



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd FLOOR – CONFERENCE ROOM

THURSDAY, OCTOBER 6, 2011

4:00 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, October 6, 2011.
2. Discuss Building and Fire Codes.
3. Discuss Street Perimeter Fees.

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. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) [Fire Prevention Week](#) [October 9—15, 2011](#)

III. PUBLIC COMMENTS

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

IV. 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) [September 15, 2011 Special Called and Regular Meeting](#)

Contracts, Leases & Bid

- (B) 1. [2011-6440-R](#): Consider adopting a resolution authorizing a utility cost sharing agreement for Wyndham Hill Phase II.
- 2. [2011-6441-R](#): Consider adopting a resolution authorizing a beautification agreement for Phase II of the Wyndham Hill subdivision with the Wyndham Hill Home Owners' Association and Omega Community Builders for the right-of-way and median along South 5th Street adjacent to the Wyndham Hill subdivision.
- (C) [2011-6422-R](#): Consider adopting a resolution authorizing annual purchase agreements for various forms of rock and topsoil with Superior Crushed Stone of Jarrell and Miller Springs Materials of Belton for FY 2012 in the estimated annual amount of \$26,058.
- (D) [2011-6442-R](#): Consider adopting a resolution authorizing amendments to the awarded annual purchase agreements for utility supplies for FY 2012 with the following vendors:
 - 1. Municipal Water Work Supply of Royse City, \$176,121.01;
 - 2. ACT Pipe and Supply of Temple, \$108,666.73; and
 - 3. HD Supply Waterworks of Belton, \$125,331.54

Ordinances – Second & Final Reading

- (E) [2011-4476](#): SECOND READING – Z-FY-11-42: Consider adopting an ordinance authorizing amendments to Section 7.6.5 of the Unified Development Code related to electric fences within the City limits.

Misc.

- (F) [2011-6443-R](#): Consider adopting a resolution authorizing certain City employees to conduct investment transactions, transfer funds, and represent the City in other financial transactions.
- (G) [2011-6444-R](#): Consider adopting a resolution authorizing property, liability and workers compensation insurance premiums for FY2011-12.

V. REGULAR AGENDA

ORDINANCES

- 5. [2011-4477](#): FIRST READING - PUBLIC HEARING - Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans as follows:
 - A. Appropriating \$450,000 to the Pepper Creek Trail Connection to Scott & White by recognizing a contribution from Scott & White Healthcare in the amount \$350,000 and reallocating \$100,000 from Professional Services.

- B. Appropriating \$800,000 to the Airport Corporate Hangar Project by reallocating \$450,000 from Public Improvements in North Zone, \$300,000 from the Outer Loop, and recognizing \$50,000 in revenue from a TxDOT RAMP grant.
- C. Appropriating \$400,000 to the TMED-1st Street @ Loop 363 Project by reallocating funds from Avenue R-S&W Blvd, Avenue R – 19th Street Intersections.
6. **2011-4478:** FIRST READING – PUBLIC HEARING - Consider amending the Code of Ordinances by repealing the current Article V, “Industrial Wastes Standards,” of Chapter 38, “Water, Sewers and Sewage Disposal,” and adopting a new Article V, “Industrial Wastes Standards,” of Chapter 38, “Water, Sewers and Sewage Disposal,” and authorizing any other changes to the Industrial Pre-Treatment Program as required by law.
7. **2011-4479:** FIRST READING – PUBLIC HEARING - Z-FY-11-30: Consider adopting an ordinance authorizing amendments to Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards.
8. **2011-4480:** FIRST READING – PUBLIC HEARING Z-FY-11-44: Consider adopting an ordinance authorizing a rezoning from Commercial District (C) to Planned Development – Two-Family District (PD-2F) on Lot 1, Block 1, West Ridge Commercial Addition, Phase 1, being 3.384 - acres located on the southwest corner of 205 Loop and East Ridge Boulevard.
9. **2011-4481:** FIRST READING – PUBLIC HEARING - Z-FY-11-45: Consider adopting an ordinance authorizing a rezoning from Agricultural District (AG) to Commercial District (C) on 10.143 ± acres of land, located at the northeast corner of Martin Luther King, Jr. Drive and State Highway 36.

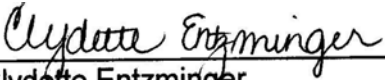
RESOLUTIONS

10. **2011-6445-R:** Consider adopting resolution appointing one member to the Tax Appraisal District of Bell County Board of Directors
11. **2011-6446-R:** Consider adopting a resolution authorizing the City Manager to execute a purchase contract with Bank of America for the purchase of the following three lots: 201 North 5th Street, 118 North 3rd Street, and 112 North 3rd Street.

Executive Session – Pursuant to Chapter 551, Government Code, §551.072 – Real Property – The City Council may enter into executive session to discuss the purchase, exchange, lease or value of real property relating to City projects, the public discussion of which would have a detrimental effect on negotiations with a third party

***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 3:35 PM, on September 30, 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

10/06/11
Item # 3(A)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamation:

Fire Prevention Week

October 9—15, 2011

STAFF RECOMMENDATION: Present proclamation as presented in item description.

ITEM SUMMARY: This proclamation was requested by, and will be received by representatives from Temple Fire & Rescue. The Jr. Fire Cadets will also “Quiz the Council” (as they have done in the past several years).

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item # 4(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) September 15, 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:

[September 15, 2011 Special Called and Regular Meeting](#)

TEMPLE CITY COUNCIL

SEPTEMBER 15, 2011

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, September 15, 2011, at 3:30 P.M., at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

Present:

Councilmember Perry Cloud
Councilmember Danny Dunn
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, September 15, 2011.**

There was no discussion of this item.

2. **Receive update on Downtown Redevelopment efforts.**

Kim Foutz, Assistant City Manager, presented an update to the Council and Staff. Ms. Foutz gave background information related to the Hawn Hotel and its current condition. Ms. Foutz noted that in the Fall of 2006, Staff received direction from Council to issue a request for proposals for redevelopment of the structure.

A citizen committee was formed in September 2006 to assist with the process. The committee recommended full rehabilitation of the building in keeping with the historical value. The committee received a favorable RFP from Astin Redevelopment in January 2007 which included full restoration with up to a \$10 million investment. In January 2008 the developer and committee recommended to Council that a feasibility study be done. Ms. Foutz noted that the results of the study were presented to Council in June 2008 and a Letter of Intent was approved by Council in June 2009. Ms. Foutz also spoke about the different viable uses for the building such as a hotel, loft apartments, restaurant and office space.

Ms. Foutz also noted there is a steady flow of interested developers and staff will continue to work with TEDC, the Chamber, and other partners in finding the right project for this building.

3. **Receive update on Northwest Loop 363 project.**

Bill Hicks, consulting engineer with Lochner, gave a brief overview to the Council and Staff. Mr. Hicks presented some history and background on

the TxDOT Pass Through Finance (PTF) program. The City was awarded the PTF in September 2010 and the agreement was signed in May 2011. The scope of the project includes four travel lanes west of IH 35 and full interchanges at Airport and Wendland Roads. The road will serve as a potential relief route for IH 35 construction. The total project development cost is \$45,900,000, with TxDOT payback of \$20M in Category 12 funds and \$15.8M in PTF funds over time. The City development costs will be \$10.1M plus finance costs.

Mr. Hicks addressed some of the current issues concerning the project, including design and right of way acquisition and wetland mitigation. He discussed the various options for wetland mitigation and the recommended action, as well as the steps associated with on-site mitigation. The current schedule is for plans to be complete in the Fall of 2011; USACE 404 Permit acquired, right of way acquisition complete, utility relocation underway and bid opening in Winter of 2011; road construction to begin in the Spring of 2012 and completion by Summer of 2014.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, September 15, 2011 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

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

I. CALL TO ORDER

1. Invocation

Shirley Holleman, Chaplain, Betty Martin Chapter DAR voiced the Invocation.

2. Pledge of Allegiance

Sylvia Marrs, Regen, Betty Martin Chapter DAR led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Constitution Week September 17-23, 2011

Mayor Jones presented this proclamation to members of the Betty

Martin Chapter of the Daughters of the American Revolution.

III. PUBLIC COMMENTS

Public Comments:

Mr. Milton Hensley, 301 Mitchell Drive, addressed the City Council. He commented on the importance of the Constitution. Mr. Hensley also announced the Life Chain event, scheduled for October 2nd will occur on the Chick-fil-A parking lot on South 31st Street instead of the Temple Mall.

IV. CONSENT AGENDA

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

(A) July 28, 2011 Special Called Meeting

(B) August 12, 2011 Special Called Meeting

(C) September 1, 2011 Special Called and Regular Meeting

(D) 2011-6411-R: Consider adopting a resolution authorizing an interlocal agreement with the Temple Health and Bioscience Economic Development District to provide financial administration services.

(E) 2011-6412-R: Consider adopting a resolution authorizing the purchase of a yearly 2011-2012 maintenance contract with Intergraph Public Safety in the amount of \$38,400.

(F) 2011-6413-R: Consider adopting a resolution designating the Temple Daily Telegram as the official newspaper for the City for fiscal year 2011-2012, in accordance with Section 4.20 of the Charter of the City of Temple.

(G) 2011-6414-R: Consider adopting a resolution authorizing a lease agreement with ES&S (Election Systems & Software) of Omaha, NE for election equipment.

(H) 2011-6415-R: Consider adopting a resolution authorizing a joint election agreement with Bell County for the November 8, 2011 special charter amendment election.

(I) 2011-6416-R: Consider adopting resolution a authorizing the exchange of the land located at 2211 South 5th Street, formerly the Courtyard Apartments, to Temple College in exchange for

eight easements necessary for the Friar's Creek Trail.

(J) Consider adopting resolutions authorizing annual contracts for the following:

- 1. 2011-6417-R: Sign & Traffic Control Supplies - renewals to three vendors in the estimated annual amount of \$17,097.31; new purchase agreements with four vendors in the estimated annual amount of \$22,241.30**
- 2. 2011-6418-R: Traffic Signal Equipment - renewals to two vendors in the estimated annual amount of \$93,209.40; new purchase agreements with three vendors in the estimated annual amount of \$22,381.08**
- 3. 2011-6419-R: Water Treatment Plant Chemicals - renewals to four vendors in the estimated annual amount of \$380,916; new purchase agreements with three vendors in the estimated annual amount of \$233,192.50**
- 4. 2011-6420-R: Sodium Hypochlorite, Hydrochloric Acid, Cyanuric Acid, and Muriatic Acid - Commercial Chemical dba Poolsure of Houston in the estimated annual amount of \$34,311.50**
- 5. 2011-6421-R: Hauling & Disposal of Sludge - S&M Vacuum & Waste, Ltd of Killeen in the estimated annual amount of \$130,500**
- 6. 2011-6422-R: Rock and Topsoil - Superior Crushed Stone of Jarrell and Miller Springs Materials of Belton in the estimated annual amount of \$26,058**
- 7. 2011-6423-R: Water Meters - renewals to two vendors in the estimated annual amount of \$96,470.14; new purchase agreements with three vendors in the estimated annual amount of \$45,798.20**
- 8. 2011-6424-R: Concrete Repair and Construction Services - Dixon Paving of Belton in the estimated annual amount of \$40,900**
- 9. 2011-6425-R: Sewer Line Chemical Root Control - Duke's Root Control of Syracuse, New York, utilizing a BuyBoard contract, in the estimated annual amount of \$65,000**

10. **2011-6426-R: Tires & Tubes - Southern Tire Mart of Dallas, Texas, in the estimated annual range of \$125,749.20 to \$143,362.40; Tire Retreads - GCR Tire Center of Pflugerville in the estimated annual amount of \$51,991.62**
11. **2011-6427-R: Herbicides & Insecticides - renewals to three vendors in the estimated annual amount of \$43,590.48; new purchase agreements with four vendors in the estimated annual amount of \$32,267.87**
12. **2011-6428-R: Utility Supplies - new purchase agreements with four vendors in the estimated annual amount of \$478,817.28**
13. **2011-6429-R: Building Materials - Lengefeld Lumber Company of Temple in the estimated annual amount of \$33,000**
14. **2011-6430-R: Design & Printing of T-Shirts - Ad-Wear & Specialty of Texas of Houston in the estimated annual amount of \$40,000**
15. **2011-6431-R: Fire Department Uniforms - Miller Uniforms & Emblems of Austin in the estimated annual amount of \$27,260**
16. **2011-6432-R: Office Supplies - Perry Office Plus, Inc of Temple, utilizing a BuyBoard contract, in the estimated annual amount of \$200,000**
17. **2011-6433-R: Library Security Guard Services - Ameritex Guard Services of Richardson in the estimated annual amount of \$25,000**
18. **2011-6434-R: Construction Material Testing Services - Langerman Foster Engineering Company of Waco in the estimated annual amount of \$65,000**

(K) 2011-4473: SECOND READING - Z-FY-10-21: Consider adopting an ordinance:

1. **Repealing Ordinance No. 99-2603, dated February 18, 1999, to reflect a change from the existing Planned Development General Retail District (PD-GR) to an updated Planned Development General Retail District (PD-GR) on 2.1 +/- acres; and**

2. **Authorizing a rezoning from Urban Estate District (UE) and Two Family District (2F) to Planned Development General Retail District (PD-GR) on 11.6 +/- acres; and on a total of 13.7+ acres out of the G.W. Lindsey Survey, Abstract. No. 912, located 810+ feet south of Northcliffe Drive, along the west side of FM 2271.**

(L) 2011-4474: SECOND READING - Consider adopting an ordinance:

1. **Changing the classification title of Fire Control and Rescue Officer to that of Firefighter; and**
2. **Establishing the civil service classifications and the number of positions in each classification for the Temple Fire Department and the Temple Police Department.**

(M) 2011-6435-R: Consider adopting a resolution authorizing acceptance of a Texas Department of Transportation, Aviation Division, Routine Airport Maintenance Grant of up to \$50,000, with an additional 50% City match to assist with the engineering and construction of the corporate hangar development site at the Draughon-Miller Central Texas Regional Airport.

(N) 2011-6436-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

Motion by Councilmember Danny Dunn Adopt resolution approving Consent Agenda, except I, J-6, M seconded by Councilmember Judy Morales.

Motion passed unanimously.

(I) 2011-6416-R: Consider adopting resolution a authorizing the exchange of the land located at 2211 South 5th Street, formerly the Courtyard Apartments, to Temple College in exchange for eight easements necessary for the Friar's Creek Trail.

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

Mayor Pro Tem Russell Schneider abstained. The other Councilmembers voted aye. The motion passed.

(M) 2011-6435-R: Consider adopting a resolution authorizing acceptance of a Texas Department of Transportation, Aviation Division, Routine Airport Maintenance Grant of up to \$50,000, with an additional 50% City match to assist with the engineering and construction of the corporate hangar development site at the Draughon-Miller Central Texas Regional Airport.

Motion by Councilmember Perry Cloud to adopt resolution, seconded by Councilmember Danny Dunn.

Mayor Pro Tem Russell Schneider abstained. The other Councilmembers voted aye. The motion passed.

(J) 6. 2011-6422-R: Rock and Topsoil - Superior Crushed Stone of Jarrell and Miller Springs Materials of Belton in the estimated annual amount of \$26,058

Motion by Mayor Pro Tem Russell Schneider to table resolution, seconded by Councilmember Judy Morales.

Motion passed unanimously.

V. REGULAR AGENDA

ORDINANCES

- 5. 2011-4465: THIRD READING - PUBLIC HEARING: Consider adopting an ordinance granting a franchise to AM Construction to provide for construction job site cleaning, rental and setting of fifteen(15) yard dumpsters, and hauling and disposing of construction site waste within the City of Temple.**

Jonathan Graham, City Attorney, presented this item to the City Council. This franchise was granted to Mr. Martone just over a year ago. Mr. Graham explained the services provided by AM Construction. This has provided a service to the building industry and he recommended the franchise be renewed for a 5-year term.

Mayor Pro Tem Schneider asked if AM Construction were required to pay a franchise fee.

Mr. Graham stated yes, that is a required compensation from all that use city streets. He is charged 5%, \$1100 annually.

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

Motion by Councilmember Danny Dunn adopt ordinance on third and final reading. seconded by Councilmember Perry Cloud.

Motion passed unanimously.

6. **2011-4475: SECOND READING - PUBLIC HEARING: Consider adopting an ordinance amending Section 1-5, "Voting District," Chapter 1, "General Provisions," of the City Code by establishing new boundaries for the City's four single member districts. 2011-4475: SEGUNDA LECTURA - AUDIENCIA PÚBLICA: Considere el adoptar de una ordenanza que enmienda la sección 1-5, de "distrito votación," el capítulo 1, las "disposiciones generales," del código de la ciudad estableciendo los nuevos límites para los solos distritos del miembro de la ciudad cuatro.**

Jonathan Graham, City Attorney, presented this item to the City Council. He provided a review of the timeline for the redistricting process. There have been no changes to the plan submitted and recommended by the Redistricting Committee. If approved today, the plan will be submitted to the Department of Justice for preclearance. Mr. Graham explained some of the substantive elements of the redistricting plan being recommended. He displayed information showing a comparison to the 2000 adopted plan to the proposed plan. Mr. Graham also displayed a map of current districts and proposed districts, with changes noted. District 4 decreased in area and others increased somewhat to meet criteria. Under the proposed plan, the deviation is 3.88% and the minority population in District 2 is close to 70% which is a slight increase from the 2001 plan.

Mayor Jones declared the public hearing open with regard to agenda item 6 and asked if anyone wished to address this item. There being none, Mayor Jones declared the public hearing closed.

Motion by Councilmember Judy Morales adopt ordinance on second and final reading. seconded by Mayor Pro Tem Russell Schneider.

Motion passed unanimously.

7. 2011-4476: FIRST READING - PUBLIC HEARING - Z-FY-11-42: Consider adopting an ordinance authorizing amendments to Section 7.6.5 of the Unified Development Code related to electric fences within the City limits.

Brian Mabry, Director of Planning, presented this case to the City Council. The applicant requested the UDC amendment for an existing fence at United Rentals. This would allow electric fences in commercial storage areas subject to certain standards, which Mr. Mabry outlined. Currently, these fences are only allowed in AG areas. The amendment, if approved, would only apply within the City limits. Mr. Mabry showed photos of the existing fence at United Rentals. Also presented were the results of a survey conducted of other cities that allow electric fences. Mr. Mabry discussed the elements of the proposed amendment. The Planning and Zoning Commission recommended approval of the proposed amendment.

Mayor Pro Tem Schneider, questioned if an electric fence could be placed on top of the non-electric fence.

Mr. Mabry responded no, it must be inside of the non-electric fence. Mr. Mabry advised he would consider the 3" spacing from gate that the applicant is proposing instead of the 6" spacing approved by the Planning and Zoning Commission.

Mayor Jones declared the public hearing open with regards to agenda item 7 and asked if anyone wished to address this item.

Michael Pate, Sentry Security Fences, addressed the City Council. This is a two-fence system powered by a 12-volt battery charged by a solar panel. All components are mounted outside of the building. He explained how their system compares to the proposed standards. The tight fence clearance is proposed to allow the fences to work properly as it slides through the guides on the fence.

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

Motion by Mayor Pro Tem Russell Schneider adopt ordinance, with second reading and final adoption set for October 6, 2011, including 3" gate gap seconded by Councilmember Perry Cloud.

Motion passed unanimously.

RESOLUTIONS

- 8. 2011-6437-R: Consider adopting a resolution appointing one member to the Temple Public Safety Advisory Board to fill an expired term through September 1, 2014.**

Mayor Jones presented this item. He recommended Mr. Steve Hubbard be appointed.

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

Motion passed unanimously.

Mayor Jones adjourned the meeting of the Temple City Council.

Mr. Jones convened the City of Temple Employee Benefits Trust meeting.

VI. AGENDA - CITY OF TEMPLE EMPLOYEE BENEFITS TRUST

- 1. Conduct a meeting of the City of Temple Employee Benefits Trust to purchase insurance policies from MetLife for long term disability insurance for FY2011-2012 through FY2013-2014.**

Randy Stonerod, Human Resources Director, presented this item to the Trustees. He asked the Trustees to purchase the long term disability insurance for the upcoming year from MetLife for a three-year period. Three bids were received for this insurance.

Motioned by Mr. Cloud, seconded by Mr. Schneider to purchase insurance policies from MetLife.

Mr. Jones adjourned the meeting of the City of Temple Employee Benefits Trust.

Mayor Jones reconvened the Regular meeting Temple City Council.

V. REGULAR AGENDA - CONTINUED

- 9. 2011-6438-R: Consider adopting a resolution funding the rates for medical/prescription insurance and dental insurance for employees and under age 65 retirees, as well as, Life Insurance, Accidental Death & Dismemberment Insurance and Long Term Disability Insurance.**

Randy Stonerod, Director of Human Resources, presented this item to the City Council. He presented the budgeted amounts for each of the insurance types and recommended Council approve the funding.

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

Motion passed unanimously.

10. 2011-6439-R: Consider adopting a resolution authorizing a development agreement with Carlisle Roberts for properties located at 202-206 and 210 South 4th Street, Temple, Texas.

Jonathan Graham, City Attorney, stated this is the location of the old AG building. Mr. Roberts desires to purchase the four tracts of land, demolish the old building and improve the property with parking surfaces and a warehouse. Mr. Graham explained the terms of the agreement with Mr. Roberts including 32 spaces of the unsecured parking to be reserved for the City, for public use. Mr. Graham showed the proposed layout of the property and the proposed warehouse plan, including the existing buildings in that location. Staff felt that keeping these jobs in the downtown area was important and recommended approval.

Motion by Councilmember Judy Morales adopt resolution seconded by Mayor Pro Tem Russell Schneider.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item #4(B-1)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney
Nichole Torralva, Director of Public Works

ITEM DESCRIPTION: Consider adopting a resolution authorizing a utility cost sharing agreement for Wyndham Hill Phase II.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Phase II of the Wyndham Hill is located on South 5th Street. The proposal is to enter into a cost sharing agreement with Omega Community Builders, Inc. (Jim Howe, Principal), to extend an eight inch water line approximately **116** feet from the east side of South 5th Street to the west side of South 5th Street. An applicant requesting a cost sharing agreement must be proposing and commit to develop at least one residential unit per 100 feet of utility extension. Phase II of Wyndham Hill proposes 66 single family units that meet the criteria.

The proposed cost sharing agreement for Wyndham Hill Phase II is a developer participation agreement—the City commits to participating in the cost of design, construction and right of way for the project in a “not to exceed” amount based on a percentage of the project established by the cost sharing ordinance (the City pays 100% of the first 2,500 feet of the project and 50% of the next 2,500 feet of the project, with the developer paying 100% of the cost thereafter).

The percentage of eligible project costs paid by the City under our cost sharing formula for this project is **100%**, because of the relatively short length of the proposed extension. If the project comes in an amount less than the “not to exceed” amount, the City pays their percentage of the actual project cost (design, construction & right-of-way). If the project comes in over the “not to exceed” amount, the developer pays 100% of that additional cost. In asking you to authorize a utility cost sharing agreement today, **we are asking you to authorize an agreement with a “not to exceed” amount of \$31,068.49.**

In our developer participation/cost sharing agreement, we will break the \$31,068.49 down into two components, the first for design and the second for construction costs. The construction costs are a not to exceed of \$28,244.08 and the design costs are a not to exceed of \$2,824.41.

FISCAL IMPACT: The application for this cost sharing agreement was submitted and negotiations finalized prior to September 30, 2011. We are proposing using \$31,069 of the cost sharing dollars left un-appropriated for FY 2011(\$354,980) to fund this agreement.

A budget adjustment is presented for Council's approval appropriating \$31,069 from 520-5000-535-6545, Contingency-Approach Mains, to account 520-5900-535-6366, Water Line Extension. FY 2011 funds will be carried forward once year end close-out is complete.

ATTACHMENTS:

[Application Memo](#)
[Cost Breakdown](#)
[Budget Adjustment](#)
[Resolution](#)



Cost Sharing

OMEGA
Community
BUILDERS

To: Brian Mabry, Planning Director
Jonathan Graham, City Attorney
Nichole Torralva, Public Works Director

From: James I. Howe on September 20, 2011

Subject: Cost Sharing Application
Wyndham Hill, Phase II – Water Main Extension

The Wyndham Hill residential development project on South 5th Street is located in close proximity to city water mains. Attached is the developer's 'Application for Cost Sharing Agreement – Off-Site Extension'. The cost sharing application is for extension of off-site Water to the site:

- **Water** - located on the east side of South 5th Street

Please include this Cost Sharing application as part of our Final Plat Application and schedule for Council consideration on:

Date	Time	Event
September 15	5:00 pm	Council Hearing & Recommendation

'Engineer's Estimate of Probable Cost' (Competitive Bidding will determine actual cost)

Item	Description	Units	Quantity	Unit Price	Amount
1	Water – Bore & Encase 16"	LF	100	\$ 210.00	\$ 21,000.00
2	Waterline – 8" C900 PVC	LF	116	\$ 17.75	\$ 2,059.00
3	12"x8" Tapping Sleeve & Valve	LS	1	\$ 3,685.08	\$ 3,685.08
4	Re-vegetation	LS	1	\$ 1,500.00	\$ 1,500.00
5	Sub-total				\$ 28,244.08
6	Engineering	%	0.10	\$ 28,244.08	\$ 2,824.41
7	Total				\$ 31,068.49

Notes:

- (a) Off-site approach mains, included in the cost estimate, are within the 1st 1,500 feet of the Wyndham Hill project.
- (b) Cost to 'Over-size', should the City desire a larger water main, is not included in the above estimate.

City of Temple Cost Share Agreement Breakdown
Wyndham Hill Waterline Improvements

Item	Description	Quantity	Units	Unit Cost	Item Cost
(1)	Water-Bore&Encase 16"	100	L.F.	\$ 210.00	\$ 21,000.00
(2)	Waterline-8" C900 PVC	116	L.F.	\$ 17.75	\$ 2,059.00
(3)	12"x8" Tapping Sleeve and Valve	1	Lump Sum	\$ 3,685.08	\$ 3,685.08
(4)	Re-vegetation	1	Lump Sum	\$ 1,500.00	\$ 1,500.00
Sub-total					\$ 28,244.08

Engineering and Surveying	10%	\$ 2,824.41
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Total \$ 31,068.49

Cost Share Formula
100% of first 2,500 feet
50% of next 2,500 feet

Total linear feet	116	
City's portion	116	100%

Not to exceed amount \$ 31,068.49

FY **2012**

BUDGET ADJUSTMENT FORM

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

Adjustments should be rounded to the nearest \$1.

			+	-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE	
520-5900-535-63-66	100829	Wyndham Hill Cost Sharing	\$ 31,069		
520-5000-535-65-45		Contingency for Approach Mains		31,069	
TOTAL.....			\$ 31,069	\$ 31,069	

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

To appropriate funds for cost sharing agreement with Omega Development, Inc. to extend an 8" water line approximately 116 feet from the east side of South 5th to the west side of South 5th. This agreement is in an amount not to exceed \$31,069.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

October 6, 2011

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐
☐

Approved

Disapproved

Finance

Date

☐
☐

Approved

Disapproved

City Manager

Date

☐
☐

Approved

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A COST-SHARING (“DEVELOPER PARTICIPATION”) AGREEMENT WITH OMEGA DEVELOPMENT, INC., FOR THE EXTENSION OF AN EIGHT INCH WATER LINE TO THE PROPOSED WYNDHAM HILL PHASE II SUBDIVISION, IN AN AMOUNT NOT TO EXCEED \$31,068.49; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Omega Development, Inc., submitted an application for a cost sharing (“developer participation”) agreement for water extension to the proposed Wyndham Hill Phase II Subdivision;

Whereas, an applicant requesting cost sharing must be proposing and commit to develop at least one residential unit per 100 feet of utility extension – Omega Development, Inc., proposes 66 single family units for the Wyndham Hill Phase II Subdivision, which meets the criteria;

Whereas, the agreement will commit the City to participating in the cost of design, construction and right-of-way for the project in a “not to exceed” amount based on a percentage of the project established by the cost sharing ordinance;

Whereas, the City’s funding commitment will not exceed \$31,068.49 – an amendment to the FY2011-2012 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a cost-sharing (“developer participation”) agreement in an amount not to exceed \$31,068.49, between the City of Temple, Texas, and Omega Development, Inc., after approval as to form by the City Attorney, for extension of a water line to the proposed Wyndham Hill Phase II Subdivision.

Part 2: The City Council authorizes an amendment to the FY2011-2012 budget, substantially in the form of the copy attached as Exhibit A, for this cost-sharing (“developer participation”) agreement.

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

PASSED AND APPROVED this the **6th** day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item #4(B-2)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney
Nichole Torralva, Director of Public Works

ITEM DESCRIPTION: Consider adopting a resolution authorizing a beautification agreement for Phase II of the Wyndham Hill subdivision with the Wyndham Hill Home Owners' Association and Omega Community Builders for the right-of-way and median along South 5th Street adjacent to the Wyndham Hill subdivision.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In September 2005, the City Council passed a resolution adopting a policy on beautification of City medians and rights-of-way in residential neighborhoods. The applicants have submitted a request for a second beautification development agreement under this policy for the second phase of their development. Their application proposes that the City provide water for landscaping improvements in approximately 1,100-1,200 feet of right-of-way and median along South 5th Street adjacent to the Wyndham Hill subdivision.

Per the policy adopted by the City Council, the developer and homeowners association will put in a wooden fence with masonry columns, landscaping and an irrigation system between the residential properties within the Wyndham Hill Subdivision and along South 5th Street. The landscaping is 15 feet deep. The homeowners association commits, as a condition of the Agreement, to maintaining the fencing, irrigation system and landscaping. The City commits to providing water for the landscaping system. The term of the Agreement is fifteen years.

