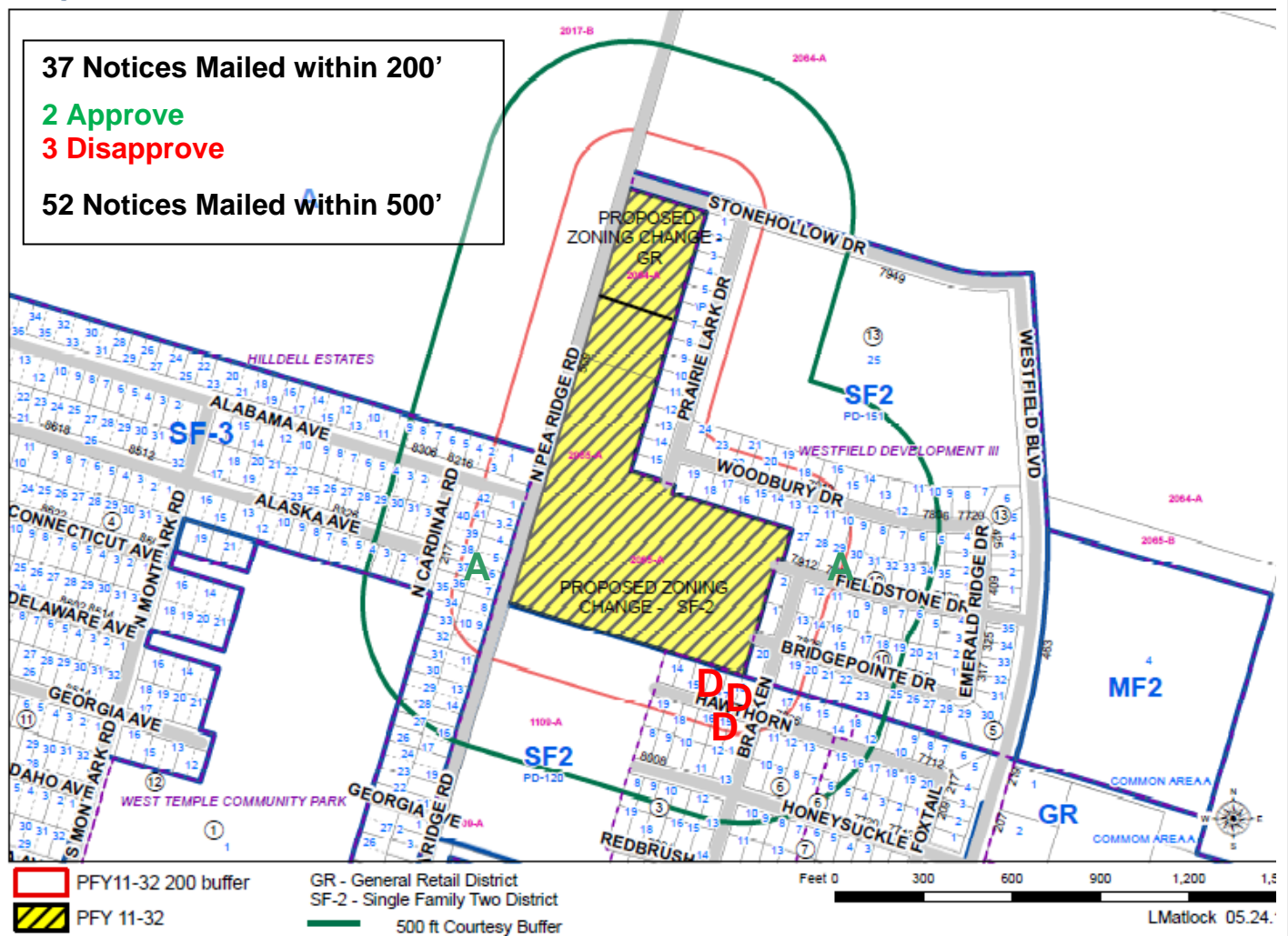
East of N. Pea Ridge Rd
South of Stonehollow Dr

37 Notices Mailed within 200'

2 Approve

3 Disapprove

52 Notices Mailed within 500'





RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Arthur III & Anne Colvin
7924 Hawthorn
Temple, Texas 76502

Zoning Application Number: Z-FY-11-32

Project Manager: Leslie Matlock

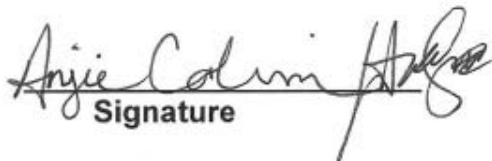
The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice,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

I recommend () approval

☒ denial of this request.

Comments:

Specifically, general retail in respective
to the location of Turner elementary school. This
would allow the possibility of alcohol being sold
or served near the school. (Not sure if school
is far enough from where stores could be placed.)
Neighborhood services would be a much better
fit


Signature

Angie Colvin/Arthur Colvin
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later
than June 20, 2011

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

RECEIVED

JUN 16 2011

City of Temple
Planning & Development

Number of Notices Mailed: 37

Date Mailed: June 9, 2011



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Holly D. Raybin
7925 Hawthorn
Temple, Texas 76502

Zoning Application Number: Z-FY-11-32

Project Manager: Leslie Matlock

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

I recommend () approval ☒ denial of this request.

Comments:

① Houses should be equal or better than this block

② I DO NOT want to open zoning to alcohol sales, etc.

There are many children and plenty of nearby stores

to meet needs. I bought this home based on

these two points—

Holly D. Raybin
Signature

Holly D. Raybin
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than June 20, 2011

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

RECEIVED

JUN 21 2011

City of Temple
Planning & Development

Number of Notices Mailed: 37

Date Mailed: June 9, 2011



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

Richard Cortez & Thomas Archer
7912 Hawthorn
Temple, Texas 76502

Zoning Application Number: Z-FY-11-32

Project Manager: Leslie Matlock

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

I recommend () approval ☒ denial of this request.

Comments:

This neighborhood was advertised & sold
as a "restricted" neighborhood.
Retail space is available on ADAMS.
These streets should stay single family.


Signature

Tom Archer
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than June 20, 2011

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

RECEIVED

JUL 01 2011

City of Temple
Planning & Development



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Diana Gail Wright
218 North Pea Ridge Road
Temple, Texas 76502

Zoning Application Number: Z-FY-11-32

Project Manager: Leslie Matlock

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

I recommend ☒ approval () denial of this request.

Comments:

1) Pea Ridge Road needs to be widened on the east side to Accomodate increased traffic from School (School Buses, etc). We need speed bumps and posted speed limits & limit signs and enforcement.
2) We need to be able to connect to the city sewer (for free) As soon as possible.

Diana Wright
Signature

Diana Wright
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than June 20, 2011

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

RECEIVED

JUN 15 2011

City of Temple
Planning & Development

Number of Notices Mailed: 37

Date Mailed: June 9, 2011



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

Donald Sr. Etux Betty Viator
7816 Fieldstone Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-11-32

Project Manager: Leslie Matlock

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

I recommend ☒ approval () denial of this request.

