

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, JULY 7, 2008
5:00 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN](#)
- A.2 [PLEDGE OF ALLEGIANCE](#)
- A.3 [INVOCATION BY COUNCIL MEMBER ROBERT G. SOFTLY](#)
- A.4 [APPROVE MINUTES OF THE CALLED CITY COUNCIL MEETING OF JUNE 10, 2008 \(BUDGET PLANNING MEETING\) AND THE REGULAR CITY COUNCIL MEETING OF JUNE 16, 2008](#)

Introduction and Public Hearing of Ordinances

- B.1 [PUBLIC HEARING OF ORDINANCE NO. 5534](#)
Extending the Corporate Limits of Said City so as to Annex Approximately 44.97 Acres of Land at the Intersection of U.S. Highway 82 and Hudgins Road (State Highway 289) in the City of Sherman's Extra Territorial Jurisdiction; Providing for a Municipal Plan
- B.2 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5540](#)
Amending Section 12, Ordinance No. 2280, so as to Include Certain Properties within the C-1 (Retail Business) District in the 5300 Block of U.S. Highway 82 West and the 2600-2900 Blocks of Hudgins Road, being 22.27 acres in the James S. Coffee Survey, Abstract No. 232 (Preston Dorchester Partners, LTD, Owners; George R. Schrader, Representative)
- B.3 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5541](#)
Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Boonie Sanders (Owner) and Shiloh Bradford (Representative) to Allow Automobile Collision Repair in an Existing Structure in a C-2 (General Commercial) District and O-1.1 (FM 1417) Overlay District at 4915 North FM 1417 (Heritage Parkway), being Lot 1, Block 1 of the Sanders Addition; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

B.4 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5542](#)

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Sherman Bible Church (Owners), Preferred Care Partners Management Group, LP (Prospective Buyer), and Thomas D. Scott (Representative) to Allow a Convalescent Home/Skilled Nursing Facility in an R-1 (One Family Residential) District and O-1.1 (FM 1417) Overlay District at 2617 North FM 1417 (Heritage Parkway), being Lots 1 & 2, Block 3, Section 2-A, Canyon Creek Addition and Lot 5, Block 1 of the Replat of Belvedere Estates Addition; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

B.5 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5543](#)

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Virginia Archer Reece Trust, Bank of Texas, NA, Trustee (Owner), Carrus Specialty Hospital (Prospective Buyer), and Teague, Nall and Perkins (Engineers) to Allow a Convalescent Home/Long Term Acute Care Hospital in a C-1 (Retail Business) District, O-1.1 (FM 1417) Overlay District, and O-1 (75 & 82) Overlay District at 1810 U.S. Highway 82 West, being Lot 2 of Post Oak Crossing East Addition, a Replat of Lots 1-C, 1-D, 1-E and 2-C of Post Oak Crossing Addition; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Close Public Hearing and Consider Adoption of Ordinances

B.6 [ADOPTION OF ORDINANCES](#)

Consider Adoption of Ordinance Numbers:

- a) 5534
- b) 5540
- c) 5541
- d) 5542
- e) 5543

B.7 [**TABLED AT JUNE 2, 2008 COUNCIL MEETING:**](#)
[ADOPTION OF ORDINANCE NO. 5539](#)

Amending Chapter 5 of the Code of Ordinances, entitled “Fire Prevention and Protection”, at Section 5.03.002 to Adopt the 2006 Edition of the International Fire Code and at Section 5.03.003 to Provide for Local Amendments to the Fire Code

B.8 [CONSENT AGENDA](#)

Asterisked (*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

Resolutions

C.1 [RESOLUTION NO. 5228](#)

Suspending the August 8, 2008 Effective Date of Oncor Electric Delivery Company Requested Rate Change to Permit the City Time to Study the Request and to Establish Reasonable Rates; Approving Cooperation with Oncor Cities Steering Committee to Hire Legal and Consulting Services and to Negotiate with the Company and Direct any Necessary Litigation and Appeals; Requiring Reimbursement of City's Rate Case Expenses; Requiring Notice of this Resolution to the Company and Legal Counsel for the Steering Committee

C.2 [* RESOLUTION NO. 5229](#)

Authorizing Execution of an Agreement Regarding Municipal Services with Preston Dorchester Partners, Ltd. for the Future Construction of Public Facilities in the 5300 Block of U.S. Highway 82 West and the 2600-2900 Blocks of Hudgins Road, being 22.27 acres in the James S. Coffee Survey, Abstract No. 232 in the City of Sherman's Extra Territorial Jurisdiction

C.3 [* RESOLUTION NO. 5230](#)

Authorizing Execution of Four Access Agreements Granting Right of Entry to Remove an Old Storm Drain Pipe and Install New Pipe on North Harrison Avenue

C.4 [* RESOLUTION NO. 5231](#)

Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Water Well, Incorporated for Repairs to the Luella 4 Woodbine Well

C.5 [* RESOLUTION NO. 5232](#)

Authorizing the Purchase of One Truck Chassis and Sewer Jetting Equipment through the Houston-Galveston Area Council of Governments (H-GAC) for the Distribution Services Department

C.6 [* RESOLUTION NO. 5233](#)

Authorizing Execution of an Agreement with Barton Capital, LTD for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 1618 South Montgomery Street

C.7 [* RESOLUTION NO. 5234](#)

Authorizing Execution of an Agreement with Barton Capital, LTD for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 1622 South Montgomery Street

Requests to Advertise

D.1 [* REQUEST TO ADVERTISE](#)

Pecan Grove Park Development – Phase I

- D.2** [* REQUEST TO ADVERTISE](#)
Annual Contract for Water and Sewer Parts and Supplies

Other Business

- D.3** [OTHER BUSINESS](#)
Receive Briefing from CableOne General Manager Claude Edwards and Consider Increasing Franchise Fee under New State-Issued Franchise
- D.4** [* OTHER BUSINESS](#)
Consider Request of Jaco Oil Company for a Reduction in their Oil Well Performance Bond
- D.5** [* OTHER BUSINESS](#)
Replat Approval of Lot 4, Block 11 of the B.H. Moore's Heirs Addition; Terry Peterson, Owner (1302 South Elm Street)
- D.6** [* OTHER BUSINESS](#)
Final Plat Approval of The Medicine Shoppe, a Repat of Lots 1 and 2, Block 1 of W.M. Shannon's Supplement; Randy and Joanna Bennett, Owners (1622 and 1624 North Travis Street)
- D.7** [CITIZEN REQUESTS](#)
- D.8** [MEDIA QUESTIONS](#)
- D.9** [COUNCIL COMMENTS](#)

Executive Session

- E.1** [EXECUTIVE SESSION](#)
In Accordance with Chapter 551, Government Code, V.T.C.S. (Open Meetings Law), "The City Council Will Now Hold a Closed Executive Meeting Pursuant to the Provisions of the Open Meetings Law, Chapter 551, Government Code, Vernon's Texas Codes Annotated, in Accordance with the Authority Contained in the Following Sections"
- Section 551.074 Consider the Qualifications, Appointment and Removal of Members to Boards and Commissions:
- a) Planning and Zoning Commission (1)

The Council reconvenes into General Session

F.1 [OPEN MEETING](#)

Reconvene into Open Meeting and consider action, if any, on items discussed in Executive Session

F.2 [ADJOURNMENT](#)

[COUNCIL CALENDAR](#)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. A.1

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. A.2

PLEDGE OF ALLEGIANCE

The Honorable Robert G. Softly, Council Member



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. A.3

INVOCATION BY COUNCIL MEMBER ROBERT G. SOFTLY



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. A.4

APPROVE MINUTES

THE CALLED CITY COUNCIL MEETING OF JUNE 10, 2008 (BUDGET PLANNING MEETING) AND THE REGULAR CITY COUNCIL MEETING OF JUNE 16, 2008

STATE OF TEXAS

§

June 10, 2008

COUNTY OF GRAYSON

§

BE IT REMEMBERED THAT A Called Meeting of the Sherman City Council was begun and held in the Council Chambers of City Hall, 220 West Mulberry, Sherman, Texas, on June 10, 2008.

COUNCIL MEMBERS PRESENT: Mayor Bill Magers; Deputy Mayor Cary Wacker.
Council Members Adami, Howeth, Softly, Steele.

COUNCIL MEMBERS ABSENT: Council Member Smith.

CITY STAFF PRESENT: George Olson, City Manager; Robby Hefton, Assistant City Manager/CFO; Doreen McGookey, City Attorney; Scott Shadden, Director of Developmental Services; Mark Gibson, Director of Utilities; Larry Wortham, Director Parks and Community Service; Tom Watt, Police Chief; Jeff Jones, Fire Chief; Rita Gaither, Planning and Development Coordinator; Mary Lawrence, Controller; Pam Cloer, Assistant to the City Manager; Linda Ashby, City Clerk.

PURPOSE:

Call to Order, Quorum Determined, Meeting Declared Open

Summary Financial Information

Estimated Financial Operating Results for 2007-2008

Capital Improvement Funds for 2007-2008

Revenue Projection for 2008-2009

Status of Council Initiatives from 2007-2008 Budget Process

Identification of Planning Initiatives for 2008-2009

Executive Session

Section 551.074 – Personnel Matters:

Deliberate the Appointment, Employment, Evaluation, Reassignment, Duties, or Dismissal of Certain City Employees

Open Meeting

Reconvene into Open Meeting and Consider Action, if Any, on Items Discussed in Executive Session

Adjournment

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

Mayor Magers called the meeting to order at 12:12 p.m., declared a quorum present, and opened the City Council Meeting. He introduced the format for the meeting adding that the economy has slowed down and he urged the Council to look at basic needs not wants.

George Olson, City Manager, said this meeting was a very important piece of the budget process. The staff will give an overview of the City's financial situation and will introduce initiatives from the Council and the staff. The Budget Work Shop will be held in July 2008.

Mr. Olson outlined highlights from the current year including the adoption of an additional sales tax to reduce property taxes and for street enhancements; the issuance of \$5 million in Certificates of Obligation in the General Fund for various projects; the update of the Comprehensive Master Plan; various annexations including Highway 75 and Highway 82 West; amending the downtown improvement program; and Capital Improvement Projects such as the Center Street Park, Pecan Grove Park Phase 1, Brockett Street enhancements; water and sewer along Highway 75 North, and water on Highway 82 West.

SUMMARY FINANCIAL INFORMATION

Robby Hefton, Assistant City Manager/CFO, reviewed the finances of the City in the General Fund, Utility Fund, Solid Waste Fund, and the Capital Improvement General and Utility Funds. The General Fund is supported mainly by taxes and accounts for general activities of the City. The Utility Fund is supported by water and sewer rates. The Solid Waste Fund is supported by commercial and residential solid waste rates and by recycling rates. The General Improvement Fund accounts for general capital projects such as streets and parks; and the Utility Improvement Fund accounts for utility capital projects such as water and sewer improvements.

Mr. Hefton said the City has begun collecting the sales tax for the street enhancement program that was recently approved by voters. June sales tax revenues from the State Comptroller will be the first month that includes receipts from this sales tax.

ESTIMATED FINANCIAL OPERATING RESULTS FOR 2007-2008

General Fund

The beginning fund balance for the General Fund is about \$2.5 million, better than what was projected when the budget was built. Therefore the General Fund has a more than adequate fund balance and a reserve level of 83 days. Generally, the City tries to keep the reserve level at about 60 days. For 2008 the expenditures are in excess of receipts by about \$1.7 million. The General Fund is balanced on an on-going basis. Mr. Hefton added that personnel costs generally account for two-thirds of the General Fund costs.

Council Member Adami asked about the increases in the supplies and maintenance line items. Mr. Hefton said the main change was an internal accounting change where the capitalization policy was changed from one line item to another. Equipment under \$5,000 is now charged to supplies instead of equipment and buildings.

Maintenance costs increased because last years rain caused many street maintenance projects to be delayed until the Fall. Therefore two years of street projects are in this year's projected budget numbers.

Utility Fund

The Utility Fund will have a reserve level of 64 days, which is close to the target level. The projected expenses are less than the adjusted budget. The adjusted budget is the original budget approved plus all projects that were in process last year and were "rolled forward." The types of projects that were rolled forward include some huge well repairs that cost \$400,000 and weren't completed until Fall of this year, and the biosolids program that was delayed because of the rain.

Revenues are down slightly due to industrial usage issues with a couple of the big industries. Reserves are projected to be at \$3.5 million and Mayor Magers confirmed that reserves should be closer to the \$3 million range. In FY 2005-2006 the reserves were at \$6.4 million, which was too high. Therefore some of the reserves were used to complete capital improvement projects.

Mr. Hefton said the City should fund some percentage of the utility improvements through utility rates. Therefore, there should always be a transfer out of money to the Utility Improvement Fund as well as the General Improvement Fund.

Council Member Adami asked why only a portion of the Utility Improvement Fund came from the Utility Fund. Mr. Hefton said most of the large utility projects are contracted through the Greater Texoma Utility Authority and

they are funded through debt service instead of a transfer. The projects are funded from rates, but not as a transfer of funds. Generally, there should not be any crossover from the General Fund to the Utility Improvement Fund. There is an annual transfer of about \$1.5 million from the Utility Fund into the General Fund that represents administrative and franchise costs for services provided by the General Fund. There is a similar transfer into the General Fund from the Solid Waste Fund for franchise costs.

Solid Waste Fund

Mr. Hefton said fees generated from services provided in the Solid Waste Fund are more than 95% of the funding source for this fund.

Mayor Magers informed Council Members that tipping fees at the Texoma Area Solid Waste Authority Landfill will increase from \$24 per ton to \$28 per ton, effective October 1, 2008. This is a 17% increase. He added that there will probably be another \$2 per ton increase next year. The cost of fuel will also increase.

Mr. Hefton said reserves for the Solid Waste Fund are adequate at 73 to 74 days, which is higher than the target amount. Fees are down slightly due to one industrial customer that changed the process of their waste stream. That's good news for them but results in lower fees for the City.

Council Member Steele asked if other TASWA partners experienced a 17% increase in tipping fees. Mayor Magers said everyone had the same percentage increase. Council Member Adami asked why member entities of TASWA paid the same as other non-member entities.

CAPITAL IMPROVEMENT FUNDS FOR 2007-2008

General Improvement Fund

Mr. Hefton said the General Improvement Fund includes bond proceeds and the capital projects that are funded. This year, \$10,300,000 was budgeted for bond proceeds. The City issued \$5 million in bonds and after closing fees, the City netted \$4,950,000. This results in a large ending fund balance of \$9.7 million. He added that the City is spending about \$2 million less than was expected.

Mr. Hefton said of the \$6.8 million projected ending fund balance in the General Improvement Fund, \$2.3 million is not designated. Another \$4.35 million is designated for bond projects. Mayor Magers verified that some of the bond projects are scheduled for next year.

Utility Improvement Fund

Mr. Hefton said \$4.6 million is projected in reserves for the Utility Improvement Fund at the end of the fiscal year. Originally the staff planned to include the Highway 75 water and sewer extension to Highway 691 in the Utility Improvement Fund, however cash was not received from the Sherman Economic Development Corporation as originally projected. This has become a Greater Texoma Utility Authority project. GTUA will build the water and sewer lines, the City will pay the debt service to GTUA, and SEDCO will reimburse the City for the debt service.

Mr. Hefton added that the City has seen a good budget experience on several of the bigger projects, including the Water Treatment Plant upgrade.

REVENUE PROJECTION FOR 2008-2009

Mr. Hefton outlined the revenue projections for 2009. The General Fund revenue is essentially flat however several things are being paid for by different funds. The debt issued must have a separate ad valorem tax pledge so that money is in a different fund and the City would expect to see a decrease in property tax revenues for 2009 based on the debt service. A portion of the new sales tax was in lieu of property tax, so the City would expect a decrease in property tax revenues and a proportional increase in sales tax in lieu of property tax. Even with all the changes, the revenues are "holding their own." This assumes a \$0.32 tax rate.

Council Member Adami asked about the decrease in franchise taxes. Mr. Hefton said the franchise fees come from electric service, gas service, telephone service and cable television service. As prices fluctuate, the City's revenues fluctuate too. He said electric and gas represent about 75% of the franchise fees. Even though electric and gas rates have increased to consumers, their cost is based on the cost of natural gas. The natural gas prices have been steady the last couple of years. He felt the rate might be adjusted some.

Mr. Hefton said the staff is projecting inflationary revenue increases of about 2% in the Utility Fund and Solid Waste Fund for residential service. He said the staff will probably propose a rate increase in the Solid Waste Fund rates especially for commercial service. The increase is proposed because of the increase in gate rates at TASWA and because there has never been any rate increases in the commercial program.

Mayor Magers said the Council needs to review solid waste rates with a two year window, because TASWA rates will probably increase next year too. TASWA's plan is to increase the gate rates to \$32 per ton over a five year period.

Mr. Hefton addressed challenges for the FY 2008-2009 budget. The City's contribution rates for the Texas Municipal Retirement System will increase from 15.77% to 18.36%, which will cost the City approximately \$400,000. The plan is to phase the contribution in over three or four years.

Mr. Hefton said it appears that the plan for addressing the group health plan will be a one-time transfer of \$1 million from the General Fund to replenish the insurance fund. This measure will only get reserves back in the group health plan. There will still be an on-going problem. He did not recommend going out for bids at the present time because the claims have been so bad and the City doesn't want to incur a huge increase in premiums. Mr. Hefton said the City normally has two or three claims that reach the stop loss level, but this year it appears they will have ten.

Council Member Adami asked if the trend was still to self-insure. Mr. Hefton said it was for cities with a population the size of Sherman. He added that if the City had 400 employees instead of 300, they might want to change from a self-insured plan.

Mr. Hefton explained how the City charges each of the funds at the projected cost for the insurance for employees for that fund. Council Member Adami said \$1 million is being transferred from the General Fund to replenish the insurance fund. He wanted to be sure the other funds, Utility Fund and Solid Waste Fund, were also charged a proportionate amount to replenish this fund since they have employees too. Mr. Hefton reiterated that funding is allocated to each fund for on-going health insurance costs.

Mayor Magers said the total annual effect of TMRS is \$400,000 and the on-going increase for health care funding is \$500,000, therefore, moving forward, the City will have an additional \$1 million in payroll expenses. Mr. Hefton added that the staff is looking at various alternatives for modifying the employee health benefits, including a change in the deductible.

Council Member Adami verified that the TMRS changes were mandatory and asked for a summary of the changes. He felt it was a better accounting of cost to charge each fund for their percentage of funding to TMRS based on the employees covered in those funds.

Mr. Hefton said the most recently Consumer Price Index percentage is 4.4%. Most of the CPI is attributed to the utility and fuel costs.

Council Member Howeth asked about the increase in employee health insurance. Mr. Hefton said the additional cost is due to major claims. This year the City will have approximately ten major claims as opposed to the normal two per year.

Mr. Hefton said the staff's budget strategy is to finish what was started, focus on the essentials, and follow the money. The staff is discussing third-party revenue collection partnerships in areas such as courts, solid waste, water/sewer, ambulance, and hotel/motel tax.

He added that there are currently two hotels that are deficient on their payments and the staff is pursuing avenues of collection. Mayor Magers asked if the payment of bills to the City could be tied to water usage and if someone doesn't pay their City obligations, could their water service be disconnected. Doreen McGookey, City Attorney, said she is currently looking at that issue as well as filing a lawsuit against the hotels. Council Member Howeth recommended that the Tourism Department not advertise these hotels if they aren't paying their hotel/motel tax.

Mr. Olson confirmed with the City Council that the staff's prioritization of the General Fund is the same as the Council's prioritization as they move into budget planning. The first area of concern is public safety, including police, fire, code enforcement and animal control; the second is streets; the third is administrative, including management, finance, legal, clerk, human resources, engineering, building maintenance, and development services; and the fourth priority is community services, including cemetery, library, pools, senior center, parks and grounds, Glennie O. Ham Center, community development, and day care. Council Members agreed these were the priorities that should be considered as the staff moves into budget planning.

Mr. Olson presented projects that were discussed during last year's Budget Work Shop and the status of those projects. Most projects have either been completed or are in process, but a few have been delayed.

Mayor Magers confirmed that the Travis Street overlay project will begin after the water line has been replaced. That water line should be awarded at the next City Council Meeting.

Council Member Steele asked about the status of marketing the City and the website development. Mr. Olson said the staff has looked at including tourism with the project, however it is still under discussion. Mr. Hefton said the staff sees marketing the City through the website and the redevelopment of the website tied to the tourism initiative and that tourism initiative is still under discussion.

Council Member Howeth suggested that the City's website include the actual dates for Council Meetings.

STATUS OF COUNCIL INITIATIVES FROM 2007-2008 BUDGET PROCESS

Mr. Olson presented the FY 2008-2009 budget planning initiatives adding that the City needs to complete the projects that have already been started. He presented a list of staff initiatives designating them as essential, important, or discretionary.

Council Member Adami verified that the off-site drainage projects related to Brockett Street were in addition to the project already planned. Mr. Olson said the drainage issues would be aggravated by the Brockett Street Enhancement Project. He added that many of the problems are adjacent to the railroad track. Some of the projects may be as easy as cleaning out storm drains.

Mayor Magers felt the Canyon Creek Drive extension was tied to the Pecan Grove Park Phase II project.

Council Members took a break from 1:25 p.m. to 1:31 p.m.

IDENTIFICATION OF PLANNING INITIATIVES FOR 2008-2009

Mr. Olson said it was the City Council's turn to identify planning initiatives they would like to see in the budget process.

Mayor Magers felt there were two issues with employee health care, a short term, hopefully once in a lifetime issue, to replenish the fund; and a long term issue for allocation. He reiterated the importance of completing the CIP projects that the City has committed too in the proper time frame. The projects were to be completed in two years, except for the streets which were included in the four year sales tax plan. He has heard that the citizens are frustrated by Councils making promises and not following through. He added that the Canyon Creek Drive extension project should be tied to the Pecan Grove Park Phase II project.

Council Member Steele wanted to consider the cost and whether or not the street sweeping program is needed. He asked what would happen if it was not done and what the benefit was to the program. Council Member Wacker felt there was a benefit to the program. Mr. Olson said the City is currently providing the service internally.

Council Member Steele had also asked about improvements to the Old Settlers Park fields, including grading and leveling, however he said this was not a budget issue and had been addressed.

Mayor Magers addressed park maintenance saying as the park system is expanded, the City will also have added maintenance costs. Council Member Steele agreed saying the City must determine more efficient ways to maintain the parks, including the possible privatization of maintenance.

Deputy Mayor Wacker said last year the Council discussed hiring a professional park planner, and she wondered if there was a key staff member that could help in the future with park planning and engineering.

Council Member Adami did not want to assign a priority to these items, but wanted the staff to provide information for the Budget Work Session and then let the Council decide what items would be included in the final budget.

Council Member Howeth expressed concern about the constant maintenance from vandalism of the Hawn Park Skate Park. She did not know whether the solution was maintenance or better security.

Mayor Magers felt the Council should also discuss the tourism and the downtown area but mainly about moving money around and not increasing the budget.

Council Member Adami wanted to discuss West Hill Cemetery and its appearance along a major thoroughfare. He felt the metal building could be enhanced and the concrete markers at the entrance could be painted.

Mayor Magers said the Council has discussed linking Fairview Park to Pecan Grove Park by a trail system. Baker Park has been linked to Binkley Park and to the Center Street facility. He added that even painted bike trails along some of the streets would be a start to the process. He felt the parks are more valuable assets if they are linked together.

Council Member Softly asked to look at additional street lighting over certain area streets that he will identify for the staff.

Council Member Howeth asked for a copy of the City codes relating to trash, junked vehicles, high weeds and grass, and other environmental code issues.

Council Member Adami asked for a time line, with completion dates, for projects in progress. Council Member Steele agreed that those are the questions that citizens ask him and a time line would help him provide information.

EXECUTIVE SESSION – IN ACCORDANCE WITH CHAPTER 551, GOVT. CODE, V.T.C.S., (OPEN MEETINGS LAW)

THE CITY COUNCIL WILL NOW HOLD AN EXECUTIVE SESSION PURSUANT TO THE PROVISIONS OF THE OPEN MEETINGS LAW, CHAPTER 551, GOVERNMENT CODE, VERNONS TEXAS CODES ANNOTATED, IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN THE FOLLOWING SECTIONS.

**SECTION 551.074 -- PERSONNEL MATTERS:
DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION,
REASSIGNMENT, DUTIES, OR DISMISSAL OF CERTAIN CITY
EMPLOYEES**

On Motion duly made and carried, the Open Meeting recessed and reconvened in Executive Session at 1:47 p.m.

On Motion duly made and carried, the Executive Session recessed at 2:19 p.m. and reconvened in Open Meeting.

**OPEN MEETING
RECONVENE INTO OPEN MEETING AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN
EXECUTIVE SESSION**

There were no items to be discussed from the Executive Session.

ADJOURNMENT

There being no further business to come before the City Council, motion was duly made and approved to adjourn the Called Meeting at 2:20 p.m.

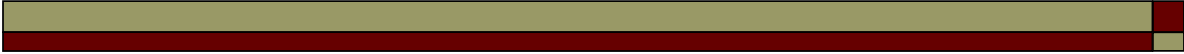
MAYOR

ATTEST

CITY CLERK

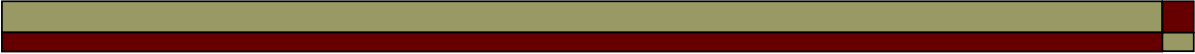
Budget Planning Meeting - June 2008





Current Year Highlights

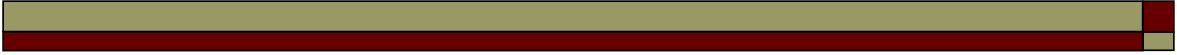
- ❑ Initiatives completed or in-progress
 - Sales Tax Election
 - ❑ Reduce property taxes
 - ❑ Street Enhancement Program
 - Issued \$5 Million CO Bonds – first since 1977 in General Fund
 - Comprehensive Master Plan Update
 - Various annexations underway
 - ❑ Hwy 75 North
 - ❑ Hwy 82 West
 - Downtown improvement program amended



Current Year Highlights - continued

□ Capital Projects

- Center Street Park
- Pecan Grove Park Phase I
- Brockett Street Enhancements
- Hwy 75 North Water/Sewer (including annexations)
- Hwy 82 West Water



FINANCIAL UPDATE

SUMMARY FINANCIAL INFORMATION

Original Budgets	2008	2007	% Change
General Fund Revenue	\$29,077,084	\$27,688,598	5.01%
General Fund Expenditures	\$30,192,362	\$28,041,424	7.67%
Utility Fund Revenue	\$19,172,000	\$18,276,000	4.90%
Utility Fund Expenditures	\$20,145,105	\$17,942,772	12.27%

Number of Employees*	2008	2007	% Change
General Fund	292	294	-0.68%
Utility Fund	74	72	2.78%
All Other Funds	48	47	2.13%
Total	<u>414</u>	<u>413</u>	

*Authorized full-time permanent positions.

Property Taxes

Certified Taxable Value	\$1.9B
FY2008 Budgeted Revenue	\$7,500,000
Revenue Effect of \$.01 Change in Rate	\$187,500

FY2008 Rates per \$100 valuation

City of Sherman	\$0.40000
Sherman ISD	\$1.37000
Grayson County	\$0.49090
Grayson Co. College	\$0.13974

Sales Taxes - General Fund

2008 Budgeted Revenue	\$11,086,709
2008 Projected Revenue	\$10,525,000
General City Rate	1.0000%
Street Sales Tax	0.1250%
City In Lieu of Property Tax Rate	<u>0.3750% **</u>
Total City Rate	1.5000%
SEDCO Rate	0.3750%
State Rate	<u>6.2500%</u>
Total Rate	<u>8.1250%</u>

** As of 10/1/2008, this rate will be .50%

General Fund
Summary of Revenues & Expenditures (Budget Basis)

UPDATED

	Actual 2005-2006	Actual 2006-2007	Adjusted Budget 2007-2008	Projected 2007-2008
Beginning Fund Balance	\$6,631,114	\$7,317,101	\$ 6,100,660	\$ 8,621,767
Revenues				
Property Taxes	6,894,312	7,288,378	7,495,500	7,593,000
Sales Taxes	10,355,403	10,650,018	11,086,709	10,499,000
Franchise Taxes	3,401,743	3,274,622	3,330,000	3,552,000
Other Taxes	116,394	112,467	113,000	126,500
Fines & Forfeitures	710,089	668,660	754,500	849,606
Recreation	69,949	230,185	278,500	205,241
Permits & Licenses	455,348	433,390	439,000	437,418
Rentals	4,084	20,581	5,650	26,512
Cemetery Sales and Services	128,725	116,972	164,000	88,180
Sales & Services	398,500	384,859	514,785	456,976
Ambulance Services	1,626,354	2,212,832	1,850,000	1,796,920
Interest	251,467	558,684	425,000	476,656
Grants and Miscellaneous	964,203	494,418	675,998	536,306
Total Revenues	25,376,571	26,446,065	27,132,642	26,644,315
Transfers In	1,719,559	1,999,588	2,090,138	2,095,938
Total Receipts	27,096,130	28,445,654	29,222,780	28,740,253
Total Funds Available	33,727,244	35,762,755	35,323,440	37,362,020
Expenditures				
Personnel	17,713,301	18,908,864	19,633,685	20,120,000
Supplies	694,899	811,228	1,212,148	1,130,000
Maintenance	803,112	795,210	1,295,346	1,065,000
Utilities	1,323,583	1,240,649	1,510,115	1,440,000
Contract Wages	230,471	338,366	335,910	375,000
Computer Services	314,135	270,143	387,900	407,500
Debt Service	172,774	191,941	211,885	183,000
Contractual and Sundry Services	1,344,759	1,239,496	1,753,962	1,690,000
Vehicle Usage	1,112,762	1,051,316	1,207,900	1,135,000
Equipment and Buildings	1,396,347	1,497,774	1,025,596	1,020,655
Transfer Out to Debt Service	-	-	481,750	150,000
Transfers Out- CIP Fund	1,304,000	796,000	1,700,000	1,700,000
Total Expenditures	26,410,143	27,140,988	30,756,197	30,416,155
Excess Receipts over Expenditures	685,987	1,304,665	(1,533,417)	(1,675,902)
Ending Fund Balance	\$ 7,317,101	\$ 8,621,767	\$ 4,567,243	\$ 6,945,865

Utility Fund
Summary of Revenues & Expenses (Budget Basis)

	Actual 2005-2006	Actual 2006-2007	Adjusted Budget 2007-2008	Projected 2007-2008
Beginning Reserve	\$ 3,912,011	\$ 6,410,850	\$ 4,216,041	\$ 4,789,693
Revenues				
Water Revenues	10,859,674	10,218,635	10,994,000	10,788,000
Sewer Revenues	6,610,903	6,567,903	7,028,000	6,733,000
Laboratory Charges	128,565	116,285	84,000	97,000
Service & Penalties	417,135	413,427	415,000	447,000
Earned Interest	323,847	379,039	345,000	240,000
Miscellaneous	301,025	313,827	306,000	284,773
Total Revenues	<u>18,641,149</u>	<u>18,009,116</u>	<u>19,172,000</u>	<u>18,589,773</u>
Total Funds Available	22,553,160	24,419,966	23,388,041	23,379,466
Expenses				
Personnel	3,896,147	4,181,354	4,405,320	4,226,234
Supplies	713,306	660,427	964,056	850,384
Maintenance & Repair	1,103,683	1,212,385	2,100,873	1,664,116
Utilities	2,649,014	2,579,701	3,317,075	2,954,700
Computer Services	68,683	66,387	88,600	72,500
Debt Service	4,577,430	4,562,052	4,992,322	4,993,073
Contract Wages	89,025	58,849	84,000	84,000
Contractual & Special Services	874,338	702,668	1,762,752	1,701,605
Vehicle Usage	228,019	198,005	259,000	268,302
Other	247,125	159,506	237,373	234,981
Capital Expenses	206,917	251,113	566,523	489,622
Total Expenses	<u>14,653,687</u>	<u>14,632,447</u>	<u>18,777,894</u>	<u>17,539,517</u>
Transfers Out				
General Fund	1,323,553	1,497,826	1,500,000	1,500,000
Others	165,070	3,500,000	800,000	800,000
Total Transfers Out	<u>1,488,623</u>	<u>4,997,826</u>	<u>2,300,000</u>	<u>2,300,000</u>
Total Expenses	<u>16,142,310</u>	<u>19,630,273</u>	<u>21,077,894</u>	<u>19,839,517</u>
Excess Revenues over Expenditures	<u>2,498,839</u>	<u>(1,621,157)</u>	<u>(1,905,894)</u>	<u>(1,249,744)</u>
Ending Reserve	<u>\$ 6,410,850</u>	<u>\$ 4,789,693</u>	<u>\$ 2,310,147</u>	<u>\$ 3,539,949</u>

Solid Waste Fund
Summary of Revenues & Expenses (Budget Basis)

UPDATED

	Actual 2005-2006	Actual 2006-2007	Adjusted Budget 2007-2008	Projected 2007-2008
Beginning Fund Balance	\$ 1,614,345	\$ 2,726,010	\$ 1,828,410	\$ 2,174,490
Revenues				
Solid Waste Fees	5,086,276	4,765,624	4,947,000	4,631,000
Service Penalties	-	69,556	83,000	60,000
Interest	55,578	94,377	95,000	55,000
Loan Proceeds	385,954	-	-	-
Miscellaneous	140,759	133,600	118,200	170,375
Total Revenues	<u>5,668,567</u>	<u>5,063,156</u>	<u>5,243,200</u>	<u>4,916,375</u>
Total Funds Available	7,282,912	7,789,166	7,071,610	7,090,865
Expenses				
Personnel	1,255,190	1,456,465	1,547,565	1,529,215
Supplies	157,141	212,224	220,353	183,928
Maintenance & Repair	6,991	10,062	46,637	33,000
Utilities	7,419	7,796	10,500	10,500
Contract Wages	2,374	1,615	6,300	3,100
Computer Services	7,928	15,720	10,700	12,200
Solid Waste Debt Service	453,291	502,931	381,755	354,064
Contractual & Sundry Services	1,303,035	1,363,568	1,434,452	1,403,046
Vehicle Usage	712,524	757,073	1,009,700	957,244
Capital Expenses	300,003	191,285	222,000	210,191
Transfers Out	351,006	1,095,938	1,195,938	1,195,938
Total Expenses	<u>4,556,902</u>	<u>5,614,677</u>	<u>6,085,900</u>	<u>5,892,426</u>
Excess Receipts over Expenditures	<u>1,111,665</u>	<u>(551,520)</u>	<u>(842,700)</u>	<u>(976,051)</u>
Ending Fund Balance	<u>\$ 2,726,010</u>	<u>\$ 2,174,490</u>	<u>\$ 985,710</u>	<u>\$ 1,198,439</u>

**General Improvement Fund
Summary of Revenues and Expenditures (Budget Basis)**

UPDATED

	Actual 2006-2007	Original Budget 2007-2008	Projected 2007-2008
Beginning Fund Balance	\$ 4,173,153	\$ 1,044,097	\$ 1,429,818
Revenues:			
Transfers In	1,504,028	2,400,000	2,400,000
Bond Proceeds		10,300,000	4,950,000
Investment Interest	152,662	25,000	120,000
Total Revenues	<u>1,656,690</u>	<u>12,725,000</u>	<u>7,470,000</u>
Total Funds Available	5,829,843	13,769,097	8,899,818
Expenditures:			
Taylor/Lamberth Right of Way	3,513	-	-
Street Oversizing	20,929	-	-
Fairview Pool Construction	2,051,892	-	-
Old Settlers Park Shade Structures	93,036	-	-
Old Settlers Park Road and Courts	252,382	-	-
Rebuilding Loy Lake - Taylor to Lamberth	1,542,393	-	-
Solid Waste Parking Lot Improvements - Phase III	67,464	-	-
Culvert at King Street and First Street	4,048	-	55,000
FM 1417/Highway 56 Intersection ROW Acquisition	28,350	-	-
Fairview Soccer Field Irrigation/Renovation	130,231	-	-
Fairview/MLK Lighted Hike/Bike Trail	127,145	-	262,000
Fairview Park Picnic Pavilions	44,999	-	-
Municipal Grounds Irrigation Project	33,643	-	-
Texoma Pkwy - Loy Lake Box Culvert		150,000	25,000
Harrison Storm Water Improvement		80,000	80,000
Aerial and Topographic Map Updates		170,000	170,000
Comprehensive Plan Study		200,000	260,000
Center Street Complex Planning		5,000	5,000
Hawn Park Upgrade		130,000	130,000
Pecan Grove Park Development - Phase I		400,000	200,000
Library Parking and Sidewalk		78,540	-
Old Settlers Park Restroom/Concession		200,000	150,000
Emergency Siren Replacement		195,000	195,000
Central Business District Rehabilitation Study		20,000	20,000
Park Mapping Project		50,000	40,000
Travis Street ROW- Taylor to Lamberth		50,000	-
Travis Street Overlay - Hwy 75 to Washington		111,500	111,500
Street Right-of-Way & Oversizing		50,000	20,000
UP R-O-W Purchase		575,000	-
Brockett St. - Grand to Travis		1,575,000	400,000
Total Expenditures	<u>4,400,024</u>	<u>4,040,040</u>	<u>2,123,500</u>
Ending Fund Balance	<u>\$ 1,429,818</u>	<u>\$ 9,729,057</u>	<u>\$ 6,776,318</u>
Designated for Transportation	120,000	120,000	120,000
Designated for Bond Projects	-	7,750,000	4,350,000
Not Designated	1,309,818	1,859,057	2,306,318

**Utility Improvement Fund
Summary of Revenues and Expenses (Budget Basis)**

	Actual	Original	Projected
	2006-2007	Budget	2007-2008
	2006-2007	2007-2008	2007-2008
Beginning Fund Balance	\$ 3,083,122	\$ 4,712,913	\$ 5,844,272
Revenues			
Interest Income/Other Income	216,868	3,890,000	150,000
Transfer-in from Utility Fund	3,500,000	800,000	800,000
Transfer-in from Utility Bond Funds		445,162	445,162
Total Revenues	<u>3,716,868</u>	<u>5,135,162</u>	<u>1,395,162</u>
Total Funds Available	6,799,990	9,848,075	7,239,434
Expenses			
Lamberth/Devonshire Sewer Replacement	4,008	-	-
Hub Street Water Line Replacement	57,756	-	-
NW Sherman Water Line Replacement	86,004	-	-
Ricketts/Kessler Water Line Replacement	54,729	-	-
WTP - Upgrade Phase I	469,117	-	548,498
Texoma Parkway Water Line Replacement - Phase II	29,509	-	-
Hwy 56 Water Line Connection - West to Friendship	84,594	-	-
Dexter Street Water Line Replacement	152,699	-	-
West Washington Water Replacement	-	-	175,000
Texoma Parkway Sewer Replacement	-	-	15,000
Belden Street Water Line Replacement	7,831	-	71,644
Oakhill Water Line Replacement	7,767	-	59,129
Utility Oversizing	-	-	-
WWTP Screw Lift Pump Replacement	-	690,000	320,000
WTP - Upgrade Phase II	-	1,425,000	1,100,000
* Relief Sewer K-4 Phase 1	1,704	-	-
Utility Oversizing	-	100,000	-
Highland Street Water Replacement	-	135,000	135,000
Travis Street Water Line Replacement - 75 to Washington	-	250,000	160,000
* Hwy 75 Water/Sewer to 691	-	3,700,000	-
Total Expenses	<u>955,719</u>	<u>6,300,000</u>	<u>2,584,271</u>
Ending Fund Balance	<u>\$ 5,844,272</u>	<u>\$ 3,548,075</u>	<u>\$ 4,655,163</u>

* Note: Projects thru GTUA will not be reflected on City's books. This presentation is for discussion purposes only.

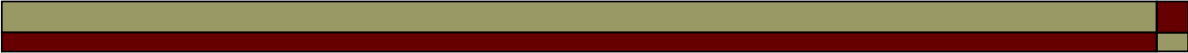
Preliminary Revenue Estimates – FY2009

	2006-2007	2007-2008	2008-2009	Percentage Change	
Revenue	Actual	Estimate	Projected	2008 Est/2007 Actual	2009 Proj/2008 Est
General Fund					
Property Tax	\$ 7,288,378	\$ 7,593,000	\$ 6,500,000	4.18%	-14.39%
Regular Sales Tax	7,517,282	7,635,000	8,036,000	1.57%	5.25%
Sales Tax in Lieu of Prop. Tax	3,132,736	2,864,000	3,814,000	-8.58%	33.17%
Franchise Tax	3,274,622	3,553,000	3,485,000	8.50%	-1.91%
Fines & Forfeitures	668,660	849,606	850,000	27.06%	0.05%
Ambulance Services	2,212,832	1,796,920	1,700,000	-18.80%	-5.39%
Transfer	1,999,588	2,095,938	2,000,000	4.82%	-4.58%
Other	2,351,556	2,352,787	2,204,760	0.05%	-6.29%
	<u>\$ 28,445,654</u>	<u>\$ 28,740,251</u>	<u>\$ 28,589,760</u>		
Utility Fund					
Water Sales	\$ 10,218,635	\$ 10,788,000	\$ 11,004,000	5.57%	2.00%
Sewer Services	6,567,903	6,733,000	6,870,000	2.51%	2.03%
Other	1,222,578	1,068,773	912,000	-12.58%	-14.67%
	<u>\$ 18,009,116</u>	<u>18,589,773</u>	<u>18,786,000</u>		
Solid Waste Fund					
Solid Waste Fees	\$ 4,765,624	\$ 4,631,000	\$ 4,724,000	-2.82%	2.01%
Other	297,533	285,375	299,200	-4.09%	4.84%
	<u>\$ 5,063,157</u>	<u>\$ 4,916,375</u>	<u>\$ 5,023,200</u>		



Challenges for FY2009 Budget

- ❑ **TMRS**
 - ❑ Total annual effect is \$400k
 - ❑ Likely phase in over 3 years
- ❑ **Group Health Plan**
 - ❑ One-time transfer of \$1mm (probably from General Fund)
 - ❑ On-going increase plan funding \$500k (General, Utility, Solid Waste Funds)
 - ❑ Modify plan benefits?
- ❑ **Cost of Living Increase – annual CPI running 4.4%**
- ❑ **Utility/Fuel Costs**



FY2009 Budget Strategy

- **Finish what we started**
 - Various street projects
 - Comprehensive Master Plan
 - Various parks projects
 - Property tax rate adjustment
- **Focus on essentials**
 - Examine mission-critical municipal services
 - Evaluate possible internal and external duplications of effort
- **Follow the money**
 - Revenue enhancement
 - Third-party revenue collection partnerships (ACS) - courts, solid waste, water/sewer, ambulance, hotel/motel
 - Cost containment
 - Personnel – 70% of recurring costs in General Fund
 - Debt reissuance – GTUA
 - Operating Efficiencies
 - Public Safety operations



General Fund Function by Prioritization

- ❑ Public Safety (Police, Fire, Code Enforcement, Animal Control)
- ❑ Streets
- ❑ Administrative (Management, Finance, Legal, Clerk, HR, Engineering, Bldg Maintenance, Development Services)
- ❑ Community Services

Cemetery	Parks & Grounds
Library	Glennie O' Hamm
Pools	Community Development
Senior Center	Day Care

ASSIGNMENTS FROM 2007-2008 BUDGET WORKSHOP - MANAGEMENT LIST

TASK	STATUS	COMMENTS
1 Park/Urban Planner	Deferred	Timing of this initiative delayed for economic reasons
2 Property Acquisition at Blalock	In process	
3 Flood Control	In process	Flood mapping updates thru Comprehensive Plan Update
4 Marketing the City/Website Development	In process	Tied to Tourism initiative
5 Downtown Light Pole Repainting	Completed	Amended TIF #2 Plan
6 Grant Writing Program	In process	
7 Hotel/Motel Tax Management Plan	In process	Tied to Tourism initiative
8 Funding from Hotel/Motel Tax for Tourism: \$229,725	Completed	
9 Website Update for Tourism	In process	Tied to Tourism initiative
10 Funding from Hotel/Motel Tax for Museum: \$82,500	Completed	
11 Funding from Hotel/Motel Tax for Downtown Grants: \$25,000	In process	Grant awarded
12 Funding from Hotel/Motel Tax for DSP&R Director: \$20,000	Completed	
13 Funding from Hotel/Motel Tax for SCAH: \$33,109	Completed	
14 Public Safety Compensation: \$560,000	Completed	
15 Certificate of Obligation Bond Issuance: \$10 million	Completed	Issued \$5 million, per Council direction
16 Sales Tax Election	Completed	
17 Property Tax Rate	In process	Rate to be adopted by Council in September, 2008
18 2% Across-the-Board COLA	Completed	
19 1/2 of 1% Performance Based Plan Compensation	Deferred	Deferred, pending more comprehensive pay for performance plan development

ASSIGNMENTS FROM 2007-2008 BUDGET WORKSHOP - MANAGEMENT LIST

TASK	STATUS	COMMENTS
20 Utility Billing Clerk to Full-Time (CSW): \$23,000	Completed	
21 Utility Certification/Incentive Pay Updates (4 Depts): \$15,000	Completed	
22 Solid Waste Pay Adjustment (3 Depts): \$13,000	Completed	
23 Clean up Excess Fund Balances	In process	Any needed adjustments to be made during FY09 Budget process
24 Comprehensive Master Plan: \$200,000	In process	
25 Park Mapping Project: \$50,000	In process	Coordinated with Aerial Photography and GIS program
26 Pecan Grove Park Development	In process	Phase I
27 Anderson Meat Property - Fairview Park Expansion: \$2.3 million	Deferred	Deferred pending resolution of zoning appeal
28 Union Pacific R-O-W	Deferred	Existing UP property deemed insufficient for trail needs
29 Fairview Park (explore alternative uses)	Completed	Reviewed in context of Center Street project - no changes recommended
30 Center Street Sport Complex Development	In process	
31 Old Settler's Park Concession/Restroom: \$200,000	In process	
32 Hawn Park Upgrade: \$130,000	Completed	
33 Central Business District Enhancement/Enforcement: \$15,000	In process	
34 Reverse 911 System: \$18,000/year	Completed	
35 Outdoor Warning Siren Upgrade: \$195,000	Completed	
36 WWTP Digester Rehabilitation: \$1,020,000	In process	
37 WWTP Screw Lift Pump Replacement: \$690,000	In process	
38 WTP Upgrade - Phase II: \$1,425,000	In process	
39 Texoma Parkway Water Replacement - Phase III: \$300,000	In process	

ASSIGNMENTS FROM 2007-2008 BUDGET WORKSHOP - MANAGEMENT LIST

TASK	STATUS	COMMENTS
40 Relief Sewer K-4, Phase I: \$900,000	In process	
41 Utility Oversizing: \$100,000	In process	Done as needed
42 Highland Street Water Replacement: \$135,000	In process	
43 Travis Street Water Line Replacement: \$250,000	In process	
44 U. S. Highway 75 North Utility (Water & Sewer) Infrastructure: \$3.7 million	In process	
45 U. S. Highway 82 West Utility (Water) Infrastructure	In process	
46 Travis Street Overlay	Not started	Project to begin after water line replacement
47 North Travis/F.M. 131 Corridor Plan: \$50,000	In process	Annexation pending
48 Loy Lake Phase III - Taylor to Texoma Parkway: \$150,000	In process	
49 East-West Thoroughfare Plan	In process	Washington and Lamberth Rd. delayed pending Comp Master Plan Update
50 Brockett Street Design #3 - Grand to Travis: \$1.575 million	In process	
51 City-Wide Brush Pick-Up Service: \$237,000	In process	Pickup to begin July 1
52 Texoma Parkway Median Landscaping: \$6,000	In process	
53 Plan Scanning - Engineering: \$10,000	In process	Coordinate with GIS
54 Street R-O-W and Oversizing: \$50,000	In process	Done as needed
55 Harrison Stormwater Improvement: \$80,000	In process	
56 Library Parking & Sidewalk Renovation: \$78,540	Delayed	Project being re-evaluated for scoping and necessity
57 Aerial & Topographic Map Updates: \$170,000	In process	

2008-09 BUDGET PLANNING INITIATIVES - STAFF

	Origin	Essential Important Discretionary
GENERAL FUND		
Cost-of-Living Raises	Staff	
TMRS Changes	Staff	
Group Health Insurance	Staff	
PFP, Workforce Development, Succession Planning	Staff	
Departmental Strategic Planning	Staff	
GIS System Implementation & Development	Staff	
Annual Report Development and Printing	Staff	
Downtown landscape maintenance	DSP&R	
GENERAL CIP FUND		
Solid Waste Transfer Station Repairs	Staff	
Offsite Drainage Projects (related to Brockett St)	Staff	
Bleacher Renovation - OSP & Fairview	Staff	
Pecan Grove Park Phase II	Staff	
Canyon Creek Drive Extension	Staff	
US Hwy 75 - West Frontage Road Reversal	Staff	
Canyon Grove Road Relocation - Phase I	Staff	
Fairview Park - Commercial Field Lighting	Staff	
Felder Park Improvements - Basketball & Playground	Staff	
Baker Park Pavilion & Fishing Pier	Staff	
MLK Park Restroom	Staff	
Travis Street - Taylor to Lamberth ROW & Utilities	Staff	
Fallon Drive to Loy Lake - Engineering & ROW	Staff	
UTILITY FUND		
Cost-of-Living Raises	Staff	
Rate Study	Staff	
UTILITY CIP FUND		
WWTP Primary Clarifier #2 Rehab	Staff	
WTP - Upgrade Phase III	Staff	
WWTP - Digester Roof Replacement	Staff	
WWTP Fine Screen Installation	Staff	
Relief Sewer K-4 Phase II	Staff	
Willow Street Water Line	Staff	
Oak Creek Drive Water Line	Staff	
Fallon Drive Water Main Loop	Staff	
SOLID WASTE FUND		
Cost-of-Living Raises	Staff	
Rate Study	Staff	

2008-09 BUDGET PLANNING INITIATIVES - COUNCIL

Essential
Important
Discretionary

Origin

GENERAL FUND

Employee Health Insurance Review
Street Sweeping Program Consideration
OSP Field Improvement - grading, level, etc.
Park Maintenance - How to better maintain
Finish promised CIP projects within committed time
frames without increasing costs
Street and Thoroughfares Focus
Tourism/Downtown
Cemetery Building Exterior Improvements
Cemetery Concrete Entrance Marker Renovation

All
Steele
Steele
Steele
Magers

Smith
Steele, Wacker
Adami
Adami

GENERAL CIP FUND

Parks Trail Connections - Fairview to Pecan Grove

Adami

HOTEL/MOTEL TAX FUND

Tourism/Downtown

Smith, Wacker

STATE OF TEXAS §
COUNTY OF GRAYSON §

BE IT REMEMBERED THAT A Regular Meeting of the City Council of the City of Sherman, Grayson County, Texas was begun and held in the Council Chambers of City Hall on June 16, 2008.