All of our beautification agreements are subject to the City's water conservation ordinance. Our agreements approved to date also have language in them that allow the City to restrict the hours of operation of irrigation systems (even in the absence of an advance stage of water conservation) and to place restrictions on the quantity of water that we provide at no cost.

In an effort to protect the City's resources, and to ensure that the program continues to be viable, we've made some additional changes that were incorporated into our proposed agreement for this project and all other future projects. Those changes include:

- A specific reference to compliance with the City's water conservation ordinance.
- A requirement that the developer/property owner's association use their best efforts to use plants that are adaptable to Central Texas climate and soils—including xeriscape landscaping where possible and tiff Bermuda, for example, over St. Augustine grass.
- Limits watering to after 8 p.m. and before 6 a.m. (even when we're not in water conservation stages) except during the initial 30 days after planting or replanting.

FISCAL IMPACT: The Parks and Leisure Services Department will provide water for this project. The estimated impact from this agreement on the FY 2012 budget for the PALS Department is \$2,500. This amount is based on a similar agreement. The Parks and Leisure department will request a budget amendment at a later date to address the additional expense of this agreement if needed.

ATTACHMENTS:

[Application for Beautification](#)
[Beautification Agreement](#)
[Resolution](#)

City of Temple
Application for Beautification Development Agreement
(City-provided Water)

Applicant	Name	Omega Community Builders, Inc.		
	Street	7353 West Adams Ave.		
	City, State & Zip	Temple	TX	76502
Subdivision	Name	Wyndham Hill, Phase II		
	Location	South 5 th Street		

If your subdivision is not yet constructed, please indicate the date you expect to begin and complete construction of all infrastructure improvements. If you propose to plat & construct the subdivision in phases, indicate the estimated beginning and completion date for infrastructure improvements in each phase:

Construction will commence approximately 60 days following Final Plat Approval and complete within approximately 6 months.

Attach a site-plan showing all improvements proposed by the developer within public right-of-way. The plan must show:

- Continuous wood, masonry or wrought-iron fencing along length of adjacent collector or arterial street
- Landscaping (type, size and approximate location)
- Irrigation (Upon completion, applicant must provide the City with "as built plans")
- Other improvements located within the beautification area to be included in the development agreement.
- Dimensions of the area to be irrigated and the proximity to arterial or primary collector streets.

The plan must demonstrate that the landscaping improvements will be installed in a manner that the landscaping will not provide a traffic safety hazard when fully mature, if properly maintained.

What is the *minimum* number of lots proposed for your subdivision? If construction of your subdivision will be phased in, please provide a breakdown of the number lots in each phase:

There will be 517 single-family lots in multiple phases. Phase II will have 66 Lots

To assist the City Council in making a conflict of interest analysis, please list the name and address of the developer and all current owners of property within the subdivision. If the applicant or any owner of the property is a corporation, partnership, joint venture, or other business entity, please disclose the name and address of each person having an interest in such entity. (A separate sheet is attached for this purpose.)

I have reviewed the City's policy (back side) and agree to comply with all terms contained therein. I understand I will be required to complete the improvements according to the approved plans and that the City Council reserves the right to deny any application, see policy on reverse side.

Applicant's Signature: _____

Omega Community Builders, Inc.
James I. Howe, President

For Applicant Date: 8/4/2011

Telephone No. 254/773-9966 x 205

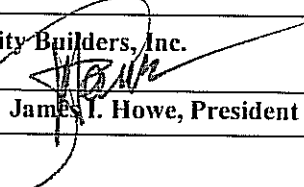
City of Temple
Application for Beautification Development Agreement—City Provided Water
Identification of Parties-in-Interest

Subdivision	Wyndham Hill, Phase II				
Developer	Omega Community Builders, Inc.				
All owner's of property within the subdivision	Full Name	Address	City	State	Zip
	Omega Community Builders, Inc.	7353 West Adams	Temple	TX	76502
	J&B Holdings, Ltd.	7353 West Adams	Temple	TX	76502
	First Omega Partners, Ltd	7353 West Adams	Temple	TX	76502
	KAM Development, Ltd	7462 West Adams	Temple	TX	76502
	Eagle Ridge Builders	8600 Five Wells Rd	Rogers	TX	76569
	Numerous Home Owners				

If any of the owners listed above are businesses, please provide the following information:

	Entity Name	Entity Style (Corporation, Partnership, etc.)	Shareholders / Partners / Members
1			
	See Attached		
2			
3			

Omega Community Builders, Inc.

Completed by: 

James I. Howe, President

Date: 8/4/2011

Conflict of Interest Analysis

Role	Company Name	Style Business	Owner(s)
Developer	Omega Community Builders, Inc.	Corporation	Landworks, Inc. James I. Howe 1998 Trust Beneficiaries: John C. Howe Rachel D. White Drew A. Dennison Jeannette K. Howe John R. Kiella
Land Owner	J&B Holdings, Ltd.	Limited Partnership	James I. Howe 1998 Trust Beneficiaries: John C. Howe Rachel D. White Drew A. Dennison Jeannette K. Howe
			Betty K. Howe 1998 Trust Beneficiaries: John C. Howe Rachel D. White Drew A. Dennison Jeannette K. Howe
Lot Owner's	First Omega Partners, Ltd	Limited Partnership	James I. Howe 1998 Trust Beneficiaries: John C. Howe Rachel D. White Drew A. Dennison Jeannette K. Howe
			Betty K. Howe 1998 Trust Beneficiaries: John C. Howe Rachel D. White Drew A. Dennison Jeannette K. Howe
	KAM Development, Ltd	Limited Partnership	John R. Kiella
	Eagle Ridge Builders		Suzanne Kiella
Home Owner's		Individuals	Chris Hodges
			Numerous individuals who have purchased homes from homebuilders listed above.

Exhibit 'B'

Cost Estimate

Wyndham Hill — South 5th

Right-of-way Improvements (Fencing, Landscaping, Irrigation)

Item	Phase II
Landscape Design	\$ 1,000
Irrigation System	\$ 5,200
Landscaping (Trees, Shrubs & Grass)	\$ 8,800
Fencing (6' Wood w/masonry Columns)	\$ 19,700
Total Investment	\$ 34,700

The Developer is granting an easement to increase the 5th Street landscape area from 10' to 15' in width.

2011 Median & Right-of-Way Beautification Agreement

Wyndham Hill Phase II

This Development Agreement, hereinafter called "Agreement" is between the City of Temple, Texas, a municipal corporation, hereinafter called "City," and _Omega community Builders, Inc., a Texas corporation, hereinafter called "Developer," and the Temple Wyndham Hill Home Owners' Association, Inc., a Texas corporation., hereinafter called "Association." Developer hereby agrees to maintain improvements on City rights-of-way and medians pm Spitj 5th Street adjacent to Wyndham Hill subdivision.

I. **Purpose.** This Agreement governs the future maintenance by the Developer of landscaping and irrigation improvements in City rights-of-way and medians in return for a promise by the City to provide water for those improvements by the City.

II. **Term.** This Agreement has an initial term of fifteen (15) years, and may be renewed by mutual agreement of the City and the Developer.

III. **Grant of Authority.**

The Developer, or any successors in interest, is hereby granted authority to maintain at their cost landscaping and irrigation improvements in the right-of-way described in Exhibits "A" and "B" to this Agreement. Upon acceptance by the City, the improvements, and the rights to all vendor warranties held by the Developer or Association shall be transferred or assigned by the Developer and/or Association to the City, subject to the obligation of the Developer to maintain said improvements during the term of this Agreement.

IV. **Commitments by Developer.**

(a) The Developer shall cause the improvements described in Exhibit "A" to be maintained (with the exception of the fencing which shall remain the property of the individual property owners or the Association) and acceptable to the City. **Developer shall use his best efforts to install landscaping suitable to Central Texas soils and climate, xeriscape landscaping to the extent practical, including tif Bermuda grass for grass covered areas.** All improvements installed by Developer (with the exception of the fencing which shall remain the property of the individual property owners or the Association) shall be maintained in such a neat, attractive manner that will not constitute a traffic safety hazard. The screening fence along South 5th Street shall be maintained in an attractive condition on private property to screen the abutting residential properties from the City right-of-way as depicted on Exhibit "A." Should any part of the improvements described in Exhibit "A" (with the exception of the fencing which shall remain the property of the individual property owners or the Association) fail during the term of this Agreement, the Developer agrees to replace those failed improvements with materials of similar quality and construction. The irrigation system placed in City rights-of-way under this Agreement shall be maintained by the Developer in a manner that the water furnished by the City under this Agreement will only irrigate City right-of-ways and medians, and not private property. The City consents to the assignment of Developer's obligations under this section to the Association, and agrees to release the Developer from any further responsibilities under this Agreement, upon delivery to the City of written evidence of the assignment of such obligations signed by both the Developer and the Association. Upon completion of the improvements, the Developer shall promptly provide "as-built" plans to the City.

(b) If the Developer fails to provide maintenance as stipulated, the City may cause such work to be done, the costs of which shall be borne by the Developer.

(c) The Developer agrees to water only during the hours after 8 p.m. and prior to 6 a.m., and no more than three times per week, provided that during the first thirty days after planting (or replanting) of landscaping, the

Developer may water daily if necessary. Developer also understands that the hours of operation, or the ability to water at all, are subject to further restriction under the City's water conservation ordinance as it may be amended from time to time.

V. Commitments by Association.

(a) Commitment to Maintain Association. The Association and its board of directors agree to maintain the corporation that comprises the Association during the term of this Agreement. This Agreement shall be null and void in the event the Association is dissolved, unless replaced by another entity with the prior approval of the City.

(b) If requested by Developer, the Association shall cause the improvements described in Exhibit "A" to be constructed in such a manner that they are ready for acceptance by the City. All improvements installed by Developer or Association shall be maintained in such a neat and attractive manner that will not constitute a traffic safety hazard. The screening fence along South 5th Street shall be installed and maintained in an attractive condition on private property to screen abutting residential properties from the City right-of-way as depicted on Exhibit "A." Should any part of the improvements described in Exhibit "A" fail during the term of this Agreement, the Association agrees to replace those failed improvements with materials of similar quality and construction. The irrigation system placed in City rights-of-way under this Agreement shall be designed, installed and maintained by the Association in a manner that the water furnished by the City under this Agreements will only irrigate City right-of-way and medians, and not private property.

VI. Commitments by City. Upon acceptance by the City of the landscaping and irrigation improvements described in Exhibit "A," the City agrees to provide water at its cost to the irrigation system. ~~The City reserves the right to review and approve the hours of operation of the irrigation system, and to make changes in the quantity of water used by the irrigation system during the term of this Agreement.~~ **The**

City reserves the right to review and make additional changes to the hours of operation of the irrigation system, the types of plants that may be planted (or replanted as the case may be) or to set limits in the quantity of water that may be used, or for which the City is responsible.

VI. **Termination.** The City may terminate this Agreement if Developer fails to meet its obligations under this Agreement. The Developer may terminate this Agreement if the City fails to meet its obligations under this Agreement.

VII. **Applicable law.** This Agreement is subject to all State and Federal laws, the provisions of the Charter of the City of Temple as it now exists or as it may hereafter be adopted or amended, and the ordinances of the City of Temple now in effect or those which may hereafter be passed and adopted.

Executed on this the ____ day of _____, 2011.

City of Temple

David A. Blackburn, City Manager

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

Developer

Omega Community Builders, Inc.

James Howe
President

Association

Wyndham Hill Home Owners' Association, Inc.

Name:
President

State of Texas
County of Bell

This instrument was acknowledged before me on _____
(date) by James Howe, President, of Omega Community
Builders, Inc., a Texas Corporation.

Notary Public Signature
(Seal)

State of Texas
County of Bell

This instrument was acknowledged before me on _____
(date) by _____, President, Temple

Wyndham Hill Home Owners' Association, Inc., a Texas corporation.

Notary Public Signature
(Seal)

State of Texas
County of Bell

This instrument was acknowledged before me on _____
(date) by David Blackburn, City Manager, on behalf of The
City of Temple, Texas, a Texas Home Rule Municipality.

Notary Public Signature
(Seal)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A BEAUTIFICATION AGREEMENT FOR PHASE II OF THE WYNDHAM HILL SUBDIVISION WITH THE WYNDHAM HILL HOME OWNERS' ASSOCIATION AND OMEGA COMMUNITY BUILDERS, INC., FOR THE RIGHT-OF-WAY AND MEDIAN ALONG SOUTH 5TH STREET ADJACENT TO THE WYNDHAM HILL SUBDIVISION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on August 4, 2005, the City Council adopted Resolution No. 2005-4455-R adopting a policy on beautification of City medians and rights-of-way in residential neighborhoods;

Whereas, the Wyndham Hill Home Owners' Association and Omega Community Builders, Inc., submitted a request for a beautification agreement under this policy which proposes maintaining landscaping for the right-of-way and median along South 5th Street adjacent to the Wyndham Hill subdivision;

Whereas, in accordance with the policy adopted by the City Council, the developer commits to maintaining the fencing, irrigation system and landscaping during the term of the fifteen year agreement – the City commits to providing water for the landscaping system;

Whereas, the Parks and Leisure Services Department will provide the water for this project from their budgeted funds; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a beautification agreement with Wyndham Hill Home Owners' Association and Omega Community Builders, Inc., after approval as to form by the City Attorney, for the right-of-way and median along South 5th Street adjacent to the Wyndham Hill Subdivision.

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

PASSED AND APPROVED this the 6th day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item # 4(C)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing annual purchase agreements for various forms of rock and topsoil with Superior Crushed Stone of Jarrell and Miller Springs Materials of Belton for FY 2012 in the estimated annual amount of \$26,058.

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

ITEM SUMMARY: *** This item was tabled at the September 15, 2011, Council Meeting to allow time to confirm pricing with Superior Crushed Stone. The pricing as stated on the attached bid tabulation has been confirmed. ***

On August 2, 2011, the City received two (2) bids for the purchase of rock, sand, crusher fines, crushed rock, construction rock, rip rap rock, and top soil. The bids are shown on the attached bid tabulation sheet. The invitation to bid specified that the bid would be awarded to the lowest bidder meeting specifications per line item. As highlighted on the bid tabulation, staff is recommending award of seven (7) line items to Superior Crushed Stone in the estimated annual amount of \$19,712.50 and eleven (11) line items to Miller Springs Material in the estimated annual amount of \$6,345.00.

The City has done business with both Superior Crushed Stone and Miller Springs Material in the past and finds them both to be responsible vendors.

The recommended contracts are for a period commencing immediately through September 30, 2012, with the option for four (4) one-year renewals, if so agreed to by the City and Superior Crushed Stone and Miller Springs Material.

FISCAL IMPACT: These products will be ordered on an as needed basis. Departments have budgeted for these materials in several accounts in the adopted FY 2012 budget. Estimated annual expenditure: \$26,058 based quantities estimated by staff.

ATTACHMENTS:

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

Tabulation of Bids Received
on August 2, 2011 at 2:00 p.m.
Rock, Sand, Crusher Fines, Crushed Rock and Topsoil
Bid# 13-06-12

			BIDDERS				Memo 2010-2011 Contracted Prices
			Superior Crushed Stone Jarrell, TX		Miller Springs Material Belton, TX		
Description	Qty	UOM	Unit Price	Total Price	Unit Price	Total Price	
Concrete Sand (picked Up)	25	Ton	\$9.00	\$225.00	\$8.00	\$200.00	\$8.00
Concrete Sand (delivered)	400	Ton	\$9.00	\$3,600.00	\$10.25	\$4,100.00	\$9.00
Additional delivery charge for concrete sand		Ton	N/C		\$2.00		N/C
Pea Gravel (picked up)	25	Ton	\$9.00	\$225.00	\$8.00	\$200.00	\$8.00
Pea Gravel (delivered)	1450	Ton	\$9.00	\$13,050.00	\$10.25	\$14,862.50	\$9.00
Additional delivery charge for pea gravel		Ton	N/C		\$2.00		N/C
Rock 1-1/4" to 1-1/2" (picked-up)	100	Ton	\$8.50	\$850.00	\$8.00	\$800.00	\$7.50
Rock 1-1/4" to 1-1/2" (delivered)	10	Ton	\$10.50	\$105.00	\$10.50	\$105.00	\$10.95
Additional delivery charge for rock 1-1/4" to 1-1/2" (loads under 20 tons)		Ton	N/C		\$2.00		\$2.00
Washed Rock 1" to 1-1/4" (picked up)	10	Ton	No Bid		\$8.00	\$80.00	\$7.50
Washed Rock 1" to 1-1/4" (delivered)	10	Ton	No Bid		\$10.50	\$105.00	\$10.95
Additional delivery charge for washed rock 1" to 1-1/4" (loads under 20 tons)		Ton	No Bid		\$2.00		\$2.00
Crusher Fines (picked up)	50	Ton	\$2.50	\$125.00	\$3.50	\$175.00	\$2.25
Crusher Fines (delivered)	10	Ton	No Bid		\$7.00	\$70.00	\$7.50
Additional delivery charge for crusher fines (loads under 20 tons)		Ton	No Bid		\$2.00		\$2.00
5/16" to 3/8" Type F Crushed Rock (picked up)	200	Ton	\$7.50	\$1,500.00	\$12.50	\$2,500.00	\$7.50
5/16" to 3/8" Type F Crushed Rock (delivered)	10	Ton	No Bid		\$14.75	\$147.50	\$11.95
Additional delivery charge for 5/16" to 3/8" Type F crushed rock (loads under 20 tons)		Ton	No Bid		\$2.00		\$2.00
3" x 5" Construction Rock (picked up)	100	Ton	\$7.00	\$700.00	\$7.95	\$795.00	\$7.50
3" x 5" Construction Rock (delivered)	10	Ton	No Bid		\$10.25	\$102.50	\$11.95
Additional delivery charge for 3" x 5" construction rock (loads under 20 tons)		Ton	No Bid		\$2.00		\$2.00
24" Rip Rap Rock (picked up)	400	Ton	\$12.00	\$4,800.00	\$11.00	\$4,400.00	\$12.50
24" Rip Rap Rock (delivered)	10	Ton	No Bid		\$13.50	\$135.00	\$15.50
Additional delivery charge for 24" rip rap rock (loads under 20 tons)		Ton	No Bid		\$2.00		\$2.00
Quality Top Soil (picked up)	100	CY	\$5.00	\$500.00	No Bid		No Bid
Quality Top Soil (delivered)	25	CY	\$9.50	\$237.50	No Bid		No Bid
Additional delivery charge for quality top soil			N/C		No Bid		No Bid
Pulverized Top Soil (picked up)	700		No Bid		No Bid		No Bid
Pulverized Top Soil (delivered)	150		No Bid		No Bid		No Bid
Additional delivery charge for pulverized top soil			No Bid		No Bid		No Bid
Total Amount Recommended for Awarded to Each Vendor			\$19,712.50		\$6,345.00		
Delivery within 4 hours?			Yes		Yes		
Local Preference			No		No		
Exceptions?			No		No		
Credit Check Authorization			Yes		Yes		

Planholders
Bell Co Dirt
Miller Springs Material

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

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

Belinda Mattke

Belinda Mattke, Director of Purchasing

2-Aug-11

Date

Planholders

Bell Co Dirt
 Miller Springs Material
 Prime Vendor
 Superior Crushed Stone
 V&B Stone Brokers

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING ANNUAL PURCHASE AGREEMENTS FOR VARIOUS FORMS OF ROCK AND TOPSOIL WITH SUPERIOR CRUSHED STONE OF JARRELL, TEXAS, AND MILLER SPRINGS MATERIALS OF BELTON, TEXAS, FOR FY2011-12, IN THE ESTIMATED ANNUAL AMOUNT OF \$26,058; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on August 2, 2011, the City received 2 bids for the purchase of rock, sand, crusher fines, crushed rock, construction rock, rip rap rock, and top soil;

Whereas, the Staff recommends accepting the bids received from Superior Crushed Stone of Jarrell, Texas, and Miller Springs Materials of Belton, Texas, in the estimated annual amount of \$26,058;

Whereas, these products will be purchase on an “as-needed” basis – departments have each budgeted for these materials in several accounts in the FY2011-12 budget; 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 annual purchase agreements with Superior Crushed Stone of Jarrell, Texas, and Miller Springs Materials of Belton, Texas, for the purchase of rock, sand, crusher fines, crushed rock, construction rock, rip rap rock, and top soil, for FY2011-12 in an estimated annual expenditure of \$26,058, in accordance with the prices on the bid tab, attached hereto as Exhibit A.

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

PASSED AND APPROVED this the **6th** day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item # 4(D)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing amendments to the awarded annual purchase agreements for utility supplies for FY 2012 with the following vendors:

1. Municipal Water Work Supply of Royse City, \$176,121.01
2. ACT Pipe and Supply of Temple, \$108,666.73; and
3. HD Supply Waterworks of Belton, \$125,331.54

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On September 15, 2011, the Council awarded annual purchase agreements for utility supplies for FY2012 to the following vendors in the estimated annual amount of \$478,817.28

1. Municipal Water Work Supply - \$176,648.41 (recommending reduction of \$527.40)
2. ACT Pipe and Supply - \$181,768.55 (recommending reduction of \$73,101.82)
3. HD Supply Waterworks - \$51,884.43 (recommending increase of \$73,447.11)
4. Ferguson Waterworks - \$68,515.89 (no change required)

Upon award, the Purchasing Department notifies each awarded vendor of the contracted items awarded by Council. HD Supply responded to the Purchasing Department's notification indicating that they believed that they were wrongly excluded from consideration on three (3) awarded categories. After careful analysis, staff agrees that HD Supply was wrongly excluded on two (2) of the three (3) categories. A summary of the HD Supply's claims along with staff's findings is as follows:

1. Multi-Range Coupling (Hymax Only) – HD Supply's bid stated that the couplings being bid were manufactured by Total Piping Solutions out of Israel. The invitation to bid stated that only "Hymax" couplings would be acceptable. Purchasing nor the Utility Department had any information that linked Total Piping Solutions to Hymax. Therefore, HD Supply's bid for the multi-range couplings was rejected. HD Supply has provided information confirming that Hymax couplings are manufactured by Total Piping Solutions. Consequently, HD Supply's bid did meet specifications. On September 15, 2011, Council awarded this bid section to ACT Pipe and Supply in the amount of \$73, 101.82. HD Supply's bid for that section was \$72,995.31, a difference of (\$106.51).

2. Valve Box Lid (Foreign OK) – In the past we only accepted domestic made valve box lids. HD Supply's bid was inadvertently rejected because it was a foreign made product. This rejection was a staff oversight. On September 15, 2011, Council awarded this bid section to Municipal Waterworks in the amount of \$527.40. HD Supply's bid for that section was \$451.80 a difference of (\$75.60).
3. Flexible Saddle Wyes (Mission T-Flex rubber saddle WYE or equal with stainless steel apron) - HD Supply took exception to this specification because their product does not include the stainless steel apron. Accordingly, staff has affirmed that this section of the bid was properly awarded by Council to Municipal Waterworks in the amount of \$930.20 on September 15, 2011.

FISCAL IMPACT: Utility supplies are purchased on an as needed basis and are accounted for in the Utility Warehouse's inventory account. The supplies are charged to departmental expenditure accounts as they are issued to departments. Based on historical usage and on the recommended corrections for award, it is estimated that \$478,635.17 in utility supplies will be purchased during FY 2012, versus the \$478,817.28 as disclosed on September 15, 2011, a decrease of \$182.11.

ATTACHMENTS:

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

Bid Opening
August 3, 2011 - 2:00 p.m.
Annual Utility Supplies
Bid# 13-12-12

Cat #	Categorical Description	BIDDERS				Memo FY2011 Contracted Prices
		Municipal Waterworks Supply Royce City TX	ACT Pipe and Supply Temple TX	HD Supply Waterworks Belton TX	Ferguson Waterworks Killeen TX	
1	Water Pipe	\$11,371.40	\$11,441.20	\$10,688.80	\$12,517.40	\$15,463.00
2	Brass Ball Valves	\$35,070.66	\$31,747.64	\$32,394.44	\$31,996.13	\$24,080.23
3	Brass Corporation Stops	\$5,317.56	\$4,792.08	\$4,911.78	\$4,748.40	\$3,787.38
4	Brass Meter Couplings	\$9,454.20	\$8,605.60	\$8,745.30	\$8,653.90	\$6,658.05
5	Brass Straight Couplings	\$4,428.99	\$4,022.78	\$4,095.46	\$4,050.45	\$2,969.22
6	Brass Bell Reducer Couplings FIPT x FIPT	\$860.63	\$1,119.79	No Bid	\$921.62	\$846.82
7	Elbow Brass 90 deg PJ x PJ	\$2,051.62	\$1,870.68	No Bid	\$1,876.64	\$1,121.66
8	Elbow Brass 90 deg FIPT x FIPT	627.44	\$816.40	No Bid	\$676.46	\$445.28
9	Brass Threaded Nipples	\$3,155.21	\$3,935.54	No Bid	\$3,029.96	\$1,591.21
10	Copper Tubing Type K Soft	\$4,556.00	No Bid	No Bid	\$5,262.61	\$3,295.60
11	Polyethylene Tubing	\$2,082.00	\$2,633.00	\$1,803.50	\$1,943.93	\$3,296.71
12	Stainless Steel Stiffener	\$756.25	\$698.75	\$698.75	\$845.65	\$668.45
13	Full Circle Clamps (Single Band) (With Removable Lugs) (Foreign OK)	\$16,029.65	\$16,435.76	\$16,278.74	\$19,869.15	\$15,273.50
14	Full Circle Clamps (Double Band) (With Removable Lugs) (Foreign OK)	\$3,247.34	\$3,407.56	\$3,335.96	\$4,785.66	\$3,127.50
15	Collar Leak Clamps (Foreign OK)	\$953.24	\$799.47	\$975.63	\$1,671.45	\$965.41
16	Tapping Saddles DI or CI with CC Threads	\$2,486.22	\$3,866.18	\$2,578.06	\$5,550.16	\$2,498.42
17	Multi-Range Repair Couplings (Hymax Only)	\$74,102.70	\$73,101.82	\$72,995.31	\$74,125.36	\$70,438.40
18	Adjustable Valve Box Bottom (Foreign OK)	\$546.50	\$730.00	\$579.95	\$576.50	\$658.80
19	Adjustable Valve Box Top (Foreign OK)	\$586.10	\$1,140.00	\$634.30	\$647.10	\$587.00
20	Valve Box Lid (CI or DI) (Foreign OK)	\$527.40	\$687.00	\$451.80	\$635.40	\$510.00
21	MJ x MJ Gate Valve	No Bid	\$31,909.80	\$31,984.11	\$32,408.18	\$34,402.58
22	MJ X Flange Gate Valve	No Bid	\$3,627.76	\$3,916.62	\$3,957.05	\$4,108.00
23	Threaded Gate Valve	No Bid	\$1,950.00	\$1,903.90	\$1,933.90	\$1,543.50
24	MJ Bends 22-1/2 deg	\$1,105.10	\$1,199.22	\$1,127.20	\$1,132.30	\$1,046.60
25	MJ Bends 45 deg	\$1,445.84	\$1,769.10	\$1,425.98	\$1,559.14	\$1,313.62
26	MJ Bends 90 deg	\$2,011.17	\$1,984.22	\$1,842.21	\$1,982.93	\$1,693.95
27	Flange x Flange Bends 22-1/2 deg	\$1,567.52	\$1,159.42	\$1,606.12	\$1,000.29	\$1,137.69
28	Flange x Flange Bends 45 deg	No Bid	\$1,871.00	\$1,730.81	\$1,132.97	\$1,330.06
29	Flange x Flange Bends 90 deg	\$1,775.71	\$2,188.80	\$1,823.54	\$1,216.72	\$1,415.62
30	Reducer MJ x MJ	\$1,589.07	\$1,743.70	\$1,616.78	\$1,499.58	\$1,333.11
31	MJ Tees	\$3,298.35	\$3,590.60	\$3,353.63	\$3,379.48	\$3,303.81
32	MJ x Flange Tees	\$160.00	\$162.00	\$163.41	\$164.15	\$157.98
33	Flange x Flange x Flange Tees	\$209.15	\$254.00	\$211.44	\$212.39	\$204.45
34	Cap MJ	\$530.92	\$573.78	\$539.58	\$589.87	\$485.60
35	Plug MJ Solid	\$688.94	\$712.00	\$696.32	\$699.48	\$678.00
36	Tapped Plugs	\$647.85	\$679.00	\$658.29	\$661.29	\$634.76
37	MJ Solid Sleeves (Long)	\$2,864.71	\$2,924.66	\$2,907.29	\$2,990.63	\$2,965.19
38	MJ Solid Sleeves (Short)	\$676.78	\$998.00	\$684.26	\$754.34	\$657.16
39	CI Valve Box Riser (Foreign OK)	\$630.30	\$1,815.00	\$779.55	\$717.75	\$734.75
40	Swivel x Solid MJ Anchor Couplings	\$2,577.85	\$2,758.50	\$2,632.67	\$2,644.49	\$2,554.35
41	PVC Compression Coupling (Foreign OK)	\$388.65	\$708.50	\$537.00	\$354.72	\$318.76
42	All Thread Rods and Couplings (Foreign OK)	\$1,266.80	No Bid	No Bid	\$1,023.60	\$1,404.50
43	Gland Packs (complete with gaskets and bolts)	\$3,849.94	\$4,301.70	No Bid	\$4,112.18	\$2,354.34
44	PVC Mega Lugs - Packs (with MJ Gaskets and bolts)	\$2,586.45	\$2,702.30	\$2,532.83	\$2,570.64	\$2,328.64
45	DI Mega Lugs - Packs (with MJ Gaskets)	\$1,214.29	\$1,321.70	\$1,237.25	\$1,278.96	\$1,133.27
46	Brass Pack Joint or Compression Tee	\$2,223.46	\$2,208.30	\$2,056.62	\$2,035.57	\$1,322.74
47	Brass Tees (FIPTx FIPTx FIPT)	\$661.27	\$834.49	No Bid	\$707.45	\$475.78
48	Flanged Coupling Adapters	\$1,162.92	\$1,391.00	\$1,151.38	\$1,971.76	\$1,296.69
49	Brass Threaded Bushing	\$1,587.66	\$1,612.62	\$1,505.19	\$2,407.10	\$1,100.80