Comments:

Donald A. Viator Sr.
Signature

DONALD J. VIATOR SR.
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than June 20, 2011

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

RECEIVED

JUN 16 2011

Number of Notices Mailed: 37

Date Mailed: June 9, 2011

City of Temple
Planning & Development

PLANNING AND ZONING COMMISSION AGENDA ITEM

7/05/11
Item #4
Regular Agenda
Page 1 of 5

APPLICANT / DEVELOPMENT: Kiella Development



CASE MANAGER: Leslie Matlock, Senior Planner




ITEM DESCRIPTION: Z-FY-11-32 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to General Retail District (GR) on Outblock 2064-A and from Agricultural District (AG) to Single Family Two (SF2) on Outblock 2065-A, Baldwin Robertson Survey, Abstract 17, on 15.922 acres, located southeast corner of N. Pea Ridge Road and Stonehollow Drive.

BACKGROUND: The applicant requests the rezoning to establish a commercial and a residential subdivision. The subject property lies approximately 2,400 feet north from the corner of W. Adams and N. Pea Ridge Road (nearly ½ mile). The applicant requests 13.6 acres of SF2 zoning and 2.3 acres of GR. If developed to its maximum yield, the single-family portion of the project could consist of approximately 90 lots.

SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	AG (Proposed SF-2 and GR zoning)	Undeveloped Land	
North	AG	Undeveloped Residential Lots and School in distance	

Direction	Zoning	Current Land Use	Photo
South	SF2	Residential Subdivision and Undeveloped Land	
East	SF2	Residential Uses and School and Playgrounds	
West	AG and SF3	Single-Family Residential, Undeveloped Lots and Agricultural Land	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character (FLUP)	Y & N *
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y*

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character Plan (FLUP) (CP Map 3.1)

The future land use and character map designates the entire property as Auto Urban Residential. The Comprehensive Plan states that this is the dominant development pattern of the older portions of

Temple. The Single Family Two request complies with the FLUP map however; the General Retail rezoning request does not comply.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates N. Pea Ridge Road a proposed minor arterial. When built to its full extent, this proposed minor arterial will be able to handle the increased load that this rezoning may create. Other roads that are impacted are classed as local roads. The rezoning request complies with the plan.

Availability of Public Facilities (CP Goal 4.1)

A 6- and an 8-inch water line and sewer line are available near the property. Public facilities are available for extension to the property.

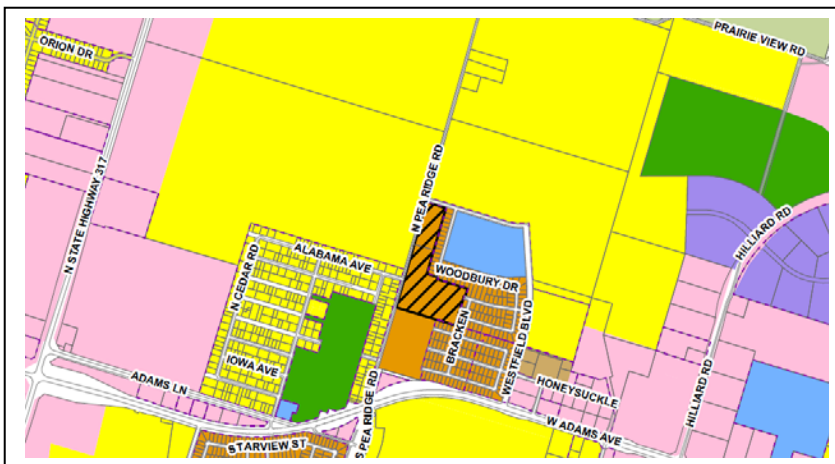
Temple Trails Master Plan Map

The Sidewalk and Trails Plan designates property to the west as a future community-wide connector trail. It also shows a future Local Collector Trail to the north. This rezoning will not affect the Trails Master Plan as any dedication must happen at time of platting.

Additional Comprehensive Plan Analysis

The Future Land Use Plan shows the close surrounding area as either residential or institutional, meaning schools or Civic uses. The FLUP has commercial uses clustered along the nearby Major Arterial of W. Adams Avenue, and this use is usually most appropriate along arterial nodes. Although North Pea Ridge is a Minor Arterial, the corner node is with a local residential street, Stonehollow Drive. This corner, and other corners that are surrounded by residential uses, is more appropriate for the NS, Neighborhood Services zoning district, if a nonresidential district is approved.

The zoning change to General Retail mixes the possibility of a major retail sales generator siting next to residential uses at this corner. Alternately, there are few commercial uses that will want to locate at this corner in the short term; however the Comprehensive Plan is projecting 20 years to the future when this area is fully developed. If the nonresidential district is approved, an amendment to the FLUP should also be done in conjunction with other amendments to the map at a later date.



Inset of the Future Land Use Plan Map of categories surrounding the subject area.

- Brown and yellow are residential.
- Pink is Commercial.
- Purple is Business Park
- Green is park and blue is institutional, such as a school or City building.
- Light Green is Agricultural

A site-focused Future Land Use Plan map is attached to this report.

DEVELOPMENT REGULATIONS:

The requested GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments, with a maximum building height of 3 stories. This would be the zoning on areas that also contain

shopping centers. There is no minimum lot area, width or depth. The building setback for the front yard is 15 feet from the front property line. There is a minimum side yard setback requirement of 10 feet. If a residential use borders the nonresidential use, then 10 feet setback is required unless there is an alley between, then there is no requirement.

As recommended below, the purpose of the NS, Neighborhood Services zoning district is to provide day-to-day retail and service needs for residential areas. This district should be located convenient to residential areas in locations such as the corner of a local road and a collector that serves the neighborhood. Typical permitted uses include limited retail services such as a convenience store without fuel sales, bank, barber or beauty shop, cleaners or flower shop. The setbacks for NS are the same as for GR but the maximum building height is 2 ½ stories, more to the scale of a typical surrounding neighborhood.

Some uses allowed in GR but **prohibited in NS** include:

Auto Leasing or Rental	Indoor flea market
Boarding or Rooming House	Indoor commercial amusement (e.g. bowling alley)
Car wash	Minor vehicle servicing
Discount store	Motorcycle or Scooter Sales or Service
Duplex -Two family dwelling	Pawn shop
Fraternal lodge or union hall	Pet shop
Furniture and Appliance Store	Print shop
Hardware or Hobby Store	Plumbing shop
Home for the aged	Restaurant with drive-in
Hospital	Upholstery shop
Hotel Motel	Veterinarian hospital without kennels

The purpose of the Single Family Two zoning district is to develop single-family lots that permit single-family attached or detached residences and their related accessory structures and provides for smaller single-family lots that serve as a transition between larger and smaller lot single-family districts. SF-2 is meant to be a transitional area between less and more dense districts such as SF-1/Urban Estate and Townhouse/Multi-Family developments. Typical prohibited uses include secondary homes, duplexes, apartments, and non-residential uses.

SF-2, Single-Family Two	Minimum Standards
Min. Lot Area (sq. ft.)	5,000
Min. Lot Width (ft.)	50
Min. Lot Depth (ft.)	100
Max. Height (stories)	2 ½ stories
Min. Yard (ft)	
Front	25
Side	5
Rear	10

PUBLIC NOTICE:

Thirty-seven notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the property in question, as required by State law and City Ordinance. As of Wednesday, June 29th, 2011, at 5 PM, two notices were returned in favor of and two notices were returned in opposition to the request.