MEMBERS PRESENT: MAYOR BILL MAGERS. DEPUTY MAYOR CARY WACKER. COUNCIL MEMBERS ADAMI, HOWETH, SMITH, SOFTLY, STEELE.

MEMBERS ABSENT: NONE.

CALL TO ORDER

Mayor Bill Magers called the meeting to order at 5:01 p.m. The Pledge of Allegiance and the Invocation were given by Council Member Willie Steele.

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of June 2, 2008. Council Member Smith moved to approve the Minutes as presented; Second by Council Member Adami. All present voted AYE. MOTION CARRIED.

CONSENT AGENDA

The Council reviewed the Consent Agenda. Council Member Adami moved to approve the Consent Agenda, as presented. Second by Council Member Smith. All present voted AYE.

RESOLUTIONS

Mayor Magers confirmed that the interest rate is 4.14% which is a great interest rate considering the current market. Robby Hefton, Assistant City Manager/CFO, said the project refinances a portion of a 1998 Series and finances a water line along Hwy 75 North to Hwy 691.

ACTION TAKEN.

Motion by Council Member Adami to approve Resolution No. 5222, as presented. Second by Deputy Mayor Wacker.

VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 5223 – AUTHORIZING THE EXPENDITURE OF \$3,000.00 IN MATCHING FUNDS TO THE TEXOMA COUNCIL OF GOVERNMENTS FOR TRANSPORTATION PLANNING

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE EXPENDITURE OF THREE THOUSAND DOLLARS (\$3,000.00) IN MATCHING FUNDS TO THE TEXOMA COUNCIL OF GOVERNMENTS FOR TRANSPORTATION PLANNING.

CONSENT AGENDA.

RES 5223
TCOG GRANT FOR
TRANSPORTATION
PLANNING

RESOLUTION NO. 5224 – RENEWING GUIDELINES AND CRITERIA FOR THE CITY OF SHERMAN'S INDUSTRIAL TAX ABATEMENT PROGRAM TO PROMOTE DEVELOPMENT/ REDEVELOPMENT IN CERTAIN AREAS OF THE CITY

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, RENEWING GUIDELINES AND CRITERIA FOR THE CITY OF SHERMAN'S INDUSTRIAL TAX ABATEMENT PROGRAM TO PROMOTE DEVELOPMENT/ REDEVELOPMENT IN CERTAIN AREAS OF THE CITY.

CONSENT AGENDA.

RES 5224
INDUSTRIAL TAX
ABATEMENT
PROGRAM

RESOLUTION NO. 5225 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH JERRY PAUL HIGGINS, LTD. FOR REPLACEMENT OF THE TRAVIS STREET WATER MAIN BETWEEN U.S. HIGHWAY 75 AND WASHINGTON STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH JERRY PAUL HIGGINS, LTD. FOR REPLACEMENT OF THE TRAVIS STREET WATER MAIN BETWEEN U.S. HIGHWAY 75 AND WASHINGTON STREET.

CONSENT AGENDA.

RES 5225
TRAVIS STREET
WATER MAIN

RESOLUTION NO. 5226 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH LYNN VESSELS CONSTRUCTION, LLC TO REPLACE AN EXISTING STORM SEWER ALONG HARRISON AVENUE

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH LYNN VESSELS CONSTRUCTION, LLC TO REPLACE AN EXISTING STORM SEWER ALONG HARRISON AVENUE.

CONSENT AGENDA.

RES 5226
HARRISON ST.
STORM SEWER

RESOLUTION NO. 5227 – AUTHORIZING THE PURCHASE OF REPLACEMENT RESIDENTIAL TRASH AND RECYCLING CARTS THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC) FOR THE SOLID WASTE SERVICES DEPARTMENT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF REPLACEMENT RESIDENTIAL TRASH AND RECYCLING CARTS THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC) FOR THE SOLID WASTE SERVICES DEPARTMENT.

CONSENT AGENDA.

Council Member Adami asked how the new colored recycling containers will be implemented into the City. Jeff Miller, Director of Public Works, said the plan is to try to get the new colored carts in the same subdivision or area of town. The carts are the same size as the older carts, but they are blue instead of green.

OTHER BUSINESS

FINAL PLAT APPROVAL OF THE GARCIA ADDITION, BEING 1.12 ACRES IN THE G.B. PILANT SURVEY, ABSTRACT NO. 963; ALYSIA GARCIA, OWNER (1400 BLOCK OF EAST LAKE STREET)

The City Council approved the Final Plat of the Garcia Addition, which is located in the 1400 block of East Lake Street, between First Street and the railroad tracks. This is the redevelopment of existing property that has never been platted. The Planning and Zoning Commission recommended approval of the Final Plat.

CONSENT AGENDA.

FINAL PLAT APPROVAL OF THE JANE ALLEN ELLIS ADDITION; MONROE BANK, TRUSTEE FOR JANE ALLEN ELLIS TRUST, OWNERS (1828 TEXOMA PARKWAY)

The City Council approved the Final Plat of the Jane Allen Ellis Addition, which is located at the southwest corner of Texoma Parkway and Taylor Street. The owner would like to plat this property into one lot to construct a Walgreen's Pharmacy at this location. The Planning and Zoning Commission recommended approval of the Final Plat.

CONSENT AGENDA.

CONSIDERATION TO ORDINANCE NO. 2684, SECTION 26, SUBSECTION 12(E)(2) FOR A VARIANCE TO ALLOW A LOT WITH NO PUBLIC STREET FRONTAGE IN AN R-1 (ONE FAMILY RESIDENTIAL) DISTRICT IN THE 1400 BLOCK OF EAST LAKE STREET, BEING 1.12 ACRES IN THE G.B. PILANT SURVEY, ABSTRACT NO. 963 (ALYSIA GARCIA, OWNER)

The City Council approved the request of Alysia Garcia and Sartin and Associates for special consideration for a variance to allow a lot with no public street frontage in an R-1 (One Family Residential) District in the 1400 block of East

RES 5227
TRASH CARTS

APPROVE FINAL PLAT
GARCIA ADDITION
(1400 BLOCK OF
E. LAKE)

APPROVE FINAL PLAT
JANE ALLEN ELLIS
ADDITION
(1828 TEXOMA PKWY)

VARIANCE FOR
STREET FRONTAGE
(1400 BLOCK OF
E. LAKE)

Lake Street. The lot is situated behind two other lots with a 30' general access easement. The owner would like to construct a single family home on the lot. The Planning and Zoning Commission recommended approval of the variance.
CONSENT AGENDA.

CITIZENS REQUESTS

There were no citizen's requests.

MEDIA QUESTIONS

There were no media questions.

COUNCIL COMMENTS

NEW RESTAURANT

Mayor Magers welcomed a new restaurant to the Sherman Town Center. He added that retail development is a good deal.

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:07 p.m.

CITIZENS REQUESTS

MEDIA QUESTIONS

NEW RESTAURANT

ADJOURNMENT

MAYOR

CITY CLERK



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. B.1

PUBLIC HEARING OF ORDINANCE NO. 5534

Extending the Corporate Limits of Said City so as to Annex Approximately 44.97 Acres of Land at the Intersection of U.S. Highway 82 and Hudgins Road (State Highway 289) in the City of Sherman's Extra Territorial Jurisdiction; Providing for a Municipal Plan

Issue

To hold a public hearing on and consider the adoption of the annexation ordinance that extends the City of Sherman's corporate limits so as to annex approximately 44.97 acres at the intersection of U.S. Highway 82 and Hudgins Road (State Highway 289) in the City's extra territorial jurisdiction (ETJ), in accordance with State law and the City Charter

Background

On January 3, 2008, George R. Shrader, representing Preston Dorchester Partners, Ltd., requested annexation into the city limits for their property located on U.S. Highway 82 and Future Highway 289. They would like to develop the property for a commercial retail development. It is recommended by staff to include two additional adjacent tracts. At its February 18, 2008 meeting, the City Council approved the schedule for annexation of this property. Pursuant to that schedule, the City Council conducted the first public hearing on April 7, 2008, and conducted the second public hearing on April 21, 2008. No public comment was received at either hearing.

Concurrent with this annexation is a request to change the SF-1 zoning that is used for annexed areas to C-1 by Preston Dorchester Partners for their property. The ordinance was introduced but not passed at the City Council's May 13th meeting, permitting the City to meet state law requirements for annexation and state and local law requirements for passing and approving the amended zoning ordinance related to their property. The schedule for the annexation of this property was amended to accommodate the request to amend the zoning for the Preston Dorchester Partners' property.

Origination

Preston Dorchester Partners, Ltd.

Financial Consideration

City accepts maintenance. Estimated Financial Impact Summary is attached.

Staff Recommendation

It is recommended that the City Council hold the public hearing and consider the adoption of the ordinance for annexation.

Alternatives

The City Council could choose not to pursue this request for annexation; however, since the sale of water is a Council strategic goal, this action is not recommended.

Attachments

Ordinance No. 5534

Amended Annexation Scheduling Plan

Letter of Request

Field Notes and Sketch

Municipal Service Plan

Location Map

Financial Impact Summary

Aerial

Prepared by:

Mark Gibson, Director of Utilities and Engineering

Approved by:

George Olson, City Manager

ORDINANCE NO. 5534

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, EXTENDING THE CORPORATE LIMITS OF SAID CITY SO AS TO ANNEX APPROXIMATELY 44.97 ACRES OF LAND AT THE INTERSECTION OF U.S. HIGHWAY 82 AND HUDGINS ROAD (STATE HIGHWAY 289) IN THE CITY OF SHERMAN'S EXTRA TERRITORIAL JURISDICTION; PROVIDING FOR A MUNICIPAL PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THIS ORDINANCE WAS INTRODUCED AND PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, Chapter 43 of the Texas Local Government Code and Article X, Section 12 of the City Charter of Sherman, Texas, an incorporated City, authorizes the annexation of territory, subject to the laws of this State.

WHEREAS, the procedures proscribed in Chapter 43 of the Texas Local Government Code, the City Charter of the City of Sherman, Texas, and any other applicable laws have been duly followed with respect to the territory described in Section 1 of this Ordinance.

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

SECTION 1. That the limits of the City of Sherman, Texas, shall be extended so as to hereinafter include within the corporate limits of said City the following tract of land, being more particularly described as follows, to-wit:

BEGINNING at the Northwest corner of the said Barkley tract and at an angle point in the existing City Limits to the City of Sherman, Grayson County, Texas, as established by City of Sherman Ordinance No. 5460 passed and adopted on June 4, 2007;

THENCE North 88° 35' 38" East with the North line of the said Barkley tract, a distance of 438.88 feet to the proposed West right-of-way line of Hwy 289;

THENCE Northwesterly following the West right-of-way line Hwy 289 the following courses and distances:

North 00° deg. 36' 58" West, a distance of 280.63 feet;

North 14° 31' 03" West, a distance of 210.74 feet;

North 46° 40' 13" East, a distance of 53.49 feet;

North 43° 10' 39" West, a distance of 279.78 feet;

South 45° 36' 21" West, a distance of 61.73 feet;

North 65° 37' 27" West, a distance of 572.86 feet to an angle point in the existing City Limits of the said City of Sherman and said point being 10 feet South from and perpendicular to the South right-of-way line Hwy 82;

THENCE East following the existing City Limits of the said City of Sherman being 10 feet from and parallel to the South right-of-way line of Hwy 82 the following courses and distances:

North 89° 24' 03" East, a distance of 309.34 feet;
South 43° 34' 56" East, a distance of 185.37 feet;
North 49° 51' 03" East, a distance of 165.86 feet;
North 89° 24' 03" East, a distance of 1302.86 feet to the East property line of the said Alyea tract and the a West line of the said Preston Dorchester Partners tract;

THENCE South 01° 14' 51" East with the East line of the Alyea tract and a West line of the Preston Dorchester Partners tract, a distance of 340.00 feet to the Southeast Corner of the Alyea tract and an ell corner in the a North line of the Preston Dorchester Partners tract;

THENCE South 78° 04' 47" East across a section of land in the Preston Dorchester Partners tract, a distance of 116.57 feet to a angle point in the East line of the Preston Dorchester Partners tract;

THENCE South 07° 13' 17" East with the East line of the Preston Dorchester Partners tract, a distance of 1610.60 feet to the most Southerly Southeast corner;

THENCE Westerly with the South line of the Preston Dorchester Partners tract the following courses and distances:

South 78° 42' 30" West, a distance 136.41 feet;
North 19° 27' 01" West, a distance 294.87 feet;
North 40° 54' 12" West, a distance 282.98 feet;
North 48° 44' 55" West, a distance 412.96 feet;
North 89° 20' 35" West, a distance 243.53 feet to the West right-of-way line of Hwy 289 and the Southwest corner of the Preston Dorchester Partners tract;

THENCE South 88° 32' 39" West, a distance of 401.23 feet to the East right-of-way line of Hwy 289 and said point being on the existing City limits line of the City of Sherman;

THENCE North 01° 27' 21" West with the existing City limits of the City of Sherman and the East right-of-way line of Hwy 289, a distance of 11.29' to the South property line of the said Barkley tract;

THENCE South 61° 46' 27" West with the South line of the Barkley tract, a distance of 118.10 feet;

THENCE South 83° 05' 24" West with the South line of the Barkley tract, a distance of 321.19 feet to the Southwest corner of the Barkley tract;

THENCE North 03° 03' 17" West with the West line of the Barkley tract, a distance of 373.99 to the place of beginning and containing 44.97 acres of land.

SECTION 2. That the inhabitants thereof shall hereinafter be entitled to all the rights and privileges of other citizens of the City of Sherman and they shall be bound by the acts, ordinances, resolutions, and regulations of said City.

SECTION 3. That the Service Plan for the annexed area is adopted and attached as Exhibit "A" to this Ordinance and incorporated for all purposes.

SECTION 4. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM AND
CONTENT:**

BY: _____
**DOREEN E. MCGOOKEY,
CITY ATTORNEY**

AMENDED ANNEXATION SCHEDULING PLAN
APPROXIMATELY 47.94 ACRES OF LAND AT THE INTERSECTION
OF U.S. HIGHWAYS 82 AND 289 (HUDGINS ROAD)

Thursday, February 28, 2008.....	Send written notice to property owners in the area to be annexed, public or private entities that provide services in that area, and any railroads with a right of way in the area to be annexed. The Department of Engineering Services will prepare a service plan that details the specific Municipal Services that will be provided to the area after it is annexed.
Wednesday, March 26, 2008.....	Post notice on City's website, newspaper and City Hall for City Council's 1 st Public Hearing on intent to annex. Send written notice to each public school district in the area to be annexed. Send by certified mail a second written notice to any railroads with a right of way in the area to be annexed. Obtain required affidavit of publication from newspaper.
Friday, April 3, 2008	Post notice of 1 st public hearing under the Open Meetings Act.
Monday, April 7, 2008.....	City Council's 1 st Public Hearing on intent to annex and service plan.*
Wednesday, April 9, 2008.....	Post notice on City's website, newspaper and City Hall for City Council's 2 nd Public Hearing on intent to annex. Obtain required affidavit of publication from newspaper.
Friday, April 18, 2008.....	Post notice of 2 nd public hearing under the Open Meetings Act.
Monday, April 21, 2008.....	City Council's 2 nd Public Hearing on intent to annex and service plan.*
Friday, May 9, 2008	Post notice on City's website, newspaper and City Hall for introduction of annexation ordinance. Posting will also be in compliance with the Open Meetings Act.
Tuesday, May 13, 2008.....	Introduction of Annexation Ordinance.
Thursday, July 3, 2008.....	Post notice on City's website, newspaper and City Hall for consideration of the annexation ordinance and adoption of the ordinance. Posting will also be in compliance with the Open Meetings Act.
Monday, July 7, 2008.....	City Council Public Hearing for consideration of the adoption of annexation ordinance.



January 3, 2008

Mr. George E. Olson
City Manager
City of Sherman
220 W. Mulberry
Sherman, Texas 75090

Dear Mr. Olson,

Preston Dorchester Partners, Ltd. is the owner of a 22.97 acre tract on the southeast corner of Highway 82 and Hudgins Road (future extension of SH 289). A precise description of the property is provided in the attached survey. The site has been acquired for development. Therefore, with this, we are requesting annexation of the tract by the City of Sherman. George R. Schrader will be representing Preston Dorchester Partners, Ltd. in this request. If additional information is needed, he is prepared to supply this. He can be reached by telephone, e-message, fax, or at his office.

George R. Schrader
Schrader & Kline, LLC
4800 Broadway, Suite A
Addison, Texas 75001
PH: 972-661-1973
FX: 972-386-8008
Email: schcli@swbell.net

Respectfully submitted,


Frank Babb, svp

Cc: Ms. Rita Gaither

14875 Landmark Blvd., Suite 306
Dallas, Texas 75254
214.696.8100 • 214.696.8110 FAX

**Annexation of approximately 44.97 Acres on the
South side of the Proposed Hwy 289 and Hwy 82 intersection**

Situated in the County of Grayson, State of Texas, being a part of the James S. Coffee Survey, Abstract No. 232 and H. Ritchey Survey, Abstract No. 1025 also being a part of the following tracts of land conveyed to current owners by deeds recorded in the Deed Records, Grayson County, Texas; Jack A. Barkley and Wife Donna M. Barkley (Vol. 2416 at Page 551), H. Gene Alyea (Vol. 4243 at Page 751), Preston Dorchester Partners, LTD (Vol. 4067 at Page 382) and being more particularly described as one tract by metes and bounds as follows, to wit:

BEGINNING at the Northwest corner of the said Barkley tract and at an angle point in the existing City Limits to the City of Sherman, Grayson County, Texas, as established by City of Sherman Ordinance No. 5460 passed and adopted on June 4, 2007;

THENCE North 88° 35' 38" East with the North line of the said Barkley tract, a distance of 438.88 feet to the proposed West right-of-way line of Hwy 289;

THENCE Northwesterly following the West right-of-way line Hwy 289 the following courses and distances:

North 00° deg. 36' 58" West, a distance of 280.63 feet;

North 14° 31' 03" West, a distance of 210.74 feet;

North 46° 40' 13" East, a distance of 53.49 feet;

North 43° 10' 39" West, a distance of 279.78 feet;

South 45° 36' 21" West, a distance of 61.73 feet;

North 65° 37' 27" West, a distance of 572.86 feet to an angle point in the existing City Limits of the said City of Sherman and said point being 10 feet South from and perpendicular to the South right-of-way line Hwy 82;

THENCE East following the existing City Limits of the said City of Sherman being 10 feet from and parallel to the South right-of-way line of Hwy 82 the following courses and distances:

North 89° 24' 03" East, a distance of 309.34 feet;

South 43° 34' 56" East, a distance of 185.37 feet;

North 49° 51' 03" East, a distance of 165.86 feet;

North 89° 24' 03" East, a distance of 1302.86 feet to the East property line of the said Alyea tract and the a West line of the said Preston Dorchester Partners tract;

THENCE South 01° 14' 51" East with the East line of the Alyea tract and a West line of the Preston Dorchester Partners tract, a distance of 340.00 feet to the Southeast Corner of the Alyea tract and an ell corner in the a North line of the Preston Dorchester Partners tract;

THENCE South 78° 04' 47" East across a section of land in the Preston Dorchester

Partners tract, a distance of 116.57 feet to a angle point in the East line of the Preston Dorchester Partners tract;

THENCE South 07°13'17" East with the East line of the Preston Dorchester Partners tract, a distance of 1610.60 feet to the most Southerly Southeast corner;

THENCE Westerly with the South line of the Preston Dorchester Partners tract the following courses and distances:

South 78°42'30" West, a distance 136.41 feet;

North 19° 27' 01" West, a distance 294.87 feet;

North 40° 54' 12" West, a distance 282.98 feet;

North 48° 44' 55" West, a distance 412.96 feet;

North 89° 20' 35" West, a distance 243.53 feet to the West right-of-way line of Hwy 289 and the Southwest corner of the Preston Dorchester Partners tract;

THENCE South 88° 32' 39" West, a distance of 401.23 feet to the East right-of-way line of Hwy 289 and said point being on the existing City limits line of the City of Sherman;

THENCE North 01° 27' 21" West with the existing City limits of the City of Sherman and the East right-of-way line of Hwy 289, a distance of 11.29' to the South property line of the said Barkley tract;

THENCE South 61° 46' 27" West with the South line of the Barkley tract, a distance of 118.10 feet;

THENCE South 83° 05' 24" West with the South line of the Barkley tract, a distance of 321.19 feet to the Southwest corner of the Barkley tract;

THENCE North 03° 03' 17" West with the West line of the Barkley tract, a distance of 373.99 to the place of beginning and containing 44.97 acres of land.

City of Sherman
Municipal Service Plan
U. S. Hwy. 82 and Hudgins Road (proposed Hwy. 289)
Annexation of 44.97 Acres

INTRODUCTION:

The annexation is the site of approximately 44.97 acres of proposed retail development and an existing residential tract along U. S. Hwy. 82 and Hudgins Road (proposed Hwy. 289) lying adjacent to the City of Sherman existing city limits.

This annexation is a step in the process of providing for the orderly growth and development of the City, to protect the City from substandard development and to provide for the enlargement of the city limits by including developments and improvements that are logically a part of the City and receive city utilities.

MUNICIPAL SERVICES TO BE PROVIDED:

POLICE PROTECTION: Patrolling, radio responses to calls, and other routine police services, using present personnel and equipment will be provided on the effective date of annexation.

FIRE PROTECTION: Fire protection by the present personnel and equipment of the fire fighting force will be provided on the effective date of annexation. Additional water mains and fire hydrants will be required to serve the area based upon existing City policies as applicable to all city residents.

SOLID WASTE: The same solid waste collection and disposal service now provided within the City of Sherman will be extended to the annexed area on the effective date of annexation.

STREETS AND BRIDGES: No existing public streets exist in the area to be annexed. All access points to U. S. Hwy. 82 and proposed State Hwy. 289 shall meet TxDOT requirements. Any future streets will be developed by the standard provisions of the Developers Ordinance with future maintenance by the City of Sherman. Street lighting will be established according to city guidelines.

PARKS: No public parks exist in the area to be annexed. Any new park facilities will be developed according to existing City policies as applicable to all city residents.

CONSTRUCTION INSPECTIONS: Building inspection activities will be available upon

annexation.

ENVIRONMENTAL HEALTH AND HEALTH CODE ENFORCEMENT: Enforcement of the City's environmental health ordinances and regulations shall be provided within this area on the effective date of the annexation ordinance.

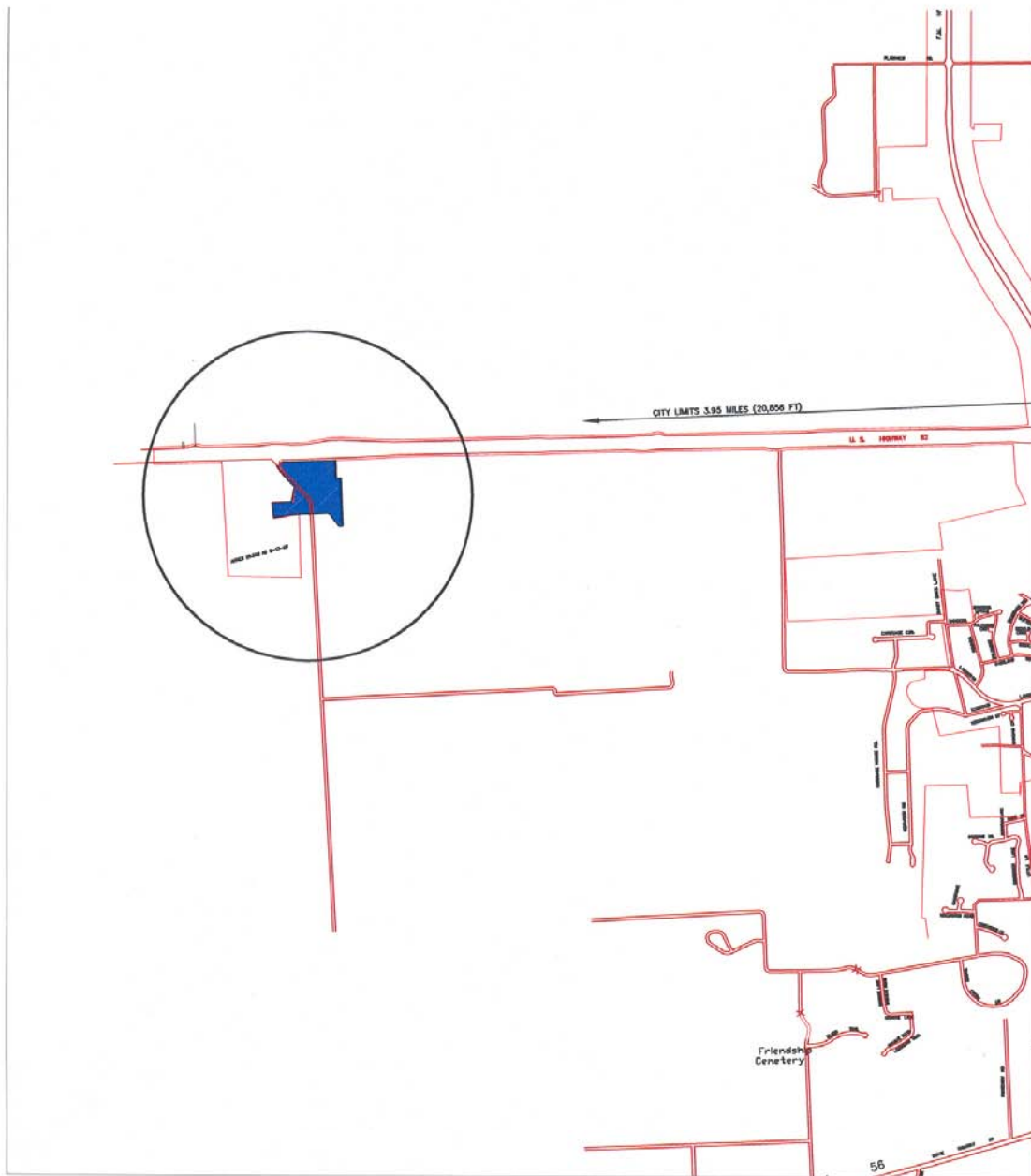
ANIMAL CONTROL: Animal control will be provided by the City on the effective date of annexation.

PLANNING AND ZONING: The Planning and Zoning jurisdiction of the City will extend to this area on the effective date of the annexation. All areas will be annexed as SF1 on the effective date of the annexation ordinance.

CAPITAL IMPROVEMENTS:

WATER SERVICE: This area is outside of the City of Sherman's certified CCN at this time. Extensions of existing city mains for future development will be made by standard City of Sherman utility extension methods. Fire hydrants will be required. All connections to new or existing water mains will be based upon existing City policies as applicable to all city residents as stated in the current codes and ordinances.

SEWER SERVICE: This area is outside of the City of Sherman's certified CCN at this time. Extensions of any existing sewer facilities of the City of Sherman for existing or future development may be made by standard City of Sherman utility extension methods provided the capacity of the existing appurtenances is not exceeded at the time of development. Use of lift stations and force mains will be required to serve this area. All connections to new or existing sewer mains will be based upon existing City policies as applicable to all city residents as stated in the current codes and ordinances.



US Hwy 82 and Hudgins Rd 2008 Annexation

Department of Developmental Services



Hampton Heights Annexation Financial Impact Summary

	City Property Taxes	+	City Utility Revenues	-	City Operating Cost	City Operating Cost	=	Net Benefit to City
Year	If Outside City Limits	Taxes if Annexed	Outside	If Annexed	Outside	If Annexed		Annexed
1st	\$0	\$9,600	\$0	\$0	\$0	-\$23,982		(14,382)
2nd	\$0	\$9,888	\$0	\$0	\$0	-\$24,702		(14,814)
3rd	\$0	\$10,185	\$0	\$0	\$0	-\$25,443		(15,258)
4th	\$0	\$54,548	\$0	\$18,150	\$0	-\$44,356		28,342
5th	\$0	\$109,096	\$0	\$36,300	\$0	-\$71,523		73,873
6th	\$0	\$163,644	\$0	\$37,389	\$0	-\$73,669		127,364
7th	\$0	\$168,553	\$0	\$38,511	\$0	-\$75,879		131,185
8th	\$0	\$173,610	\$0	\$39,666	\$0	-\$78,155		135,120
9th	\$0	\$178,818	\$0	\$40,856	\$0	-\$80,500		139,174
10th	\$0	\$184,183	\$0	\$42,082	\$0	-\$82,915		143,349
11th	\$0	\$189,708	\$0	\$43,344	\$0	-\$85,403		147,650
Totals	\$0	\$1,251,833	\$0	\$296,297	\$0	-\$666,527		\$881,603

Prime Growth Area	Yes
Protection from Substandard Development	Yes
Utility Service Area	Yes
Encourages further growth	Yes



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SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. B.2

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5540

Amending Section 12, Ordinance No. 2280, so as to Include Certain Properties within the C-1 (Retail Business) District in the 5300 Block of U.S. Highway 82 West and the 2600-2900 Blocks of Hudgins Road, being 22.27 acres in the James S. Coffee Survey, Abstract No. 232 (Preston Dorchester Partners, LTD, Owners; George R. Schrader, Representative)

Issue

To consider the request of Preston Dorchester Partners, LTD (Owners) and George R. Schrader (Representative) concerning the property in the 5300 block of U.S. Highway 82 West and the 2600-2900 blocks of Hudgins Road, being 22.27 acres in the James S. Coffee Survey, Abstract No. 232, to change the zoning from an SF-1 (Single Family Residential) District to a C-1 (Retail Business) District

Background

The property is located at the intersection of U.S. Highway 82 West and the future Highway 289 extension. The property is currently in the process of being annexed into the City limits of Sherman. The City Council will conduct a public hearing for introduction and consideration of adoption of the annexation ordinance on July 7, 2008. The property owners would like to develop the property for a commercial retail development.

Origination

Preston Dorchester Partners, LTD (Owners) and George R. Schrader (Representative)

Board Recommendation

At the May 20, 2008 regular meeting, the Planning and Zoning Board voted 6/0 to recommend to the City Council that the zone change be approved.

Attachments

Ordinance No. 5540

Location Map

Photograph

Site Plan

P&Z Communication Form

Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager

ORDINANCE NO. 5540

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 12, ORDINANCE NO. 2280, SO AS TO INCLUDE CERTAIN PROPERTIES WITHIN THE C-1 (RETAIL BUSINESS) DISTRICT IN THE 5300 BLOCK OF U.S. HIGHWAY 82 WEST AND THE 2600-2900 BLOCKS OF HUDGINS ROAD, BEING 22.27 ACRES IN THE JAMES S. COFFEE SURVEY, ABSTRACT NO. 232 (PRESTON DORCHESTER PARTNERS, LTD, OWNERS; GEORGE R. SCHRADER, REPRESENTATIVE); PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That from and after the passage of this ordinance, the following described property shall be in the C-1 (Retail Business) District in the 5300 block of U.S. Highway 82 West and the 2600-2900 blocks of Hudgins Road, and that Section 12, Ordinance No. 2280 is hereby amended so as to hereafter include the following described property:

SITUATED in the County of Grayson, State of Texas, being a part of the JAMES S. COFFEE SURVEY, Abstract No. 232, being a part of a 48.472 acre tract of land conveyed by Paul Brown and John D. Hill to Dan E. Hampton by deed dated September 14, 1972, recorded in Volume 1229, Page 669, Deed Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows to-wit:

BEGINNING at a found ½ inch rebar with aluminum cap at the intersection of a North line of said 48.472 acre tract, the South line of a 6.000 acre tract of land described in Tract Two in deed from Paul Brown and John D. Hill to James David Butler, dated September 14, 1972, recorded in Volume 1229, Page 666, Deed Records, Grayson County, Texas, with the East right-of-way line of proposed State Highway No. 289, said rebar being North 88 deg. 24 min. 03 sec. East, a distance of 75.10 feet from the most Westerly Northwest corner of said 48.472 acre tract, the Southwest corner of said 6.000 acre tract;

THENCE North 88 deg. 24 min. 03 sec. East, with the most Westerly North line of said 48.472 acre tract, the South line of said 6.000 acre tract, a distance of 681.09 feet to a found ½ inch rebar maintaining an ell corner of said 48.472 acre tract, the Southeast corner of said 6.000 acre tract, the Southwest corner of a 9.647 acre tract of land conveyed by Murray H. Nance, Jr., Substitute Trustee to Donald H. Odam, et ux by Substitute Trustee's Deed dated August 3, 1999, recorded in Volume 2823, Page 323, Official Public Records, Grayson County, Texas;

THENCE South 78 deg. 04 min. 47 sec. East, with the South line of said 9.647 acre tract, a distance of 116.57 feet to a found ½ inch rebar at the base of a fence corner post, said rebar maintaining an ell corner of said 48.472 acre tract, the most Westerly Northwest corner of a 57.374 acre tract of land described in Tract One in said deed to James David Butler recorded in Volume 1229, Page 666;

THENCE South 07 deg. 13 min. 17 sec. East, with the general line of a fence, an East line of said 48.472 acre tract, the most Westerly West line of said 57.374 acre tract, a distance of 1610.60 feet to a set ½ inch rebar;

THENCE South 78 deg. 42 min. 30 sec. West, a distance of 136.41 feet to a set ½ inch rebar;

THENCE North 19 deg. 27 min. 01 sec. West, a distance of 294.87 feet to a set ½ inch rebar;

THENCE North 40 deg. 54 min. 12 sec. West, a distance of 282.98 feet to a set ½ inch rebar on the Southeasterly side of a pond;

THENCE North 48 deg. 44 min. 55 sec. West, a distance of 412.96 feet to a point in said pond;

THENCE North 89 deg. 20 min. 35 sec. West, at a distance of 32.84 feet passing a set ½ inch rebar on the Northwesterly side of said pond, and continuing for a total distance of 243.53 feet to a set ½ inch rebar on the East right-of-way line of said proposed State Highway No. 289;

THENCE North 01 deg. 44 min. 01 sec. West, with the East right-of-way line of said proposed State Highway No. 289, a distance of 862.99 feet to the PLACE OF BEGINNING, and containing 22.27 ACRES OF LAND more or less.....

SECTION 2. That this ordinance shall not become effective until entered upon the official zoning map as provided in Section 12, Ordinance No. 2280.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

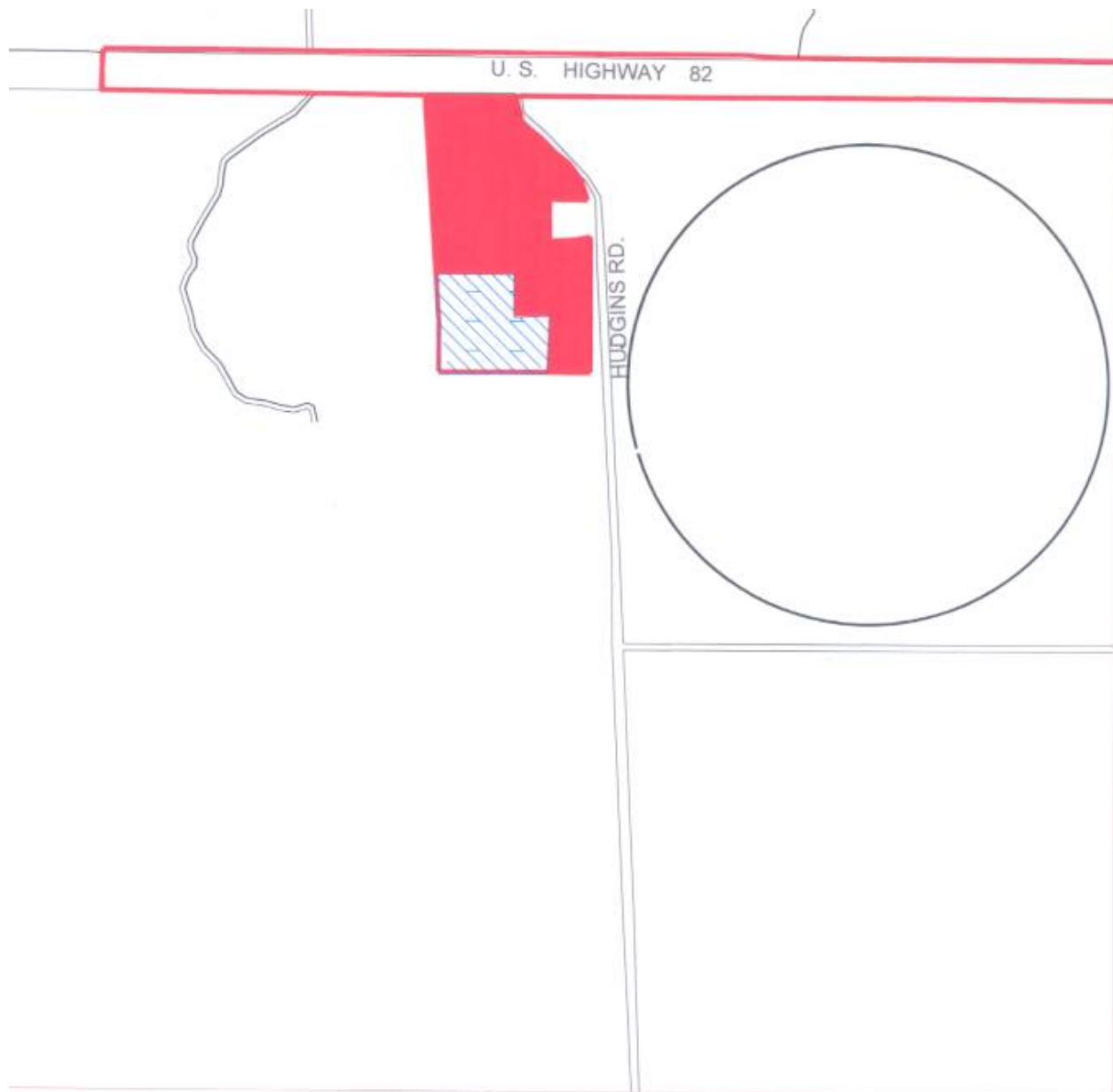
BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

**DOREEN E. MCGOOKEY,
CITY ATTORNEY**



LEGEND

	R-A	SINGLE FAMILY AGRICULTURAL DISTRICT		M-2	HEAVY MANUFACTURING DISTRICT
	SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT		M H	MANUFACTURED HOUSING DISTRICT
	R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT			BLALOCK INDUSTRIAL PARK
	R-2	MULTI-FAMILY RESIDENTIAL DISTRICT		O-1	OVERLAY DISTRICT - 75 & 82
	C-1	RETAIL BUSINESS DISTRICT		O-1.1	OVERLAY DISTRICT - 1417
	C-2	GENERAL COMMERCIAL DISTRICT		O-1.2	OVERLAY DISTRICT -SAM RAYBURN FREEWAY
	C O	OFFICE DISTRICT		CPO	COLLEGE PARK OVERLAY
	M-1	LIGHT MANUFACTURING DISTRICT		A&C	ARTS & CULTURAL OVERLAY DISTRICT
	M-1.5	MEDIUM MANUFACTURING DISTRICT		CBD	CENTRAL BUSINESS DISTRICT



2600-2900 BLOCKS HUDGINS ROAD ZONE CHANGE

ENGINEERING DEPARTMENT

4/27

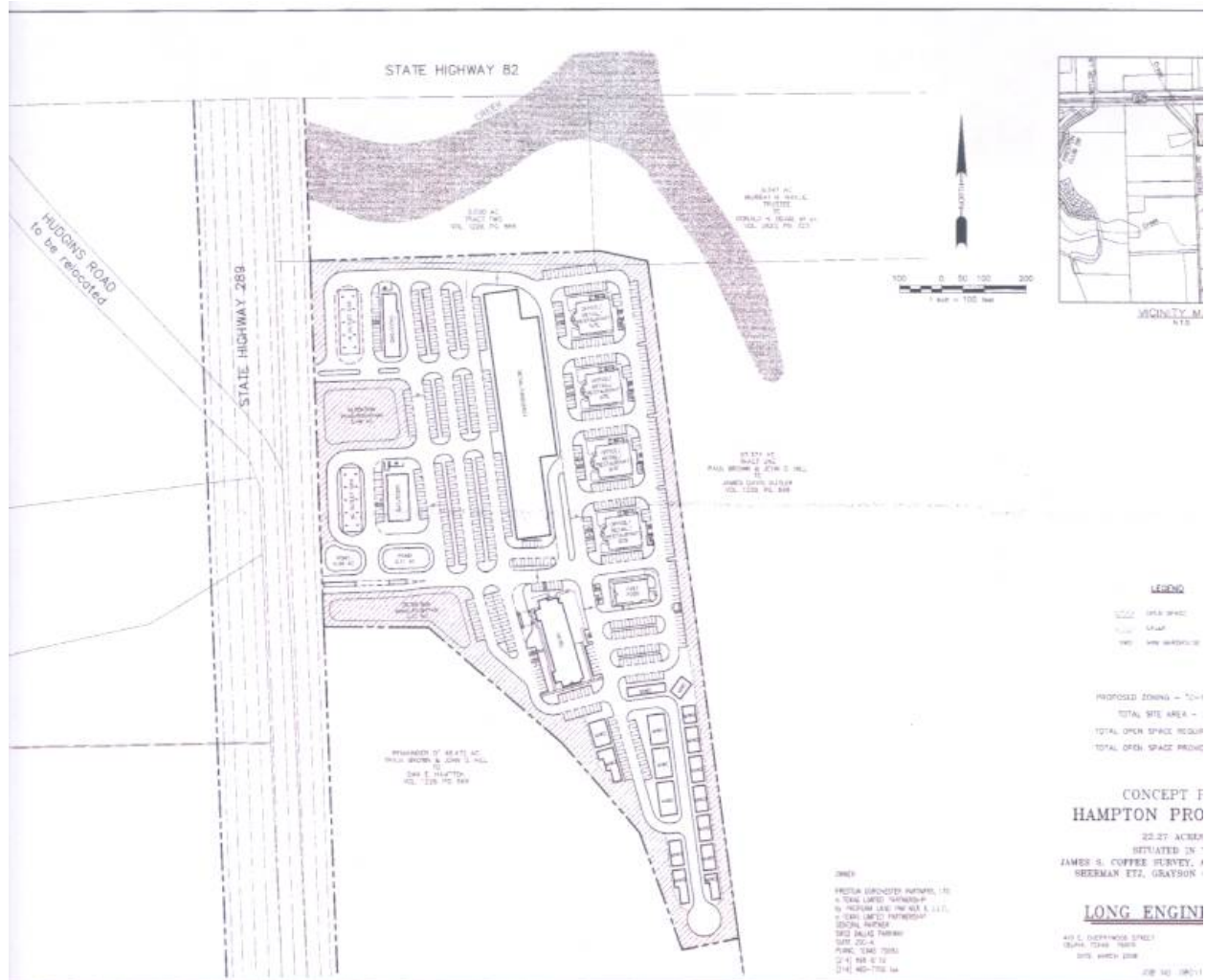


Average Scale: 1 inch = 307.0 feet

(c) Copyright 2006.