Bid Opening
August 3, 2011 - 2:00 p.m.
Annual Utility Supplies
Bid# 13-12-12

		BIDDERS				Memo FY 2011 Contracted Prices
		Municipal Waterworks Supply Royce City TX	ACT Pipe and Supply Temple TX	HD Supply Waterworks Belton TX	Ferguson Waterworks Killeen TX	
Cat #	Categorical Description					
50	Redi-Clamps (Foreign OK)	\$631.65	\$755.65	\$664.50	\$1,121.10	\$357.24
51	Bell Joint Leak Clamps (Foreign OK)	\$979.92	\$1,118.00	\$1,352.21	\$1,509.33	\$922.05
52	Brass Sleeve Coupling FIPT	\$583.49	\$751.70	No Bid	\$624.76	\$609.00
53	Fire Hydrants	\$27,642.00	\$26,083.00	\$26,210.86	\$26,819.35	\$26,185.88
54	Meter Risers (Foreign OK)	\$33,129.76	\$30,858.45	\$31,256.09	\$30,756.70	\$33,358.27
55	Brass Meter Flange Complete Kits	\$453.65	No Bid	No Bid	\$420.44	\$402.57
56	Concrete Meter Box (Box Only) (Foreign OK)	\$4,114.40	\$4,307.50	No Bid	\$4,002.60	\$3,397.63
57	CI Reader Lid Only (for Concrete Meter Box) (Foreign OK)	\$7,979.07	\$8,249.50	No Bid	\$7,854.06	\$7,207.09
58	Meter Box with Overlapping Lid and CI Reader (Foreign OK)	\$24,919.56	\$39,088.00	No Bid	\$25,462.90	\$25,711.39
59	CI Reader Lid Only (for PE Meter Box) (Foreign OK)	\$563.50	\$855.00	No Bid	\$601.11	\$401.86
60	Meter Washers (Foreign OK)	\$1,281.00	\$1,206.00	No Bid	\$931.00	\$819.00
61	Sewer Supplies - SDR 35 Deep Bell	\$389.88	\$455.66	\$351.97	\$398.31	\$323.95
62	Non-Shear Flex Boot Coupling	\$7,593.24	\$10,207.74	\$6,862.41	\$9,064.37	\$8,783.58
63	Sewer Caps Threaded PVC with Sleeve - SDR35	\$769.50	\$685.26	\$516.78	\$660.96	\$518.40
64	Sewer Pipe	\$86,755.87	\$94,752.90	\$92,186.85	\$115,509.90	\$70,336.29
65	Sewer Clean Outs	\$827.64	\$1,294.60	\$1,170.76	\$1,339.14	\$1,388.96
66	Sewer Wyes GxGxG (with Deep Bell)	\$7,583.08	\$8,819.18	\$6,959.34	\$8,319.22	\$7,723.37
67	Sewer Tee Wyes GxGxG (with Deep Bell)	\$694.14	\$825.55	\$647.39	\$750.51	\$913.27
68	Type M2 Adjustable Steel Manhole Risers (Foreign OK)	\$6,225.53	No Bid	No Bid	\$6,202.78	\$8,572.00
69	Cast Iron Manhole Rings & Covers (Foreign OK)	\$11,555.30	\$11,859.00	\$8,413.10	\$14,496.90	\$10,649.20
70	Concrete Manhole Ring Risers (Foreign OK)	\$931.76	No Bid	\$882.42	\$1,402.54	\$569.70
71	Concrete Manhole Cones - (Foreign OK)	\$5,030.36	\$5,750.00	\$5,195.52	\$10,227.16	\$2,860.00
72	Concrete Manhole Risers - 48-inch (Foreign OK)	\$6,843.49	\$7,699.00	\$7,143.84	\$9,762.09	\$6,160.00
73	Sewer SDR35 Gasketed PVC Bends	\$3,567.34	\$4,307.72	\$3,270.42	\$3,906.46	\$3,006.93
74	PVC Sewer Tapping Saddles (Gasketed with Bands)	\$453.12	No Bid	\$428.06	\$490.22	\$384.94
75	Flexible Saddle Wyes for Use on Clay Pip	\$930.20	No Bid	\$900.10	\$1,144.80	\$1,081.20
76	Mushroom Valve Box Cover (Foreign OK)	\$2,264.50	\$2,800.00	No Bid	\$2,264.50	\$1,921.50
77	Eye Bolts with Washers and Nuts (Foreign OK)	No Bid	No Bid	No Bid	\$42.00	\$208.80
TOTAL RECOMMENDED FOR AWARD		\$176,121.01	\$108,666.73	\$125,331.54	\$68,515.89	
Flat Fee for Emergency/After Hour Delivery		\$0.00	\$50.00	\$50.00	\$0.00	
Delivery within 14 days?		Yes	Yes	Yes	Yes	
Invoicing		Yes	Yes	Yes	Yes	
Exceptions		Yes-Not on any items recommended for award	Yes-liquidated damages; staff willing to accept	Yes-clarification of delivery terms; staff deemed acceptable	No	
Credit Check Authorization		Yes	Yes	Yes	Yes	

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

Belinda Matthe 8-3-11
Belinda Matthe, Director of Purchasing Date

Recommended for Council award
Recommended for Council award in error on 9-15-11
Tie in pricing; lots drawn by Purchasing staff
Does not meet specifications

Planholders
A.Y McDonald Mfg Co
ACT
Alamo Distribution
Ferguson
HD Supply
HD Supply Facilities Maintenance
Prime Vendor
Rexel Summers Electric
Water Products of Oklahoma

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING AMENDMENTS TO ANNUAL PURCHASE AGREEMENTS WITH
VARIOUS VENDORS FOR UTILITY SUPPLIES FOR FISCAL YEAR 2011-12, IN
THE ESTIMATED ANNUAL AMOUNT OF \$478,635.17; PROVIDING AN OPEN
MEETINGS CLAUSE.

Whereas, on September 15, 2011, the City Council approved annual purchase agreement with various vendors for utility supplies for FY 2011-12 – several purchase amounts for the supplies which were inadvertently excluded need to be corrected;

Whereas, funds are budgeted in the FY2011-12 budget, and the items will be purchased as they are needed throughout the year (estimated annual expenditure is \$478,635.17); 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 amendments to the annual purchase agreements for the purchase of Utility Supplies for Fiscal Year 2011-12, as follows:

- (A) Municipal Water Works Supply, Royce City, Texas (\$176,121.01);
- (B) ACT Pipe and Supply, Temple, Texas (\$108,666.73); and
- (C) HD Supply Waterworks, Belton, Texas (\$125,331.54).

Part 2: The City Council authorizes the City Manager, or his designee, to execute any documents which may be necessary for these purchases, subject to approval as to form by the City Attorney.

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

PASSED AND APPROVED this the **6th** day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item # 4(E)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-11-42: Consider adopting an ordinance authorizing amendments to Section 7.6.5 of the Unified Development Code related to electric fences within the City limits.

P&Z COMMISSION RECOMMENDATION: At its August 15, 2011 meeting, the Planning and Zoning Commission voted 9/0 to recommend approval of the requested amendment to the Unified Development Code with the addition that the fence must only be energized during hours when the public does not have legal access to the protected property.

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

ITEM SUMMARY: At the first reading of this item before City Council on September 15, 2011, the applicant requested that the minimum distance required between the electric fence wire and the surrounding non-electric gate be reduced from six inches to three inches. A motion was made to adopt the amendment as presented along with the applicant's requested reduction.

Please refer to the Staff Report and draft minutes of case Z-FY-11-42, from the Planning and Zoning meeting, August 15, 2011. The applicant, Michael Pate of Sentry Security Systems, LLC, requests this amendment to the Unified Development Code (UDC) in order to bring into compliance an existing electric fence installed at a local heavy equipment sales establishment.

The UDC currently allows electric fences only in the AG, Agricultural, zoning district. In addition to being located in the AG zoning district, the current standards require that the fence:

- Be designed to retain animals,
- Be inaccessible to the general public, and
- Not pose a hazard to life.

This standard prohibits any use of electric fences for security purposes in nonresidential areas. The applicant has submitted the attached letter, along with a sample from Tyler, Texas, to the City Manager requesting that the City Council amend the UDC to allow electric fences as a security device in nonresidential settings outside of the AG zoning district.

After researching how electric fences are regulated in cities comparable to Temple, Staff produced the attached draft amendment to Section 7.6.5 of the UDC and presented it to the Planning and Zoning Commission. The attached draft provides the following standards for electric fences outside of the AG zoning district.

- Allowed in association with a permitted nonresidential outdoor storage area in the C, LI and HI zoning districts
- Must be installed in conformance with the City's electrical code, International Electrotechnical Commission Standard No. 60335-2-76, and Underwriters Laboratories Standard UL69, Electric-Fence Controller
- Controller and emergency entry key-safe must be located in a single accessible location
- Must be surrounded by a non-electrical fence or wall six to eight feet in height
- Must be installed minimum of one foot from surrounding non-electric fence or wall, except along gate.
- Along gate, fence must be installed a minimum of six inches from non-electric fence or wall
- Must be clearly identified with warning signs at intervals of not less than 60 feet
- Must only be energized during hours when the public does not have legal access to the protected property.

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on August 4, 2011 in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

Applicant's Letter Requesting Amendment to the UDC
Applicant's Sample Standards from Tyler, Texas
Electric Fence Provisions in Other Cities
Proposed Amendment to UDC Sec. 3.7.6.C, Materials for Fences, Walls, Screens and Enclosures
P&Z Staff Report (Z-FY-11-42)
P&Z Minutes (August 15, 2011)
Ordinance

Brian Mabry

From: Autumn Speer
Sent: Wednesday, July 13, 2011 11:39 AM
To: Richard Therriault; Brian Mabry
Subject: FW: Amendment
Attachments: TYLER TEXAS AMENDMENT.docx

From: Michael Pate [<mailto:mpate@ELECTRICGUARDDOG.com>]
Sent: Wednesday, July 13, 2011 11:37 AM
To: David Blackburn
Cc: Donald McLellan; Autumn Speer; Robin Williamson
Subject: Amendment

Mr. Blackburn,

I met with Autumn Speer, Director of Community Services, several weeks ago in an effort to get a permit to operate enhanced security measures in the form of an electric security fence at the United Rentals site, 5345 General Bruce Drive. After conferring with other staff our device was declared a fence and I was instructed to write to you requesting an amendment to the code to allow the use of electric security fences.

Please accept this correspondence as a request to amend the code allowing the use of electric security fences in the City of Temple TX.

These are inherently safe and effective devices that have been approved to operate all through TX. Houston, Dallas, Ft. Worth, Austin, San Antonio, Tyler, Euless, Balch Springs, and many other municipalities in TX allow the use of electric security fences. The use of these devices actually prevents crime, allows the husbanding of police resources, and makes the businesses that install them safer, as well as the neighborhoods that surround them.

I have attached an amendment from a similar size city in TX for your review.

I would hope that we could be placed on the earliest possible committee schedules as this is usually a protracted exercise.

With warmest regards,

Michael Pate

Director of Business Development
Sentry Security Systems, LLC
Electric Guard Dog
mpate@electricguarddog.com
Phone: 803-404-6204
Cell: 803-422-3600
Fax: 803-786-6458

TYLER TEXAS AMENDMENT

Sec. 10-333. Electric fences.

a. The construction and use of electric fences shall be allowed in the City only as provided in this section, subject to the following standards:

1. IEC Standard 60335-2-76. Unless otherwise specified herein, electric fences shall be constructed or installed in conformance with the specifications set forth in International Electrotechnical Commission (IEC) Standard No. 60335-2-76, or successor.

2. Electrification

(a) The energizer for electric fences must be driven by a commercial storage battery not to exceed 12 volts DC. The storage battery shall be charged primarily by a solar panel. However, the solar panel may be augmented by a commercial trickle charger.

(b) The electric charge produced by the fence upon contact shall not exceed energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of IEC Standard No. 60335-2-76, or successors.

3. Perimeter fence or wall. No electric fence shall be installed or used unless it is completely surrounded by a non-electrical fence or wall that is not less than six feet in height.

4. Location. Electric fences shall be permitted in any non-residential outdoor storage areas only.

5. Warning signs. Electric fences shall be clearly identified with warning signs that read: "Warning-Electric Fence" at intervals of not less than sixty feet.

b. It shall be unlawful for any person to install, maintain or operate an electric fence in violation of this section. (Ord. No. 0-2010-___; 3/10/10)

Electric Fence Provisions in other Cities

City	Summary of Land Use Related Standards (not including Electrical Code)
Temple	<ul style="list-style-type: none"> • Allowed only in the AG zoning district. • Must submit proof that fence will be designed to retain animals, be inaccessible to the general public and not pose a hazard to life.
Tyler (applicant's preference – adopted 3/10/10)	<ul style="list-style-type: none"> • Electric fence must be surrounded by a non-electrical fence or wall a minimum of six feet in height. • Permitted only in nonresidential outdoor storage areas. • Must be clearly identified with warning signs at intervals of not less than 60 feet.
Bryan*	No results
Waco	Not allowed in “community gardens”
Belton	Prohibited in Residential Estate district
Killeen	Not allowed in Residential or Office zoning districts
Georgetown	<ul style="list-style-type: none"> • Allowed without a Fence Permit. • Not permitted within 10 feet of any public rights-of-way or sidewalk. • Must be placed a minimum of 2 feet from all private property lines. • Must be clearly identified with warning signs at intervals of not less than 50 feet and located not more than 1 foot away from the fence.
Baytown*	No results
N. Richland Hills*	Electric fences that are capable of causing harm or death are prohibited in the city. This does not prevent the use of approved and listed equipment to charge single strands of wires for the purpose of animal or livestock control.

City	Summary of Land Use Related Standards (not including Electrical Code)
San Antonio	<ul style="list-style-type: none"> • Permitted only in outdoor storage areas in LI and HI. • Electric fence must be surrounded by a non-electrical fence or wall six to eight feet in height and 6 inches from electric fence. • Electric fence has a maximum height of 10 feet. • Must be clearly identified with warning signs at intervals of not less than 40 feet and located not more than 1 foot away from the fence. • Electric fences may be energized only during the hours when the general public does not have legal access to the protected property. • Not permitted within five feet of a sidewalk or public right-of-way nor within 300 feet of a property line for a residence, school, day care facility, church or parkland. • Permitted and renewed on an annual basis with a notarized statement attached to the renewal permit from an authorized representative of the fence or barrier equipment manufacturer that the installation is currently operating in conformity with its safety requirements. • \$1,000,000 insurance required as a condition of permit approval and renewal.
Wylie	Allowed only in the AG zoning district.

* Comparable City in Comprehensive Plan

Proposed Amendment to UDC Sec. 3.7.6.C, Materials for Fences, Walls, Screens and Enclosures

Note: Red font indicates deleted or added text.

7.6.5 Materials for Fences, Walls, Screens and Enclosures

A. Allowed Materials

...

B. Prohibited Materials

...

C. Electric Fences

- I. An ~~electrically charged~~ electric fence is allowed ~~only~~ in the Agricultural zoning district, with proof submitted to the electrical inspector that the fence will be designed to retain animals, be inaccessible to the general public and not pose a hazard to life.
2. An electric fence is allowed in association with a permitted nonresidential outdoor storage area in the Commercial, Light Industrial and Heavy Industrial zoning districts subject to the following standards.
 - a. Unless otherwise specified in this Section, electric fences must be installed in conformance with the specifications set forth in the City's electrical code and the International Electrotechnical Commission Standard No. 60335-2-76. In addition, the electric fence controller must meet the requirements of Underwriters Laboratories Standard UL69, Electric-Fence Controller, and labeled as such.
 - b. The electric fence controller and emergency entry key safe for the electric fence must be located in a single accessible location for the entire fence.
 - c. The electric fence must be surrounded by a non-electrical fence or wall six to eight feet in height.
 - d. The electric fence must be installed a minimum of one foot from the surrounding non-electric fence or wall, except along the gate. Along the gate, the electric fence must be installed a minimum of six inches from the surrounding non-electric fence or wall.
 - e. The electric fence must be clearly identified with warning signs at intervals of not less than 60 feet.
 - f. The electric fence must only be energized during hours when the public does not have legal access to the protected property.

D. Razor Wire Fences

...

E. Construction

...



PLANNING AND ZONING COMMISSION AGENDA ITEM

08/15/11
Item #5
Regular Agenda
Page 1 of 2

APPLICANT / DEVELOPMENT: Michael Pate, Sentry Security Systems, LLC

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-11-42 Hold a public hearing to discuss and recommend action on an amendment to Section 7.6.5 of the Unified Development Code related to electric fences within the City limits.

BACKGROUND: The Unified Development Code (UDC) currently allows electric fences only in the AG, Agricultural, zoning district. In addition to being located in the AG zoning district, the current standards require that the fence:

- Be designed to retain animals,
- Be inaccessible to the general public, and
- Not pose a hazard to life.

This standard prohibits any use of electric fences for security purposes in nonresidential areas. The applicant has submitted the attached letter, along with a sample from Tyler, Texas, to the City Manager requesting that the City Council amend the UDC to allow electric fences as a security device in nonresidential settings outside of the AG zoning district. Such amendment first requires a recommendation from the Planning and Zoning Commission.

City Staff has researched electric fence standards in other Texas cities. The results are attached to this report. Electric fence regulation in other cities ranges from minimal, such as in Waco or Belton, to more detailed, as in San Antonio.

The attached draft amendment to Section 7.6.5 of the UDC provides the following standards for electric fences outside of the AG zoning district.

- Allowed in association with a permitted nonresidential outdoor storage area in the C, LI and HI zoning districts
- Must be installed in conformance with the City's electrical code, International Electrotechnical Commission Standard No. 60335-2-76, and Underwriters Laboratories Standard UL69, Electric-Fence Controller
- Controller and emergency entry key-safe must be located in a single accessible location
- Must be surrounded by a non-electrical fence or wall six to eight feet in height
- Must be installed minimum of two feet from surrounding non-electric fence or wall, except along gate.
- Along gate, fence must be installed a minimum of six inches from non-electric fence or wall
- Prohibited within 10 feet of a public right-of-way, including any sidewalk
- Must be clearly identified with warning signs at intervals of not less than 60 feet

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on August 4, 2011 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of an amendment to Section 7.6.5 of the Unified Development Code related to electric fences within the City limits as presented in this Staff report.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Applicant's Letter Requesting Amendment to the UDC](#)

[Applicant's Sample Standards from Tyler, Texas](#)

[Electric Fence Provisions in Other Cities](#)

[Proposed Amendment to UDC Sec. 3.7.6.C, Materials for Fences, Walls, Screens and Enclosures](#)

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, AUGUST 15, 2011**

ACTION ITEMS

Item 5: Z-FY-11-42 – Hold a public hearing to discuss and recommend action on an amendment to Section 7.6.5 of the Unified Development Code related to electric fences within the City limits. (Michael Pate for Sentry Security Systems, LLC)

Mr. Mabry stated the applicant was Mr. Michael Pate from Sentry Security Systems, LLC and, if approved, the request would go to City Council for first reading on September 16th and second reading on October 6th. Electric fences are currently only allowed the AG district and have to be designed to retain animals, be inaccessible to the general public and not pose a hazard to life. This proposed amendment to the Unified Development Code (UDC) only applies within City limits and any changes that might be made do not apply outside the City limits.

The applicant is requesting an amendment to the UDC to allow electric fences in nonresidential areas as a security measure for outdoor storage. City Staff did a survey of other municipalities close by or similar size to Temple. The applicant also provided a sample of requirements from Tyler, Texas, which was adopted in 2010.

Tyler requires the electric fence be surrounded by a non-electrical fence, a minimum of six feet in height, permitted in non-residential outdoor storage area only, clearly identified with warning signs every 60 feet, and it comply with the International Electric Technical Code Standard regarding being non-lethal voltage through the wire;

Bryan did not have any results;

Waco will not allow them in community gardens;

Belton prohibits them in residential estate district (large block residential) and are permitted in AG;

Killeen does not allow them in residential or office districts;

Georgetown does not require a fence permit, cannot be within 10 feet of any public right-of-way or sidewalk, has to be placed a minimum of two feet from any private property line, and has to have a warning sign every 50 feet;

Baytown did not have any results;

Richland Hills states electric fences cannot be capable of causing harm or death to a human and have to be in conjunction with animal and livestock control;

San Antonio has several standards including allowing them in the two industrial districts they have, a maximum height of 10 feet, a required \$1 million bond/insurance as a condition of an electric fence, have to be renewed yearly through building permits, and are not allowed within five feet of sidewalks, residences, schools, daycares, or any type of public or child oriented use; and

Wylie only allows them in the AG district.

Mr. Mabry stated the proposed amendment would include allowing electric fences in nonresidential outdoor storage areas (contractor or equipment storage) in the Commercial (C), Light Industrial (LI), and Heavy Industrial (HI) zoning districts, that they conform with the City's Electrical Code and other more technical electrical standards to insure the fence is not lethal.

Other proposed standards include the controller for the on and off switch and the emergency entry key (Knox box) be located in a single accessible location (per Fire Department request); the electric fence wires be surrounded by nonelectrical fence or wall, 6 to 8 feet in height, the wire being a minimum of two feet from surrounding nonelectrical fence or wall and 6 inches along the gate, prohibit the fence within ten feet of the right-of-way, including sidewalks, for pedestrian safety, and warning signs be located every 60 feet on the non-electrified part of the structure.

Staff recommends approval of the proposed amendment to the UDC, Section 7.6.5 to allow electric fences outside of the AG district subject to the standards recommended.

Chair Talley opened the public hearing.

Ms. Brenda Cunningham, Account Executive for Sentry Security Systems, 450 County Rd 43850, Paris, Texas 75462, spoke on behalf of the applicant, Mr. Michael Pate. Ms. Cunningham presented pictures to the Commission for clarification of their product. The fence is for commercial areas only and must go on the inside of an existing solid fence (wood, chain link, etc.) that is a minimum of six feet in height. There are 20 strands of wire and not all wires are hot. There is a 7,000 volt charge which pulses every 1.3 seconds and will not kill anyone. Commissioner Staats asked what the amperage was and Ms. Cunningham did not know but the information should be included in the distributed documentation. The fence is energized by a 12 volt marine battery, has a solar panel, controller, small key panel and integrates with other security products.

Commissioner Pope asked about the fence being prohibited within ten feet of the right-of-way since it takes property away that could be used. Ms. Cunningham stated each city is different in regulations.

Ms. Cunningham distributed letters of testimony for review, stated that warning signs are distributed every 50 feet in English and Spanish and other requested languages.

Brief discussion regarding amperage.

Concerns were raised about the hours the fence would be activated and Ms. Cunningham stated it was the owners' discretion, depending on the business.

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

Commissioner Pope made a motion to approve **Z-FY-11-42** to amend Section 7.6.5 of the Unified Development Code regarding electric fences with the change of:

1. Deleting Item E, prohibiting within 10 feet of a public right-of-way, and
2. Adding that the electric fence only be energized during hours when the public does not have legal access to the protected property.

Commissioner Staats made a second.

Motion passed: (9:0)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2010-4413, THE “UNIFIED DEVELOPMENT CODE,” SECTION 7.6.5 RELATED TO ELECTRIC FENCES WITHIN THE CITY LIMITS; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 16, 2010, the City of Temple adopted Ordinance No. 2010-4413, the “Unified Development Code,” which is a consolidated set of land development regulations related to zoning, platting and site design;

Whereas, at its August 15, 2011, meeting the Planning and Zoning Commission voted to amend Section 7.6.5, entitled, “Materials for Fences, Walls, Screens and Enclosures,” related to electric fences within the City limits, and the Staff recommends this action; and

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

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

Part 1: The City Council approves an amendment to Ordinance No. 2010-4413, the “Unified Development Code,” by amending Section 7.6.5, entitled, “Materials for Fences, Walls, Screens and Enclosures,” related to electric fences within the City limits, said amendment being more fully described in Exhibit A, attached hereto for all purposes.

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

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been

enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **15th** day of **September**, 2011.

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

10/06/11
Item # 4(F)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing certain City employees to conduct investment transactions, transfer funds, and represent the City in other financial transactions.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to add the authority for Lacy Borgeson, the new City Secretary, to conduct cash management and investment functions for the City.

A new resolution is required any time a change occurs in any of the positions authorized to conduct financial transactions. Approval of this item will add authorization for Lacy Borgeson, the new City Secretary and remove authorization for Clydetta Entzminger, the former City Secretary. The following employees will have authorization to conduct cash management and investment functions for the City:

David A. Blackburn – City Manager
Traci L. Barnard – Director of Finance
Melissa Przybylski – Assistant Director of Finance
Stacey Reisner – Treasury/Grants Manager
Stacey Hawkins - Accountant
Lacy Borgeson – City Secretary

FISCAL IMPACT: No fiscal impact.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, GRANTING THE CITY MANAGER AND DIRECTOR OF
FINANCE AND DESIGNATED DEPUTIES AUTHORITY TO
CONDUCT INVESTMENT TRANSACTIONS, TRANSFER FUNDS,
AND REPRESENT THE CITY OF TEMPLE IN OTHER FINANCIAL
TRANSACTIONS; PROVIDING AN EFFECTIVE DATE; AND
PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the City Council desires to grant City Manager, David A. Blackburn, and Director of Finance, Traci L. Barnard, and certain designated deputies named herein, the authority to conduct investment transactions, transfer funds, and represent the City in other financial transactions; 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 David A. Blackburn, City Manager; Traci L. Barnard, Director of Finance; Melissa Przybylski, Assistant Director of Finance; Stacey Reisner, Treasury/Grants Manager; Stacey Hawkins, Accountant; and Lacy Borgeson, City Secretary, full authority and empowers them to take all actions and execute all documents necessary or incidental to such direct security repurchase agreements, reverse security repurchase agreements, U.S. Treasury Securities, and U.S. Government Agency Securities to the full extent they may exercise that authority consistent with the Texas Depository Act and other applicable state and federal laws and regulations. **Their true signatures appear below:**

David A. Blackburn
City Manager

Traci L. Barnard
Director of Finance

Melissa Przybylski
Assistant Director of Finance

Stacey Reisner
Treasury/Grants Manager

Lacy Borgeson
City Secretary

Stacey Hawkins
Accountant

Part 2: The City Council authorizes the above named individuals, on behalf of the City of Temple and as its own act, to sign checks, drafts, notes, bills of exchange, acceptances, or other orders for the payment of money; to endorse any checks, notes, bills, or other instruments owned, held, or endorsed to the City of Temple; to issue instructions regarding deposits, withdrawal, orders for payment or transfer of funds whether oral, by telephone, or electronic means; or to do any other convenient or necessary acts to the opening, maintenance, and closing of the accounts in accordance with the charter and ordinances of the City of Temple.

Part 3: Controls will remain in place to assure compliance with the City of Temple Fiscal and Budgetary Policies and Investment Policies to assure that assets are safeguarded against loss from unauthorized use or disposition; and that transactions are executed in accordance with management authorization are recorded properly to permit the preparation of general purpose financial statements in accordance with generally accepted accounting principles.

Part 4: This authority shall remain in full force and effect until written notice revoking or modifying same has been given by the City Council and received by all other parties to this transaction.

Part 5: The City Manager and Director of Finance and the deputies herein named shall have an official bond in the sum adequate to protect the City, but of not less than Five Hundred Thousand (\$500,000) Dollars, each which fully meets the bonding requirements of Article 4, Section 4.28 and 4.29 of the City Charter.

Part 6: This Resolution 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 Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6th day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item #4(G)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing property, liability and workers compensation insurance premiums for FY2011-12.

STAFF RECOMMENDATION: Adopt resolution presented in item description.

ITEM SUMMARY: The City is a member of the Texas Municipal League Intergovernmental Risk Pool (TML), and all of the City's property, liability and workers compensation insurance are currently purchased through TML and have been for several years. As an intergovernmental agency, purchases from TML meet competitive bidding requirements.

The annual premiums for property and liability insurance are billed quarterly. The City participates in a "self billing" workers compensation program and makes payments to TML on a monthly basis. The property and liability premiums for FY2011-12 are as follows: (1) Real and Personal Property, \$138,494; Mobile Equipment, \$16,416; General Liability, \$25,705; Law Enforcement Liability, \$32,895; Errors & Omissions Liability, \$44,669; Automobile Liability, \$45,492; and Airport Liability, \$10,759. Since the workers compensation premium is based on a payroll employee classification schedule, the exact premium amount cannot be determined until after the end of the fiscal year.

FISCAL IMPACT: Funds are budgeted for property and liability insurance premiums in each Department's FY2011-12 budget (Account #2611). Fund appropriations are as follows:

General Fund	\$222,301
Water & Sewer Fund	92,687
Hotel/Motel Tax Fund	9,330
Drainage Fund	<u>5,431</u>
Total – All Funds	<u>\$329,749</u>

\$413,663 is appropriated in the FY 2011-12 Budget for workers compensation for all funds. Fund appropriations are as follows:

General Fund	\$353,275
Water & Sewer Fund	46,677
Drainage Fund	9,454
Hotel/Motel Tax Fund	4,091
Federal/State Grant Fund	<u>166</u>
Total – All Funds	<u><u>\$413,663</u></u>

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING PROPERTY, LIABILITY AND WORKERS COMPENSATION INSURANCE PREMIUMS FOR FY2011-12; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is a member of the Texas Municipal League Intergovernmental Risk Pool (TML), and all of the City's property, liability and workers compensation insurance are currently purchased through TML, and have been for several years;

Whereas, as an intergovernmental agency, purchases from TML meet competitive bidding requirements;

Whereas, funds for property and liability insurance are budgeted in each Department's FY2011-12 budget (Account #2611) and the workers compensation premium is based on a payroll employee classification schedule; 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 property, liability, and workers compensation insurance premiums for FY2011-12, as follows: Real and Personal Property, \$138,494; Mobile Equipment, \$16,416; General Liability, \$25,705; Law Enforcement Liability, \$32,895; Errors and Omissions Liability, \$44,669; Automobile Liability, \$45,492; Airport Liability, \$10,759; and Workers Compensation, estimated annual expenditure of \$413,663.