Fifty-two additional courtesy notices were also sent out to those property owners that were within 500-feet of the subject property.

The newspaper printed notice of the Planning and Zoning Commission public hearing on June 9th, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Analysis Summary:

1. The request complies with the Future Land Use and Character Map in relation to the SF-2 request, however, does not comply with the General Retail zoning request.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities are available to serve the property.

Staff recommends approval of the rezoning for case Z-FY-11-32 with the following changes:

SF-2 zoning is recommended as requested and NS is recommended instead of GR.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
Notice Map
Responses

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

TUESDAY, JULY 5, 2011

ACTION ITEMS

Item 4: Z-FY-11-32 – Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to General Retail District (GR) on Outblock 2064-A and from Agricultural District (AG) to Single Family Two (SF2) on Outblock 2065-A, Baldwin Robertson Survey, Abstract 17, on 15.922 acres, located southeast corner of N. Pea Ridge Road and Stonehollow Drive. (Turley Associates for Kiella Land Investments)

Ms. Leslie Matlock, Senior Planner, stated this item was tabled previously since the applicant was unable to attend. The subject property is located on north Pea Ridge Road and is currently a green field adjacent to single family zoned land. The rezoning request is by the same developer as the adjacent Westfield single family subdivision and Staff recommends the General Retail (GR) zoning be changed to Neighborhood Services (NS) and the request for Single Family Two (SF2) be approved.

Current surrounding uses include Agricultural to the north and west, W. Adams Avenue to the south, Tarver Elementary School and Westfield Addition, Phase I single family to the east, and scattered single family residences to the west. The Thoroughfare Plan shows north Pea Ridge Road as a minor arterial and the others are local roads.

Staff recommends the GR district be zoned NS because of lesser intense uses.

The property has adequate sewer and water to serve the property.

Thirty-seven notices were mailed out and two responses received were in approval and three responses were in denial. Fifty-two courtesy notices were mailed out.

Commissioner Staats asked what prompted the NS zoning for the GR and Ms. Matlock stated it was in accordance with the Future Land Use and Character Map for the area which showed the entire area for single family. This would be an entrance into a single family district and GR would be a more intense zoning whereas NS is more compatible for residential neighborhoods.

Commissioner Rhoads asked what the Conditional Use Permit (CUP) rule was for distance to a school and Ms. Matlock stated specifically for alcohol in a GR district it would be front door to front door.

Chair Talley opened the public hearing.

Mr. John Kiella, 11122 White Rock Drive, Temple, Texas, stated he represented the owner and did not have a problem going to NS. They use GR since it gives them a 'biggest basket' and he would not want any of the excluded uses anyway.

There is an existing road along the school which is a collector street. He has one entryway on to Stonehollow and would like to have another one due to the amount of traffic. The size of this was dictated by the maximum amount of a cul-de-sac he could put in. Due to the amount of people that will be moving into the area over the next few years, there will be a need for GR and NS. This is a small area and NS would work. He would like to have a few of the GR uses, such as a restaurant with drive-through, but maybe that use could be included in the NS designation.

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

Commissioner Pilkington stated he understood the point about the drive-through and Vice-Chair Martin agreed.

Commissioner Rhoads made the motion for item Z-FY-11-32 to remain as requested, against Staff recommendation, from AG to SF2 and GR and Commissioner Pilkington made a second.

Motion passed: (8:0)

Commissioner Pope absent.

ORDINANCE NO. _____

(PLANNING NO. Z-FY-11-32)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURAL DISTRICT (AG) TO GENERAL RETAIL DISTRICT (GR) ON OUTBLOCK 2064-A AND FROM AGRICULTURAL DISTRICT (AG) TO SINGLE FAMILY TWO (SF2) ON OUTBLOCK 2065-A, BALDWIN ROBERTSON SURVEY, ABSTRACT 17, ON 15.922 ACRES, LOCATED ON THE SOUTHEAST CORNER OF NORTH PEA RIDGE ROAD AND STONEHOLLOW 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 rezoning from Agricultural District (AG) to General Retail District (GR) on Outblock 2064-A and from Agricultural District (AG) to Single Family Two (SF2) on Outblock 2065-A, Baldwin Robertson Survey, Abstract 17, on 15.922 acres, located on the southeast corner of North Pea Ridge Road and Stonehollow 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 **4th** day of **August**, 2011.

PASSED AND APPROVED on Second Reading on the **18th** day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

08/04/11

Item #8

Regular Agenda

Page 1 of 4

DEPT. / DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-34: Consider adopting an ordinance authorizing a zoning change from Agriculture District (AG) to Commercial District (C) on 4.699 acres located on the south side of FM 2305, west of Arrowhead Point Road, more commonly known as 13721 West Adams Avenue.

P&Z COMMISSION RECOMMENDATION: At its July 5, 2011, meeting, the Planning and Zoning Commission voted 8/0 to recommend approval of a rezoning from AG to PD–NS with the Storage Warehouse use permitted in addition to the uses permitted in the base NS zoning district.

Commissioner Pope was absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for August 18, 2011, with the site improvements described on the PD site plan.

Staff recommends approval of Z-FY-11-34 for the following reasons:

1. NS, Neighborhood Services, is the district most compatible with the surrounding uses if a new use were to locate on the subject property in the future.
2. Dissenting opinions from the P&Z Public Hearing were successfully addressed through this Planned Development solution.
3. The request complies with the Thoroughfare Plan.
4. Public and private facilities serve the property.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-34, from the Planning and Zoning meeting, July 5, 2011.

The applicant, Donald Bousquet, originally requested a rezoning from AG, Agricultural, to C, Commercial so that he could expand the established boat storage use on the property. The storage use is not allowed in the AG district, which was the default zoning district assigned to the property upon its annexation in 2008. City staff originally recommended approval of the request for the Commercial zoning district, but now agrees with the Planning and Zoning Commission's recommendation of Planned Development-NS with Storage Warehouse added as a permitted use on the property. The applicant is agreeable to the

recommendation of the Planning and Zoning Commission and this recommendation appeared to satisfy a concerned neighbor, Mr. Michael Ronk, who appeared at the public hearing.

The property has approximately 255 feet of frontage along FM 2305. The existing square footage of the storage facility is approximately 37,000 square feet. The applicant proposes to add 36 units for a total addition of approximately 15,000 square feet. The additional units are approximately 440 feet from the FM 2305 right-of-way at their nearest point.

As with all Planned Developments, development of the property must conform to the approved PD site plan, which is attached to this report. At the time of their voting, the Planning and Zoning Commission did not have a PD site plan to review, since the request was originally processed as a basic rezoning. However, the submitted site plan addresses their concerns.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y*

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map (FLUCM) designates the property as Suburban Commercial in character. This is generally typified by less dense, more suburban-style non-residential buildings, incorporating green areas and building materials compatible with suburban neighborhoods that surround them.

The original Commercial rezoning request does not comply with the FLUCM. However, the PD-NS designation that the Planning and Zoning Commission recommends does comply.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates FM 2305/ W. Adams Avenue as a major arterial. This road has been built for arterial speed traffic. The rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

City of Temple water and sewer lines are in place and already serve this property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan does designate trails in this area, but this rezoning will not trigger dedication for the Trails Master Plan.