2600-2900 Blk Hudgins Rd.





City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
May 20, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Jason Bethel, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Robin Atherton, Commissioner

5300 Blk U.S. Highway 82 W. & 2600-2900 Blks Hudgins Rd.
Being 22.27 acres in the James S. Coffee Survey, Abstract No. 232
Zone Change

Requested Action/Proposed Use:

Annexation-Zoning – Proposed annexation into the Sherman City Limits and a recommendation for a Zone Change and conceptual site plan from an SF-1 (Single Family Residential) District to a C-1 (Retail Business) District.

Background

The property is located on U.S. Highway 82 West and future Highway 289. The property is currently in the process of being annexed into the City limits of Sherman; City Council will conduct a public hearing for introduction and consideration of adoption of the annexation ordinance on June 16, 2008. They would like to develop the property for a commercial retail development. As this item was tabled at the April 22nd Planning and Zoning Commission, a motion and order are required to remove it from the table for consideration at this meeting.

Adjacent Zoning:

C-1 (Retail Business) District and R-2 (Multi-Family Residential) District

Origination:

Preston Dorchester Partners, LTD (Owners) and George R. Schrader (Representative)

Master Plan Designation:

Retail/Commercial

Number of notices mailed:

2

Objections received:

0

Attachments:

Location map, Photographs, Site Plan

Prepared by:

Patsy Reeves, Development Services Secretary

Approved by:

Scott Shadden, Dir. of Development Services



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. B.3

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5541

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Boonie Sanders (Owner) and Shiloh Bradford (Representative) to Allow Automobile Collision Repair in an Existing Structure in a C-2 (General Commercial) District and O-1.1 (FM 1417) Overlay District at 4915 North FM 1417 (Heritage Parkway), being Lot 1, Block 1 of the Sanders Addition; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Issue

To consider granting a Specific Use Permit to Boonie Sanders (Owner) and Shiloh Bradford (Representative) to allow automobile collision repair in an existing structure in a C-2 (General Commercial) District and O-1.1 (FM 1417) Overlay District

Background

The property is located at 4915 North Heritage Parkway (FM 1417). Applicant Shiloh Bradford would like to operate an automobile collision repair business at this location. Mr. Bradford would like to upgrade the building to conform to the FM 1417 Overlay District requirements. They will be recycling up to 90% of all the waste. Mr. Bradford owns Bradford Collision Repair on East Houston Street. He plans to stucco the metal building and have stone accents. Screening will be provided around the building.

Origination

Boonie Sanders (Owner) and Shiloh Bradford (Applicant)

Board Recommendation

At the May 20, 2008 regular meeting, the Planning and Zoning Board voted 6/0 to recommend to the City Council that the Specific Use Permit be approved subject to the staff review letter. Chairman Jason Sofey abstained from voting on this request.

Attachments

Ordinance No. 5541
Location Map
Photograph
Site Plan
Letters
P&Z Communication Form
Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager

ORDINANCE NO. 5541

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO BOONIE SANDERS (OWNER) AND SHILOH BRADFORD (REPRESENTATIVE) TO ALLOW AUTOMOBILE COLLISION REPAIR IN AN EXISTING STRUCTURE IN A C-2 (GENERAL COMMERCIAL) DISTRICT AND O-1.1 (FM 1417) OVERLAY DISTRICT AT 4915 NORTH FM 1417 (HERITAGE PARKWAY), BEING LOT 1, BLOCK 1 OF THE SANDERS ADDITION; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law, and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this specific use permit; and

WHEREAS, the City Council finds that this use will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to grant this specific use permit, subject to certain conditions;

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

SECTION 1. That from and after the passage of this ordinance, Boonie Sanders (Owner) and Shiloh Bradford (Representative) are granted a Specific Use Permit to allow automobile collision repair in an existing structure in a C-2 (General Commercial) District and O-1.1 (FM 1417) Overlay District at 4915 FM 1417 North (Heritage Parkway), and that Section 8, Subsection (5)(a), Ordinance No. 2280 is hereby amended so as to hereafter include the following described property:

Being Lot 1, Block 1 of Sanders Addition.

SECTION 2. That this specific use permit is granted on the following conditions:

1. All aspects of the O-1.1 Overlay (1417) District and the Commercial Tree and Landscaping Ordinance must be followed.

2. Screening shall be provided adjacent to Residential Districts.
3. Fire lanes shall be coordinated with the Fire Marshal.

SECTION 3. That this ordinance shall not become effective until entered upon the official zoning map as provided in Section 8, Subsection (5)(a), Ordinance No. 2280.

SECTION 4. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

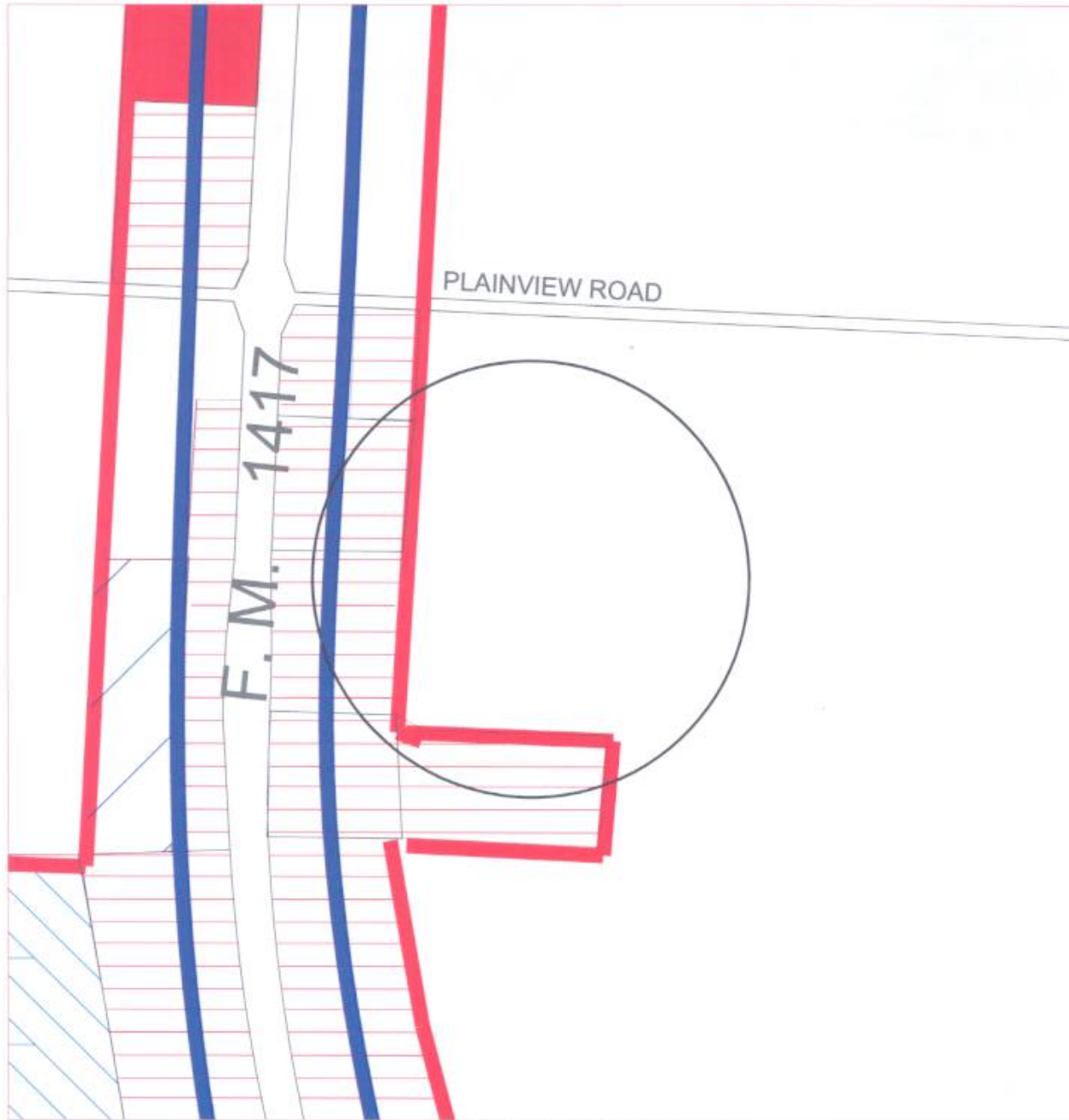
BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

**DOREEN E. MCGOOKEY,
CITY ATTORNEY**



LEGEND

R-A	SINGLE FAMILY AGRICULTURAL DISTRICT	M-2	HEAVY MANUFACTURING DISTRICT
SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT	M-H	MANUFACTURED HOUSING DISTRICT
R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT	O-1	BLALOCK INDUSTRIAL PARK OVERLAY DISTRICT - 75 & 82
R-2	MULTI-FAMILY RESIDENTIAL DISTRICT	O-1.1	OVERLAY DISTRICT - 1417
C-1	RETAIL BUSINESS DISTRICT	O-1.2	OVERLAY DISTRICT - SAM RAYBURN FREEWAY
C-2	GENERAL COMMERCIAL DISTRICT	CPO	COLLEGE PARK OVERLAY
C-0	OFFICE DISTRICT	A&C	ARTS & CULTURAL OVERLAY DISTRICT
M-1	LIGHT MANUFACTURING DISTRICT	CBD	CENTRAL BUSINESS DISTRICT
M-1.5	MEDIUM MANUFACTURING DISTRICT		



4915 N. HERITAGE PARKWAY (FM 1417) SPECIFIC USE PERMIT

Department of Developmental Services





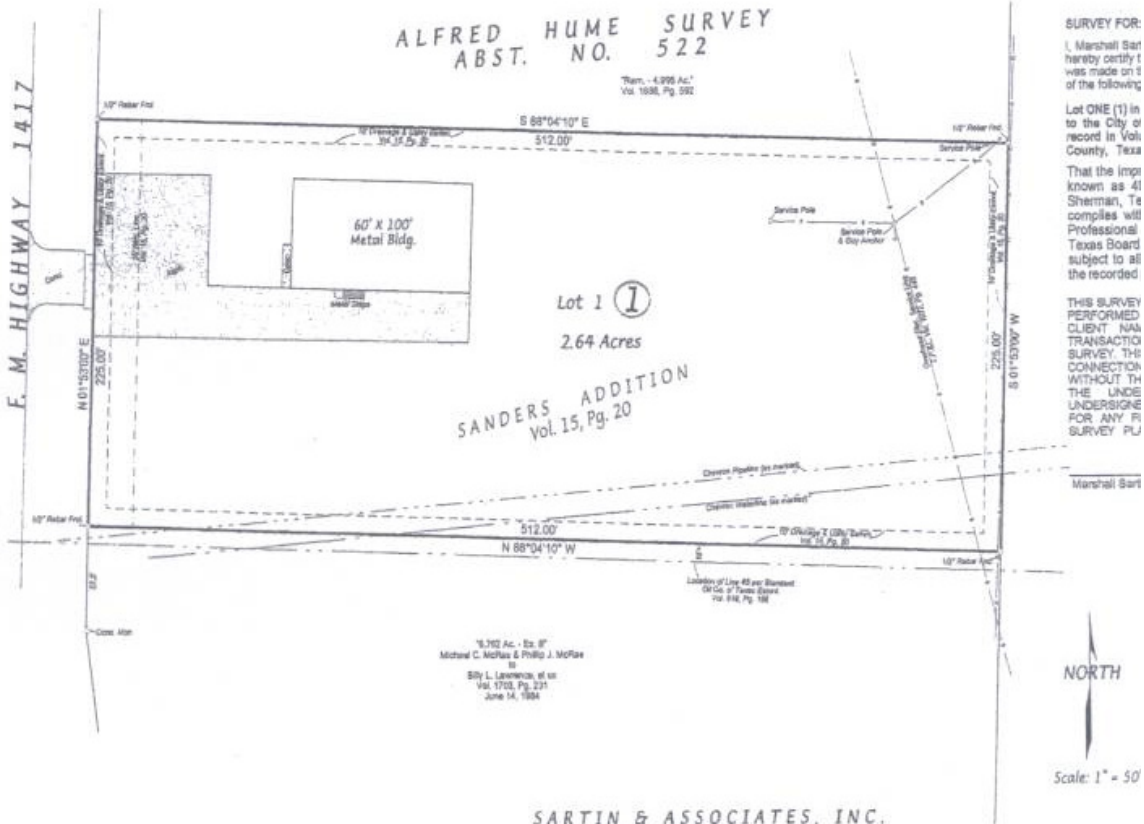
F.M. 1417

Texoma Veterinary Hospital

4915 N. F.M. 1417



SANDR54.pcs



SARTIN & ASSOCIATES, INC.

Registered Professional Land Surveyors
109 S. Travis, P. O. Box 1843 Sherman, Texas 75091-1843
Ph: (903) 892-8003 Fax: (903) 868-2970

SHERMAN



Glenn Goode
"the FIBERGLASS man"

CUSTOM
SANDBLASTING

(940) 668-7487 Cell (940) 665-8200
1651 FM 371 Walnut Bend Rd,
Gainesville, TX 76240

May 5, 2008

Glenn & Mary Goode
1651 FM 371
Gainesville, TX 76240

MAY 13 2008

The Planning and Zoning Commission of the City of Sherman will hold a public hearing on the day of Tuesday, May 20, 2008 at 5:00 P.M. in the City Council Chambers, at 220 W. Mulberry, to hear the request of:

Boonie Sanders (Owner) and Shiloh Bradford (Applicant) concerning the property located at 4915 North Heritage Parkway (FM 1417), being Lot 1, Block 1 of Sanders Addition

The request is as follows:

Specific Use Permit and site plan approval under Ordinance No. 2280, Section 8, Subsection (5) (a) to allow automobile collision repair in a C-2 (General Commercial) District and O-1.1 (FM 1417) Overlay District.

As a property owner within two hundred feet (200') of this property, you are invited to attend. You are not required to be present, but all interested parties wishing to speak should appear at the time and place stated above. If you can not attend the public hearing, but wish to have your views presented to the Board, you may do so in the space provided below or by a separate letter and mailed to:

Scott Shadden
Secretary, Planning and Zoning Board
P.O. Box 1106
Sherman, Texas 75091-1106


Secretary, Planning & Zoning Board

Please Let Them have this
Zoning Change:
Glenn Goode owner of
Land at Plunkett Rd & FM 1417
Southwest Side

Unless this notice is delivered in an envelope that has the "City of Sherman" logo and is affixed with postage as required by the U.S. Postal Service, it is NOT an official notice sent to you by the City of Sherman.

SHERMAN



PLANNING AND ZONING BOARD
BUILDING INSPECTION DEPARTMENT
Telephone No. (903) 892-7229
FAX No. (903) 892-7274

May 5, 2008

Kenneth & Mary Lawrence
5005 FM 1417 North
Sherman, Texas 75092

MAY 19 REC'D

The Planning and Zoning Commission of the City of Sherman will hold a public hearing on the day of Tuesday, May 20, 2008 at 5:00 P.M. in the City Council Chambers, at 220 W. Mulberry, to hear the request of:

Boonie Sanders (Owner) and Shiloh Bradford (Applicant) concerning the property located at 4915 North Heritage Parkway (FM 1417), being Lot 1, Block 1 of Sanders Addition

The request is as follows:

Specific Use Permit and site plan approval under Ordinance No. 2280, Section 8, Subsection (5) (a) to allow automobile collision repair in a C-2 (General Commercial) District and O-1.1 (FM 1417) Overlay District.

As a property owner within two hundred feet (200') of this property, you are invited to attend. You are not required to be present, but all interested parties wishing to speak should appear at the time and place stated above. If you can not attend the public hearing, but wish to have your views presented to the Board, you may do so in the space provided below or by a separate letter and mailed to:

Scott Shadden
Secretary, Planning and Zoning Board
P.O. Box 1106
Sherman, Texas 75091-1106


Secretary, Planning & Zoning Board

My primary concern would be appearance.
I would not want a wrecked car
setting out & it looking like
a junk yard next door.


Mary Lawrence DUM

Unless this notice is delivered in an envelope that has the "City of Sherman" logo and is affixed with postage as required by the U.S. Postal Service, it is NOT an official notice sent to you by the City of Sherman.

AGENDA ITEM #5

City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
May 20, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Jason Bethel, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Robin Atherton, Commissioner

4915 FM 1417 North (North Heritage Parkway)
Being Lot 1, Block 1 of Sanders Addition
Specific Use Permit

Requested Action/Proposed Use:

Specific Use Permit and site plan approval to allow automobile collision repair in an existing structure in a C-2 (General Commercial) District and O-1.1 (FM 1417) Overlay District.

Background

The property is located at 4915 North FM 1417 (Heritage Parkway). The applicant would like to operate an automobile collision repair business at this location. He would like to upgrade the building to conform to the FM 1417 Overlay District requirements.

Adjacent Zoning:

C-2 (General Commercial) District

Origination:

Boonie Sanders (Owner) and Shiloh Bradford (Applicant)

Master Plan Designation:

Retail/Commercial

Number of notices mailed:

6

Objections received:

0

Attachments:

Location map, Site Plan, Staff Review Letter

Prepared by:

Patsy Reeves,
Developmental Services Secretary

Approved by:

Scott Shadden,
Director of Developmental Services

STAFF REVIEW LETTER

May 14, 2008

Boonie Sanders
4915 N. FM 1417
Sherman, Texas 75092

Shiloh Bradford
307 W. Steadman
Sherman, Texas 75090

Dear Applicants,

Your request for approval of a Specific Use Permit and site plan approval to allow automobile collision repair in an existing structure located at 4915 FM 1417 North (Heritage Parkway) has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, May 20, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to zoning, engineering and development guidelines and finds the following items need to be addressed:

Zoning:

1. All aspects of the O-1.1 Overlay (1417) District and the Commercial Tree and Landscaping Ordinance must be followed.
2. Screening shall be provided adjacent to Residential Districts.
3. Fire lanes shall be coordinated with the Fire Marshal, (903.892.7267)

Any other changes made to the site plan prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

You are hereby notified to be present, either in person or by your authorized representative to present your request on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Scott Shadden at 903-892-7229 prior to the meeting.

Respectfully,

Scott Shadden,
Secretary, Planning and Zoning Board and Board of Adjustment

CC: George Olson, City Manager
Mark Gibson, Director Utilities & Engineering Services
Doreen E. McGookey, City Attorney
Rita Gaither, Development Coordinator

Danny Fuller, Fire Marshal
Jeff Miller, Director of Public Works



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. B.4

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5542

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Sherman Bible Church (Owners), Preferred Care Partners Management Group, LP (Prospective Buyer), and Thomas D. Scott (Representative) to Allow a Convalescent Home/Skilled Nursing Facility in an R-1 (One Family Residential) District and O-1.1 (FM 1417) Overlay District at 2617 North FM 1417 (Heritage Parkway), being Lots 1 & 2, Block 3, Section 2-A, Canyon Creek Addition and Lot 5, Block 1 of the Replat of Belvedere Estates Addition; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Issue

To consider granting a Specific Use Permit to Sherman Bible Church (Owners), Preferred Care Partners Management Group, LP (Prospective Buyer), and Thomas D. Scott (Representative) concerning the property located at 2617 North FM 1417 (Heritage Parkway) to allow a convalescent home/skilled nursing facility in an R-1 (One Family Residential) District and O-1.1 (FM 1417) Overlay District

Background

The property is located at 2617 North FM 1417 (Heritage Parkway). Sherman Bible Church occupies the building at this time. Sherman Bible Church plans to build a new church across the street on Lamberth Road. They would like to sell the property to Preferred Care Partners Management Group, LP for a convalescent home/skilled nursing facility. Preferred Care Partners Management Group, LP owned the Mission Oaks Care Center (previously Chapel of Care), which was located at 1518 South Sam Rayburn Freeway. Mission Oaks Care Center was damaged by the flood in 2007; and they have not reopened the facility since that time. They would like to construct a new nursing home at this location. The old building on Highway 75 was a 194-bed facility. They are probably only looking at 140 beds at this facility, with 40 of those beds being single suites – what they call rapid recovery unit. When a patient goes to the hospital for knee replacement, they go to the rapid recovery unit for specialized therapy and are expected to be there only 2-3 weeks, then released. They specialize in a lot of therapy, restorative care, and patients with knee and hip replacements. They have a facility similar to the one they would like to construct in McKinney called Baybrooke Village.

Origination

Sherman Bible Church (Owners); Preferred Care Partners Management Group, LP (Prospective Buyer); and Thomas D. Scott (Representative)

Board Recommendation

At the May 20, 2008 regular meeting, the Planning and Zoning Board voted 6/0 to recommend to the City Council that the Specific Use Permit be approved subject to the staff review letter and being substantially similar to be consistent with Baybrooke Village (pictures attached) in McKinney and consistent with the architecture in the O'Hanlon Ranch subdivision.

Attachments

Ordinance No. 5542

Location Map

Photograph

Site Plan

Pictures

Letter from Robert and Teresa Young

P&Z Communication Form

Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager

ORDINANCE NO. 5542

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO SHERMAN BIBLE CHURCH (OWNERS), PREFERRED CARE PARTNERS MANAGEMENT GROUP, LP (PROSPECTIVE BUYER), AND THOMAS D. SCOTT (REPRESENTATIVE) TO ALLOW A CONVALESCENT HOME/SKILLED NURSING FACILITY IN AN R-1 (ONE FAMILY RESIDENTIAL) DISTRICT AND O-1.1 (FM 1417) OVERLAY DISTRICT AT 2617 NORTH FM 1417 (HERITAGE PARKWAY), BEING LOTS 1 & 2, BLOCK 3, SECTION 2-A, CANYON CREEK ADDITION AND LOT 5, BLOCK 1 OF THE REPLAT OF BELVEDERE ESTATES ADDITION; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law, and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this specific use permit; and

WHEREAS, the City Council finds that this use will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to grant this specific use permit, subject to certain conditions;

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

SECTION 1. That from and after the passage of this ordinance, Sherman Bible Church (Owners), Preferred Care Partners Management Group, LP (Prospective Buyer) and Thomas D. Scott (Representative) are granted a Specific Use Permit to allow a convalescent home/skilled nursing facility in an R-1 (One Family Residential) District and O-1.1 (FM 1417) Overlay District at 2617 North FM 1417 (Heritage Parkway), and that Section 8, Subsection (5)(a), Ordinance No. 2280 is hereby amended so as to hereafter include the following described property:

Being Lots 1 & 2, Block 3, Section 2-A, Canyon Creek Addition and Lot 5, Block 1 of The Replat Of Belvedere Estates Addition.

SECTION 2. That this specific use permit is granted on the following conditions:

Zoning:

1. All conditions of the O-1.1 Overlay (1417) District must be followed.
2. All conditions of the Commercial Tree and Landscaping Ordinance must be followed.
3. Screening is required adjacent to Residential Districts.
4. Fire lanes shall be coordinated with the Fire Marshal.
5. The proposed facility will be built in a manner that is consistent with the Applicant's previous construction in Baybrooke Village in McKinney, as indicated in the attached Exhibit "A."

Engineering:

6. Platting of the two tracts into one lot is required.
7. The parking area on the north lot must show the access designated to the south lot.

SECTION 3. That this ordinance shall not become effective until entered upon the official zoning map as provided in Section 8, Subsection (5)(a), Ordinance No. 2280.

SECTION 4. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

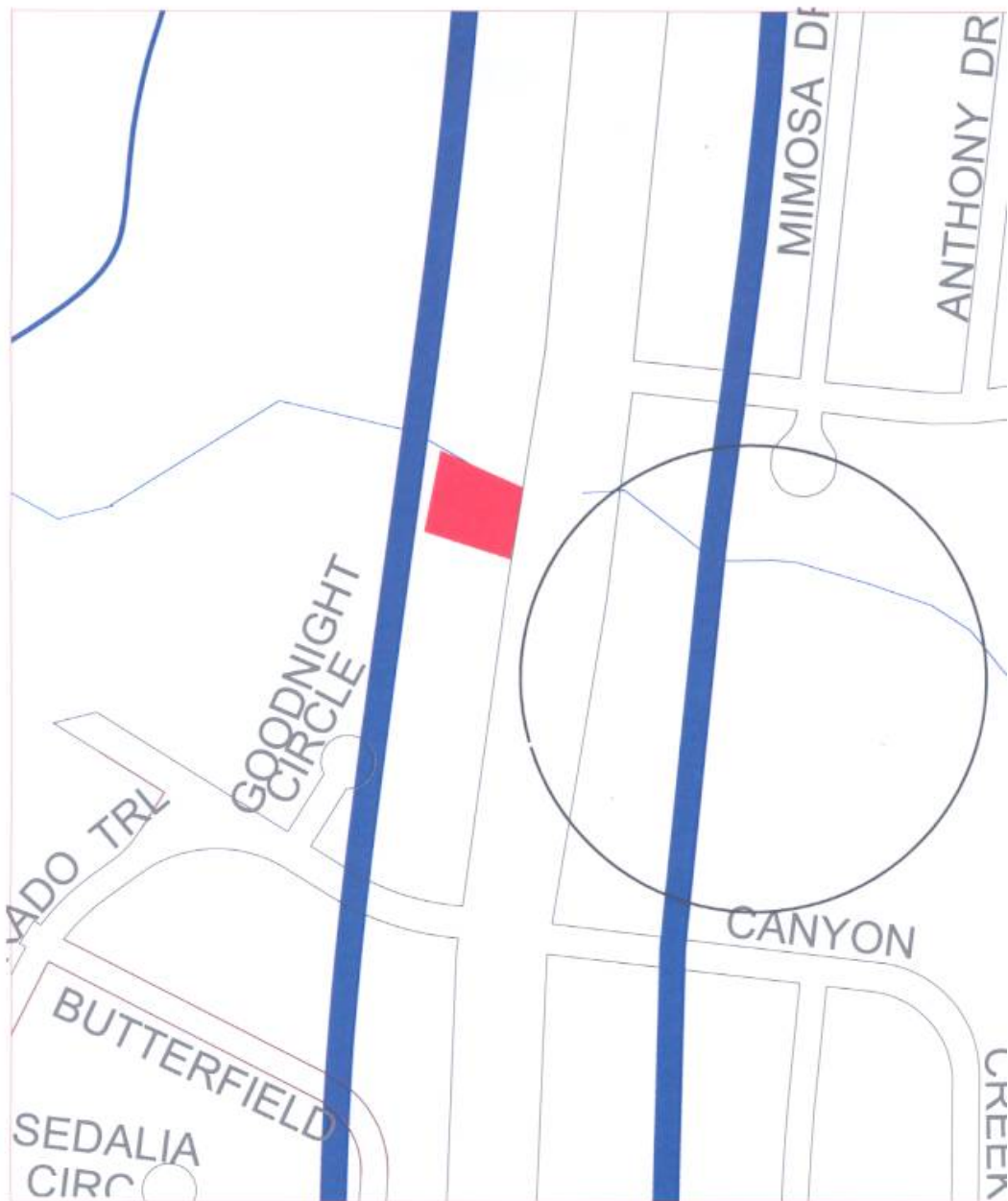
ATTEST:

BY: _____
BILL MAGERS, MAYOR

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

**DOREEN E. MCGOOKEY,
CITY ATTORNEY**



LEGEND

R-A	SINGLE FAMILY AGRICULTURAL DISTRICT	M-2	HEAVY MANUFACTURING DISTRICT
SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT	M-H	MANUFACTURED HOUSING DISTRICT
R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT	BLA	BLALOCK INDUSTRIAL PARK OVERLAY DISTRICT - 75 & 80
R-2	MULTI-FAMILY RESIDENTIAL DISTRICT	O-1	OVERLAY DISTRICT - 75 & 80
C-1	RETAIL BUSINESS DISTRICT	O-1.1	OVERLAY DISTRICT - 1417
C-2	GENERAL COMMERCIAL DISTRICT	O-1.2	OVERLAY DISTRICT - SAM R
CO	OFFICE DISTRICT	CPO	COLLEGE PARK OVERLAY DISTRICT
M-1	LIGHT MANUFACTURING DISTRICT	A&C	ARTS & CULTURAL OVERLAY DISTRICT
M-1.5	MEDIUM MANUFACTURING DISTRICT	CBD	CENTRAL BUSINESS DISTRICT



2617 N. FM 1417(HERITAGE PARKWAY)
SPECIFIC USE PERMIT

ENGINEERING DEPARTMENT

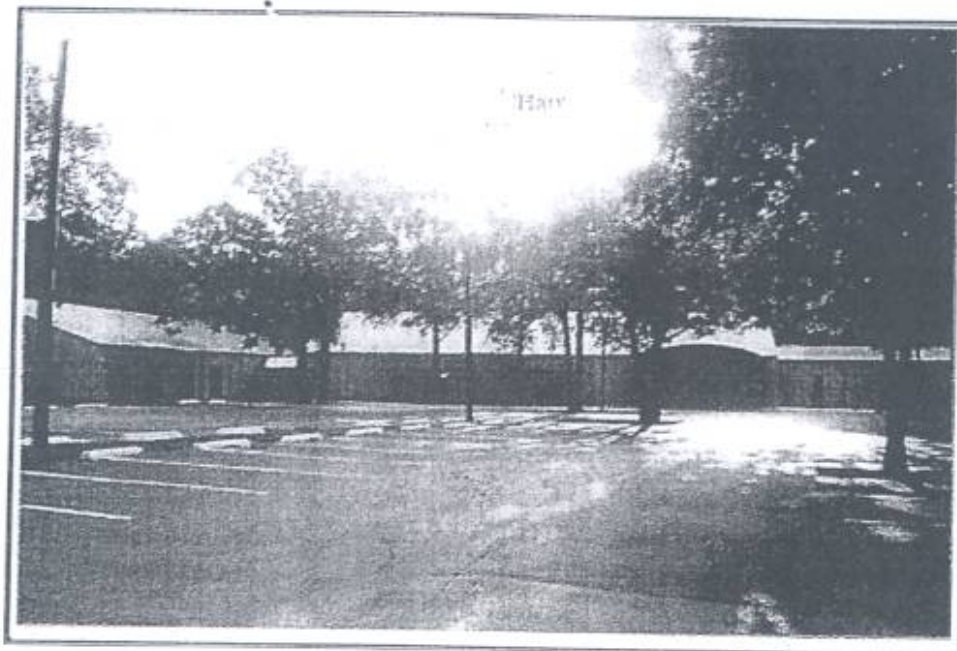


Aerial Photo 1 inch = 1717 feet

(c) Copyright 2006, Pictometry International

2617 N. F.M. 1417





Identification of the Subject:	A religious facility located at 2617 North F.M. Highway 1417, Sherman, Grayson County, Texas 75092.
Legal Description:	Lots 1 and 2, Block 3, Section 2-A, Canyon Creek Addition and Lot 5, Block 1, Replat of Belvedere Estates Addition, Sherman, Grayson County, Texas
Census Tract:	0009.02
Map Reference:	62.G
Purpose of the Appraisal:	Estimate the market value of the fee simple estate in the subject property on the appraisal date.
Appraisal Date:	August 26, 2006
Site Summary-	
Site Area:	7.254 acres (approximately 5.5 useable acres)
Frontage:	1,028 feet along F.M. Highway 1417 190 feet along Redbud Trail 355 feet along Canyon Creek Drive
Zoning:	R-1, One and Two Family Residential District
Flood Hazard Zone:	According to the FEMA Flood Map and the plat provided, a portion of the site does lie within the flood plain; however, a survey would be necessary to determine how much of the property lies within the flood plain.
Improvement Summary-	
Gross Building Area:	14,037 SF
Year of Construction:	1976 with additions in 1981, 1982 and 1990
Type of Construction:	Frame with stucco veneer
Quality of Construction:	Average
Parking and Drives:	Asphalt (88,500 SF)

Grayson County Appraisal District-

Account Number:	155625 and 230312
2006 Assessed Value:	\$280,083
2006 Ad Valorem Taxes:	\$7,593 without exemptions; subject is 100% exempt.

Highest and Best Use-

As Though Vacant:	Hold for resale or future office development.
As Improved:	Continued use as a religious facility.

Exposure Time:	0 to 24 months
----------------	----------------

Reasonable Marketing Time:	0 to 24 months
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VALUE INDICATIONS ON THE APPRAISAL DATE

Cost Approach:	\$1,370,000
Sales Comparison Approach:	\$1,390,000
Income Approach – Direct Capitalization:	Not developed

FINAL ESTIMATE OF VALUE

Market Value on the Appraisal Date (8/26/2006):	\$1,380,000
---	-------------

EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS

1. A title insurance commitment verifying that the subject property is held in fee simple estate.
2. A title insurance commitment verifying that there are no deed restrictions, which may adversely affect the use, value or marketability of the subject property.
3. A current survey verifying that there are no easements or encroachments that would adversely affect the use or marketability of the subject property.

Location

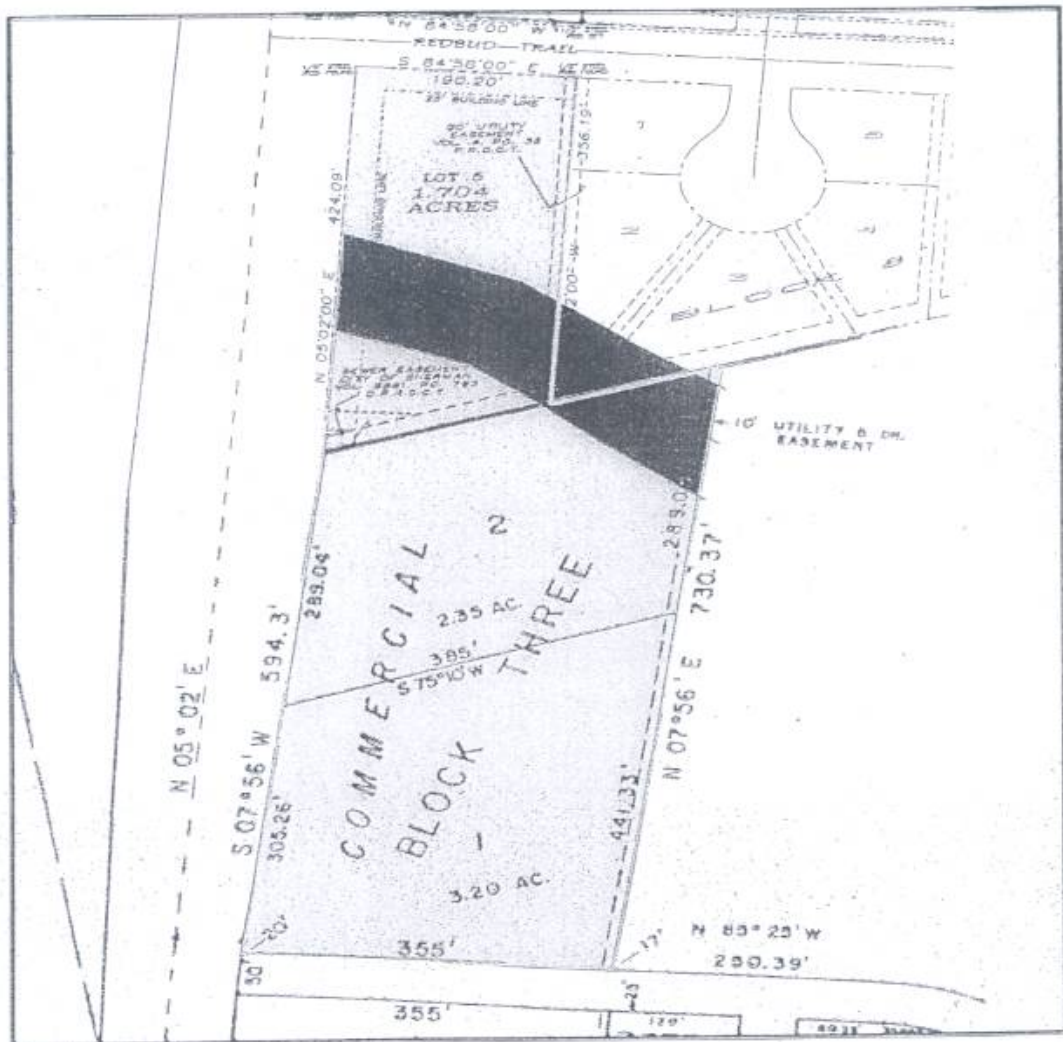
The subject site is located approximately ½ mile south of the intersection of U.S. Highway 82 and F.M. Highway 1417 in the western portion of the City of Sherman. The property's address is 2617 North F.M. Highway 1417, Sherman, Grayson County, Texas.

Access and Visibility

Access to the property is provided by F.M. Highway 1417, which is a partial loop around the City of Sherman. F.M. Highway 1417 intersects with U.S. Highway 82, which is the major east-west roadway through the City of Sherman. As a result, the subject's access and visibility are considered average to good.

Size and Shape

The subject's site is located along the east side of F.M. Highway 1417. The site contains 7.254 acres and is generally rectangular in shape. Since a portion of the site lies within the floodplain, we have estimated that only 5.5 acres is useable. A copy of the plat is presented below with the subject highlighted in yellow.



SUMMARY OF SITE COMPARABLES						
	Subject	COMPARABLE				
		1	2	3	4	5
Address	2617 N. F.M. Hwy. 1417	2100 Lamberth	2903 N. F.M. Hwy. 1417	2100 Lamberth	1704 N. F.M. Hwy. 1417	2108 Post Oak Crossing
City	Sherman	Sherman	Sherman	Sherman	Sherman	Sherman
Grantor		McClure	KS Realty	Mulder	Landmark	Archer Reece
Grantee		Point Man	EE Group	McClure	Sherman DG	Copay
Utilities	All Available	All Available	All Available	All Available	All Available	All Available
Zoning	R-1	C-1	R-1	C-1	C-1	C-1
Site Area (Acres)	5.50	0.50	1.41	0.50	1.21	3.31
Site Area (SF)	239,580	21,902	61,202	21,902	52,490	144,184
Shape	Rectangular	Rectangular	Rectangular	Rectangular	Rectangular	Rectangular
Topography	Level	Level	Sloping	Level	Level	Level
Frontage	Corner	Corner	Corner	Corner	Average	Average
Date of Sale		Nov-2005	Aug-2005	Oct-2004	Sep-2004	Mar-2003
Sales Price		\$125,000	\$199,000	\$105,600	\$140,000	\$432,812
Sales Price per SF		\$5.71	\$3.25	\$4.82	\$2.67	\$3.00

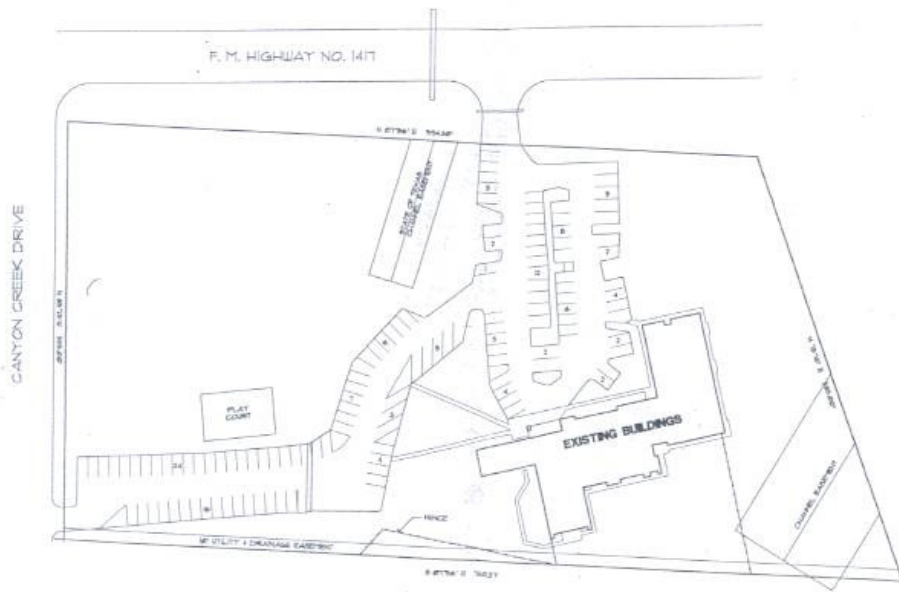
Qualitative Rating Analysis

Comparables #1, #3, #4 and #5 were all zoned for commercial use; therefore, they were rated superior for zoning.

Smaller properties typically sell for more on a per unit basis; therefore, Comparables #1 and #3 were rated superior for size.

Comparables #4 and #5 were rated inferior for frontage, since they were not corner sites like the subject.

There were no other significant differences to warrant different rankings for the comparables.



1
A1
EXISTING SITE PLAN
SCALE: 1" = 40.0'

MA

SHE
BIBI
CHU

Shorn
Texas



DANIELS
ASSOCIA
ARCHITECTS
4301 N. Loop
Suite A120
Dallas, Texas
214-759-1515



Job Number:
Issue Date: 3
Revisions:

2000

82 CARS SHOWN



TABLE 1



BAYBROOKE VILLAGE

Care & Rehab Center

*E*legance awaits you at Baybrooke Village. Our state of the art facility features all of the amenities you would expect in a fine establishment. From our restaurant style dining to your personal liaison, every detail of your stay will be overseen by our fine staff. Come by for a tour today and see why our facility is McKinney's premier choice for rehabilitation

Rehabilitation Services

- Physical Therapy
- Occupational Therapy
- Speech Therapy
- Wound Care
- Respiratory Care
- Complex Medical Care
- Post-Cardiac Rehab



8300 Eldorado Parkway • McKinney, TX 75070 • 972-548-9330 • 972-560-0330 fax



























SHERMAN



PLANNING AND ZONING BOARD
BUILDING INSPECTION DEPARTMENT
Telephone No. (903) 892-7229
FAX No. (903) 892-7274

May 5, 2008 Robert & Teresa Young
2521 Monte Cristo Dr.
Sherman, Texas 75092

MAY 9 2008

The Planning and Zoning Commission of the City of Sherman will hold a public hearing on the day of Tuesday, May 20, 2008 at 5:00 P.M. in the City Council Chambers, at 220 W. Mulberry, to hear the request of:

Sherman Bible Church (Owners) and Preferred Care Partners Management Group, LP (Prospective Buyer) and Thomas D. Scott (Representative) concerning the property at 2617 North FM 1417 (Heritage Parkway), being Lots 1 & 2, Block 3, Section 2-A, Canyon Creek Addition and Lot 5, Block 1 of the Replat of Belvedere Estates Addition

The request is as follows:

Specific Use Permit and conceptual site plan approval under Ordinance No. 2280, Section 8, Subsection (5)(a) to allow a Convalescent Home/Skilled Nursing Facility in an R-1 (One Family Residential) District and the O-1.1 (FM 1417) Overlay District.

As a property owner within two hundred feet (200') of this property, you are invited to attend. You are not required to be present, but all interested parties wishing to speak should appear at the time and place stated above. If you can not attend the public hearing, but wish to have your views presented to the Board, you may do so in the space provided below or by a separate letter and mailed to:

Scott Shadden
Secretary, Planning and Zoning Board
P.O. Box 1106
Sherman, Texas 75091-1106

Scott Shadden/PR
Secretary, Planning & Zoning Board

My wife and I are 100% opposed to having a nursing home almost next door. I'm concerned with property values, more traffic and possibly more crime. This is a residential neighborhood not meant for a business.

Unless this notice is delivered in an envelope that has the "City of Sherman" logo and is affixed with postage as required by the U.S. Postal Service, it is NOT an official notice sent to you by the City of Sherman.

P.O. BOX 1106 • SHERMAN, TEXAS 75091-1106 (903) 892-7206

Sincerely,
R. Gary Young

City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
May 20, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Jason Bethel, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Robin Atherton, Commissioner

2617 North FM 1417 (Heritage Parkway)
Being Lots 1 & 2, Block 3, Section 2-A, Canyon Creek Addition and Lot 5, Block 1 of the
Replat of Belvedere Estates Addition
Specific Use Permit

Requested Action/Proposed Use:

Specific Use Permit and conceptual site plan approval to allow a Convalescent Home/Skilled Nursing Facility in an R-1 (One Family Residential) District and the O-1.1 (FM 1417) Overlay District.

Background

The property is located at 2617 North FM 1417 (Heritage Parkway); Sherman Bible Church occupies the building at this time. They would like to sell the property to Preferred Care Partners Management Group, LP for a convalescent home/skilled nursing facility.

Adjacent Zoning:

R-1 (One Family Residential) District

Origination:

Sherman Bible Church (Owners) and Preferred Care Partners Management Group, LP (Prospective Buyer) and Thomas D. Scott (Representative)

Master Plan Designation:

Residential

Number of notices mailed:

18

Objections received:

1

Attachments:

Location map, Photos Site Plan, Staff Review Letter

Prepared by:

Patsy Reeves,
Developmental Services Secretary

Approved by:

Scott Shadden,
Director of Developmental Services

STAFF REVIEW LETTER

May 14, 2008

Sherman Bible Church
2617 N. FM 1417
Sherman, Texas 75092

Thomas D. Scott
5420 W. Plano Parkway
Plano, TX 75093

Dear Applicants,

Your request for approval of a Specific Use Permit and conceptual site plan to allow a Convalescent Home/Skilled Nursing Facility located at 2617 North FM 1417 (Heritage Parkway) has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, May 20, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to zoning, engineering and development guidelines and finds the following items need to be addressed:

Zoning:

1. All conditions of the O-1.1 Overlay (1417) District must be followed.
2. All conditions of the Commercial Tree and Landscaping Ordinance must be followed.
3. Screening is required adjacent to Residential Districts.
4. Fire lanes shall be coordinated with the Fire Marshal.

Engineering:

5. Platting of the two tracts into one lot is required.
6. The parking area on the north lot must show the access designated to the south lot.

Any other changes made to the site plan prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

You are hereby notified to be present, either in person or by your authorized representative to present your request on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Scott Shadden at 903-892-7229 prior to the meeting.