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

PASSED AND APPROVED this the 6th day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item #5
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans as follows:

- A. Appropriating \$450,000 to the Pepper Creek Trail Connection to Scott & White by recognizing a contribution from Scott & White Healthcare in the amount \$350,000 and reallocating \$100,000 from Professional Services.
- B. Appropriating \$800,000 to the Airport Corporate Hangar Project by reallocating \$450,000 from Public Improvements in North Zone, \$300,000 from the Outer Loop, and recognizing \$50,000 in revenue from a TxDOT RAMP grant.
- C. Appropriating \$400,000 to the TMED-1st Street @ Loop 363 Project by reallocating funds from Avenue R-S&W Blvd, Avenue R – 19th Street Intersections.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading and schedule second reading and final adoption for October 20, 2011.

ITEM SUMMARY: The Reinvestment Zone No. 1 Board met on September 28, 2011 to recommend to Council amendments to the Financing and Project Plans to reprioritize funding within the Financing and Project Plans. The detail for the required amendments is shown below.

Pepper Creek Trail Connection to Scott & White, Line 204 (Project Plan):

The Pepper Creek Trail Connection to Scott & White Project is currently estimated at \$700,000. The City has entered into a Chapter 380 cost sharing agreement with Scott & White's in the amount of \$350,000. The agreement's purpose is to share the cost of extending the current Pepper Creek Trail to reach an existing Scott & White hike and bike trail near the building housing the Scott & White Health Plan operations. The extension of the Pepper Creek Trail will involve extending a twelve foot wide trail approximately 1,042 linear feet and construction of a twelve foot long bridge across Pepper Creek. This project is currently funded in the Financing Plan at \$250,000. This funding level is only for the Zone's share. A Financing Plan amendment is presented to recognize Scott & White's share of

the project in the amount of \$350,000, to be added to Line 14, and to fund the additional \$100,000 that is needed to fully fund the project. The \$100,000 is available in line 50, Professional Services, in the FY 2011 Financing Plan.

Airport Corporate Hangar, Line 505 (Project Plan):

The bids for the Airport Corporate Hangar Project were received on Thursday, September 15, 2011. The bids came in higher than anticipated. The Project Committee worked with Kasberg, Patrick and Associates to 'value engineer' the project and has reduced the construction costs of the project to \$2,053,650.50. The original estimated cost for the Corporate Hangar Development area was \$1,300,000 which included design, construction, and phone and electric utility relocations. An additional \$750,000 is needed to fund the construction contract. A Financing Plan amendment is presented to recognize \$50,000, in Line 10, for a TxDOT RAMP grant that was awarded to the City to offset some of the costs. The additional \$700,000 is available in Line 110, Public Improvements in North Zone in FY 2011 in the amount of \$250,000 and in FY 2012 in the amount of \$150,000, and in Line 300, Outer Loop (from Wendland Rd to IH 33) in FY 2011 in the amount of \$300,000. In addition, Water and Sewer Fund's will be utilized to fund the 12" water line in the amount of \$186,120. This line not only services the Airport, but the surrounding area as well.

TMED-1st Street @ Loop 363, Line 454 (Project Plan):

The current Financing Plan, Line 454, has \$1,300,000 in FY 2011, 2012, and 2013 to partially fund the 1st Street @ Loop 363 project. Kasberg, Patrick and Associates were contracted for survey and engineering services for the project in the amount of \$185,000, leaving a balance of \$1,115,000 available in the Financing Plan.

The City is applying for a grant from the U.S. Department of Transportation that immensely expands the scope of this project. The total project is \$13,000,000, with \$10,000,000 (if awarded) to be reimbursed to the City through federal funding. Texas Department of Transportation (TxDOT) has committed to match Zone funds dollar for dollar. A Financing Plan amendment is presented to reallocate an additional \$400,000, from Line 456, Avenue R-S&W Blvd, Avenue R – 19th Street Intersections to fund the 1st Street and Loop 363 Zone's share of the grant match in the amount of \$1,515,000. TxDOT will also contribute \$1,515,000 towards the grant match.

FISCAL IMPACT: The proposed amendments reallocate funding within the FY 2011 and FY 2012 Financing/Project Plans on Lines 10, 14, 50, 110, 300 and 456 as described above.

Revenue in the amount of \$350,000 will be recognized from Scott & White for the Pepper Creek Trail Connection Project to S&W. Revenue in the amount of \$50,000 will be recognized from the TxDOT RAMP grant. The net change to unreserved fund balance at the end of FY 2012 remains the same as previously projected which is \$694,162.

ATTACHMENTS:

[Financing Plan](#)
[Summary Financing Plan with Detailed Project Plan](#)
[Ordinance](#)

FINANCING PLAN

DESCRIPTION		Y/E 9/30/11 Year 29	Y/E 9/30/12 Year 30	Y/E 9/30/13 Year 31	Y/E 9/30/14 Year 32	Y/E 9/30/15 Year 33	Y/E 9/30/16 Year 34	Y/E 9/30/17 Year 35	Y/E 9/30/18 Year 36	Y/E 9/30/19 Year 37	Y/E 9/30/20 Year 38	Y/E 9/30/21 Year 39	Y/E 9/30/22 Year 40
1	"Taxable Increment"	\$ 132,020,000	\$ 132,020,000	\$ 139,995,945	\$ 143,080,007	\$ 145,017,763	\$ 202,529,247	\$ 220,811,496	\$ 224,519,611	\$ 228,264,807	\$ 231,297,455	\$ 234,360,430	\$ 236,704,034
1	FUND BALANCE, Begin	\$ 6,901,796	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059	\$ 1,063,666	\$ 568,103	\$ 539,052	\$ 587,232	\$ 684,529	\$ 733,083	\$ 817,104
2	Adjustments to Debt Service Reserve	(1,300,000)	462,707	1,761,865	1,765,643	-	-	-	-	-	-	-	-
3	Fund Balance Available for Appropriation	\$ 5,601,796	\$ 1,894,859	\$ 2,456,027	\$ 2,394,386	\$ 1,725,059	\$ 1,063,666	\$ 568,103	\$ 539,052	\$ 587,232	\$ 684,529	\$ 733,083	\$ 817,104
SOURCES OF FUNDS:													
4	Tax Revenues	4,300,968	4,135,611	4,337,625	4,400,312	4,449,698	6,049,648	6,531,300	6,602,434	6,674,282	6,737,970	6,802,296	6,858,393
6	Allowance for Uncollected Taxes	(114,517)	(115,655)	(116,801)	(117,961)	(119,132)	(120,314)	(121,509)	(122,715)	(123,934)	(125,165)	(126,408)	(127,663)
8	Interest Income-Other	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	40,000	40,000	30,000	10,000
10	Grant Funds	-	50,000	-	-	-	-	-	-	-	-	-	-
12	License Fee - Central Texas Railway	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000
14	Other Revenues	175,000	175,000	-	-	-	-	-	-	-	-	-	-
16	P.I.L.O.T.	1,300,000	1,300,000	-	-	-	-	-	-	-	-	-	-
20	Total Sources of Funds	\$ 5,747,451	\$ 5,630,956	\$ 4,306,824	\$ 4,368,351	\$ 4,416,566	\$ 6,015,334	\$ 6,495,791	\$ 6,565,719	\$ 6,626,348	\$ 6,688,805	\$ 6,741,888	\$ 6,776,730
25	TOTAL AVAILABLE FOR APPROPRIATION	\$ 11,349,247	\$ 7,525,815	\$ 6,762,851	\$ 6,762,737	\$ 6,141,625	\$ 7,079,000	\$ 7,063,894	\$ 7,104,771	\$ 7,213,580	\$ 7,373,334	\$ 7,474,971	\$ 7,593,834
USE OF FUNDS:													
DEBT SERVICE													
26	2003 Bond Issue (\$11.740)	868,420	867,035	869,055	869,855	868,930	866,530	867,440	866,753	869,240	869,640	868,070	870,070
27	2008 Bond Issue (\$16.010 mil)	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	1,786,960	1,787,292	1,784,972
28	2009 Bond Refunding	370,669	1,473,669	1,474,569	1,479,969	1,499,769	1,508,775	1,510,150	1,488,750	1,485,000	-	-	-
29	2008 Bond Issue-Taxable (\$10.365 mil)	536,935	1,241,935	1,239,641	1,240,495	1,239,233	1,240,854	1,240,096	1,241,957	1,241,173	1,237,744	1,241,670	1,242,422
30	Issuance Costs	-	-	-	-	-	-	-	-	-	-	-	-
31	Refunding Bonds Proceeds	-	-	-	-	-	-	-	-	-	-	-	-
32	Payment to Refunding Bond Agent	-	-	-	-	-	-	-	-	-	-	-	-
33	Paying Agent Services	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
40	Subtotal-Debt Service	1,979,184	3,785,799	3,786,425	3,793,479	3,811,092	3,819,319	3,820,846	3,800,620	3,798,573	3,895,544	3,898,232	3,898,664
OPERATING EXPENDITURES													
50	Prof Svcs/Proj Mgmt	161,865	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
52	Legal/Audit	1,200	1,200	1,200	1,200	1,200	1,200	1,300	1,300	1,300	1,300	1,300	1,400
54	Zone Park Maintenance [mowing, utilities, botanical supplies]	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000
54	Zone Park Maintenance [maintenance]	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
56	Rail Maintenance	177,446	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
58	Road/Signage Maintenance	108,574	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
60	Contractual Payments [TEDC - Marketing]	150,000	165,000	181,500	199,650	219,615	241,577	253,655	266,338	279,655	293,638	308,320	323,736
62	TISD-Joint Use facilities	174,779	22,873	23,102	23,333	23,567	23,802	24,040	24,281	24,523	24,769	25,016	25,267
65	Subtotal-Operating Expenditures	948,864	739,073	755,802	774,183	794,382	816,579	828,995	841,919	855,478	869,707	884,636	900,403
70	TOTAL DEBT & OPERATING EXPENDITURES	\$ 2,928,048	\$ 4,524,872	\$ 4,542,227	\$ 4,567,662	\$ 4,605,474	\$ 4,635,898	\$ 4,649,841	\$ 4,642,539	\$ 4,654,051	\$ 4,765,251	\$ 4,782,868	\$ 4,799,067
80	Funds Available for Projects	\$ 8,421,199	\$ 3,000,943	\$ 2,220,624	\$ 2,195,075	\$ 1,536,151	\$ 2,443,103	\$ 2,414,052	\$ 2,462,232	\$ 2,559,529	\$ 2,608,083	\$ 2,692,104	\$ 2,794,767
PROJECTS													
150	North Zone/Rail Park	14,800	100,000	250,000	250,000	250,000	-	-	-	-	-	-	-
200	Airport Park	-	125,000	625,000	-	-	-	-	-	-	-	-	-
250	Bio-Science Park	559,449	175,000	-	-	-	-	-	-	-	-	-	-
300	Outer Loop [from Wendland Rd to IH-35 North]	158,506	-	-	-	-	-	-	-	-	-	-	-
350	Northwest Loop 363 Improvements (TxDOT commitment)	930,000	-	-	-	-	-	-	-	-	-	-	-
400	Synergy Park	126,200	-	-	-	-	-	-	-	-	-	-	-
450	Downtown	570,092	206,781	216,881	220,016	222,485	-	-	-	-	-	-	-
500	TMED	2,780,000	1,500,000	500,000	-	-	-	-	-	-	-	-	-
501	Major Gateway Entrances	-	-	-	-	-	-	-	-	-	-	-	-
505	Airport Corporate Hangar Development	1,850,000	200,000	-	-	-	-	-	-	-	-	-	-
600	Bond Contingency	-	-	-	-	-	-	-	-	-	-	-	-
610	Public Improvements	-	-	-	-	-	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
	Subtotal-Projects	6,989,047	2,306,781	1,591,881	470,016	472,485	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
TOTAL USE OF FUNDS		\$ 9,917,095	\$ 6,831,653	\$ 6,134,108	\$ 5,037,678	\$ 5,077,959	\$ 6,510,898	\$ 6,524,841	\$ 6,517,539	\$ 6,529,051	\$ 6,640,251	\$ 6,657,868	\$ 7,546,062
700	FUND BALANCE, End	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059	\$ 1,063,666	\$ 568,103	\$ 539,052	\$ 587,232	\$ 684,529	\$ 733,083	\$ 817,104	\$ 47,772

Project Plan - 09/28/2011 - to Zone Board

SUMMARY FINANCING PLAN					
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1Beginning Available Fund Balance, Oct 1	\$ 6,901,796	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059
20Total Sources of Funds	5,747,451	5,630,956	4,306,824	4,368,351	4,416,566
2Adjustments to Debt Service Reserve	(1,300,000)	462,707	1,761,865	1,765,643	-
25Net Available for Appropriation	11,349,247	7,525,815	6,762,851	6,762,737	6,141,625
50/52General Administrative Expenditures	163,065	176,200	176,200	176,200	176,200
54Zone Park Maintenance [mowing, utilities, botanical supplies]	150,000	150,000	150,000	150,000	150,000
54Zone Park Maintenance [maintenance]	25,000	25,000	25,000	25,000	25,000
56Rail Maintenance	177,446	100,000	100,000	100,000	100,000
58Road/Signage Maintenance	108,574	100,000	100,000	100,000	100,000
60Contractual Payments (TEDC - Marketing)	150,000	165,000	181,500	199,650	219,615
62TISD - Joint Use Facilities [look at contracts and calculation]	174,779	22,873	23,102	23,333	23,567
26Debt Service - 2003 Issue {\$11.740 mil}	869,620	868,235	870,255	871,055	870,130
27Debt Service - 2008 Issue {\$16.010 mil}	201,960	201,960	201,960	201,960	201,960
28Debt Service - 2009 Issue {Refunding}	370,669	1,473,669	1,474,569	1,479,969	1,499,769
29Debt Service - 2008 Taxable Issue {\$10.365 mil}	536,935	1,241,935	1,239,641	1,240,495	1,239,233
30Issuance Costs	-	-	-	-	-
31Refunding Bond Proceeds	-	-	-	-	-
32Payment to Refunding Bond Agent	-	-	-	-	-
70Total Debt & Operating Expenditures	2,928,048	4,524,872	4,542,227	4,567,662	4,605,474
80Funds Available for Projects	\$ 8,421,199	\$ 3,000,943	\$ 2,220,624	\$ 2,195,075	\$ 1,536,151

PROJECT PLAN					
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
NORTH ZONE/RAIL PARK (including Enterprise Park):					
100Railroad Spur Improvements	14,800	-	-	-	-
102Elm Creek Detention Pond	-	-	-	-	-
103ROW Acquisition - Public Improvements	-	-	-	-	-
104Extension of Rail Service	-	-	-	-	-
105BN Trans-Load NE Site Phase I - [\$850K total project cost]	-	-	-	-	-
106Wendland Road Improvements	-	-	-	-	-
107Wendland Property Roadway Phase I - [\$1.87M total project cost]	-	-	-	-	-
110Public Improvements in North Zone	-	100,000	250,000	250,000	250,000
150Total North Zone/Rail Park (including Enterprise Park)	14,800	100,000	250,000	250,000	250,000
AIRPORT PARK:					
151Airport Park Infrastructure Construction	-	-	-	-	-
155Pepper Creek Trail Extention Phase I - [\$750K total project cost]	-	125,000	625,000	-	-
200Total Airport Park	-	125,000	625,000	-	-
BIO-SCIENCE PARK:					
201Greenbelt Development along Pepper Creek	34,449	-	-	-	-
202Outer Loop Phase II (from Hwy 36 to FM 2305)	-	-	-	-	-
203Bio-Science Park Phase 1	-	-	-	-	-
204Pepper Creek Trail Connection to S&W (City of Temple portion)	525,000	175,000	-	-	-
250Total Bio-Science Park	559,449	175,000	-	-	-
300Outer Loop (from Wendland Rd to IH-35 North) - [\$15.5M total project cost]	158,506	-	-	-	-
350Northwest Loop 363 Improvements (TxDOT commitment)	930,000	-	-	-	-
SYNERGY PARK:					
351Lorraine Drive (Southeast Industrial Park) - [\$1.5M total project cost]	126,200	-	-	-	-
400Total Synergy Park	126,200	-	-	-	-
DOWNTOWN:					
401Downtown Improvements [look at 1999 Ordinance]	440,092	206,781	216,881	220,016	222,485
402Rail Safety Zone Study	25,000	-	-	-	-
403Lot Identification & Signage	80,000	-	-	-	-
404Santa Fe Plaza Study	25,000	-	-	-	-
405Santa Fe Plaza Parking Lot - [\$1.3M total project cost]	-	-	-	-	-
450Total Downtown	570,092	206,781	216,881	220,016	222,485
TMED:					
451TMED - 1st Street @ Temple College - [\$2.9M total project cost]	500,000	-	-	-	-
452Master Plan Integration 2010	50,000	-	-	-	-
453Monumentation Identification Conceptual Design	30,000	-	-	-	-
454TMED - 1st Street @ Loop 363 Design/Construction - [\$2M total project cost]	300,000	900,000	500,000	-	-
455TMED - Friars Creek Trail 5th Street to S&W Blvd. - [\$1.9M total project cost - DOE Grant of \$400K]	1,500,000	-	-	-	-
456Avenue R - S&W Blvd, Ave R - 19th Intersections	50,000	-	-	-	-
457Ave U from S&W Blvd to 1st St & the 13th to 17th connector from Ave R to Loop 363	350,000	600,000	-	-	-
500Total TMED	2,780,000	1,500,000	500,000	-	-
OTHER PROJECTS:					
501Gateway Entrance Projects	-	-	-	-	-
505Airport Corporate Hangar Development	1,850,000	200,000	-	-	-
550Total Other Projects	1,850,000	200,000	-	-	-
600Undesignated Funding - Bonds	-	-	-	-	-
610Undesignated Funding - Public Improvements	-	-	-	-	-
Total Planned Project Expenditures	6,989,047	2,306,781	1,591,881	470,016	472,485
700Available Fund Balance at Year End	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059	\$ 1,063,666

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AMENDMENTS TO THE TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 1 FINANCING AND PROJECT PLANS: (1) APPROPRIATING \$450,000 TO THE PEPPER CREEK TRAIL CONNECTION TO SCOTT & WHITE BY RECOGNIZING A CONTRIBUTION FROM SCOTT & WHITE HEALTHCARE IN THE AMOUNT OF \$350,000, AND REALLOCATING \$100,000 FROM PROFESSIONAL SERVICES; (2) APPROPRIATING \$800,000 TO THE AIRPORT CORPORATE HANGAR PROJECT BY REALLOCATING \$450,000 FROM PUBLIC IMPROVEMENTS IN NORTH ZONE, \$300,000 FROM THE OUTER LOOP, AND RECOGNIZING \$50,000 IN REVENUE FROM A TXDOT RAMP GRANT; AND (3) APPROPRIATING \$400,000 TO THE TMED-1ST STREET @ LOOP 363 PROJECT BY REALLOCATING FUNDS FROM AVENUE R—S&W BOULEVARD, AVENUE R—19TH STREET INTERSECTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

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

Ordinance No 2003-3926 on September 18, 2003; Ordinance No. 2004-3695 on July 1, 2004; Ordinance No. 2004-3975 on August 19, 2004; Ordinance No. 2004-3981 on September 16, 2004; Ordinance No. 2005-4001 on May 5, 2005; Ordinance No. 2005-4038 on September 15, 2005; Ordinance No. 2006-4051 on January 5, 2006; Ordinance No. 2006-4076 on the 18th day of May, 2006; Ordinance No. 2006-4118; Ordinance No. 2007-4141 on the 19th day of April, 2007; Ordinance No. 2007-4155 on July 19, 2007; Ordinance No. 2007-4172 on the 20th day of September, 2007; Ordinance No. 2007-4173 on October 25, 2007; Ordinance No. 2008-4201 on the 21st day of February, 2008; and Ordinance No. 2008-4217 the 15th day of May, 2008; Ordinance No. 2008-4242 the 21st day of August, 2009; Ordinance No. 2009-4290 on the 16th day of April, 2009; Ordinance No. 2009-4294 on the 21st day of May, 2009; Ordinance No. 2009-4316 on the 17th day of September, 2009; Ordinance No. 2009-4320 on the 15th day of October, 2009; Ordinance No. 2010-4338 on the 18th day of February, 2010; Ordinance No. 2010-4371 on the 19th day of August, 2010; Ordinance No. 2010-4405 on November 4, 2010; Ordinance No. 2011-4429 on March 17, 2011; and Ordinance No. 2011-4455 on July 21, 2011;

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

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

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

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

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

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

Part 1: Findings. The statements contained in the preamble of this ordinance are true and correct and are adopted as findings of fact hereby.

Part 2: Reinvestment Zone Financing and Project Plans. The amendment to the Tax Increment Financing Reinvestment Zone No. One Financing and Project Plans, heretofore adopted by the Board of Directors of the Zone and referred to in the preamble of this ordinance, are hereby approved and adopted, as set forth in the Amendments to Reinvestment Zone Number One, City of Temple, Texas, attached hereto as Exhibits A and B. This expenditure requires an amendment to the 2011-2012 budget, a copy of which are attached as Exhibit C.

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

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

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

Part 6: Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **6th** day of **October**, 2011.

PASSED AND APPROVED on Second Reading on the **20th** day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item #6
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, PE, Director of Public Works
Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Consider amending the Code of Ordinances by repealing the current Article V, “Industrial Wastes Standards,” of Chapter 38, “Water, Sewers and Sewage Disposal,” and adopting a new Article V, “Industrial Wastes Standards,” of Chapter 38, “Water, Sewers and Sewage Disposal,” and authorizing any other changes to the Industrial Pre-Treatment Program as required by law.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for October 20, 2011.

ITEM SUMMARY:

Required Modification of the City of Temple’s Ordinance and Pretreatment Program

Municipal treatment plants are designed to treat the pollutants in normal domestic waste, but some industries can discharge pollutants in concentrations high enough to kill the bugs in the wastewater treatment plant, never mind the fish in the stream. So, Congress mandated that the U. S. Environmental Protection Agency (EPA) create the Pretreatment Program to require the municipalities to regulate their local industries to prevent these problems. They did this using the 1972 Clean Water Act. As a result from the Clean Water Act, the Federal General Pretreatment Regulations through the 40 Code of Federal Regulations and the Texas State Administrative Code, Pretreatment Regulations and permits to regulate plant discharges were established in 1978. In 1998, the EPA gave the State of Texas Control Authority over Publicly Owed Treatment Works (POTW) and the Pretreatment Program.

The EPA revised the 40 CFR Part 403 on October 14, 2005, called the “Pretreatment Streamlining Rule.” The State of Texas required all POTW’s with pretreatment programs to modify their programs to include the streamlining rule upon renewal of the plant’s Texas Pollutant Discharge Elimination System (TPDES) permit. The City of Temple Doshier Farms Wastewater Treatment Plant discharge permit was renewed July 17, 2009 which triggered the process to start the modification of the City of Temple’s Pretreatment Ordinance and Program. The following are the modifications that incorporate the Pretreatment Streamlining Rule required changes:

- Slug control requirements must be included in Significant Industrial User (SIU) control mechanisms [403.8 (f)(1)(iii)(8)(6)].
- SIUs must be evaluated for the need for a plan or other action to control slug discharges within a year from the final rule's effective date or from becoming an SIU [403.8(f)(2)(vi)].
- SIU's are required to notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge [403.8(f)(2)(vi)]
- Significant noncompliance (SNC) definition is expanded to include additional types of pretreatment standards and requirements [403.8(f)(2)(viii)(A-C)].
- SIU reports must include best management practices (BMPs) compliance information [403.12(b), (e), (h)]
- SIU control mechanisms must contain any BMPs required by a pretreatment standard, local limits, state, or local law [403.8(f)(1)(iii)(B)(3)].
- Documentation of compliance with BMP requirements must be maintained as part of the SIU's and POTW's record-keeping requirements [403.12(o)].
- Control Authorities which perform sampling for SIUs must perform any required repeat sampling and analysis within 30 days of becoming aware of a violation [403.12(g)(2)].
- Require periodic compliance reports to comply with sampling requirements, require Control Authority to specify the number of grab samples necessary in a periodic and noncategorical SIU reports, and require noncategorical SIUs to report all monitoring results [403.12(g)(3), (4), (6)].
- Noncategorical SIUs are required to provide representative samples in their periodic monitoring reports [403.12(g)(3)].
- Require notifications of changed discharge to go to the Control Authority and the POTW, where the POTW is not the Control Authority [403.12(j)].
- How and when the POTW can designate a "duly authorized employee" to sign POTW reports [403.12(m)].

FISCAL IMPACT:

ATTACHMENTS:

[Ordinance](#)

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Sec. 38-92 – Abbreviations

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- (b) National Categorical Pretreatment standards
- (c) State Pretreatment standards
- (d) Local Limits
- (e) Right of Revision
- (f) Dilution

Sec. 38-96- General sewer use requirements for the Temple sewerage system

- (a) Prohibited Discharge Standards
- (b) National Categorical Pretreatment standards
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- (b) Pretreatment Charges and Fees
- (c) Gender
- (d) Headings
- (e) Amendments of Statutes

Sec. 38-108- Effective date

ORDINANCE NUMBER _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING ARTICLE V, ENTITLED, “INDUSTRIAL WASTE STANDARDS,” OF CHAPTER 38, ENTITLED, “WATER, SEWER AND SEWAGE DISPOSAL” OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, AND ALL ITS UNDERLYING ORDINANCES; AMENDING IN IT’S ENTIRETY ARTICLE V, ENTITLED, “INDUSTRIAL WASTES STANDARDS” OF CHAPTER 38, ENTITLED, “WATER, SEWER AND SEWAGE DISPOSAL”.

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

Part 1: *Article V, entitled, “Industrial Waste Standards,” of Chapter 38, entitled “Water, Sewers and Sewage Disposal,” of the Code of Ordinances of the City of Temple, Texas, all its underlying ordinances and their amending ordinances be, and hereby are repealed.*

Part 2: *A new Article V, entitled, “Industrial Wastes Standards,” of Chapter 38, entitled “Water, Sewers and Sewage Disposal,” of Chapter 38, entitled, “Water , Sewers and Sewage Disposal,” of the Code of Ordinances of the City of Temple, Texas is hereby adopted to read as follows:*

ARTICLE V. INDUSTRIAL WASTES STANDARDS

Sec. 38-90. General provisions, purpose and policy.

This ordinance sets forth uniform requirements for users of the publicly owned treatment works for the city and enables the city to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations (CFR) Part 403). The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- (c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable the city to comply with its Texas Pollutant Discharge Elimination System (TPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the publicly owned treatment works is subject.

This ordinance shall apply to all users of the publicly owned treatment works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Sec. 38-91. Administration.

Except as otherwise provided herein, the director of public works shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the director of public works may be delegated by the director to a duly authorized representative.

Sec. 38-92. Abbreviations.

The following abbreviations and or definitions, when used in this ordinance, shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- BMP - Best Management Practice
- BMR - Baseline Monitoring Report
- CFR - Code of Federal Regulations
- CIU - Categorical Industrial User
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd -gallons per day
- IU - Industrial User
- mg/l - milligrams per liter
- POTW - publicly owned treatment works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- SNC - Significant Noncompliance
- TCEQ - Texas Commission on Environmental Quality
- TPDES -Texas Pollutant Discharge Elimination System

- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- U.S.C. - United States Code

Sec. 38-93. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

“Act or The Act” shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251.

Administrative fine shall mean a punitive monetary charge unrelated to actual treatment costs which are assessed by the control authority rather than a court.

Approval authority shall mean the Texas Commission on Environmental Quality (TCEQ).

Authorized or duly authorized representative of the industrial user shall mean the person authorized to represent, sign, and submit documents in accordance with the following criteria:

(a) If the user is a corporation:

1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a Federal, State, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in paragraphs (a) through (c), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Temple.

Best management practices or BMPs shall mean the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 38-95 (a)[40 CFR 403.5(a)(1) and (b)]. BMPs include treatment

procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical oxygen demand or BOD shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).requirements, operating

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three (3) feet outside the inner face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

Bypass shall mean the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

Categorical industrial user shall mean an industrial user subject to categorical standards as established by the U. S. Environmental Protection Agency.

Categorical standard or pretreatment standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Cease and desist order shall mean an administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

Chemical oxygen demand or COD shall mean a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

City shall mean the city of Temple, the city council of Temple or the duly authorized representatives of the city.

Compliance order shall mean an administrative order directing a noncompliant industry to achieve or restore compliance by a date specified in the order.

Composite sample shall mean a sampling method consisting of either discrete or continuous samples collected in equal amounts and over equal time intervals. For discrete sampling, at least 12 aliquots shall be composited. Where a 24 hour composite sample is not feasible, four (4) grab samples may be collected in equal amounts and equal time intervals. All samples must be representatives of normal daily operations.

Consent order shall mean an administrative order embodying a legally enforceable agreement between the control authority and the noncompliant industrial user designed to restore the user to compliance status.

Control authority shall mean the city or duly authorized representatives of the city.