PLANNED DEVELOPMENT:

The attached Planned Development site plan shows that the applicant proposes additions to the site that would normally not be required under base zoning. The applicant offers these improvements as part of the PD which would allow him to expand the boat storage units on the property. Those improvements are:

- 45' minimum buffer between back of storage units and rear property line
- 5' wide landscape strip along FM 2305 to include
 - 20 dwarf Japanese barberry (shown below) and
 - 5 crepe myrtles



Dwarf Japanese Barberry

Any additional units on the property would require City Council approval.

DEVELOPMENT REGULATIONS:

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

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

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

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

PUBLIC NOTICE:

Nine notices were sent regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. As of Friday, July 1st, at 5 PM, 2 notices were returned in favor of and 2 notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 20, 2011, in accordance with state law and local ordinance. Twenty courtesy notices were sent out to property owners within 500 feet of the subject property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial Map](#)
[Land Use and Character Map](#)
[Zoning Map](#)
[Thoroughfare Plan Map](#)
[Utility Map](#)
[PD Site Plan](#)
[Notice Map](#)
[Response Letters](#)
[P&Z Staff Report \(Z-FY-11-34\)](#)
[P&Z Minutes \(July 5, 2011\)](#)
[Ordinance](#)



Z-FY-11-34

Outblock 7062-A, S.P. Terry Survey, 4.699 acres

13721 FM 2305



 Z-FY 11-34 Current Temple Boundary
 Streets

Feet 0 300 600 900 1,200

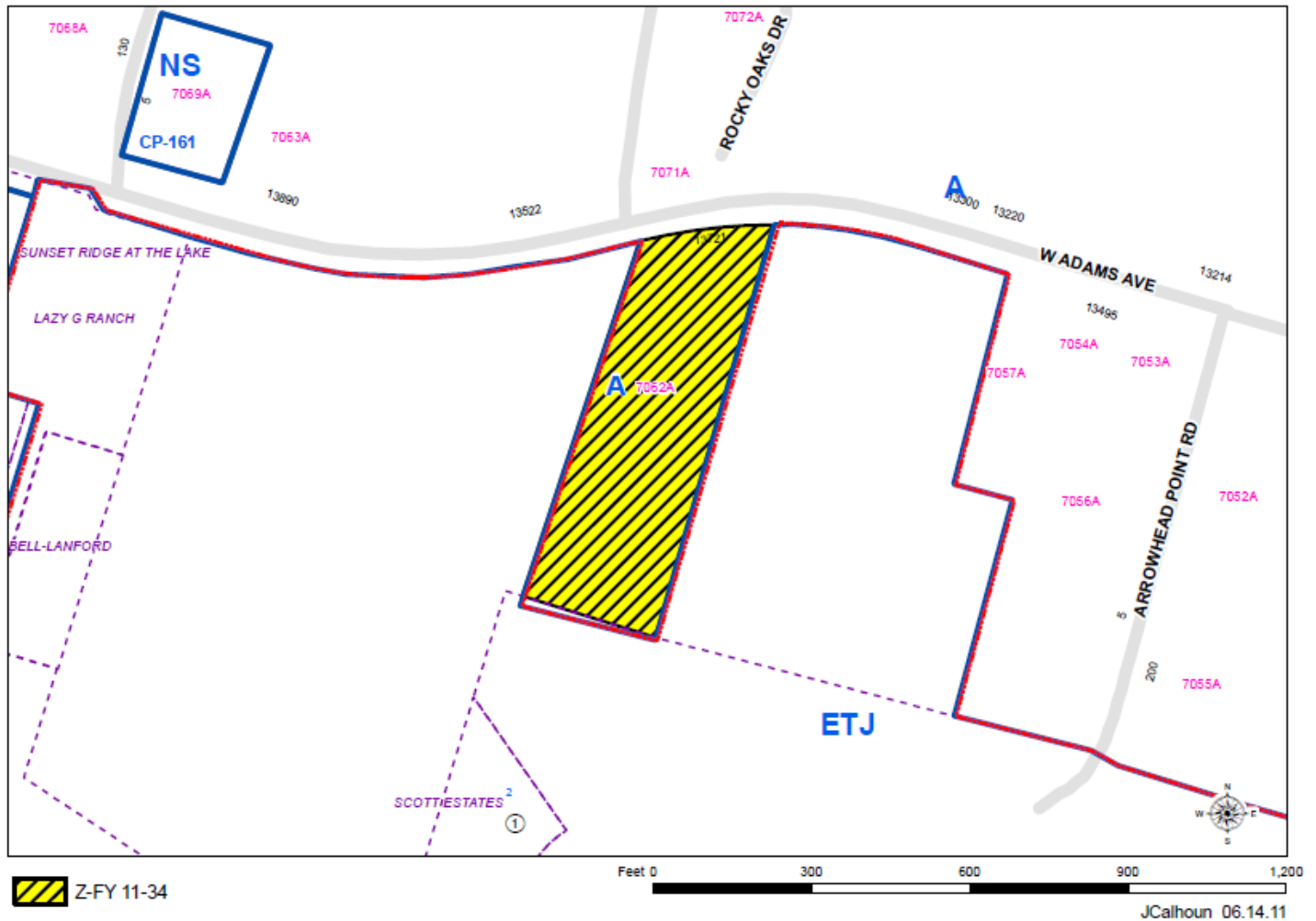
JCalhoun 06.14.11



Z-FY-11-34

Outblock 7062-A, S.P. Terry Survey, 4.699 acres

13721 FM 2305

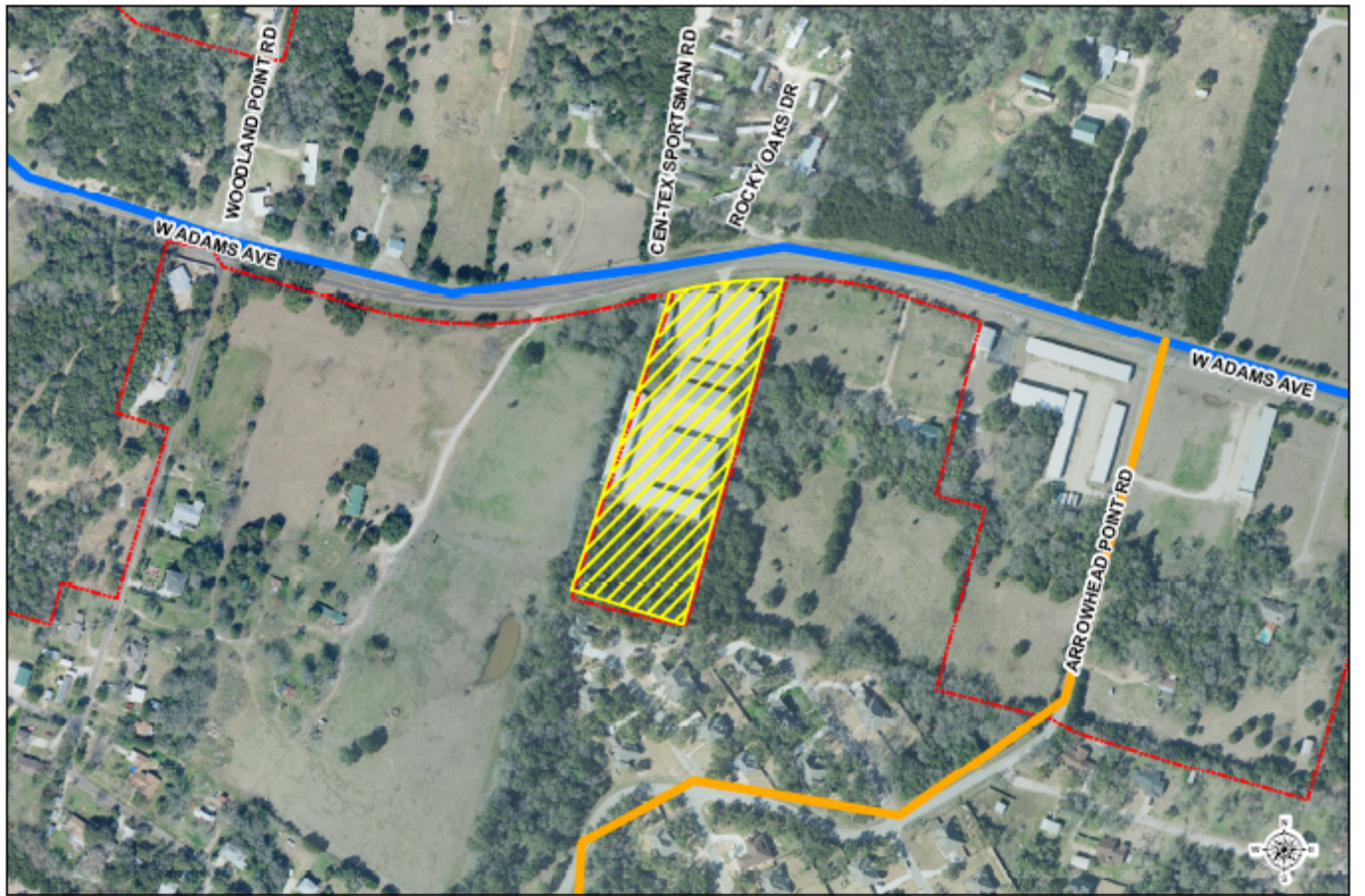









Z-FY-11-34

Outblock 7062-A, S.P. Terry Survey, 4.699 acres

13721 FM 2305



 Z-FY 11-34  Current Temple Boundary  Collector

 Streets  Major Arterial

Feet 0 300 600 900 1,200

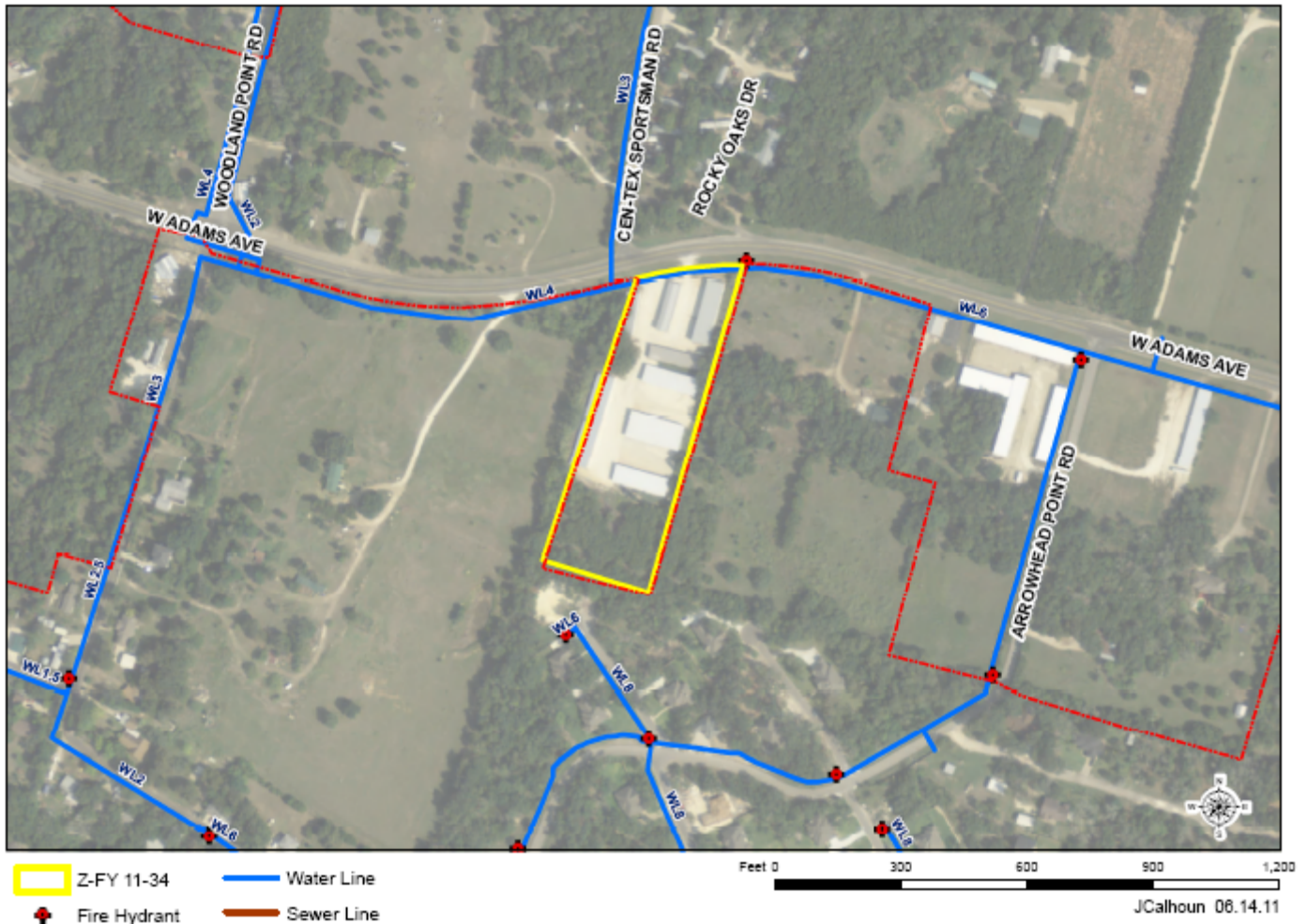
JCalhoun 08.14.11



Z-FY-11-34

Outblock 7062-A, S.P. Terry Survey, 4.699 acres

13721 FM 2305

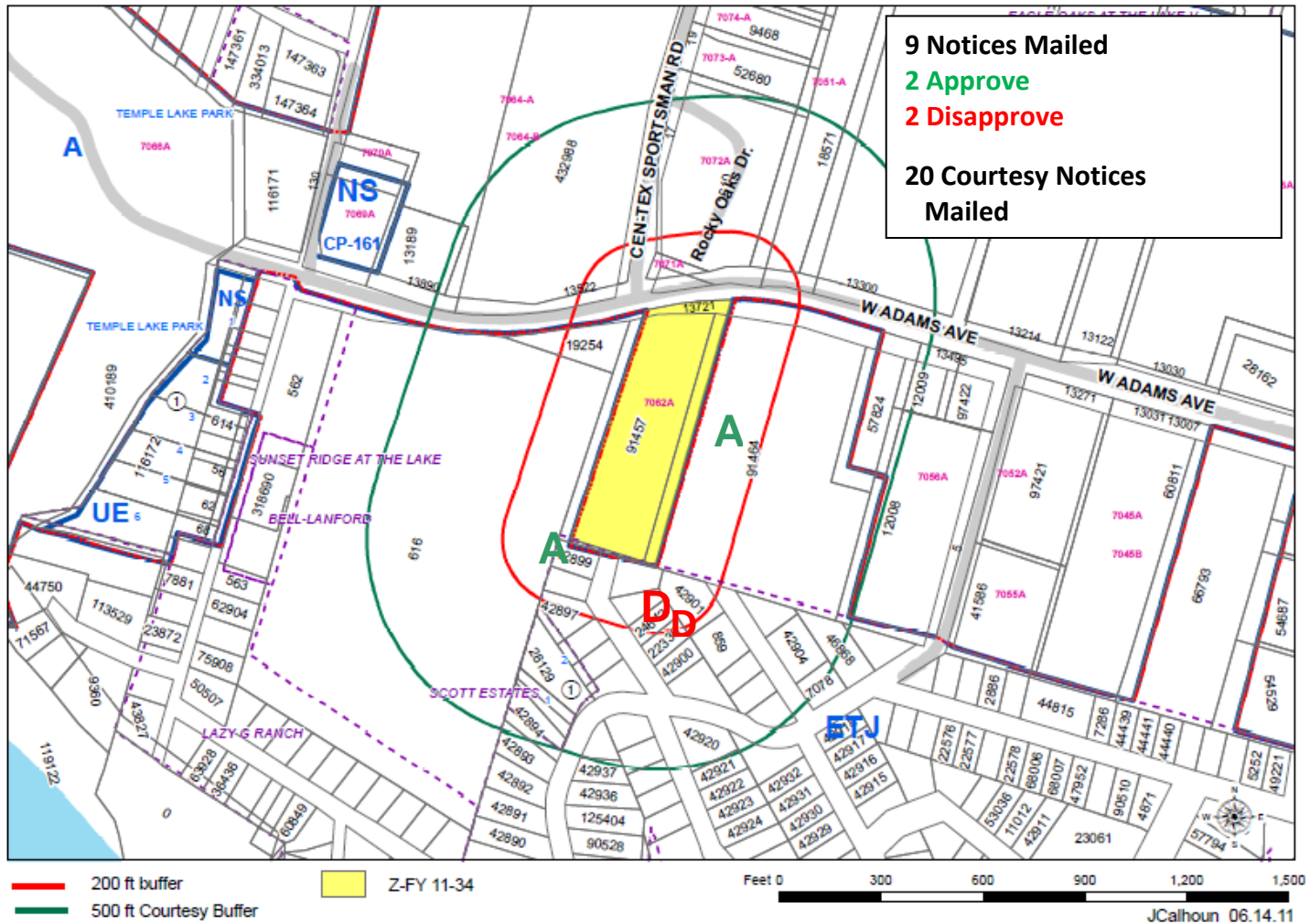




Z-FY-11-34

Outblock 7062-A, S.P. Terry Survey, 4.699 acres

13721 FM 2305





RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

John Etux Phyllis Modisett
13631 Moss Rose Trail
Belton, Texas 76513

Zoning Application Number: Z-FY-11-34

Project Manager: Leslie Matlock

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

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

Comments:

As neighbors directly across the property line within the 200' buffer zone, we have no objection to allowing Mr. Bousquet to build another storage unit on his property. Our concern would be the choice of zoning options that may be enacted. We would oppose a zoning designation that would facilitate the future transfer of this property into a commercial enterprise other than the current storage units. We would request that a designation be used that would prevent future commercial use expansion into other less desirable commercial adventures.

Mrs John (Phyllis) Modisett
Signature

Mrs John (Phyllis) Modisett
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 5, 2011

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

RECEIVED

JUL 01 2011

City of Temple
Planning & Development

Number of Notices Mailed: 9

Date Mailed: June 23, 2011



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Catherine Etvir Michael Provenzano
67 Buck Lane
Belton, Texas 76513

Zoning Application Number: Z-FY-11-34

Project Manager: Leslie Matlock

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

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

Comments:

Catherine Provenzano
Signature

Catherine Provenzano
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 5, 2011

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

RECEIVED

JUN 28 2011

City of Temple
Planning & Development

Number of Notices Mailed: 9

Date Mailed: June 23, 2011



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

Susan M. Etvir Walt Cory
13606 Moss Rose Trail
Belton, Texas 76513

Zoning Application Number: Z-FY-11-34

Project Manager: Leslie Matlock

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

I recommend () approval

(☒) denial of this request.

Comments:

Susan Cory
Signature

Susan Cory
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than July 5, 2011

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

RECEIVED

JUL 05 2011

City of Temple
Planning & Development

Number of Notices Mailed: 9

Date Mailed: June 23, 2011