Respectfully,

Scott Shadden,
Secretary, Planning and Zoning Board and Board of Adjustment

CC: George Olson, City Manager
Mark Gibson, Director Utilities & Engineering Services
Doreen E. McGookey, City Attorney
Rita Gaither, Development Coordinator

Danny Fuller, Fire Marshal
Jeff Miller, Director of Public Works



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. B.5

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5543

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Virginia Archer Reece Trust, Bank of Texas, NA, Trustee (Owner), Carrus Specialty Hospital (Prospective Buyer), and Teague, Nall and Perkins (Engineers) to Allow a Convalescent Home/Long Term Acute Care Hospital in a C-1 (Retail Business) District, O-1.1 (FM 1417) Overlay District, and O-1 (75 & 82) Overlay District at 1810 U.S. Highway 82 West, being Lot 2 of Post Oak Crossing East Addition, a Replat of Lots 1-C, 1-D, 1-E and 2-C of Post Oak Crossing Addition; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Issue

To consider granting a Specific Use Permit to Virginia Archer Reece Trust, Bank of Texas, NA, Trustee (Owner), Carrus Specialty Hospital (Prospective Buyer), and Teague, Nall and Perkins (Engineers) concerning the property located at 1810 U.S. Highway 82 West to allow a Convalescent Home/Long Term Acute Care Hospital in a C-1 (Retail Business) District, O-1.1 (FM 1417) Overlay District, and O-1 (75 & 82) Overlay District

Background

The property is located at the southeast corner of U.S. Highway 82 West and Post Oak Crossing. The owner would like to sell the property to Carrus Specialty Hospital to develop the property for a 60-bed capacity convalescent home/long term acute care hospital. The facility exists today in Denison at Texoma Medical Center. It would be moved to this location and expanded to this site. It has been providing service to the Texoma Community for over sixteen years. This would be a licensed hospital with the State of Texas, classified as a long-term acute care special hospital. It would not have surgery or deliver babies. This hospital is for patients who do not recover from hospital care in the amount of time that Medicare uses to pay for and are transferred to their facility. The building will be red brick veneer with the type of roof lines that are seen in the area.

Origination

Virginia Archer Reece Trust, Bank of Texas, NA, Trustee (Owner)(Representative); Carrus Specialty Hospital (Prospective Buyer); and Teague, Nall and Perkins (Engineers)

Board Recommendation

At the May 20, 2008 regular meeting, the Planning and Zoning Board voted 5/0 to recommend to the City Council that the Specific Use Permit be approved subject to the staff review letter. Commission Member Jones abstained from this request because of a conflict of interest.

Attachments

Ordinance No. 5543

Location Map

Photograph

Site Plan

Pictures

P&Z Communication Form

Staff Review Letter

Prepared by:

Scott Shadden, Development Services Director

Approved by:

George Olson, City Manager

ORDINANCE NO. 5543

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO VIRGINIA ARCHER REECE TRUST, BANK OF TEXAS, NA, TRUSTEE (OWNER), CARRUS SPECIALTY HOSPITAL (PROSPECTIVE BUYER), AND TEAGUE, NALL AND PERKINS (ENGINEERS) TO ALLOW A CONVALESCENT HOME/LONG TERM ACUTE CARE HOSPITAL IN A C-1 (RETAIL BUSINESS) DISTRICT, O-1.1 (FM 1417) OVERLAY DISTRICT, AND O-1 (75 & 82) OVERLAY DISTRICT AT 1810 U.S. HIGHWAY 82 WEST, BEING LOT 2 OF POST OAK CROSSING EAST ADDITION, A REPLAT OF LOTS 1-C, 1-D, 1-E AND 2-C OF POST OAK CROSSING ADDITION; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law, and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this specific use permit; and

WHEREAS, the City Council finds that this use will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to grant this specific use permit, subject to certain conditions;

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

SECTION 1. That from and after the passage of this ordinance, Virginia Archer Reece Trust, Bank Of Texas, Na, Trustee (Owner), Carrus Specialty Hospital (Prospective Buyer) and Teague, Nall And Perkins (Engineers) Are Granted A Specific Use Permit to allow a Convalescent Home/Long Term Acute Care Hospital in a C-1 (Retail Business) District, O-1.1 (Fm 1417) Overlay District and O-1 (75 & 82) Overlay District at 1810 U.S. Highway 82 West, and that Section 8, Subsection (5)(a), Ordinance No. 2280 is hereby amended so as to hereafter include the following described property:

Being Lot 2 Of Post Oak Crossing East Addition, A Replat Of Lots 1-C, 1-D, 1-E And 2-C Of Post Oak Crossing Addition.

SECTION 2. That this specific use permit is granted on the following conditions:

Zoning:

1. All aspects of the C-1 (Retail Business) District, O-1 (75 & 82) Overlay District and O-1.1 Overlay (1417) District must be followed.
2. All aspects of the Commercial Tree and Landscaping Ordinance must be followed.
3. The driveways and parking area must be concrete.
4. Fire lanes shall be coordinated with the Fire Marshal.

Engineering:

5. Driveways shall conform to TxDOT and City of Sherman standards. A driveway permit will be required and inspection will be performed by the City of Sherman Engineering Department.
6. The Oil Company easement shown under the building shall be relocated.
7. Water pro-rata of \$21,976.20 is required.
8. Sewer pro-rata of \$10,075.00 is required.
9. Street Escrow is required for Cypress Grove Road.
10. Additional fire hydrants are required along U.S. Hwy 82 frontage to provide adequate coverage.
11. Designate the floodplain elevation. If any buildings are to be located in the floodplain, they shall meet the floodway/floodplain ordinance requirements.
12. If any of the buildings fall under different ownership, replatting of the property will be required.

SECTION 3. That this ordinance shall not become effective until entered upon the official zoning map as provided in Section 8, Subsection (5)(a), Ordinance No. 2280.

SECTION 4. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

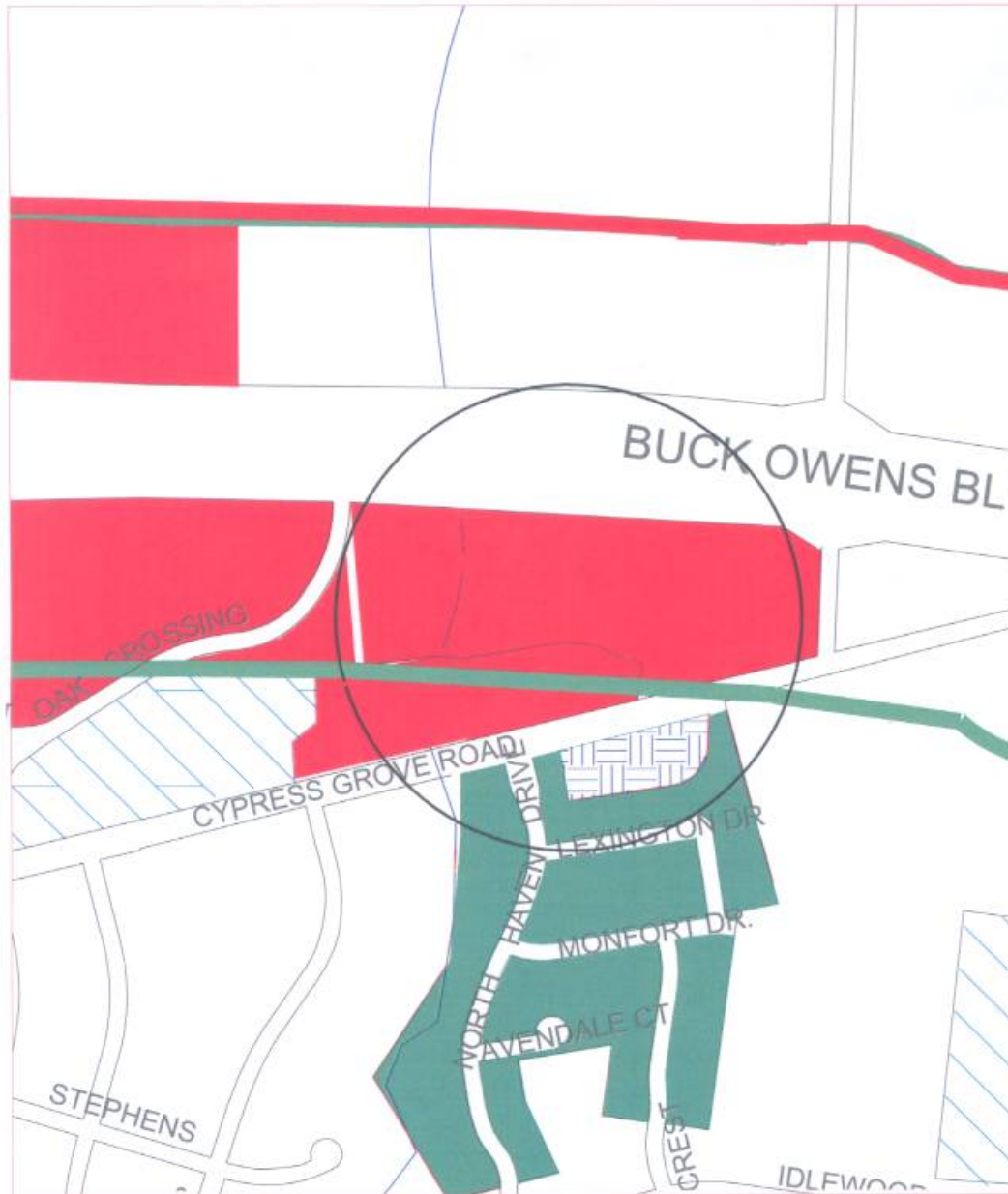
BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

**DOREEN E. MCGOOKEY,
CITY ATTORNEY**



LEGEND

	R-A	SINGLE FAMILY AGRICULTURAL DISTRICT		M-2	HEAVY MANUFACTURING DISTRICT
	SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT		M-H	MANUFACTURED HOUSING
	R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT			BLALOCK INDUSTRIAL PARK
	R-2	MULTI-FAMILY RESIDENTIAL DISTRICT		O-1	OVERLAY DISTRICT - 75 & 82
	C-1	RETAIL BUSINESS DISTRICT		O-1.1	OVERLAY DISTRICT - 1417
	C-2	GENERAL COMMERCIAL DISTRICT		O-1.2	OVERLAY DISTRICT - SAM R
	CO	OFFICE DISTRICT		CPO	COLLEGE PARK OVERLAY
	M-1	LIGHT MANUFACTURING DISTRICT		A&C	ARTS & CULTURAL OVERLAY
	M-1.5	MEDIUM MANUFACTURING DISTRICT		CBD	CENTRAL BUSINESS DISTRICT



1810 U.S. HIGHWAY 82 SPECIFIC USE PERMIT

Department of Developmental Services

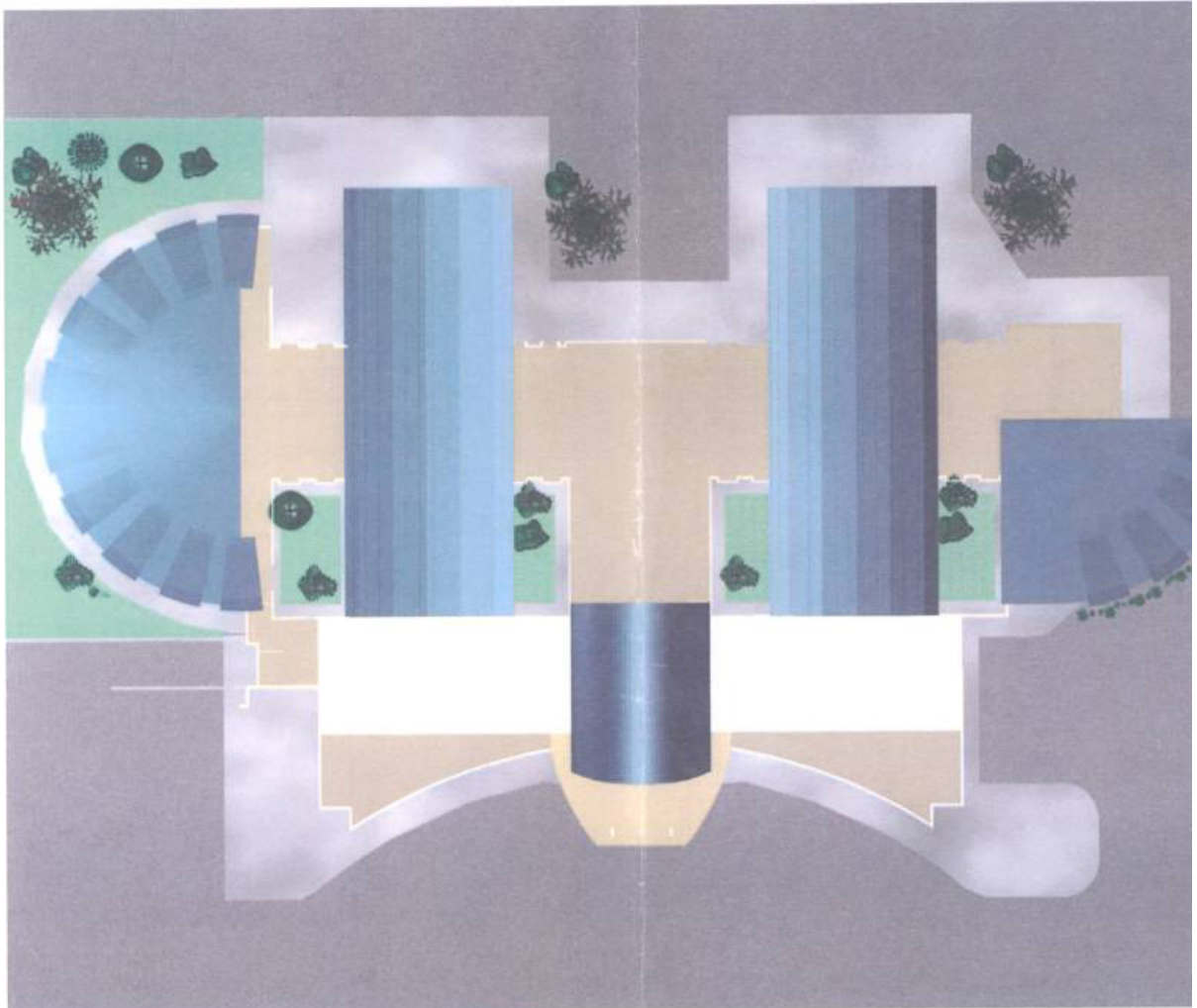


Scale: 1 inch = 225.0 feet

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1810 HWY 82 W.

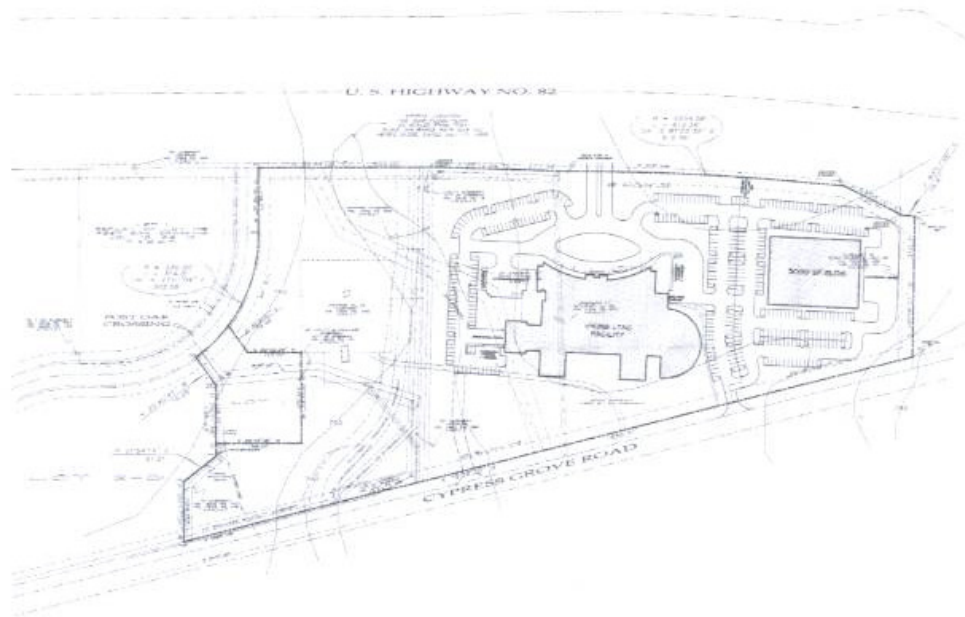












REVISION	BY	DATE

SCALE
1" = 100'
DATE
04-25-08



TEAGUE NALL AND PERKINS

228 W. HICKORY STREET, SUITE 100
DARTON, TEXAS 78021
Phone (847) 592-4777 • Fax (847) 592-8028
www.tnp-na.com

QTY OF S
SHERMAN LONG
CONCEPT

AGENDA ITEM #20

City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
May 20, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Jason Bethel, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Robin Atherton, Commissioner

1810 U.S. Highway 82 West
Being Lot 2 of Post Oak Crossing East Addition, a Replat of Lots 1-C, 1-D, 1-E and 2-C, of
Post Oak Crossing Addition
Specific Use Permit and Site Plan

Requested Action/Proposed Use:

Specific Use Permit and site plan approval to allow a Convalescent Home/Long Term Acute Care Hospital in a C-1 (Retail Business) District, O-1 (75 & 82) Overlay District and the O-1.1 (FM 1417) Overlay District.

Background

The property is located at the southeast corner of U.S. Highway 82 West and Post Oak Crossing. The owner would like to sell the property to Carrus Specialty Hospital to develop the property for a 60 bed capacity convalescent home/long term acute care hospital.

Adjacent Zoning:

C-1 (Retail Business) District and R-2 (Multi-Family Residential) District

Origination:

Virginia Archer Reece Trust, Bank of Texas, NA, Trustee (Owner) (Representative) Carrus Specialty Hospital (Prospective Buyer) and Teague, Nall and Perkins (Engineers)

Master Plan Designation:

Retail/Commercial

Number of notices mailed:

12

Objections received:

0

Attachments:

Location map, Photos, Site Plan, Staff Review Letter

Prepared by:
Patsy Reeves,
Developmental Services Secretary

Approved by:
Scott Shadden,
Director of Developmental Services

STAFF REVIEW LETTER

May 14, 2008

Virginia Archer Reese Trust
C/O Bank of Texas
Melvin Camp Trustee
307 W. Washington
Sherman, Texas 75090

Viking Healthcare Inc.
Jim Dover, FACHE
5314 Bashwood
Houston, TX 77081

Teague, Nall and Perkins
Chris Schmitt
200 N. Travis, Ste. 500
Sherman, Texas 75090

Dear Applicants,

Your request for approval of a Specific Use Permit and site plan approval to allow a Convalescent Home/Long Term Acute Care Hospital located at 1810 U.S. Highway 82 West has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, May 20, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to zoning, engineering and development guidelines and finds the following items need to be addressed:

Zoning:

1. All aspects of the C-1 (Retail Business) District, O-1 (75 & 82) Overlay District and O-1.1 Overlay (1417) District must be followed.
2. All aspects of the Commercial Tree and Landscaping Ordinance must be followed.
3. The driveways and parking area must be concrete.
4. Fire lanes shall be coordinated with the Fire Marshal (903.892.7267).

Engineering:

5. Driveways shall conform to TxDOT and City of Sherman standards. A driveway permit will be required and inspection will be performed by City of Sherman Engineering Department.
6. The Oil Company easement shown under the building shall be relocated.
7. Water pro-rata of \$21,976.20 is required.
8. Sewer pro-rata of \$10,075.00 is required.
9. Street Escrow is required for Cypress Grove Road.

10. Additional fire hydrants are required along U.S. Hwy 82 frontage to provide adequate coverage.
11. Designate the floodplain elevation. If any buildings are to be located in the floodplain, they shall meet the floodway/floodplain ordinance requirements.
12. If any of the buildings fall under different ownership, replatting of the property will be required.

Any other changes made to the site plan prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

You are hereby notified to be present, either in person or by your authorized representative to present your request on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Scott Shadden at 903-892-7229 prior to the meeting.

Respectfully,

Scott Shadden,
Secretary, Planning and Zoning Board and Board of Adjustment

CC:	George Olson, City Manager	Danny Fuller, Fire Marshal
	Mark Gibson, Director Utilities & Engineering Services	Jeff Miller, Director of Public Works
	Doreen E. McGookey, City Attorney	
	Rita Gaither, Development Coordinator	



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. B.6

ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Numbers: 5534, 5540, 5541, 5542 and 5543

B.1 PUBLIC HEARING OF ORDINANCE NO. 5534

Extending the Corporate Limits of Said City so as to Annex Approximately 44.97 Acres of Land at the Intersection of U.S. Highway 82 and Hudgins Road (State Highway 289) in the City of Sherman's Extra Territorial Jurisdiction; Providing for a Municipal Plan

B.2 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5540

Amending Section 12, Ordinance No. 2280, so as to Include Certain Properties within the C-1 (Retail Business) District in the 5300 Block of U.S. Highway 82 West and the 2600-2900 Blocks of Hudgins Road, being 22.27 acres in the James S. Coffee Survey, Abstract No. 232 (Preston Dorchester Partners, LTD, Owners; George R. Schrader, Representative)

B.3 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5541

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Boonie Sanders (Owner) and Shiloh Bradford (Representative) to Allow Automobile Collision Repair in an Existing Structure in a C-2 (General Commercial) District and O-1.1 (FM 1417) Overlay District at 4915 North FM 1417 (Heritage Parkway), being Lot 1, Block 1 of the Sanders Addition; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

B.4 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5542

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Sherman Bible Church (Owners), Preferred Care Partners Management Group, LP (Prospective Buyer), and Thomas D. Scott (Representative) to Allow a Convalescent Home/Skilled Nursing Facility in an R-1 (One Family Residential) District and O-1.1 (FM 1417) Overlay District at 2617 North FM 1417 (Heritage Parkway), being Lots 1 & 2, Block 3, Section 2-A, Canyon Creek Addition and Lot 5, Block 1 of the Replat of Belvedere Estates Addition; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

B.5 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5543

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Virginia Archer Reece Trust, Bank of Texas, NA, Trustee (Owner), Carrus Specialty Hospital (Prospective Buyer), and Teague, Nall and Perkins (Engineers) to Allow a Convalescent Home/Long Term Acute Care Hospital in a C-1 (Retail Business) District, O-1.1 (FM 1417) Overlay District, and O-1 (75 & 82) Overlay District at 1810 U.S. Highway 82 West, being Lot 2 of Post Oak Crossing East Addition, a Replat of Lots 1-C, 1-D, 1-E and 2-C of Post Oak Crossing Addition; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. B.7

TABLED AT JUNE 2, 2008 COUNCIL MEETING:

ADOPTION OF ORDINANCE NO. 5539

Amending Chapter 5 of the Code of Ordinances, entitled "Fire Prevention and Protection", at Section 5.03.002 to Adopt the 2006 Edition of the International Fire Code and at Section 5.03.003 to Provide for Local Amendments to the Fire Code

Issue

Proposed Ordinance No. 5539 provides for the adoption of the 2006 edition of the International Fire Code as well as for local amendments. The ordinance was tabled following introduction and public hearing at the June 2, 2008 Council meeting. **A motion and order are required to remove the ordinance from the table for further discussion.**

Background

The current Code of Ordinances adopted the 2003 edition of the International Fire Code and included incorrect language amending the 2000 edition of this model code. This proposed ordinance will adopt the latest version of the Fire Code and allow for local amendments. It also provides for local amendments necessary for the reduction of specific hazards and is consistent with previous adopted amendments, current policy and practice. Highlights of local amendments include, but are not limited to: (1) Bonfires and recreational fires are prohibited; (2) Fire lane widths are maintained at the current 24'. Vertical clearance requirement is added at 14'; and (3) Fire Alarm Systems must specify the type and location of the alarm and include audio visual notification as required by the Fire Code Official. This proposed ordinance does not include any amendments to the automatic fire sprinkler system requirements as directed by the City Council at the June 2nd meeting.

On June 27, 2008, the Home Builders of Grayson-Fannin-Cooke Counties filed a Resolution of Non-Support for the original (June 2nd) version of Ordinance No. 5539 and stated their unanimous "opposition to the adoption of any changes within said Code that decreases the square footage requirements in same from 12,000 square feet to 6,000 square feet." In addition, the Home Builders filed a second Resolution in support of National Association of Home Builders' (NAHB) Resolution No. 4 and recommends adoption of the provisions contained therein. Resolutions attached.

Origination

Fire Chief

Financial Consideration

There is no cost associated with these changes.

Staff Recommendation

Based upon the City Council's direction at the June 2nd meeting, it is staff's recommendation that the City Council approve the proposed ordinance as presented.

Alternatives

The Council could include in this ordinance the amendments to the automatic fire sprinkler system requirements proposed at the June 2nd Council meeting.

Attachments

Ordinance No. 5539

Home Builders of Grayson-Fannin-Cooke Counties Resolution of Non-Support (Opposition)

Home Builders of Grayson-Fannin-Cooke Counties Resolution of Non-Support (Support)

NAHB Resolution No. 4

Prepared by:
Jeffrey J. Jones, Fire Chief

Approved by:
George Olson, City Manager

ORDINANCE NO. 5539

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES, ENTITLED "FIRE PREVENTION AND PROTECTION", AT SECTION 5.03.002 TO ADOPT THE 2006 EDITION OF THE INTERNATIONAL FIRE CODE AND AT SECTION 5.03.003 TO PROVIDE FOR LOCAL AMENDMENTS TO THE FIRE CODE; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That Chapter 5 of the Code of Ordinances of the City of Sherman, Texas, entitled "Fire Prevention and Protection", be amended at Section 5.03.002 to read as follows:

Sec. 5.03.002 Adopted

~~The 2003 edition of the International Fire Code, published by the International Code Council, being chapters 1 through 45, together with all appendices being A through G, is hereby adopted in its entirety, as if fully set forth herein, as the fire prevention code of the city.~~

The 2006 edition of the International Fire Code, published by the International Code Council, being chapters 1 through 45, together with all appendices B through G, is hereby adopted in its entirety, as if fully set forth herein, as the fire prevention code of the city.

SECTION 2. That Chapter 5 of the Code of Ordinances of the City of Sherman, Texas, entitled "Fire Prevention and Protection", be amended at Section 5.03.003 to read as follows:

Sec. 5.03.003 ~~Amendments to the International Fire Code, 2000 edition~~

~~(a) **506.1 Voluntary key box.** When commercial and industrial buildings within the city are protected by an automatic fire detection system or an automatic fire suppression system, a Knox lock key box of a UL type approved by the fire marshal may be voluntarily installed on the property exterior near entryways and in a location approved by the fire marshal to provide fire personnel with immediate and nondestructive access to the building and essential equipment areas. Such Knox lock key boxes shall contain the following:~~

- ~~(1) Keys to locked points of egress whether on the interior or exterior of such buildings.~~
- ~~(2) The keys to lock mechanical equipment rooms.~~
- ~~(3) The keys to lock electrical rooms.~~

- ~~(4) — Keys to elevator controls.~~
- ~~(5) — Keys to other areas as directed by officials of the fire department.~~

~~All devices shall be purchased, installed and maintained by the building owner. Complete purchase information can be obtained by contacting the fire marshal.~~

~~The city accepts no liability for security breaches in the use of Knox lock systems. These systems appear to be the best systems available to address the complicated problem of emergency access.~~

~~(b) — 506.3 Vehicular access. Where a secured access or controlled vehicular access gate system is present or is to be installed obstructing dedicated utility or fire lane easements or the primary access driveway to single family or multifamily residential locations or to commercial and industrial buildings such access shall meet the following criteria as set forth in sections 506.4 through 506.11 and as approved by the fire marshal in order to permit the timely ingress and egress of emergency fire and ambulance vehicles.~~

~~(c) — 506.4 Electromechanical system. Where an electromechanical secured access or controlled vehicular access gate system is installed, there shall be installed a backup power supply approved by the fire marshal. There shall also be installed a manual backup system approved by the fire marshal, which shall be accessible on the entry side of the gate, using the fire department Knox security key. This failsafe manual backup system shall be installed to allow access through the gate in the event of a power failure or other failure of the electromechanical system.~~

~~(1) — On swing gates and barrier arms, this system shall be designed:~~

- ~~(A) — To open manually by one (1) person removing the approved Knox system padlock and/or pin that is secured in the gate arm; and~~
- ~~(B) — So that the Knox padlock is clearly visible and easily accessible from the entry side of the gate.~~

~~(2) — On slide gates this system shall be designed:~~

- ~~(A) — To open manually by one person utilizing an approved single manual release device; and~~
- ~~(B) — So that the device is protected from weather and physical damage in a weatherproof box which is:~~

- ~~(i) — Red in color;~~
- ~~(ii) — At least five (5) inches high, five (5) inches wide, and one and one half (1 ½) inches deep.~~
- ~~(iii) — Clearly labeled "fire department" in white block letters one (1) inch tall with a one-quarter inch stroke;~~
- ~~(iv) — Located within ten (10) feet from the entry side of the gate and on the left side of the approach and being higher from the ground than~~

five (5) feet five (5) inches and no lower than four (4) feet four (4) inches.

(v) — Clearly visible and easily accessible; and

(vi) — Designed to accept the Knox padlock system series 54-5 that conform to the fire department Knox security key, when used with the manual release device.

(d) — ~~506.5 Manually operated system.~~ Where a manually operated secured access or controlled vehicular access gate system is installed or is to be installed obstructing dedicated utility or fire lane easements or the primary access driveway to single family or multifamily residential locations or to commercial and industrial buildings such access shall be designed to open manually be one person removing the approved Knox system padlock series 54-5 that conforms to the fire department Knox security key. The Knox padlock shall be clearly visible and easily accessible from the entry side of the gate.

(e) — ~~506.6 Plan.~~ Prior to the installation of any secured access or controlled access gate system a plan of the system shall be submitted to the fire marshal for approval which shall contain the following information:

(1) — Depict the location of the gate or barrier on the easement or driveway in reference to the nearest public street or highway.

(2) — Depict the location of the Knox lock key box, Knox lock padlock, or a Knox lock key switch.

(3) — Depict the source end location and type of the primary and backup power supply for electromechanical gates or barriers.

(4) — Depict the access easement or driveway, which shall provide at least twenty (20) feet of unobstructed horizontal clearance at the inside of the gate when the gate is in the open position.

(5) — Describe the gate or barrier construction materials.

(6) — Provide additional plans and information as required by the fire marshal.

(f) — ~~506.7 Maintenance.~~ The gate opening systems shall be maintained in approved operating conditions as delineated below by the property owner at all times.

(1) — The mechanical components shall be serviced on a regular basis and maintained in an approved operating condition;

(2) — The electrical components shall be maintained in an approved operating condition; and

(3) — The primary and backup power supply shall be maintained to electronic components at all times.

(4) — All components of the gate operating system to include Knox lock key switches, Knox lock padlocks, Knox lock key boxes, and other gate operating devices shall be provided, installed and maintained by the property owner.

(5) — If the property owner fails to maintain a reliable access system the city may remove such system to gain emergency access and the property owner shall be solely liable for the cost of the removal, repair, or replacement of the system as

~~well as any property damage or bodily injury suffered by the city, its officers, employees, agents, or the owner as a result of such emergency action.~~

~~(g) — 506.8 Performance test required. All gate openings shall be tested by the fire marshal.~~

- ~~(1) — After installation and prior to final approval by the fire marshal and also within 30 calendar days of each anniversary date subsequent to installation of an approved security gate system, and at other times as required, a performance test shall be conducted by the fire marshal of every component of the gate system.~~
- ~~(2) — Upon failure of the performance test, the security gate system shall be disabled and maintained in the open position until repaired and successfully tested by the fire marshal.~~

~~(h) — 506.9 Hold harmless/indemnification.~~

- ~~(1) — Language shall be placed on the subdivision final plat whereby the homeowners' association, as owner of the private streets and appurtenance, agrees to release, indemnify, defend and hold harmless the city, any governmental entity and public utility for damages to the private street occasioned by the reasonable use of the private street by the city; for damages, injury or death arising from the condition of said private street; for damages, injury or death arising out of the use by the city of and restricted access gate or entrance; and for damages, injury, or death arising out of any use of the subdivision by the city and all lot owners within such subdivision shall release the city, for such damages and injuries. The indemnification contained in this paragraph applies regardless of whether or not such property damages, bodily injury, or death are caused solely by the negligent act or omission of the city, its representative officers, employees or agents.~~
- ~~(2) — Each residential lot owner where a secured or controlled vehicle access gate is installed or is to be installed and each commercial or industrial lot owner where a secured or controlled vehicle access gate is installed or is to be installed shall indemnify and hold harmless the city, its officers, employees, or agents for property damage, bodily injury, or death arising out of the emergency use by the city of any restricted access gate, entrance or driveway whether or not occasioned by the sole negligent act or omission of the city, its officers, employees, or agents.~~

~~(i) — 506.10 Compliance. All applicable existing homes and buildings shall comply with the provisions of this section within six (6) months of its effective date. All applicable newly constructed homes and buildings, not yet occupied, or homes and buildings currently under construction, shall comply with the terms hereof prior to the issuance of permit of occupancy.~~

~~(j) — 506.11 Penalties. Any property or building owner failing to comply with, or be in violation of the terms of this section after notice from the city fire marshal shall be subject to a fine of fifty dollars (\$50.00) per day until such violation is corrected.~~

(k) ~~The city accepts no liability for security breaches in the use of the Knox lock systems. These systems appear to be the best systems available to address the complicated problem of emergency access.~~

(l) ~~3301.1.3 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the city limits or within five thousand (5,000) feet of the city limits~~

~~(1991 Code, sec. 11-47.5)~~

Sec. 5.03.003 Amendments to the International Fire Code, 2006 edition

The following additions, amendments, and/or deletions to the 2006 International Fire Code are hereby adopted:

1. Section 103.2 is hereby amended to read as follows:

Section 103.2 Appointment. The Fire Code Official (Fire Marshal) shall be appointed by the Fire Chief; The fire code official shall be appointed by the chief appointing authority of the jurisdiction; and the fire code official (Fire Marshal) shall not be removed from office except for a cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

2. Section 202 is hereby amended to add the following definitions:

Emergency Access Easement. An access road or fire lane located on private property dedicated by the owner(s) of the property to provide fire apparatus access.

High-Rise Building. Any structure used for human occupancy and/or storage more than 55 feet above the lowest level of fire department vehicle access.

Self-Service Storage Facility. Real property designated and used for the purpose of renting or leasing individual spaces to customers for the purpose of storing and removing personal property on a self-service basis.

Standby Personnel. Qualified fire service personnel, approved by the Fire Chief. When utilized, the number required shall be as directed by the Fire Chief. Charges for utilization shall be as normally calculated by the jurisdiction.

Fire Code Official. The Fire Chief, Fire Marshal, or member of the fire department charged with the duties of administration and enforcement of this code, or a duly authorized representative.

City. The City of Sherman, Texas.

3. Section 307.4.1 is hereby amended to read as follows:

307.4.1 Bonfires. Bonfires are prohibited. ~~A bonfire shall not be conducted within 50 feet (15-240 mm) of a structure or combustible material unless the fire is contained in a~~

~~barbecue pit. Conditions which could cause a fire to spread within 50 feet (15 240 mm) of a structure shall be eliminated prior to ignition.~~

4. Section 307.4.2 is hereby amended to read as follows:

~~307.4.2 Recreational fires. Recreational fires are prohibited. shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.~~

5. Section 503.2.1 is hereby amended to read as follows:

503.2.1 Dimensions. Fire apparatus access roads and security gate openings shall have an unobstructed width of not less than ~~20-24 feet (6096 mm 7315mm)~~, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than ~~13 feet 6 inches (4115 mm.)~~ 14 feet (4267 mm).

6. Section 503.2.2 is hereby amended to read as follows:

503.2.2 Authority. The fire code official shall have the authority to require an increase in the minimum access widths *and vertical clearances* where they are inadequate for fire or rescue operations.

7. Section 503.3 is hereby amended to read as follows:

503.3 Marking. ~~Where required by the fire code official, approved~~ *Approved striping or, when allowed by the fire code official, signs, or both, or other approved notices* shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs ~~or notices and striping~~ shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

(1) *Striping – Fire apparatus access roads shall be marked by painted lines of red traffic paint six inches (6”) in width to show the boundaries of the lane. The words “NO PARKING FIRE LANE” or “FIRE LANE NO PARKING” shall appear in four inch (4”) white letters at 15 feet intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.*

(2) *When required by the fire code official, fire lane striping shall include an enlarged box that is eighteen inches (124”) in length and twelve inches (12”) in width to show the boundaries of the box, The words “BUILDING [APPROPRIATE BUILDING DESIGNATION] shall appear in ten inches (10”) white letters on the red box and will appear directly in front of the appropriate structure.*

- (3) *Signs – Signs shall read “NO PARKING FIRE LANE” or “FIRE LANE NO PARKING” and shall be 12” wide and 18” high. Signs shall be painted on a white background with letters and borders in red, using not less than 2” lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches (6’6”) above finished grade. Signs shall be spaced not more than fifty feet (50’) apart. Signs may be installed on permanent buildings or walls or as approved by the fire code official.*

8. Section 503.4 is hereby amended to read as follows:

1. *503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 and any area marked as a fire lane as described in Section 503.3 shall be maintained at all times. The operator of a premise shall maintain, free of obstruction, all fire lanes on his premises. No person may mark, post or otherwise identify a non-fire lane private vehicular passageway as a fire lane or in such a manner as tends to create confusion as to whether the passageway is a fire lane.*

9. Add Section 505.3 to read as follows:

Section 505.3 Doors addressed. If required by the fire code official, exterior doors shall be numbered on the inside and outside of each door. Door identification shall be a minimum of 4 inch (102mm) with a minimum stroke width of 0.5 inch (12.7mm) and shall contrast with their background.

10. Add Section 508.5.7 to read as follows:

Section 508.5.7 Locking Caps. Fire department connections shall have approved locking caps installed and maintained.

11. Add Section 804.1.1 to read as follows:

804.1.1 Restricted occupancies. Natural cut trees shall be prohibited in Group A, E, I-1, I-2, I-3, I-4, M, R-1, R-2 and R-4 occupancies.

Exceptions:

1. *Trees located in areas protected by an approved automatic sprinkler in accordance with Section 903.3.1.1 or 903.3.1.2 shall not be prohibited in Groups A, E, M, R-1.*

12. Section 901.4 is hereby amended to read as follows:

901.4 Installation. Fire protection systems shall be maintained in accordance with the original installation standards for that system. Required systems shall be extended, altered, or augmented as necessary to maintain and continue protection whenever the building is altered, remodeled or added to. Alterations to fire protection systems shall be done in accordance with applicable standards. Any alteration to the fire protection system

must be approved and a permit issued by the fire code official. Hydrostatic testing of the system may be required prior to the acceptance of any system alteration.

13. Section 901.7 is hereby amended to read as follows:

901.7 Systems out of service. Where a required fire protection system is out of service *or in the event of an excessive number of activations*, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shut down until the fire protection system has been returned to service.

Where utilized, fire watches shall be provided with at least one approved means for notification of the fire department and their only duty shall be to perform constant patrols of the protected premises and keep watch for fires.

14. Add Section 903.2.8.3 to read as follows:

903.2.8.3 Self-service storage facility. An automatic sprinkler system shall be installed throughout all self-service storage facilities.

Exception: One-story self-service storage facilities that have no interior corridors, with a one-hour fire barrier separation wall installed between every storage compartment.

15. Section 903.2.10.3 is hereby amended to read as follows:

903.2.10.3 Buildings more than ~~55~~ 35 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level having an occupant load of 30 or more that is located ~~55~~ 35 feet (~~16-764m²~~) or more above the lowest level of fire department vehicle access.

Exceptions:

1. Airport control towers.
2. Open parking structures *in compliance with Section 406.3 of the International Building Code.*
3. Occupancies in Group F-2

16. Add Section 903.2.10.6 to read as follows:

Section 903.2.10.6 Exterior access to sprinkler control rooms. The fire code official may require an exterior access door directly into the sprinkler control room.

17. Section 903.3.1.2 is hereby amended to read as follows:

903.3.1.2 NFPA 13R sprinkler system. Where allowed in buildings of Group R, up to and including four stories in height, automatic sprinkler systems shall be installed in accordance with NFPA 13R.

Exception:

1. *Mixed use buildings. In buildings that include or may include multiple types of occupancies, the code official may designate the type of system and number of standpipes required.*

18. Section 903.4 is hereby amended to read as follows:

903.4 Sprinkler system monitoring and alarms. All valves controlling the water supply for automatic sprinkler systems, pumps, tanks, water levels and temperatures, critical air pressures, and water-flow switches on all sprinkler systems shall be electrically supervised.

Exceptions:

1. Automatic sprinkler systems protecting one- and two-family dwellings.
2. ~~Limited area systems serving fewer than 20 sprinklers.~~
3. Automatic sprinkler systems installed in accordance with NFPA13R where a common supply main is used to supply both domestic water and the automatic sprinkler system, and a separate shutoff valve for the automatic sprinkler system is not provided.
4. Jockey pumps control valves that are sealed or locked in the open position.
5. Control valves to commercial kitchen hoods, paint spray booths or dip tanks that are sealed or locked in the open position. Valves controlling the fuel supply to fire pump engines that are sealed or locked in the open position.
6. Trim valves to pressure switches in dry, pre-action and deluge sprinkler systems that are sealed or locked in the open position.

Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

19. Section 905.2 is hereby amended to read as follows:

905.2 Installation standards. Standpipe systems shall be installed in accordance with this section and NFPA 14. *Manual dry standpipe systems shall be supervised with a minimum of 10 psig and a maximum of 40 psig air pressure with a high/low alarm. In addition to this section, the fire code official may require the installation of standpipe systems in buildings where because of type of occupancy, access or use requires additional fire protection. The fire code official may designate the type and location of standpipes within this system.*

20. Add Section 907.1.3 to read as follows:

907.1.3 Design standards. All alarm systems new or replacement shall be analog intelligent addressable fire detection systems.

Exception: Existing systems need not comply unless the total building remodel or expansion initiated after the effective date of this code, as adopted, exceeds 30% of the building. When cumulative building remodel or expansion exceeds 50% of the building must comply within 18 months of permit application.

21. Section 907.2.3 is hereby amended to read as follows:

907.2.3 Group E. A manual fire alarm system shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. *An approved smoke detection system shall be installed in Group E day care occupancies. Unless separated by a minimum of 100' open space, all buildings, whether portable buildings or the main building, will be considered one building for alarm occupant load consideration and interconnection of alarm systems.*

Exceptions:

1. Group E occupancies with an occupant load of less than 50: *when provided with an approved automatic sprinkler system. Residential In-Home day care with not more than 12 children may use interconnected single station detectors in all habitable rooms. (For care of more than five children 2 1/2 or less years of age, see Section 907.2.6.)*
2. Manual fire alarm boxes are not required in Group E occupancies where all the following apply:
 - 2.1. Interior corridors are protected by smoke detectors with alarm verification.
 - 2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
 - 2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
 - 2.4. Off-premises monitoring is provided.
 - 2.5. The capability to activate the evacuation signal from a central point is provided.
 - 2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from where a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

22. Add Section 907.2.8.4 to read as follows:

907.2.8.4 Carbon monoxide detectors. An approved Carbon Monoxide detection system shall be installed and maintained in all buildings that include an underground garage or vehicle storage area and in buildings that provide parking as part of the structure. The

detection system shall be monitored and shall signal an alarm as part of the fire alarm panel.

Exception:

1. *Group R Division 3.*

23. Section 907.2.12 is hereby amended to read as follows:

907.2.12 High-rise buildings. Buildings having floors used for human occupancy located more than ~~75 feet (22 860 mm)~~ *55 feet (15 764 mm)* above the lowest level of fire department vehicle access shall be provided with an automatic fire alarm system and an emergency voice/alarm communication system in accordance with Section 907.2.12.2.

Exceptions:

1. Airport traffic control towers in accordance with Section 907.2.22 and Section 412 of the International Building Code.
2. Open parking garages in accordance with Section 406.3 of the International Building Code.
3. Buildings with occupancy in Group A-5 in accordance with Section 303.1 of the International Building Code, *when used for open air seating; however, this exception does not apply to accessory uses including but not limited to sky boxes, restaurants and similarly enclosed areas.*
4. Low-hazard special occupancies in accordance with Section 503.1.2 of the International Building Code.
5. Buildings with occupancy in Group H-1, H-2 or H-3 in accordance with Section 415 of the International Building Code.

24. Section 907.4 is hereby amended to read as follows:

907.4 Manual fire alarm boxes. Manual fire alarm boxes shall be installed in accordance with Sections 907.4.1 through 907.4.5. *Manual alarm actuating devices shall be an approved double action type.*

25. Add Section 907.4.6 to read as follows:

Section 907.4.6 Where any fire alarm system is installed or any supervised sprinkler system is installed; manual fire alarm boxes shall be installed at all exits. Audio-visual notification devices shall be installed to provide complete coverage as required by the fire code official.

26. Add Section 907.6.1 to read as follows:

907.6.1 Installation. All fire alarm systems shall be installed in such a manner that the failure of any single alarm-actuating or alarm-indicating device will not interfere with the normal operation of any other such devices. All systems shall be Class "A" wired

with a minimum of six feet separation between supply and return loops. IDC – Class “A” style – D – SLC Class “A” Style 6 – notification Class “B” Style Y.

27. Add Section 907.6.2 to read as follows:

907.6.2 Point Addressable Systems. When a fire alarm system is required by this section or by the fire code official, the system shall be “point addressable”; providing the type and location of the alarm. The alarm type and location must display on the alarm panel and provide type and location information to the Sherman Fire Department dispatch.

28. Section 907.14 is hereby amended to read as follows:

907.14 Fire-Extinguishing Systems. Automatic fire extinguishing systems shall be connected to the building fire alarm system where a fire alarm system is required by another section of this code or is otherwise installed. When not otherwise required, the fire code official may require that a fire alarm system be installed to monitor activation of a fire extinguishing system. When required, the fire alarm system must meet the requirements of this code and NFPA 72.

29. Section 913.2 is hereby amended to read as follows:

913.2 Protection against interruption of service. The fire pump, driver, and controller shall be protected in accordance with NFPA 20 against possible interruption of service through damage caused by explosion, fire, flood, earthquake, rodents, insects, windstorm, freezing, vandalism and other adverse conditions. The fire code official may require a stand alone power source, or secondary source of power where a fire pump is installed to maintain the required fire flow in assembly occupancies, high-rise structures or any structure with greater than one hundred-thousand (100,000') square feet.

30. Add Section 913.4 to read as follows:

5. Fire pump system shall be supervised for “loss of power,” “phase reversal” and “pump running” conditions by supervisory signal on distinct circuits.

31. Add Section 1008.1.3.4 to read as follows:

7. If a full building smoke detection system is not provided, approved smoke detectors shall be provided on both the access and egress sides of doors and in a location approved by fire code official. Actuation of a smoke detector shall automatically unlock the door.

32. Section 1020.1.7 is hereby amended to read as follows:

1020.1.7 Smokeproof enclosures. In buildings required to comply with Section 403 or 405 of the International Building Code, each of the exits of a building that serves stories where the any floor surface is located more than ~~75~~ 55 feet (~~22-860~~ 16 764 mm) above

the lowest level of fire department vehicle access or more than 30 feet (9144 mm) below the level of exit discharge serving such floor levels shall be a smokeproof enclosure or pressurized stairway in accordance with Section 909.20.

33. Amend Section 2302.1 Definition “High piled combustible storage” to read as follows:

High-piled combustible storage. Any building exceeding 6,000 sq. ft. that has a clear height in excess of 12 feet, making it possible to be used for storage in excess of 12 feet, shall be considered to be high-piled storage and shall comply with the provisions of this section. When a specific product cannot be identified, a fire protection system shall be installed as for Class IV commodities, to the maximum pile height.

34. Section 3301.1.3 is hereby amended to read as follows:

3301.1.3 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited *within the city limits or within five-thousand (5,000) feet of the city limits.*

Exceptions:

1. *Only when approved for fireworks displays, storage and handling of fireworks as provided ~~permitted~~ in Section 3304 and 3308.*
- ~~2. Manufacture, assembly and testing of fireworks as permitted in Section 3304.~~
2. *The use of fireworks for approved display as permitted in Section 3308.*
4. ~~The possession...consumer fireworks.~~

35. Add Section 3403.6.12 to read as follows:

3403.6.12 Containment. An approved method of secondary containment shall be provided for underground tank and piping systems.

36. Add Section 3404.2.11.5.3 to read as follows:

3404.2.11.5.3 Dry sumps. Approved sampling tubes of a minimum 6 inches in diameter shall be installed in the backfill material of each underground flammable or combustible liquid storage tank. The tubes shall extend from a point 12 inches below the average grade of the excavation to ground level and shall be provided with suitable surface access caps. Each tank site shall provide a sampling sump at the corners of the excavation with a minimum of 4 sumps. Sampling tubes shall be placed in the product line excavation within 10 feet of the tank excavation and one every 50 feet routed along product lines towards the dispensers, a minimum of two are required.

37. Add Section 3803.2.1.8 to read as follows:

3803.2.1.8 Jewelry repair, dental labs and similar occupancies. Where natural gas service is not available, portable LP-Gas containers are allowed to be used to supply approved torch assemblies or similar appliances. Such containers shall not exceed 20-pound (9.0 kg) water capacity. Aggregate capacity shall not exceed 60-pound (27.2 kg) water capacity. Each device shall be separated from other containers by a distance of not less than 20 feet.

38. Section 3804.2 is hereby amended to read as follows:

3804.2 Maximum capacity within established limits. Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L).

Exceptions:

1. In particular installations, this capacity limit shall be determined by the fire code official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided and capabilities of the local fire department.
2. *Except as permitted in City Ordinance 5331, Section 5.04.005 LP-gas containers are not permitted in residential areas.*

39. Appendix D, Section D103.4 Table D103.4 is hereby amended as follows:

**REQUIREMENTS FOR DEAD-END FIRE
APPARATUS ACCESS ROADS**

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0-150	24	None Required
150-700	24	100' Diameter Cul-de-Sac or 120' Hammerhead
Over 700		Special Approval Required

40. Appendix D, Section D103 Figure D103.1. This Figure is hereby deleted.

41. Appendix D, Section D103.5 is hereby amended to read as follows:

D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width shall be ~~20 feet (6096 mm)~~. 24 feet. (7315m²).

SECTION 3. That it is the intention of the City Council of the City of Sherman, Texas, that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Sherman, Texas, and that sections of this ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 4. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

**DOREEN E. MCGOOKEY,
CITY ATTORNEY**

Home Builders of Grayson-Fannin-Cooke Counties

Box 1421
Sherman, Texas 75091-1421

RESOLUTION OF NON-SUPPORT FOR CITY OF SHERMAN ORDINANCE 5539 AMENDING CHAPTER FIVE OF THE CODE OF CITY ORDINANCES

Whereas, the City of Sherman proposes the adoption of Ordinance 5539 amending Chapter Five of the Code of Ordinances, entitled "Fire Prevention and Protection," at Section 5.03.002 to adopt the 2006 Edition of the International Fire Code and at Section 5.03.003 to provide for local Amendments to the Fire Code.

Now Therefore Be It Resolved, that the Home Builders of Grayson-Fannin-Cooke Counties are in OPPOSITION to the adoption of any changes within said Code that decreases the square footage requirements in same from 12,000 square feet to 6,000 square feet.

Be It Further Resolved, on this the 19th day of June of the year 2008, the General Membership of the Home Builders of Grayson-Fannin-Cook Counties UNANIMOUSLY approved this Resolution of Non-Support, on behalf of its some 189 Builder and Associate Members, and recommends the NON-ADOPTION of said Ordinance should this square footage change be included within same.


ABEL CHAVARRIA, President


EUGENE H. LUND, Secretary



Home Builders of Grayson-Fannin-Cooke Counties

Box 1421
Sherman, Texas 75091-1421

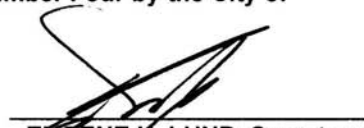
RESOLUTION OF NON-SUPPORT FOR CITY OF SHERMAN ORDINANCE 5539 AMENDING CHAPTER FIVE OF THE CODE OF CITY ORDINANCES

Whereas, the City of Sherman proposes the adoption of Ordinance 5539 amending Chapter Five of the Code of Ordinances, entitled "Fire Prevention and Protection," at Section 5.03.002 to adopt the 2006 Edition of the International Fire Code and at Section 5.03.003 to provide for local Amendments to the Fire Code.

Now Therefore Be It Resolved, the Home Builders of Grayson-Fannin-Cooke Counties SUPPORTS National Association of Home Builders' (NAHB) Resolution Number Four adopted at the NAHB Board Meeting in Salt Lake City, Utah on September 15, 2006; enclosure. And, recommends the adoption of the provisions contained within same by the City of Sherman, Texas

Be It Further Resolved, on this the 19th day of June of the year 2008, the General Membership of Home Builders of Grayson-Fannin-Cook Counties UNANIMOUSLY approved the adoption of NAHB Resolution Four, on behalf of its some 189 Builder and Associate Members, and recommends the ADOPTION of the said NAHB Resolution Number Four by the City of Sherman, Texas.


ABEL CHAVARRIA, President


EUGENE H. LUND, Secretary



Resolution No. 4

Date: September 15, 2006

City: Salt Lake City, Utah

NAHB Resolution

Title: Low Cost Fire Sprinklers
Original Sponsor: Anchorage Home Builders Association and the Alaska State Home Building Association

WHEREAS, the National Association of Home Builders supports an affirmative program of fire safety for residential construction whose principle components are life safety improvements and cost-effectiveness;

WHEREAS, a National Fire Protection Association (NFPA) analysis of fire data for 1999-2001 found that 76 percent of the fire deaths in one- and two-family dwellings occurred in homes without a working smoke alarm, and a more recent U.S. Fire Administration (USFA) analysis of fire data for 2001-2004 reported that only 12 percent of the one- and two-family dwellings with fatal fires had operational alarms;

WHEREAS, such data demonstrate the cost-effectiveness and continued need for the installation and proper maintenance of smoke alarms in all new and existing housing;

WHEREAS, residential fire sprinkler systems constructed in accordance with current industry standards, such as NFPA 13D and 13R, are significantly more expensive to install and maintain and not as cost-effective in improving the life safety of the occupants of multifamily low-rise and single-family residential construction as smoke alarms;

WHEREAS, home buyers, when given the option, overwhelmingly choose not to install fire sprinklers in the new homes they purchase due to the high cost of installation and maintenance, providing adequate water supply and other issues and concerns; and

WHEREAS, the 2006 International Residential Code (IRC) provides in Appendix P language that a jurisdiction can use to mandate sprinklers in dwellings scoped in the IRC, (one- and two-family dwellings and townhouses not more than three stories in height with their own means of egress),

NOW, THEREFORE, BE IT RESOLVED that the National Association of Home Builders reaffirm its existing policy opposing mandating the National Fire Protection Association (NFPA) sprinkler systems in dwellings scoped in the 2006 International Residential Code (IRC), (one- and two-family dwellings and townhouses not more than three stories in height with their own means of egress) because it has not been demonstrated that residential sprinkler systems can meet, at a minimum, the following conditions:

1. Significantly reduce the initial installation cost of the system versus current NFPA sprinkler systems,
2. Enhance the safety of occupants without a significant reduction in housing affordability,
3. Reduce the substantial costs associated with connecting to public water systems or providing water storage/delivery systems for homes not connected to public water,
4. Address freezing concerns and provide low-cost solutions for homes in colder climates,
5. Provide simplified design, installation and inspection requirements that significantly reduce the associated costs,
6. Minimize the maintenance of the installed system required of home owners,
7. Relieve builders of legal liability for malfunctions or failures, and
8. Address insurance industry rate increases, policy exceptions or policy denials for sprinkler system malfunctions or failures.

Board of Directors Action:

Joint Executive Board Action:

Resolutions Committee Action:

Construction Codes & Standards Committee Action:

Remodelers Council Board of Trustees Action:

Single Family Production Builders Committee Action:

Single Family Small Volume Builders Committee Action:

Multifamily Board of Trustees Action:

Approved

Recommends Approval

Recommends Approval

Recommends Approval

Recommends Approval

Recommends Approval

Recommends Approval

Recommends Approval



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. B.8

CONSENT AGENDA

Asterisked (*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

C.2 * *RESOLUTION NO. 5229*

Authorizing Execution of an Agreement Regarding Municipal Services with Preston Dorchester Partners, Ltd. for the Future Construction of Public Facilities in the 5300 Block of U.S. Highway 82 West and the 2600-2900 Blocks of Hudgins Road, being 22.27 acres in the James S. Coffee Survey, Abstract No. 232 in the City of Sherman's Extra Territorial Jurisdiction

C.3 * *RESOLUTION NO. 5230*

Authorizing Execution of Four Access Agreements Granting Right of Entry to Remove an Old Storm Drain Pipe and Install New Pipe on North Harrison Avenue

C.4 * *RESOLUTION NO. 5231*

Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Water Well, Incorporated for Repairs to the Luella 4 Woodbine Well

C.5 * *RESOLUTION NO. 5232*

Authorizing the Purchase of One Truck Chassis and Sewer Jetting Equipment through the Houston-Galveston Area Council of Governments (H-GAC) for the Distribution Services Department

C.6 * *RESOLUTION NO. 5233*

Authorizing Execution of an Agreement with Barton Capital, LTD for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 1618 South Montgomery Street

C.7 * *RESOLUTION NO. 5234*

Authorizing Execution of an Agreement with Barton Capital, LTD for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 1622 South Montgomery Street

D.1 * *REQUEST TO ADVERTISE*

Pecan Grove Park Development – Phase I

D.2 * REQUEST TO ADVERTISE

Annual Contract for Water and Sewer Parts and Supplies

D.4 * OTHER BUSINESS

Consider Request of Jaco Oil Company for a Reduction in their Oil Well Performance Bond

D.5 * OTHER BUSINESS

Replat Approval of Lot 4, Block 11 of the B.H. Moore's Heirs Addition; Terry Peterson, Owner (1302 South Elm Street)

D.6 * OTHER BUSINESS

Final Plat Approval of The Medicine Shoppe, a Replat of Lots 1 and 2, Block 1 of W.M. Shannon's Supplement; Randy and Joanna Bennett, Owners (1622 and 1624 North Travis Street)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. C.1

RESOLUTION NO. 5228

Suspending the August 8, 2008 Effective Date of Oncor Electric Delivery Company Requested Rate Change to Permit the City Time to Study the Request and to Establish Reasonable Rates; Approving Cooperation with Oncor Cities Steering Committee to Hire Legal and Consulting Services and to Negotiate with the Company and Direct any Necessary Litigation and Appeals; Requiring Reimbursement of City's Rate Case Expenses; Requiring Notice of this Resolution to the Company and Legal Counsel for the Steering Committee

Issue

To adopt a resolution suspending the August 8, 2008 effective date of Oncor Electric Delivery Company's (Oncor) Statement of Intent to Increase Rates filing for the maximum period authorized by law

Background

On June 27, 2008, Oncor filed a statement of intent to increase its electric transmission and distribution rates by \$275 million annually effective August 8, 2008. Unless the City takes action to suspend this effective date, the rate increase can be charged to all customers within the city after August 8th. If approved, the \$275 million increase would raise rates for the average residential customer by approximately \$60 per year. State law permits our extension of the effective date by up to ninety (90) days. Through adoption of this resolution, we will suspend the August 8, 2008 effective date of Oncor's statement of intent to increase rates for the maximum period allowed by law, giving the Oncor Cities Steering Committee sufficient time to review the filing and decide on the final action needed. We will be informed of Committee findings, conclusions and recommendations, and provided with draft resolutions and ordinances reflecting those recommendations.

The General Counsel to the Oncor Cities Steering Committee does not recommend the City take action to deny the request at this time. Suspending the effective date gives cities time to evaluate the filing and develop strategy while the city retains its original jurisdiction.

Origination

Geoffrey Gay and Kristen Doyle of Lloyd Gosselink Blevins Rochelle & Townsend, P.C., General Counsel to the Oncor Cities Steering Committee

Financial Consideration

All costs (legal and consulting) incurred by the City will be reimbursed by Oncor.

Staff Recommendation

It is recommended that Resolution No. 5228 be adopted to suspend for 90 days the effective date of Oncor's Statement of Intent to Increase Rates.

Alternatives

None recommended

Attachments

Memo from Oncor Cities Steering Committee General Counsel

Staff Report

List of Steering Committee Cities

Resolution No. 5228

Prepared by:

Robby Hefton, Assistant City Manager/CFO

Approved by:

George Olson, City Manager



816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532
www.lglawfirm.com

Ms. Doyle's Direct Line: (512) 322-5820
Email: kdoyle@lglawfirm.com

MEMORANDUM

TO: Oncor Cities Steering Committee Members

FROM: Geoffrey Gay
Kristen Doyle

DATE: June 27, 2008

RE: Oncor Electric Delivery Company's Statement of Intent to Increase Rates
Suspension Packet

ACTION REQUIRED TO SUSPEND THE EFFECTIVE DATE BY AUGUST 8, 2008

Oncor is filing a Statement of Intent to Increase Rates today with all cities in its service area that retain original jurisdiction. The Company is seeking a \$265 million rate increase. If approved, the \$275 million increase would raise rates for the average residential customers by \$60 per year.

The rate increase requested by Oncor will become effective on August 8, 2008, unless the city takes action to suspend the effective date. The statute permits cities to extend the effective date by up to 90 days in order to study the filing. **The city must take action to suspend the effective date by August 8, 2008.** If your city does not have a regular council meeting scheduled before August 8th or is otherwise unable to take action on the suspension resolution by August 8th, please contact me as soon as possible.

Attached to this memo is a model suspension resolution and staff report. It is our understanding the Oncor local managers may be providing cities with a model denial resolution and recommending that the city immediately deny the rate request. We do not recommend that you deny the request at this time. Suspending the effective date allows cities more time to review the application and decide on the final action, including settlement or denial of Oncor's requested rate increase.

The Oncor Cities Steering Committee will hold a meeting of all Steering Committee members in August to discuss Oncor's rate request. Representatives from Oncor will attend part of the meeting to discuss the filing. There will also be an opportunity for Steering Committee members to discuss strategy with Steering Committee consultants and attorneys.

If you have any questions, please feel free to contact Geoffrey (512/322-5875, ggay@lglawfirm.com) or Kristen (512/322-5820, kdoyle@lglawfirm.com).

2557/00/mmo070601

Lloyd Gosselink Blevins Rochelle & Townsend, P.C.

MODEL STAFF REPORT

*****ACTION MUST BE TAKEN TO SUSPEND THE EFFECTIVE DATE ON OR
BEFORE AUGUST 8, 2008*****

PURPOSE

Oncor Electric Delivery Company ("Oncor" or "the Company") filed an application on or about June 27, 2008 with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by \$275 million. (Until last year, Oncor was known as TXU Electric Delivery Company.) The Company asks the City to approve an 17.6% increase in residential rates, a 9.1% increases in commercial rates, and a 5.8% increase in street lighting rates. According to Oncor, annual rates would increase by approximately \$60 for an average residential customer.

The resolution suspends the August 8, 2008 effective date of the Company's rate increase for the maximum period permitted by law to allow the City, working in conjunction with the Steering Committee of Cities Served by Oncor, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

The law provides that a rate request made by an electric utility cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. **If the City fails to take some action regarding the filing before the effective date, Oncor's rate request is deemed administratively approved.**

DISCUSSION

The City of _____ is a member of a 109-city coalition known as the Steering Committee of Cities Served by Oncor ("Steering Committee"). The Steering Committee has been in existence since the late 1980s. It took on a formal structure in the early 1990s when Cities served by the former TXU gave up their statutory right to rate case expense reimbursement in exchange for higher franchise fee payments. Empowered by city resolutions and funded by *per capita* assessments, the Steering Committee has been the primary public interest advocate before the Public Utility Commission, the Courts, and the Legislature on electric utility regulation matters for the last 20 years.

This filing is the result of a rate investigation started by the Steering Committee in 2004. That year, 20 members of the Steering Committee exercised their original jurisdiction to investigate the transmission and distribution rates charged by TXU. The 2004 rate inquiry was justified by several factors. First, the Company's rates charged had not been fully reviewed by the PUC since the early 1990s. Second, when the PUC "unbundled" the transmission and distribution rates from generation and retail costs during the transition to deregulation in 2002, municipal accounts were grouped within the broader category of commercial services. This led to application of unfair demand ratchets and higher charges for municipal accounts like water pumping. It also led to high charges for street lighting. Third, the Company's earnings

monitoring reports required by the PUC revealed that the Company was earning profits in excess of its approved rate of return for monopoly services. Finally, the Company had recently gone through massive reorganization and the hypothetical cost structures the PUC had used to justify current rates were no longer valid.

The Steering Committee negotiated a comprehensive settlement in 2005 that called for the Company to work with cities on certain items of concern to cities including municipal and street lighting rates, maintenance, undergrounding and relocation of TXU facilities, and to make cash payments to the Steering Committee for distribution to all members. In 2006, the Steering Committee voted to approve an agreement that extends the benefits of the earlier settlement and increases value to Cities. The settlement terms called for the Company to file a rate case in 2008. The total benefits of the Steering Committee settlement agreement are worth approximately \$85 million for the period 2005 – 2009.

Explanation of "Be It Resolved" Paragraphs:

Section 1. The city is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective for any legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the resolution refers to the suspension period as "the maximum period allowed by law" rather than ending by a specific date. This is because the Company controls the effective date and can extend the deadline for final city action to increase the time that the City retains jurisdiction if necessary to reach settlement on the case. If the suspension period is not otherwise extended by the Company, the City must take final action on Oncor's request to raise rates by November 6, 2008.

Section 2. This provision authorizes the Steering Committee, consistent with the City's resolution approving membership in the Steering Committee, to act on behalf of the City at the local level in settlement discussions, in preparation of a rate ordinance, on appeal of the rate ordinance to the PUC, and on appeal to the Courts. Negotiating clout and efficiency are enhanced by the City cooperating with the Steering Committee in a common review and common purpose. Additionally, rate case expenses are minimized when the Steering Committee hires one set of attorneys and experts who work under the guidance and control of the Executive Committee of Steering Committee.

Section 3. The Company will reimburse the Steering Committee for its reasonable rate case expenses. Legal counsel and consultants approved by the Executive Committee of the Steering Committee will submit monthly invoices that will be forwarded to Oncor for reimbursement. No individual city incurs liability for payment of rate case expenses by adopting a suspension resolution.

Section 4. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.

Section 5. This section provides that both Oncor and Steering Committee counsel will be notified of the City's action by sending a copy of the approved and signed resolution to certain designated individuals.

STEERING COMMITTEE CITIES

Addison	Glenn Heights	Ranger
Allen	Grand Prairie	Rhome
Alvarado	Granger	Richardson
Andrews	Grapevine	Richland Hills
Archer City	Gunter	Roanoke
Arlington	Harker Heights	Robinson
Belton	Heath	Rockwall
Benbrook	Henrietta	Rosser
Big Spring	Hewitt	Rowlett
Breckenridge	Highland Park	Sherman
Bridgeport	Honey Grove	Snyder
Brownwood	Howe	Southlake
Buffalo	Hurst	Sulphur Springs
Burkburnett	Hutto	Sunnyvale
Burleson	Irving	Sweetwater
Caddo Mills	Jolly	Temple
Cameron	Josephine	The Colony
Canton	Justin	Tyler
Carrollton	Kaufman	University Park
Cedar Hill	Keller	Venus
Celina	Kerens	Waco
Centerville	Lakeside	Watauga
Cleburne	Lamesa	White Settlement
Colleyville	Lindale	Wichita Falls
Collinsville	Little River Academy	Woodway
Comanche	Malakoff	
Corinth	Mansfield	
Crowley	McKinney	
Dallas	Midland	
Dalworthington Gardens	Murchison	
DeLeon	Murphy	
Denison	New Chapel Hill	
Early	North Richland Hills	
Eastland	Oak Leaf	
Edgecliff Village	Oak Point	
Eules	Odessa	
Farmers Branch	O'Donnell	
Flower Mound	Ovilla	
Forest Hill	Palestine	
Fort Worth	Pantego	
Frisco	Paris	
Frost	Plano	

RESOLUTION NO. 5228

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, SUSPENDING THE AUGUST 8, 2008 EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH ONCOR CITIES STEERING COMMITTEE TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITY'S RATE CASE EXPENSES; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, on or about June 27, 2008, Oncor Electric Delivery Company (Oncor), pursuant to Public Utility Regulatory Act (PURA) §§ 33.001 and 36.001 filed with the City of Sherman a Statement of Intent to increase electric transmission and distribution rates by \$275 million in all municipalities exercising original jurisdiction within its service area effective August 8, 2008; and

WHEREAS, the City of Sherman is a member of the Oncor Cities Steering Committee (Steering Committee) and will cooperate with the 109 similarly situated city members and other city participants in conducting a review of the Company's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, PURA § 36.108 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days after the date the rate change would otherwise be effective; and

WHEREAS, PURA § 33.023 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility;

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

SECTION 1. That the August 8, 2008 effective date of the rate request submitted by Oncor on or about June 27, 2008, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

SECTION 2. That, as indicated in the City's resolution approving membership in the Steering Committee, the Executive Committee of Steering Committee is authorized to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations

regarding reasonable rates, and to intervene and direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Public Utility Commission.

SECTION 3. That the City's reasonable rate case expenses shall be reimbursed by Oncor.

SECTION 4. That a copy of this Resolution shall be sent to Oncor, care of Debra Anderson, Oncor Electric Delivery Company, 1601 Bryan St., Suite 23-055C, Dallas, Texas 75201 and to Geoffrey Gay, General Counsel to the Oncor Steering Committee, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

SECTION 5. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. C.2

*** RESOLUTION NO. 5229**

**Authorizing Execution of an Agreement Regarding Municipal Services
with Preston Dorchester Partners, Ltd. for the Future Construction of Public Facilities
in the 5300 Block of U.S. Highway 82 West and the 2600-2900 Blocks of Hudgins Road,
being 22.27 acres in the James S. Coffee Survey, Abstract No. 232 in the
City of Sherman's Extra Territorial Jurisdiction**

Issue

An agreement regarding the funding for the future development of the approximately 22.27 acres of land owned by Preston Dorchester Partners, Ltd. in the City of Sherman's Extra Territorial Jurisdiction (ETJ)

Background

Preston Dorchester Partners, Ltd. proposes to construct a commercial retail development, which includes the construction of on-site and off-site drainage, water and wastewater, and road improvements at their property located at the intersection of U.S. Highway 82 West and the future Highway 289 extension in the City of Sherman's ETJ. This agreement clarifies that the City is not required to fund capital improvements to the development.

Origination

Preston Dorchester Partners, Ltd.

Financial Consideration

None

Staff Recommendation

Staff recommends approval of the Agreement Regarding Municipal Services

Alternatives

As directed by the City Council

Attachments

Resolution No. 5229

Agreement Regarding Municipal Services

Location Map

Site Plan and Photographs

Prepared by:

Mark Gibson, Director of Utilities & Engineering

Approved by:

George Olson, City Manager

RESOLUTION NO. 5229

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT REGARDING MUNICIPAL SERVICES WITH PRESTON DORCHESTER PARTNERS, LTD. FOR THE FUTURE CONSTRUCTION OF PUBLIC FACILITIES IN THE 5300 BLOCK OF U.S. HIGHWAY 82 WEST AND THE 2600-2900 BLOCKS OF HUDGINS ROAD, BEING 22.27 ACRES IN THE JAMES S. COFFEE SURVEY, ABSTRACT NO. 232 IN THE CITY OF SHERMAN'S EXTRA TERRITORIAL JURISDICTION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form by the City Attorney, to execute an Agreement Regarding Municipal Services with Preston Dorchester Partners, Ltd. for the future construction of public facilities in the 5300 Block of U.S. Highway 82 West and the 2600-2900 Blocks of Hudgins Road, being 22.27 acres in the James S. Coffee Survey, Abstract No. 232 in the City of Sherman's Extra Territorial Jurisdiction, Grayson County, Texas, in the same or substantially same form as the contract documents to be attached hereto and incorporated herein for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY

STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

AGREEMENT REGARDING MUNICIPAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2008 (the "Effective Date"), by and among **City of Sherman** ("City"), a municipal corporation organized under the laws of the State of Texas, and **Preston Dorchester Partners, Ltd.**, a Texas limited partnership ("Landowner").

WITNESSETH:

WHEREAS, Landowner owns approximately 22 acres of land located in the Extra Territorial Jurisdiction of the City, and described in Exhibit "A", attached hereto and made a part hereof as if fully set out in this paragraph and hereinafter referred to as the "Property", and Landowner intends to eventually develop the Property by constructing improvements thereon; and

WHEREAS, Landowner is requesting annexation of the Property to the city limits of the City; and

WHEREAS Landowner understands that it can agree to fund capital improvements necessary for municipal services to the Property, as provided in Section 43.056(f)(2) of the Texas Local Government Code.

NOW THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

ARTICLE I

CONDITIONS

1. **Assurance of Title.** Landowner, by signing this Agreement, acknowledges and assures the City that it is title owner to the Property and can enter into this Agreement to fund capital improvements.

2. **Funding Capital Improvements.** Landowner agrees to construct or fund the construction of: (a) on-site drainage improvements sized to serve the Property and off-site drainage improvements necessary to connect the Property to the City's drainage system; (b) on-site water and wastewater improvements sized to serve the Property and off-site water and wastewater improvements necessary to connect the Property to the City's water and wastewater systems; and (c) on-site road improvements sized to serve the Property and off-site road improvements necessary to provide access to the Property from U.S. Highway 289 (such drainage, water, wastewater and road improvements being referred to as the "Capital Improvements"), as provided for in Section 43.056(f)(2) of the Texas Local Government Code. Landowner waives any claim that the requirement to

construct or fund construction of the Capital Improvements in accordance with this section comply with Chapter 395 of the Local Government Code.

3. **WAIVER.** LANDOWNER INTENTIONALLY AND KNOWINGLY WAIVES ANY RIGHTS TO REQUEST THAT THE CITY FUND THE "CAPITAL IMPROVEMENTS," AS DEFINED IN SECTION 2, AS MAY BE REQUIRED BY CHAPTER 43 OF THE TEXAS LOCAL GOVERNMENT CODE. LANDOWNER CONSENTS TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH LANDOWNER'S ATTORNEY.

4. **City Standards.** Landowner understands that the Capital Improvements to be funded by Landowner pursuant to Section 2 must be constructed to City standards and in compliance with all City regulations that are generally applicable within the City's corporate limits.

5. **Not a Development Agreement.** Landowner acknowledges and agrees that this Agreement is not a Development Agreement and that a Development Agreement will be required in the future once any development begins on the Property, in accordance with City regulations.

6. **Annexation Not Guaranteed.** Landowner also understands that, even though Landowner has signed this Agreement, the City's Council may still refuse annexation and that this Agreement in no way obligates the City to annex the Property. If the City Council does not annex the Property, this Agreement will have no force or effect.

ARTICLE II

GENERAL PROVISIONS

1. **Notice.** Any delivery required by this Agreement shall be satisfied by delivery of a written statement or ordinance to the appropriate individual, listed below, via either certified mail, return receipt requested, or hand delivery on or before the date that notice is required. The individual designated below or the address for notice may be amended from time to time by delivery of thirty (30) days' notice to the other party.

CITY OF SHERMAN:

220 West Mulberry Street
Sherman, Texas 75090-5832
Attn: George Olson, City Manager

LANDOWNER:

Preston Dorchester Partners, Ltd.
5953 Dallas Parkway
Suite 200A
Plano, Texas 75093-8189
Attn: Frank Babb

2. **Applicable Law/Venue.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Grayson County, Texas. The parties agree that venue for any disputes will lie exclusively in Grayson County, Texas.

3. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement is not intended for the benefit of any third parties not named herein in this Agreement.

4. **Assignment.** Landowner has the right to assign this Agreement, in whole or in part, to subsequent owner(s) of any portion of the Property, provided however, that in no event will this agreement be transferred or assigned without the written agreement of the subsequent transferee or assignee to the waiver provisions contained in this Agreement. Each assignment shall be in writing executed by Landowner and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, waivers, rights, title, or interests being assigned. Landowner shall provide a copy of each assignment to the City within seven (7) days after execution. From and after such assignment, the City agrees to look solely to the assignee for the performance of all obligations assigned to the assignee and agrees that Landowner shall be released from subsequently performing the assigned obligations and from any liability that results from the assignee's failure to perform the assigned obligations; provided, however, if a copy of the assignment is not received by the City within fifteen (15) days after execution, Landowner shall not be released until the City receives such assignment. No assignment by Landowner shall release Landowner from any liability that resulted from an act or omission by Landowner that occurred prior to the effective date of the assignment.

5. **Captions.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

6. **Partial Invalidity.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

7. **Negotiated Contract.** Although this Agreement is drafted by the City, this is a negotiated contract and should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

8. **Sole Agreement.** This Agreement constitutes the sole and only agreement of the parties hereto respecting the subject matter addressed herein and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter addressed herein. This Agreement may only be amended in writing and signed by both parties.

WITNESS OUR HANDS, this the _____ day of _____, 2008.

CITY:

City of Sherman, Texas

By: _____
George Olson, City Manager

LANDOWNER:

**Preston Dorchester Partners, Ltd.,
a Texas limited partnership**

**By: Prosperia Land Partners II, LLC,
a Texas limited liability company
Its: General Partner**

By: _____

Title: _____

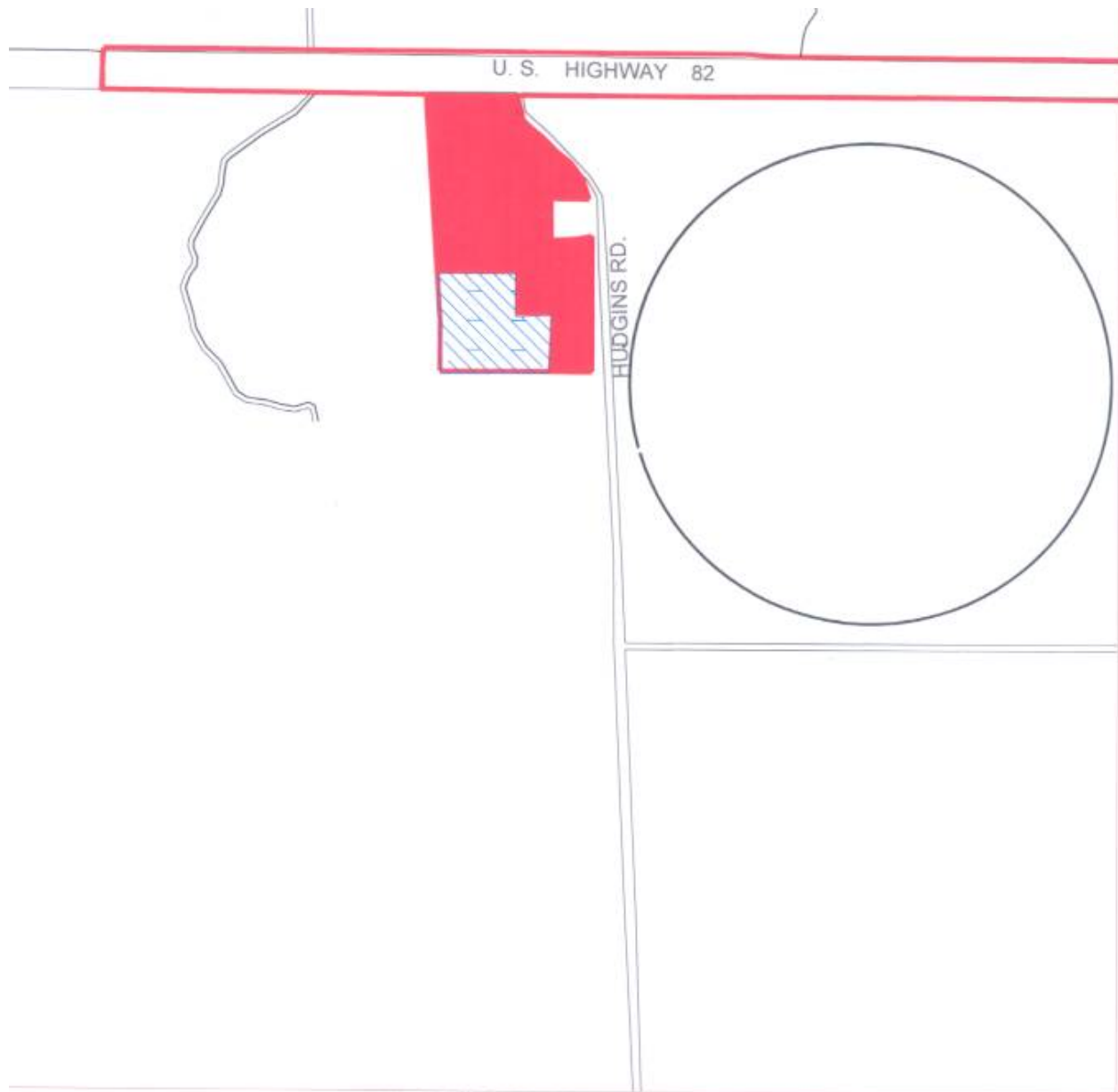
Attest _____
City Clerk

Attest _____

IF LANDOWNER is a corporation or a
partnership, attach evidence of authority to sign.)

Approved as to form only:

Doreen E. McGookey
City Attorney



LEGEND

	R-A	SINGLE FAMILY AGRICULTURAL DISTRICT		M-2	HEAVY MANUFACTURING DISTRICT
	SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT		M H	MANUFACTURED HOUSING DISTRICT
	R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT			BLALOCK INDUSTRIAL PARK
	R-2	MULTI-FAMILY RESIDENTIAL DISTRICT		O-1	OVERLAY DISTRICT - 75 & 82
	C-1	RETAIL BUSINESS DISTRICT		O-1.1	OVERLAY DISTRICT - 1417
	C-2	GENERAL COMMERCIAL DISTRICT		O-1.2	OVERLAY DISTRICT -SAM RAYBURN FREEWAY
	C O	OFFICE DISTRICT		CPO	COLLEGE PARK OVERLAY
	M-1	LIGHT MANUFACTURING DISTRICT		A&C	ARTS & CULTURAL OVERLAY DISTRICT
	M-1.5	MEDIUM MANUFACTURING DISTRICT		CBD	CENTRAL BUSINESS DISTRICT



2600-2900 BLOCKS HUDGINS ROAD ZONE CHANGE

ENGINEERING DEPARTMENT



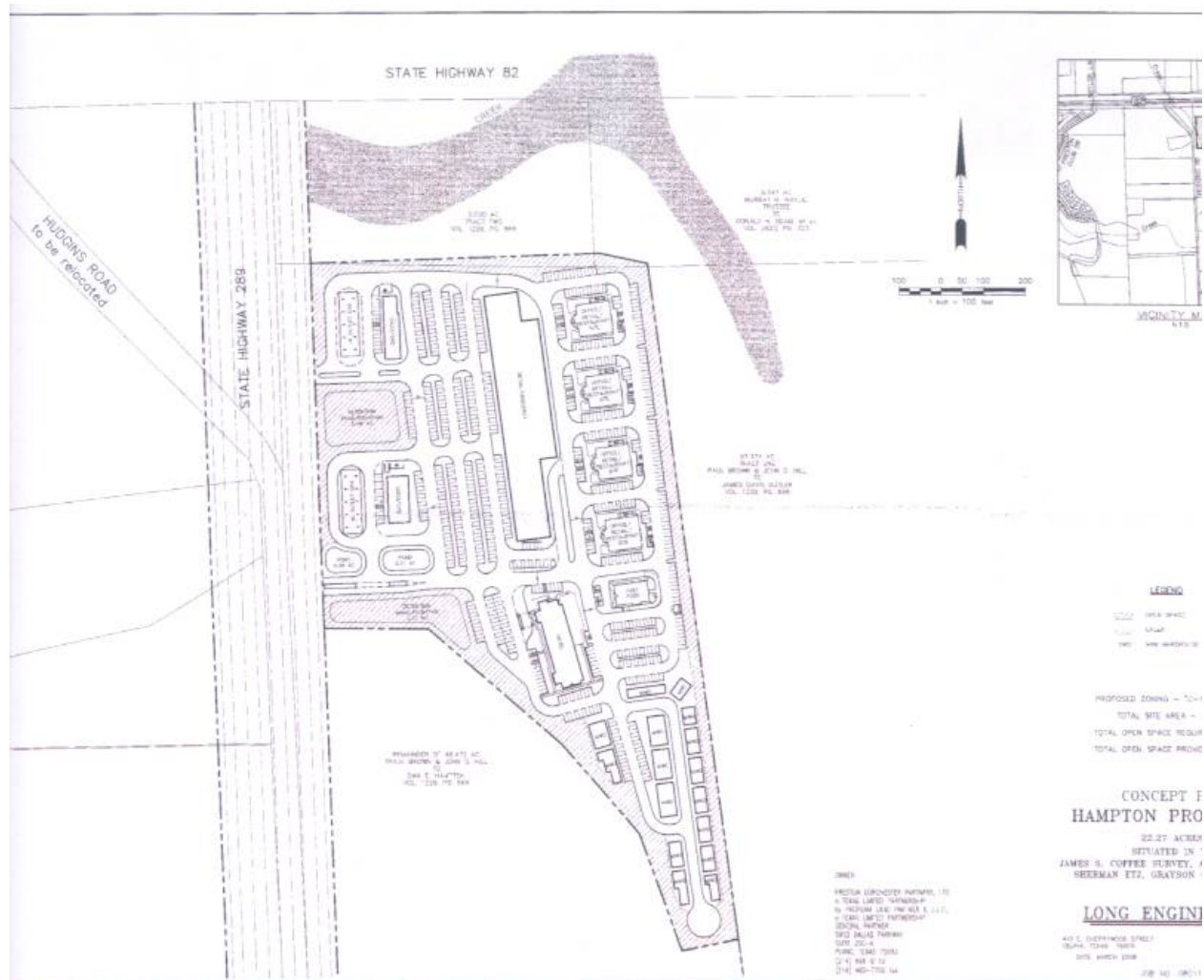


Average Scale: 1 inch = 307.0 feet

(c) Copyright 2006.

2600-2900 Blk Hudgins Rd.







SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. C.3

*** RESOLUTION NO. 5230**

Authorizing Execution of Four Access Agreements Granting Right of Entry to Remove an Old Storm Drain Pipe and Install New Pipe on North Harrison Avenue

Issue

Authorizing the execution of temporary access agreements with three property owners and one tenant for construction of a new storm water pipe and removal of the old one on Harrison Avenue

Background

In 2007 it came to the attention of the Public Works staff that the storm drain pipe along Harrison Avenue (near its intersection with Mulberry) had collapsed in several locations and was generally failing. The project was budgeted in this year's Capital Improvement Program (CIP) and is now at the point of execution. The contract has been awarded; and the contractor is ready to begin work. Temporary access agreements on three separate parcels, specifically 406, 410, and 414 North Harrison Avenue, need to be approved to move the project forward.

Origination

Public Works Department

Financial Consideration

The project was budgeted in the fiscal year 2007-2008 CIP budget; and funds are available to begin the project.

Staff Recommendation

Approve Resolution No. 5230 and authorize execution of the attached four Access Agreements Granting Right of Entry (one address has easement documents from the land owner and the tenant).

Alternatives

None

Attachments

Resolution No. 5230

(4) Access Agreements Granting Right of Entry
Location Map

Prepared by:
Jeff Miller, Public Works Director

Approved by:
George Olson, City Manager

RESOLUTION NO. 5230

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF FOUR ACCESS AGREEMENTS GRANTING RIGHT OF ENTRY TO REMOVE AN OLD STORM DRAIN PIPE AND INSTALL NEW PIPE ON NORTH HARRISON AVENUE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all documents being properly completed and approved as to form and content by the City Attorney, to execute four Access Agreements Granting Right of Entry to remove an old storm drain pipe and install new pipe located at 406, 410, and 414 North Harrison Avenue, in accordance with the terms and provisions of all contract documents attached hereto and made a part hereof for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY

ACCESS AGREEMENT GRANTING RIGHT OF ENTRY

This Access Agreement Granting Right of Entry ("Agreement") is made by and between the following (collectively, the "Parties"): the **City of Sherman**, its officers, agents, employees, contractors, and subcontractors ("City") and **Ignacio and Wenceslada Moran, 414 N. Harrison Avenue, Sherman, Texas 75090** ("Owner"). The Parties enter into this Agreement pursuant to City's request for access to **414 N. Harrison Avenue**, as more particularly described as **College Park Addition, Block 24, Lot 10, .1814 AC .1814 AC** (hereinafter, the "Property"), for the purpose of replacing and removing a storm water pipe (collectively, "Pipe").

WHEREAS, Owner is the owner in fee simple of that certain real property located in Grayson County, Texas, and more particularly defined as the Property; and

WHEREAS, Owner desires to permit the City to use the Property for the removal and replacement of a storm water pipe on the Property;

NOW, THEREFORE, in consideration of ONE DOLLAR AND NO CENTS (\$1.00), the mutual covenants, terms and conditions and restrictions contained herein, together with other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. GRANT OF LICENSE. Subject to the further provisions of this Agreement, Owner grants a nonexclusive, revocable license to the City to enter the Property for the purpose of removing a storm water Pipe (hereinafter "Project."). This Agreement is only a temporary license to enter the Property and is not a grant of any other interest in the Property. This Agreement does not grant a right to exclusive use of any particular part of the Property.

2. TERMS OF LICENSE.

A. Owner grants to the City the right during the Project to enter upon and use the above described Property, and for any and all purposes, including the right to locate equipment and materials, for the Project. Grantee also has the following rights on the Property pursuant to this Agreement:

i. If necessary, City shall have the right to use the gates in all fences which now cross or which may hereafter cross the area and use a practical route or routes of ingress and egress thereto and there from for access to the Property.

ii. City shall have the right to trim, cut and/or remove trees, foliage, fences, roots, or any other obstructions upon and from within the area necessary to complete the Project.

iii. City has the right to deposit tools, implements, and other materials on the area and to utilize construction, automotive, and other equipment thereon when necessary for the purpose of exercising Grantee's rights hereunder.

OWNER DOCUMENT

3. **OWNER'S WARRANTIES.** Owner represents and warrants that he/she is the owner of the Property and has the authority to enter into this Agreement and that the consideration recited herein is just compensation for this Agreement. Owner also warrants that he or she will not grant any other types of access to the Property that will interfere with the Project until the termination of this Agreement.

4. **RESTORATION OF PROPERTY.** The City shall restore the surface of the easement area to the same or better condition that existed before such construction and entry.

5. **TERMINATION.** The right to use the Property pursuant to this Agreement shall cease and be terminated on September 15, 2008, unless otherwise agreed to by the parties. It is also understood that upon said termination date, the City shall have no further obligation or liability in connection with said parcel.

6. **GOVERNING LAW AND VENUE.** This Agreement will be governed by the laws of Texas with venue for any legal action lying exclusively in Grayson County, Texas. If any term or provision of this Agreement is found to be unenforceable or void, the term or provision concerned will be construed as enforceable to the maximum extent allowed by law, and the remainder of this Agreement will remain in full force and effect.

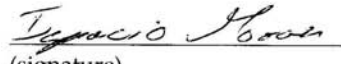
Owner certifies that he/she is at least 18 years of age and legally competent to sign this Agreement, understands that the terms of this Agreement are legally binding, and that Owner has signed this Agreement freely and without being subject to duress. Owner agrees that in signing this Agreement, he/she has not relied on any representation, oral or otherwise, not contained in this Agreement, and that the terms of this Agreement may not be modified, amended, or changed without the written consent both the Parties.

Signed on the ____ day of _____, 2008.

CITY OF SHERMAN

OWNER: **Ignacio Moran**

By: _____
George Olson
City Manager

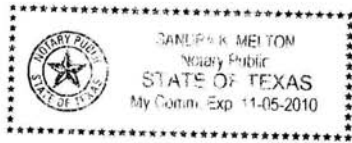

(signature)

ATTEST:

Linda Ashby
City Clerk

BEFORE ME, the undersigned authority, on this day personally appeared **Ignacio Moran**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity stated.

OWNER DOCUMENT



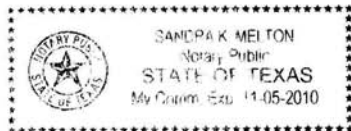
GIVEN UNDER MY HAND AND SEAL OF
OFFICE on this the 28th day of
June, 2008.

Sandra K. Melton
NOTARY PUBLIC IN AND FOR THE STATE OF
TEXAS

OWNER: **Wenceslada Moran**

Wenceslada Moran
(signature)

BEFORE ME, the undersigned authority, on this
day personally appeared **Wenceslada Moran**,
known to me to be the person whose name is
subscribed to the foregoing instrument, and
acknowledged to me, and that he executed the
same as the act of such corporation for the
purposes and consideration therein expressed and
in the capacity stated.



GIVEN UNDER MY HAND AND SEAL OF
OFFICE on this the 28th day of
June, 2008.

Sandra K. Melton
NOTARY PUBLIC IN AND FOR THE STATE OF
TEXAS

Review

ACCESS AGREEMENT GRANTING RIGHT OF ENTRY

This Access Agreement Granting Right of Entry ("Agreement") is made by and between the following (collectively, the "Parties"): the **City of Sherman**, its officers, agents, employees, contractors, and subcontractors ("City") and **Garland Ray Woytaszczyk**, 3201 Mimosa Dr., Sherman, Texas ("Owner"). The Parties enter into this Agreement pursuant to City's request for access to 406 N. Harrison, Sherman, Texas, as more particularly described as Block 24, Lot 12, 1814 AC of the College Park Addition (hereinafter, the "Property"), for the purpose of replacing and removing a storm water pipe:

WHEREAS, Owner is the owner in fee simple of that certain real property located in Grayson County, Texas, and more particularly defined as the Property; and

WHEREAS, Owner desires to permit the City to use the Property for the removal and replacement of a storm water pipe on the Property (hereinafter "Project");

NOW, THEREFORE, in consideration of ONE DOLLAR AND NO CENTS (\$1.00), the mutual covenants, terms and conditions and restrictions contained herein, together with other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **GRANT OF LICENSE.** Subject to the further provisions of this Agreement, Owner grants a nonexclusive, revocable license to the City to enter the Property for the purpose the Project. This Agreement is only a temporary license to enter the Property and is not a grant of any other interest in the Property. This Agreement does not grant a right to exclusive use of any particular part of the Property.

2. **TERMS OF LICENSE.**

A. Owner grants to the City the right during the Project to enter upon and use the above described Property, and for any and all purposes, including the right to locate equipment and materials, for the Project. Grantee also has the following rights on the Property pursuant to this Agreement:

i. If necessary, City shall have the right to use the gates in all fences which now cross or which may hereafter cross the area and use a practical route or routes of ingress and egress thereto and there from for access to the Property.

ii. City shall have the right to trim, cut and/or remove trees, foliage, fences, roots, or any other obstructions upon and from within the area necessary to complete the Project.

iii. City has the right to deposit tools, implements, and other materials on the area and to utilize construction, automotive, and other equipment thereon when necessary for the purpose of exercising City's rights hereunder.

OWNER DOCUMENT

3. **OWNER'S WARRANTIES.** Owner represents and warrants that he/she is the owner of the Property and has the authority to enter into this Agreement and that the consideration recited herein is just compensation for this Agreement. Owner also warrants that he or she will not grant any other types of access to the Property that will interfere with the Project until the termination of this Agreement.

4. **RESTORATION OF PROPERTY.** The City shall restore the surface of the easement area to the same or better condition that existed before such construction and entry.

5. **TERMINATION.** The right to use the Property pursuant to this Agreement shall cease and be terminated on September 15, 2008, unless otherwise agreed to by the parties. It is also understood that upon said termination date, the City shall have no further obligation or liability in connection with said parcel.

6. **GOVERNING LAW AND VENUE.** This Agreement will be governed by the laws of Texas with venue for any legal action lying exclusively in Grayson County, Texas. If any term or provision of this Agreement is found to be unenforceable or void, the term or provision concerned will be construed as enforceable to the maximum extent allowed by law, and the remainder of this Agreement will remain in full force and effect.

Owner certifies that he/she is at least 18 years of age and legally competent to sign this Agreement, understands that the terms of this Agreement are legally binding, and that Owner has signed this Agreement freely and without being subject to duress. Owner agrees that in signing this Agreement, he/she has not relied on any representation, oral or otherwise, not contained in this Agreement, and that the terms of this Agreement may not be modified, amended, or changed without the written consent both the Parties.

Signed on the 30 day of June, 2008.

CITY OF SHERMAN

OWNER: Garland Ray Woytaszczyk *YK*

By: _____
George Olson
City Manager

Garland Ray Woytaszczyk
(signature)

ATTEST:

Linda Ashby
City Clerk

BEFORE ME, the undersigned authority, on this day personally appeared Garland Ray Woytaszczyk known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity stated.

OWNER DOCUMENT

GIVEN UNDER MY HAND AND SEAL OF
OFFICE on this the 30 day of
June, 2008.

Lisa Whitfield

NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS



TENANT

ACCESS AGREEMENT GRANTING RIGHT OF ENTRY

This Access Agreement Granting Right of Entry ("Agreement") is made by and between the following (collectively, the "Parties"): the **City of Sherman**, its officers, agents, employees, contractors, and subcontractors ("City") and Carol Harkins [name], 406 W Harrison [address], Texas ("Tenant"). The Parties enter into this Agreement pursuant to City's request for access to 406 W Harrison [insert tenant address] (hereinafter, the "Property"), for the purpose of removing and replacing a storm water pipe:

WHEREAS, Tenant is leasing the certain real property located in Grayson County, Texas, and more particularly defined as the Property; and

WHEREAS, Tenant desires to permit the City to use the Property for the removal and replacement of a storm water pipe on the Property (hereinafter "Project");

NOW, THEREFORE, in consideration of ONE DOLLAR AND NO CENTS (\$1.00), the mutual covenants, terms and conditions and restrictions contained herein, together with other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **GRANT OF ENTRY.** Subject to the further provisions of this Agreement, Tenant grants permission for the City to enter the Property for the purpose the Project. This Agreement is only a temporary permission to enter the Property and is not a grant of any other interest in the Property. This Agreement does not grant a right to exclusive use of any particular part of the Property, including any areas inside of a residence.

2. **TERMS OF THE PERMISSION.**

A. Tenant grants to the City the right during the Project to enter upon and use the above described Property, and for any and all purposes, including the right to locate equipment and materials, for the Project. Grantee also has the following rights on the Property pursuant to this Agreement:

i. If necessary, City shall have the right to use the gates in all fences which now cross or which may hereafter cross the area and use a practical route or routes of ingress and egress thereto and there from for access to the Property.

ii. City shall have the right to trim, cut and/or remove trees, foliage, fences, roots, or any other obstructions upon and from within the area necessary to complete the Project.

iii. City has the right to deposit tools, implements, and other materials on the area and to utilize construction, automotive, and other equipment thereon when necessary for the purpose of exercising City's rights hereunder.

3. **TENANT'S WARRANTIES.** Tenant represents and warrants that he/she is the Tenant of the Property and has the authority to enter into this Agreement and that the consideration

TENANT

recited herein is just compensation for this Agreement. Tenant also warrants that he or she will not grant any other types of access to the Property that will interfere with the Project until the termination of this Agreement.

4. **RESTORATION OF PROPERTY.** The City shall restore the surface of the encroachment area to the same or better condition that existed before such construction and entry.

5. **TERMINATION.** The right to use the Property pursuant to this Agreement shall cease and be terminated on September 15, 2008, unless otherwise agreed to in writing. It is also understood that upon said termination date, the City shall have no further obligation or liability in connection with said parcel.

6. **GOVERNING LAW AND VENUE.** This Agreement will be governed by the laws of Texas with venue for any legal action lying exclusively in Grayson County, Texas. If any term or provision of this Agreement is found to be unenforceable or void, the term or provision concerned will be construed as enforceable to the maximum extent allowed by law, and the remainder of this Agreement will remain in full force and effect.

Tenant certifies that he/she is at least 18 years of age and legally competent to sign this Agreement, understands that the terms of this Agreement are legally binding, and that Tenant has signed this Agreement freely and without being subject to duress. Tenant agrees that in signing this Agreement, he/she has not relied on any representation, oral or otherwise, not contained in this Agreement, and that the terms of this Agreement may not be modified, amended, or changed without the written consent both the Parties.

Signed on the ____ day of _____, 2008.

CITY OF SHERMAN

By: _____
George Olson
City Manager

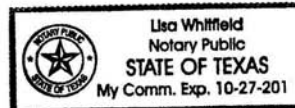
TENANT: Carol Hawkins
Carol Hawkins
(signature)

ATTEST:

Linda Ashby
City Clerk

BEFORE ME, the undersigned authority, on this day personally appeared Carol Hawkins, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 2nd day of July, 2008.
Dea Whitfield
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS



ACCESS AGREEMENT GRANTING RIGHT OF ENTRY

This Access Agreement Granting Right of Entry ("Agreement") is made by and between the following (collectively, the "Parties"): the **City of Sherman**, its officers, agents, employees, contractors, and subcontractors ("City") and **Isidoro and Flora Almazan, 410 N. Harrison Avenue, Sherman, Texas 75090** ("Owner"). The Parties enter into this Agreement pursuant to City's request for access to **410 N. Harrison Avenue**, as more particularly described as **College Park Addition, Block 24, Lot 11, .1814 AC .1814 AC** (hereinafter, the "Property"), for the purpose of replacing and removing a storm water pipe (collectively, "Pipe").

WHEREAS, Owner is the owner in fee simple of that certain real property located in Grayson County, Texas, and more particularly defined as the Property; and

WHEREAS, Owner desires to permit the City to use the Property for the removal and replacement of a storm water pipe on the Property;

NOW, THEREFORE, in consideration of ONE DOLLAR AND NO CENTS (\$1.00), the mutual covenants, terms and conditions and restrictions contained herein, together with other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **GRANT OF LICENSE.** Subject to the further provisions of this Agreement, Owner grants a nonexclusive, revocable license to the City to enter the Property for the purpose of removing a storm water Pipe (hereinafter "Project."). This Agreement is only a temporary license to enter the Property and is not a grant of any other interest in the Property. This Agreement does not grant a right to exclusive use of any particular part of the Property.

2. **TERMS OF LICENSE.**

A. Owner grants to the City the right during the Project to enter upon and use the above described Property, and for any and all purposes, including the right to locate equipment and materials, for the Project. Grantee also has the following rights on the Property pursuant to this Agreement:

i. If necessary, City shall have the right to use the gates in all fences which now cross or which may hereafter cross the area and use a practical route or routes of ingress and egress thereto and there from for access to the Property.

ii. City shall have the right to trim, cut and/or remove trees, foliage, fences, roots, or any other obstructions upon and from within the area necessary to complete the Project.

iii. City has the right to deposit tools, implements, and other materials on the area and to utilize construction, automotive, and other equipment thereon when necessary for the purpose of exercising Grantee's rights hereunder.

OWNER DOCUMENT

3. **OWNER'S WARRANTIES.** Owner represents and warrants that he/she is the owner of the Property and has the authority to enter into this Agreement and that the consideration recited herein is just compensation for this Agreement. Owner also warrants that he or she will not grant any other types of access to the Property that will interfere with the Project until the termination of this Agreement.

4. **RESTORATION OF PROPERTY.** The City shall restore the surface of the easement area to the same or better condition that existed before such construction and entry.

5. **TERMINATION.** The right to use the Property pursuant to this Agreement shall cease and be terminated on September 15, 2008, unless otherwise agreed to by the parties. It is also understood that upon said termination date, the City shall have no further obligation or liability in connection with said parcel.

6. **GOVERNING LAW AND VENUE.** This Agreement will be governed by the laws of Texas with venue for any legal action lying exclusively in Grayson County, Texas. If any term or provision of this Agreement is found to be unenforceable or void, the term or provision concerned will be construed as enforceable to the maximum extent allowed by law, and the remainder of this Agreement will remain in full force and effect.

Owner certifies that he/she is at least 18 years of age and legally competent to sign this Agreement, understands that the terms of this Agreement are legally binding, and that Owner has signed this Agreement freely and without being subject to duress. Owner agrees that in signing this Agreement, he/she has not relied on any representation, oral or otherwise, not contained in this Agreement, and that the terms of this Agreement may not be modified, amended, or changed without the written consent both the Parties.

Signed on the ____ day of _____, 2008.

CITY OF SHERMAN

OWNER: **Isidoro Almazan**

By: _____
George Olson
City Manager

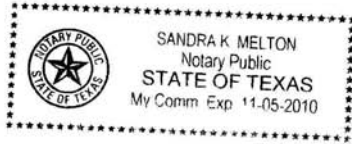

(signature)

ATTEST:

Linda Ashby
City Clerk

BEFORE ME, the undersigned authority, on this day personally appeared **Isidoro Almazan**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity stated.

OWNER DOCUMENT



GIVEN UNDER MY HAND AND SEAL OF
OFFICE on this the 28th day of
June, 2008.

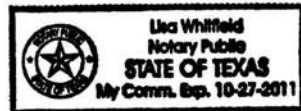
Sandra K. Melton

NOTARY PUBLIC IN AND FOR THE STATE OF
TEXAS

OWNER: **Flora Almazan**

Flora Almazan
(signature)

BEFORE ME, the undersigned authority, on this
day personally appeared **Flora Almazan**, known
to me to be the person whose name is subscribed to
the foregoing instrument, and acknowledged to
me, and that she executed the same as the act of
such corporation for the purposes and
consideration therein expressed and in the capacity
stated.



GIVEN UNDER MY HAND AND SEAL OF
OFFICE on this the 30 day of
June, 2008.

Lisa Whitfield

NOTARY PUBLIC IN AND FOR THE STATE OF
TEXAS





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. C.4

*** RESOLUTION NO. 5231**

**Awarding a Bid to and Authorizing Execution of a Contract with
Weisinger Water Well, Incorporated for Repairs to the Luella 4 Woodbine Well**

Issue

Contracting for repairs to the Luella 4 Woodbine Well

Background

This project is to repair the Luella 4 Woodbine Well. Two (2) bidders responded to the request for bids. A bid tabulation is attached.

Origination

Department of Utilities Administration

Financial Consideration

Adequate funding for this project is included in this year's budget.

Staff Recommendation

It is recommended that the contract for repairs to the Luella 4 Woodbine Well be awarded to the low bidder, Weisinger Water Well, Incorporated, in the amount of \$285,996.00 and that the City Manager be authorized to execute the required contract documents.

Alternatives

As may be directed by the City Council

Attachments

Resolution No. 5231

Contract

Bid Tabulation

Prepared by:
Mark Gibson, Utilities and Engineering Director

Approved by:
George Olson, City Manager

RESOLUTION NO. 5231

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH WEISINGER WATER WELL, INCORPORATED FOR REPAIRS TO THE LUELLA 4 WOODBINE WELL; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That Weisinger Water Well, Incorporated of Conroe, Texas, is hereby awarded the bid in the total amount of Two Hundred Eighty-Five Thousand Nine Hundred Ninety-Six Dollars and No Cents (\$285,996.00) for repairs to the Luella 4 Woodbine Well; and that the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form by the City Attorney, to execute a contract with Weisinger Water Well, Incorporated for repairs to the Luella 4 Woodbine Well, in accordance with the terms and provisions of all contract documents attached hereto and made a part hereof for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
BILL MAGERS, MAYOR

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY

CITY OF SHERMAN §
COUNTY OF GRAYSON §

**CONTRACT
BETWEEN THE CITY OF SHERMAN AND THE CONTRACTOR**

THIS AGREEMENT is by and between the CITY OF SHERMAN ("CITY" or "OWNER") and **Weisinger Water Well, Incorporated** ("CONTRACTOR").

The CITY and CONTRACTOR, for the consideration set forth in Article 4 of the Contract and the mutual covenants expressed in this Contract, agree as follows:

ARTICLE 1 - PROJECT

- 1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Project is generally described as follows:

for repairs of the Luella 4 Woodbine Well

This Project will be completed with/without change orders and all extra work in connection with the project, as described in the contract documents, shall be at the CONTRACTOR'S sole cost and expense all the materials, supplies, machinery, equipment, tools, superintendence, labor, necessary and customary insurance, and other accessories and services necessary to complete the Project in accordance with the Contract Documents.

ARTICLE 2 – INDEPENDENT CONTRACTOR

- 2.01 CONTRACTOR is and throughout this Contract shall remain an INDEPENDENT CONTRACTOR and as such is the sole judge on how to perform the work required under this Contract.

ARTICLE 3 - CONTRACT TIMES

- 3.01 *Commencement of Contract*

A. CONTRACTOR agrees to commence work under this Contract on or before the date specified in the written "Notice to Proceed" of the CITY and to fully complete the contract within one hundred and twenty days (120) days

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

- 3.02 *Dates for Completion and Final Payment*

A. The Work will be completed and ready for final payment in accordance with paragraph 5.05 of the General Conditions on or before one hundred and twenty (120) consecutive days from the date specified in the written "Notice to Proceed."

- 3.03 *Liquidated Damages*

A. CONTRACTOR and CITY recognize that time is of the essence of this Contract and that CITY will suffer loss that is difficult to calculate if the Work is not completed within the times specified in paragraph 3.02 above, plus any extensions thereof allowed in accordance with paragraph 4.02 of the General Conditions. The parties also recognize the expense, and difficulties involved with a delay make it impossible to evaluate the actual loss suffered by CITY due to the nature of this project if the Work is not completed on time. Accordingly, CITY and CONTRACTOR agree that as liquidated damages for the delay (but not as a penalty), CONTRACTOR shall pay CITY \$100.00 for each day that expires after the time specified in paragraph 3.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY \$100.00 for each day that expires after the time specified in paragraph 3.02 for completion and readiness for final payment until the Work is completed and ready for final payment. The parties agree that the amount of \$100.00 represents a fair and reasonable estimate of the CITY'S damages.

ARTICLE 4 - CONTRACT PRICE/CONSIDERATION

4.01 CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 4.01.A and 4.01.B below:

A. For all Project work, a total Sum of:

Two Hundred Eighty-Five Thousand, Nine Hundred Ninety-Six Dollars and No Cents (\$285,996.00)

B. If the payment for the Project is based on Unit Pricing, the Contract Price shall be as set forth in the Unit Pricing portion of the Proposal.

C. The above price reflects the consideration for the performance of this Contract.

ARTICLE 5 - PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

A. CONTRACTOR shall submit Applications for Payment in accordance with Article 5 of the General Conditions. Applications for Payment will be processed by the ENGINEER (defined in Article 9 of this Contract) as provided in the General Conditions.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

6.01 In order to induce CITY to enter into this Contract, CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all Contract Documents and understands the Work and Performance required in the Contract Documents and represents to the CITY that CONTRACTOR is fully capable of completing the work specified in the Contract Documents.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto.

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by CITY and others at the Site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 *Contents*

A. The Contract Documents consist of the following and are incorporated into this Contract for all purposes:

1. This Contract;
2. Performance Bond;
3. If applicable, the Unit Pricing in the Proposal;
4. Payment Bond;
5. Any Other Bonds;
6. General Conditions of Agreement;

-
7. Special Conditions of Agreement;
 8. Any Other Documents listed in the Table of Contents of the Specifications and Contract Documents;
 9. Any Drawings associated with the Project;
 10. Addenda (if applicable);
 11. Exhibits to this Contract(enumerated as follows):
 - a. Notice to Proceed;
 - b. CONTRACTOR'S Bid;
 - c. Documentation submitted by CONTRACTOR prior to Notice of Award;
 - d. Any other documentation submitted by the CONTRACTOR that is applicable to this Project.
 12. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Written Amendments;
 - b. Work Change Directives;
 - c. Change Order(s), if permissible under the Resolution enacted by the City.
- B. There are no Contract Documents other than those listed above in this Article 7.
- C. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 9.09 of this Contract.

ARTICLE 8 – NOTICE

Any notice and/or statement required or permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing;

If intended for CITY to:

If intended for CONTRACTOR, to:

Designee:
Mark Gibson, Director of Utilities & Engineering

Designee:
Scott Weisinger

Address:
P.O. Box 1106
Sherman, TX 75091-1106
903-892-7210

Address:
2200 E. Davis St.
Conroe, TX 77301
936-756-7721

ARTICLE 9 - MISCELLANEOUS

9.01 *Terms*

A. Terms used in this Contract will have the meanings indicated in the General Conditions.

B. In addition to the terms in the General Conditions, the term "ENGINEER" in this Contract shall mean a person designated as the ENGINEER by the City.

9.02 *Assignment of Contract*

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

A. CITY and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 *Severability and Conflict*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CITY and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

B. If there are any conflicts between the Contract and the Contract Documents, the provisions in the Contract prevail over the provisions in the Contract Documents.

9.05 *Captions*

Section or other headings contained in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract.

9.06 *INDEMNITY AND DUTY TO DEFEND*

A. CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES INCLUDING ATTORNEYS FEES, FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, STRICTLY LIABLE ACT, OR ANY OMISSION OF CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS AGREEMENT (HEREINAFTER "CLAIMS"); EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY

RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. IN ADDITION, THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY.

B. CONTRACTOR IS EXPRESSLY REQUIRED TO DEFEND THE CITY AGAINST ALL CLAIMS FOR WHICH THE CITY BECOMES LIABLE. IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO SELECT OR TO APPROVE DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH A RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING BY THE CITY MANAGER, APPROVED BY THE CITY ATTORNEY, AND PROPERLY AUTHORIZED BY THE CITY'S COUNCIL. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND THE CITY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY THE CITY PURSUANT TO THIS CONTRACT. CONTRACTOR SHALL RETAIN CITY APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS CONTRACT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY IN DEFENSE OF CLAIMS FOR WHICH CONTRACTOR IS LIABLE UNDER THIS PARAGRAPH.

C. This indemnification and duty to defend is subject to and does not waive any governmental immunity available to the CITY under Texas law, and any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

9.08 *Deletion of Arbitration Clause*

The parties agree that Paragraph 6.03 entitled Arbitration in the General Conditions, is not binding on the parties. This paragraph is not designed to prevent the parties from mutually agreeing to select arbitration as a means of resolving any disputes related to this Contract. The parties, however, agree not to be bound by the terms of 6.03 entitled Arbitration in the General Conditions.

9.07 *Choice of Law: Venue.*

This contract, the entire relationship of the parties, and any litigation between the parties (whether grounded in contract, tort, statute, law or equity) shall be governed by, construed in accordance with, and interpreted pursuant to the laws of the State of Texas, without giving effect to its choice of laws principles. This contract is wholly performable in Grayson County, Texas. Exclusive venue for any litigation between the parties shall be brought in Grayson County, Texas, and shall be brought in the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas. The parties waive any challenge to personal jurisdiction or venue (including without limitation a challenge based on inconvenience) in Grayson County, Texas, and specifically consent to the jurisdiction of the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas, Sherman Division.

9.08 *Binding Authority*

By their signatures below, the individuals represent that they have reviewed Contract with their attorney and that the individuals have the express authority to enter into this Contract.

9.09 *Entire Agreement*

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Contract, and except as otherwise provided herein cannot be modified without written agreement of both the parties to be attached to and made a part of this Contract.

9.10 *Contract Interpretation*

Although this CONTRACT is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

IN WITNESS WHEREOF, CITY and CONTRACTOR have signed this Contract in duplicate. One counterpart each has been delivered to CITY and CONTRACTOR. All portions of the Contract Documents have been signed or identified by CITY and CONTRACTOR or on their behalf.

This Contract will be effective on _____, _____ (which is the Effective Date of the Contract).

CITY: CITY OF SHERMAN, TEXAS

CONTRACTOR:

By: _____
George Olson, City Manager

By: _____
Scott Weisinger

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared SCOTT WEISINGER, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein express.

GIVEN UNDER MY HAND and seal of office this _____ day of _____, 2008.

(Stamp)

Print Name: _____
Notary Public
Date of Expiration: _____

Attest _____
Linda Ashby, City Clerk

Agent for service of process: _____

(If CONTRACTOR is a corporation or a partnership,
attach evidence of authority to sign.)

Approved as to form:

Doreen E. McGookey
City Attorney

BID TABULATION

PROJECT: LUELLA 4 WOODBINE WELL REPAIRS

OWNER: CITY OF SHERMAN

BID TIME & DATE: JUNE 19, 2008 10:00 A.M.

BID LOCATION: OFFICES OF THE DIRECTOR OF UTILITIES & ENGINEERING

BIDDER	TOTAL AMOUNT OF BID
WEISINGER WATER WELL, INC.	\$285,996.00
ALSAY, INC.	\$315,598.00



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. C.5

*** RESOLUTION NO. 5232**

**Authorizing the Purchase of One Truck Chassis and Sewer Jetting Equipment
through the Houston-Galveston Area Council of Governments (H-GAC)
for the Distribution Services Department**

Issue

The purchase of one truck chassis and sewer jetting equipment for use within the Distribution Services Department

Background

The Distribution Services Department has scheduled the replacement of one 2½-ton truck due to years of service, high mileage, and increasing maintenance cost. The specialized equipment was authorized for purchase in the current budget.

Origination

Mark Gibson, Director of Utilities and Engineering

Financial Consideration

The one truck chassis and sewer jetting equipment are available through the Houston-Galveston Area Council of Governments (H-GAC). A breakdown of the cost of the purchase is as follows: One 2½-ton chassis in the amount of \$54,450.00 and the sewer jetting equipment in the amount of \$72,362.57. Adequate funds to purchase this equipment were appropriated in the fiscal year 2007-2008 Utility Maintenance budget.

Staff Recommendation

It is recommended that the staff be authorized to acquire the one truck chassis and sewer jetting equipment through the H-GAC.

Alternatives

None recommended

Attachments

Resolution No. 5232

H-GAC Quotation

H-GAC Interlocal Agreement

Prepared by:
Mark Gibson, Director of Utilities & Engineering

Approved by:
George Olson, City Manager

RESOLUTION NO. 5232

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF ONE TRUCK CHASSIS AND SEWER JETTING EQUIPMENT THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC) FOR THE DISTRIBUTION SERVICES DEPARTMENT; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City Manager is hereby authorized and directed to purchase one truck chassis for the purchase price of Fifty-Four Thousand Four Hundred Fifty Dollars and No Cents (\$54,450.00) and sewer jetting equipment for Seventy-Two Thousand Three Hundred Sixty-Two Dollars and Fifty-Seven Cents (\$72,362.57), through the Houston-Galveston Area Council of Governments (H-GAC) for the total purchase price of One Hundred Twenty-Six Thousand Eight Hundred Twelve Dollars and Fifty-Seven Cents (\$126,812.57), in accordance with the terms and conditions of the Interlocal Agreement attached hereto and made a part hereof for all purposes. Any agreements related to the purchase must be approved by the City Attorney.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY

 CONTRACT PRICING WORKSHEET For Standard Equipment Purchases		Contract No.:	Date Prepared:
		HT11-07	19-Jun
<i>This Form must be prepared by Contractor, and provided to End User to attach to Purchase Order, with copy to H-GAC. The H-GAC administrative fee shall be calculated and shown as a separate line item. Please type or print legibly.</i>			
Buying Agency:	City of Sherman	Contractor:	Houston Freightliner/Sterling
Contact Person:	Daryl Baker	Prepared By:	Michael McCarthy
Phone:	903-892-7206	Phone:	713-580-8122
Fax:		Fax:	713-672-9449
Email:		Email:	mmccarthy@strhouston.com
Product Code:	EB	Description:	2009 M2 106 70
A. Product Item Base Unit Price Per Contractor's H-GAC Contract:			43767
B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable. (Note: Published Options are options which were submitted and priced in Contractor's bid.)			
Description	Cost	Description	Cost
Allison 3000 RDS Transmission	5282		0
Air Conditioner	341	11/32x3.5x10 5/16 Frame	151
AM/FM Radio	86	Vehicle Interface wiring for Body Builder	130
177" Wheelbase	158		
Fuel Water Separator	144		
Air Driver Seat	82		
2009 Model Increase	1750	Subtotal From Additional Sheet(s):	
			Subtotal B: 8124
C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary. (Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)			
Description	Cost	Description	Cost
		Subtotal From Additional Sheet(s):	
			Subtotal C: 0
Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).		For this transaction the percentage is:	0%
D. Other Cost Items Not Itemized Above (e.g. Installation, Freight, Delivery, Etc.)			
Description	Cost	Description	Cost
Freight	1959		
			Subtotal D: 1959
E. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C+D)			53850
Quantity Ordered:	1	X Subtotal of A + B + C + D:	53850 = Subtotal E: 53850
F. H-GAC Fee Calculation (From Current Fee Tables)			Subtotal F: 600
G. Trade-Ins / Other Allowances / Special Discounts			
Description	Cost	Description	Cost
			Subtotal G: 0
Delivery Date:		H. Total Purchase Price (E+F+G): 54450	



CONTRACT PRICING WORKSHEET

for All Products EXCEPT Motor Vehicles In The State Of Texas

This Form must be prepared by Contractor, and provided to End User to attach to Purchase Order, with copy to H-GAC.

Buying Agency:	City of Sherman, Texas	Contractor:	VAC-CON, INC.
Contact Person:	Daryl Baker	Prepared By:	JAN CHAPMAN
Phone:	903-892-7298	Phone:	904-284-4200
Location City, State:	Sherman, Texas	Contract No.:	SC01-08
Date:	12/0507	Product Code:	CO53
Product Description:	1000 Gallon Sewer Cleaner Truck Mounted		

A. Item Base Unit Price Per H-GAC Contract: A: \$ 64,645.26

Notes: The final Vac-Con Model after options & accessories is:

B. Published Options (Itemize below and attach additional sheet(s) if necessary)

	Cost
Subtotal Options & Accessories - see attached sheets B1:	\$ 9,633.31
Subtotal Chassis (Not Available to Customers in the State of TX) see attached sheets B2:	
Subtotal B:	\$ 9,633.91

Note: Published Options are options submitted with the contractor's bid.

C. Unpublished Options (Itemize below and attach additional sheet(s) if necessary)

Code	Description	Cost	Code	Description	Cost
	VAC-CON PARTS -SERVICE MANUAL	\$ 555.00			
				Subtotal From Additional Sheet(s):	
				Subtotal C:	\$ 555.00

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction, the percentage is: 1%

D. Other Price Adjustments (E.G. Installation, Freight, Delivery, Etc.)

EXISTING CUSTOMER DISCOUNT	\$ (3,541.00)
Subtotal D:	\$ (3,541.00)

E. Unit Cost of Item Before Fee & Non-Equipment Charges (A+B+C+D)	\$ 71,293.17
Quantity Ordered	X 1
Subtotal E:	\$ 71,293.17

F. Non-Equipment Charges (Trade-In, Extended Warranty, etc.)	
If only a Vac-Con is being purchased, HGAC Administration Fee is 1.5% of Vac-Con Price	\$ 1,069.40
If both Vac-Con & Chassis are being supplied HGAC Administration Fee is \$1000.00 per Purchase Order	
TOTAL HGAC ADMINISTRATION FEE	\$ 1,069.40
Price excludes any applicable sales taxes, FET, tag, title or registration fees.	
Subtotal F:	\$ 1,069.40

G. Total Purchase Price (E+F): \$ 72,362.57

(Please Type, or Print Legibly)

Estimated Delivery Date:

THIS INTERLOCAL AGREEMENT ("Agreement"), made and entered into pursuant to the Interlocal Cooperation Act (Article 4413(32c) V.T.C.S.) by and between the Houston-Galveston Area Council, hereinafter referred to as H-GAC, having its principal place of business at 3555 Timmons Lane, Suite 500, Houston, Texas 77027 and CITY OF SHERMAN, hereinafter referred to as the local government having its principal place of business at 400 N. RUSK, SHERMAN, TX 75090.

WITNESSETH:

WHEREAS, H-GAC is a regional planning commission created under Acts of the 59th Legislature, Regular Session, 1965, recodified as Chapter 391 Texas Local Government Code; and

WHEREAS, H-GAC has entered into an agreement with the local government on the 18TH day of MARCH, 1991 and

WHEREAS, the local government desires to purchase certain governmental administrative functions, goods or services; and

WHEREAS, H-GAC hereby agrees to perform the scope of services outlined in Article 5 as hereinafter specified in accordance with the Agreement, and

NOW, THEREFORE, H-GAC and the local government do hereby agree as follows:

ARTICLE 1 LEGAL AUTHORITY

The local government warrants and assures H-GAC that it possesses adequate legal authority to enter into this Agreement. The local government's governing body has authorized the signatory official(s) to enter into this Agreement and bind the local government to the terms of this Agreement and any subsequent amendments hereto.

ARTICLE 2 APPLICABLE LAWS

H-GAC and the local government agree to conduct all activities under this Agreement in accordance with all applicable rules, regulations, ordinances and laws in effect or promulgated during the term of this Agreement.

ARTICLE 3 WHOLE AGREEMENT

The Interlocal Agreement and Attachments, as provided herein, constitute the complete Agreement between the parties hereto, and supersedes any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

ARTICLE 4 PERFORMANCE PERIOD

The period of this Interlocal Agreement shall be for the (balance of) fiscal year of the local government which begins 10/31/90, 1991 and ends 10/31/91, 1991. This contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the local government may make any payment due H-GAC beyond the fiscal year in which such obligation was incurred under this Agreement.

H-GAC or the local government may cancel this Agreement at any time upon 30 days written notice to the other party to this Agreement. The obligations of the local government, including its obligation to pay H-GAC for all costs incurred under this Agreement prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Agreement, until performed or discharged by the local government.

ARTICLE 5 SCOPE OF SERVICES

The local government appoints H-GAC its true and lawful purchasing agent for the purchase of certain materials and services through the Council's Cooperative Purchasing Program, as enumerated through the submission of a duly executed purchase order, order form or resolution. All material purchased hereunder shall be in accordance with specifications established by H-GAC.

The materials and services shall be procured in accordance with procedures governing competitive bidding by H-GAC; and at the unit prices and administrative fee as indicated in the current H-GAC Order Form and Price Lists.

Ownership (title) of material purchased shall transfer directly from the vendor to the local government. The local government agrees to provide H-GAC with documentation of receipt and acceptance of material within five (5) days of acceptance of same.

ARTICLE 6 PAYMENTS

The local government agrees that, upon the presentation by H-GAC of a properly documented, verified proof of performance and a statement of costs H-GAC has incurred in accordance with the terms of this Agreement, it shall pay H-GAC, from current revenues available to the local government during the current fiscal year, on or before the date of the delivery of materials and services to be provided under this agreement.

ARTICLE 7 CHANGES AND AMENDMENTS

Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation.

H-GAC may, from time to time, require changes in the scope of the services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

ARTICLE 8 TERMINATION PROCEDURES

Either H-GAC or the local government may cancel or terminate this Agreement upon thirty (30) days written notice by certified mail to the other party. In the event of such termination prior to completion of any purchase provided for herein, the local government agrees to pay for services on a prorated basis for materials and services actually provided and invoiced in accordance with the terms of this Agreement, including penalties, less payment of any compensation previously paid.

ARTICLE 9 SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not effect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 10 FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, judgement, act of God, or specific cause reasonably beyond the parties' control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 11 VENUE

Venue and jurisdiction of any suit, or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris County, Texas.

This instrument, in duplicate originals, has been executed by the parties hereto as follows:

CITY OF SHERMAN
Local Government
BY [Signature]
TAYLOR M. BUE
CITY MANAGER
DATE 3/18/91
Name & Title of Signatory
(PLEASE TYPE)

HOUSTON-GALVESTON AREA COUNCIL
BY [Signature] Date 3/27/91
Manager of Cooperative Purchasing
BY [Signature] Date 3/5/91
Jack Steele
Executive Director



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. C.6

*** RESOLUTION NO. 5233**

**Authorizing Execution of an Agreement with Barton Capital, LTD
for the Abatement of Ad Valorem Property Taxes for the Construction of a
New Single-Family Residence at 1618 South Montgomery Street**

Issue

This item is to consider property tax abatement for the construction of a new single-family residence at 1618 South Montgomery Street.

Background

Several years ago, the City Council began a residential tax abatement program to encourage the redevelopment of older sections of town. This application is for the construction of a new single-family residence at this location. This lot is in the designated zone for residential tax abatements.

Origination

Barton Capital, LTD, Applicant

Financial Consideration

A \$75.00 application fee has been received for this residential lot. If granted, the initial abatement for this lot will be approximately \$300.00 annually.

Staff Recommendation

The staff recommends approval of this abatement since it meets the requirements of the process.

Alternatives

The City Council could decide against granting this abatement.

Attachments

Resolution No. 5233
Residential Tax Abatement Agreement
Application
Building Permit Application
Survey
Location Map

Prepared by:
Scott Shadden, Director of Development Services

Approved by:
George Olson, City Manager

RESOLUTION NO. 5233

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1618 SOUTH MONTGOMERY STREET; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to receipt of a fully-executed agreement from Barton Capital, LTD and subject to all contract documents being properly completed and approved by the City Attorney, to execute an agreement with Barton Capital, LTD for the abatement of ad valorem property taxes for a period of ten (10) years, for the construction of one (1) new single-family residence at 1618 South Montgomery Street, lying within the City of Sherman's Residential Tax Reinvestment Zone, in accordance with the City's policies and procedures established for this purpose.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

DOREEN E. MCGOOKEY,
CITY ATTORNEY

THE STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

AGREEMENT

THIS AGREEMENT, entered into by and between the **CITY OF SHERMAN, TEXAS**, a home rule city and municipal corporation of the State of Texas, duly acting herein by and through its City Manager, hereinafter referred to as CITY and **BARTON CAPITAL, LTD**, hereinafter referred to as OWNER.

WITNESSETH:

WHEREAS, on the 16th day of June, 2003, the City Council of Sherman, Texas, passed Ordinance No. 5136 establishing a reinvestment zone for residential tax abatement, as authorized by Chapter 312 of the Texas Tax Code, as amended, hereinafter referred to as CODE; and

WHEREAS, the CITY has adopted a resolution (Resolution No. 4685) stating that it elects to be eligible to participate in a residential tax abatement program; and

WHEREAS, the CITY desires to create the proper economic and social environment to induce the investment of private resources in real estate construction located in incorporated areas of the CITY; and

WHEREAS, the CITY hereby finds that it may effectively encourage and assist the creation of such an environment by participating in tax abatement pursuant to the CITY; and

WHEREAS, the CITY has created a reinvestment zone within its jurisdiction to induce the investment of private resources in real estate construction located in incorporated areas of the CITY, and OWNER has agreed to construct certain real property improvements; and

WHEREAS, OWNER is prepared to comply with the provisions of the CITY'S guidelines and criteria enacted the 16th day of June, 2003;

NOW, THEREFORE, WITNESS THIS TAX ABATEMENT AGREEMENT which provides as follows:

I.

1.01 To the extent authorized by the Texas Constitution and by the Tax Code, CITY hereby agrees to exempt from City of Sherman taxation a portion of the increase in value of taxable real property of OWNER in the CITY over the same real property and its value as calculated by the Grayson Appraisal District for ad valorem property tax purposes in accordance with the following schedule. Such tax exemption shall be in effect for tax years beginning January 1, 2008, and continuing for tax years 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017 with same constituting ten (10) tax years. However, nothing contained herein shall be construed to grant an abatement of taxes to be assessed based on the change of use of the property from an agricultural use

to another use, sometimes referred to as rollback taxes, penalties or interest. In the event rollback taxes are applicable for the real property utilized by OWNER, then such increase in value of taxable property resulting from such rollback shall be used as the tax value for such property for the tax year 2008, sometimes referred to herein as the Base Tax Year.

SCHEDULE OF TAXES ASSESSED

<u>TAX YEAR</u>	<u>ABATEMENT</u>
2008	100%
2009	100%
2010	100%
2011	100%
2012	100%
2013	100%
2014	80%
2015	60%
2016	40%
2017	20%

II.

2.01 OWNER warrants and represents that the real property upon which OWNER has constructed or will construct improvements is qualified property within the meaning of that Act, and that such has been and will remain eligible for tax abatement under the provisions of the Property Redevelopment and Tax Abatement Act, Sections 312.001, et seq., Texas Tax Code.

2.02 To continue to qualify for tax abatement under the terms of this Agreement, OWNER hereby warrants and represents that the improvements made by OWNER on the real property described herein are for residential use.

2.03 The tax abatement granted under the terms of the Agreement shall only be implemented if appraised value of all real property and improvements located thereon owned by OWNER and lying within designated zone exceeds the base year value. The OWNER agrees that Grayson Appraisal District shall, at reasonable times upon reasonable notice, have access to the property made the subject of this Agreement, and that the above set forth inspectors shall be able to inspect the property to insure that the improvements are being made in accordance with the terms and conditions hereof and utilized in accordance with this Agreement.

III.

3.01 The term of this Agreement shall be for tax years 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016, and 2017 as indicated above in paragraph 1.01.

IV.

4.01 The kind, number and location of all proposed property improvements are set forth as follows:

Construction of one (1) new single-family residence at the following location:

Being the Lot 13, Block 1 of J.P. Geren's South Montgomery Addition in the City of Sherman, Grayson County, Texas, and being more commonly known as 1618 South Montgomery Street.

V.

5.01 OWNER agrees that, should he fail to make improvements substantially as described or fail to perform any other term or covenant hereof, CITY shall have the right, after giving notice and opportunity to cure as hereinafter set out, to recapture all tax revenue on said property in the zone lost as a result of this Agreement for the entire term of the Agreement. Such recapture shall mean that all of such property shall be taxed at the full improved value as assessed by the Grayson Appraisal District for all years this Agreement has been in effect. The payment of such recaptured taxes minus any taxes paid by OWNER during the years this Agreement has been in force shall be due January 1 of the next following year and shall be delinquent if not paid on or prior to January 31st. Penalties and interest shall be calculated thereafter as if all taxes had become due in the same year. The CITY agrees prior to enforcement of the terms of this paragraph to give 120 days written notice to the address shown below of OWNER'S default in completing the improvements called for in this Agreement, and OWNER shall have the right to cure such default within the 120-day period.

VI.

6.01 This Agreement shall inure to the benefit of CITY and OWNER, and shall be binding upon them, their heirs, successors and assigns. It is specifically provided and agreed that the right to tax abatement shall inure to the benefit of subsequent owners so long as the term and conditions of this Agreement are in effect.

VII.

7.01 CITY agrees that this Agreement may be assigned and the improvements leased or sub-leased, without any further necessity for consent, by the OWNER to any person, firm or corporation.

VIII.

8.01 At any time before the expiration of the term hereof, this Agreement may be modified by the mutual action of the parties hereto to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. Such modification must be in writing and signed by all the parties hereto and made by the same procedure by which the original Agreement was approved and executed. In no event may the original Agreement be modified so as to extend the term beyond the original term of this Agreement.

IX.

9.01 This Agreement shall be construed subject to the laws of the State of Texas, and particularly to the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code.

9.02 All appraisal values for real property shall be made by the Grayson Appraisal District or such other entity as may succeed or replace such District.

9.03 OWNER is hereby notified that the Grayson Appraisal District may impose additional requirements which must be met in order for OWNER to realize the benefit of tax abatement and this Agreement. Contact should be made by OWNER with the District in person at 205 North Travis Street, Sherman, Texas, or by telephone at (903) 893-9673.

X.

10.01 This Agreement is subject to all provisions of all outstanding bond issues of CITY. To the extent that this Tax Abatement Agreement conflicts with any of the provisions of such bond issues, such bond issues and attendant documents thereto shall control.

XI.

11.01 This Tax Abatement Agreement is specifically subject to present laws of the State of Texas and any future laws enacted subsequent to the execution of this Agreement which may provide retroactively for a modification of Agreements of this type as a matter of law. Upon the effective date of any such law, then this Agreement shall automatically be so modified.

XII.

12.01 Notices required by this Agreement shall be mailed to the following addresses as same may be in the future changed by either party upon written notice to the other:

City of Sherman
P.O. Box 1106
Sherman, Texas 75091-1106
(903) 892-7200

Barton Capital, LTD
715 S. Sam Rayburn Freeway
Sherman, Texas 75090
(903) 868-4201

Copy to: Grayson Appraisal District
205 North Travis Street
Sherman, Texas 75090
(903) 893-9673

This Agreement is performable in Grayson County, Texas. Witness our hands on this the _____ day of _____, 2008.

CITY:
CITY OF SHERMAN, TEXAS

OWNER:
BARTON CAPITAL, LTD

BY: _____
GEORGE OLSON
CITY MANAGER

BY: _____
NAME: _____
TITLE: _____

ATTEST:

(CORPORATE SEAL)

BY: _____
LINDA ASHBY
CITY CLERK

APPROVED AS TO FORM:

DOREEN E. MCGOOKEY
CITY ATTORNEY

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared Ron Barton, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein express.

GIVEN UNDER MY HAND and seal of office this _____ day of _____, 2008.

Tammy Biggar
Notary Public
Date of Expiration: 2/24/2010

CITY OF SHERMAN
APPLICATION FOR RESIDENTIAL TAX ABATEMENT

Property Owner:

Name: BARTON CAPITAL

Mailing Address: 715 S. Hwy 75 SHERMAN, TX 75090

Telephone Number: 903-868-4201

Contact (if different than owner):

Name: Ron Barton

Mailing Address: SAME

Telephone Number: SAME

Property:

Physical Address: 1618 S. MONTGOMERY

Summary Legal Description: Lot: 13 Block: 1 Addition: J.P. CIGANS S. MONTGOMERY
ADD.

Full Legal Description: Include as an attachment a full legal description with metes and bounds.

Improvements:

Type of Improvements (please check one): New Construction: ☒ Remodeling: ☐

Estimated Value of Improvements: \$75,000

Estimated Date of Start of Construction: 6-20-08

Estimated Date of Completion of Project: 8-20-08

Description of Project: NEW SINGLE FAMILY DWELLING

Applicant(s): Guy L. P. Date: 6-18-08

Grayson County
Wilma Blackshear Bush
County Clerk
Sherman, Texas 75090



70 2008 00010977

5481

Instrument Number: 2008-00010977

As

Recorded On: May 08, 2008

Recordings

Parties: W DOUGLAS DISTRIBUTING LTD

Billable Pages: 3

To BARTON CAPITAL LTD

Number of Pages: 5

Comment: WD/VL

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Recordings	24.00
Total Recording:	24.00

***** DO NOT REMOVE THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2008-00010977

Receipt Number: 265853

Recorded Date/Time: May 08, 2008 10:20:32A

Book-Vol/Pg: BK-OR VL-4451 PG-730

User / Station: G WHITE - Cashiering Station 1

Record and Return To:

RED RIVER TITLE CO

421 N. CROCKETT ST

SHERMAN TX 75090



THE STATE OF TEXAS
COUNTY OF GRAYSON
I hereby certify that this instrument was FILED in the File Number sequence on the date/time
printed herein, and was duly RECORDED in the Official Records of Grayson County, Texas.

Wilma Blackshear Bush

Wilma Blackshear Bush, Grayson County Clerk

2103481

	Bk	Vol	Ps
00010977	OR	4451	731

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GENERAL WARRANTY DEED WITH VENDOR'S LIEN

THE STATE OF TEXAS *

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF GRAYSON *

That **W. DOUGLAS DISTRIBUTING, LTD.**, for and in consideration of the sum of TEN AND NO/100THS (\$10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged herein, and the further consideration of the execution and delivery by Grantee of one certain promissory note of even date herewith, in the principal sum of **EIGHTY-ONE THOUSAND FIVE HUNDRED SIX AND NO/100THS (\$81,506.00) DOLLARS**, payable to the order of **AMERISTATE BANK**, as therein specified and bearing interest as therein provided, containing the usual clauses providing for acceleration of maturity and for attorney's fees; the payment of which note is secured by the vendor's lien herein retained, and is additionally secured by a Deed of Trust of even date herewith to **CHARLES A. MCCALL, Trustee**, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto **BARTON CAPITAL, LTD.**, all of the following described real property in Grayson County, Texas, to-wit:

BEING Lots 1 through 14 of the J.P. GEREN'S SOUTH MONTGOMERY ADDITION to the City of Sherman, Texas, as shown by plat of record in Vol. 341, Page 13, Deed Records, Grayson County, Texas, being more particularly described on the attached Exhibit "A".....

SAVE AND EXCEPT and there is hereby excepted from the warranties herein conveyed all prior reservations of any oil, gas, and other minerals, easements, and restrictive covenants and conditions of record in the County Clerk's Office, Grayson County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, Grantee's successors or assigns forever; and Grantor does hereby bind Grantor, Grantor's successors or assigns, to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, Grantee's successors or assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

AMERISTATE BANK, at the instance and request of the Grantee herein, having advanced and paid in cash to the Grantor herein that portion of the purchase price of the hereinbefore described **\$81,506.00** Note, the vendor's lien, together with the superior title to said property is retained herein for the benefit of **AMERISTATE BANK**, and the same is hereby transferred and assigned to **AMERISTATE BANK**.

Bk Vol Pg
00010977 OR 4451 732

But it is expressly agreed that the Vendor's Lien, as well as the Superior title in and to the above described premises, is retained against the above described property, premises and improvements until the above described note and all interest thereon are fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute.

EXECUTED this 8 day of May, 2008.

W. DOUGLAS DISTRIBUTING, LTD.

BY: William P. Douglas
NAME PRINTED: William P. Douglas
TITLE: CEO

GRANTEE'S MAILING ADDRESS:

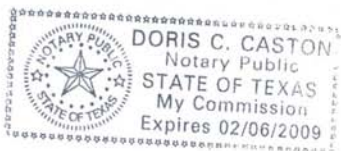
Barton Capital, Ltd.
715 S. Hwy 75
Sherman TX 75090

ACKNOWLEDGMENT

STATE OF TEXAS *

COUNTY OF Gray *

This instrument was acknowledged before me on the 8 day of May,
2008, by William P. Douglas in the capacity of
CEO for W. DOUGLAS DISTRIBUTING,
LTD., on its behalf and in the capacity therein stated



[Signature]
Notary Public, State of Texas

EXHIBIT A

Bk Vol Ps
00010977 OR 4451 733

SITUATED in the City of Sherman, County of Grayson, State of Texas, being a part of the Samuel Blagg Survey, Abstract No. 56, being all of J. P. Geren's South Montgomery Addition, to the City of Sherman, Texas, recorded in Volume 341, Page 13, Deed Records, Grayson County, Texas, said Geren's Addition being the 2.272 acre tract of land described as Parcel One, conveyed in the Warranty Deed from Keystone Consolidated Industries, Inc., to DSO Acquisition Corporation, on September 27, 1996, recorded in Volume 2497, Page 797, Official Public Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows, to-wit:

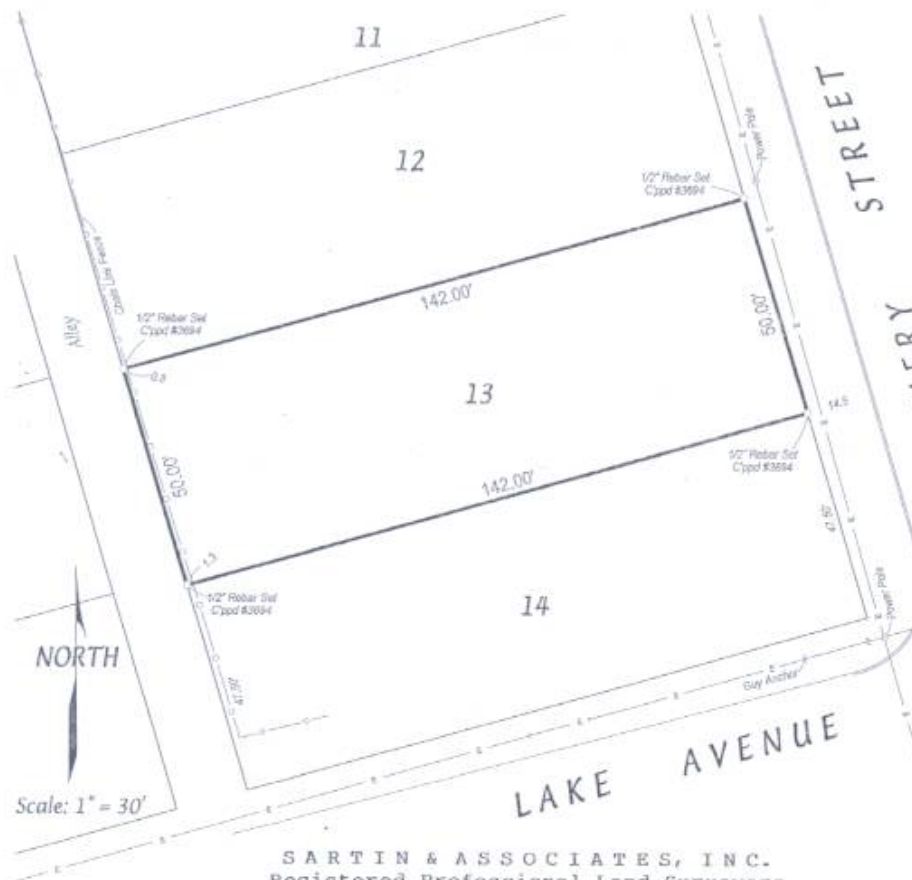
BEGINNING at 1/2 inch rebar found in the North line of Lake Avenue and the East line of an alley, at the Southwest corner of said Geren's Addition and said DSO 2.272 acres;

THENCE North 16 deg. 00 min. 00 sec. West, with the East line of said alley, a distance of 697.00 ft. to a 1/2 inch rebar found in the South line of Olive Street, at the Northwest corner of said Geren's Addition and said DSO 2.272 acres;

THENCE North 74 deg. 00 min. 00 sec. East, with the South line of Olive Street, a distance of 142.00 ft. to a 1/2 inch rebar found in the West line of Montgomery Street, at the Northeast corner of said Geren's Addition and said DSO 2.272 acres;

THENCE South 16 deg. 00 min. 00 sec. East, with the West line of Montgomery Street, a distance of 697.00 ft. to a 1/2 inch rebar found in the North line of Lake Avenue, at the Southeast corner of said Geren's Addition and said DSO 2.272 acres;

THENCE South 74 deg. 00 min. 00 sec. West, with the North line of Lake Avenue, a distance of 142.00 ft. to the PLACE OF BEGINNING and containing 2.272 ACRES of land.



SARTIN & ASSOCIATES, INC.
 Registered Professional Land Surveyors
 P.O. Box 1843 - 109 S. Travis - Sherman, Texas 75091-1843
 phone (903)892-8003 - fax (903)868-2970

SURVEY FOR:

I, Marshall Sartin, Registered Professional Land Surveyor, hereby certify that a survey of the property shown hereon made on the ground on the 21 st day of May, 2008 the following described property:

Lot THIRTEEN (13) of J. P. GEREN'S SOUTH MONTGOMERY ADDITION the City of Sherman, Texas as shown by plat of record in Vol 341, Page 13, Deed Records, Grayson County, Texas.

That the improvements located on said property are known 1618 S. MONTGOMERY STREET, SHERMAN, TEXAS, and that this survey substantially complies with the current Mini Standards for Professional Land Surveyors as adopted by Texas Board of Professional Land Surveying, and is subject all easements of record or as shown on recorded plat that affect said property.

THIS SURVEY PLAT WAS PREPARED FROM A SURVEY PERFORMED ON DATE SHOWN HEREON FOR THE CLIENT NAMED HEREINABOVE AND FOR TRANSACTION TAKING PLACE AT THE TIME OF THIS SURVEY. THIS SURVEY PLAT IS NOT TO BE USED IN CONNECTION WITH ANY FUTURE TRANSACTIONS WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE UNDERSIGNED SURVEYOR AND THE UNDERSIGNED SURVEYOR ACCEPTS LIABILITY FOR ANY FUTURE UNAUTHORIZED USE OF THIS SURVEY PLAT.

Marshall Sartin

CITY OF SHERMAN
RESIDENTIAL BUILDING PERMIT

PERMIT #: 81128 SUBCONTRACTOR: CUPID HOMES DATE ISSUED: 6/19/2008

PROJECT ADDRESS: 1618 S MONTGOMERY ST
PARCEL ID:
SUBDIVISION: JP GERENS S MONTGOMERY
ADDN

LOT #: 13
BLK #: 1
ZONE ORD:

ISSUED TO: CUPID HOMES
ADDRESS: 715 S HIGHWAY 75
CITY, ST ZIP: SHERMAN TX 75090-7260
PHONE: 903-868-4201

CONTRACTOR: CUPID HOMES
ADDRESS: 715 S HIGHWAY 75
CITY, ST ZIP: SHERMAN TX 75090-7260
PHONE:

PROP. USE: RESIDENTIAL
WORK: CONSTRUCT SINGLE FAMILY
VALUATION: \$ 75,000.00
OCCP TYPE: RESIDENTIAL
CNST TYPE: WOOD FRAME

SQ FT: 1,256.00
BEDROOMS: 3
BATHROOMS: 2
STORIES: 1

FEE CODE	DESCRIPTION	AMOUNT
BLD10	RESIDENTIAL STORMWATER MGMT	\$ 25.00
TOTAL		\$ 25.00

NOTES:

NOTICE

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS STARTED.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS DOCUMENT AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISION OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT)

DATE



PROJECT
LOCATION



City of Sherman, Texas

1618 SOUTH MONTGOMERY

PROJECT LOCATION MAP



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. C.7

*** RESOLUTION NO. 5234**

Authorizing Execution of an Agreement with Barton Capital, LTD for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 1622 South Montgomery Street

Issue

This item is to consider property tax abatement for the construction of a new single-family residence at 1622 South Montgomery Street.

Background

Several years ago, the City Council began a residential tax abatement program to encourage the redevelopment of older sections of town. This application is for the construction of a new single-family residence at this location. This lot is in the designated zone for residential tax abatements.

Origination

Barton Capital, LTD, Applicant

Financial Consideration

A \$75.00 application fee has been received for this residential lot. If granted, the initial abatement for this lot will be approximately \$280.00 annually.

Staff Recommendation

The staff recommends approval of this abatement since it meets the requirements of the process.

Alternatives

The City Council could decide against granting this abatement.

Attachments

Resolution No. 5234
Residential Tax Abatement Agreement
Application
Building Permit Application
Survey
Location Map

Prepared by:
Scott Shadden, Director of Development Services

Approved by:
George Olson, City Manager

RESOLUTION NO. 5234

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1622 SOUTH MONTGOMERY STREET; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to receipt of a fully-executed agreement from Barton Capital, LTD and subject to all contract documents being properly completed and approved by the City Attorney, to execute an agreement with Barton Capital, LTD for the abatement of ad valorem property taxes for a period of ten (10) years, for the construction of one (1) new single-family residence at 1622 South Montgomery Street, lying within the City of Sherman's Residential Tax Reinvestment Zone, in accordance with the City's policies and procedures established for this purpose.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

DOREEN E. MCGOOKEY,
CITY ATTORNEY

THE STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

AGREEMENT

THIS AGREEMENT, entered into by and between the **CITY OF SHERMAN, TEXAS**, a home rule city and municipal corporation of the State of Texas, duly acting herein by and through its City Manager, hereinafter referred to as CITY and **BARTON CAPITAL, LTD**, hereinafter referred to as OWNER.

WITNESSETH:

WHEREAS, on the 16th day of June, 2003, the City Council of Sherman, Texas, passed Ordinance No. 5136 establishing a reinvestment zone for residential tax abatement, as authorized by Chapter 312 of the Texas Tax Code, as amended, hereinafter referred to as CODE; and

WHEREAS, the CITY has adopted a resolution (Resolution No. 4685) stating that it elects to be eligible to participate in a residential tax abatement program; and

WHEREAS, the CITY desires to create the proper economic and social environment to induce the investment of private resources in real estate construction located in incorporated areas of the CITY; and

WHEREAS, the CITY hereby finds that it may effectively encourage and assist the creation of such an environment by participating in tax abatement pursuant to the CITY; and

WHEREAS, the CITY has created a reinvestment zone within its jurisdiction to induce the investment of private resources in real estate construction located in incorporated areas of the CITY, and OWNER has agreed to construct certain real property improvements; and

WHEREAS, OWNER is prepared to comply with the provisions of the CITY'S guidelines and criteria enacted the 16th day of June, 2003;

NOW, THEREFORE, WITNESS THIS TAX ABATEMENT AGREEMENT which provides as follows:

I.

1.01 To the extent authorized by the Texas Constitution and by the Tax Code, CITY hereby agrees to exempt from City of Sherman taxation a portion of the increase in value of taxable real property of OWNER in the CITY over the same real property and its value as calculated by the Grayson Appraisal District for ad valorem property tax purposes in accordance with the following schedule. Such tax exemption shall be in effect for tax years beginning January 1, 2008, and continuing for tax years 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017 with same constituting ten (10) tax years. However, nothing contained herein shall be construed to grant an

abatement of taxes to be assessed based on the change of use of the property from an agricultural use to another use, sometimes referred to as rollback taxes, penalties or interest. In the event rollback taxes are applicable for the real property utilized by OWNER, then such increase in value of taxable property resulting from such rollback shall be used as the tax value for such property for the tax year 2008, sometimes referred to herein as the Base Tax Year.

SCHEDULE OF TAXES ASSESSED

<u>TAX YEAR</u>	<u>ABATEMENT</u>
2008	100%
2009	100%
2010	100%
2011	100%
2012	100%
2013	100%
2014	80%
2015	60%
2016	40%
2017	20%

II.

2.01 OWNER warrants and represents that the real property upon which OWNER has constructed or will construct improvements is qualified property within the meaning of that Act, and that such has been and will remain eligible for tax abatement under the provisions of the Property Redevelopment and Tax Abatement Act, Sections 312.001, et seq., Texas Tax Code.

2.02 To continue to qualify for tax abatement under the terms of this Agreement, OWNER hereby warrants and represents that the improvements made by OWNER on the real property described herein are for residential use.

2.03 The tax abatement granted under the terms of the Agreement shall only be implemented if appraised value of all real property and improvements located thereon owned by OWNER and lying within designated zone exceeds the base year value. The OWNER agrees that Grayson Appraisal District shall, at reasonable times upon reasonable notice, have access to the property made the subject of this Agreement, and that the above set forth inspectors shall be able to inspect the property to insure that the improvements are being made in accordance with the terms and conditions hereof and utilized in accordance with this Agreement.

III.

3.01 The term of this Agreement shall be for tax years 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016, and 2017 as indicated above in paragraph 1.01.

IV.

4.01 The kind, number and location of all proposed property improvements are set forth as follows:

Construction of one (1) new single-family residence at the following location:

Being the Lot 14, Block 1 of J.P. Geren's South Montgomery Addition in the City of Sherman, Grayson County, Texas, and being more commonly known as 1622 South Montgomery Street.

V.

5.01 OWNER agrees that, should he fail to make improvements substantially as described or fail to perform any other term or covenant hereof, CITY shall have the right, after giving notice and opportunity to cure as hereinafter set out, to recapture all tax revenue on said property in the zone lost as a result of this Agreement for the entire term of the Agreement. Such recapture shall mean that all of such property shall be taxed at the full improved value as assessed by the Grayson Appraisal District for all years this Agreement has been in effect. The payment of such recaptured taxes minus any taxes paid by OWNER during the years this Agreement has been in force shall be due January 1 of the next following year and shall be delinquent if not paid on or prior to January 31st. Penalties and interest shall be calculated thereafter as if all taxes had become due in the same year. The CITY agrees prior to enforcement of the terms of this paragraph to give 120 days written notice to the address shown below of OWNER'S default in completing the improvements called for in this Agreement, and OWNER shall have the right to cure such default within the 120-day period.

VI.

6.01 This Agreement shall inure to the benefit of CITY and OWNER, and shall be binding upon them, their heirs, successors and assigns. It is specifically provided and agreed that the right to tax abatement shall inure to the benefit of subsequent owners so long as the term and conditions of this Agreement are in effect.

VII.

7.01 CITY agrees that this Agreement may be assigned and the improvements leased or sub-leased, without any further necessity for consent, by the OWNER to any person, firm or corporation.

VIII.

8.01 At any time before the expiration of the term hereof, this Agreement may be modified by the mutual action of the parties hereto to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. Such modification must be in writing and signed by all the parties hereto and made by the same procedure by which the original Agreement was approved and executed. In no event may the original Agreement be modified so as to extend the term beyond the original term of this Agreement.

IX.

9.01 This Agreement shall be construed subject to the laws of the State of Texas, and particularly to the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code.

9.02 All appraisal values for real property shall be made by the Grayson Appraisal District or such other entity as may succeed or replace such District.

9.03 OWNER is hereby notified that the Grayson Appraisal District may impose additional requirements which must be met in order for OWNER to realize the benefit of tax abatement and this Agreement. Contact should be made by OWNER with the District in person at 205 North Travis Street, Sherman, Texas, or by telephone at (903) 893-9673.

X.

10.01 This Agreement is subject to all provisions of all outstanding bond issues of CITY. To the extent that this Tax Abatement Agreement conflicts with any of the provisions of such bond issues, such bond issues and attendant documents thereto shall control.

XI.

11.01 This Tax Abatement Agreement is specifically subject to present laws of the State of Texas and any future laws enacted subsequent to the execution of this Agreement which may provide retroactively for a modification of Agreements of this type as a matter of law. Upon the effective date of any such law, then this Agreement shall automatically be so modified.

XII.

12.01 Notices required by this Agreement shall be mailed to the following addresses as same may be in the future changed by either party upon written notice to the other:

City of Sherman
P.O. Box 1106
Sherman, Texas 75091-1106
(903) 892-7200

Barton Capital, LTD
715 S. Sam Rayburn Freeway
Sherman, Texas 75090
(903) 868-4201

Copy to: Grayson Appraisal District
205 North Travis Street
Sherman, Texas 75090
(903) 893-9673

This Agreement is performable in Grayson County, Texas. Witness our hands on this the _____ day of _____, 2008.

CITY:
CITY OF SHERMAN, TEXAS

OWNER:
BARTON CAPITAL, LTD

BY: _____
GEORGE OLSON
CITY MANAGER

BY: _____
NAME: _____
TITLE: _____

ATTEST:

(CORPORATE SEAL)

BY: _____
LINDA ASHBY
CITY CLERK

APPROVED AS TO FORM:

DOREEN E. MCGOOKEY
CITY ATTORNEY

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared Ron Barton, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein express.

GIVEN UNDER MY HAND and seal of office this _____ day of _____, 2008
A.D.

Tammy Biggar
Notary Public

CITY OF SHERMAN
APPLICATION FOR RESIDENTIAL TAX ABATEMENT

Property Owner:

Name: 116 Barton Capital

Mailing Address: 715 S. Hwy 75 SHERMAN, TX 75090

Telephone Number: 903-868-4201

Contact (if different than owner):

Name: Ron Barton

Mailing Address: SAME

Telephone Number: SAME

Property:

Physical Address: 1622 SIMONT GOMERY

Summary Legal Description: Lot: 14 Block: 1 Addition: J.P. GERENS S. MONTGOMERY
ADD.

Full Legal Description: Include as an attachment a full legal description with metes and bounds.

Improvements:

Type of Improvements (please check one). New Construction: ☒ Remodeling: ☐

Estimated Value of Improvements: \$70,000

Estimated Date of Start of Construction: 6-20-08

Estimated Date of Completion of Project: 8-20-08

Description of Project: NEW SINGLE FAMILY DWELLING

Applicant(s): G. L. P. Date: 6-18-08



70 2008 00010977

County Clerk
Sherman, Texas 750

Instrument Number: 2008-00

Recorded On: May 08, 2008

As
Recordings

Parties: W DOUGLAS DISTRIBUTING LTD

To BARTON CAPITAL LTD

Comment: WD/VL

(Parties listed above are for Clerks re

** Examined and Charged as F

Recordings	24.00
Total Recording:	24.00

***** DO NOT REMOVE THIS PAGE IS PART

Any provision herein which restricts the Sale, Rental or use
because of color or race is invalid and unenfor

File Information:

Record and

Document Number: 2008-00010977

Receipt Number: 265853

RED RI

Recorded Date/Time: May 08, 2008 10:20:32A

421 N. C

Book-Vol/Pg: BK-OR VL-4451 PG-730

SHERM

User / Station: G WHITE - Cashiering Station 1



THE STATE OF TEXAS
COUNTY OF GRAYSON
I hereby certify that this instrument was FILED in the File Number sequence on the
printed hereon, and was duly RECORDED in the Official Records of Grayson County

Wilma Blackshear Bush

Wilma Blackshear Bush, Grayson County Clerk

Bk Vol Pg
00010977 OR 4451 732

But it is expressly agreed that the Vendor's Lien, as well as the Superior title in and to the above described premises, is retained against the above described property, premises and improvements until the above described note and all interest thereon are fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute.

EXECUTED this 8 day of May, 2008.

W. DOUGLAS DISTRIBUTING, LTD.

BY: William P. Douglas
NAME PRINTED: William P. Douglas
TITLE: CEO

GRANTEE'S MAILING ADDRESS:

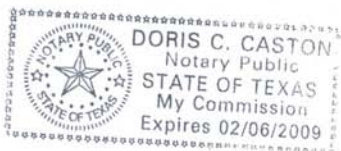
Barton Capital, Ltd.
715 S. Hwy 75
Sherman TX 75090

ACKNOWLEDGMENT

STATE OF TEXAS *

COUNTY OF Gray *

This instrument was acknowledged before me on the 8 day of May,
2008, by William P. Douglas in the capacity of
CEO for W. DOUGLAS DISTRIBUTING,
LTD., on its behalf and in the capacity therein stated



[Signature]
Notary Public, State of Texas

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GENERAL WARRANTY DEED WITH VENDOR'S LIEN

THE STATE OF TEXAS *

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF GRAYSON *

That **W. DOUGLAS DISTRIBUTING, LTD.**, for and in consideration of the sum of TEN AND NO/100THS (\$10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged herein, and the further consideration of the execution and delivery by Grantee of one certain promissory note of even date herewith, in the principal sum of **EIGHTY-ONE THOUSAND FIVE HUNDRED SIX AND NO/100THS (\$81,506.00) DOLLARS**, payable to the order of **AMERISTATE BANK**, as therein specified and bearing interest as therein provided, containing the usual clauses providing for acceleration of maturity and for attorney's fees; the payment of which note is secured by the vendor's lien herein retained, and is additionally secured by a Deed of Trust of even date herewith to **CHARLES A. MCCALL, Trustee**, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto **BARTON CAPITAL, LTD.**, all of the following described real property in Grayson County, Texas, to-wit:

BEING Lots 1 through 14 of the J.P. GEREN'S SOUTH MONTGOMERY ADDITION to the City of Sherman, Texas, as shown by plat of record in Vol. 341, Page 13, Deed Records, Grayson County, Texas, being more particularly described on the attached Exhibit "A"

SAVE AND EXCEPT and there is hereby excepted from the warranties herein conveyed all prior reservations of any oil, gas, and other minerals, easements, and restrictive covenants and conditions of record in the County Clerk's Office, Grayson County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, Grantee's successors or assigns forever; and Grantor does hereby bind Grantor, Grantor's successors or assigns, to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, Grantee's successors or assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

AMERISTATE BANK, at the instance and request of the Grantee herein, having advanced and paid in cash to the Grantor herein that portion of the purchase price of the hereinbefore described **\$81,506.00** Note, the vendor's lien, together with the superior title to said property is retained herein for the benefit of **AMERISTATE BANK**, and the same is hereby transferred and assigned to **AMERISTATE BANK**.

SITUATED in the City of Sherman, County of Grayson, State of Texas, being a part of the Samuel Blagg Survey, Abstract No. 56, being all of J. P. Geren's South Montgomery Addition, to the City of Sherman, Texas, recorded in Volume 341, Page 13, Deed Records, Grayson County, Texas, said Geren's Addition being the 2.272 acre tract of land described as Parcel One, conveyed in the Warranty Deed from Keystone Consolidated Industries, Inc., to DSO Acquisition Corporation, on September 27, 1996, recorded in Volume 2497, Page 797, Official Public Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at 1/2 inch rebar found in the North line of Lake Avenue and the East line of an alley, at the Southwest corner of said Geren's Addition and said DSO 2.272 acres;

THENCE North 16 deg. 00 min. 00 sec. West, with the East line of said alley, a distance of 697.00 ft. to a 1/2 inch rebar found in the South line of Olive Street, at the Northwest corner of said Geren's Addition and said DSO 2.272 acres;

THENCE North 74 deg. 00 min. 00 sec. East, with the South line of Olive Street, a distance of 142.00 ft. to a 1/2 inch rebar found in the West line of Montgomery Street, at the Northeast corner of said Geren's Addition and said DSO 2.272 acres;

THENCE South 16 deg. 00 min. 00 sec. East, with the West line of Montgomery Street, a distance of 697.00 ft. to a 1/2 inch rebar found in the North line of Lake Avenue, at the Southeast corner of said Geren's Addition and said DSO 2.272 acres;

THENCE South 74 deg. 00 min. 00 sec. West, with the North line of Lake Avenue, a distance of 142.00 ft. to the **PLACE OF BEGINNING** and containing 2.272 ACRES of land.

CITY OF SHERMAN
RESIDENTIAL BUILDING PERMIT

PERMIT #: 81129 SUBCONTRACTOR: CUPID HOMES DATE ISSUED: 6/19/2008

PROJECT ADDRESS:	1622 S MONTGOMERY ST	LOT #:	14
PARCEL ID:		BLK #:	1
SUBDIVISION:	JP GEREN'S S MONTGOMERY ADDN	ZONE ORD:	
ISSUED TO:	CUPID HOMES	CONTRACTOR:	CUPID HOMES
ADDRESS:	715 S HIGHWAY 75	ADDRESS:	715 S HIGHWAY 75
CITY, ST ZIP:	SHERMAN TX 75090-7260	CITY, ST ZIP:	SHERMAN TX 75090-7260
PHONE:	903-868-4201	PHONE:	
PROP. USE:	RESIDENTIAL	SQ FT:	1,182.00
WORK:	CONSTRUCT SINGLE FAMILY	BEDROOMS:	3
VALUATION:	\$ 70,000.00	BATHROOMS:	2
OCCP TYPE:	RESIDENTIAL	STORIES:	1
CNST TYPE:	WOOD FRAME		

FEE CODE	DESCRIPTION	AMOUNT
BLD10	RESIDENTIAL STORMWATER MGMT	\$ 25.00
TOTAL		\$ 25.00

NOTES:

NOTICE

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS STARTED.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS DOCUMENT AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISION OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT)

____/____/____
DATE



PROJECT
LOCATION



City of Sherman, Texas

1622 SOUTH MONTGOMERY

PROJECT LOCATION MAP



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. D.1

*** REQUEST TO ADVERTISE**
Pecan Grove Park Development – Phase I

Issue

To request permission to advertise for Phase I of the Pecan Grove Park Development Project

Background

In the 2007-2008 Capital Improvement Program, the Sherman City Council approved \$400,000.00 for Phase I of the Pecan Grove Park Development Project, which includes perimeter fencing, surveying, a picnic pavilion with a small playground area, and an east parking lot. Any other improvements associated with respect to the Master Plan Update will be performed in conjunction with future phases.

Origination

Sherman City Council 2007-2008 Capital Improvement Program

Financial Consideration

2007-2008 Capital Improvement Program funds in the amount of \$400,000.00 have been allocated for this project. Advertising costs are expected to be about \$200.

Staff Recommendation

It is recommended that the Sherman City Council authorize the staff to advertise the Pecan Grove Park Development – Phase I Project for public bid.

Alternatives

As directed by the Sherman City Council

Attachments

Capital Improvement Project with Location Map

Prepared by:
Kevin Winkler,
Acting Parks & Recreation Administrator

Approved by:
George Olson, City Manager

PROJECT YEAR: 2007-2008

PROJECT NAME: Pecan Grove Park Development

DESCRIPTION: Phase 1 - Fencing, surveying and parking

ESTIMATED COST: \$400,000

ESTIMATED O&M COST: \$3,500

PROPOSED FINANCING: General Improvement Fund

PROJECT NECESSITY: Recommended in the Parks Master Plan

DEPARTMENT/DIRECTOR: City Manager, George Olson

PROPOSED START DATE: October, 2007

PROPOSED END DATE: March, 2008





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. D.2

*** REQUEST TO ADVERTISE**

Annual Contract for Water and Sewer Parts and Supplies

Issue

Request to advertise for bids for the annual contract for water and sewer parts and supplies

Background

The period for purchasing under our existing annual contract will end in the next few months. The staff is finalizing the bid documents for the proposed new annual supply contract. The water and sewer piping supplies and parts are used in the maintenance of the City's water system and sewer system.

Origination

Department 710, Utilities Administration

Financial Consideration

Purchases are made with budgeted funds in the Water Utility Cost Centers and are included in the requested 2008-2009 budget. Cost for advertising for this contract is expected to be less than \$200.

Staff Recommendation

It is requested that the City Council authorize the staff to advertise the annual contract for bids.

Alternatives

Could solicit quotations and purchase more frequently; however, delivery time-frame would be longer and more man-hours would be spent on procurement.

Attachments

None

Prepared by:
Mark Gibson, Director of Utilities and Engineering

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. D.3

OTHER BUSINESS

Receive Briefing from CableOne General Manager Claude Edwards and Consider Increasing Franchise Fee under New State-Issued Franchise

Issue

The upcoming expiration of our current franchise with CableOne and its imminent change to a State-issued franchise; and considering an increase to the franchise fee currently assessed at five percent (5%)

Background

Mr. Claude Edwards, General Manager at CableOne, will brief the City Council on the upcoming change of our current franchise, which will expire on August 31, 2008, to a State-issued franchise. One of the changes outlined in the attached summary is that our current franchise fee of five percent (5%) could be changed to six percent (6%) – comprised of a five percent (5%) franchise fee and one percent (1%) of gross revenues. In addition, CableOne will be able to deduct from the franchise fee the cost of services they currently provide to “community public buildings” such as the City’s municipal facilities.

Origination

CableOne General Manager Claude Edwards

Financial Consideration

An increase from five percent (5%) to six percent (6%) could increase franchise fee revenues by approximately \$78,000.00, from an estimated \$390,000.00 to an estimated \$468,000.00, assuming the same level of subscribers, during fiscal year 2008-2009. The franchise fee assessed to CableOne’s customers in Sherman’s city limits would increase by one percent (1%). For example, those customers paying \$50.00 monthly for their cable service, their franchise fee would increase by \$0.50; and those customers paying \$100.00 per month, their franchise fee would increase by \$1.00.

Alternatives

The City Council could leave the franchise fee at five percent (5%). CableOne is seeking Council direction on this issue.

Attachments

Mr. Edwards’ correspondence of June 9, 2008

Summary of Primary Differences: City vs. State Franchise

Utilities Code, Chapter 66, “State-Issued Cable and Video Franchise”

Prepared by:
Robby Hefton, Assistant City Manager/CFO

Approved by:
George Olson, City Manager



3720 TEXOMA PARKWAY
P.O. Box 1223
SHERMAN, TX 75090
TEL 903•893•6548
FAX 903•868•2754

June 9, 2008

Mr. George Olsen
City Manager
City of Sherman
P.O. Box 1106
Sherman, Texas 75090

Dear Mr. Olsen,

As you are aware, the current franchise agreement between the City of Sherman and Cable One will reach its expiration date on August 31, 2008. When this occurs the franchise we currently operate under will transition to a state franchise which will then govern our operations in the community after the August 31st expiration date.

Chapter 66 of the State Utilities Code, State-Issued Cable and Video Franchise was enacted in 2005 by the 79th legislature of the State of Texas to allow for the competitive entry of multiple video service providers in the various communities of the State of Texas. Given that existing franchised video service providers operate under the jurisdiction of municipal governing authorities, the State of Texas also set up provisions in the law for the conversion of existing municipal franchise holders to a state franchise as their municipal franchise agreements expired. As we are quickly approaching the expiration date of our current franchise I would like the opportunity to review with you some of the primary differences of the State-Issued Cable and Video Franchise so we at Cable One can begin planning for that transition. Thus the reason for my request for a meeting with you today.

Enclosed for informational purposes is a copy of Chapter 66 of the State Utilities Code, State-Issued Cable and Video Franchise, in addition to a summary sheet noting several primary differences between the current City of Sherman franchise and the state franchise. I would also like to take this opportunity to note that we at Cable One have enjoyed a meaningful working relationship with the City of Sherman for these last many years and look forward to continuing that relationship in the future while maintaining the quality and variety of services that our customers have come to expect from Cable One.

Sincerely,

A handwritten signature in black ink, appearing to read "Claude Edwards".

Claude Edwards
General Manager

Summary Sheet of Primary Differences

City Franchise vs State Franchise

Franchise Fees

- The holder of a state-issued certificate of franchise shall pay the municipality in which it provides cable service or video service a franchise fee of five percent (5%) based on the states definition of gross revenues.
- Upon expiration of the incumbent cable service provider's agreement, the holder of a state-issued certificate of franchise will also pay the municipality in which it is offering cable or video service one percent (1%) of the provider's gross revenues in lieu of in-kind compensation and grants.
- The franchise fee amount will include any pass through amount in order to cover the revenues that are generated from such things as the sale of advertising, home shopping commissions, lease/rent revenue, etc.
- As we understand, Cities have the availability to seek a franchise fee that may be lower than the percentage that is noted by the State. We are currently assuming the City would wish us to accrue franchise fees at the six percent (6%) level, however we would request the percentage be confirmed by the City. Confirmation would need to take place by the end of June, mid July at the latest, if we are to begin charging at the new percentage for the September 1st customer billing. The time frame for the change is needed in order to comply with billing and customer notification requirements.

Public, Educational, and Government Access Channels

- Current access channel designations include:
 - Channel 25 Educational Access – currently occupied by KTAQ Channel 47
 - Channel 26 Educational Access – currently occupied by KDTX Channel 58
 - Channel 27 Educational Access – Grayson College & EWTN
 - Channel 28 Government Access – character generated event announcements
 - Channel 29 Local Access – local programming & leased access programming
 - Channel 30 Public Access- local programming
- The operation of any PEG (Public, Education, Government) channel related facilities becomes the responsibility of the municipality. The cable television state franchise holder essentially becomes an input point to receive programming.
- To maintain the active status of PEG access channel(s), programming requirements include a minimum of 8 hours per day of public, educational, and governmental programming for the first channel, for an additional channel to be activated each channel must program at least 12 hours a day of public, educational, and governmental programming with at least 40% of the programming being non repetitive.

- The Municipality must insure that all transmissions, content, and/or programming be transmitted and/or submitted to the cable service provider in a manner or form compatible with the technology or protocol used by the cable service provider to deliver services in the system.
- Any PEG access channel not utilized by the municipality for the required period of daily programming may be programmed by the cable service provider. At such time as the municipality can certify a programming schedule of at least eight hours a day the cable service provider shall then restore the previously lost channel.

In Kind Services

- Institutional Network capacity, which generally refers to private line data networks for use by the municipality for non commercial purposes, will continue to be provided at the same capacity provided the municipality compensates the cable service provider for the actual incremental cost of the capacity.
- Cable services provided to community public buildings, such as municipal buildings and public schools, generally refers to existing cable drop connections and the particular Tier(s) of cable service required by the franchise prior to its expiration. The costs of providing these service connections may now be deducted from the franchise fee as an amount equal to the actual incremental cost of the services provided.

UTILITIES CODE

CHAPTER 66. STATE-ISSUED CABLE AND VIDEO FRANCHISE

Sec. 66.001. FRANCHISING AUTHORITY. The commission shall be designated as the franchising authority for a state-issued franchise for the provision of cable service or video service.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.002. DEFINITIONS. In this chapter:

(1) "Actual incremental cost" means only current out-of-pocket expenses for labor, equipment repair, equipment replacement, and tax expenses directly associated with the labor or the equipment of a service provider that is necessarily and directly used to provide what were, under a superseded franchise, in-kind services, exclusive of any profit or overhead such as depreciation, amortization, or administrative expense.

(2) "Cable service" is defined as set forth in 47 U.S.C. Section 522(6).

(3) "Cable service provider" means a person who provides cable service.

(4) "Communications network" means a component or facility that is, wholly or partly, physically located within a public right-of-way and that is used to provide video programming, cable, voice, or data services.

(5) "Franchise" means an initial authorization, or

renewal of an authorization, issued by a franchising authority, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable or video services network in the public rights-of-way.

(6) (A) "Gross revenues" means all consideration of any kind or nature including without limitation cash, credits, property, and in-kind contributions (services or goods) derived by the holder of a state-issued certificate of franchise authority from the operation of the cable service provider's or the video service provider's network to provide cable service or video service within the municipality. Gross revenue shall include all consideration paid to the holder of a state-issued certificate of franchise authority and its affiliates (to the extent either is acting as a provider of a cable service or video service as authorized by this chapter), which shall include but not be limited to the following: (i) all fees charged to subscribers for any and all cable service or video service provided by the holder of a state-issued certificate of franchise authority; (ii) any fee imposed on the holder of a state-issued certificate of franchise authority by this chapter that is passed through and paid by subscribers (including without limitation the franchise fee set forth in this chapter); and (iii) compensation received by the

holder of a state-issued certificate of franchise authority or its affiliates that is derived from the operation of the holder of a state-issued certificate of franchise authority's network to provide cable service or video service with respect to commissions that are paid to the holder of a state-issued certificate of franchise authority as compensation for promotion or exhibition of any products or services on the holder of a state-issued certificate of franchise authority's network, such as a "home shopping" or a similar channel, subject to Paragraph (B) (v). Gross revenue includes a pro rata portion of all revenue derived by the holder of a state-issued certificate of franchise authority or its affiliates pursuant to compensation arrangements for advertising derived from the operation of the holder of a state-issued certificate of franchise authority's network to provide cable service or the video service within a municipality, subject to Paragraph (B) (iii). The allocation shall be based on the number of subscribers in the municipality divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement. Advertising commissions paid to third parties shall not be netted against advertising revenue included in gross revenue. Revenue of an affiliate derived from the affiliate's provision of cable service or the video service shall be gross revenue to the extent the treatment of such revenue as revenue of the affiliate and not of the holder of a state-issued

certificate of franchise authority has the effect (whether intentional or unintentional) of evading the payment of fees which would otherwise be paid to the municipality. In no event shall revenue of an affiliate be gross revenue to the holder of a state-issued certificate of franchise authority if such revenue is otherwise subject to fees to be paid to the municipality.

(B) For purposes of this section, "gross revenues" does not include:

(i) any revenue not actually received, even if billed, such as bad debt;

(ii) non-cable services or non-video services revenues received by any affiliate or any other person in exchange for supplying goods or services used by the holder of a state-issued certificate of franchise authority to provide cable service or video service;

(iii) refunds, rebates, or discounts made to subscribers, leased access providers, advertisers, or a municipality;

(iv) any revenues from services classified as non-cable service or non-video service under federal law including without limitation revenue received from telecommunications services; revenue received from information services (but not excluding cable services or video services); and any other revenues attributed by the holder of a state-issued certificate of franchise

authority to non-cable service or non-video service in accordance with Federal Communications Commission or commission rules, regulations, standards, or orders;

(v) any revenue paid by subscribers to home shopping programmers directly from the sale of merchandise through any home shopping channel offered as part of the cable services or video services, but not excluding any commissions that are paid to the holder of a state-issued certificate of franchise authority as compensation for promotion or exhibition of any products or services on the holder of a state-issued certificate of franchise authority's network, such as a "home shopping" or a similar channel;

(vi) the sale of cable services or video services for resale in which the purchaser is required to collect this chapter's fees from the purchaser's customer. Nothing under this chapter is intended to limit state's rights pursuant to 47 U.S.C. Section 542(h);

(vii) the provision of cable services or video services to customers at no charge, as required or allowed by this chapter, including without limitation the provision of cable services or video services to public institutions, as required or permitted in this chapter, including without limitation public schools or governmental entities, as required or permitted in this chapter;

(viii) any tax of general applicability imposed upon the holder of a state-issued certificate of franchise authority or upon subscribers by a city, state, federal, or any other governmental entity and required to be collected by the holder of a state-issued certificate of franchise authority and remitted to the taxing entity (including, but not limited to, sales and use tax, gross receipts tax, excise tax, utility users tax, public service tax, communication taxes, and fees not imposed by this chapter);

(ix) any forgone revenue from the holder of a state-issued certificate of franchise authority's provision of free or reduced cost cable services or video services to any person including without limitation employees of the holder of a state-issued certificate of franchise authority, to the municipality and other public institutions or other institutions as allowed in this chapter; provided, however, that any forgone revenue which the holder of a state-issued certificate of franchise authority chooses not to receive in exchange for trades, barter, services, or other items of value shall be included in gross revenue;

(x) sales of capital assets or sales of surplus equipment that is not used by the purchaser to receive cable services or video services from the holder of a state-issued certificate of franchise authority;

(xi) directory or Internet advertising revenue

including, but not limited to, yellow pages, white pages, banner advertisement, and electronic publishing; and

(xii) reimbursement by programmers of marketing costs incurred by the holder of a state-issued franchise for the introduction of new programming that exceed the actual costs.

(C) For purposes of this definition, a provider's network consists solely of the optical spectrum wavelengths, bandwidth, or other current or future technological capacity used for the transmission of video programming over wireline directly to subscribers within the geographic area within the municipality as designated by the provider in its franchise.

(7) "Incumbent cable service provider" means the cable service provider serving the largest number of cable subscribers in a particular municipal franchise area on September 1, 2005.

(8) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which a municipality has an interest.

(9) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section 522(20).

(10) "Video service" means video programming services

provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video service provided by a commercial mobile service provider as defined in 47 U.S.C. Section 332(d).

(11) "Video service provider" means a video programming distributor that distributes video programming services through wireline facilities located at least in part in the public right-of-way without regard to delivery technology. This term does not include a cable service provider.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.003. STATE AUTHORIZATION TO PROVIDE CABLE SERVICE OR VIDEO SERVICE. (a) An entity or person seeking to provide cable service or video service in this state after September 1, 2005, shall file an application for a state-issued certificate of franchise authority with the commission as required by this section. An entity providing cable service or video service under a franchise agreement with a municipality is not subject to this subsection with respect to such municipality until the franchise agreement expires, except as provided by Section 66.004.

(a-1) The commission shall notify an applicant for a state-issued certificate of franchise authority whether the applicant's affidavit described by Subsection (b) is complete before the 15th

business day after the applicant submits the affidavit.

(b) The commission shall issue a certificate of franchise authority to offer cable service or video service before the 17th business day after receipt of a completed affidavit submitted by the applicant and signed by an officer or general partner of the applicant affirming:

(1) that the applicant has filed or will timely file with the Federal Communications Commission all forms required by that agency in advance of offering cable service or video service in this state;

(2) that the applicant agrees to comply with all applicable federal and state statutes and regulations;

(3) that the applicant agrees to comply with all applicable municipal regulations regarding the use and occupation of public rights-of-way in the delivery of the cable service or video service, including the police powers of the municipalities in which the service is delivered;

(4) a description of the service area footprint to be served within the municipality, if applicable, otherwise the municipality to be served by the applicant, which may include certain designations of unincorporated areas, which description shall be updated by the applicant prior to the expansion of cable service or video service to a previously undesignated service area and, upon such expansion, notice to the commission of the service

area to be served by the applicant; and

(5) the location of the applicant's principal place of business and the names of the applicant's principal executive officers.

(c) The certificate of franchise authority issued by the commission shall contain:

(1) a grant of authority to provide cable service or video service as requested in the application;

(2) a grant of authority to use and occupy the public rights-of-way in the delivery of that service, subject to the laws of this state, including the police powers of the municipalities in which the service is delivered; and

(3) a statement that the grant of authority is subject to lawful operation of the cable service or video service by the applicant or its successor in interest.

(d) The certificate of franchise authority issued by the commission is fully transferable to any successor in interest to the applicant to which it is initially granted. A notice of transfer shall be filed with the commission and the relevant municipality within 14 business days of the completion of such transfer.

(e) The certificate of franchise authority issued by the commission may be terminated by the cable service provider or video service provider by submitting notice to the commission.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff.
September 7, 2005.

Sec. 66.004. ELIGIBILITY FOR COMMISSION-ISSUED FRANCHISE.

(a) A cable service provider or a video service provider that currently has or had previously received a franchise to provide cable service or video service with respect to such municipalities is not eligible to seek a state-issued certificate of franchise authority under this chapter as to those municipalities until the expiration date of the existing franchise agreement, except as provided by Subsections (b) and (c).

(b) Beginning September 1, 2005, a cable service provider or video service provider that is not the incumbent cable service provider and serves fewer than 40 percent of the total cable customers in a particular municipal franchise area may elect to terminate that municipal franchise and seek a state-issued certificate of franchise authority by providing written notice to the commission and the affected municipality before January 1, 2006. The municipal franchise is terminated on the date the commission issues the state-issued certificate of franchise authority.

(c) A cable service provider that serves fewer than 40 percent of the total cable customers in a municipal franchise area and that elects under Subsection (b) to terminate an existing municipal franchise is responsible for remitting to the affected

municipality before the 91st day after the date the municipal franchise is terminated any accrued but unpaid franchise fees due under the terminated franchise. If the cable service provider has credit remaining from prepaid franchise fees, the provider may deduct the amount of the remaining credit from any future fees or taxes it must pay to the municipality, either directly or through the comptroller.

(d) For purposes of this section, a cable service provider or video service provider will be deemed to have or have had a franchise to provide cable service or video service in a specific municipality if any affiliates or successor entity of the cable or video provider has or had a franchise agreement granted by that specific municipality.

(e) The terms "affiliates or successor entity" in this section shall include but not be limited to any entity receiving, obtaining, or operating under a municipal cable or video franchise through merger, sale, assignment, restructuring, or any other type of transaction.

(f) Except as provided in this chapter, nothing in this chapter is intended to abrogate, nullify, or adversely affect in any way the contractual rights, duties, and obligations existing and incurred by a cable service provider or a video service provider before the enactment of this chapter, and owed or owing to any private person, firm, partnership, corporation, or other entity

including without limitation those obligations measured by and related to the gross revenue hereafter received by the holder of a state-issued certificate of franchise authority for services provided in the geographic area to which such prior franchise or permit applies. All liens, security interests, royalties, and other contracts, rights, and interests in effect on September 1, 2005, shall continue in full force and effect, without the necessity for renewal, extension, or continuance, and shall be paid and performed by the holder of a state-issued certificate of franchise authority, and shall apply as though the revenue generated by the holder of a state-issued certificate of franchise authority continued to be generated pursuant to the permit or franchise issued by the prior local franchising authority or municipality within the geographic area to which the prior permit or franchise applies. It shall be a condition to the issuance and continuance of a state-issued certificate of franchise authority that the private contractual rights and obligations herein described continue to be honored, paid, or performed to the same extent as though the cable service provider continued to operate under its prior franchise or permit, for the duration of such state-issued certificate of franchise authority and any renewals or extensions thereof, and that the applicant so agrees. Any person, firm, partnership, corporation, or other entity holding or claiming rights herein reserved may enforce same by an action brought in a

court of competent jurisdiction.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.005. FRANCHISE FEE. (a) The holder of a state-issued certificate of franchise authority shall pay each municipality in which it provides cable service or video service a franchise fee of five percent based upon the definition of gross revenues as set forth in this chapter. That same franchise fee structure shall apply to any unincorporated areas that are annexed by a municipality after the effective date of the state-issued certificate of franchise authority.

(b) The franchise fee payable under this section is to be paid quarterly, within 45 days after the end of the quarter for the preceding calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the fee. A municipality may review the business records of the cable service provider or video service provider to the extent necessary to ensure compensation in accordance with Subsection (a). Each party shall bear the party's own costs of the examination. A municipality may, in the event of a dispute concerning compensation under this section, bring an action in a court of competent jurisdiction.

(c) The holder of a state-issued certificate of franchise authority may recover from the provider's customers any fee imposed

by this chapter.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.006. IN-KIND CONTRIBUTIONS TO MUNICIPALITY. (a) Until the expiration of the incumbent cable service provider's agreement, the holder of a state-issued certificate of franchise authority shall pay a municipality in which it is offering cable service or video service the same cash payments on a per subscriber basis as required by the incumbent cable service provider's franchise agreement. All cable service providers and all video service providers shall report quarterly to the municipality the total number of subscribers served within the municipality. The amount paid by the holder of a state-issued certificate of franchise authority shall be calculated quarterly by the municipality by multiplying the amount of cash payment under the incumbent cable service provider's franchise agreement by a number derived by dividing the number of subscribers served by a video service provider or cable service provider by the total number of video or cable service subscribers in the municipality. Such pro rata payments are to be paid quarterly to the municipality within 45 days after the end of the quarter for the preceding calendar quarter.

(b) On the expiration of the incumbent cable service provider's agreement, the holder of a state-issued certificate of

franchise authority shall pay a municipality in which it is offering cable service or video service one percent of the provider's gross revenues, as defined by this chapter, or at the municipality's election, the per subscriber fee that was paid to the municipality under the expired incumbent cable service provider's agreement, in lieu of in-kind compensation and grants. Payments under this subsection shall be paid in the same manner as outlined in Section 66.005(b).

(c) All fees paid to municipalities under this section are paid in accordance with 47 U.S.C. Sections 531 and 541(a)(4)(B) and may be used by the municipality as allowed by federal law; further, these payments are not chargeable as a credit against the franchise fee payments authorized under this chapter.

(d) The following services shall continue to be provided by the cable provider that was furnishing services pursuant to its municipal cable franchise until January 1, 2008, or until the term of the franchise was to expire, whichever is later, and thereafter as provided in Subdivisions (1) and (2) below:

(1) institutional network capacity, however defined or referred to in the municipal cable franchise but generally referring to a private line data network capacity for use by the municipality for noncommercial purposes, shall continue to be provided at the same capacity as was provided to the municipality prior to the date of the termination, provided that the

municipality will compensate the provider for the actual incremental cost of the capacity; and

(2) cable services to community public buildings, such as municipal buildings and public schools, shall continue to be provided to the same extent provided immediately prior to the date of the termination. Beginning on January 1, 2008, or the expiration of the franchise agreement, whichever is later, a provider that provides the services may deduct from the franchise fee to be paid to the municipality an amount equal to the actual incremental cost of the services if the municipality requires the services after that date. Such cable service generally refers to the existing cable drop connections to such facilities and the tier of cable service provided pursuant to the franchise at the time of the termination.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.007. BUILD-OUT. The holder of a state-issued certificate of franchise authority shall not be required to comply with mandatory build-out provisions.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.008. CUSTOMER SERVICE STANDARDS. The holder of a state-issued certificate of franchise authority shall comply with customer service requirements consistent with 47 C.F.R. Section

76.309(c) until there are two or more providers offering service, excluding direct-to-home satellite service, in the relevant municipality.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.009. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS CHANNELS. (a) Not later than 120 days after a request by a municipality, the holder of a state-issued certificate of franchise authority shall provide the municipality with capacity in its communications network to allow public, educational, and governmental (PEG) access channels for noncommercial programming.

(b) The holder of a state-issued certificate of franchise authority shall provide no fewer than the number of PEG access channels a municipality has activated under the incumbent cable service provider's franchise agreement as of September 1, 2005.

(c) If a municipality did not have PEG access channels as of September 1, 2005, the cable service provider or video service provider shall furnish:

(1) up to three PEG channels for a municipality with a population of at least 50,000; and

(2) up to two PEG channels for a municipality with a population of less than 50,000.

(d) Any PEG channel provided pursuant to this section that is not utilized by the municipality for at least eight hours a day

shall no longer be made available to the municipality, but may be programmed at the cable service provider's or video service provider's discretion. At such time as the municipality can certify to the cable service provider or video service provider a schedule for at least eight hours of daily programming, the cable service provider or video service provider shall restore the previously lost channel but shall be under no obligation to carry that channel on a basic or analog tier.

(e) In the event a municipality has not utilized the minimum number of access channels as permitted by Subsection (c), access to the additional channel capacity allowed in Subsection (c) shall be provided upon 90 days' written notice if the municipality meets the following standard: if a municipality has one active PEG channel and wishes to activate an additional PEG channel, the initial channel shall be considered to be substantially utilized when 12 hours are programmed on that channel each calendar day. In addition, at least 40 percent of the 12 hours of programming for each business day on average over each calendar quarter must be nonrepeat programming. Nonrepeat programming shall include the first three video-castings of a program. If a municipality is entitled to three PEG channels under Subsection (c) and has in service two active PEG channels, each of the two active channels shall be considered to be substantially utilized when 12 hours are programmed on each channel each calendar day and at least 50

percent of the 12 hours of programming for each business day on average over each calendar quarter is nonrepeat programming for three consecutive calendar quarters.

(f) The operation of any PEG access channel provided pursuant to this section shall be the responsibility of the municipality receiving the benefit of such channel, and the holder of a state-issued certificate of franchise authority bears only the responsibility for the transmission of such channel. The holder of a state-issued certificate of franchise authority shall be responsible for providing the connectivity to each PEG access channel distribution point up to the first 200 feet.

(g) The municipality must ensure that all transmissions, content, or programming to be transmitted over a channel or facility by a holder of a state-issued certificate of franchise authority are provided or submitted to the cable service provider or video service provider in a manner or form that is capable of being accepted and transmitted by a provider, without requirement for additional alteration or change in the content by the provider, over the particular network of the cable service provider or video service provider, which is compatible with the technology or protocol utilized by the cable service provider or video service provider to deliver services.

(h) Where technically feasible, the holder of a state-issued certificate of franchise authority and an incumbent cable service

provider shall use reasonable efforts to interconnect their cable or video systems for the purpose of providing PEG programming. Interconnection may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection. Holders of a state-issued certificate of franchise authority and incumbent cable service providers shall negotiate in good faith and incumbent cable service providers may not withhold interconnection of PEG channels.

(i) A court of competent jurisdiction shall have exclusive jurisdiction to enforce any requirement under this section.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.010. NONDISCRIMINATION BY MUNICIPALITY. (a) A municipality shall allow the holder of a state-issued certificate of franchise authority to install, construct, and maintain a communications network within a public right-of-way and shall provide the holder of a state-issued certificate of franchise authority with open, comparable, nondiscriminatory, and competitively neutral access to the public right-of-way. All use of a public right-of-way by the holder of a state-issued certificate of franchise authority is nonexclusive and subject to Section 66.011.

(b) A municipality may not discriminate against the holder of a state-issued certificate of franchise authority regarding:

(1) the authorization or placement of a communications network in a public right-of-way;

(2) access to a building; or

(3) a municipal utility pole attachment term.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.011. MUNICIPAL POLICE POWER; OTHER AUTHORITY. (a) A municipality may enforce police power-based regulations in the management of a public right-of-way that apply to the holder of a state-issued certificate of franchise authority within the municipality. A municipality may enforce police power-based regulations in the management of the activities of the holder of a state-issued certificate of franchise authority to the extent that they are reasonably necessary to protect the health, safety, and welfare of the public. Police power-based regulation of the holder of a state-issued certificate of franchise authority's use of the public right-of-way must be competitively neutral and may not be unreasonable or discriminatory. A municipality may not impose on activities of the holder of a state-issued certificate of franchise authority a requirement:

(1) that particular business offices be located in the municipality;

(2) regarding the filing of reports and documents with the municipality that are not required by state or federal law and

that are not related to the use of the public right-of-way except that a municipality may request maps and records maintained in the ordinary course of business for purposes of locating the portions of a communications network that occupy public rights-of-way. Any maps or records of the location of a communications network received by a municipality shall be confidential and exempt from disclosure under Chapter 552, Government Code, and may be used by a municipality only for the purpose of planning and managing construction activity in the public right-of-way. A municipality may not request information concerning the capacity or technical configuration of the holder of a state-issued certificate of franchise authority's facilities;

(3) for the inspection of the holder of a state-issued certificate of franchise authority's business records except to extent permitted under Section 66.005(b);

(4) for the approval of transfers of ownership or control of the holder of a state-issued certificate of franchise authority's business, except that a municipality may require that the holder of a state-issued certificate of franchise authority maintain a current point of contact and provide notice of a transfer within a reasonable time; or

(5) that the holder of a state-issued certificate of franchise authority that is self-insured under the provisions of state law obtain insurance or bonding for any activities within the

municipality, except that a self-insured provider shall provide substantially the same defense and claims processing as an insured provider. A bond may not be required from a provider for any work consisting of aerial construction except that a reasonable bond may be required of a provider that cannot demonstrate a record of at least four years' performance of work in any municipal public right-of-way free of currently unsatisfied claims by a municipality for damage to the right-of-way.

(b) Notwithstanding any other law, a municipality may require the issuance of a construction permit, without cost, to the holder of a state-issued certificate of franchise authority that is locating facilities in or on a public right-of-way in the municipality. The terms of the permit shall be consistent with construction permits issued to other persons excavating in a public right-of-way.

(c) In the exercise of its lawful regulatory authority, a municipality shall promptly process all valid and administratively complete applications of the holder of a state-issued certificate of franchise authority for a permit, license, or consent to excavate, set poles, locate lines, construct facilities, make repairs, affect traffic flow, or obtain zoning or subdivision regulation approvals or other similar approvals. A municipality shall make every reasonable effort not to delay or unduly burden the provider in the timely conduct of the provider's business.

(d) If there is an emergency necessitating response work or repair, the holder of a state-issued certificate of franchise authority may begin the repair or emergency response work or take any action required under the circumstances without prior approval from the affected municipality, if the holder of a state-issued certificate of franchise authority notifies the municipality as promptly as possible after beginning the work and later obtains any approval required by a municipal ordinance applicable to emergency response work.

(e) The commission shall have no jurisdiction to review such police power-based regulations and ordinances adopted by a municipality to manage the public rights-of-way.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.012. INDEMNITY IN CONNECTION WITH RIGHT-OF-WAY; NOTICE OF LIABILITY. (a) The holder of a state-issued certificate of franchise authority shall indemnify and hold a municipality and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought, that is found by a court of

competent jurisdiction to be caused solely by the negligent act, error, or omission of the holder of a state-issued certificate of franchise authority or any agent, officer, director, representative, employee, affiliate, or subcontractor of the holder of a state-issued certificate of franchise authority or their respective officers, agents, employees, directors, or representatives, while installing, repairing, or maintaining facilities in a public right-of-way. The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the municipality or its officers, employees, contractors, or subcontractors. If the holder of a state-issued certificate of franchise authority and the municipality are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the municipality under state law and without waiving any defenses of the parties under state law. This subsection is solely for the benefit of the municipality and the holder of a state-issued certificate of franchise authority and does not create or grant any rights, contractual or otherwise, for or to any other person or entity.

(b) The holder of a state-issued certificate of franchise authority and a municipality shall promptly advise the other in writing of any known claim or demand against the holder of a state-

issued certificate of franchise authority or the municipality related to or arising out of the holder of a state-issued certificate of franchise authority's activities in a public right-of-way.

(c) The commission shall have no jurisdiction to review such police power-based regulations and ordinances adopted by a municipality to manage the public rights-of-way.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.013. MUNICIPAL AUTHORITY. In addition to a municipality's authority to exercise its nondiscriminatory police power with respect to public rights-of-way under current law, a municipality's authority to regulate the holder of state-issued certificate of franchise authority is limited to:

(1) a requirement that the holder of a state-issued certificate of franchise authority who is providing cable service or video service within the municipality register with the municipality and maintain a point of contact;

(2) the establishment of reasonable guidelines regarding the use of public, educational, and governmental access channels; and

(3) submitting reports within 30 days on the customer service standards referenced in Section 66.008 if the provider is subject to those standards and has continued and unresolved

customer service complaints indicating a clear failure on the part of the holder of a state-issued certificate of franchise authority to comply with the standards.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.014. DISCRIMINATION PROHIBITED. (a) The purpose of this section is to prevent discrimination among potential residential subscribers.

(b) A cable service provider or video service provider that has been granted a state-issued certificate of franchise authority may not deny access to service to any group of potential residential subscribers because of the income of the residents in the local area in which such group resides.

(c) An affected person may seek enforcement of the requirements described by Subsection (b) by initiating a proceeding with the commission. A municipality within which the potential residential cable service or video service subscribers referenced in Subsection (b) may be considered an affected person for purposes of this section.

(d) The holder of a state-issued certificate of franchise authority shall have a reasonable period of time to become capable of providing cable service or video service to all households within the designated franchise area as defined in Section 66.003(b)(4) and may satisfy the requirements of this section

through the use of an alternative technology that provides comparable content, service, and functionality.

(e) Notwithstanding any provision of this chapter, the commission has the authority to make the determination regarding the comparability of the technology and the service provided. Notwithstanding any provision of this chapter, the commission has the authority to monitor the deployment of cable services, video services, or alternate technology.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.

Sec. 66.015. COMPLIANCE. (a) Should the holder of a state-issued certificate of franchise authority be found by a court of competent jurisdiction to be in noncompliance with the requirements of this chapter, the court shall order the holder a state-issued certificate of franchise authority, within a specified reasonable period of time, to cure such noncompliance. Failure to comply shall subject the holder of the state-issued franchise of franchise authority to penalties as the court shall reasonably impose, up to and including revocation of the state-issued certificate of franchise authority granted under this chapter.

(b) A municipality within which the provider offers cable service or video service shall be an appropriate party in any such litigation.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff.

September 7, 2005.

Sec. 66.016. APPLICABILITY OF OTHER LAWS. (a) Nothing in this chapter shall be interpreted to prevent a voice provider, cable service provider or video service provider, or municipality from seeking clarification of its rights and obligations under federal law or to exercise any right or authority under federal or state law.

(b) Nothing in this chapter shall limit the ability of a municipality under existing law to receive compensation for use of the public rights-of-way from entities determined not to be subject to all or part of this chapter, including but not limited to provider of Internet protocol cable or video services, unless such payments are expressly prohibited by federal law.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2, Sec. 27, eff. September 7, 2005.



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. D.4

*** OTHER BUSINESS**

Consider Request of Jaco Oil Company for a Reduction in their Oil Well Performance Bond

Issue

Mr. Troy Jaco, President of Jaco Oil Company, has drilled an oil well within the city limits, located at 2040 East Tuck Street. The completion date of the well was June 7, 2006; and the well is now a producing oil well. Mr. Jaco is requesting a reduction in their annual bond requirement from \$100,000 (12+ acre unit) to \$7,500.

Background

The Code of Ordinances, Section 4.10.034, regulating oil and gas wells, requires that the exploration company maintain a \$100,000 Oil Well Performance Bond while drilling their oil well. The same section also allows the \$100,000 bond be replaced with a \$7,500 operating bond once the well has been developed into a producing well.

Origination

The request originated with Troy Jaco of Jaco Oil Company.

Financial Consideration

There is no financial consideration to the City.

Staff Recommendation

It is recommended that the City Council approve the reduction of a \$100,000 performance bond to a \$7,500 oil well operating bond for the aforementioned well, known as Alma Colling #1.

Alternatives

The Council could choose to require the \$100,000 bond to remain in effect.

Attachments

Mr. Jaco's Request of June 17, 2008
Section 4.10.034 of the Sherman Code of Ordinances
Current Bond and Power of Attorney
Project location map

Prepared by:
Linda Ashby, City Clerk

Approved by:
George Olson, City Manager

Telephone:
(903) 868-2703

JACO OIL COMPANY
OIL & GAS EXPLORATION AND PRODUCTION

Mailing address:
P. O. Box 1476
SHERMAN, TX. 75091
FAX:
(903) 893-0697

June 17, 2008

City Council of the City of Sherman
P.O. Box 1106
Sherman, TX 75091-1106

Re: Alma Colling #1
Abst #229
Charles Canter Survey
Grayson Co., TX

Dear Sir/Madame:

By way of this letter, Troy Jaco, Inc. is requesting a reduction in our annual bond requirement from \$100,000.00 (12+ acre unit) to \$7,500.00. The completion date of the well was June 7, 2006. As per The City of Sherman Oil and Gas Regulation, Sec. 22-34, Bond or Other Security Required of Application, "One (1) year after the completion of the well, the City Council may, on application, reduce the principal amount of such bond to seven thousand five hundred dollars (\$7,500.00) on a drilling unit of twelve (12) plus acres."

Please consider this letter our application and request. Your immediate consideration will be greatly appreciated.

Yours very truly,

Troy Jaco, Inc.


Troy Jaco, President

TJ/jlm

RECEIVED
JUN 20 2008
CITY CLERK
SHERMAN, TX

200 NORTH TRAVIS STREET, SUITE 412 - BANK ONE BUILDING
SHERMAN, TEXAS 75090

is asking for a permit to drill, and the date and place of hearing, and shall be in words and figures as follows:

"Notice is hereby given that _____, acting under and pursuant to the terms and provisions of Article 4.10 of the Sherman City Code did on the ____ day of _____, file with the city clerk of the City of Sherman, an application for a permit to drill a well for oil and gas upon Lot No. _____, Block No. _____. Addition to the City of Sherman, in Drilling Block No. _____. A hearing upon such application will be held in the Council Room of the City of Sherman at 220 W. Mulberry at _____ o'clock on the _____ day of _____, 20__."

(b) Proof of notice shall be made by the applicant by filing with the city clerk an affidavit of the printer or publisher of the newspaper in which notice is published, containing a copy of the notice and stating the issues in which, and the period of time during which, notice was published, and an affidavit of the applicant showing the date and names of the persons to whom and the addresses to which notice was mailed by the applicant and proof that such addresses are the last known addresses of the persons involved.

(c) The time for hearing on each application shall be fixed by the city clerk at the time such application is filed; and at the time so fixed and published in such notices, a hearing on such application shall be held in the council room of the city by the city council.

(1991 Code, sec. 22-33)

Sec. 4.10.034 Bond or other security required

(a) Each application for a permit under this division shall be accompanied by a duly executed bond, given by the applicant as principal and a surety company authorized to do business in the state, as surety, such bond to be approved by the city attorney and the city council. The bond shall run to the city for the benefit of the city and all persons concerned, conditioned that if the permit is granted, and if drilling operations are commenced thereunder, the applicant and his assigns will comply with the terms and conditions of this article, and all future amendments and regulations hereunder in the drilling and operation of a well; that the applicant will restore the streets and sidewalks and other public places of the city which may be disturbed in the operations to their former condition, will clear the blocks and lots of all litter, machinery, derricks, and buildings erected or used in the drilling or operation of such well whenever the well shall be completed, abandoned or the operation thereof discontinued; and that the applicant or his assigns will pay such sums as may be due by them by reason of production of oil, gas or other minerals to all persons owning lots, blocks or tracts of land in the drilling block, who have not executed, at the time of filing of the bond or who shall not execute during the term of the bond and prior to the accrual of liabilities thereunder, leases, drilling contracts, waivers or other form of contract under which the applicant or his assigns is or are authorized to operate the premises of the owner for the development and production of oil and gas in accordance with the provisions of this article.

(b) The bond required by this section shall be in the principal sum of twenty-five thousand dollars (\$25,000.00) for a one-block drilling unit and one hundred thousand dollars (\$100,000.00) for a drilling unit of twelve (12) plus acres. One (1) year after the completion of the well, the city council may, on application, reduce the principal amount of such bond to one thousand dollars (\$1,000.00) on a one-block drilling unit and seven thousand five hundred dollars (\$7,500.00) on a dwelling unit of twelve (12) plus acres. The reduction shall in no way affect any accrued liabilities, whether known or unknown, at the time the reduction is made.

(c) In lieu of the surety bond required by this section, the applicant may file with the city clerk his personal undertaking or undertakings, which shall be in the same amount and shall contain the same conditions as provided with respect to surety bonds and which undertaking or undertakings shall be secured by negotiable United States government securities or negotiable securities of the state, or of counties or municipalities in the state, such securities to be approved by the city council, and having a par value or market value, whichever is lesser, equal to the amount of the surety bond in lieu of which such undertaking is given, which securities shall be deposited in escrow with an official depository of the city, jointly selected by the city manager and the applicant or his assigns, along with and attached to a copy of the written undertaking for which same are to be held as security.

(d) Each applicant may provide the bond or security as provided for in this section or, in lieu thereof, an insurance policy or policies to cover the same requirements, liabilities and conditions as required in the bond. Such insurance given in lieu of the bond shall provide that the city or any aggrieved party shall have a right to proceed directly against the insurance company.

(e) A bond, undertaking or insurance policy filed pursuant to this section shall be released by the city council when production ceases and the permittee has in all things complied with the provisions of this article. When a permit terminates and becomes inoperative under the terms of section 4.10.043, or when the permittee or his assigns shall file with the city council written notice of his election to surrender his permit and abandon the premises covered thereby, provided that notice of such intent to abandon has been given in the manner provided in section 4.10.033 with reference to application for permits, then if no claims under the bond or undertaking in lieu of the bond have been filed with the city clerk within ninety (90) days, the city clerk on authorization by resolution adopted by the city council shall return the bond or undertaking and security or securities theretofore furnished by the permittee in connection with such permit, and if claims are filed within such time, upon the final satisfaction or defeat of such claims, such bond or undertaking, or security or securities shall thereupon be returned to the permittee or his assigns.

(1991 Code, sec. 22-34)

Sec. 4.10.035 Applicant must own or have lease or contract for drilling site

No permit shall be granted or issued under this division for the drilling of a well except upon ground owned by the applicant or held by him under an oil or gas lease or drilling contract from the owner, giving the owner's permission or authority to drill the well. (1991 Code, sec. 22-35)

Sec. 4.10.036 Procedure when applicant does not own or have contract for entire drilling block

(a) In the event an applicant for a permit under this division does not own the leasehold estate or has not made satisfactory contracts with the owners of all of the leasehold estates in the drilling block on which the application is made, the following rules shall govern such situation:

- (1) The city shall have the right to defer action upon an application for the drilling of a well if the applicant does not have leases or drilling contracts on all of the land within the drilling block if the evidence introduced at such hearing is such as to indicate that the prospects for completing a profitable producing well on such drilling block are so speculative in the opinion of the city as to justify the protesting lease owner in requesting that the application be deferred.



City of Sherman
P.O. Box 1106
Sherman, Texas 75091
(903) 892-7204

OIL WELL PERFORMANCE BOND

STATE OF TEXAS §
COUNTY OF GRAYSON §
CITY OF SHERMAN §

BOND NO. RLB0008380

KNOW ALL MEN BY THESE PRESENTS:

That we, Jaco Oil Company, as principal, and RLI Insurance Company, as surety, hereby acknowledge ourselves, bound to the City of Sherman, a municipal corporation, for the benefit of the said City, and all persons, firms and corporations concerned, in the sum of One Hundred Thousand--- dollars for the payment of which well and truly to be made, the said principal binds himself, his heirs, executors, administrators and assigns, and the surety does hereby bind itself and its successors, firmly by these presents, all being bound jointly and severally by these presents.

The condition of the above obligation is such that, whereas the above bounden principal has applied to the City of Sherman for a permit to drill an oil well within the City limits and on Drilling Block No. A-229. In compliance with the provisions of Chapter 22 of the 1991 recodified ordinances, as amended, and whereas the said ordinances require a bond conditioned that if the permit be granted and if drilling operations be commenced thereunder the applicant and his assigns will comply with the terms and conditions of the said ordinances, and all future amendments and regulations thereunder in the drilling and operation of said well; and that the applicant will restore the streets and sidewalks and other public places of the City which may be disturbed in the operations to their former conditions, and will clear the blocks and lots of all litter, machinery, derricks and buildings erected or used in the drilling or operation of said well whenever the well shall be completed, abandoned or the operations therefor discontinued and that the applicant or his assigns will pay such sums as may be due by them by reason of production of oil, gas or other minerals to all persons, firms or corporations owning lots, blocks or tracts of land in said drilling block or area who have not executed, at the time of filing of such bond, or who shall not execute during the term of said bond and prior to the accrual of liabilities thereunder, leases, drilling contracts, waivers or other form of contract under which the applicant or his assigns is or are authorized to operate the premises of said owner of the development and production of oil and gas in accordance with the provisions of said ordinances.

NOW, THEREFORE, if the above bounden principal, his heirs, executors, administrators, and assigns, shall well and truly keep, do and perform each and every, all and singular the obligations, matters and things required by said Chapter 22 of the 1991 recodified ordinances, as amended, then this obligation shall be null and void; otherwise to be and remain in full force and effect.

IN TESTIMONY WHEREOF witness our hands this 14th day of July, 20 05.

PRINCIPAL

SURETY RLI Insurance Company

By: Greg E. Chilson
Greg E. Chilson, Attorney-in-Fact

AGENT Carter & Company

PRINCIPAL Jaco Oil Company

ADDRESS P.O. Box 672, Luling, TX

ADDRESS P.O. Box 1476, Sherman, TX

PHONE NO 830-875-3164 78648

PHONE NO 903-868-2703 75091



9025 North Lindbergh Dr. • Peoria, IL 61615
(309) 692-1000 or (800) 645-2402

RLB0008380

POWER OF ATTORNEY RLI Insurance Company

Know All Men by These Presents:

That the RLI INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and authorized and licensed to do business in all states and the District of Columbia does hereby make, constitute and appoint: GREG E. CHILSON

in the City of HOUSTON, State of TEXAS, as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, all of the following classes of documents to-wit:

\$100,000.00

Indemnity, Surety and Undertakings that may be desired by contract, or may be given in any action or proceeding in any court of law or equity; policies indemnifying employers against loss or damage caused by the misconduct of their employees; official, bail and surety and fidelity bonds. Indemnity in all cases where indemnity may be lawfully given; and with full power and authority to execute consents and waivers to modify or change or extend any bond or document executed for this Company, and to compromise and settle any and all claims or demands made or existing against said Company.

The RLI INSURANCE COMPANY further certifies that the following is a true and exact copy of a Resolution adopted by the Board of Directors of RLI Insurance Company, and now in force to-wit:

"All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or Agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

(Blue shaded areas above indicate authenticity)

IN WITNESS WHEREOF, the RLI Insurance Company has caused these presents to be executed by its PRESIDENT, CEO with its corporate seal affixed this

ATTEST:
Camille J. Hensley
Corporate Secretary

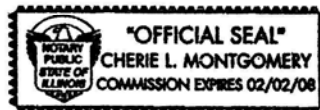
State of Illinois)
County of Peoria) SS



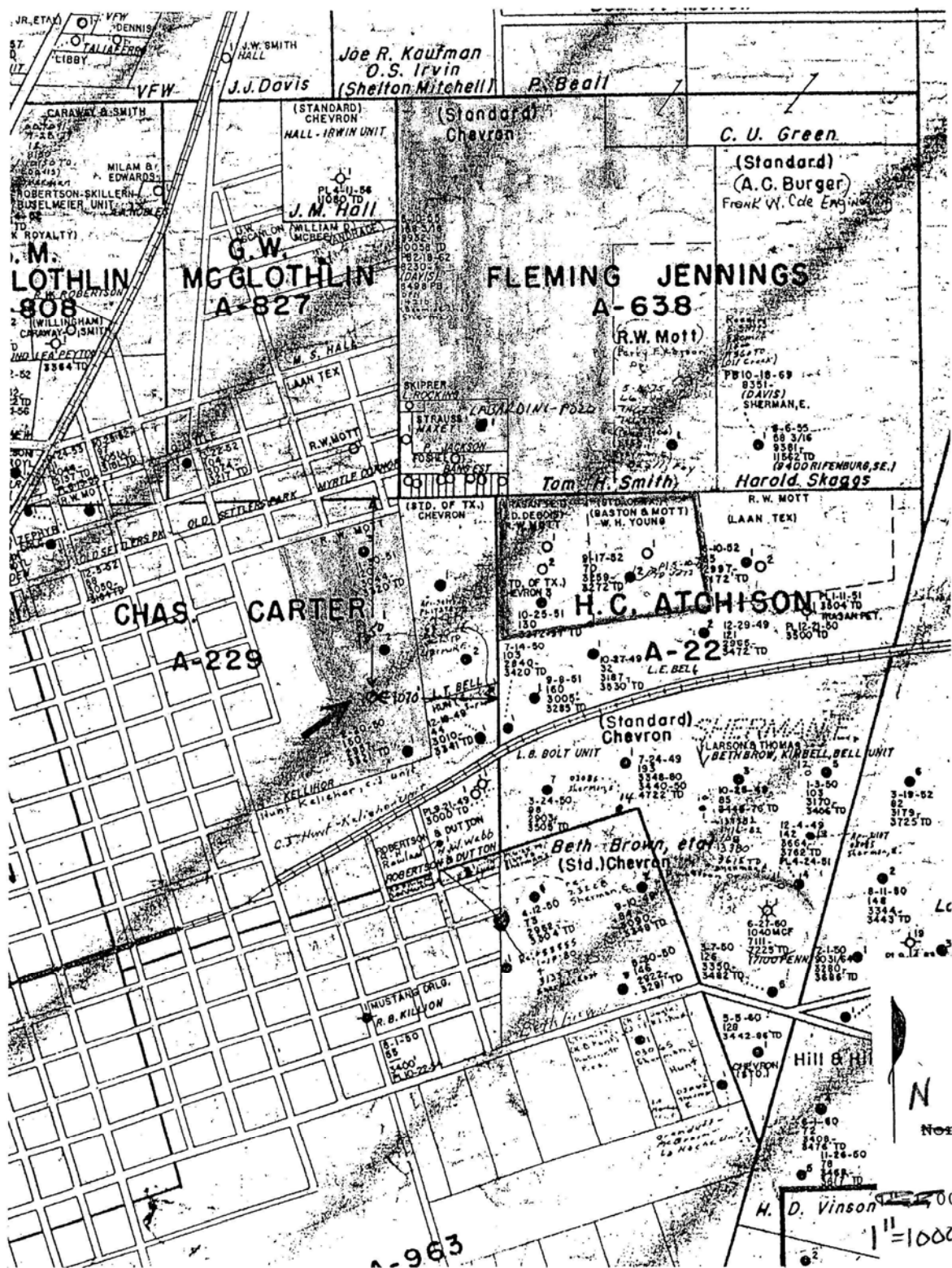
By: Michael J. Stone
President, CEO

On this 14 day of July, 2005 before me, a Notary Public, personally appeared Michael J. Stone and Camille J. Hensley, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as President and Corporate Secretary, respectively, of the said RLI INSURANCE COMPANY, and acknowledged said instrument to be the voluntary act and deed of said corporation.

Cherie L. Montgomery
Notary Public



SPA026 (03/04)





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. D.5

*** OTHER BUSINESS**

**Replat Approval of Lot 4, Block 11 of the B.H. Moore's Heirs Addition;
Terry Peterson, Owner (1302 South Elm Street)**

Issue

To consider Replat approval of Lot 4, Block 11 of the B.H. Moore's Heirs Addition

Background

The property is located at the southwest corner of Dulin and Elm Streets. The owner would like to replat this property into two lots for residential development.

Origination

Terry Peterson (Owner) and Sartin and Associates (Surveyors)

Board Recommendation

At the May 20, 2008 regular meeting, the Planning and Zoning Board voted unanimously to recommend to the City Council that the Replat be approved.

Attachments

Location Map

Photos

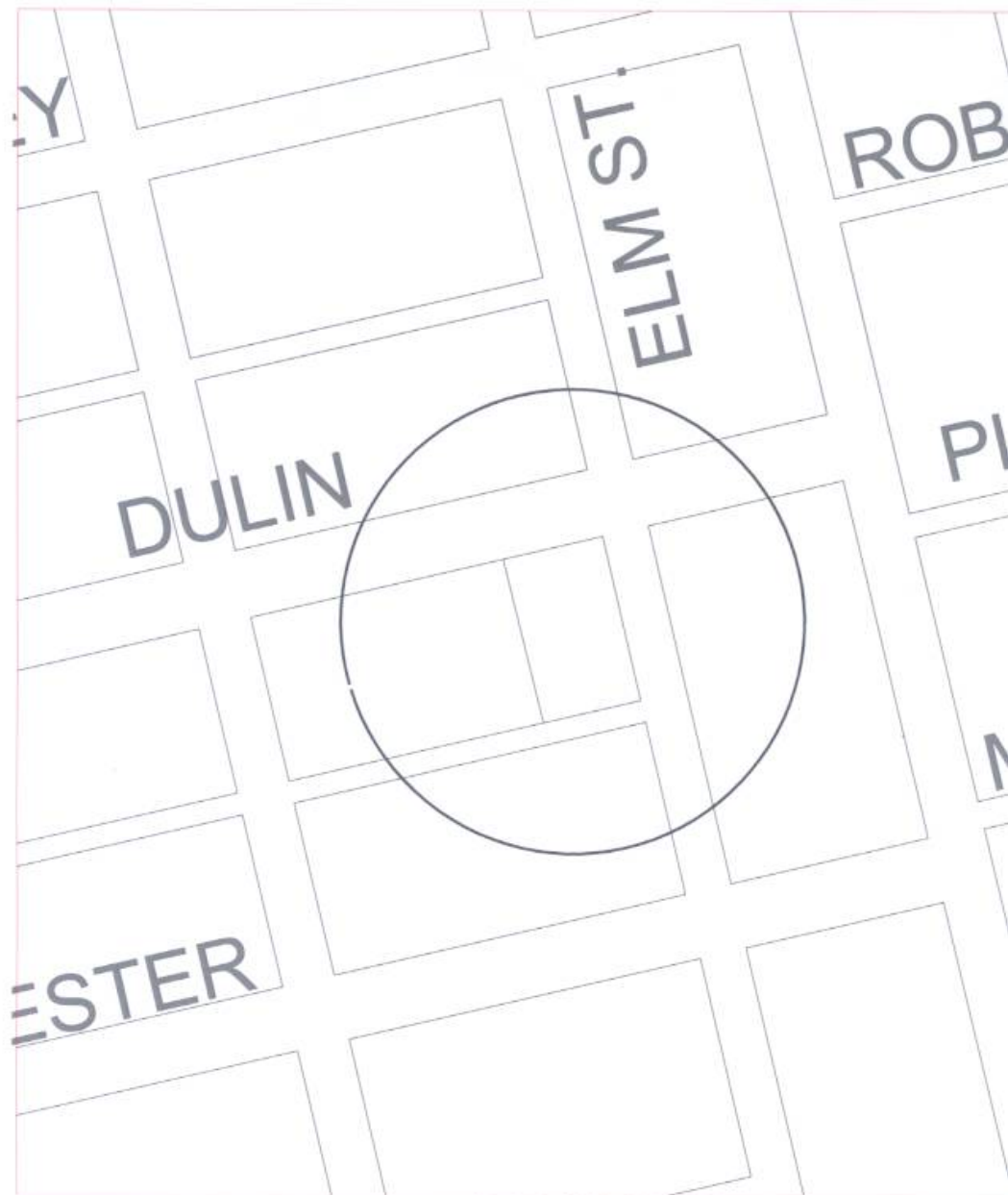
Plat

P&Z Communication

Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager



LEGEND

	R-A	SINGLE FAMILY AGRICULTURAL DISTRICT		M-2	HEAVY MANUFACTURING DISTRICT
	SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT		M-H	MANUFACTURED HOUSING
	R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT		O-1	BLALOCK INDUSTRIAL PARK OVERLAY DISTRICT - 75 & 80
	R-2	MULTI-FAMILY RESIDENTIAL DISTRICT		O-1.1	OVERLAY DISTRICT - 1417
	C-1	RETAIL BUSINESS DISTRICT		O-1.2	OVERLAY DISTRICT - SAM R
	C-2	GENERAL COMMERCIAL DISTRICT		CPO	COLLEGE PARK OVERLAY
	CO	OFFICE DISTRICT		A&C	ARTS & CULTURAL OVERLAY
	M-1	LIGHT MANUFACTURING DISTRICT		CBD	CENTRAL BUSINESS DISTRICT
	M-1.5	MEDIUM MANUFACTURING DISTRICT			



1302 S. ELM
REPLAT

ENGINEERING DEPARTMENT



1302 S. ELM





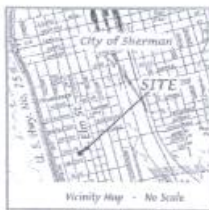
NOTICE: Selling a portion of this addition by metes and bounds is a violation of city ordinance and state law and is subject to fines and withholding of utilities and building permits.



Replat of Lot 4, Block 11 B. H. Moore's Heirs Addition to the City of Sherman, Texas

Owner & Developer

Larry Peterson
8788 Hwy 11
Sherman, Texas



SARTIN & ASSOCIATES, INC.
Registered Professional Land Surveyors
209 S. Travis, P. O. Box 2883 Sherman, Texas 75001-2883
Ph. (903) 897-6003 Fax: (903) 848-7010

SHEET 1 OF 2
PTR20A02.pcs

City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
May 20, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Jason Bethel, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Robin Atherton, Commissioner

1302 South Elm Street
Replat of Lot 4, Block 11, B. H. Moore Heirs Addition
Replat

Requested Action/Proposed Use:

Replat of Lot 4, Block 11, B. H. Moore Heirs Addition

Background

This is a replat dividing an existing tract into two lots.

Adjacent Zoning:

R-1 (One and Two Family Residential) District.

Origination:

Terry Peterson (Owner) and Sartin and Associates, Inc. (Surveyors)

Master Plan Designation:

Residential

Attachments:

Location map
Photographs
Replat
Staff Review

Prepared by:
Rita Gaither,
Planning & Development Coordinator

Approved by:
Scott Shadden,
Director of Developmental Services

STAFF REVIEW LETTER

April 14, 2008

Terry Peterson
1236 Park Place
Sherman, Texas 75092

Dear Applicants,

Your request for approval of a Replat for the property located at 1302 South Elm Street has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, May 20, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to engineering and development guidelines and finds the following items need to be addressed:

1. Original tax certificates shall be furnished for the purpose of recording the plat.
2. Letters from the various utility providers are required verifying availability of service and when service will be available. (City will acquire)
3. Water Pro-Rata in the amount of \$1,425.00 is required.
4. Sewer Pro-Rata in the amount of \$1,235.00 is required.
5. Drive approaches shall conform to City of Sherman standards. Inspection and a permit are required from the City of Sherman Engineering Department.
6. Any other changes made to the replat prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

The Board will not consider a request unless it has representation. You are hereby notified to be present, either in person or by your authorized representative to present your request on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Rita Gaither, Development Coordinator at 903-892-7212 prior to the meeting.

Respectfully,

Mark Gibson
Director of Utilities & Engineering

CC: George Olson, City Manager
 Scott Shadden, Director of Development Services
 Doreen E. McGookey, City Attorney
 Rita Gaither, Development Coordinator
 Sartin & Associates, P.O. Box 1843, Sherman, Texas 75091

 Danny Fuller, Fire Marshal
 Jeff Miller, Director of Public Works
 James Shankles, Jr., P.E., City Engineer
 Angela Gurley, Customer Service Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. D.6

*** OTHER BUSINESS**

**Final Plat Approval of The Medicine Shoppe, a Replat of Lots 1 and 2, Block 1
of W.M. Shannon's Supplement; Randy and Joanna Bennett, Owners
(1622 and 1624 North Travis Street)**

Issue

To consider Final Plat approval of The Medicine Shoppe, a Replat of Lots 1 and 2, Block 1 of W.M. Shannon's Supplement

Background

The property is located at the southwest corner of Texas and Travis Streets. The owners would like to replat this property into one lot to construct a Medicine Shoppe Pharmacy.

Origination

Randy and Joanna Bennett (Owners) and Sartin & Associates (Surveyor)

Board Recommendation

At the May 20, 2008 regular meeting, the Planning and Zoning Board voted unanimously to recommend to the City Council that the Final Plat be approved.

Attachments

Location Map

Photos

Plat

P&Z Communication

Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager



LEGEND

	R-A	SINGLE FAMILY AGRICULTURAL DISTRICT		M-2	HEAVY MANUFACTURING D
	SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT		M H	MANUFACTURED HOUSING
	R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT			BLALOCK INDUSTRIAL PARK
	R-2	MULTI-FAMILY RESIDENTIAL DISTRICT		O-1	OVERLAY DISTRICT - 75 & 8:
	C-1	RETAIL BUSINESS DISTRICT		O-1.1	OVERLAY DISTRICT - 1417
	C-2	GENERAL COMMERCIAL DISTRICT		O-1.2	OVERLAY DISTRICT - SAM R
	C O	OFFICE DISTRICT		CPO	COLLEGE PARK OVERLAY
	M-1	LIGHT MANUFACTURING DISTRICT		A&C	ARTS & CULTURAL OVERLA
	M-1.5	MEDIUM MANUFACTURING DISTRICT		CBD	CENTRAL BUSINESS DISTRI



1622 & 1624 N. TRAVIS STREET
FINAL PLAT

ENGINEERING DEPARTMENT



1622, 1624 N. TRAVIS



NOTICE: Being a portion of this addition by metes and bounds it is subject to city ordinances and state law and is subject to fees and withholding of utilities and assessments.



THE MEDICINE SHOP ADDITION to the CITY of SHERMAN Grayson County, Texas



Owner & Developer
Bandy Bennett &
Joanna Bennett

SARTIN & ASSOCIATES, INC.
Registered Professional Land Surveyors
1003 Travis, P.O. Box 1883 Sherman, Texas, 75091 (204) 930-8000 Fax: (204) 930-8000

SHEET 1 OF 2
TEAM 7/2/01

City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
May 20, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Jason Bethel, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Robin Atherton, Commissioner

1622 and 1624 North Travis Street
Being part of Lots 1 & 2, Block 1, W.M. Shannon Supplement
Final Plat

Requested Action/Proposed Use:

Final Plat of the Medicine Shoppe Addition.

Background

This is the final plat for property currently zoned C-1 (Retail Business) District.

Adjacent Zoning:

R-1 (One and Two Family Residential) District, C-1 (Retail Business) District, and C-O (Office) District.

Origination:

Randy and Joanna Bennett (Owners) and Sartin & Associates (Surveyor).

Master Plan Designation:

Residential

Attachments:

Location map
Photos
Final Plat
Staff Review Letter

Prepared by:
Rita Gaither,
Planning & Developmental Coordinator

Approved by:
Scott Shadden,
Director of Developmental Services

STAFF REVIEW LETTER

April 14, 2008

Randy Bennett
Joanna Bennett
364 W. Acres Road
Whitesboro, TX 76273

Dear Applicants,

The request for approval of a Final Plat of the Medicine Shoppe Addition concerning the property located at 1622 and 1624 North Travis Street has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, May 20, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to engineering and development guidelines and finds the following items need to be addressed:

1. Field notes shall be corrected to agree with drawing on last call.
2. Original tax certificates shall be furnished for the purpose of recording the plat.
3. Letters from the various utility providers are required verifying availability of service and when service will be available. (City will acquire)
4. Any other changes made to the final plat prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

The Board will not consider a request unless it has representation. You are hereby notified to be present, either in person or by a legally authorized representative to present your case on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Rita Gaither, Development Coordinator at 903-892-7212 prior to the meeting.

Respectfully,

Mark Gibson
Director of Utilities and Engineering

CC:	George Olson, City Manager	Jeff Miller, Director of Public Works
	Rita Gaither, Development Coordinator	Danny Fuller, Fire Marshal
	Doreen E. McGookey, City Attorney	Sartin & Associates Survey Company, P.O. Box 1843, Sherman, Texas 75090



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. D.7

CITIZEN REQUESTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. D.8

MEDIA QUESTIONS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. D.9

COUNCIL COMMENTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. E.1

EXECUTIVE SESSION

**In Accordance with Chapter 551, Government Code, V.T.C.S. (Open Meetings Law),
“The City Council Will Now Hold a Closed Executive Meeting Pursuant to the Provisions
of the Open Meetings Law, Chapter 551, Government Code, Vernon’s Texas Codes
Annotated, in Accordance with the Authority Contained in the Following Sections”**

**Section 551.074 Consider the Qualifications, Appointment and Removal
of Members to Boards and Commissions:
a) Planning and Zoning Commission (1)**

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. F.1

OPEN MEETING

**Reconvene into Open Meeting and consider action, if any,
on items discussed in Executive Session**

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. F.2

ADJOURNMENT

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 7-7-2008

Subject: Agenda Item No. N/A

COUNCIL CALENDAR

2008
CITY COUNCIL MEETINGS

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

JULY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

AUGUST

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
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DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

01/21/08 - M.L.K., Jr. Birthday - Called Council Meeting on 01/22/08
02/29/08 - 12:00 Noon Called Meeting with Chamber Board
05/10/08 - City Council Election
05/13/08 - 12:00 Noon Called Meeting to Canvass Election Results
05/22/08 - 6:00 PM Called Meeting for Comprehensive Plan Community Forum
05/29/08 - 6:00 PM Called Meeting for Comprehensive Plan Community Forum
06/10/08 - 12:00 Noon Budget Planning Meeting in Council Chambers
07/17-18/08 - Budget Workshop in Council Chambers
09/01/08 - Labor Day - Called Council Meeting on 09/02/08