Daily limit or daily maximum limit shall mean the maximum allowable discharge of a pollutant over a calendar day or equivalent representative 24-hour period. Where daily maximum limits are expressed in units of mass and the daily discharge is calculated by multiplying the daily average concentration and total flow volumes in the same 24-hour period by a conversion factor to get the desired units. Where daily limits are expressed in terms of a concentration, the daily discharge is the composite sample value, or flow weighted average if more than one discrete sample was collected. Where flow weighting is infeasible, the daily

average is the arithmetic average of all samples if analyzed separately, or the same value if samples are composited prior to analysis.

Direct discharge shall mean the discharge of untreated wastewater directly to the waters of the State of Texas.

Environmental Protection Agency or EPA shall mean the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division director, or other duly authorized official of said agency.

Existing source shall mean any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Garbage shall mean solid wastes from the preparation, cooking, and dispensing food, and from the handling, storage, and sale of produce.

Grab sample shall mean a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Indirect discharge or discharge shall mean the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (4) of the Act, as amended.

Industrial user shall mean a source of indirect discharge which does not constitute a “discharge of pollutants” under regulations issued pursuant to Section 402 of the Act, (33 USC 1317) into the wastewater system (including holding tank waste discharged into the system).

Industrial wastes shall mean the liquid wastes from industrial processes as distinct from sanitary sewer.

Instantaneous maximum allowable discharge limit shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference shall mean a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and therefore, is a cause of a violation of the TPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under, or any more stringent State or local regulations:

Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local limit shall mean a specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

Medical waste shall mean isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly average shall mean the arithmetic mean of the effluent samples collected during a calendar month or specified 30-day period. Where the control authority has taken a sample during the period, it must be included in the monthly average if provided in time. However, where composite samples are required, grab samples taken for process control or by the control authority are not to be included in a monthly average.

National pollution discharge elimination system or NPDES Permit shall mean a permit pursuant to section 402 of the Act.

National pretreatment standards, pretreatment standard, or standard (i.e. prohibitive discharge standards, categorical pretreatment standards, and local limits) shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to Industrial users. This term includes prohibitive discharge limits established pursuant to 403.5.

New source

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (a) (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on site construction program:
 - i. any placement, assembly, or installation of facilities or equipment; or
 - ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water shall mean water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished

Pass through shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's TPDES permit, including an increase in the magnitude or duration of a violation.

Person shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

pH shall mean a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant shall mean dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pretreatment or treatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements shall mean any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standard or standard shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Process wastewater shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by product, or waste product.

Prohibited discharge standards or prohibited discharge shall mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 38-95(a) of this ordinance.

Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

Publicly owned treatment works or POTW shall mean “treatment works,” as defined by section 212 of the Act (33 U.S.C. *1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Sanitary sewer shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

Septic tank waste shall mean any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage shall mean human excrement and gray water (household showers, dish washing operations, etc.).

Sewage treatment plant shall mean an arrangement of devices and structures used for treating sewage.

Sewage works shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Sewer shall mean a pipe or conduit for carrying sewage.

Shall is mandatory; *may* is permissive or discretionary.

Significant industrial user shall mean:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blow down wastewater);
2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
3. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.

(c) Upon a finding that a user meeting the criteria in subsection (b), has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403((f) (6), determine that such user should not be considered a significant industrial user.

Slug load or slug shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 38-95(a) of this ordinance. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW’s regulations, local limits or permit conditions.

Standard industrial classification code or SIC code shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

Storm water shall mean any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Suspended solids shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

System shall mean all facilities for collecting, pumping, treating and disposing of sewage.

TBRSS pretreatment program shall mean the approved Temple-Belton Regional Sewerage System pretreatment program as amended.

Temple pretreatment program shall mean the approved city of Temple pretreatment program as amended.

Texas Commission on Environmental Quality (TCEQ) shall mean the State agency of that title, or where appropriate, the term may also be used as a designation for the director or other duly authorized official of said agency.

Upset shall mean an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment regulations because of factors beyond the reasonable control of the industrial user. This does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

User shall mean any person who contributes, causes, or permits the contribution of wastewater into city's wastewater system.

User permit shall mean permits issued to significant industrial users and categorical industrial users by the city as set forth in section 38-99 of this ordinance.

Wastewater shall mean liquid and any water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater treatment plant or treatment plant shall mean the portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Sec. 38-94. Duties of the director of public works.

It shall be the duty of the director to see that certain provisions of this article as pertaining to the use of public sewers are carried out, to determine if the sewage collected by the sewer collection system is treatable, and to supervise the treatment of the sewage.

Sec. 38-95. General sewer use requirements for the Temple-Belton Regional Sewerage System.

(a) Prohibited Discharge Standards.

1. General prohibitions.

- i. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

- ii. If in the opinion of the director, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local regulations, the city manager shall have the right to require such user to dispose of such waste otherwise, and prevent it from entering the system.
 - iii. The city shall require industrial users to control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset, provisions outlined in 40 CFR 403.16 shall prevail.
2. Specific Prohibitions. Except as hereinafter provided, no user shall introduce or cause to be introduced into the sewerage system of the city, directly or indirectly, any of the following pollutants, substances, or wastewater:
- i. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - ii. Wastewater having a pH less than 5.5 or more than 10.5 or otherwise causing corrosive material damage to the POTW or equipment;
 - iii. Solid or viscous substances in amounts which will cause obstruction resulting in interference to the flow in the POTW or interference with the proper operation of the sewage works,
 - iv. Wastewater with twenty-four (24) hour composite samples containing biochemical oxygen demand and/or total suspended solids in excess of eight (800) milligram per liter (mg/l).
 - v. Wastewater having a temperature greater than 40°C (104°F), or which will inhibit biological activity in the treatment plant resulting in interference,
 - vi. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 - vii. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - viii. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 38-97 (c) of this ordinance;
 - ix. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewer for maintenance;
 - x. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, inks, dye wastes and

vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's TPDES permit;

- xi. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- xii. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, contact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- xiii. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- xiv. Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;
- xv. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- xvi. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- xvii. Any water or waste which may contain more than ninety-six (96.0) milligrams per liter of fat, oil or grease or other substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
- xviii. Any garbage that has not been properly shredded;
- xix. Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment plant influent.
- xx. Wastewater taken as a grab sample which contains total phenols and/or formaldehyde in concentrations greater than 15.7 parts per million.
- xxi. Wastewater which contains hydrogen sulfide measured as H₂S or Fluoride that is discharged in an amount that would cause the levels of H₂S or Fluoride to increase in the treated effluent from the sewage treatment plant.

Hazardous wastes that are prohibited by Regulatory Agencies shall not be discharged to the sewer system.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(b) National Categorical pretreatment standards.

Users must comply with the categorical Pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

1. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or

effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same Standard, the director shall impose an alternate limit in accordance with 40 CFR 403.6(e).
3. A CIU may obtain a net/gross adjustment to a categorical Pretreatment standard in accordance with the following paragraphs of this Section.40 CFR 403.15:
 - i. Categorical Pretreatment standards may be adjusted to reflect the presence of pollutants in the Industrial user's intake water in accordance with this section. Any Industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the Industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (ii) of this section are met.
 - ii. Criteria.
 - a. Either (i) the applicable categorical Pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial user demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
 - b. Credit for generic pollutants such as biochemical oxygen demand, total suspended solids and oil and grease should not be granted unless the Industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
 - c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.
 - d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The city may waive this requirement if it finds that no environmental degradation will result.

(c) State pretreatment standards.

Users must comply with TCEQ pretreatment standards codified at 30 TAC 315.

(d) Local limits.

1. The director is authorized to establish local limits pursuant to 40 CFR 403.5(c).

2. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limit.

10.688 mg/l	Aluminum
0.121 mg/l	Arsenic
0.145 mg/l	Cadmium
1.478 mg/l	Chromium (T)
0.282 mg/l	Copper
0.524 mg/l	Cyanide
0.836 mg/l	Lead
0.001 mg/l	Mercury
0.207 mg/l	Molybdenum
0.662 mg/l	Nickel
96.00 mg/l	Oil and grease (T)
15.7 mg/l	Phenols/Formaldehyde combined
0.017 mg/l	Selenium
1.820 mg/l	Silver (T)
0.849 mg/L	TTO
0.661 mg/L	Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

3. The city may develop best management practices by ordinance or in individual wastewater discharge permits to implement categorical standards only.

(e) Right of revision.

The city and/or TBRSS reserve the right to establish, by ordinance, or in wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

(f) Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

Sec. 38-96. General sewer use requirements for the Temple Sewerage System.

(a) Prohibited discharge standards.

1. General prohibitions.

- i. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These

general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

- ii. If in the opinion of the director, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local regulations, the city manager shall have the right to require such user to dispose of such waste otherwise, and prevent it from entering the system.
 - iii. The city shall require industrial users to control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset, provisions outlined in 40 CFR 403.16 shall prevail.
2. Specific Prohibitions. Except as hereinafter provided, no user shall introduce or cause to be introduced into the sewerage system of the city, directly or indirectly, any of the following pollutants, substances, or wastewater:
- i. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - ii. Wastewater having a pH less than 5.5 or more than 10.5 or otherwise causing corrosive material damage to the POTW or equipment;
 - iii. Solid or viscous substances in amounts which will cause obstruction resulting in interference to the flow in the POTW or interference with the proper operation of the sewage works;
 - iv. Wastewater with twenty-four (24) hour composite samples containing biochemical oxygen demand (BOD) and/or total suspended solids (TSS) in excess of eight (800) milligram per liter (mg/l);
 - v. Wastewater having a temperature greater than 40°C (104°F), or which will inhibit biological activity in the treatment plant resulting in interference;
 - vi. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 - vii. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - viii. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 38-97(c) of this ordinance;
 - ix. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewer for maintenance;

- x. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's TPDES permit;
- xi. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- xii. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, contact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- xiii. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- xiv. Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;
- xv. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- xvi. Concentrations exceeding one hundred seventy-five (175) milligrams per liter of oil and grease, wax, fats and plastic or other substances which will solidify or become discernibly viscous at any temperature between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit.
- xvii. Any garbage that has not been properly shredded;
- xviii. Detergents, surface-active agents, or other substance which that might cause excessive foaming in the POTW;
- xix. Wastewater containing chemical oxygen demand in excess of fifty-three hundred (5300) milligrams per liter; or
- xx. Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment plant influent;
- xxi. Wastewater taken as a grab sample which contains total phenols and/or formaldehyde in concentrations greater than 7 parts per million;
- xxii. Wastewater which contains Hydrogen Sulfide measured as H₂S, Chlorides, or Fluoride that is discharged in an amount that would cause the levels of H₂S or Fluoride to increase in the treated effluent from the sewage treatment plant.

Hazardous wastes are prohibited by regulatory agencies shall not be discharged to the sewer system;

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(b) National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Part

405-471 are hereby incorporated.

1. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit in accordance with 40 CFR 403.6(e).
2. A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following paragraphs of this section.40 CFR 403.15.
 - i. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the Industrial user's intake water in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the criteria found in paragraph (ii) of this section are met:
 - ii. Criteria:
 - a. Either (i) the applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.
 - b. Credit for generic pollutants such as biochemical oxygen demand, total suspended solids, and oil and grease should not be granted unless the Industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
 - c. Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.
 - d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The city may waive this requirement if it finds that no environmental degradation will result.

(c) State pretreatment standards.

Users must comply with TCEQ codified at 30 TAC 315.

(d) Local Limits.

1. The director is authorized to establish local limits pursuant to 40 CFR 403.5(c).
2. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limit.

0.03 mg/l	Arsenic
0.36 mg/l	Cadmium
9.14 mg/l	Chromium (T)
1.05 mg/l	Chromium (Hex)
0.50 mg/l	Copper
0.60 mg/l	Cyanide (Grab)
7.30 mg/l	Lead
0.08 mg/l	Mercury
1.75 mg/l	N-Ammonia
1.00 mg/l	Nickel
0.12 mg/l	Silver
7.03 mg/l	Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

3. The city may develop best management practices by ordinance or in individual wastewater discharge permits to implement categorical standards only.

(e) Right of Revision.

The city reserves the right to establish, by ordinance, or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this ordinance.

(f) Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

Sec. 38-97. Pretreatment of wastewater.

(a) Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 38-95 for industries discharging to the TBRSS system and section 38-96 for industries discharging to the Temple sewerage system, of this ordinance within the time limitations specified by EPA, the State, or the city, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. When required by the director of public works, the owner of any property served by a building sewer carrying industrial wastes, shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the industrial wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. Detailed plans describing such facilities and operating procedures shall be submitted to the city for

review, and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this ordinance.

(b) Accidental discharge/slug control plans.

The city shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The city may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the director of any accidental or slug discharge, as required by section 38-100 (f) of this ordinance; and
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

The results of such activities shall be available to the approval authority upon request. All documentation associated with BMP's shall be included.

The city will evaluate each SIU within one year of being designated an SIU to determine whether each such SIU needs a plan or other action to control slug discharges.

(c) Hauled wastewater.

1. Septic tank waste may be introduced into the POTW only at locations designated by the city, and at such times as are established by the city. Such waste shall not violate section 38-95 for the TBRSS system or 38-96 for the Temple system of this ordinance or any other requirements established by the city. The city may require septic tank waste haulers to obtain individual wastewater discharge permits.
2. Septic tank waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the chief operator at the POTW. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the septic tank waste hauler to provide a waste analysis of any load prior to discharge.
3. No industrial, hazardous waste is allowed to be discharged to the POTW.
4. Septic tank haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of business the waste originated from, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Sec. 38-98. Wastewater discharge permits.

(a) Wastewater analysis.

When requested by the city, a user must submit information on the nature and characteristics of its wastewater within (60) days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(b) Wastewater discharge permit requirement.

1. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city, except that significant industrial user that has filed a timely application pursuant to section 38-98 (c) of this ordinance may continue to discharge for the time period specified therein.
2. The city may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in sections 38-104 and 38-105 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

(c) Wastewater discharge permitting: Existing connections.

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 60 days after said date, apply to the director for a wastewater discharge permit in accordance with section 38-98 (e) of this ordinance, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the city. For existing permitted user reapplication, see requirements in Section 38-99 (f).

(d) Wastewater discharge permitting: New connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 38-98 (e) of this ordinance, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

(e) Wastewater discharge permit application contents.

All users required to obtain a wastewater discharge permit must submit a permit application. The city may require all users to submit all or some of the following information as part of a permit application:

1. Identifying Information.
 - i. The name and address of the facility, including the name of the operator, owner, and facility contact person; and
 - ii. Contact information, description of activities, facilities, and plant production processes on the premises;

2. Environmental Permits. A list of any environmental control permits held by or for the facility.
3. Description of Operations.
 - i. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated process(es);
 - ii. Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - iii. Each product produced by type, amount, process or processes, and rate of production;
 - iv. Type and amount of raw materials processed and chemicals used (average and maximum per type);
 - v. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
4. Time and duration of discharges;
5. The location for monitoring all wastes covered by the permit;
6. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in section 38-95 (b)(1) [40 CFR 403.6(e)];
7. Measurement of pollutants.
 - i. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated process for existing sources.
 - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city, of regulated pollutants in the discharge from each regulated process.
 - iii. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - iv. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 38-100 (i) of this ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard.
 - v. Sampling must be performed in accordance with procedures set out in section 38-100 (j) of this ordinance.

8. Any requests for a monitoring waiver, or a renewal of an approved monitoring waiver, for a pollutant neither present nor expected to be present in the discharge based on section 38-100 (d) (3) [40 CFR 403.12(e)(2)];
9. Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.
10. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(f) Application signatories and certification.

1. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, to be, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

2. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to or together with any reports to be signed by an authorized representative.

(g) Wastewater discharge permit decision.

After receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. The director may deny any application for a wastewater discharge permit or require additional safeguards, reports or information. For users not meeting the criteria of significant industrial users, the director may also waive or defer a permit, or allow discharges in the interim while a permit is being prepared.

(h) Extraterritorial users.

No discharge originating in areas outside the territorial limits of the city shall be made into any sanitary sewer of the city without first obtaining a special permit, which shall be subject to and incorporate by reference the terms of this ordinance.

Sec. 38-99. Wastewater discharge permit issuance.

(a) Permit Duration.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(b) Permit Contents.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

1. Permits must contain:

- i. A statement that indicates wastewater discharge permit issuance date, expiration date and effective date;
- ii. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with Section 38-99(d) of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- iii. Effluent limits, including best management practices, based on applicable pretreatment standards;
- iv. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants or best management practice to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- v. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;
- vi. Requirements to control slug discharge, if determined by the city to be necessary; and

2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- i. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- ii. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- iii. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- iv. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- v. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

- vi. Other conditions as deemed appropriate by the city to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(c) Permit modification.

1. The city may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 - i. To incorporate any new or revised Federal, State, and local pretreatment standards or requirements;
 - ii. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
 - iii. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - iv. Information indicating that the permitted discharge poses a threat to the POTW, city personnel, or the receiving waters;
 - v. Violation of any terms or conditions of the individual wastewater discharge permit;
 - vi. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - vii. Revision of or a grant of variance from categorical Pretreatment standards pursuant to 40 CFR 403.13;
 - viii. To correct typographical or other errors in the wastewater discharge permit; or
 - ix. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 38-99 (d).

(d) Permit Transfer.

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the city and the director approves the wastewater discharge permit transfer. The notice to the city must include a written certification by the new owner or operator which:

1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
2. Identifies the specific date on which the transfer is to occur; and
3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Upon approval by the city of the permit transfer, a copy of the new permit will be provided to the new owner(s).

(e) Permit Revocation.

The city may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the director of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to the director of changed conditions pursuant to Section 38-100 (e) of this ordinance;
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports;
5. Tampering with monitoring equipment;
6. Refusing to allow the director timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application;
12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership with the exception for transfer provisions outlined in Section 38-99 (d). All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(f) Permit reissuance.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 38-98 (e) of this ordinance, a minimum of 60 days prior to the expiration of the user's existing wastewater discharge permit.

Sec. 38-100. Reporting requirements.

(a) Baseline Monitoring Reports.

1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in paragraph 2., below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the city a report which contains the information listed in paragraph (2), below. A new

source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

2. Users described above shall submit the information set forth below.
 - i. All information required in section 38-98 (e) (1)(i), section 38-98 (e) (2), section 38-98 (e) (3) (i), and section 38-98 (e) (6).
 - ii. Measurement of pollutants.
 - a. The user shall provide the information required in section 38-98 (e) (7) (i) through (iv).
 - b. The user shall take a minimum of one representative sample of daily operations to compile that data necessary to comply with the requirements of this paragraph.
 - c. Samples should be taken immediately downstream from the pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards.
 - d. Sampling and analysis shall be performed in accordance with section 38-100 (i) and 40 CFR Part 136.
 - e. The director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
 - f. The baseline report shall indicate the time, date and place of sampling and methods of analysis and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
 - iii. Compliance certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether Pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - iv. Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or operations and maintenance must be provided. The completion date in this schedule shall not be later than the compliance due established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirement set out in section 38-100(b) of this ordinance.

- v. All baseline monitoring reports must be certified in accordance with section 38-100(m) (1) of this ordinance and signed by an authorized representative.

(b) Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by section 38-100 (a) (2) (iv) of this ordinance:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
2. The user shall submit a progress report to the city no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
3. In no event shall more than nine (9) months elapse between increments or progress reports to the director.

(c) Reports on compliance with categorical pretreatment standard deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, 90 days following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in section 38-98 (e) (6) and (7) and section 38-100 (a) (2) (ii) of this ordinance. All compliance reports must be signed and certified in accordance with section 38-98 (f) of this ordinance.

(d) Periodic Compliance Reports.

1. All significant industrial users shall, at a frequency determined by the city but in no case less than twice per year (in June and December or dates specified by the control authority), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user.
2. All periodic compliance reports must be signed and certified in accordance with section 38-98 (f) of this ordinance.
3. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be

grounds for the user to claim that sample results are unrepresentative of its discharge.

4. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the director, using the procedures prescribed in section 38-100 (j) of this ordinance, the results of this monitoring shall be included in the report.
5. User shall report the average and maximum daily flows for the reporting period and identify where flow estimates are used.
6. All periodic compliance reports must be signed and certified in accordance with section 38-100 (m) (1) of this ordinance.

(e) Reports of changed conditions.

Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change.

1. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 38-98 (e) of this ordinance.
2. The director may issue a wastewater discharge permit under section 38-99 (f) of this ordinance or modify an existing wastewater discharge permit under section 38-99 (c) of this ordinance in response to changed conditions or anticipated changed conditions.

(f) Reports of Potential Problems.

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately notify the director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
2. Within five (5) days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
3. A notice shall be permanently posted in a prominent place advising employees who to call in the event of a discharge described in paragraph (1) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
4. Significant Industrial users are required to notify the city immediately of any changes at its facility affecting the potential for a slug discharge.

(g) Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the city may required.

(h) Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by a user indicates a violation, the user must notify the director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling. If the city has performed sampling, the user will repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days upon being notified by the city of any violations.

(i) Analytical Requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures. The tests shall be performed on the samples taken at the location designated in each industry's Permit.

(j) Sample Collection.

1. Except as indicated in Section 2 and 3 below, the user must collect wastewater samples using 24-hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the city. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
2. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
3. For sampling required in support of baseline monitoring and 90-day compliance reports required in section 38-100 (a) and (c) [40 CFR 403.12 (b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which

historical sampling data do not exist; for facilities for which historical sampling data is available, the city may authorize a lower minimum. For the reports required by paragraphs section 38-100 (d) [40 CFR 403.12(e) and 403.12(h)] the IU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

(k) Date of receipt of reports.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(l) Record keeping.

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under sections 38-95 (d) (3) and 38-96 (d) (3). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

(m) Certification Statements.

1. Certification of permit applications, user reports and initial monitoring waiver.
The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with section 38-98 (f); users submitting baseline monitoring reports under section 38-100 (a) (2) (v); users submitting reports on compliance with the categorical pretreatment standard deadlines under section 38-100 (c); and users submitting periodic compliance reports required by section 38-100 (d) (1) through (6). The following certification statement must be signed by an Authorized Representative as defined in Section 38-93:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Sec. 38-101. Compliance monitoring.

(a) Right of entry: inspection and sampling.

The city, or its representative(s), TBRSS representative(s), TCEQ representative(s), and EPA's representative(s) shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the representatives from the city, TBRSS, TCEQ and/or EPA, ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing specific responsibilities.
2. The city, T-BRSS, TCEQ, and/or EPA shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
3. The director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated, annually to ensure their accuracy.
4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be born by the user.
5. Unreasonable delays in allowing the director access to the user's premises shall be a violation of this ordinance.
6. When monitoring facility is constructed in the public right-of-way or easement, in an unobstructed location, the IU shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and whether constructed on public or private property, the monitoring facilities should be provided in accordance with the city's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the director to perform independent monitoring activities.
7. Search Warrant: If the city has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city, designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from the appropriate County or District Court.

Sec. 38-102. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the city's

inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user by furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the TPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Sec. 38-103. Publication of user in significant noncompliance.

- (a) The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the municipality where the POTW is located, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.
- (b) The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (3), (4), or (8) of this section) and shall mean:
 - 1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the sampled pollutant parameter taken during a six (6) month period exceed by any magnitude, a numeric pretreatment standard or requirement, including instantaneous limits as defined in section 38-93;
 - 2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limit, as defined by section 98-93 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease; and 1.2 for all other pollutants except pH);
 - 3. Any other violation of a pretreatment standard or requirement as defined in section 38-93 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
 - 4. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the city’s exercise of its emergency authority to halt or prevent such a discharge;
 - 5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s), which may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 38-104. Administrative enforcement remedies and administrative orders.

All enforcement actions shall follow the TCEQ approved enforcement response plan (ERP) and the enforcement response guide (ERG). This plan contains detailed procedures indicating how the control authority will investigate and respond to instances of industrial user noncompliance.

(a) Notification of Violation.

When the city finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. Within thirty (30) days of receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) Consent Orders.

The city may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to sections 38-104 (d) and (e) of this ordinance and shall be judicially enforceable.

(c) Show Cause Hearing.

The city may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) business days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in section 38-93 and required by section 38-

98 (f) (1). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(d) Compliance Orders.

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(e) Cease and Desist Orders.

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements; and
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(f) Emergency Suspensions.

The director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in section 38-104 (g) of this ordinance are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under sections 38-104 (c) or 38-104 (g) of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(g) Termination of Discharge.

In addition to the provisions in section 38-99 (e) of this ordinance, any user who violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the pretreatment standards in section 38-95 for TBRSS or 38-96 for the Temple Sewerage System, of this ordinance.
6. Problems existing at the headworks.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 38-104 (c) of this ordinance why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

Sec. 38-105. Judicial enforcement remedies.

(a) Injunctive Relief.

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment standard or Requirement, the director may petition the district court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The director may also seek such other action as is appropriate for legal and or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) Civil Penalties.

1. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$2000 but not less than \$1000 per violation, per day. In the case of a monthly or

other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

2. The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
3. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
4. Filing a suit for civil penalties shall not be a bar against or a prerequisite for, taking any other action against a user.

(c) Criminal Prosecution.

1. A user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment, or both.
2. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty up to \$2000, or be subject to not more than one year imprisonment, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
3. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment or both.
4. In the event of a second conviction, a user shall be punished by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment, or both.

(d) Remedies Nonexclusive.

The remedies provided for in this ordinance are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user.

Sec. 38-106. Affirmative defenses to discharge violations.

(a) Upset.

1. In an action brought in federal court and for the purposes of this section, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3), below, are met.
3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs or other relevant evidence that:
 - i. An upset occurred and the user can identify the cause(s) of the upset;
 - ii. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - iii. The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
5. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) Act of God.

1. The Act of God defense constitutes a statutory affirmative defense [Texas Water Code Section 7.25] in an action brought in municipal or state court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.
2. An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:
 - i. An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and
 - ii. The industrial user has submitted the following information to the POTW and the city within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance (if this information is provided orally, a written submission must be provided within five days):
 - a. A description of the event, and the nature and cause of the event;
 - b. The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
 - c. Steps being taken or planned to reduce eliminate and prevent recurrence of the event.
 - iii. Burden of proof. In any enforcement proceeding, the industrial user seeking to establish the act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.

(c) Prohibited Discharge Standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 38-95 (a) (1) (i) through (iii) for industries discharging to the TBRSS system or section 38-96 (a) (1) (i) through (iii) for industries discharging to the Temple sewerage system of this ordinance or the specific prohibitions in sections 38-95 (a) (2) (i) through (xxi). for TBRSS industries or sections 38-96 (a) (2) (i) through (xxii) for Temple industries of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference;
2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its TPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(d) Bypass.

1. For the purposes of this section:
 - i. Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility; and
 - ii. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.
3. Any other bypass must meet the following requirements:
 - i. If a user knows in advance of the need for a bypass, it shall submit prior notice to the director, at least ten (10) days before the date of the bypass, if possible.
 - ii. A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the report has been received within twenty-four (24) hours.
4. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:
 - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - iii. The user submitted notices as required under paragraph (3) of this section.
5. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in paragraph (4) of this section.

Sec. 38-107. Miscellaneous provisions.

(a) Review and approval; preliminary treatment; required facilities.

1. The admission into the public sewers of any waters or wastes having (1) a five-day biochemical oxygen demand greater than three hundred (300) parts per million (ppm) by weight, or (2) containing more than four hundred (400) parts per million by weight of total suspended solids, or (3) containing any quantity of substances having the characteristics described in section 38-95 for the TBRSS or section 38-96 for the city of Temple, or (4) having an average daily flow greater than five per cent (5%) of the average daily sewage flow of the city, shall be subject to the review and approval of the director. Where the director has approved the admission of (1) or (2) above into the public sewer, that discharge may be subject to a surcharge as determined by the director.
2. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the director and no construction of such facilities shall be commenced until said approvals are obtained in writing.

(b) Pretreatment Charges and Fees.

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

1. Fees for wastewater discharge permit applications including the cost of processing such applications;
2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
3. Fees for reviewing and responding to accidental discharge procedures and construction;
4. Fees for filing appeals; and
5. Fees to recover administrative and legal costs [not included in section 38-107 (a) (2) associated with the enforcement activity taken by the director to address IU noncompliance; and
6. Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the city.
7. Surcharges. After a review by the director, if a determination is made that the discharge is of such unusual strength and/or character that increased treatment within the sewer treatment plant would be required accompanied by increased treatment costs to the POTW, the discharge shall be subject to a surcharge. In no case will a discharge be accepted that will prevent the POTW from meeting its permit limits. The surcharge will be automatic beginning the third month for a user who has had two previous consecutive months with discharges of BOD or TSS which exceed the limits provided in 38-107 (a) (1) above. A surcharge is an additional charge by the POTW for the increased cost of handling discharge of

unusual strength and character, and shall not serve as a variance to the requirements of this ordinance, nor shall it serve to bar the POTW from bringing a criminal action or civil action under section 38-105 for violations of the provisions of this ordinance.

Surcharges for the treatment of discharges shall be determined as follows:

- i. A basic sewer charge of two hundred fifty dollars (\$250.00) per million gallons times the monthly volume discharged in millions of gallons.
- ii. A BOD surcharge of one dollar (\$1.00) per million gallons times the difference between the BOD expressed in milligrams per liter, and three hundred (300) milligrams per liter; all multiplied times the monthly volume discharged expressed in millions of gallons.
- iii. A TSS surcharge of one dollar (\$1.00) per million gallons times the difference between the TSS expressed in milligrams per liter, and four hundred (400) milligrams per liter; all multiplied times the monthly volume discharged in millions of gallons.
- iv. The basic sewer charge, BOD, and TSS surcharges will be reviewed at periodic intervals as determined by the director. Changes in the aforementioned surcharges shall be authorized by resolution of the city council and shall be binding on all city agreements for the treatment of industrial wastes.

(c) Gender.

As used in this Chapter, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number, shall be deemed to include the others.