**ATTACHMENT TO "RESPONSE TO PROPOSED REZONING REQUEST
APPLICATION NUMBER Z-FY-11-34**

While we do support Mr. Bousequet's request for rezoning, we do not support Mr. Donald Bousequet's application for rezoning as Commercial District (C).

We have concluded that the Commercial District is not appropriate for Mr. Bousequet's business since the description of the Commercial District (C) fails to conform to this particular business as described in Zoning Code 4.3.18 C, Commercial.

While the word "storage" is used in that description, *its grammatical construction can only refer to the storage of "light manufacturing and heavy machinery."*

In addition, the geographical location description states the Commercial District *"should also be located at the intersection of major thoroughfares or highways."* This qualification is not in any way descriptive of roadways that serve Mr. Bousequet's business.

In addition, Zoning Code 4.3.18 states that the Commercial District *"should be located away from low and medium density residential development."* Mr. Bousequet's business is clearly located in "a low and medium density residential development."

Finally, the Commercial District *"may be used as a buffer between retail and industrial uses,"* indicating again that a rezoning of Mr. Bousequet's property to Commercial District would be inappropriate since there is no other retail or industrial use any where near the property under consideration.

We would heartily endorse the request for rezoning if that rezoning were to be as "NS, Neighborhood Service."

Zoning Ordinance 4.3.16 NS, Neighborhood Service describes very well the location as well as the nature of the business Mr. Bousequet conducts. It serves the neighborhood (as well as to some degree, the greater community) in as much as Mr. Bousequet's business is essentially a boat storage (80%) facility primarily for individuals who lack space at their residences. We cannot imagine a business that would be less intrusive in terms of traffic, noise, or any other intrusion on our residential neighborhood.

Additionally, the NS zoning district, is *"is designed to provide day to day retail and service needs for residential service areas."* Indeed, that is exactly what Mr. Bousequet's business does—provides day to day service need for this (and other) residential areas.

The NS rezoning category is *"the most restrictive retail district."* Therefore, the rezoning to NS would insure that, in the future, no business that has the potential to disrupt the peaceful nature of our residential neighborhood would be allowed to open. We are very concerned that any future use of the property would significantly increase traffic or commotion and thereby deteriorate the quality of life we enjoy as well as the value of our properties.

WE URGE YOU TO REZONE MR. BOUSEQUET'S PROPERTY AS NS, NEIGHBORHOOD SERVICE. WE WOULD ALSO URGE THE MEMBERS OF THE TEMPLE PLANNING AND ZONING COMMISSION TO VISIT BOTH MR. BOUSEQUET'S BUSINESS LOCATION AS WELL AS THE SURROUNDING RESIDENTIAL NEIGHBORHOOD PRIOR TO ITS FINAL DECISION.

MICHAEL RONK
13618 MOSS ROSE TRAIL
BELTON, TX 76513

LINDA RONK
13618 MOSS ROSE TRAIL
BELTON, TX 76513

DATE: JULY 5, 2011

.3.16 NS, Neighborhood Service

A. The Neighborhood Service zoning district permits 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. The maximum building height ~~is of~~ 2 1/2 service stories.

B. The Neighborhood Service zoning 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.

4.3.18 C, Commercial

A. The Commercial zoning district permits ~~This district allows~~ all retail and most commercial land uses including auto dealerships with complete servicing facilities, building material sales, light manufacturing and heavy machinery sales and storage. Also, residential uses are allowed, except apartments. The maximum building height may be ~~Allows building height to any legal limit that other laws and ordinances do not prohibit.~~ ~~ed by other laws or ordinances.~~

ZO
SEC. 3-
100

Note: *Discuss building material sales, light manufacturing and heavy machinery sales in Phase 2.*

B. The Commercial zoning district is intended to serve citywide or regional service areas. This district should be located along major highways and should provide total on-site traffic maneuvering such that traffic entering and exiting the facility should have room to turn, queue for parking areas and park within the confines of the facility. This district should also be located at the intersection of major thoroughfares or highways. This district should be located away from low and medium density residential development and may be used as a buffer between retail and industrial uses. Adjoining zoning districts should be carefully selected to reduce environmental conflicts.



PLANNING AND ZONING COMMISSION AGENDA ITEM

7/05/11
Item #5
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Donald Bousquet, Owner


CASE MANAGER: Leslie Matlock, Senior Planner




ITEM DESCRIPTION: Z-FY-11-34 Hold a public hearing to discuss and recommend action on a rezoning from Agriculture District (AG) to Commercial District (C) on 4.699 - acres being located on the south side of FM 2305, west of Arrowhead Point Road, more commonly known as 13721 W. Adams Avenue

BACKGROUND: The applicant has requested the rezoning from AG to C as the property contains established commercial Storage Warehouse development that the owner wants to expand. The property was annexed into the City of Temple in January of 2008 and the current warehouse use was apparently in place. The AG, Agriculture, zoning district was given as the property's designation. The owner would like to expand the use, and is required to have the proper zoning for the business to enlarge.

SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	AG (C proposed)	Existing Self Storage Business and Undeveloped Land.	

Direction	Zoning	Current Land Use	Photo
North	AG	Mobile Home Park	
South	Temple ETJ	Single Family Residential	
East	Temple ETJ	Large Lot Single Family Residential	

Direction	Zoning	Current Land Use	Photo
West	Temple ETJ	Large Lot Single Family Residential	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character Map	N*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y*

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map (FLUCM) designates the subject property as Suburban Commercial. The rezoning request does not comply with the FLUCM. However, It is within a non-residential use area there is a precedent for recommending approval for, and the City Council subsequently approving, rezonings of this nature, in this part of the City, when an applicant wants to expand an existing business.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates FM 2305/ W. Adams Road as a major arterial. This road is built for two to three lane rural street cross-section. The rezoning request to C, Commercial, complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

City of Temple water lines and fire hydrants are in place to serve this property. There are no sewer extensions to this area of the city at this time; however, the area is served by private sewerage or septic systems.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan designates a future Collector Spine Trail along this W. Adams Avenue frontage. This rezoning will not trigger dedication for the Trails Master Plan, but should the property be replatted, the PALS department will evaluate the property.

DEVELOPMENT REGULATIONS:

The C, Commercial zoning district is more intense retail district and allows for retail sales and restaurants or offices and most residential uses except apartments. It also allows more intense uses such as major vehicle repair and storage, warehousing and package stores by right. The district may allow natural resources storing/extraction, outdoor auto storage and kennels with a Conditional Use Permit approval. There is no minimum lot area, width or depth unless bounded by a residential district. Any legal height building is allowed but could be required to be setback if over a certain height and next to a residential district. Storage Warehouses are a use that is permitted by right.

PUBLIC NOTICE:

Nine notices were sent regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. As of Wednesday, June 29th, at 12 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 20, 2011, in accordance with state law and local ordinance. Twenty courtesy notices were sent out to property owners within 500 feet of the subject property.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning for case Z-FY-11-34 for the following reasons:

1. The request does not comply with the Future Land Use and Character Map; however, it is within a non-commercial use area and similar rezoning requests for expanding similar businesses on comparable properties in the same part of the City have received positive recommendations and approvals in the recent past.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
Flood Plain Map
Notice Map
Responses

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

TUESDAY, JULY 5, 2011

ACTION ITEMS

Item 5: Z-FY-11-34 - Hold a public hearing to discuss and recommend action on a rezoning from Agriculture District (AG) to Commercial District (C) on 4.699 acres, located on the south side of FM 2305, west of Arrowhead Point Road, more commonly known as 13721 W. Adams Avenue. (Donald Bousquet)

Ms. Matlock stated this case originated with a request for additional buildings for an existing boat storage. In order to expand the zoning designation needed to be changed. Currently it is zoned AG and the business has been in existence since before the annexation in 2008.

The use chart indicates the least intensive use for the storage warehouse use is Commercial (C). Current surrounding uses include another storage warehouse to the east, single family neighborhood use to the northeast and northwest, a mobile home park to the north and single family to the south in the ETJ. The Comprehensive Plan shows this area to be retail in nature. The request does not comply with the intensity of the Future Land Use and Character Map but is within a non-residential character area. The Thoroughfare Plan shows Adams as a major arterial and Arrowhead as a collector. Sewer and water are available to serve the property.

Nine notices were mailed and two were received in approval and two were denying the request. Twenty-two courtesy notices were sent.

Staff recommends approval for this request. While it does not comply with the Future Land Use and Character Map, similar requests have been approved in the recent past. This request does comply with the Thoroughfare Plan and public and private facilities are available.

Chair Talley opened the public hearing.

Mr. Michael Ronk, 13618 Moss Road Trail, stated his property is located directly behind the applicant's property. Mr. Ronk stated he has no disapproval of the applicant's use of the property as it currently stands. Mr. Ronk and some of the neighbors do have a concern about the Commercial use zoning change. GR use chart allows for both a hospital and a car wash which are hardly in the same category. To open this rezoning allows anyone at any point in the future for anything that is currently characterized as a use for a Commercial property to replace what the applicant has and that would have a serious detriment to the property values and quality of life being enjoyed.