(d) Headings.

The headings above the various provisions of this Chapter have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing the said provisions.

(e) Amendments of Statutes.

Reference made to any State or Federal statutes or to any local ordinances includes and is intended to refer to those statutes and/or ordinances as they presently exist or as they may hereafter be amended to read.

Sec. 38-108. Effective date.

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

Sec. 38-109 - 38-125. Reserved.

Part 3: If any section or part of any section, paragraph, or clause of this ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to

invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this ordinance.

Part 4: It is the intention of the city council that this ordinance shall become a part of the Code of Ordinances of the city of Temple, Texas, and may be renumbered and codified therein accordingly.

Part 5: All ordinances and parts of ordinances inconsistent or in conflict herewith are hereby repealed.

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

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

PASSED AND APPROVED on First Reading on the **6th** day of **October**, 2011.

PASSED AND APPROVED on Second and Final Reading on the **20th** day of **October**. 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Community Services Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-30: Consider adopting an ordinance authorizing amendments to Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards.

P&Z COMMISSION RECOMMENDATION: At its June 6, 2011 meeting, the Planning and Zoning Commission voted 7/0 to recommend approval of the requested amendment to the Unified Development Code with the exceptions of removing Special District restrictions for donations boxes so that non-profit organizations still be allowed to have them, remove provision requiring location behind primary structure, and add a permit required for donation boxes, free of charge, for a 12 month period.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for October 20, 2011.

ITEM SUMMARY: Please refer to the Planning and Zoning Commission staff report and minutes of case Z-FY-11-30, from the Planning and Zoning meeting, June 6, 2011. Shipping containers, also referred to as connexes have been gaining in popularity as alternative storage solutions as businesses move, outgrow their site or have a need to store seasonal items. These types of containers and others have shown up in several areas of the City. Code Enforcement and the Planning Department have had numerous requests to review the placement and length of time that shipping containers may stay in one location and what types are permitted.

There are currently no rules regulating the location, size, condition or type of storage containers. This proposed amendment is an attempt to address the different scenarios where this alternative type of storage is appropriate and what requirements need to be in place.

Staff presented this item for informational purposes at the Planning and Zoning Commission workshop on April 18, 2011. Since the workshop, staff has made some amendments to the ordinance that would remove the permit requirements for portable storage containers and removed the landscaping requirement for shipping container screening.

On a similar note, the placement of small and large donation or collection boxes has been occurring on a more frequent basis and this ordinance framework provides the opportunity to address those uses as well. Staff has included a section addressing donation boxes in the proposed ordinance.

After the Planning and Zoning Commission public hearing, staff was requested to add the proposed amendments to the list of items brought before City Council discussion in a workshop on July 12, 2011. Further discussion was requested by City Council. On August 18, 2011, staff presented the draft portion of the ordinance concerning only donation boxes.

A third workshop was held on September 1, 2011, which involved the remainder of the proposed ordinance including stipulations concerning portable storage units, semi-trailers, and shipping containers. During the discussions some options for improvements to the ordinance were discussed.

They include:

- Increasing the size from 16' to 20' for portable storage containers
- Increasing the permitted size for donation boxes from 4' wide to 6' wide x 4'deep x 6' tall
- Permitting large format retail to use 40' containers for temporary and permanent storage

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on May 26, 2011, in accordance with state law and local ordinance. Staff received feedback from the owners of Armadillo Box after the Public Hearing at the Planning and Zoning Commission was held. They requested the size of portable storage containers be increased from 16' to 20'. They also had concerns about screening requirements.

FISCAL IMPACT: NA

ATTACHMENTS:

[Proposed Amendment to UDC](#)
[P&Z Staff Report \(Z-FY-11-30\)](#)
[P&Z Minutes \(June 6, 2011\)](#)
[Ordinance](#)

Article 5 Use Standards

Storage Container Sales and Rental

- 1) Add the non-residential entry Storage Container Sales and Rental to the use table as “P” in LI and HI

Article 7 General Development Standards

7.6.8 Outdoor Storage

....

A. Residential and MU Districts

1. Outdoor Storage is not permitted.
2. Outdoor collection boxes are permitted only on the premises of an operating non-profit faith based organization, institutional use or school. Permitted collection boxes must comply with Sec. 7.6.8.C.

B. CA, O-1, O-2 GR, NS, C, LI and HI Districts

Outdoor storage is permitted as follows.

1. Screening in NS, GR, O-1, O-2 and CA

....

2. Screening in C and LI

....

3. Screening in HI

....

4. Business Park Exception

....

C. Outdoor Collection Boxes

1. Where Permitted

- a. Outdoor collection boxes are permitted only on the immediate site of an operating non-profit faith based organization, institutional use or school in accordance with the following standards.

2. Number Permitted and Location

- a. A maximum of one collection box is permitted per any 500 linear feet of street frontage, regardless of property ownership.
- b. Collection boxes are not permitted in required parking spaces.
- c. Collection boxes are not permitted in landscaped areas.

3. Dimensions and Specifications

- a. No permitted collection box may have dimensions greater than four feet in length, six feet in height or four feet in width.
- b. All permitted collection boxes must be placed at least 50 feet from all public right-of-way.
- c. All permitted collection boxes must be maintained in repaired and painted condition or will be subject to immediate removal.
- d. All permitted collection boxes must be regularly emptied and not allow overflow or accept large donations outside of box or will be subject to immediate removal.

4. Permits Required

An applicant must apply for and receive a permit for the placement of a collection box. The permit for such collection box must be displayed on the container. The permit expires 365 days after approval. The applicant must apply for and receive another permit prior to the expiration of the original permit. No time limits are implied; however the containers must remain in good condition and conform to the location and size specifications in this section.

D. Semi-Trailers as Storage Containers

1. Not Permitted

Semi-trailers, with or without wheels, are prohibited for use as temporary or permanent storage.

E. Temporary Portable Storage Containers

1. Exceptions

The term "Temporary Portable Storage Container" does not refer to the Storage Container Sales and Rental businesses that provide such containers.

2. Where Permitted

- a. Temporary portable storage containers are permitted in all districts in accordance with the following standards.
- b. Temporary portable storage containers are not permitted on lots without a principal structure.

3. Time Limit

- a. Temporary portable storage containers are allowed for no more than a total of 30 days in any consecutive period, unless the Director of Construction Safety has issued a remodeling permit for a building on the property, at which time the unit may remain on the property for the duration of the remodel permit. Such container must be removed before the Director of Construction Safety issues a Certificate of Occupancy for the remodeled building.
- b. Temporary portable storage containers may be placed on property no more than two 30 day periods unless approved by the Planning Director.

4. Number Permitted

A maximum of two portable storage containers are permitted per site.

5. Dimensions and Specifications

- a. No temporary portable storage container may have dimensions greater than 16 feet in length, eight feet in height or eight feet in width, nor contain more than 1,024 cubic feet.
- b. All temporary portable storage containers must be in a condition free from rust, peeling paint and other forms of deterioration.
- c. Temporary portable storage containers must be located only on an improved surface of concrete or asphalt or an existing residential driveway. Such containers may be placed on other locations if the Director of Construction Safety has issued a remodel permit for a building on the property.
- d. Temporary portable storage containers must be placed a minimum five feet from any property line.

- e. Must not encroach into any required setback, right-of-way or landscape area.
- f. No hazardous material may be stored in such containers.

F. Shipping Containers - Temporary Storage

1. Exceptions

The term “Temporary Storage” in shipping containers does not refer to City-permitted short-term construction storage.

2. Where Permitted

- a. Shipping containers as temporary storage are permitted in the following locations in accordance with the standards in this subsection:
 - i. Large Format Retail Use in any non-residential district
 - ii. Neighborhood Service Zoning District
 - iii. General Retail Zoning District
 - iv. Office – 1 Zoning District
 - v. Office – 2 Zoning District
 - vi. Central Area Zoning District
 - vii. Commercial Zoning District
 - viii. Light Industrial Zoning District
 - ix. Heavy Industrial Zoning District
- b. Shipping containers as temporary storage are not permitted on lots without a principal structure.
- c. Temporary storage in shipping containers in the Agricultural District is exempt from this regulation if not visible from public right-of-way.

3. Permits Required

An applicant may receive a maximum of two permits per year for temporary storage in a shipping container. The permit for such storage must be displayed on the container. The permit expires 30 days after approval. The shipping container must be removed from the property prior to the expiration of the permit.

4. Number Permitted

A maximum of one shipping container is permitted per site.

5. Dimensions and Specifications

- a. No temporary shipping container may have dimensions greater than 20 feet in length, 10 feet in height or eight feet in width.
- b. All shipping containers must be in a condition free from rust, peeling paint and other forms of deterioration.
- c. The shipping container must be placed behind the principal structure, must not be visible from the public right-of-way and must not encroach into any required setback or required parking space.

G. Shipping Containers - Permanent Storage

1. Exceptions

- a. The term “Permanent Storage” in shipping containers does not refer to Storage Container Sales and Rental businesses that store and provide shipping containers.

- b. Industrial Use

Any uses permitted in the Use Table in Section 5.1 that are located in a public or quasi-public business park in existence on **(Insert Ordinance’s Effective Date)** or that are located in the City Rail Park or Transload Center may use shipping containers for permanent outdoor storage without compliance with the standards in this subsection.

2. Where Permitted

- a. Shipping containers as permanent storage are permitted in the following locations in accordance with the standards in this subsection:
 - i. Large Format Retail Use in any non-residential district
 - ii. Commercial Zoning District
 - iii. Light Industrial Zoning District
 - iv. Heavy Industrial Zoning District
- b. Permanent shipping containers are not permitted on lots without a principal structure.
- c. Permanent storage in shipping containers in the Agricultural District is exempt from this regulation if not visible from public right-of-way.

3. Permits Required

All permanent shipping containers must display a permit issued by the Director of Construction Safety.

4. Number Permitted

a. General Use

- i. Maximum of one shipping container is permitted for permanent outdoor storage per 10,000 square feet of gross floor area of the principal structure.
- ii. No property may contain more than three shipping containers used for permanent outdoor storage.

b. Large Format Retail Use

Retail Sales and Service uses permitted by the Use Table in Section 5.1 and over 45,000 square feet in gross floor area may use any number of shipping containers as permanent outdoor storage, even in the NS, GR, O-1, O-2 or CA zoning districts, if the containers comply with the standards in this subsection.

5. Dimensions and Specifications

a. Size

No permanent shipping container may have dimensions greater than 20 feet in length, 10 feet in height or eight feet in width.

b. Location

A shipping container used for permanent outdoor storage:

- i. Must be placed behind the front façade of the principal structure,
- ii. Must not encroach into any required setback, right-of-way or landscape area; and
- iii. Must not be in a required parking space

c. Alternative Compliance

The Planning Director may approve alternate compliance with this Section pertaining to location of shipping containers if constraints exist on the subject property that makes compliance with the standards above impractical or impossible. The applicant must submit a detailed site plan and narrative stating constraints and affirming any alternate mitigation to the

Planning Department. This documentation will be filed with the approved Certificate of Occupancy.

- i. Alternate mitigation includes landscape screening in addition to required screening.

d. Screening Required

The container must be screened with a wood or masonry fence a minimum of eight feet in height.

- i. The fence or wall must be equipped with self-closing and latching gates.

H. Nonconforming Containers

A property owner must bring any shipping container used for outdoor storage in existence on [insert ordinance's effective date] into compliance with the standards of this Section or must remove such shipping containers from his or her property by [insert ordinance's effective date plus 1 year].

I. Enforcement

See Article 10 entitled Enforcement, Violations and Penalties.

Article 11 Definitions

Large Format Retail. Large buildings or stores with footprints that generally range from 45,000 square feet or larger operated as a single-story retail sales or services structure, typically a three-story mass standing more than 30 feet tall. Also referred to as Big Box Retail, Power Centers or Superstores.

Permanent Storage. Continuous storage of goods or materials onsite within conforming storage containers.

Semi-Trailer. A detachable trailer for hauling freight, with wheels at the rear end, the forward end being supported by the rear of a truck tractor when attached. Also referred to as a Semi.

Shipping Container. A reusable intermodal transport and storage unit for products and raw materials. Standard size is 8 feet wide by 8–10 feet tall by 20 or 40 feet in length, standardized for placement on railroad flatbed cars. Ocean shipment containers can be as high as 45 feet (See Sections 7.6.8.E(a) and F(a) for permitted sizes). Such containers are constructed of metal or plastic, with or without tops, and can be tanks or refrigerated containers. Also referred to as

Seacan or Conex.

Temporary Portable Storage Container. A container used for temporary on-site storage that a person rents from a company providing such containers. Also referred to as PODS, UNITS or other comparable containers.

Temporary Storage. Short-term storage of goods or materials onsite within conforming storage containers.



PLANNING AND ZONING COMMISSION AGENDA ITEM

06/6/11
Item #9
Regular Agenda
Page 1 of 2

APPLICANT / DEVELOPMENT: City of Temple

CASE MANAGER: Autumn Speer, Director of Community Services

ITEM DESCRIPTION: Z-FY-11-30 Hold a public hearing to discuss and recommend action on amendments to Unified Development Code Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards. (City of Temple)

BACKGROUND: Shipping containers, also referred to as connexes have been gaining in popularity as alternative storage solutions as businesses move, outgrow their site or have a need to store seasonal items. These types of containers and others have shown up in several areas of the City. Code Enforcement and the Planning Department has had numerous requests to review the placement and length of time that shipping containers may stay in one location and what types are permitted.

There are currently no rules regulating the location, size, condition or type of storage containers. This proposed amendment is an attempt to address the different scenarios where this alternative type of storage is appropriate and what requirements need to be in place.

Staff presented this item for informational purposes at the Planning and Zoning Commission workshop on April 18, 2011. Since the workshop, staff has made some amendments to the ordinance that would remove the permit requirements for portable storage containers and removed the landscaping requirement for shipping container screening.

On a similar note, the placement of small and large donation or collection boxes has been occurring on a more frequent basis and this ordinance framework provides the opportunity to address those uses as well. Staff has included a section addressing donation boxes in the proposed ordinance.

SUMMARY OF ORDINANCE AMENDMENTS:

Article 5: Adding the use Storage Container Sales and Rental to the use table as permitted in LI and HI Zoning districts.

Article 7: Adding standards for outdoor collection boxes, semi-trailers, temporary portable storage containers, and shipping containers:

Collection Boxes – Permitted on site of non-profit faith based organizations, institutional use or school. Not permitted in special districts. They must be no greater than 4' x 4' x 6' tall. Specific locations are outlined. No permit is required.

Semi-trailers – Prohibited for Temporary storage.

Portable Storage Containers – Permitted in all districts for 30 day periods, no more than 2 per site. Specific locations are outlined. No permit is required.

Shipping Containers – TEMPORARY – Permitted in all non-residential districts. Permit is required for 30 day periods, up to twice per year for one container no greater than 20X8X10. Specific locations are outlined.

Shipping Containers – PERMANENT – Permitted in C, LI, and HI zoning districts. Permit is required for up to three containers no greater than 20X8X10. Specific locations and screening requirements are outlined.

Shipping Containers – PERMANENT LARGE FORMAT RETAIL – Permitted in non-residential districts with Large Format user (60,000 sq ft). Permit is required for unlimited containers no greater than 20X8X10. Specific locations and screening requirements are outlined.

Existing Non-conforming Containers – The proposed code amendment allows one year from the effective date of this ordinance to allow users time to bring existing shipping containers into compliance.

Article 11: Adding definitions for large format retail, permanent storage, semi-trailer, shipping container, temporary portable storage container, and temporary storage.

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on May 26, 2011, in accordance with state law and local ordinance. As of Wednesday, June 1, 2011, no citizens or property owners have provided any feedback on this proposal.

STAFF RECOMMENDATION: Staff recommends approval of the proposed amendment to UDC Unified Development Code Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Attachment 1: Proposed Amendment to UDC Sections 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions

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

TUESDAY, SEPTEMBER 6, 2011

ACTION ITEMS

Item 9: Z-FY-11-30 – Hold a public hearing to discuss and recommend action on amendments to Unified Development Code Section 5.1, Section 7.6 and Article 11 of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semitrailers, shipping containers, temporary portable storage containers and donation boxes

Ms. Autumn Speer, Director of Community Services, stated one new item for donation boxes has been added to this issue since the last presentation. There are numerous donation boxes around town which have no consistency of standards.

Donation boxes would be permitted on the site of any non-profit faith-based organization and any institutional use or school, except they would be prohibited in Special District such as TMED, I-35, and Central Area (CA). There will be no time limit on the permit, the number of boxes would be limited to one per 500 linear feet, the limited size would be 4x4x6 and they should be placed a minimum of 50 feet from the right-of-way, located behind the primary structure.

Use of semi-trailers has not change and remains prohibited for temporary or permanent storage. They are allowed for loading and unloading of transit goods but not for storage purposes.

Portable storage containers (i.e., PODS) do not need a permit. There is a consecutive 30 day time period twice a year, two per site, standard size, five feet from property line, driveway if residential, and paved area if non-residential.

Shipping containers for all temporary uses are permitted in all non-residential uses (i.e., connexes). A permit will be required, 30 day time limit twice a year, one per site, located behind the structure and cannot be visible.

Permanent shipping containers are allowed in C, LI, HI and all large format users (45,000 square feet or over). Agricultural, rail and business park uses are exempt. A permit will be required, no time limit, one per 10,000 square feet or a maximum of three, 20x8x10 (smaller size), and located will be behind the structure, not within setbacks or in parking spaces. The Planning Director will have discretion in making exceptions for site constraints, such as Academy.

Permanent large format users (i.e., Wal-Mart, Sam's) have no maximum but they have to be screened. A permit will be required. Screening is still required but the landscaping requirements have been removed.

For non-conforming users there would be a 12-month period to comply. Code Enforcement would document existing cases, prepare a written letter with the Ordinance and requirements and allow 12 months to rectify the situation.

Commissioner Staats stated he did not agree with the donation boxes being located behind the main structure since people would not see them, making them useless. Ms. Speer stated this was only a baseline to work with and items may be changed. Staff does not want donation boxes to be right in the front of the street dropped wherever seems convenient. Chair Talley and Commissioner Pilkington were in agreement with Commissioner Staats and it was suggested having a permit, possibly free.

Commissioner Staats also disagreed with the Special Districts, especially if a church is located there, and would like that removed.

Chair Talley opened the public hearing.

Mr. Charles Viktorin, 914 Yorktown Drive, owner of PODS Central Texas stated he welcomed the standards Temple has brought to the industry. Mr. Viktorin was pleased that the permit requirement was removed.

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

Commissioner Staats made a motion to approve Z-FY-11-30 as presented with the exceptions of removing Special District restrictions and non-profit organizations still be allowed to have them, remove provision requiring location behind primary structure, and add a permit required for donation boxes, free of charge, for a 12 month period and

Commissioner Rhoads made a second.

Motion passed: (7:0)

Vice-Chair Martin and Commissioner Brown absent

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2010-4413, THE "UNIFIED DEVELOPMENT CODE," SECTION 5.1, "USE STANDARDS," SECTION 7.6, "GENERAL DEVELOPMENT STANDARDS," AND ARTICLE 11, "DEFINITIONS," TO ESTABLISH STORAGE CONTAINER SALES OR RENTAL AS A PERMITTED USE; TO PROVIDE STANDARDS FOR THE USE OF SEMI-TRAILERS, SHIPPING CONTAINERS, TEMPORARY PORTABLE STORAGE CONTAINERS AND DONATION BOXES; AND TO ESTABLISH DEFINITIONS RELATED TO SUCH STANDARDS; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 16, 2010, the City of Temple adopted Ordinance No. 2010-4413, the "Unified Development Code," which is a consolidated set of land development regulations related to zoning, platting and site design;

Whereas, at its June 6, 2011, meeting the Planning and Zoning Commission voted to amend the UDC to establish storage container sales or rental as a permitted use; to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes; and to establish definitions related to such standards, and the Staff recommends this action; and

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

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

Part 1: The City Council approves an amendment to Ordinance No. 2010-4413, the "Unified Development Code," by amending Section 5.1, entitled, "Use Standards," Section 7.6, entitled, "General Development Standards," and Article 11, entitled, "Definitions," said amendments being more fully described in Exhibit A, attached hereto for all purposes.

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **6th** day of **October**, 2011.

PASSED AND APPROVED on Second Reading on the **20th** day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item #8
Regular Agenda
Page 1 of 4

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING Z-FY-11-44: Consider adopting an ordinance authorizing a rezoning from Commercial District (C) to Planned Development – Two-Family District (PD-2F) on Lot 1, Block 1, West Ridge Commercial Addition, Phase 1, being 3.384 - acres located on the southwest corner of 205 Loop and East Ridge Boulevard.

P&Z COMMISSION RECOMMENDATION: At its September 6, 2011 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of the rezoning from C to PD-2F subject to the PD site plan.

Commissioners 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 October 20, 2011.

Staff recommends approval of a rezoning from C to PD-2F subject to the PD site plan for the following reasons:

1. While the request does not comply with the Future Land Use and Character Map, it proposes a less intensive use than recommended on the map and is located adjacent to an area currently under construction as two-family homes and single-family homes.
2. The request complies with the Thoroughfare Plan.
3. Public facilities serve the property.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-44, from the Planning and Zoning meeting, September 6, 2011. The applicant, Grady Rosier, of Temple Real Estate Investments, requests the Planned Development rezoning to develop 13 two-family lots (26-residential units) on 3.384-acres.

While the original zoning, Commercial, allows two family units to be built in the district, this property is slightly narrower than is needed for the required lot depth of 100-feet on 4 of the proposed lots (1, 2, 3 and 13 on the attached PD site plan and excerpted below). The depth on these lots ranges from 73 ft. to 93 ft. In exchange for approval of shallower lots, the applicant proposes increased landscaping

for each lot, providing an entry feature on both sides of the street proposed to be built, and constructing a solid wood fence with stone columns along the bordering rights-of-way



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, a less intense commercial designation on the map. It would be typified by a large commercial development surrounded by large landscape buffers. The rezoning request does not comply with the FLUCM.

Two-family dwellings are a less intensive use than a commercial use. The loss of this land as a commercial generator for many decades is perhaps balanced with the number of proposed residential units to be placed on the ground, thereby adding to new rooftops which stimulate retail growth within the City. The area is also adjacent to single-family and two-family land uses, which may be more appropriate than a commercial land use at this location, serving as a buffer to the single family uses in this area. If approved, this property would need to be added to the list of changes to the Future Land Use and Character Map that are needed.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates 205 Loop as a Collector Road. The rezoning request to PD-2F, Planned Development Two-Family, complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

Publicly-owned water and sewer lines are available for extension to the property.

Temple Master Trails Plan Map

The Sidewalk and Trails Plan does not designate any trails near this property. A sidewalk is required along one side of 205 Loop.

Additionally, City park property is directly adjacent to this land. This residential use will provide more possible users of the park and to the adjacent trail located south along W. Adams Avenue.

PUBLIC NOTICE:

Eight notices were sent regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. As of Wednesday, August 31th, 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 August 26th, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Aerial](#)

[Future Land Use and Character Map](#)

[Zoning Map](#)

[Utility Map](#)

[Thoroughfare Plan Map](#)

Notice Map
Landscaping Narrative
Site Plan
P&Z Staff Report (Z-FY-11-44)
P&Z Minutes (September 6, 2011)
Ordinance




Z-FY-11-44

C to PD - C
Lot 1, Block 1, West Ridge Commercial, Phase 1

South Corner of 205 Loop
and East Ridge Blvd.



 ZFY 11-44

2010 Bell County Aerial

Feet 0 200 400 600 800

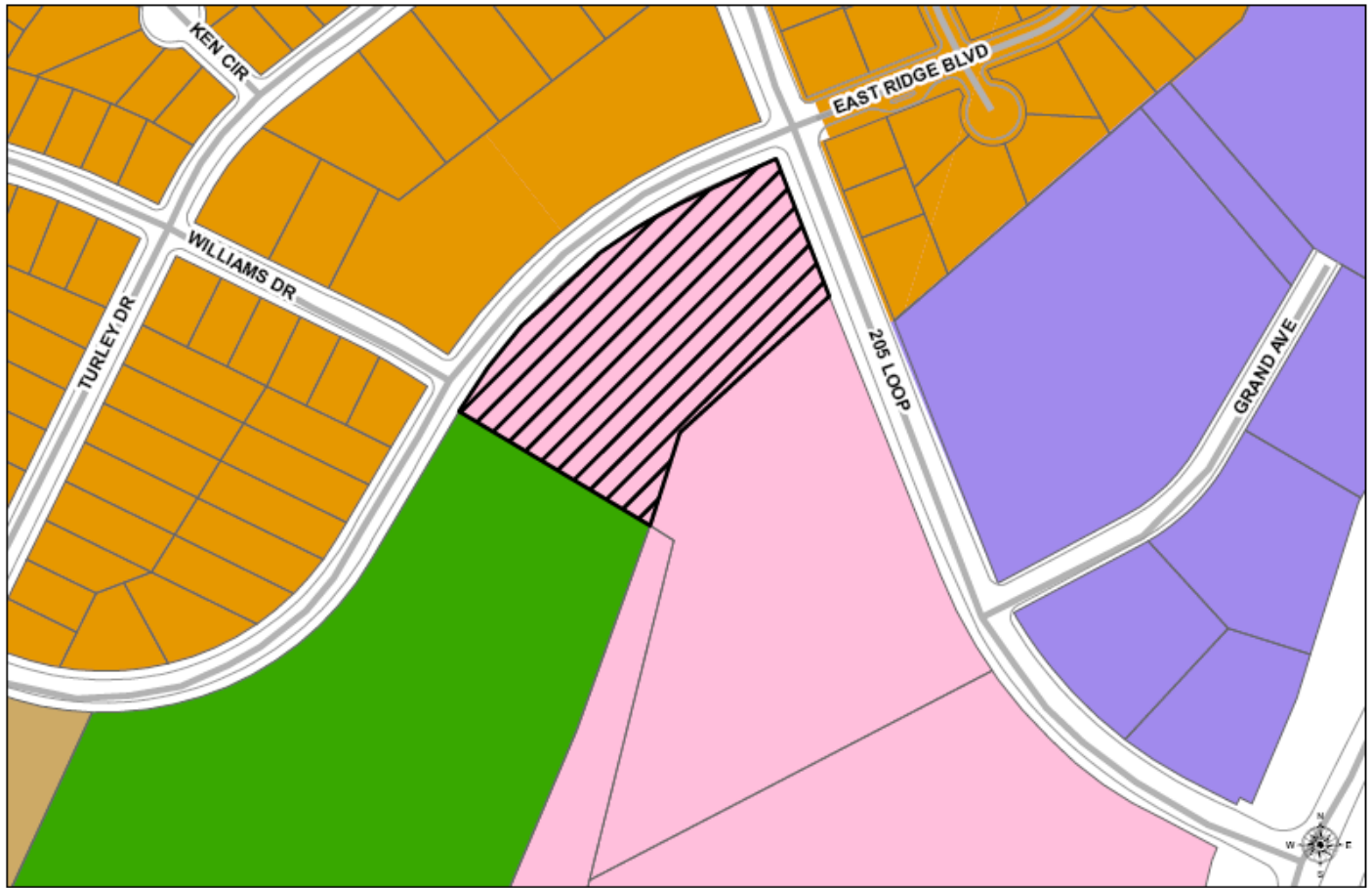
LMatlock Planning 08.12.11



Z-FY-11-44

C to PD-C
Lot 1, Block 1, West Ridge Commercial

South Corner of 205 Loop
and East Ridge Blvd.



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 11-44 | 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 = 196 feet

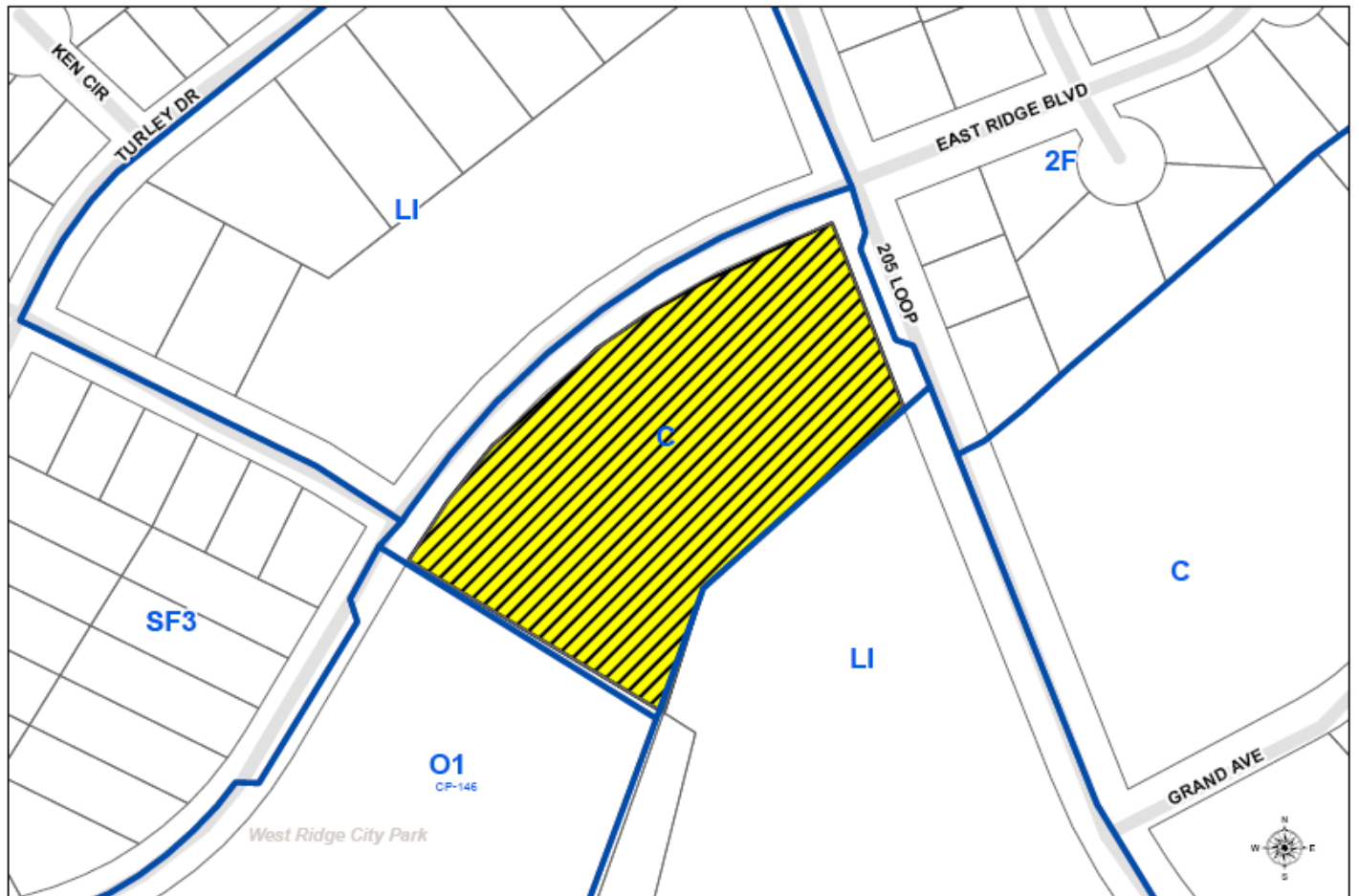
LMatlock Planning 08.11.11



Z-FY-11-44

C to PD-C
Lot 1, Block 1, West Ridge Commercial, Phase 1

South Corner of 205 Loop
and East Ridge Blvd.