Mr. Ronk felt the point of conflict seemed to be in how the use tables are designed. He both supports and does not support the applicant's request. In principal, Mr. Ronk likes

the business because it is totally innocuous and if he were not aware that business was being conducted there, he would never know. He does feel it is a good use and provides a good service for the neighborhood. However, Mr. Ronk does not want the potential to allow other Commercial uses to come into the area.

Mr. Ronk felt there was a need to look at the use tables and evaluate what kind of use and what type of restrictive level is needed. Mr. Ronk has no opposition to the applicant's expansion of the business because it is a neighborhood service type of activity. The make the property full Commercial allows a potential to be detrimental to the way of life there. It did not make sense that Commercial was the least restrictive category in light of other types of businesses available for neighborhood services that are more intrusive. Mr. Ronk asked that the use tables be readjusted to make them more user, neighborhood, residential and business friendly.

Chair Talley asked Mr. Ronk where his home was located and Mr. Ronk indicated it on the map.

Mr. Donald Bousquet, 1301 S. 55th Street, Temple, applicant for the request, bought the property in 1997 or '98 and started the buildings in '98. He has eight buildings on 4.5 acres of land which adjoins Mr. Ronk's property and would like to have three more buildings. This is a boat storage and is very low profile. Mr. Bousquet stated he was told by the City that he had to go Commercial in order to have the additional three buildings. Everything is already in place and all he wants to do is add three more buildings. He wants to be a good neighbor and would leave a sufficient buffer zone or do whatever is needed. The business has been there for 10 years and he has no plans to change it. Mr. Bousquet agrees with Mr. Ronk about the land use descriptions but was instructed to go Commercial.

Discussion about the back part of the subject property.

Mr. Ronk stated under a Commercial zoning, theoretically the next door neighbor could sell his property and someone could buy and develop it into a business that was noisy and raucous and would set a precedent for others to do the same. Mr. Ronk felt the interests of the neighborhood should be preserved. According to the information and descriptions gleaned from the Unified Development Code, Mr. Ronk stated there are no characteristics of the area indicated--there are no thoroughfares or major highways, and Commercial zoning should be located away from the residential areas but that is what surrounds it. There is a vast contradiction in the City's documentation.

Commissioner Rhoads stated he agreed with Mr. Ronk about the use tables and would it be possible to review them? He also asked about the Commercial zoning or nothing and could they make an exception to this request? Ms. Matlock stated the Commission could make an exception but it would not help Mr. Bousquet because he would not be able to expand the way the table is currently written. Ms. Matlock stated it could be a Planned Development (PD) with NS and allow the use. The Commission was in agreement this was a good suggestion.

Mr. Bousquet stated if it went to a PD there would be so many rules and regulations he would not be able to build the additional units. Ms. Matlock stated the PD would include a site plan that would attend the resolution. It would include the type of building, facades, the pavement, etc., and would lock him into what he has now and what he wants to build. However, the City Council could possibly ask for additional concessions, such as landscaping. Commissioner Pilkington stated, in his opinion, this PD was for the City's benefit, not the applicant's, and the landscaping would not be necessary. Ms. Matlock stated the landscaping would be at the front, retail landscaping, such as other retail landscaping. Commercial zoning does not necessarily require landscaping, depending on location, time the building was built, and investment.

Mr. Brian Mabry, Planning Director, City of Temple, stated a PD was definitely an option where the base zoning district is kept lower than Commercial, such as NS, so in the future should a business go away, the low intensity NS district would already be in place. The main thing needed for a PD when it gets to City Council is a drawing and it seemed the applicant had an architect already. The drawing would show existing buildings, proposed buildings, preserved vegetation in back with buffer zone, and any extra suggestions such as nicer building materials or additional landscaping in the front. The purpose of a PD is to give the applicant something but the public gets something in return for the granted flexibility. In this case, the flexibility would be allowing a use not normally allowed in the NS district with mitigation for allowing it.

Commissioner Staats asked if the storage was 100 percent boat storage. Mr. Bousquet stated 85 to 90 percent is totally boat storage but there are a few which hold trucks and miscellaneous items. The units are too big to for a mini-storage situation. It would be accurate to say trailer/vehicle/boat storage.

Commissioner Staats asked the applicant if he would be agreeable to some additional landscaping to soften the view, if required, and Mr. Bousquet confirmed he would be agreeable to that.

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

Commissioner Staats recommended any motion made include something regarding moderate landscaping (small vegetation, not necessarily trees) for the front section and Mr. Mabry gave examples of landscaping requirements. Some discussion followed regarding various landscaping options.

Commissioner Rhoads stated Mr. Ronk was fine with everything except the Commercial zoning and did not feel any landscaping was necessary.

Commissioner Rhoads made a motion to approve **Z-FY-11-34** to a Planned Development Neighborhood Services (PD-NS) district, not Commercial as recommended by Staff, and Vice-Chair Martin made a second.

Motion passed: (8:0)

Commissioner Pope absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-34]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURAL DISTRICT (AG) TO PLANNED DEVELOPMENT NEIGHBORHOOD SERVICE (PD-NS) ON 4.699 ACRES LCOATED ON THE SOUTH SIDE OF FM 2305, WEST OF ARROWHEAD POINT ROAD, MORE COMMONLY KNOWN AS 13721 WEST ADAMS AVENUE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from Agricultural District (AG) to Planned Development Neighborhood Service (PD-NS) on 4.699 acres located on the south side of FM 2305, west of Arrowhead Point Road, more commonly known as 13721 West Adams Avenue, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: In accordance with Section 3.4 of the Unified Development Code (UDC) of the City of Temple, the City Zoning Map is amended by changing the zoning classification of the property described in Part 1 above, to Planned Development Neighborhood Service District. The planned development 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. Except as varied by the approved Planned Development site plan, attached hereto as Exhibit B, the use and development standards of the property shall conform to the requirements of the Neighborhood Service zoning district.
- b. In the event of a conflict between the Planed Development site plan and the text of this Planned Development ordinance, the stricter standard applies.
- c. All standards of the Unified Development Code apply unless the development plan or the text of the Planned Development ordinance specifically modifies such standards.
- d. Boat storage is allowed.
- e. A 45 ft. minimum buffer is required between the back of the storage units and the rear property line.
- f. A 5 ft. wide landscape strip along FM 2305 is required and shall include: 20 dwarf Japanese barberry and 5 crepe myrtles.

These conditions shall be express 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 **4th** day of **August**, 2011.

PASSED AND APPROVED on Second Reading on the **18th** day of **August**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting resolutions:

- (A) Appointing the City Secretary for the City of Temple and setting the compensation for the position, effective October 1, 2011
- (B) Changing the position of the Municipal Court Judge to full time and setting the compensation for the position, effective October 1, 2011.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: (A) Clydette Entzminger has submitted a letter indicating her intention to retire from the City on September 30, 2011. The City Council has conducted an interview for the position of City Secretary and this item will allow the Council to make an appointment and set the compensation for the position. The appointment will be effective as of October 1, 2011.

(B) This resolution will change the position of the Municipal Court Judge to full time and the set the compensation, effective October 1, 2011.

FISCAL IMPACT: Unavailable at this time.

ATTACHMENTS: None