ZFY 11-44

Zoning Districts

Public Streets

Feet 0 200 400 600

LMatlock Planning 08.12.11



Z-FY-11-44

C to PD-C
Lot 1, Block 1, West Ridge Commercial, Phase 1

South Corner of 205 Loop and East Ridge Blvd.



ZFY 11-44

Domestic Water Line

Fire Hydrant

Sanitary Sewer Line

Public Street

Feet 0 200 400 600

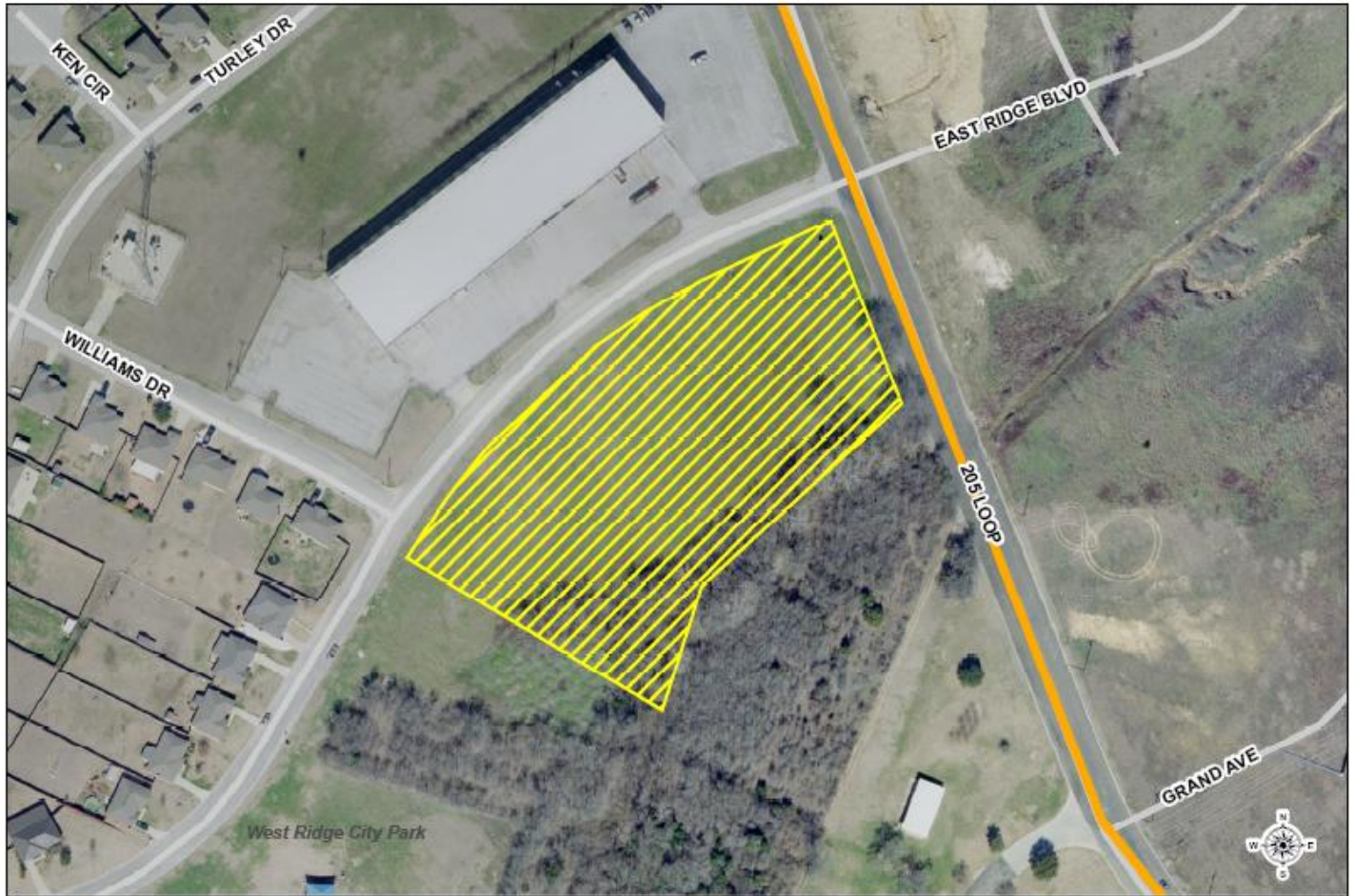
LMatlock Planning 08.12.11



Z-FY-11-44

C to PD-C
Lot 1, Block 1, West Ridge Commercial, Phase 1

South Corner of 205 Loop
and East Ridge Blvd.



ZFY 11-44



Collector Class Street



Local Class Street

Feet 0 200 400 600

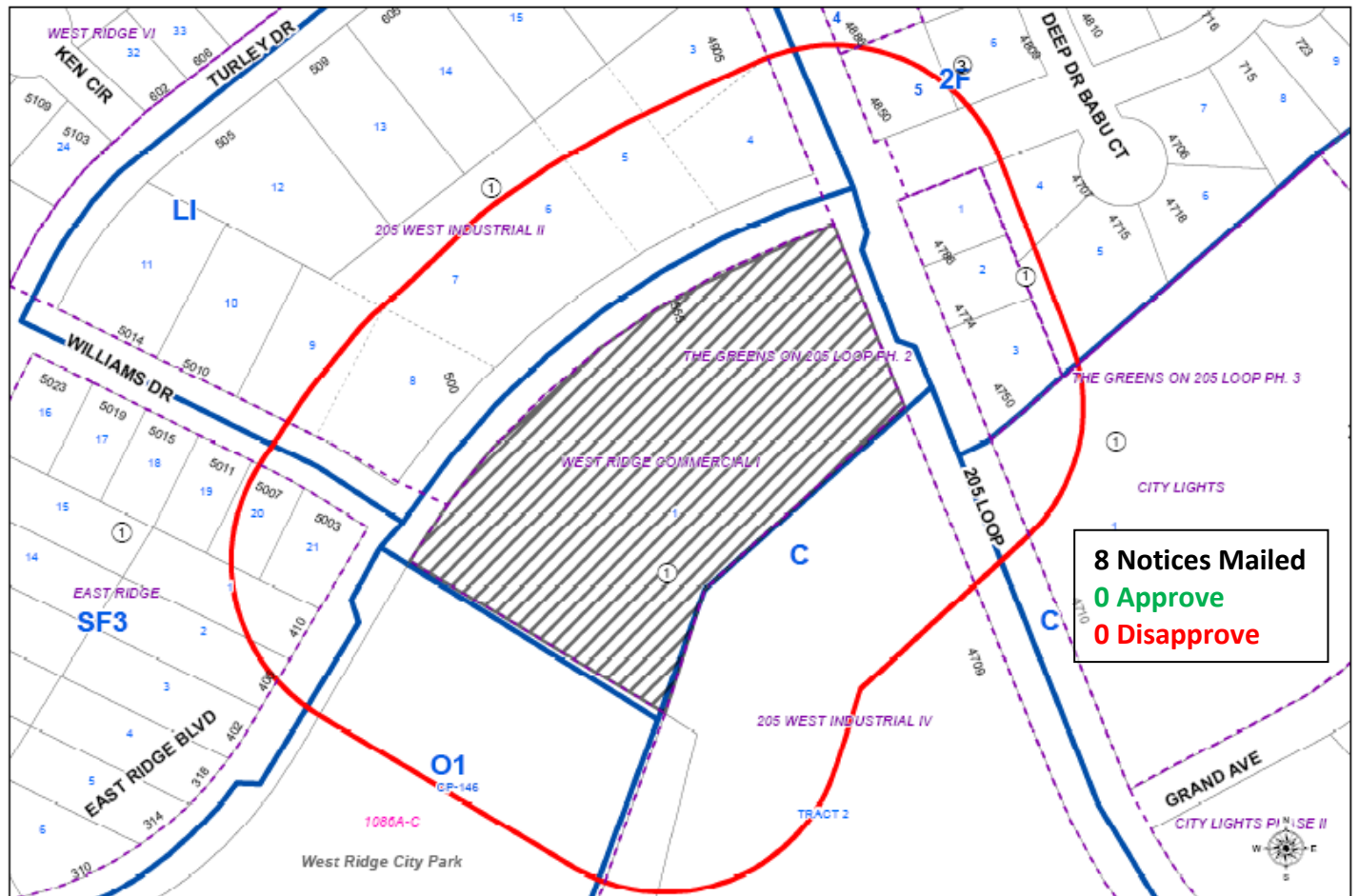
I Matlock Planning 08.12.11



Z-FY-11-44

C to PD-C
Lot 1, Block 1, West Ridge Commercial, Phase 1

South Corner of 205 Loop
and East Ridge Blvd.



8 Notices Mailed
0 Approve
0 Disapprove

15 West Central Avenue
Temple, Texas 76501
Phone: 254.774.9611
Fax: 254.774.9676
www.beachengineers.com



August 31, 2011

City of Temple
Planning & Zoning
Leslie Matlock
2 North Main
Temple, TX 76501

Re: Landscaping at proposed lots for West Ridge development.

Mrs. Matlock,

The proposed lots at the West Ridge development will have (2) – 2" caliper trees of at least 5 foot height per lot and the lots will be fully sodded as a part of the PD-2F rezoning.

Please let me know if you need anything else.

Sincerely,

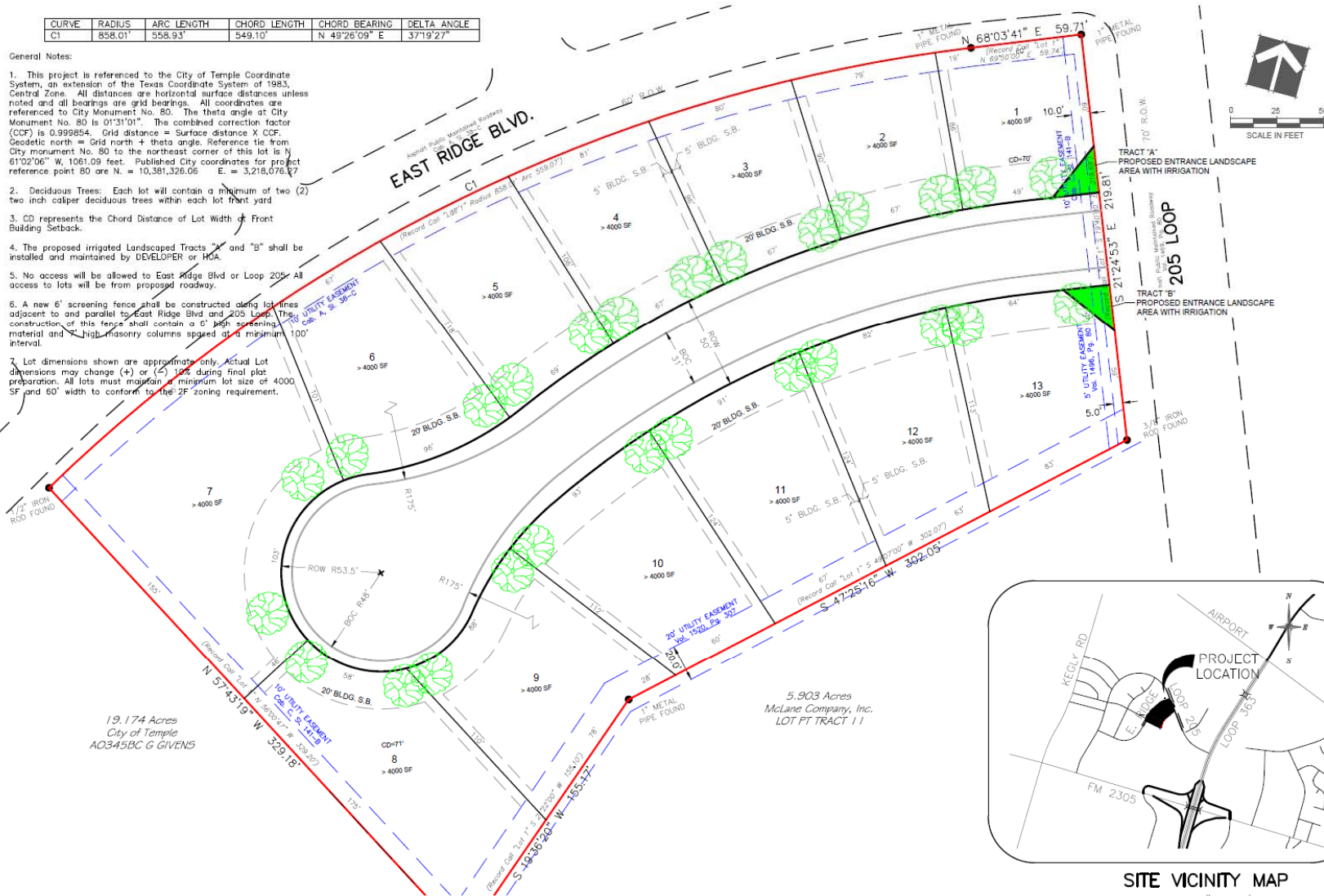
Steven Kirkpatrick, P.E.
BSP Engineers, Inc.



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	858.01'	558.93'	549.10'	N 49°26'09" E	37°19'27"

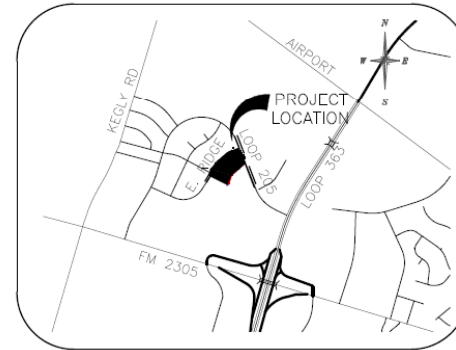
General Notes:

- This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 80. The theta angle at City Monument No. 80 is 01°31'01". The combined correction factor (CCF) is 0.999854. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City Monument No. 80 to the northeast corner of this lot is N 61°02'06" W, 1061.09 feet. Published City coordinates for project reference point 80 are N = 10,361,326.06 E = 3,218,076.77
- Deciduous Trees: Each lot will contain a minimum of two (2) two inch caliper deciduous trees within each lot front yard
- CD represents the Chord Distance of Lot Width or Front Building Setback.
- The proposed irrigated Landscaped Tracts "A" and "B" shall be installed and maintained by DEVELOPER or HOA.
- No access will be allowed to East Ridge Blvd or Loop 205. All access to lots will be from proposed roadway.
- A new 6' screening fence shall be constructed along lot lines adjacent to and parallel to East Ridge Blvd and 205 Loop. The construction of this fence shall contain a 6' high screening material and 4" high masonry columns spaced at a minimum 100' interval.
- Lot dimensions shown are approximate only. Actual Lot dimensions may change (+) or (-) 10% during final plat preparation. All lots must maintain a minimum lot size of 4000 SF and 60' width to conform to the 2F zoning requirement.



19.174 Acres
City of Temple
AQ345BC G GIVENS

5.903 Acres
McLane Company, Inc.
LOT FT TRACT 11



SITE VICINITY MAP

SCALE 1"=2000'

Revisions

Date:

Remarks:

WEST RIDGE

ZONE APPLICATION C to PD 2F

Temple, Texas



Anthony D. Beach

ZONE APPLICATION C to PD-2F



Project No:
111988.00

C1



PLANNING AND ZONING COMMISSION AGENDA ITEM

9/6/11
Item #5
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Grady Rosier, of Temple Real Estate Investments

CASE MANAGER: Leslie Matlock, AICP, Senior Planner



ITEM DESCRIPTION: Z-FY-11-44 Hold a public hearing to discuss and recommend action on a rezoning from Commercial District (C) to Planned Development – Two-Family District (PD-2F) on Lot 1, Block 1, West Ridge Commercial Addition, Phase 1, being 3.384 - acres located on the southwest corner of 205 Loop and East Ridge Boulevard.

BACKGROUND: The applicant originally requested the rezoning from C to PD-C. Staff coordinated with him to change the rezoning request to PD-2F, to better reflect the type of two-family residential development proposed, and the applicant has agreed. The owner would like build duplexes on this property, which are permitted in both C, Commercial, and in 2F, Two-Family, zoning districts. However, the proposed lots, due to the public road proposed to serve them, have less lot depth than normally required, thus generating the need for a Planned Development. Specifically, proposed Lots 1, 2, 3 and 13 on the attached site plan are not of sufficient depth for duplexes based on the general lot depth requirements for 2F. The minimum required lot depth is 100 feet. The lots that do not meet the minimum depth requirements range from 73 to 93 feet in depth.

In exchange for approval of shallower lots than normally allowed, the applicant proposes landscaping on the residential lots in the form of two two-inch caliper, five-foot tall trees and fully grassed lots. Landscaping is normally not required of a developer on residential lots. The applicant also proposes a landscaped entry feature on both sides of the proposed street serving the development. The property will need to be platted before the proposed duplex lots may be sold or built upon.

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	C (Proposed PD-C or PD-2F)	Undeveloped Land	

Direction	Zoning	Current Land Use	Photo
North	LI	Unoccupied Warehouse	
South	LI & O1	Undeveloped Property behind a Large Office Distribution Warehouse along H. K. Dodgen Loop (McLean Inc.) & West Ridge City Park	 

Direction	Zoning	Current Land Use	Photo
East	2F	Duplexes, newly completed & under construction	
West	SF3 & O1	Single Family Homes & West Ridge City Park (See park photo above)	

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, a less intense commercial designation on the map. It would be typified by a large commercial development surrounded by large landscape buffers. The rezoning request does not comply with the FLUCM.

Two-family residential homes are a much less intensive use than would be a commercial use. The loss of this land as a commercial generator for many decades is perhaps balanced with the number of proposed residential units to be placed on the ground, thereby adding to new rooftops which stimulate retail growth within the City. The area is also adjacent to single-family and two-family land uses, which may be more appropriate than a commercial land use at this location, serving as a buffer to the single family uses in this area. If approved, this property would need to be added to the list of changes to the Future Land Use and Character Map that are needed.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates 205 Loop as a Collector Road. The rezoning request to PD-2F, Planned Development Two-Family, complies with the Thoroughfare Plan.

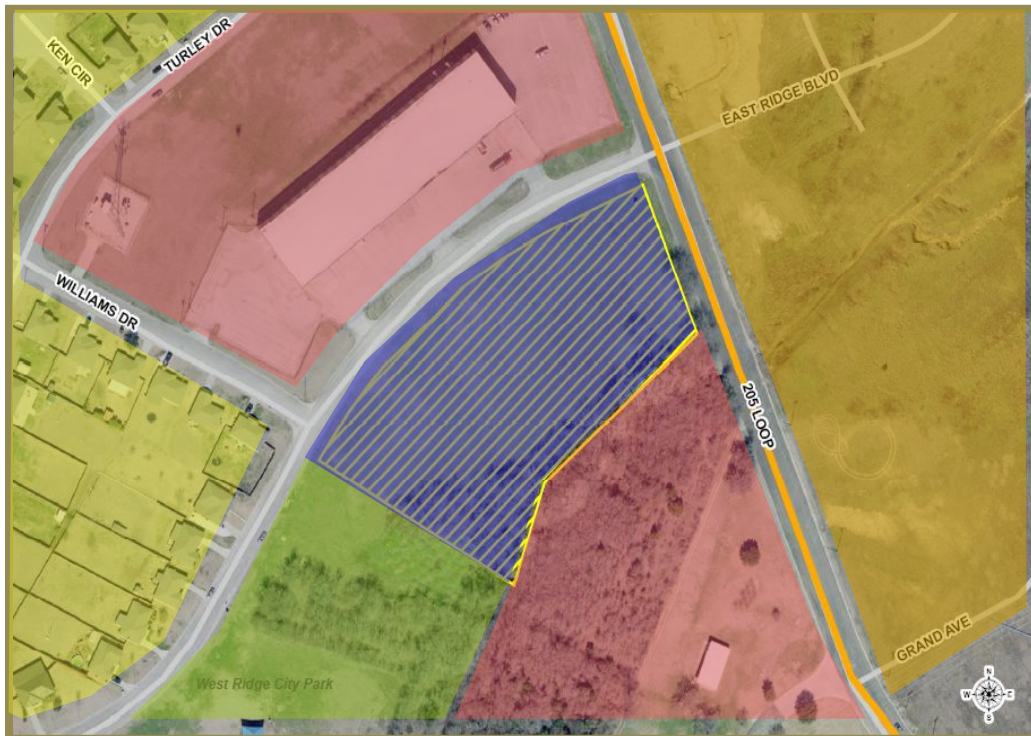
Availability of Public Facilities (CP Goal 4.1)

Publicly-owned water and sewer lines are available for extension to the property.

Temple Master Trails Plan Map

The Sidewalk and Trails Plan does not designate any trails near this property. A sidewalk is required along one side of 205 Loop.

Additionally, City park property is directly adjacent to this land. This residential use will provide more possible users of the park and to the adjacent trail located south along W. Adams Avenue.



Current Land Uses:

- Blue - Vacant
Subject
Property
- Yellow – Single Family
Residential
- Brown – New
Construction
Two-Family
Residential
(not visible on
this 2010
aerial)
- Red – Commercial
& Retail Uses
- Green- City Park
Land

DEVELOPMENT REGULATIONS:

The zoning for this property is currently C, Commercial which permits two-family residential homes to be built in the district by right. This PD-2F is being requested to allow smaller than required sizes for some of the proposed lots, as several do not meet the 100-ft lot depth required in this district. The

houses will still be required to be built within the building envelop that is set for this kind of use. All lots meet the minimum area, width and will be required to conform to all other setbacks relative to the 2F district standards. The smallest lot, Lot 1, is depicted as a bit larger than 4,100-sq.ft. with a 70-ft. width at the building line and a 87- ft. lot depth. See the Applicant's site plan attached to this report.

2F Setback Requirements	Min. Lot Size (Square Feet)	Min. Lot Width (Feet)	Min. Lot Depth (Feet)	Min. Front Setback (Feet)	Min. Side Setback (Feet)	Min. Corner Side Setback (Feet)	Min. Rear Setback (Feet)	Max. Lot Coverage (Percentage)	Max. Height of Building (Stories)
2F District	4,000	60	100	25	5	15	10	50%	2 ½
C District	3,500	60	100	++ See UDC Section 4.4.4.F.I.d	10% of lot width or 5-ft. min	15	10	50%	2 ½
++ Structure may not be closer than 30 ft of the centerline of the adjacent right-of-way.									

Two entry features are shown on the site plan, and if approved as shown will be required to have common ownership for maintenance and irrigation when platted. This is stated in a note on the attached site plan. A solid wooden stockade fence with stone columns is also proposed along the bordering rights-of-way. There will be no access to East Ridge Boulevard or 205 Loop except from the proposed cul-de-sac.

PUBLIC NOTICE:

Eight notices were sent regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. As of Wednesday, August 31th, 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 August 26th, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the rezoning to **PD-2F** for case Z-FY-11-44 for the following reasons:

1. While the request does not comply with the Future Land Use and Character Map, it is a less intensive use west of an area currently under construction as two family homes and adjacent to a single-family home area.
2. The request complies with the Thoroughfare Plan.
3. Public facilities serve the property.

FISCAL IMPACT:

Not Applicable

ATTACHMENTS:

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

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

TUESDAY, SEPTEMBER 6, 2011

ACTION ITEMS

Item 5: Z-FY-11-44 – Hold a public hearing to discuss and recommend action on a rezoning from Commercial District (C) to Planned Development Two Family District (PD-2F) District on Lot 1, Block 1, West Ridge Commercial, Phase 1, located at the southeast corner of East Ridge Boulevard and 205 Loop.

Ms. Leslie Matlock, Senior Planner, stated this property contained 3.384± acres and was located at the southeast corner of 205 Loop and East Ridge Blvd. The land is currently vacant and zoned Commercial (C). The applicant is requesting a Planned Development (PD) since the lots are more shallow than allowed for two-family zoning. Thirteen lots will have two family homes making 26 units, and four of those lots will be shallower than the required 100 foot minimum lot depth. In order to get the PD, the applicant is offering two trees for each lot, grass on the entire lot after construction, entry features that will be irrigated and planted, and a wood fence with stone columns across East Ridge down 205 Loop.

Surrounding properties include a vacant office warehouse to the north, West Ridge Community Park to the south, a Two Family (2F) development currently under construction to the east, and single family (SF) residences to the west.

The Future Land Use and Character Map show this area to be designated for Suburban-Commercial.

205 Loop is designated as a collector street, appropriate for residential development, and public water and sewer are available for the site.

The Trails Master Plan shows West Ridge City Park connects to a spine trail along Adams. Another trail is proposed for Kegley.

Eight notices were mailed and no notices were received back either in favor or opposition.

Staff recommends approval of the zoning request from C to PD-2F. While the request does not comply with the Future Land Use and Character Map, it is a less intensive use west of an area currently under construction for 2F homes and adjacent to single family home areas. The request complies with the Thoroughfare Plan and facilities are available to serve the property.

Chair Talley opened the public hearing.

There being no speakers, the public hearing was closed.

Vice-Chair Martin made a motion to approve Item 5, **Z-FY-11-44**, from Commercial to PD-2F and Commissioner Sears made a second.

Motion passed: (8:0)

Commissioner Pope absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-44]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM COMMERCIAL DISTRICT (C) TO PLANNED DEVELOPMENT TWO FAMILY DISTRICT (PD-2F) ON LOT 1, BLOCK 1, WEST RIDGE COMMERCIAL ADDITION, PHASE 1, BEING 3.384 ACRES LOCATED ON THE SOUTHWEST CORNER OF 205 LOOP AND EAST RIDGE BOULEVARD; 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 Commercial District (C) to Planned Development Two-Family District (PD-2F) on Lot 1, Block 1, West Ridge Commercial Addition, Phase 1, being 3.384 acres located on the southwest corner of 205 Loop and East Ridge Boulevard, 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 Two Family zoning district.
- b. In the event of a conflict between the Planned 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.

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 **6th** day of **October**, 2011.

PASSED AND APPROVED on Second Reading on the **20th** day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
Item #9
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-45: Consider adopting an ordinance authorizing a rezoning from Agricultural District (AG) to Commercial District (C) on 10.143 ± acres of land, located at the northeast corner of Martin Luther King, Jr. Drive and State Highway 36.

P&Z COMMISSION RECOMMENDATION: At its September 6, 2011 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a rezoning from AG to C.

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 October 20, 2011.

Staff recommends approval of a rezoning from AG to C for the following reasons:

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-45, from the Planning and Zoning Commission meeting, September 6, 2011. The applicant's zone change request from Agricultural District (AG) to Commercial District (C) will allow commercial uses at the northeast corner of Martin Luther King, Jr. Drive and State Highway 36, which are both Strategic Investment Zone (SIZ) corridors. Martin Luther King, Jr. Drive separates the subject property from a future portion of TMED to the west. An existing Shell station and the County Lane Seniors Campus development are located across the street on the west side of Martin Luther King, Jr. Drive.

The applicant's representative, Rodney Deyoe, spoke in favor of the request at the Planning and Zoning meeting.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Yes
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	Yes
STP	Page F3- A local connector trail is shown along the east side of Martin Luther King Jr. Drive.	No

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (Cp Map 3.1)

The Future Land Use and Character Map designates the subject property as Auto-Urban Commercial. The request complies with this designation.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan classifies Martin Luther King Jr. Drive as a Minor Arterial and SE H.K. Dodgen Loop (SH 36) as an Expressway. The request complies with these designations.

Availability of Public Facilities (CP Goal 4.1)

A 12-inch water line runs along the east right-of-way of Martin Luther King Jr. Drive. There is an 8-inch sewer line across the street along the west side of Martin Luther King Jr. Drive.

Sidewalk and Trails Plan (STP pg. F3)

The Citywide Trails Master Plan shows a local connector trail along the east right-of-way of Martin Luther King Jr. Drive, a Minor Arterial. During the building permit process, nonresidential properties are subject to required 6-foot wide sidewalks along arterials, such as Martin Luther King Jr. Drive. The widths of local connector trails range from six to eight feet and are comparable in size to required sidewalks along Arterials.

DEVELOPMENT REGULATIONS:

The Commercial zoning district permits 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. Residential uses are allowed, except apartments. This district is intended to serve citywide or regional service areas.

According to the district's purpose statement in the Unified Development Code, the Commercial zoning district should 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.

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the six property owners within the 200-foot radius surrounding the zone change site. As of Monday, September 19, 2011 at 12:00 PM, one notice was returned in favor of the request and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on August 25, 2011 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Aerial](#)
[Future Land Use and Character Map](#)
[Zoning Map](#)
[Utility Map](#)
[Thoroughfare Plan Map](#)
[Notice Map](#)
[P&Z Staff Report \(Z-FY-11-45\)](#)
[P&Z Minutes \(9/06/11\)](#)
[Ordinance](#)



Z-FY-11-45

AG to C 10.145 Acres
Maximo Moreno Survey

NE of S. MLK Jr. Drive
and SE H.K. Dodgen Loop



 ZFY 11-45

 Streets

Feet 0 300 600 900 1,200

Imatlock 8-10-11



Z-FY-11-45

AG to C 0.145 Acres
Maximo Moreno Survey


NE of S. MLK Jr. Drive and
SE H.K. Dodgen Loop



 ZFY 11-45

 Domestic Water
 Sanitary Sewer
 Fire Hydrant

Feet 0 300 600



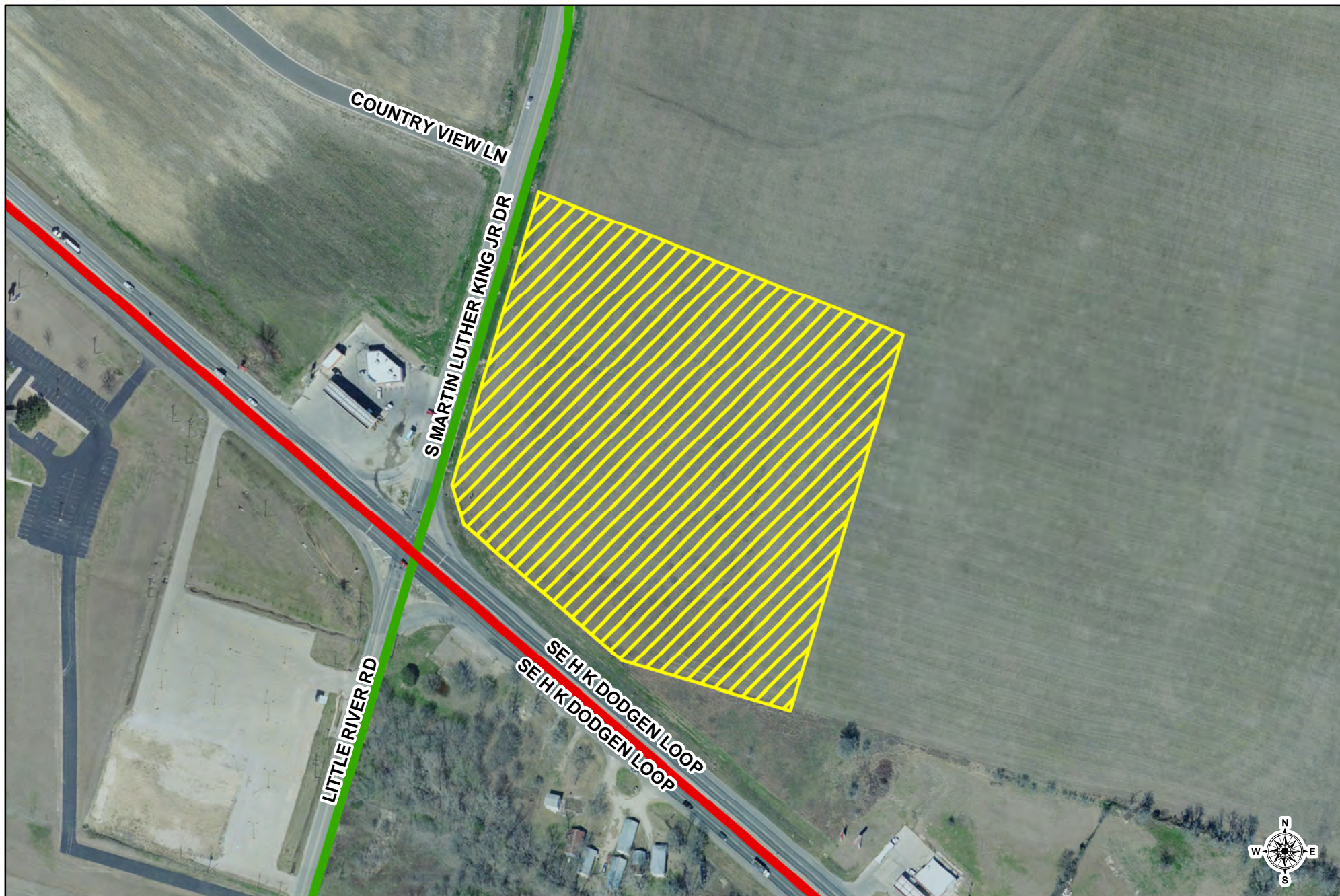
Imatlock 8-10-11



Z-FY-11-45

AG to C 10.145 Acres
Maximo Moreno Survey

NE of S. MLK Jr. Drive and
SE H.K. Dodgen Loop



Expressway
Minor Arterial

ZFY 11-45

Feet 0 300 600 900

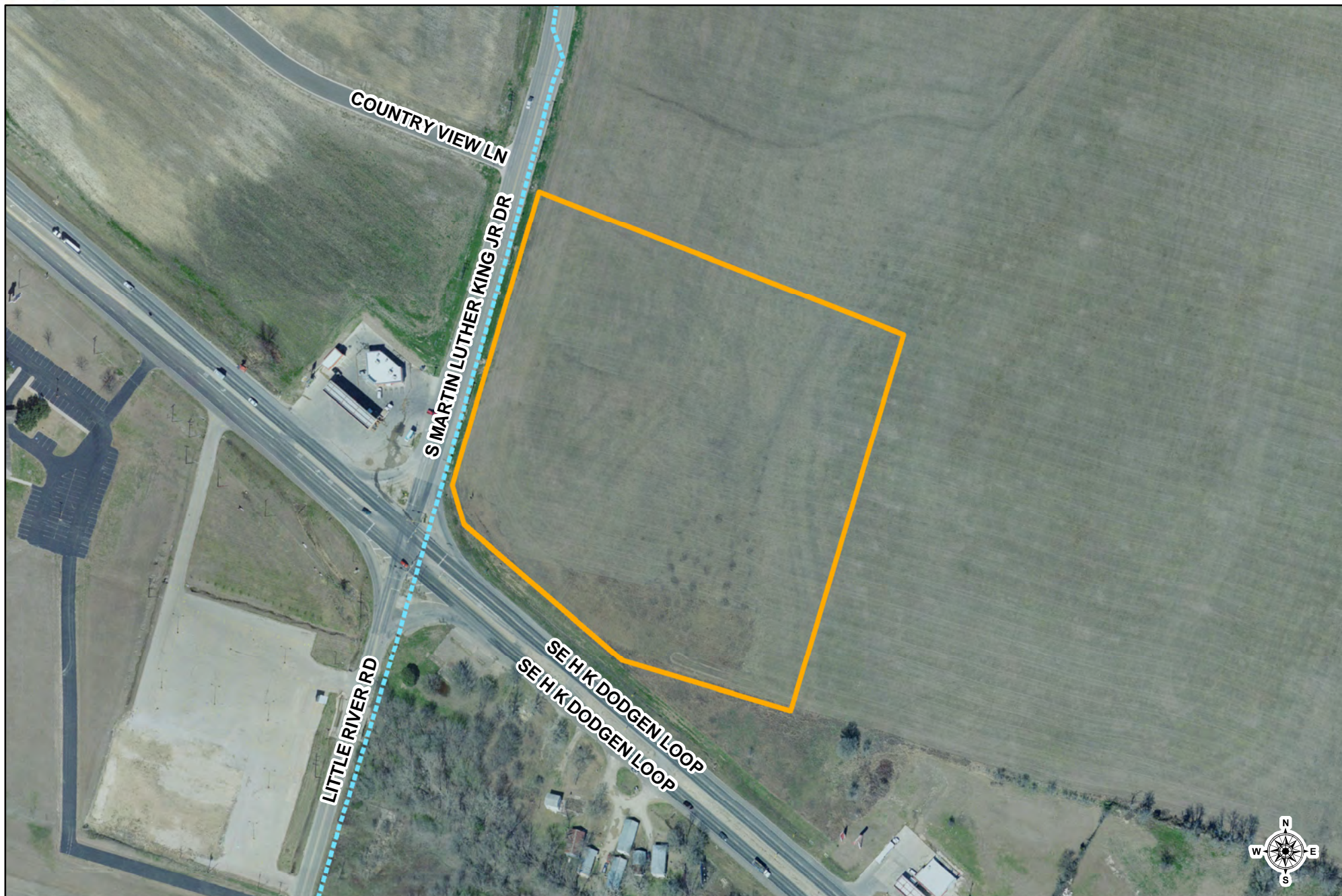
Imatlock 8-10-11



Z-FY-11-45

AG to C 10.145 Acres
Maximo Moreno Survey

NE of S. MLK Jr. Drive and
SE H.K. Dodgen Loop



Proposed Local Connector Trail

ZFY 1145

Feet 0 300 600 900

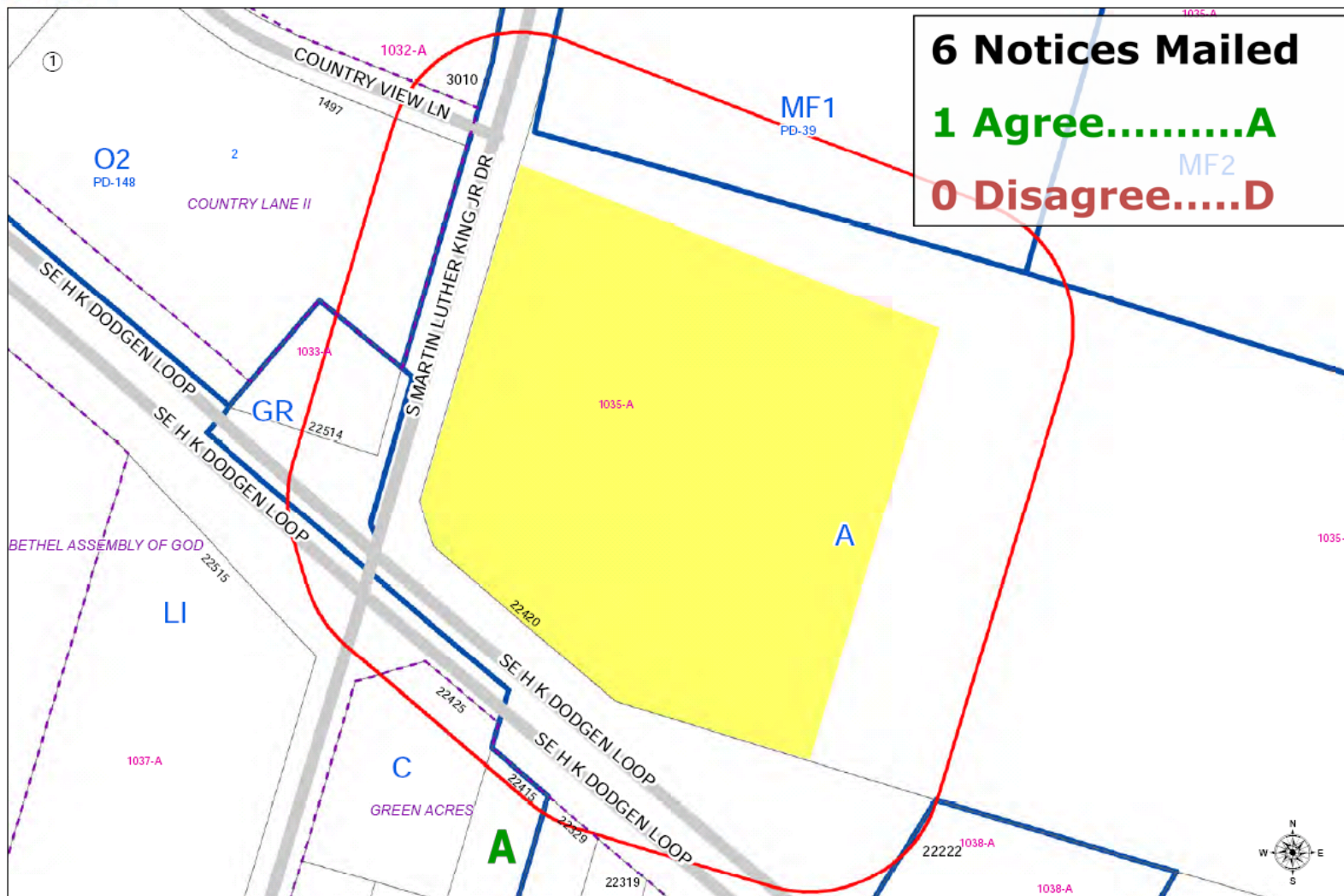
Imatlock 8-10-11



Z-FY-11-45

AG to C 10.145 Acres
Maximo Moreno Survey

NE of S. MLK Jr. Drive and
SE H.K. Dodgen Loop



ZFY 11-45
 200 Ft. Notification Buffer

Feet 0 200 400

Imatlock 8-10-11



PLANNING AND ZONING COMMISSION AGENDA ITEM

9/06/11
Item 6
Regular Agenda
Page 1 of 5

APPLICANT / DEVELOPMENT: Sam Trinh for Patrick Wheeler

CASE MANAGER: Tammy Lyerly, Planner

ITEM DESCRIPTION: Z-FY-11-45 Hold a public hearing to discuss and take action on a rezoning from Agricultural District to Commercial District on 10.143 ± acres of land, located at the northeast corner of Martin Luther King, Jr. Drive and State Highway 36. (Applicant: Sam Trinh for Patrick Wheeler)

BACKGROUND: The applicant requests a zone change from Agricultural District (AG) to Commercial District (C) to allow commercial uses on this property located at the northeast corner of Martin Luther King, Jr. Drive and State Highway 36, which are both Strategic Investment Zone (SIZ) corridors. While SIZs are not directly related to zoning provisions or site design requirements in the Unified Development Code, they are specially designated areas of town that have a high level of visibility and an increased likelihood of receiving City incentives to increase attractiveness of development above and beyond the City's basic standards.

A rezoning from the AG to the C zoning district would allow many uses that would not have been allowed before. Those uses include, but are not limited to, the following:





Alcoholic beverage sales, on- or off-premise consumption, beer and wine only	Mini-storage
Building material sales	Trailer, recreational vehicle, portable building or manufactured home sales or rental
Cabinet shop	Truck stop
Contractor storage	Two-family dwelling
Family or group home	Welding or machine shop
Heavy machinery sales, storage and repair	Wholesale storage and sales

It should be noted that Martin Luther King, Jr. Drive separates the subject property from a future portion of TMED to the west.

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	Undeveloped Land	
North	AG and PD-MF1	Undeveloped Land Multi-Family Uses along Martin Luther King Jr. Dr.	
			

Direction	Zoning	Current Land Use	Photo
South	AG, C, & LI	Undeveloped Land, Residential, and Mixed Uses along SH 36	
			
			
East	AG & GR	Undeveloped Land and Fuel Sales	

Direction	Zoning	Current Land Use	Photo
West	GR, and PD-O2	Fuel Sales, Undeveloped land, and Multiple-Family	 

COMPREHENSIVE PLAN COMPLIANCE:

The proposed Planned Development amendment 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	Yes
	Map 5.2 - Thoroughfare Plan	Yes
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	Yes
	Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area.	Yes
STP	Page F3- A local connector trail is shown along the east side of Martin Luther King Jr. Drive.	No

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (Cp Map 3.1)

The Future Land Use and Character Map designates the subject property as Auto-Urban Commercial. The request complies with this designation.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan classifies Martin Luther King Jr. Drive as a Minor Arterial and SE H.K. Dodgen Loop (SH 36) as an Expressway.

Availability of Public Facilities (CP Goal 4.1)

A 12-inch water line runs along the east right-of-way of Martin Luther King Jr. Drive. There is an 8-inch sewer line across the street along the west side of Martin Luther King Jr. Drive.

Sidewalk and Trails Plan (STP pg. F3)

The Citywide Trails Master Plan shows a local connector trail along the east right-of-way of Martin Luther King Jr. Drive, a Minor Arterial. During the building permit process, nonresidential properties are subject to required 6-foot wide sidewalks along arterials, such as Martin Luther King Jr. Drive. The widths of local connector trails range from six to eight feet and are comparable in size to required sidewalks along Arterials.

DEVELOPMENT REGULATIONS:

The Commercial zoning district permits 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. Residential uses are allowed, except apartments. This district is intended to serve citywide or regional service areas.

According to the district's purpose statement in the Unified Development Code, the Commercial zoning district should 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.

Sec. 4.6. Nonresidential Dimensional Standards

Unless otherwise specified in Sec. 4.4 or Sec. 5.3, nonresidential uses must be developed in accordance with the tables below.

Type of Use	AG	UE	SF-1	SF-2	SF-3	SFA-1	SFA-2	SFA-3	TH	2F	MF-1	MF-2	MF-3	O-1	O-2	NS	GR	CA	C	LI	HI
Min. Lot Area (sq. ft.)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Min. Lot Width (ft.)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Min. Lot Depth (ft.)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Min. Front Yard Setback(ft.)	50	50	25	25	15	25	15	15	15	25	25	25	25	25	25*	15	15	See 4.4.F.1.d*			
Min. Side Yard Setback(ft.)	20	20	20	20	20	20	20	20	20	20	20	20	20	5	5*	10	10	0*	0*	0*	0*
Min. Side (Corner)Yard Setback(ft.)	15	15	15	15	15	15	15	15	15	15	15	15	15	15	10*	10	10	0*	10	10	10
Min. Rear Yard Setback(ft.)	10	10	10	10	10	10	10	10	10	10	10	10	10	0*	0*	0*	0*	0*	0*	0*	0*
Max. Building Coverage (%)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Max. Height (stories)	3	3	2	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	3	4	10	45	ALH	2 ½	3	ALH	ALH	ALH	ALH

ALH = Any Legal Height not prohibited by other laws

-- = Use not permitted

NA = Use permitted but standard does not apply

* = See Sec. 4.4, Measurements and Special Case

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the six property owners within the 200-foot radius surrounding the zone change site. As of Tuesday, August 30, 2011 at 12:00 PM, no notices were returned in favor of the request and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on Date, 2011 in accordance with state law and local ordinance

STAFF RECOMMENDATION:

Staff recommends approval of the requested zone change to Commercial District for the following reasons:

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

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial

Land Use and Character Map

Zoning Map

Utility Map

Thoroughfare Map

Sidewalk and Trails Plan Map

Notice Map

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

TUESDAY, SEPTEMBER 6, 2011

ACTION ITEMS

Item 6: Z-FY-11-45 – Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to Commercial District (C) on 10.143 ± acres of land, located at the northeast corner of Martin Luther King, Jr. Drive and State Highway 36. (Applicant: Sam Trinh for Patrick Wheeler)

Ms. Tammy Lyerly, Planner, stated this was scheduled for City Council first reading on October 6th and 2nd reading and final action on October 20th.

The subject property is located at the northeast corner of South Martin Luther King Jr. Dr. and SE H K Dodgen Loop (Highway 36). The old bowling alley was located across the street from the subject property. The Country Lane Apartments and senior campus are nearby which are zoned Office Two (O2), the Shell Station is zoned General Retail (GR), to the north are Multi-Family One (MF1) and Multi-Family Two (MF2) which contain the Village Meadow Bend Apartments, and Commercial and Mixed Use zoning across the street.

Surrounding properties include vacant land to the north, the Conoco gas station and Highway 36 to the east, the highway to the south, and the Shell Station to the west.

The Future Land Use and Character Map designate this area to be Auto Urban Commercial and the request complies with this. The Thoroughfare Plan designates MLK as a minor arterial road, H K Dodgen Loop/Highway 36 is an expressway which makes them suitable for Commercial uses. Water and sewer are available in the area for the property.

Dimensional standards for Commercial District are given.

- Minimum Front Yard Setback: 30 feet to street centerline
- Minimum Side Yard Setback (interior): 0 feet
- Minimum Side Yard Setback (Corner): 10 feet
- Minimum Rear Yard Setback: 0 feet
- Maximum Height (Stories): Any Legal Height not prohibited by other laws

A rezoning from AG to C would allow many uses that would not have been allowed before. Those uses include, but are not limited to the following:

- Alcoholic beverage sales, on or off-premise consumption, beer and wine only
- Building material sales

Cabinet shop
Contractor storage
Family or group home
Heavy machinery sales, storage and repair
Mini-storage
Trailer, recreational vehicle, portable building or manufactured home sales or rental
Truck stop
Two-family dwelling
Welding or machine shop
Wholesale storage and sales

Six notices were mailed; one was returned in favor of the request.

Staff recommends approval of the requested zone change to Commercial District for the following reasons:

The request is compatible with the Future Land Use and Character Map;

The request complies with the Thoroughfare Plan Map; and

Public facilities are available to serve the property.

Ms. Lyerly stated the applicant was in attendance and would like to do a brief presentation.

Chair Talley opened the public hearing.

Mr. Rod Deyoe, 3000 S. 31st Street, Temple, Texas, spoke on behalf of the owner and purchaser of the property in favor of the request. A copy of the original survey was shown to the Board. Mr. Deyoe stated the purchaser of the subject property is in the convenience store business, although he has not decided what to do with the property.

Mr. Deyoe stated since the request was in compliance with the Future Land Use and Character Map designations, the purchaser would like to see it zoned to meet the City's requirements.

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

Commissioner Sears made a motion to approve Item 6, **Z-FY-11-45**, from Agricultural (AG) to Commercial (C) and Commissioner Rhoads made a second.

Motion passed: (8:0)

Commissioner Pope absent

ORDINANCE NO. _____

(PLANNING NO. Z-FY-11-45)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURAL DISTRICT (AG) TO COMMERCIAL DISTRICT (C) ON APPROXIMATELY 10.143 ACRES OF LAND, LOCATED AT THE NORTHEAST CORNER OF MARTIN LUTHER KING, JR., DRIVE AND STATE HIGHWAY 36; 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 Commercial District (C) on approximately 10.143 acres of land, located at the northeast corner of Martin Luther King, Jr., Drive and State Highway 36, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **6th** day of **October**, 2011.

PASSED AND APPROVED on Second Reading on the **20th** day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

10/06/11
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DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution appointing one member to serve as the City's representative on the Board of Directors of the Tax Appraisal District of Bell County for a two year term beginning January 1, 2012.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In June 2011, due to health issues, Mr. Dell Martin resigned from the Board of Directors of the Tax Appraisal District of Bell County. The Appraisal District has requested the City make an appointment to this board no later than November 1, 2011 for a two year term beginning January 1, 2012 through December 31, 2014.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the City Manager to execute a purchase contract with Bank of America for the purchase of the following three lots: 201 North 5th Street, 118 North 3rd Street, and 112 North 3rd Street.

Executive Session – Pursuant to Chapter 551, Government Code, §551.072 – Real Property – The City Council may enter into executive session to discuss the purchase, exchange, lease or value of real property relating to City projects, the public discussion of which would have a detrimental effect on negotiations with a third party

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Bank of America is interested in selling three lots close to the new Main Fire Station on North 3rd Street. We discussed these properties in a workshop/executive session in July 2011. The City made an offer to acquire the three tracts, conditioned upon City Council approval, and Bank of America has accepted our offer. We will discuss the terms of our offer and their acceptance at the City Council meeting. We have posted the item for executive session, though an executive session may not be necessary depending on the will of the City Council.

The tracts in question are the remainder of the block in which the new Central Fire Station sits (addressed as 201 North 5th Street) and two lots across Barton Avenue that front on North 3rd Street. The first is an improved lot (minor structure at 118 North 3rd Street) and a vacant lot (112 North 3rd Street) just north of the Jack in the Box. See attached map and the photographs below.

The Staff's interest in purchasing these three lots from Bank of America is in part for expansion of parking for Central Fire Station (short term) and possible expansion of the Central Fire Station (long term). The identified uses of the other two tracts across Barton Avenue are parking.

The tract at 201 North 5th Street is improved with a drive through facility and an associated parking lot and driveway. The parking lot is currently being used by the Fire Department by agreement with BOA, and would continue to be used in that manner.

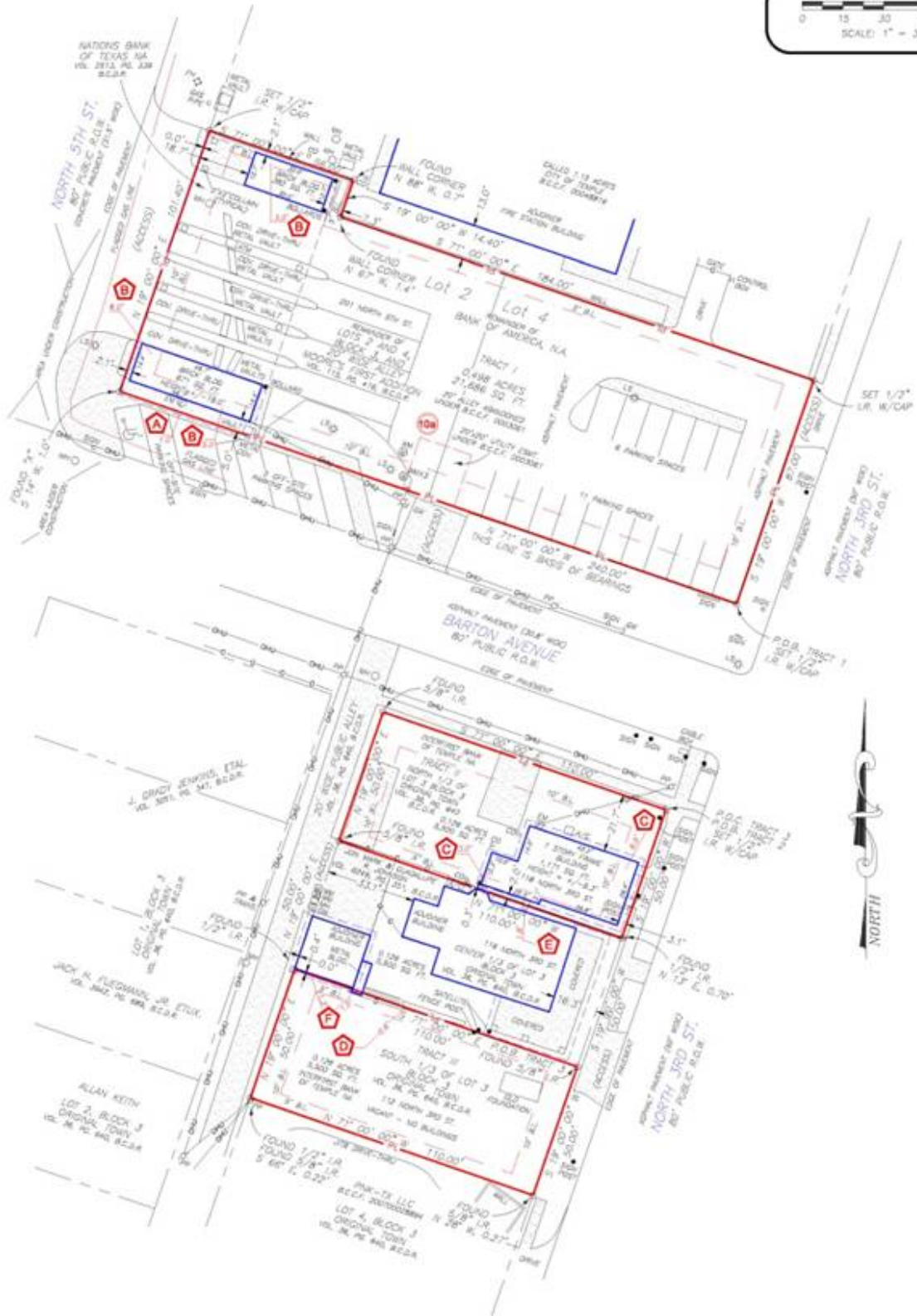
If the City Council authorizes the acquisition of these three tracts, we will likely proceed with demolition of the drive through facility at 201 North 5th Street and the minor structure at 118 North 3rd Street (the estimated cost of demolition both the drive through and the minor structure is \$22-25K), after closing. The City Manager is reviewing or evaluating the interim short term use of the drive through facility by the Fire Department.

FISCAL IMPACT: Funding for the purchase of three tracts and demolition of the structures at 201 N. 5th Street and 118 N. 3rd is available from the 2009 General Obligation Bonds (GO Bonds).

ATTACHMENTS:

[Map of property](#)
[Resolution](#)





RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE EXECUTION BY THE CITY MANAGER OF A PURCHASE CONTRACT WITH BANK OF AMERICA FOR THE PURCHASE OF THE FOLLOWING THREE LOTS: 201 NORTH 5TH STREET, 118 NORTH 3RD STREET, AND 112 NORTH 3RD STREET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Bank of America has agreed to sell three lots close to the new Main Fire Station on North 3rd Street – 201 North 5th Street, 118 North 3rd Street, and 112 North 3rd Street;

Whereas, the Staff's interest in purchasing the lots is in part for the expansion of parking for the Central Fire Station (short term), and possible expansion of the Central Fire Station (long term) – the two lots across Barton Avenue could possibly be used for future parking or development;

Whereas, funding for the purchase of the three tracts and demotion of the structures is available from the 2009 General Obligation Bonds (GO Bonds); and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a purchase contract with Bank of America, after approval as to form by the City Attorney, for the purchase of 201 North 5th Street, 118 North 3rd Street, and 112 North 3rd Street, in the amount of \$_____.

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

PASSED AND APPROVED this the 6th day of **October**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney