



The City of Lago Vista

To provide and maintain a healthy, safe, vibrant community, ensuring quality of life.

AGENDA CITY COUNCIL SPECIAL CALLED MEETING THURSDAY, JULY 7, 2016

NOTICE IS HEREBY GIVEN that the Lago Vista City Council will hold a Special Called Meeting on Thursday, July 7, 2016, at 6:30 p.m. in the City Council Chambers at City Hall, 5803 Thunderbird, Lago Vista, Texas, as prescribed by V.T.C.A., Government Code Section §551.041, to consider the following agenda items. Items do not have to be taken in the same order as shown in the meeting notice.

CALL TO ORDER, CALL OF ROLL, PLEDGE OF ALLEGIANCE

CITIZEN COMMENTS: In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

PUBLIC HEARING

1. **SUB 1093-** Consideration of the City Council of a replat in Highland Lakes Estates Section 16 Lots 16069-16072 from a total of four (4) existing lots to six (6) lots.
2. **ZON 1055** – Consideration of the City Council on ZON-1055; A petition to use a deck extension as a carport located at 21628 High Dr. (Lot 1596 Country Club Estates Sec 8).

ACTION ITEMS

3. Discussion and possible action regarding award of construction contract for WTP #1 Improvements to Excel Construction Services in the amount bid of \$634,050.00.
4. Discussion and consideration of designating a Film Friendly City and Approval of Ordinance No. 16-07-07-01, An Ordinance of the City of Lago Vista, Adding Section 4.600 to Article 4.000, Business Related Fees of Appendix A of the Code of Ordinances to Add Fees from Use of City Property for Filming; Adding Section 4.1100 to Chapter 4 of the Code of Ordinance to Provide for Guidelines and Documents for Filming on City Property; Providing for Severability, An Open Meeting Clause, and Effective Date; and Providing for Other Related Matters.

5. Discussion and consideration of Ordinance No. 16-07-07-02, An Ordinance of the City Council of the City of Lago Vista, Texas, granting a Transmission and Distribution Electric Utility Franchise to Pedernales Electric Cooperative, Inc. for a ten year term commencing on the effective date; containing various terms and conditions with regard to the grant of such franchise; containing a severability clause; providing for the repeal of any and all kinds of ordinances, regulations, rules, or policies that are in conflict with this Ordinance; and providing an effective date.

CONSENT AGENDA

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

6. Approval of the following minutes:

May 19, 2016 Regular meeting;
June 2, 2016 Special Called meeting
June 16, 2016 Regular meeting

WORK SESSION

7. Update from Nelisa Heddin, Heddin Consulting, on the Annual Water/Wastewater Utility Rate Study.
8. Discussion of Proposed Revised Personnel Policies and Procedures Manual.
9. Discussion of the Report and Recommendations from the CAPMetro Study Committee.
10. Reports/Minutes from City Boards, Committees and Commissions.
 - a. May 26, 2016 DRAFT Planning & Zoning minutes
 - b. June 21, 2016 CAPMetro minutes
11. Presentation of Proposed FY 16/17 Budget.

FUTURE MEETINGS

12. Consider schedule and items for future Council meetings.

EXECUTIVE SESSION

13. Convene into Executive Session pursuant to Sections 551.071 (Advice of Counsel), 551.072 (Real Property), 551,074 (Personnel), Texas Government Code and Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:
- A. Consultation with legal counsel regarding real property and possible issues and questions related to acquisition, sale or lease.
 - B. Consultation with legal counsel regarding contractual claims or possible claims or charges, contractual modifications, and questions related thereto.
 - C. Pending or threatened litigation pertaining to Cause No. D-1-GN-16-002483, *Brian Atlas v. City of Lago Vista*, Travis County 200th District Court.
 - D. Consider, conduct and discuss the City Manager’s performance evaluation.

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

14. Reconvene from Executive Session into open session to take action as deemed appropriate in City Council’s discretion regarding:
- A. Consultation with legal counsel regarding real property and possible issues and questions related to acquisition, sale or lease.
 - B. Consultation with legal counsel regarding contractual claims or possible claims or charges, contractual modifications, and questions related thereto.
 - C. Pending or threatened litigation pertaining to Cause No. D-1-GN-16-002483, *Brian Atlas v. City of Lago Vista*, Travis County 200th District Court.
 - D. Action pertaining to City Manager performance evaluation.

ADJOURNMENT

IT IS HEREBY CERTIFIED that the above Notice was posted on the Bulletin Board located at all times in City Hall in said City at _____ on the 1st day of July, 2016.

Sandra Barton, City Secretary

THIS MEETING SHALL BE CONDUCTED PURSUANT TO THE TEXAS GOVERNMENT CODE SECTION 551.001 ET SEQ. AT ANY TIME DURING THE MEETING THE COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION ON ANY OF THE ABOVE POSTED AGENDA ITEMS IN ACCORDANCE WITH THE SECTIONS 551.071, 551.072, 551.073, 551.074, 551.075 OR 551.076.

THE CITY OF LAGO VISTA IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST.

REMOVED FROM

BULLETIN BOARD:

Date: _____

Time: _____

By: _____

MEETING DATE: July 7, 2016

AGENDA ITEM: CALL TO ORDER, CALL OF ROLL, PLEDGE OF ALLEGIANCE

Comments:

ADJOURN:

Motion by: _____

Seconded by: _____

Content of Motion: _____

Vote: Raley _____ ; **Sullivan** _____ ; **Tidwell** _____ ; **R. Smith** _____ ;

Mitchell _____ ; **S. Smith** _____ ; **Cox** _____

Motion Carried: Yes _____ ; **No** _____

MEETING DATE: July 7, 2016

AGENDA ITEM: CITIZEN COMMENTS

Comments:

Motion by: _____

Seconded by: _____

Content of Motion: _____

Vote: Raley _____ ; **Sullivan** _____ , **Tidwell** _____ ; **R. Smith** _____ ;

Mitchell _____ ; **S. Smith** _____ ; **Cox** _____

Motion Carried: Yes _____ ; **No** _____



AGENDA ITEM

City of Lago Vista

To: Mayor & City Council Council Meeting: July 7, 2016

From: David Harrell, AICP, Director

Subject: Consideration of a re-plat in Highland Lakes Estates Section 16 Lots 16069 – 16072 from a total of four (4) existing lots to six (6) lots.

Request: Public Hearing Legal Document: Legal Review:

EXECUTIVE SUMMARY:

Please see attached staff report

The Planning & Zoning Commission at their June 23, 2016 meeting recommended unanimous approval of the item.

Impact if Approved:

Applicant can record the document with the County

Impact if Denied:

Applicant cannot record the document with the County

Is Funding Required? Yes No **If Yes, Is it Budgeted?** Yes No N/A

Indicate Funding Source:

N/A

Suggested Motion/Recommendation/Action

Motion to:

Approve Item

Motion to:

Deny Item

Motion to:

Table Item

Known As:

SUB-1093

Agenda Item Approved by City Manager



Development Services Department

STAFF REPORT

Application for Replat
File Number: SUB 1093

Date: June 16, 2016

Applicant: Red Cardinal, LLC

Hearing Dates: Planning & Zoning Commission – June 23, 2016
City Council – July 7, 2016

Location: Site is located along Continental Dr.

Request: The applicant seeks a re-plat in Highland Lakes Estates Section 16 Lots 16069 – 16072 from a total of four (4) existing lots to six (6) lots

TECHNICAL REVIEW

The Development Services Department has routed this request to all appropriate reviewing departments. There are no outstanding comments. In the case that the replat is approved, all site engineering, drainage and required infrastructure improvements will be reviewed pursuant to the established Development Review Process to ensure that the Development has met all applicable Federal, State and local regulations and permitting requirements. No permits authorizing Development shall be issued prior to compliance with all applicable regulations.

PLANNING AND ZONING DIVISION COMMENTS

This item was recommended tabling on August 13, 2015 and actually tabled by City Council on August 20, 2015 due to outstanding Staff comments concerning Plat not meeting City Code standards. The applicant has corrected this Plat and Staff has signed off all comments associated with the application.

The applicant has proposed a replat for a portion of Highland Lake Estates to increase the number of lots for four (4) to six (6) lots.

STAFF RECOMMENDATION

Recommend approval of the Plat.

ATTACHMENTS

Additional information is provided through attached exhibits.

1. Application
2. Originally Approved Plat
3. Proposed Replat
4. Maps

Attachment 1
Application



CITY OF LAGO VISTA DEVELOPMENT SERVICES

5803 THUNDERBIRD SUITE 103 * PO BOX 4727 LAGO VISTA, TX. 78645
512-267-5259 FAX 512-267-5265

PLAT APPLICATION

Request is for:

Amended Plat Re-Plat Minor Plat Preliminary Plat Final Plat
 Vacating Plat

Property owner's name: Red Cardinal, LLC

Mailing address: 11675 Jollyville Rd #102 Austin, Tx 78759
Number & Street City State Zip code

Phone: (512) 401-9067 (512) 922-3260 (512) 401-9062
Day time Cell Fax

Surveyor/Engineer: Waterloo Surveyors Inc Brian Sumner
Name of Company Contact person

Phone: (512) 481-9602 (512) 330-1621
Office Fax

Name of Proposed Project/Subdivision: Re-subdivision of Lots 16069-16070-16071 & 16072, Highland Lake Estates, Section-16.

Complete Legal Description of the Proposed Property

Tax Parcel ID #: 159604, 159605, 159606, 159607 Subdivision: Highland Lake Estates

Lot Number(s): 16069, 16070, 16071, 16072 Section: 16 Block:

Number and Street Address: 20213, 20209, 20205, 20201 Continental Dr.

Deed is recorded in Volume: Page: of Travis County Records.

I authorize the following person/company to act in my behalf as my designated agent:
Name of agent/company: GREG BILLINGS, BROKER GREG BILLINGS
Name of Company Name of Contact

Phone Numbers: (512) 963-1130
Day time Cell Fax
EMAIL: GREG.LAKE@AOL.COM

Signature of Applicant: Robert Guinnings Date: 6-24-15

I voluntarily waive my right to consideration by the Planning & Zoning Commission within 30 days of this application and consideration by the City Council within 60 days of this application.

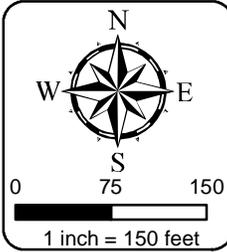
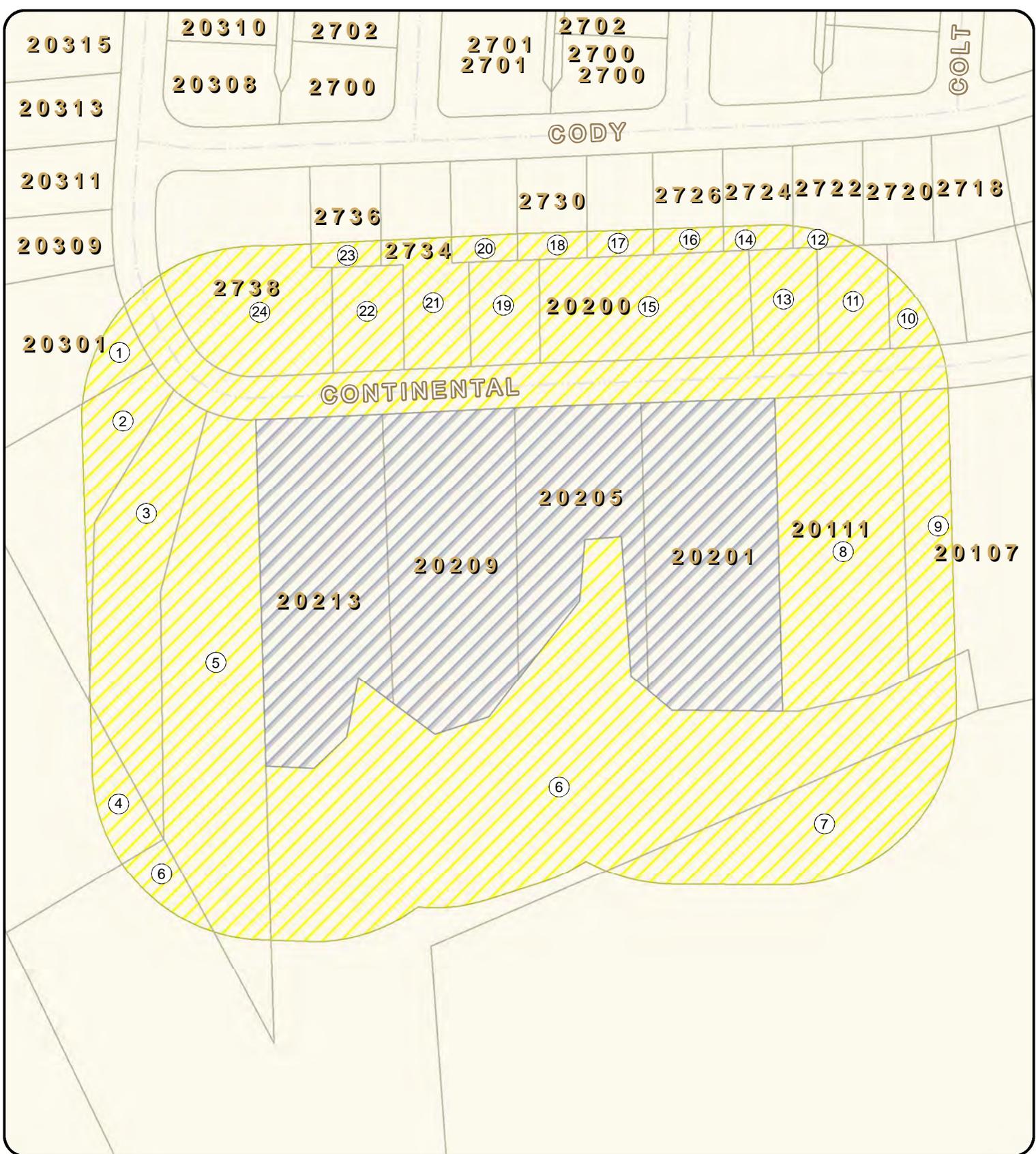
Signature of Applicant: Robert Guinnings Date: 6-24-15

Attachment 2
Originally Approved Plat

Attachment 3
Proposed Replat

Attachment 5

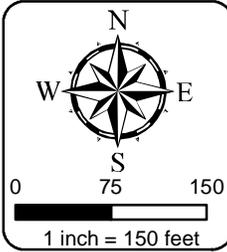
Maps



Continental Dr Lots: 16069-16072			
Request Type:	Replat	Project:	SUB-1093
Change Requested:	Plat Amendment	Date:	7/30/2015
Map Purpose:	200' Buffer	Drawn By:	CM
<small>While every effort has been made to ensure the accuracy of this data, this map is to be used for reference purposes only. This data should not be construed as a survey instrument. No responsibility is assumed by the author for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.</small>			

Legend

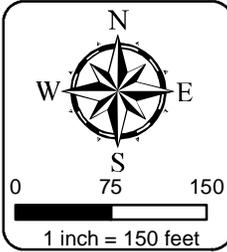
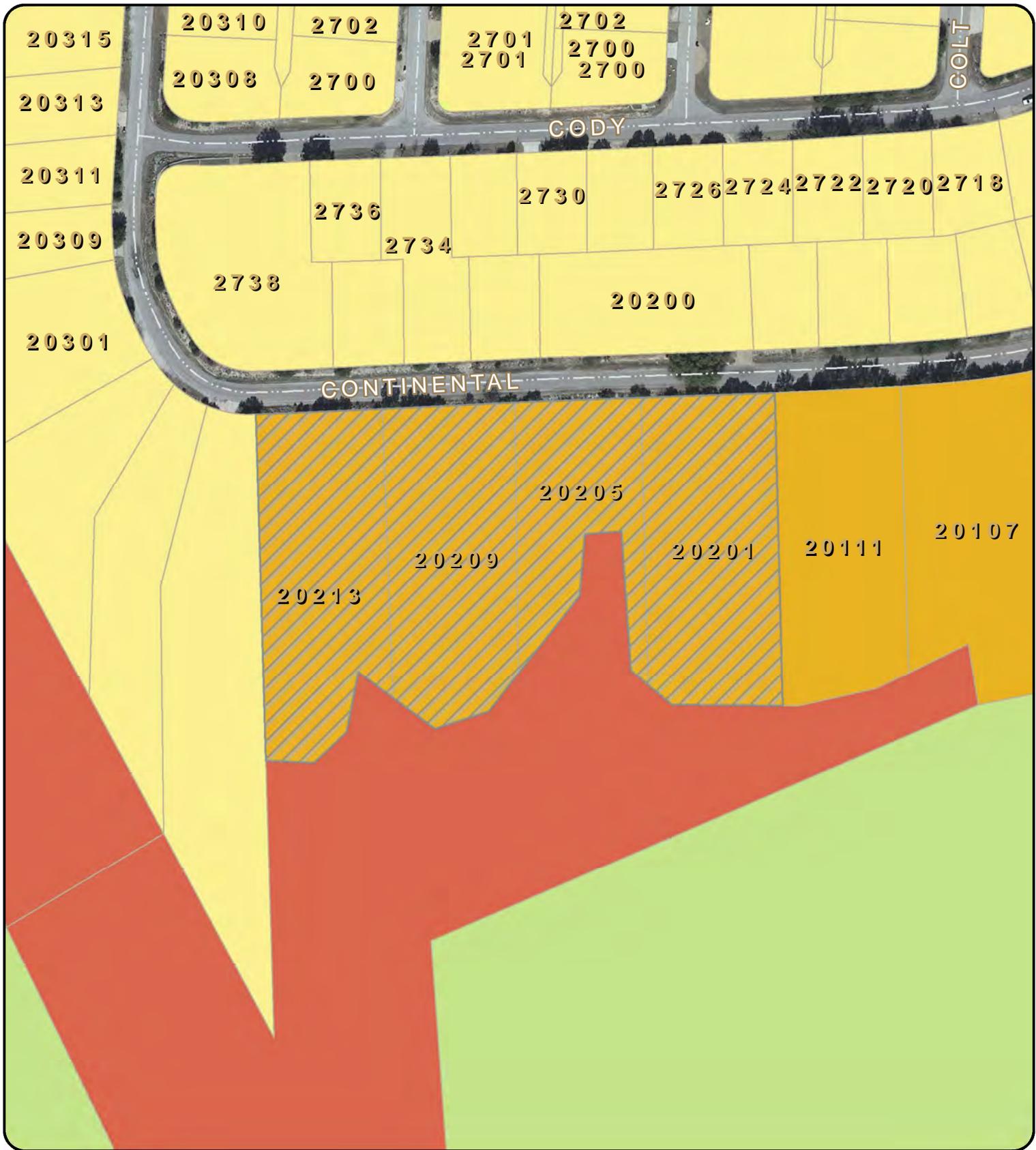
- Requestor
- Owner Parcels
- 200' Buffer



Continental Dr Lots: 16069-16072		
Request Type:	Replat	Project: SUB-1093
Change Requested:	Plat Amendment	Date: 7/30/2015
Map Purpose:	Aerial & Topo	Drawn By: CM
<small>While every effort has been made to ensure the accuracy of this data, this map is to be used for reference purposes only. This data should not be construed as a survey instrument. No responsibility is assumed by the author for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.</small>		

Legend

- 20' Contours
- Requestor
- Owner Parcels



Continental Dr Lots: 16069-16072			
Request Type:	Replat	Project:	SUB-1093
Change Requested:	Plat Amendment	Date:	7/30/2015
Map Purpose:	Zoning Map	Drawn By:	CM
<small>While every effort has been made to ensure the accuracy of this data, this map is to be used for reference purposes only. This data should not be construed as a survey instrument. No responsibility is assumed by the author for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.</small>			

Legend

- Requestor
- Owner Parcels

Zoning Classification

- C-3
- P-1A
- R-1C
- R-4



City of Lago Vista
Development Services
 5803 Thunderbird Ste.103
 PO Box 4727 Lago Vista, TX 78645
 (512)267-5259 Office (512)267-5265 Fax

ID: # 15
 HUROSKY MICHAEL J & TAMBERLY D
 20200 CONTINENTAL DR
 LAGO VISTA TX 78645

Site Address: 20200 Continental Dr

Public Hearing

The City of Lago Vista Planning and Zoning Commission will hold a Public Hearing on August 13th, 2015 at 7:00 PM in the Council Chambers at City Hall, located at 5803 Thunderbird, Lago Vista, Texas to receive citizen input on the following with possible action to be taken:

SUB 1093 - Recommendation of the Planning & Zoning Commission of a replat in Highland Lakes Estates Section 16 Lots 16069 – 16072 from a total of four (4) existing lots to six (6) lots.

The City of Lago Vista City Council will hold a Public Hearing on August 20th, 2015 at 6:30 PM in the Council Chambers at City Hall, located at 5803 Thunderbird, Lago Vista, Texas to receive citizen input on the following with possible action to be taken:

SUB 1093 - Consideration of the City Council of a replat in Highland Lakes Estates Section 16 Lots 16069 – 16072 from a total of four (4) existing lots to six (6) lots.

You are receiving this notice because you own property within 200 feet of the area proposed for rezoning. All interested persons are invited to attend. If you are unable to attend but wish to comment, please list your comments below and return to the address above.

You may return this form with comments below.

In favor

Opposed

Comments:

PLEASE SEE ATTACHED

Signed:

Michael
Tamberly Hursey

[Signature]

8-6-2015

Michael and Tamberly Hurosky

20200 Continental Drive

Lago Vista Texas, 78645

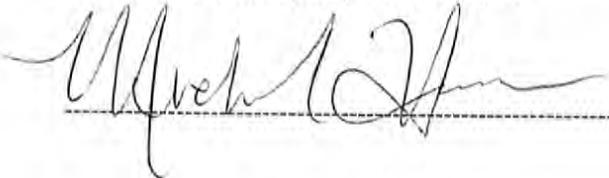
Lake lot hearing answer:

SUB 1093 –Consideration of the City Council of a replat in Highland Lake Estates Section 16 Lots 16069-16072 from total of four (4) existing lots to six (6) lots.

Opposed

We would agree to a Zone change from Multi Family to Single Family and allowing the lots to be changed from 4 to 6. BUT we do not agree that the 4 lots be subdivided into "residential size" lots from 120ft to 80 ft and city approve for Multifamily housing like duplex, Fourplex, or condos. Lake frontage lots SHOULD be larger as we built our house on 2 lots (160 ft) because "estate size lots" not Multi-Family lot should be in this "Residential area" of Highland Lake Estates. Just down the road is the defunct Lago Vista Resort which remains multi housing in a properly zoned area. This is where condos should be built.

It was previously determined that these lots are not safe to build multi-family housing due to the location of the flood plain and since these lots are all located below 723' MSL, "egress" would be safety factor of rescuing home owners, or renters in the case of a flood. The lake recently came up 30 ft in 30 days, so all of these lots and accessibility would be limited. Recent rain & deaths at the Wimberley Riverside rental property is an example.



8/5/2015



8/5/15



City of Lago Vista
Development Services
 5803 Thunderbird Ste.103
 PO Box 4727 Lago Vista, TX 78645
 (512)267-5259 Office (512)267-5265 Fax



ID: # 14 & 17
 MICHALAK GLENN P & DORIS
 16002 KEVINDALE CT
 JERSEY VILLAGE TX 77040

Site Address: 2724 & 2728 Cody Ave

Public Hearing

The City of Lago Vista Planning and Zoning Commission will hold a Public Hearing on August 13th, 2015 at 7:00 PM in the Council Chambers at City Hall, located at 5803 Thunderbird, Lago Vista, Texas to receive citizen input on the following with possible action to be taken:

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You are receiving this notice because you own property within 200 feet of the area proposed for rezoning. All interested persons are invited to attend. If you are unable to attend but wish to comment, please list your comments below and return to the address above.

You may return this form with comments below.

- In favor
- Opposed

Comments:

We would only be in favor of increasing the size of lots NOT decreasing. The area does NOT need to be over built with a increase in more lots
 NOT IN FAVOR OPPOSED:

Signed: Glenn Michalak Doris Michalak



City of Lago Vista
Development Services
5803 Thunderbird Ste.103
PO Box 4727 Lago Vista, TX 78645
(512)267-5259 Office (512)267-5265 Fax

ID: # 24

SITE: 2738 Cody Ave

FOSKET ROBERT A
2738 CODY AVE
LAGO VISTA TX 78645

Public Hearing

The City of Lago Vista Planning and Zoning Commission will hold a Public Hearing on June 23rd, 2016 at 7:00 PM in the Council Chambers at City Hall, located at 5803 Thunderbird, Lago Vista, Texas to receive citizen input on the following with possible action to be taken:

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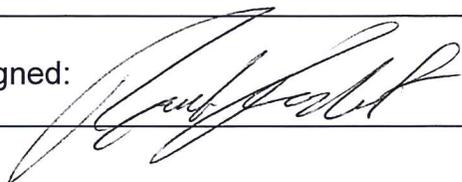
You may return this form with comments below.

In favor

Opposed

Comments:

Signed:





City of Lago Vista
Development Services
 5803 Thunderbird Ste.103
 PO Box 4727 Lago Vista, TX 78645
 (512)267-5259 Office (512)267-5265 Fax

ID: # 14 & 17

SITE: 2724 & 2728 Cody Ave

MICHALAK GLENN P & DORIS
 16002 KEVINDALE CT
 JERSEY VILLAGE TX 77040

Public Hearing

The City of Lago Vista Planning and Zoning Commission will hold a Public Hearing on June 23rd, 2016 at 7:00 PM in the Council Chambers at City Hall, located at 5803 Thunderbird, Lago Vista, Texas to receive citizen input on the following with possible action to be taken:

SUB 1093 - Recommendation of the Planning & Zoning Commission of a replat in Highland Lakes Estates Section 16 Lots 16069 – 16072 from a total of four (4) existing lots to six (6) lots.

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You may return this form with comments below.

In favor

Opposed

Comments:

This will be favored only by a Developer and/or Real Estate Agency - I don't think the neighbor area should suffer additional "green space" being lost for only a few being rewarded

Signed:

Glenn Michalak
 713 553 4871

I oppose this replat
 Second. proposal for this replat



AGENDA ITEM

City of Lago Vista

To: Mayor & City Council Council Meeting: July 7, 2016

From: David Harrell, AICP, Director

Subject: Consideration of a conditional use from Chapter 14, Article 14.200, Section 6.10 in order to allow a proposed deck extension as a carport

Request: Public Hearing Legal Document: Legal Review:

EXECUTIVE SUMMARY:

Please see attached staff report

The Planning & Zoning Commission at their June 23, 2016 meeting recommended unanimous approval of the item with the following condition:

The deck structure extension is to be constructed of the same materials, painted the same colors, and stay the existing height of the decking shown in attachment 3.

Impact if Approved:

Applicant can continue through permitting to use the future deck extension as a carport.

Impact if Denied:

Applicant cannot continue through permitting to allow for the deck.

Is Funding Required? Yes No **If Yes, Is it Budgeted?** Yes No N/A

Indicate Funding Source:

N/A

Suggested Motion/Recommendation/Action

Motion to:

Approve Item

Motion to:

Deny Item

Motion to:

Table Item

Known As:

ZON-1055

Agenda Item Approved by City Manager



Development Services Department

STAFF REPORT

Application for Conditional Use

File Number: ZON 1055

Date: June 16, 2016

Applicant: James & Cathryn Gravatt

Representative: SAME

Hearing Dates: Planning & Zoning Commission – June 23, 2016
City Council – July 7, 2016

Location: 21628 High Dr.

APPLICATION SUMMARY

Recommendation by PZC and future consideration by Council of a conditional use from Chapter 14, Article 14.200, Section 6.10 in order to allow a proposed deck extension as a carport.

TECHNICAL REVIEW

The Development Services Department has reviewed this request and there are no outstanding comments/issues. In the case that the conditional use is approved, all improvements will be reviewed pursuant to the established Development Review Process to ensure that the Development has met all applicable Federal, State and local regulations and permitting requirements. No permits authorizing Development shall be issued prior to compliance with all applicable regulations.

DEVELOPMENT REVIEW DEPARTMENT COMMENTS

The applicant originally filed a miscellaneous permit application (Permit #2609) to build the proposed deck but the plans were stopped by the City since there is a driveway shown under the deck (see attachment 2). This would make the deck a carport and based on the zoning it is required to get a conditional use to exist.

Under Chapter 14, Article 14.200, Section 17 the purpose of a Conditional Use permit for accessory uses and structures is to provide the Commission and the Council with an opportunity for careful review of uses or structures which may or may not be appropriate in a particular location depending on a balancing, in each case, of the private need and benefits against the impact and effect on an area or neighborhood.

Staff believes the carport will complement the existing home better than a garage because it won't increase the perceived building mass at the street; since a carport is more open and is a structure versus a garage which is enclosed and a building. Since it is a structure it would not need to meet the minimum 400 square foot floor area size of a building. The present structure size would be 320 square feet. However in order to

minimize the impact and effect on a neighborhood with garages, the structures aesthetics must be taken into consideration. Staff believes the regulations to restrict carports by right are in place to protect the aesthetics of an area. If the extension of the deck structure were to consist of the same materials, painted the same colors, and stay the existing height of the existing decking this would be of a superior aesthetic standard.

FINDINGS OF FACT

Based on a review of the items within City files for this address, the project # ZON-1055, and this Commission/Council packet, staff believes there is no significant impact and effect on the area or neighborhood provided the below condition is met.

Staff would recommend approval of this request with the following condition:

1. The deck structure extension is to be constructed of the same materials, painted the same colors, and stay the existing height of the decking shown in attachment 3.

ATTACHMENTS

Additional information is provided through attached exhibits.

1. Application
2. Site Plan & Deed
3. Photos
4. Maps

Attachment 1
Application



CITY OF LAGO VISTA

Conditional Use Permit

Conditional Use Permit Fee: \$250.00

Applicant Information:

Name: JAMES + CATHRYN GRAVATT

Address: 21628 HIGH DR.

Telephone #: 323-327-5744

Date of Application: 5-24-16

Signature: James P. Gravatt

Request:

Conditional Use Permit is being sought for:

EXTENSION OF DECK OVER DRIVEWAY
NEW DECK ADDITION 16' X 20' TO CREATE
A CARPORT.

Legal Description: _____

(Subdivision) (Section) (Lot)

Please attach a to-scale drawing of the improvements that would be provided. E-MAIL

JGRAVATT46@GMAIL.COM

Attachment 2

Site Plan

JAMES & CATHRYN GRAVATT
21628 HIGH DR.
LAGO VISTA, TX. 78645

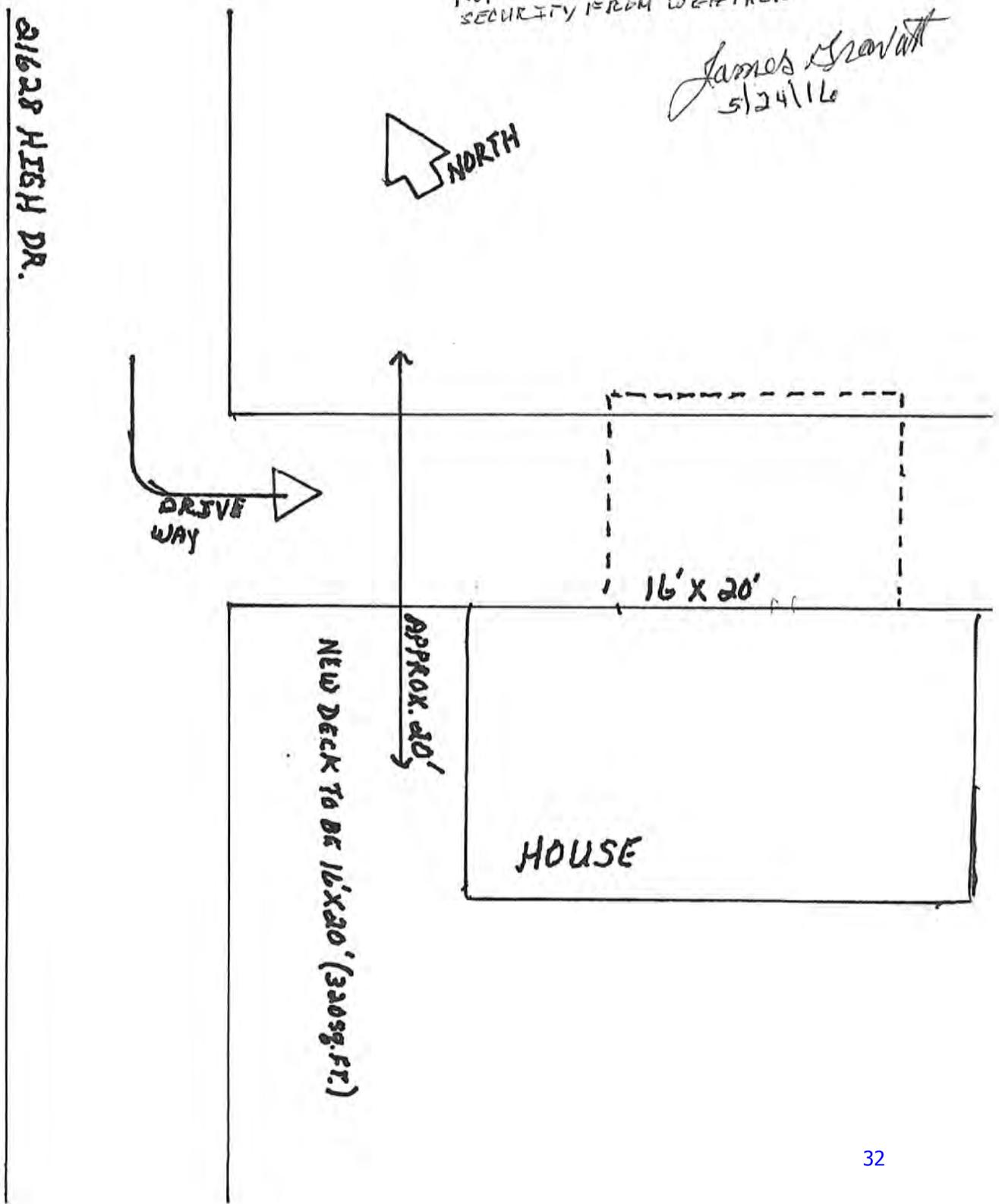
JIM GRAVATT 323-327-5744
CATHRYN GRAVATT 661-333-1932

CONTRACTOR: JOE MORALES, 512-934-3481

1. CAREFUL REVIEW OF USES OF STRUCTURES WHICH MAY OR MAY NOT BE APPROPRIATE IN A PARTICULAR LOCATION DEPENDING ON A BALANCE IN EACH CASE OF THE PRIVATE NEED AND BENEFITS AGAINST THE IMPACT AND EFFECT ON AN AREA OR NEIGHBORHOOD.

REASON: TO ENHANCE BEAUTY OF HOME. TO INCREASE OUTDOOR LIVING SPACE- INCREASE VALUE OF HOME. SECURITY FOR VEHICLES & SECURITY FROM WEATHER

James Gravatt
5/24/16



Attachment 3

Photos

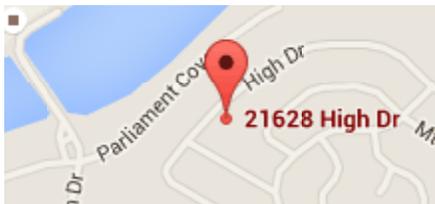
Google Maps High Dr



Image capture: Apr 2011 © 2016 Google

Lago Vista, Texas

Street View - Apr 2011







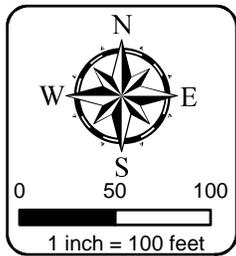
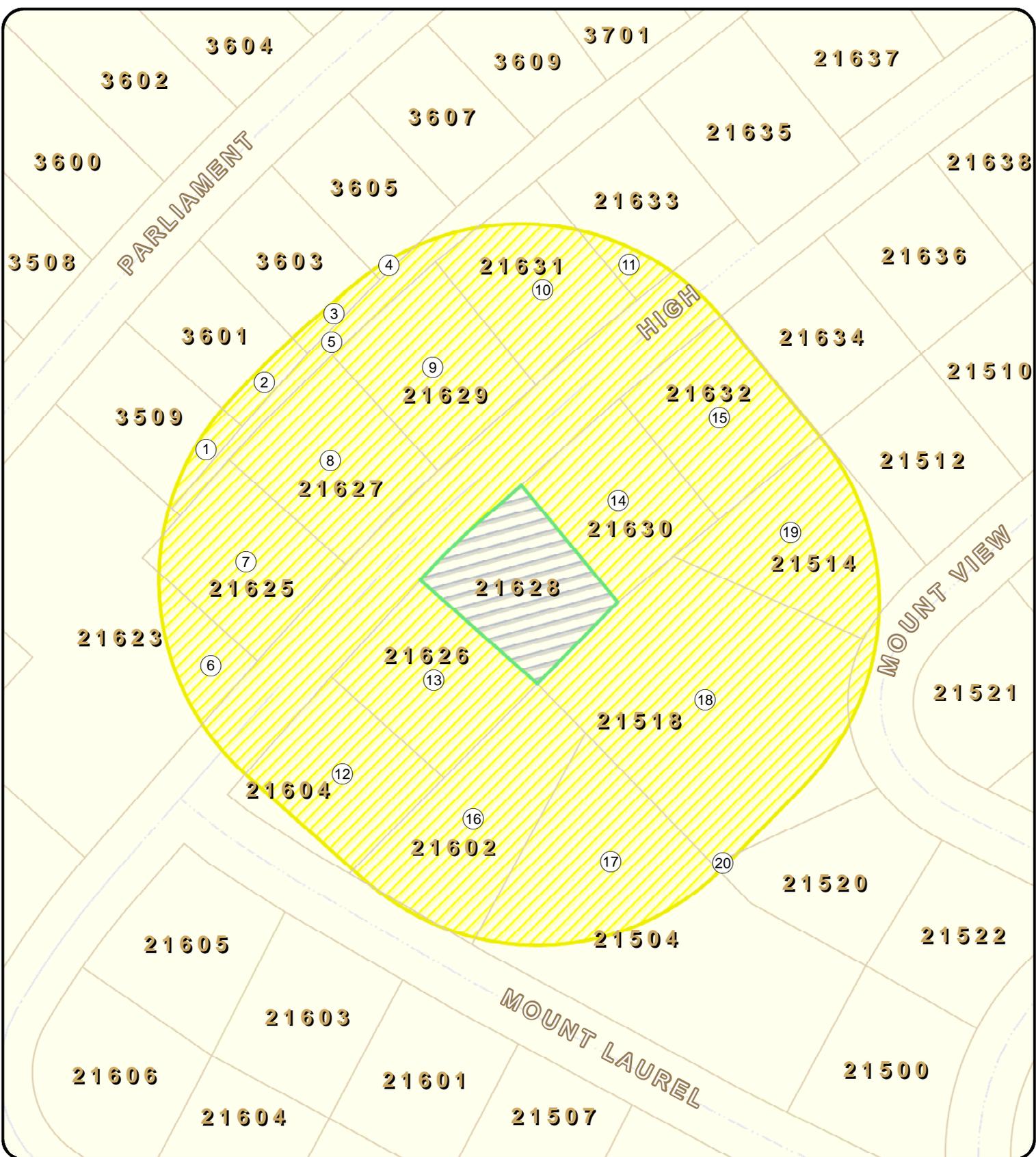






Attachment 4

Maps



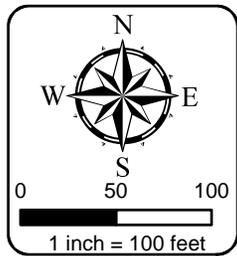
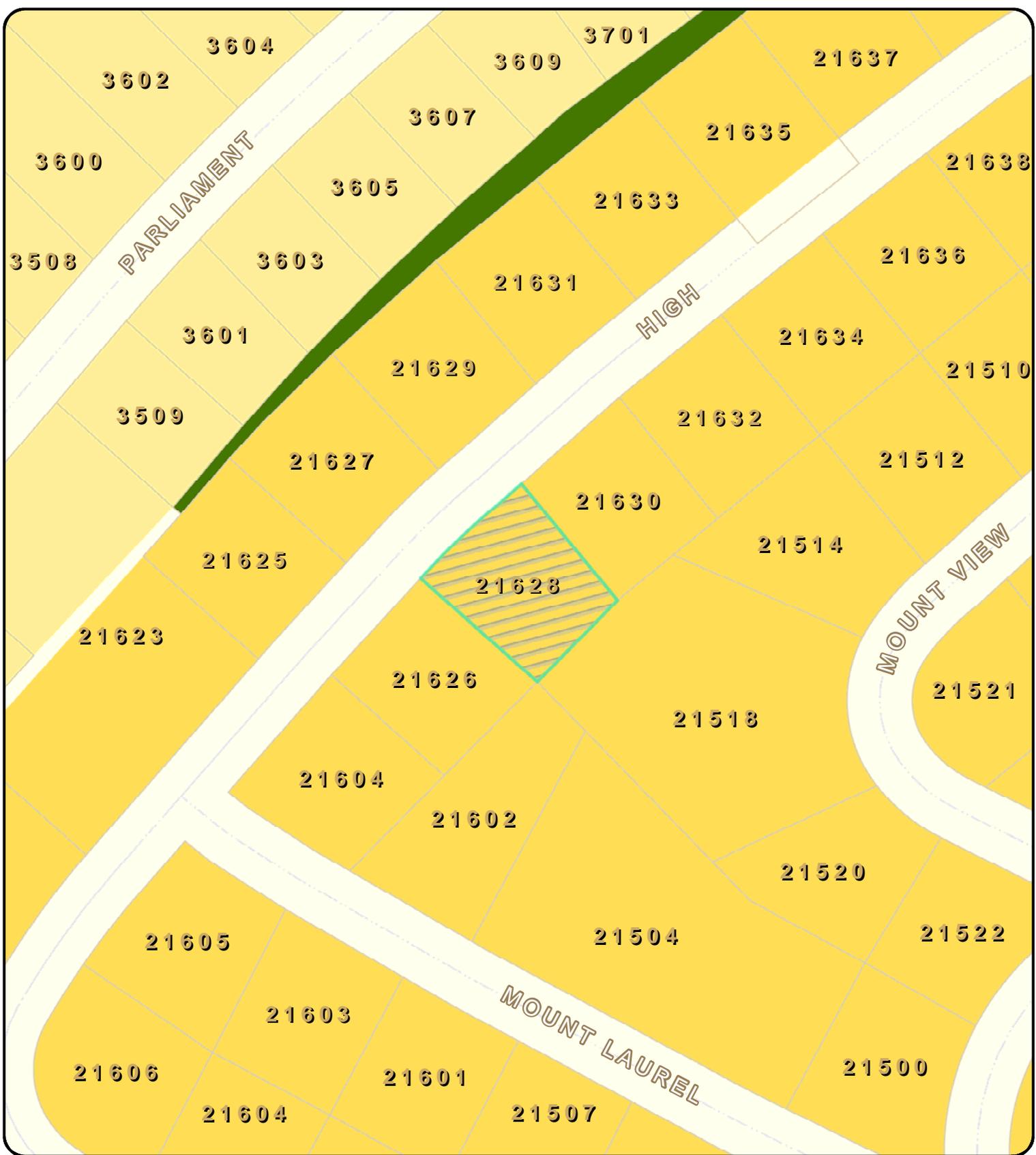
21628 High Dr

Request Type:	Conditional Use	Project:	ZON-1055
Change Requested:	Deck Extension	Date:	08-06-2016
Map Purpose:	200 ft Buffer Map	Drawn By:	CM

While every effort has been made to ensure the accuracy of this data, this map is to be used for reference purposes only. This data should not be construed as a survey instrument. No responsibility is assumed by the author for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.

Legend

-  Requestor
-  Owner Parcels
-  200' Buffer
-  City Limits



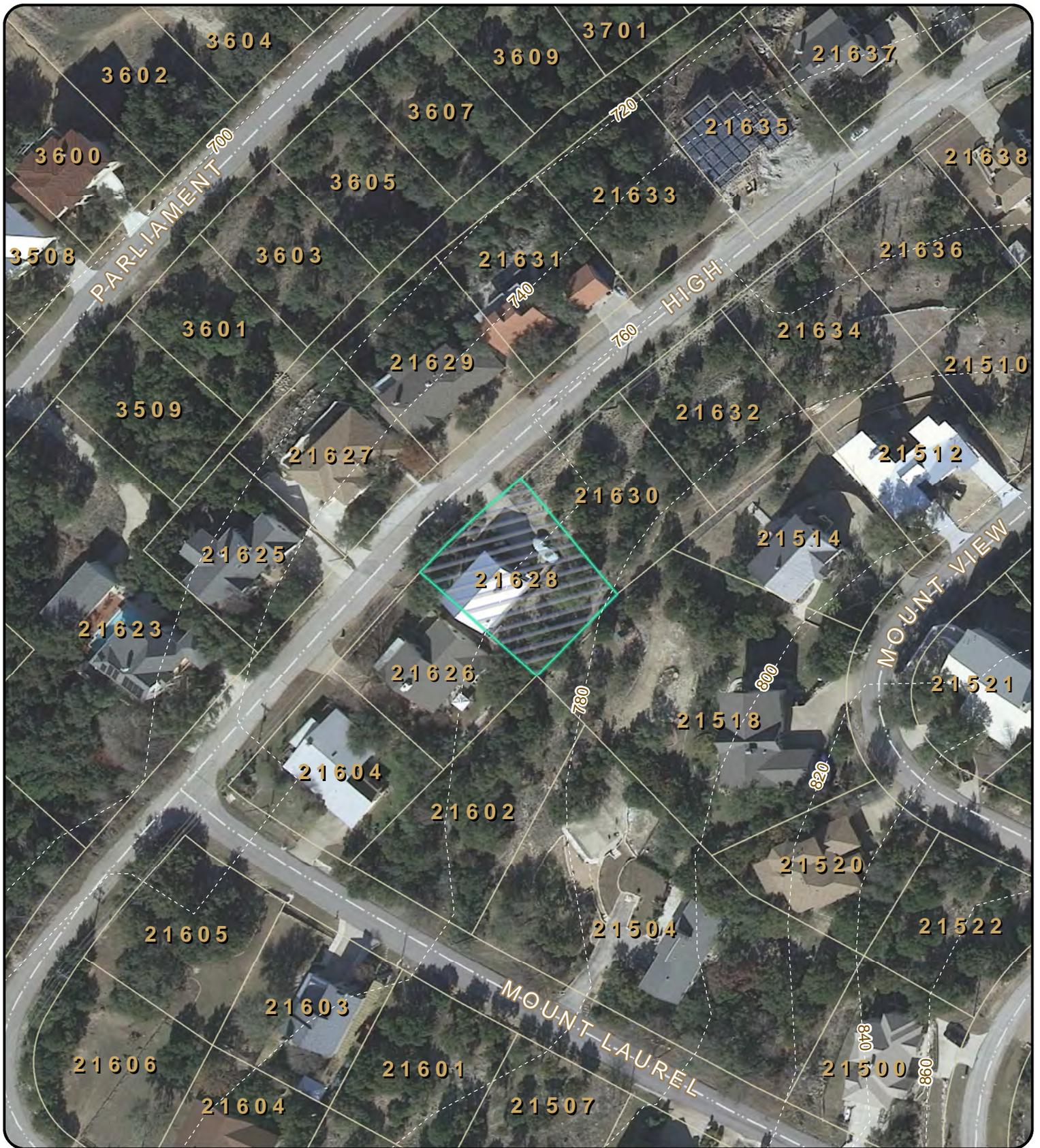
21628 High Dr

Request Type:	Conditional Use	Project:	ZON-1055
Change Requested:	Deck Extension	Date:	08-06-2016
Map Purpose:	Zoning Map	Drawn By:	CM

While every effort has been made to ensure the accuracy of this data, this map is to be used for reference purposes only. This data should not be construed as a survey instrument. No responsibility is assumed by the author for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.

Legend

-  Requestor
-  Owner Parcels
-  City Limits
- Zoning Class**
-  G-1
-  PDD
-  R-1C
-  R-1G
-  R-42



21628 High Dr

Request Type:	Conditional Use	Project:	ZON-1055
Change Requested:	Deck Extension	Date:	08-06-2016
Map Purpose:	Aerial & Topo	Drawn By:	CM

While every effort has been made to ensure the accuracy of this data, this map is to be used for reference purposes only. This data should not be construed as a survey instrument. No responsibility is assumed by the author for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.

Legend

- 20' Contours
- Requestor
- Owner Parcels



0 50 100

1 inch = 100 feet



City of Lago Vista Development Services

5803 Thunderbird Ste.103
PO Box 4727 Lago Vista, TX 78645
(512)267-5259 Office (512)267-5265 Fax

ID: # 8

MATHIS JAY S & SUSANNE T
21627 HIGH DR
LAGO VISTA TX 78645

SITE: 21627 HIGH DR

Notice of Public Hearing

ZON 1055 – Recommendation of the Planning & Zoning Commission on ZON-1055 a petition to use a deck extension as a carport located at 21628 High Dr. (Lot 1596 Country Club Estates Sec 8) on June 23, 2016 at 7:00 P.M. in Council Chambers, Lago Vista City Hall, 5803 Thunderbird St., Lago Vista, TX 78645

ZON 1055 – Consideration of the City Council on ZON-1055 a petition to use a deck extension as a carport located at 21628 High Dr. (Lot 1596 Country Club Estates Sec 8) on July 7, 2016 at 6:30 P.M. in Council Chambers, Lago Vista City Hall, 5803 Thunderbird St., Lago Vista, TX 78645

You are receiving this notice because you own property within 200 feet of the area proposed for rezoning. All interested persons are invited to attend. If you are unable to attend but wish to comment, please list your comments below and return to the address above.

You may return this form with comments on following page..

In favor

Opposed

Comments:

Signed:



AGENDA ITEM

City of Lago Vista

To: Mayor & City Council Council Meeting: July 7, 2016

From: Gary Graham, Public Works Director

Subject: Award of construction contract for WTP #1 Improvements to Excel Construction Services in the amount bid of \$634,050.00.

Request: Business Item Legal Document: Other Legal Review:

EXECUTIVE SUMMARY:

The City received bids for WTP #1 Improvements on June 22, 2016. The project will replace and automate all the filter valves at WTP #1, add air scour to the five (5) "A" side filters, and replace the failing under drains on the "A" side filters. The project will also replace the filter media of all ten filters. The work will be accomplished in late fall to winter. Once this work is complete the City will be able to remove WTP #2 from service. We have funding for the project.

Impact if Approved:

WTP #1 will be improved as needed.

Impact if Denied:

WTP #1 would continue to be in suspect condition. The under drains on the "A" side filters are failing, the filter valves are leaking, the filter media has never been changed.

Is Funding Required? **Yes** **No** **If Yes, Is it Budgeted?** **Yes** **No** **N/A**

Indicate Funding Source:

2014 Tax Notes

Suggested Motion/Recommendation/Action

Motion to:

Approve Item

Motion to:

Motion to:

Known As:

Agenda Item Approved by City Manager

June 28, 2016

City of Lago Vista
P.O. Box 4727
Lago Vista, Texas 78645

Attention: Mrs. Melissa Byrne-Vossmer

Re: City of Lago Vista Water Treatment Plant #1 Improvements
Walker Partners Project No. 3-00531

Dear Mrs. Vossmer:

On June 22, 2016 Four (4) bids were received for the City of Lago Vista Water Treatment Plant #1 Improvements Project. A tabulation of the bids is attached. The low bid was submitted by Excel Construction Services, LLC in the amount of \$634,050.00. The Engineer's Estimate for the work was \$1,000,000.00. The funds are available for this work.

Excel Construction Services, LLC is an established company. Their offices are in Leander, Texas Excel Construction recently completed the WTP #3 Raw Water Intake Project for the City of Lago Vista. Excel Construction Services, LLC is capable of performing the work on this project. Walker Partners recommends award of the contract for construction of the City of the City of Lago Vista Water Treatment Plant #1 Improvements Project to Excel Construction Services, LLC in the amount bid of \$634,050.00. The construction period for the work is 270 calendar days.

Should you have any questions or require additional information please contact us.

Sincerely,


Gary C. Graham, P.E.
Manager

GG:gg

3-00531 Bid Tabulation

Hand Delivered

Cc: Project File
Randal Park Excel Construction

Walker Partners, LLC
Bid Tabulation

City of Lago Vista
Water Treatment Plant No. 1 Improvements
Project No.: 3-00531
Project Manager: Gary Graham, PE
June 22, 2016 2:00PM

Bidders

Item No.	Bid Item Description	Estimated		Excel Construction Services, LLC		Pepper Lawson Waterworks, LLC		Archer Western Construction, LLC		Pipe Works Constructors, LLC	
		Quantities	Measure	Unit Price	Unit Amount	Unit Price	Unit Amount	Unit Price	Unit Amount	Unit Price	Unit Amount
1	Mobilization, Bonds, and Insurance not to exceed 5% of the base bid amount complete in place.	1	LS	30,000.00	30,000.00	40,000.00	40,000.00	40,000.00	40,000.00	49,000.00	49,000.00
2	Demolition and removal of all existing equipment and other features shown for removal on the plans including disposal of the material demolished and/or removed complete in place.	1	LS	35,000.00	35,000.00	40,000.00	40,000.00	35,000.00	35,000.00	50,000.00	50,000.00
3	Supply and installation of Leupold Underdrains in 5 "A" side filters per manufacturers' recommendations complete accepted functioning in place.	1	LS	87,500.00	87,500.00	150,000.00	150,000.00	140,150.00	140,150.00	120,000.00	120,000.00
4	Supply and installation of filter media for "A" side filters complete accepted in place	1	LS	19,200.00	19,200.00	30,000.00	30,000.00	50,000.00	50,000.00	40,000.00	40,000.00
5	Supply and installation of filter media for 5 "B" side filters complete accepted in place	1	LS	19,200.00	19,200.00	30,000.00	30,000.00	55,000.00	55,000.00	45,000.00	45,000.00
6	All electrical equipment, lights, and wiring shown on the plans and/or called for in the specifications for the water treatment plant site furnished and installed complete accepted in place.	1	LS	100,000.00	100,000.00	166,000.00	166,000.00	156,000.00	156,000.00	140,000.00	140,000.00
7	Supply and installation of air scour piping as shown on the plans complete accepted in place.	1	LS	33,600.00	33,600.00	35,000.00	35,000.00	36,000.00	36,000.00	48,000.00	48,000.00
8	3" class 150 butterfly valves with actuators as shown on the plans and called for in the specifications complete accepted in place.	20	EA	4,750.00	95,000.00	4,500.00	90,000.00	5,500.00	110,000.00	7,000.00	140,000.00
9	6" class 150 butterfly valves with actuators as shown on the plans and called for in the specifications complete accepted in place.	10	EA	7,080.00	70,800.00	7,500.00	75,000.00	8,500.00	85,000.00	11,500.00	115,000.00
10	12" class 150 butterfly valves with actuators as shown on the plans and called for in the specifications complete accepted in place.	20	EA	7,187.50	143,750.00	8,000.00	160,000.00	9,500.00	190,000.00	10,000.00	200,000.00
Total Bid					\$634,050.00		\$816,000.00		\$897,150.00		\$947,000.00



AGENDA ITEM

City of Lago Vista

To: **Mayor & City Council** **Council Meeting:** **July 7, 2016**

From: **Melissa Byrne Vossmer, City Manager**

Subject: **Discussion, Consideration and Approval of Ordinance No. 16-07-07-01, An Ordinance of the City of Lago Vista, Adding Section 4.600 to Article 4.000, Business Related Fees of Appendix A of the Code of Ordinances to Add Fees from Use of City Property for Filming; Adding Section 4.1100to Chapter 4 of the Code of Ordinance to Provide for Guidelines and Documents for Filming on City Property; Providing for Severability, An Open Meeting Clause, and Effective Date; and Providing for Other Related Matters.**

Request: **Business Item** **Legal Document:** **Ordinance** **Legal Review:**

EXECUTIVE SUMMARY:

The State of Texas has, since 1971 when the Texas Film Commission in the Governor's Office was created, understood and recognized the economic development potential for the State and cities by supporting the film industry and having a program in place that encourages the industry to utilize Texas. The film industry includes much more than just movies, television and commercials and has expanded to include visual effects, games, videos and animation.

The Texas Film Commission has a program called Film Friendly. There are several components to being certified under this program but start with attending a workshop which Elaine Hughes, Exec. Director Lago Vista - Jonestown Chamber of Commerce, completed in early June. The next step is to adopt filming guidelines for Lago Vista. Attached are the proposed guidelines, application, location agreement and ordinance required to adopt to put this program in place that are recommended by the Texas Film Commission. If approved by the City, all of the information will be submitted to the Texas Film Commission along with the required photos so that Lago Vista is placed in their database used to promote Texas locations as filming destinations. Based on this submittal, the Lago Vista area should received the designation and be added to the database of over seventy-five cities across the State. This standardization of how the film industry will work with cities makes it much easier to understand the expectations upfront and minimizes extended negotiations which saves everyone time and money.

Elaine Hughes will be in attendance at the meeting to answer any questions the City Council may have.

Impact if Approved:

The City of Lago Vista is included in the Texas Film Commission database that will be available when the film industry is looking for location shoots. That could happen naturally but the availability of a comprehensive database is likely to be one of the first stops by representatives looking for the right locations.

Impact if Denied:

The City of Lago Vista is not included in the Texas Film Commission database.

Is Funding Required? Yes No **If Yes, Is it Budgeted?** Yes No N/A

Indicate Funding Source:

The rates included in the ordinance are those recommended by the Texas Film Commission. The opportunity for Lago Vista to be a venue for production could be a possible revenue generator for the City but also for businesses, residential rentals and short term jobs.

Suggested Motion/Recommendation/Action

Motion to:

Motion to:

Motion to:

Known As:

Approval of Ordinance No. ____, An Ordinance of the City of Lago Vista, Adding Section 4.600 to Article 4.000, Business Related Fees of Appendix A of the Code of Ordinances to Add Fees from Use of City Property for Filming; Adding Section 4.1100 to Chapter 4 of the Code of Ordinance to Provide for Guidelines and Documents for Filming on City Property; Providing for Severability, An Open Meeting Clause, and Effective Date; and Providing for Other Related Matters.

Agenda Item Approved by City Manager

ORDINANCE NO. 16-07-07-01

AN ORDINANCE OF THE CITY OF LAGO VISTA, TEXAS, ADDING SECTION 4.600 TO ARTICLE 4.000, BUSINESS RELATED FEES OF APPENDIX A OF THE CODE OF ORDINANCES TO ADD FEES FOR USE OF CITY PROPERTY FOR FILMING; ADDING SECTION 4.1100 TO CHAPTER 4 OF THE CODE OF ORDINANCES TO PROVIDE FOR GUIDELINES AND DOCUMENTS FOR FILMING ON CITY PROPERTY; PROVIDING FOR SEVERABILITY, AN OPEN MEETING CLAUSE, AND EFFECTIVE DATE; AND PROVIDING FOR OTHER RELATED MATTERS.

WHEREAS, the City of Lago Vista, Texas, (the “City”) finds that encouraging the use of the City and City-owned property for appropriate movies, television shows, commercials, and other film projects is positive for the economic health and welfare of the City and its citizens;

WHEREAS, the Texas Film Commission, a department of the Office of the Governor, has developed a Film Friendly program for Texas communities, including document templates, to encourage and standardize the use of Texas locations for film projects; and

WHEREAS, use of City-owned property by a film company, while good for the City’s economic health and welfare, can be an inconvenience to the City’s citizens and requires adequate and appropriate protections for the City and its citizens, including the charging of fees and the use of standard legal documents; and

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

Section 1. Findings of Fact. The findings and recitations set out in the preamble of this Ordinance are found to be true and correct, and they are hereby adopted by the City Council and made a part hereof for all purposes.

Section 2. Adding Section 4.600, Article 4.000, Business Related Fees of Appendix A. Article 4.000 of Appendix A (Fee Schedule) of the Lago Vista Code of Ordinances (the “Code”), is hereby modified and amended to add the following new Section 1.700, to read as follows:

Sec. 4.600 Film Fees

Fees for Use of City Property. The fees for use of City property in connection with a City-authorized film project (as a City-authorized film project is described in Article 4.1100 of this Code) are as follows, unless modified or waived for any such project by a majority vote of City Council:

Activity	Fee (per Calendar Day)
Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area	\$500
Partial non-disruptive use of a public building, park, right-of-way, or public area	\$250
Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)	\$50 per block
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)	\$25 per block
Use of City parking lots, parking areas, and City streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles)	\$50 per block or lot

Section 3. Adding Section 4.1100 and Approving Documents. Chapter 4 (Business Regulations) of the Code is hereby modified and amended to add the following new Article 4.1100. The forms of the Guidelines for Filming in Lago Vista, Texas, including the Application for Commercial Filming attached thereto, and the Location Agreement, all labeled “Version 07082016” and maintained in the office of the City Manager, are hereby approved. All references in Article 4.1100 to the Application, Guidelines and/or Location Agreement are deemed to be references to the versions labeled “Version 07082016” unless a later version of such document has been approved by the City Council, in which case the reference is deemed to be to the then most recently approved version.

ARTICLE 4.1100 FILM PROJECTS

Section 4.1101 Meeting With City

Before filming all or any portion of a movie, television show, commercial, or other film project in the City, the operating executive in charge of the film project, or its authorized agent, must contact the office of the City Manager to discuss the project's specific filming requirements and the feasibility of filming in the City.

Section 4.1102 Application

(a) An applicant that wants to use City-owned property in connection with a film project must complete and submit to the office of the City Manager an Application for Commercial Filming.

(b) The Application must be submitted to the office of the City Manager, along with a \$25.00 processing fee, on the following schedule: (1) for commercials or episodic television, no fewer than two (2) business days prior to

the commencement of filming or any substantial activity related to the project; (2) for feature films and all other projects, no fewer than five (5) business days prior to the commencement of filming or any substantial activity related to the project.

Section 4.1103 Guidelines and Location Agreement

(a) If an Application is approved, the applicant must complete, sign and return to the office of the City Manager (i) the Guidelines for Filming in Lago Vista, Texas, and (ii) the Location Agreement, both prior to any production activity commencing on any City-owned property. A film project for which an Application has been submitted and approved, and for which Guidelines and a Location Agreement have been fully executed and submitted to the City, is a City-authorized film project for purposes of this Code.

Section 4.1104 City Control of its Property

The City shall have full control over the use of its name, trademark, logo, public streets and buildings while any are being used, as well as control over the hours of production and the general location of the production. If an applicant will be undertaking any filming on City-owned property, and in order for the City to protect the context in which its name, trademark, logo, public streets and buildings are depicted, the applicant must submit the script to the City for general review prior to the City being asked to execute a Location Agreement. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming activity if it is determined to be hazardous to the public health, safety and welfare.

Section 4. Amendment of Conflicting Ordinances. Appendix A and Chapter 4 of the Code are hereby amended as provided in this Ordinance. All parts of ordinances in conflict herewith are hereby amended to the extent of such conflict only. To the extent of a conflict between this Ordinance and another ordinance of the City, this Ordinance shall control.

Section 5. Savings Clause. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting utility fees which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 6. Effective Date. This Ordinance shall be in full force and effect after final passage and publication in the manner required by the Texas Local Government Code and the Charter.

Section 7. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any section, paragraph, sentence, clause or phrase of this Ordinance should be declared invalid by the

final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid section, paragraph, sentence, clause or phrase. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 8. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED AND APPROVED on this the _____ day of July, 2016.

ATTEST:

THE CITY OF LAGO VISTA, TEXAS

Sandra Barton, City Secretary

Dale Mitchell, Mayor

**LOCATION AGREEMENT
CITY OF LAGO VISTA**

Working Title of Motion Picture

Date

Set Name

Scene Numbers

The City of Lago Vista, Texas (herein called "Licensor")
5803 Thunderbird Street/P.O. Box 4727
Lago Vista, Texas 78645

Phone Number
(512) 267-1155

Licensor hereby grants to (Production Company with address) (herein called "Company"), and its employees, agents, independent producers, contractors and suppliers, permission to enter upon and use the premises located at: _____

_____ and all signs, fixtures, and other personal and real property on and around said premises (all of which, together with said premises, shall be referred to herein as the "Property") for the purpose of still photography and making motion pictures, videotapes and sound recordings in connection with the production, exhibition, advertising and exploitation of the motion picture, commencing on or about _____ (subject to change on account of weather conditions or changes in production schedule), and continuing until completion of all scenes and work required. Company anticipates needing to use the Property for up to _____ () calendar days, and may not use the Property for more than one and one-half (1 ½) times that number of calendar days without the written permission of Licensor.

CHARGES: Charges for use of the Property shall be as set out in the City's Film Guidelines and in any applicable City ordinance.

All charges are payable on completion of all work contemplated. Company is not obligated to actually use the Property or produce any motion picture or include material photographed or recorded hereunder in the motion picture. Company may at any time elect not to use the Property by giving Licensor written notice of such election, in which case neither party shall have any obligation hereunder.

Company may place all necessary facilities and equipment, including temporary sets, and park vehicles if appropriate, on the Property, and agrees to remove same after completion of work and leave the Property in as good condition as when received, reasonable wear and tear from uses permitted herein excepted. Signs on the Property may, but need not, be removed or changed, but, if removed or changed, must be replaced. Licensor agrees to execute a location restoration release in Company's favor upon Company's reasonable request following restoration of the Property. In connection with the motion picture, Company may refer to the Property or any part thereof by any actual or fictitious name and may attribute any real or fictitious events as occurring on the Property. Licensor irrevocably grants to Company and Company's successors and assigns

the right, in perpetuity, throughout the universe, to duplicate and re-create all or a portion of the Property, to alter such duplicates and re-creations, and to use such duplicates and re-creations in any media and/or manner now known or hereafter devised in connection with the motion picture, including without limitation sequels thereto, merchandising, theme parks and studio tours, and in connection with publicity, promotion and/or advertising for any or all of the foregoing.

Company agrees to use reasonable care to prevent damage to said Property, and will indemnify Licensor, and all other parties lawfully in possession of said Property, and hold each of them harmless from any claims and demands of any person or persons arising out of or based upon personal injuries, death or property damage suffered by such person or persons resulting directly from any act of negligence on Company's part in connection with the work hereunder. For the duration of the use of the Property by Company, including and re-use as described below, Company shall maintain at least the following insurance, such policies to name Licensor as an additional insured: \$1,000,000 general liability, including bodily injury and property damage with a \$5,000,000 umbrella; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage.

All rights of every kind in and to all still pictures, motion pictures, videotapes, photographs and sound recordings made hereunder shall be and remain vested in Company and its successors, assigns and licensees, and neither Licensor nor any tenant, or other party now or hereafter having an interest in said Property, shall have any right of action against Company or any other party arising out of any use of said still pictures, motion pictures, videotapes, photographs and/or sound recordings, whether or not such use is, or may be claimed to be, defamatory, untrue or censorable in nature. Company acknowledges, however, that the Licensor's Film Guidelines require that, in order for Licensor to protect the context in which its name, trademark, logo, public streets and buildings are depicted, Company agrees that it will submit the script to Licensor for general review prior to Licensor executing this agreement or acting on Company's application to film on Licensor's Property.

At any time within 6 months from the date Company completes its use of the Property hereunder, and subject only to the use at the time of the Property by Licensor or another intervening licensee or lessee of Licensor, Company may, upon not less than 5 days prior written notice to Licensor, re-enter and use the Property for such period as may be reasonably necessary to photograph retakes, added scenes, etc. desired by Company upon the same terms and conditions as contained in this agreement. Licensor shall make reasonable efforts to accommodate Company's need to re-use the Property as described in this paragraph.

Company agrees that filming will be limited to the following hours: Monday through Friday, 7:00 a.m. to 9:00 p.m., and Saturday, Sunday and holidays, 8:00 a.m. to 8:00 p.m.

Licensor warrants that Licensor is the owner or authorized agent for the owner of the Property and that Licensor has full authority to enter into this agreement and grant the rights herein granted.

Company recognizes and acknowledges that this agreement (i) allows Company to use the Property but does not represent or create any partnership or other business relationship between Licensor and Company, and (ii) does not provide a basis for Company or its employees, contractors or agents to exercise any of the municipal or other statutory power of Licensor or to receive or claim any discounts or special privileges from or with regard to any persons or businesses, whether located in the City of Lago Vista, Texas or elsewhere.

Licensors sole remedy for a breach by Company of any of Company's obligations hereunder shall be an action at law for damages, it being agreed that in no event shall Licensor or its successors and assigns, or any other party now or hereafter having an interest in said Property seek or be entitled to injunctive or other equitable relief for breach by Company of any of its obligations under this Agreement unless injunctive relief is required in order to protect the health, safety or welfare of the citizens of Licensor, including, without limitation, in the event an emergency situation exists or has been created on the Property.

If the box below is checked, the attached Addendum shall constitute part of this agreement. This agreement, along with Licensor's Guidelines For Filming In Lago Vista, Texas and Company's applications to Licensor, constitute the entire agreement between the parties with regard to Company's use of the Property. Subject to the foregoing, this agreement cancels and supersedes all prior negotiations and undertakings relating to the Property and contains all of the terms, covenants, conditions, representations and warranties, written or oral, of the parties hereto in the premises. No other authorization is necessary to enable Company to use the Property for the purposes herein contemplated.

ACCEPTED:

(Company)

Licensor: _____

By: _____
Its: Authorized Signatory

By: _____
Its: _____

Terms confirmed by:

Address: _____

Location Manager

Federal I.D.# _____

Check here if Addendum attached

Guidelines for Filming in Lago Vista, TX

- I. Purpose
- II. City Control/City Manager Authority
- III. Permit Requirements and Fees
- IV. Fees
- V. Use of City Equipment and Personnel
- VI. Use of City Property
- VII. Special Equipment and Vehicles
- VIII. Hours of Filming
- IX. Notification of Neighbors
- X. Certificate of Insurance
- XI. Liability
- XII. Hold Harmless Agreement

Guidelines for Filming in Lago Vista, TX

I. PURPOSE

The following guidelines are intended to protect the personal and property rights of the residents and businesses of the City of Lago Vista, TX (the "City"). The City Manager reserves the right to impose additional regulations in the interest of public safety if deemed necessary.

These guidelines cover requests for commercial use of City-owned property (streets, right-of-ways, parks, public buildings), commercial use of private property which may affect adjacent public or private property, and the use of City equipment and personnel in the filming of movies, TV shows, commercials, and related activities.

II. CITY CONTROL/CITY MANAGER AUTHORITY

The City Manager may authorize the use of any street, right-of-way, or public building, equipment or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Manager may require that any or all of the conditions and/or remuneration as specified on the application be met as a prerequisite to that use.

The applicant agrees that the City shall have full control over the use of public streets, right-of-way or buildings, as well as equipment or personnel of the City while being used, as well as control over the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming if determined to be detrimental to the public health, safety and welfare.

The applicant shall agree to allow the respective City departments (e.g., Police, Building) as well as personnel with Emergency Services District #1 to inspect all structures and/or devices and equipment to be used in connection with the filming and taping if required by the City Manager.

III. PERMIT REQUIREMENTS

Before filing an application for filming in the City, the Office of the City Manager must be contacted to discuss the production's specific filming requirements and the feasibility of filming in the City.

Any commercial producer who desires to undertake a commercial production in the City is required to complete and return the attached application for filming to the Office of the City Manager, within the time frames below:

- **Commercials or episodic television:** a minimum of two (2) business days prior to the commencement of filming or any substantial activity related to the project.
- **Feature films:** a minimum of five (5) business days prior to the commencement of filming or any substantial activity related to the project.

IV. FEES

An application processing fee of \$25.00 should accompany each application for filming in the City.

The City Manager may waive this fee upon proof of an organization's non-profit status, or for any other reason deemed necessary.

V. USE OF CITY EQUIPMENT AND PERSONNEL

The applicant will agree to pay for the costs of any Police, Public Works, or other City personnel assigned to the project (whether specifically requested by the production or not). Remuneration rates for the use of any City equipment, including police cars and equipment, will be established on a case-by-case basis as determined by the City Manager. The applicant will agree to pay in full, promptly upon receipt of an invoice, the charges incurred. The City Manager may, at his/her discretion, require an advance deposit for the use of the equipment.

The City Manager in consultation with the Chief of Police and Fire/EMS shall have the authority to

stipulate additional fire or police requirements and level of staffing for same, at any time during a film project if it is determined to be in the best interest of public safety, health and welfare, which cost shall be borne by the Applicant. Off-duty police officers shall be paid by the production company at a rate no less than one and one-half their hourly rate based on their rank. Off duty Fire/EMS personnel shall be paid by the production company at a rate determined through consultation with the Chief of Emergency Services District #1.

VI. USE OF CITY PROPERTY

The City Manager may authorize the use of any street, right-of-way, or public building, use of Lago Vista, Texas name, trademark or logo and/or use of City equipment and/or personnel for commercial uses in the production of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Manager may require that any or all of the conditions and/or remuneration as specified on the application be met as a prerequisite to that use. A security or damage deposit may be required based on production activity.

The applicant agrees to reimburse the City for inconveniences when using public property. Following are the City’s fees for the use of City property, as adopted by ordinance:

Activity	Fee (per Calendar Day)
Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area	\$500
Partial non-disruptive use of a public building, park, right-of-way, or public area	\$250
Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)	\$50 per block
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)	\$25 per block
Use of City parking lots, parking areas, and City streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles)	\$50 per block or lot

The applicant agrees that the City shall have full control over the use of its name, trademark, logo, public streets and buildings of the City while any are being used, as well as control over the hours of production and the general location of the production. If the applicant will be undertaking any filming on City-owned property, and in order for the City to protect the context in which its name, trademark, logo, public streets and buildings are depicted, the applicant agrees that it will submit the script to the City for general review prior to the City executing an agreement for the applicant to film on City property. The City does not intend to censor or edit any such script, but only wants to ensure that the City itself does not participate in a project that is offensive. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming activity if it is determined to be hazardous to the public health, safety and welfare.

VII. SPECIAL EQUIPMENT AND VEHICLES

The applicant shall provide a report listing the number of vehicles and types of equipment to be used during the filming, including proposed hours of use and proposed parking locations. Such locations will need to be specifically approved by the City so as to maintain traffic safety. On-street parking or use of public parking lots is subject to City approval. The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires on-site approval of the City Manager.

VIII. HOURS OF FILMING

Unless permission has been obtained from the City Manager in advance and affected property owners, tenants and residents have been notified, filming will be limited to the following hours: Monday through Friday, 7:00 a.m. to 9:00 p.m., and Saturday, Sunday and holidays, 8:00 a.m. to 8:00 p.m.

IX. NOTIFICATION OF NEIGHBORS

The applicant shall provide a short written description, approved by the City Manager, of the schedule for the proposed production to the owners, tenants and residents of each property in the affected neighborhood (as defined by boundaries set by the City Manager). The applicant, or his or her designee, shall make a good faith effort to notify each owner, tenant and resident of all such property, and shall submit, as part of this application, a report noting each owner, tenant or resident's comments, along with their signatures, addresses and phone numbers. Based upon this community feedback, the City Manager may grant or deny the filming application.

X. CERTIFICATE OF INSURANCE

The producer shall attach a certificate of insurance, naming The City of Lago Vista, TX as an additional insured, in an amount not less than \$1,000,000 general liability, including bodily injury and property damage with a \$5,000,000 umbrella; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage.

XI. LIABILITY

The applicant agrees to pay in full, promptly upon receipt of an invoice, the costs of repair for any and all damage to public or private property, resulting from or in connection with, the production, and restore the property to its original condition prior to the production, or to better than original condition.

XII. HOLD HARMLESS AGREEMENT

The producer shall sign the following Hold Harmless Agreement holding the City harmless from any claim that may arise from their use of designated public property, right-of-way, or equipment in conjunction with the permitted use:

I certify that I represent the firm which will be performing the filming/taping at the locations specified on the attached permit application. I further certify that I and my firm will perform in accordance with the directions and specifications of The City of Lago Vista, TX, and that I and my firm will indemnify and hold harmless The City of Lago Vista, TX for and from any loss, damage, expense, claims and costs of every nature and kind arising out of or in connection with the filming/taping pursuant to this permit.

I further certify that the information provided on this Application is true and correct to the best of my knowledge, and that I hold the authority to sign this and other contracts and agreements with the City on behalf of the firm.

Signed: _____

Title: _____

Date: _____

THE CITY OF LAGO VISTA, TX

Application for Commercial Filming

Title of project: _____

Type of production: Commercial _____ Feature Film _____
 Television _____ Training Film _____
 Public Service _____ Other _____

Location of filming: _____

Date(s) of filming: _____

CONTACTS

Production Office:

Name: _____
Address: _____
Phone: _____ Fax: _____

Producer:

Name: _____
Address: _____
Phone: _____ Fax: _____

Location Manager:

Name: _____
Address: _____
Phone: _____ Fax: _____

Texas Film Commission Representative: _____

PRODUCTION (*Attach additional sheets if necessary.*)

1. Production schedule and activities to include stunts, pyrotechnics, special effects, aerial photography, amplified sound or use of animals: (Give dates and times and rain dates. Hours should include set-up, holding of sets and restoration.)

2. Number of persons involved with the production, including cast and crew:

3. Anticipated need of City personnel, equipment or property:

4. Describe any areas in which public access will be restricted during production:

5. Describe alterations to property:

6. Number and type of production vehicles to be used and location(s) where vehicles will be parked:

7. Location where crew will be fed, if not at production location:

8. Location where extras will be held, if not at production location:

9. Map of anticipated street closure(s) or other public area use.

Application completed by:

Name/Title: _____ Date: _____

Approved by: _____ Date: _____

The "Guidelines for Filming in Lago Vista, Texas" apply to all filming activities, and the Office of the City Manager may require the applicant to acknowledge receipt of the guidelines prior to approving this application.



AGENDA ITEM
City of Lago Vista

To: Mayor and City Council

Council Meeting: July 7, 2016

From: Barbara Boulware-Wells, City Attorney

Subject: Discussion and consideration of Ordinance No. 16-07-07-02, An Ordinance of the City Council of the City of Lago Vista, Texas, granting a Transmission and Distribution Electric Utility Franchise to Pedernales Electric Cooperative, Inc. for a ten year term commencing on the effective date; containing various terms and conditions with regard to the grant of such franchise; containing a severability clause; providing for the repeal of any and all kinds of ordinances, regulations, rules, or policies that are in conflict with this Ordinance; and providing an effective date.

Request: Business Item

Legal Document: Ordinance

Legal Review:

EXECUTIVE SUMMARY:

This item is on the Council agenda to provide the opportunity for Council to consider extending the Franchise Ordinance with Pedernales Electric Cooperative (PEC) that has existed with the City since April 17, 1985.

On April 17, 1985, the City entered into Ordinance No. 84-09-24-01 which granted to PEC the right, privilege and franchise to construct, maintain and operate in the present and future streets, alleys, and public places of the City providing electric light and power lines and necessary and desirable appurtenances for the purpose of supplying electricity to the City. Such franchise ran until September 30, 2014. Thereafter, the City entered into a couple of extensions of the franchise as it existed, in order to allow the City and PEC to agree on terms. The last extension was until June 30, 2016 or until the parties reached an agreement.

Should Council approve, the basic provisions of the franchise have remained consistent, with the City granting PEC the right to construct, maintain and operate in the present and future streets, alleys and public places in the City electric light and power lines (including all necessary appurtenances) for the purpose of supplying electricity to the City. What has changed is the amount of the franchise fee, which the City requested be raised from two percent (2%) up to three percent (4%). The reason the City has requested such amount be raised is to cover the increased costs for the upkeep and maintenance of the streets as a result of the PEC's use of such streets and rights-of-way.

The City will be providing its residents with information concerning the increased franchise fee, the reasons for it and when it will be going into effect. Similarly, PEC will also be providing information within its bills as well.

Impact if Approved:

City will continue to receive a franchise fee from PEC, with a slight increase in such fee from 2% to 4% with such increase being devoted to street maintenance and repairs and PEC will be able to utilize the City streets, alleys and other public places.

Impact if Denied:

PEC will not have a valid franchise agreement although PEC would NOT shut off electric service but their may be a hold on additional investment in infrastructure. Should PEC continue to pay the franchise fee from the extension, it would be at 2% rather than 4% which would provide some much needed funding for street maintenance and repairs.

Is Funding Required? Yes No If Yes, Is it Budgeted? Yes No N/A

Indicate Funding Source:

Suggested Motion/Recommendation/Action

Motion to

Motion to

Motion to

Known as:

ORD. 16-07-07-02; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, GRANTING A TRANSMISSION AND DISTRIBUTION ELECTRIC UTILITY FRANCHISE TO PEDERNALES ELECTRIC COOPERATIVE, FOR A TEN YEAR TERM COMMENCING ON THE EFFECTIVE DATE; CONTAINING VARIOUS TERMS AND CONDITIONS WITH REGARD TO THE GRANT OF SUCH FRANCHISE; CONTAINING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT AND AN EFFECTIVE DATE

Agenda Item Approved by City Manager

ORDINANCE NO. 16-07-07-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, GRANTING A TRANSMISSION AND DISTRIBUTION ELECTRIC UTILITY FRANCHISE TO PEDERNALES ELECTRIC COOPERATIVE, INC. FOR A TEN YEAR TERM COMMENCING ON THE EFFECTIVE DATE; CONTAINING VARIOUS TERMS AND CONDITIONS WITH REGARD TO THE GRANT OF SUCH FRANCHISE; CONTAINING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ANY AND ALL KINDS OF ORDINANCES, REGULATIONS, RULES, OR POLICIES THAT ARE IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, that:

Section 1. Grant. The City of Lago Vista, Texas (“City”), pursuant to this ordinance (“Ordinance”) does hereby grant unto Pedernales Electric Cooperative, Inc. and to any of the cooperative’s affiliates, successors and permitted assigns (“Cooperative”), the right, privilege, and franchise to erect, construct, maintain, operate, use, extend, remove, replace, and repair in, under, upon, over, and across, and along any and all of the present and future streets, squares, parks, lanes, alleys, and public utility easements owned or controlled, or hereafter owned or controlled by the City and over and across any stream or streams, bridge, or bridges, now or hereafter owned or controlled by the City, a system of poles, pole lines, transmission and distribution lines, wires, guys, conduits, conductor, transformers, enclosures, concrete pads, ground rods, cable risers, and fiber optic cables and other desirable instrumentalities and appurtenances necessary or proper for the purpose of transmitting, distributing, carrying, conducting, conveying, supplying, furnishing and selling to the City and the inhabitants of the City or other person or persons, firms or corporations, whether within or without the City, electricity, energy, power, light, heat, energy services, and for any other purpose for which electricity or energy services may be now or hereafter used and for communication signals or the capability and capacity for transport of communication signals of whatever kind and character; to carry and transport communication signals by means of said poles, transmission and distribution lines, wires, guys, conduits, conductor or other instrumentalities to sell and distribute same to the City, the inhabitants of said City, and any other persons, firms or corporations whether within or without the City.

Section 2. City Property; Annexation. It is expressly understood and agreed that this Ordinance grants the Cooperative the rights and privileges contained in Section 1 above only as to property located within the corporate limits of the City presently in the Cooperative’s service area and to property hereinafter annexed by the City which is located within the Cooperative’s service area. The City shall notify Cooperative in writing of the effective date of any annexation of property into the City limits that would require Cooperative to include such properties for purposes of calculations of any amounts due under this Ordinance. Cooperative shall not be liable for any late payments, penalties or interest on the portion of a quarterly payment that does not include gross revenues for Cooperative customers within a newly annexed

area until ninety (90) days after written notice from the City to the Cooperative of any such annexation. Thereafter the Cooperative shall assure that any and all customers located within such annexed territory be included and shown on its accounting system as being within the City. After such ninety (90) day written notice from the City to the Cooperative, all customers' accounts located within such annexed territory shall begin accrual for purposes of the payment provisions specified in this Ordinance.

Section 3. Relocation; Pole Attachments.

(a) If the City, in order for the accommodation of new construction of its sewers, water lines, streets or other public works, including road widening, shall require any structures, lines, guys, or other installations of the Cooperative located in a street or other City right-of-way to be shifted or relocated to a new position in a street or other available right-of-way, such structures, lines, guys, or other installations shall be so shifted or relocated by the Cooperative at the Cooperative's expense; provided, however, the City shall work with Cooperative in good faith to determine the most cost effective method of relocation or shifting of Cooperative's facilities. City shall give the Cooperative reasonable prior written notice of its projects requiring relocation of the Cooperative's facilities, and to the extent possible shall provide an alternate public easement for relocation. In the event that Cooperative is required by City to remove or relocate its facilities under this Section and City is eligible under federal, state county, local or other programs for reimbursement of costs and expense incurred by Cooperative as a result of such removal or relocation, and such reimbursement is required to be handled through the City, Cooperative costs and expenses shall be included in any application by City for reimbursement. City shall provide reasonable notice to Cooperative of the deadline for Cooperative to submit documentation of the costs and expense of such relocation to City. If reimbursement is available for relocation, the Cooperative shall receive its portion of reimbursement payments attributable to its facilities.

(b) If a third-party desires or the City requires Cooperative to adapt or conform any of Cooperative's facilities, or in any way alter, relocate or change Cooperative's property to enable any third party (whether public or private), other than the City, to use the rights-of-way, Cooperative shall have the right, as a condition of any such alteration, change or relocation, to require payment to Cooperative for any and all loss, cost or expense occasioned thereby to be paid by the third party. The City shall, as part of any franchise agreement with any third party entered into after the date of this Ordinance, attempt to include the requirement of payment to Cooperative for any and all loss, cost or expense occasioned by any necessary alteration, change or relocation.

(c) Cooperative shall permit private or public entities desiring to provide communication services to the City to use existing Cooperative poles, provided that such attachment and use is feasible, does not interfere with Cooperative's ability to utilize its facilities for its purposes, and is not in conflict with safety procedures or requirements of Cooperative, and such entity obtains any necessary right-of-way or easement or permits or licenses for its use. Such use shall be subject to the entity's execution of Cooperative's form of contract for pole attachment and payment of the Cooperative applicable fees.

Section 4. Operations and Maintenance.

(a) Subject to subsection (c) below, the Cooperative may open-cut streets, curbs and sidewalks, and may bore, or utilize any other methods (including, but not limited to tree trimming) it deems reasonably necessary to construct, operate and maintain the Cooperative facilities within the City and remove obstructions to the Cooperative's facilities that endanger or interfere with the efficiency of the Cooperative's facilities. The Cooperative shall be required to notify the City of any anticipated actions to remove obstructions at least five (5) days prior to such action, unless required under emergency situations. The design, construction and maintenance of the Cooperative facilities shall be in accordance with Cooperative standards. Structures, lines, guys, and other installations shall be erected consistent with the National Electrical Safety Code and any other applicable state and national standards.

(b) The surface of any street, alley, or public way or place disturbed by the Cooperative shall be restored to substantially the same condition existing prior to the work by the Cooperative within a reasonable time after the completion of the work. No street, alley, or public way or place shall be encumbered by the Cooperative for a longer period than shall be reasonably necessary to execute the work.

(c) The Cooperative shall attempt to coordinate the location of all poles, conduits and other structures within the rights-of-way with the City and the parties shall endeavor to ensure that such attempt shall not interfere unreasonably with the operation of said facilities or any required design or construction standard.

Section 5. Indemnification - Cooperative. THE COOPERATIVE WILL INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL SUITS, LEGAL ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, AND ATTORNEYS' FEES INCIDENT TO ANY WORK DONE IN THE PERFORMANCE OF THIS ORDINANCE ARISING OUT OF A WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE COOPERATIVE, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, PROVIDED, HOWEVER, THAT THE COOPERATIVE SHALL NOT BE LIABLE FOR ANY SUIT, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, AND ATTORNEYS' FEES ARISING OUT OF A WILLFUL ACT OR NEGLIGENT ACT OR OMISSION OF THE CITY, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.

Section 6. Indemnification-City. TO THE EXTENT ALLOWED BY LAW, THE CITY WILL INDEMNIFY, DEFEND AND HOLD HARMLESS THE COOPERATIVE, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL SUITS, LEGAL ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, AND ATTORNEYS' FEES INCIDENT TO ANY WORK DONE IN THE PERFORMANCE OF THIS ORDINANCE ARISING OUT OF A WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE CITY, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, PROVIDED, HOWEVER, THAT THE CITY SHALL NOT

BE LIABLE FOR ANY SUIT, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, AND ATTORNEYS' FEES ARISING OUT OF A WILLFUL ACT OR NEGLIGENT ACT OR OMISSION OF THE COOPERATIVE, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.

Section 7. Joint Liability. IF THE COOPERATIVE AND THE CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY OR ANY DEFENSES AVAILABLE UNDER TEXAS LAW. THIS SECTION IS SOLELY FOR THE BENEFIT OF THE COOPERATIVE AND THE CITY AND DOES NOT CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

Section 8. Term. This Ordinance shall be in force and effect for a period of ten (10) years from and after the date on which the City adopts it in the form authorized by the Cooperative (the "Effective Date") in accordance with Section 16 of this Ordinance. The payments provided for in Section 9 of this Ordinance shall be effective for the Cooperative's gross revenues from its electric services provided within the City commencing on the first day of the month following the date upon which the Cooperative acknowledges, accepts and agrees to the Ordinance subject to any notices required to be given to the Cooperative's customers.

Section 9. Franchise Fee.

(a) In consideration of the rights granted to the Cooperative herein, the Cooperative, during the term of this Ordinance shall pay a fee of four percent (4%) of the gross revenues received by the Cooperative from the Cooperative's sale of energy and power sold to customers within the city limits of the City during such previous year or previous quarter. It is agreed that such payment is in addition to any ad valorem tax now or hereafter to be assessed and collected under the authority of the City's charter or under the laws of the State of Texas. Other than with respect to such ad valorem taxes, the payment so provided for in this Section is in lieu of all other fees or charges of any nature, and the City shall not impose or collect, nor attempt to impose or collect, any other charge or fee in connection with the construction, operation, and maintenance of the Cooperative facilities within the City. The term "gross revenues" shall not include (1) local, state, or federal taxes collected by Cooperative that have been billed to its customers and separately stated on customers' bills, (2) the franchise fee paid under this Ordinance, (3) revenue uncollectible from customers (i.e., bad debts) with billing addresses in the City that may have previously been included in gross revenues, or (4) revenue from the Cooperative's pole attachment agreements. Cooperative shall be entitled to list the franchise fee as a separate line item on monthly bills of Cooperative members who have meters within the City limits. The payment provided for in this Section 9 will reflect the Cooperative's gross revenues on a quarterly basis and will be due the City within forty-five (45) days after the close of each quarter in the Cooperative's fiscal year.

(b) If Cooperative elects to provide customer choice pursuant to the terms of the Public Utility Regulatory Act (“PURA”), the fee due under this Ordinance shall be as provided in the Texas Utilities Code Section 33.008 for a transmission and distribution utility.

Section 10. Reports. Upon City’s request, at reasonable intervals not to exceed once per fiscal year, the Cooperative will provide to City reports setting out matters concerning energy and power sold by reason of the operation of the Cooperative within the City.

Section 11. Assignment. This Ordinance may be assigned by the Cooperative to any entity with the consent of the City, which consent shall not be unreasonably withheld. For the avoidance of doubt, a transfer of this Ordinance by virtue of a sale by the Cooperative of all or substantially all of its assets in the City shall not require consent of the City, but Cooperative shall provide City written notice within thirty (30) days of such transfer.

Section 12. Superseding Effect. This Ordinance supersedes for all purposes the franchise previously granted under Ordinance No. 84-09-24-01 by the City to the Cooperative on April 17, 1985 and any other written agreements with respect to the franchise prior to the acceptance of this Ordinance. This Ordinance shall supersede and take precedence over inconsistent ordinances, resolutions, or regulations hereafter or previously passed by the City.

Section 13. Severability. The provisions of this Ordinance are severable, and if any court of competent jurisdiction enters a final order which holds that any section, subsection, sentence, clause, phrase, or other portion of this Ordinance is invalid, illegal, or otherwise unenforceable, then any such portion shall be deemed a separate, distinct and independent provision, and any such ruling shall not affect any other provision of this Ordinance which are not specifically designated as being illegal, invalid or unenforceable.

Section 14. Notices. Notice to the parties under this Ordinance shall be in writing and shall be by certified mail, return receipt requested, or by private delivery service such as Federal Express or U.P.S. addressed as follows:

To the City:
City Manager
City of Lago Vista, Texas
5803 Thunderbird,
Lago Vista, Texas 78645

To the Cooperative:

Pedernales Electric Cooperative, Inc.
PO Box 1
Johnson City, Texas 78636-0001

Notice shall be effective upon the earlier to occur of actual receipt or the expiration of three (3) business days from the date of deposit in an official depository of the United States Postal Service.

Section 15. Confidential Information. To the extent allowed by law, including the Texas Public Information Act, the City agrees to hold in strict confidence any non-public information, information marked proprietary or confidential that it receives from the Cooperative or such information that by its nature or under the particular circumstances of disclosure should be understood by City, exercising its reasonable judgment, to be the confidential information of the Cooperative.

Section 16. Effective Date. This ordinance shall take effect immediately from and after its passage and adoption in accordance with the provisions of Chapter 52 of the Texas Local Government Code.

Section 17. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND ADOPTED THIS THE _____ DAY OF _____, 2016.

CITY OF LAGO VISTA

Dale Mitchell, Mayor

ATTEST:

Sandra Barton, City Secretary

ACKNOWLEDGED, ACCEPTED, AND AGREED TO:

PEDERNALES ELECTRIC COOPERATIVE, INC.

BY: _____

NAME: _____

DATE: _____

MEETING DATE: July 7, 2016

AGENDA ITEM: CONSENT AGENDA

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

Comments:

Approval of the following minutes:

May 19, 2016 Regular meeting;

June 2, 2016 Special Called meeting

June 16, 2016 Regular meeting

Motion by: _____

Seconded by: _____

Content of Motion: _____

Vote: Raley _____ ; **Sullivan** _____ ; **Tidwell** _____ ; **R. Smith** _____ ;

Mitchell _____ ; **S. Smith** _____ ; **Cox** _____

Motion Carried: Yes _____ ; **No** _____

**OFFICIAL MINUTES OF THE CITY COUNCIL
LAGO VISTA, TEXAS
MAY 19, 2016**

BE IT REMEMBERED that on the 19th day of May, A.D., 2016, the City Council held a Regular Meeting at 6:30 p.m. at City Hall, 5803 Thunderbird, in said City, there being present and acting the following:

CALL TO ORDER, CALL OF ROLL, INVOCATION AND PLEDGE OF ALLEGIANCE

Dale Mitchell	Mayor	Melissa Byrne Vossmer	City Manager
Ron Smith	Mayor Pro Tem	Danny Smith	Police Chief
Rich Raley	Council Member	David Harrell	Development Services Director
Stephanie Smith	Council Member	Sandra Barton	City Secretary
Rodney Cox	Council Member	Gary Graham	Public Works Director
Ed Tidwell	Council Member	Starr Lockwood	Finance Director
		Mark Côté	Golf Manager
		Barbara Boulware-Wells	City Attorney

Mayor Dale Mitchell called the Regular Meeting to order and recognized that all Council Members were present except for Councilman Shoumaker. Other Staff members present, Robin Smith, Donna Clark and James Leblanc. Reverend Judy Loehr with United Methodist lead the Invocation and Mayor Mitchell led the Pledge of Allegiance.

The numbering below tracks that of the agenda, whereas the actual order of consideration may have varied.

PUBLIC COMMENTS

Daniel Forbes, 2907 MacArthur Av, Lago Vista, addressed the Council with some questions regarding the amount of his utility bill.

PUBLIC HEARING

1. Consideration by the City Council of a sign variance to allow continuance of three existing signs located at 7401 Lohman Ford Rd. Project # 2507 Sun Hardware sign variance.

David Harrell, Development Services Director addressed Council with a brief overview of the requested variances and addressed questions. He advised that the Building Committee, at their April 25th meeting voted on the requests as follows: Sign A – recommended approval, Sign B – recommended denial and Sign C – recommended denial.

On a motion by Councilman Cox, seconded by Councilwoman Smith, the Council voted unanimously to follow the recommendation of the Building Committee in approving Sign A variance and declining Sign B & C. Motion passed.

Councilman Raley asked how long we would give him to comply. David Harrell said that Code Enforcement will work with the applicant. The Council discussed different options for compliance.

PRESENTATIONS

2. Presentation/Overview of Lago Fest by Sherri Jander, Lago Vista/Jonestown Chamber of Commerce.

Sherri Jander provided an overview of the Lago Fest that will take place on May 28, 2016 from 2-9 p.m. at Bar-K Park. CAPMetro will be providing shuttle to the park. The Austin Yacht Club will start their Regatta at 10 a.m. and make their way to Bar-K Park. There will be three bands playing beginning at 2:00 pm until 9:00 p.m. as well as Arts and Craft, food vendors and various activities. The Chamber of Commerce will be sponsoring the Beer Garden. She thanked all the sponsors who participated.

3. Second Annual Firewise Project Report.

James LeBlanc provided a power point and an oral report to the Council. They chose the area between 1431 and Bronco Lane which included 1.876 acres. It was completed over three days and involved seven people from City of Lago Vista Street Department, nine people from ESD #1 and two people from Firewise as well as Mayor Pro Tem Ron Smith.

4. Receive and discuss monthly update on Water Treatment Plant #3 by Shay Ralls Roalson, PE, HDR and Gary Graham, PE, Public Works Director.

Shay Ralls Roalson, with HDR did not appear. Gary Graham, Public Works Director provided a brief update to the Council. The project status is really close to bringing the Water Plant into service. One electric motor burned up on one of the pumps so it is being serviced and hopefully be returned in the next 10 days to 2 weeks. The main work at the water intake 5 is complete.

THESE ITEMS TAKEN OUT OF ORDER

WORK SESSION

10. Update on the Water/Wastewater Rate Study for Year 2.

Nelisa Heddin with Heddin Consulting provided an in depth power point and oral presentation covering Economic reality of water, a project approach, a background overview, assumptions, scenarios and findings.

Councilman Cox stated that by discontinuing the drought contingency fee on the bills each month, we dropped revenues to the City by half a million dollars. Ms. Heddin stated this was correct, so then the rates had to be adjusted reflect that.

The Council adopted a rate increase for the first year of that plan for 2021. Water rates became effective October 1, 2015, sewer rates became effective on March 1, 2016.

Councilman Tidwell requested to see what the average residential customer will see as an increase from 2016 to 2021 for each scenario.

Councilman Cox would like to see what Ms. Heddin proposed last year based on the information you had and what she is proposing this year based on the purchase of the Otwell house and the CIP projects.

Melissa Vossmer also asked that we bring back all of the assumptions that are built into the model.

Mayor Pro Tem Smith asked if we stay at twice a week watering as a policy, and vary the rates to account for it, how much do the rates change as a positive or negative?

Steven Curik asked if a copy of the report was on the internet for viewing. Mayor Mitchell advised that it is in the packet on our website.

ACTION ITEM (action and/or a vote may be taken on the following agenda items):

9. Discussion and Consideration of Accepting the Resignation of Councilman Jason Shoumaker, Council Place 2 and Declaring a Vacancy.

On a motion by Councilman Cox, seconded by Councilman Raley, the Council voted unanimously to accept the resignation of Councilman Shoumaker, Council Place 2 and declare a vacancy. Motion passed.

The Council and Staff discussed a process and timeline for filling the vacancy.

David Barclay, 20702 Hardin Cove suggested that the Council look at the people who took the time and the effort to run for office and consider them.

On a motion by Councilman Tidwell, seconded by Councilman Cox, the Council voted unanimously to approve the direction to the City Manager providing the process of filling the vacancy as follows:

Receive applications by May 27, 2016 at 5:00 p.m.

Have applications to Council by May 31, 2016

Discuss in Executive Session at the June 2, 2016 special called meeting to narrow candidates

Have interviews on June 6 or 7, 2016

Fill vacancy at the June 16 regular Council meeting

CONSENT AGENDA

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

5. Approval of the following minutes:

March 17, 2016 Regular meeting

Mayor Mitchell explained that these minutes were brought back for approval following a request from Councilman Cox to add comments to the minutes. After listening to the recording, these comments were not found by the City Secretary. Councilman Cox added that the recording only caught a little of what was said and suggested that a way to capture specificity is for everyone stop talking over each other.

On a motion by Councilman Cox, seconded by Councilwoman Smith, the Council voted unanimously to approve the March 17, 2016 minutes as presented. Motion passed.

April 7, 2016 Special called meeting;

Councilwoman Smith requested that a comment made by our auditor be reflected in the minutes. Councilman Cox also requested that comments be added from someone in the audience who did not come to the podium or announce himself but made a comment that he thought was important to the discussion. City Attorney advised that if the City Secretary can identify that person and what they say by listening to the recording then that can be reflected in the minutes. City Attorney advised that the minutes are to be reflective of what occurred that night as they unfolded.

On a motion by Mayor Mitchell, seconded by Councilman Tidwell, the Council voted unanimously to pull these minutes from the Consent Agenda and have them redone with more specificity in the comments being made. Motion passed.

April 16, 2016 Special called meeting;

Councilman Tidwell requested a change be made to the April 16 meeting regarding the attendance during roll call.

On a motion by Mayor Mitchell, seconded by Councilman Tidwell, the Council voted unanimously to approve the April 16 minutes with the correction presented by Councilman Tidwell.

Councilman Cox requested that in the future that the minutes be more specific capturing what a person's comments reflect.

April 21, 2016 Regular meeting

On a motion by Mayor Pro Tem Smith, seconded by Councilman Cox, the Council voted unanimously to approve the April 21, 2016 minutes as presented. Motion passed.

ACTION ITEMS

6. Discussion, consideration and possible action regarding Resolution No. 16-1650; A Resolution by the City Council of the City of Lago Vista, Texas repealing Resolution 08-1382 adopting the "Comprehensive Master Plan 2008"; Resolution 09-1437 adding a Throughfare Plan to the Comprehensive Master Plan 2008; Resolutions 10-1493, 10-1494, and 13-1576 which each amended the Future Land Use Map to the Comprehensive Master Plan 2008.

David Harrell, Development Services Director and City Attorney, Barbara Boulware-Wells explained that the Resolutions were adopted separate from an Ordinance. The resolutions are not necessary when you have an Ordinance adopting the Comprehensive Plan.

On a motion by Councilman Tidwell, seconded by Councilman Raley, the Council voted unanimously to approve Resolution 16-1650 as presented. Motion passed.

7. Discussion and consideration and possible action regarding Resolution No. 16-1652; A Resolution by the City Council of the City of Lago Vista, Texas appointing one individual as a regular member to the Golf Course Advisory Committee.

On a motion by Councilman Raley, seconded by Councilman Tidwell, the Council voted unanimously to approve Resolution 16-1652 as presented. Motion passed.

Councilman Cox added that he understood that the Golf Course Manager was going to be interviewing for a groundskeeper position. City Manager, Melissa Vossmer stated that the position that we are filling immediately is Assistant Pro position. The Council has not authorized a full time greens keeper position and the City is using existing personnel in different capacities.

WORK SESSION

11. Discussion and consideration of a Council Economic Development Sub-Committee.

Melissa Byrne Vossmer, City Manager provided a brief overview and provided documentation for Council discussion.

No action taken at this time.

12. Discussion and Direction Concerning Projects in the FY15/16 Capital Improvements Program (CIP).

Melissa Byrne Vossmer, City Manager, provided a brief overview the proposed list of CIP projects that Staff is hoping the Council will provide direction and move forward with because of the timeliness or safety issue involved. The five projects are: (1) Continue with the design of reinforcement to the WWTP clarifier & design of 2nd clarifier - \$50,000. (2) Texas A&M Pavement Management Program - \$65,000. (3) Comprehensive Plan Update - \$70,000 (project is complete and approved by Council). (4) Airport Land Acquisition – Up to \$200,000. (5) Lago Vista Clubhouse Structural/Facility Improvements – Up to \$75,000.

The projects and amount of funding have to be identified in order to bring back the reimbursement Resolution to allow using the money in reserves.

On a motion by Councilman Cox, seconded by Councilman Raley, the Council voted unanimously to approve all of these items with reserves with the intention of having them reimbursed, move forward with these at a slow pace and the City Manager keep the Council apprised on a monthly basis where we are at in these numbers. Motion passed.

Barbara Boulware-Wells, City Attorney advised that there is a time frame for refunding Resolution of 60 days.

Mayor Pro Tem Smith suggested that as we move into the next budget, we need to be having better numbers going into the budget with more detail.

13. Departmental Reports

- A. Airport Report
- B. Development Services
- C. Golf Course Report
- D. Library Report
- E. Municipal Court Report
- F. Police Department
- G. Public Works Reports
 - a. Street Department
 - b. Utility Department (Water/Wastewater Services)
 - c. Water Loss Report

- d. Water/Wastewater Treatment – Councilman Rodney Cox asked if they wait another month to get the report to them, will it get rid of that line that nosedives to zero. He would rather have an old report than an inaccurate one.
Councilman Cox also asked if we got a fine regarding the spill. Gary Graham answered that he didn't believe we did.

Mayor Pro Tem asked if we have to wait until a certain day of the month to have the financial report to get all the accruals.

14. Reports/Minutes from City Boards, Committees and Commissions

- a. March 14, 2016 CPAC Special called meeting minutes
- b. March 31, 2016 Draft Planning and Zoning Commission minutes
- c. April 7, 2016 Draft Planning and Zoning regular meeting minutes
- d. April 12, 2016 Golf Course Advisory Committee minutes

Mayor Pro Tem Smith asked Councilman Raley if he sat in the Golf Course meetings because the minutes are vague and continue to say continue discussion and he doesn't know what direction they are going. Councilman Raley said there was a few months that part of it was, that they have already established the plan and are waiting for Mark to come in. They have some pretty comprehensive marketing plans, operations/maintenance suggestions for Mark to look over and take into consideration.

FUTURE MEETINGS

15. Consider schedule and items for future Council meetings.

June 2 – Update from Golf Course Advisory Committee, overview of Annexation, Broker Services for Marshall's Point property, recommendations on chickens, PEC Franchise Agreement and Electronic Device Use Policy.

Councilman Tidwell asked about Charter Amendments for the November election timeframe. City Manager advised that the ballot has to be ready 90 days before the election.

EXECUTIVE SESSION

16. At 9:58 p.m. the Council convened into Executive Session pursuant to Sections 551.071 and 551.072, Texas Government Code and Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:

- A. Discussion and consideration of Resolution No. 16-1653; Appointments to the Park and Recreation Advisory Committee.
- B. Consultation with legal counsel regarding real property and possible issues and questions related to acquisition, sale or lease.
- C. Consultation with legal counsel regarding contractual claims or possible claims or charges, contractual modifications, and questions related thereto.

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

17. At 11:10 p.m. the Council reconvened from Executive Session into open session to take action as deemed appropriate in City Council's discretion regarding:

- A. Discussion and consideration of Resolution No. 16-1653; Appointments to the Park and Recreation Advisory Committee.

On a motion by Mayor Dale Mitchell, seconded by Councilman Raley, the Council voted unanimously to adopt Resolution No. 16-1653 appointing Ross Dewhurst, Hubbard Helm, Sheryl Speckmann and Travis Wilhow for terms expiring January 1, 2017 and Carolina Hale, Michael Panter and David White for terms expiring January 1, 2018. The Council will abstain from appointing a Council Liaison at this time. Motion passed.

- B. Consultation with legal counsel regarding real property and possible issues and questions related to acquisition, sale or lease.

No action taken.

- C. Consultation with legal counsel regarding contractual claims or possible claims or charges, contractual modifications, and questions related thereto.

No action taken.

ADJOURNMENT

Mayor Dale Mitchell adjourned the meeting at 11:13 p.m.

Respectfully submitted,

ATTEST:

Dale Mitchell, Mayor

Sandra Barton, City Secretary

On a motion by Councilman _____, seconded by Council Member _____, the above and foregoing instrument was passed and approved this ____ day of _____, 2016.

**OFFICIAL MINUTES OF THE CITY COUNCIL
LAGO VISTA, TEXAS
JUNE 2, 2016**

BE IT REMEMBERED that on the 2nd day of June, A.D., 2016, the City Council held a Special Called Meeting at 6:30 p.m. at City Hall, 5803 Thunderbird, in said City, there being present and acting the following:

CALL TO ORDER, CALL OF ROLL and PLEDGE OF ALLEGIENCE

Dale Mitchell	Mayor	Melissa Byrne Vossmer	City Manager
Ron Smith	Mayor Pro Tem	Danny Smith	Police Chief
Rich Raley	Council Member	David Harrell	Development Services Director
Rodney Cox	Council Member	Belinda Kneblie	Assistant City Secretary
Stephanie Smith	Council Member	Gary Graham	Public Works Director
		Barbara Boulware-Wells	City Attorney

Mayor Dale Mitchell called the Regular Meeting to order and recognized that all Council Members were present except for Ed Tidwell who arrived 7:26 PM, after roll call. Also, present in the audience; Lago Vista Police Dept. Captain Jerry Reyes, Starr Lockwood – Financial Director, Dave Street – IT Manager.

The numbering below tracks that of the agenda, whereas the actual order of consideration may have varied.

PUBLIC COMMENTS

Mayor Mitchell commented on the success of the LagoFest event.

PRESENTATIONS

1. Captain Jerry Reyes of the Lago Vista Police Department presented a report and slide show Pertaining to mosquito born viruses.
2. Darlene Louk with Hines, Vanessa Stowe with DPGF, Jana Edwards with MPH, Mike Laberm with Jefferies and Robert Kleeman with Sneed Vine presented an overview of phase 3A and 3B of the Tessera Public Improvement District.
Councilman Rodney Cox would like noted – Robert Kleeman and Mike Laberm stated that the City would not be liable and the City would not become land owners if the PID fails.

ACTION ITEMS

3. Consideration of Resolution No. 16-1654; A Resolution Supporting the Acquisition of Property located at 2304 Forbes Drive, Austin, TX by the Travis Central Appraisal District in the Amount of \$245,000 for the Purpose of Expanding Travis Central Appraisal District Office Facilities.

On a motion by Rich Raley and seconded by Ed Tidwell, Voting in favor: Mayor Mitchell, Ron Smith, Ed Tidwell and Rich Raley. Voting in opposition: Stephanie Smith and Rodney Cox. The Council voted and approve Resolution No. 16-1654 Supporting the Acquisition of Property located at 2304 Forbes Drive, Austin, TX by the Travis Central Appraisal District in the Amount of \$245,000 for the Purpose of Expanding Travis Central Appraisal District Office Facilities. Motion passed.

4. Consideration and possible action regarding Resolution No. 16-1655; Body Camera Grant Resolution.

On a motion by Rodney Cox, seconded by Rich Raley, the Council voted unanimously to approve Resolution No. 16-1655; Body Camera Grant Resolution. Motion passed.

5. Consideration Authorizing the City Manager to Execute a Professional Services Agreement with The Aegis Group for Appraisal Services for the Tessera PID Phase 3A and 3B.

On a motion by Ron Smith, seconded by Rich Raley, the Council voted unanimously to approve authorizing the City Manager to Execute a Professional Services Agreement with The Aegis Group for Appraisal Services for the Tessera PID Phase 3A and 3B.

WORK SESSION

6. Presentation and Discussion of Annexation Requirements and Procedures.

Barbara Boulware-Wells, Lago Vista city attorney, provided the Council with a brief summary of annexation requirements and procedures.

7. Discussion on an Electronic Device Use Policy.

Dave Street, City IT Manager, gave a brief summary and discussed the need for an Electronic Device Use Policy.

8. Financial monthly report.

Staff and Council discussed financials monthly report.

FUTURE MEETINGS

9. Consider schedule and items for future Council meetings.

Ron Smith – looking for remaining evaluations on Melissa and ESD1 resolution on overlay districts.

Stephanie Smith – making a sub-committee to an existing committee to allow nonresidents to participate.

Melissa Bryne-Vosmer – outside agencies will make presentations for the HOT Fund grants; CIP closeout for FY14/15; automatic meter reading present an overview and presentation pertaining to program/flaws; EDC structure; PEC franchise; LV Golf Clubhouse report.

Council place 2 replacement

Rich Raley will not be in attendance for the July council meeting.

EXECUTIVE SESSION

10. At 9:20 p.m. the Council convened into Executive Session pursuant to Sections 551.071, 551.072, 551.074 or 551.087, Texas Government Code and/or Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:

- A. Consultation with legal counsel regarding real property and matters related to development of such property.
- B. Consultation with legal counsel regarding real property and claims or possible claims and/or contractual modifications related thereto.
- C. Consultation with legal counsel regarding claims/charges or possible claims/charges concerning previous vendor/contractor.
- D. Consideration of candidates for filling of vacancy for Council Place 2.

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

10. At 11:15 p.m. the Council reconvened from Executive Session into open session to take action as deemed appropriate in City Council's discretion regarding:

- A. Consultation with legal counsel regarding real property and matters related to development of such property. No Action.
- B. Consultation with legal counsel regarding real property and claims or possible claims and/or contractual modifications related thereto.
Rich Raley motioned to direct John Joseph to accept service, on behalf of the City of Lago Vista, to ask to move for a motion of declaratory judgment. Rodney Cox seconded the motion, the Council voted unanimously. Motion passed.
- C. Consultation with legal counsel regarding claims/charges or possible claims/charges concerning previous vendor/contractor. No Action
- D. Consideration of candidates for filling of vacancy for Council Place 2.
All applicants will be invited for interview Monday, June 6, 2016.

ADJOURNMENT

Mayor Dale Mitchell adjourned the meeting at 11:20 p.m.

Respectfully submitted,

Dale Mitchell, Mayor

ATTEST:

Belinda Kneblick, Assistant City Secretary

On a motion by Council Member , seconded by , the above and foregoing instrument was passed and approved this 16th day of June, 2016.

DRAFT

**OFFICIAL MINUTES OF THE CITY COUNCIL
LAGO VISTA, TEXAS
JUNE 16, 2016**

BE IT REMEMBERED that on the 16th day of June, A.D., 2016, the City Council held a Regular Meeting at 6:30 p.m. at City Hall, 5803 Thunderbird, in said City, there being present and acting the following:

CALL TO ORDER, CALL OF ROLL, INVOCATION AND PLEDGE OF ALLEGIANCE

Dale Mitchell	Mayor	Melissa Byrne Vossmer	City Manager
Ron Smith	Mayor Pro Tem	Danny Smith	Police Chief
Stephanie Smith	Council Member	David Harrell	Development Services Director
Rodney Cox	Council Member	Sandra Barton	City Secretary
		Gary Graham	Public Works Director
		Barbara Boulware-Wells	City Attorney

Mayor Dale Mitchell called the Regular Meeting to order and recognized that all Council Members were present except for Councilman Raley and Councilman Tidwell. Other Staff members present, Starr Lockwood Finance Director, Mark Côté Golf Manager and Jan Steele, Librarian. Reverend Judy Loehr with United Methodist lead the Invocation and Mayor Mitchell led the Pledge of Allegiance.

The numbering below tracks that of the agenda, whereas the actual order of consideration may have varied.

PUBLIC COMMENTS

Cindy Gerke, 21002 S. Ridge St., Lago Vista, addressed the Council with concerns regarding the water averaging method for the sewer rates. She would like the Council to consider making an exception in her case because in January she went through a great expense to have all the sod removed from the front and side yards and placed rock in her yard instead. She would also like the Council to have a policy that rewards people in taking measures to conserve water.

Helen and Bill Brown addressed Council with comments regarding storage of vehicles and the road conditions on Alfalfa. Mayor Mitchell advised that the Comprehensive Plan contains annexation of Alfalfa.

John Tugle expressed that he is open to annexation.

1. City Secretary to administer the Statement of Officer and Oath of Office to newly appointed Council Member Kevin Sullivan.

The City Secretary administered the Statement and Oath to appointed Council Member, Kevin Sullivan. He then took his place on the dais.

PRESENTATIONS

2. Presentations and request for funds from area art, culture and tourism organizations.
 - a. Lago Vista & Jonestown Area Chamber of Commerce & CVB

Elaine Hughes appeared and spoke about what the Chamber will be using the requested funds for which are the Visitor Center and Tourism advertising. They are requesting \$48,000.

- b. Friends of Balcones Canyonlands National Wildlife Refuge
Jane Brunclik appeared and thanked Council for the past donations and spoke about what the Refuge offers, spoke about the visitors they attract and what they will be using the requested funds for. They are requesting \$7,000.
 - c. Hill Country Singers
Ginger Halsted, appeared and thanked the Council for past support and spoke about attracting younger performers and their upcoming fundraiser on July 23. They are requesting \$4,000.
 - d. Lake Travis Music Theatre, Inc.
Judy Loehr appeared thanked Council and said they are their biggest supporter. She spoke about the advertising they do, the people they attract and their Rising Star program to attract younger people. They are requesting \$12,000.
 - g Lago Vista 4th of July Celebration
Larry Hagler appeared and said the cost continues to go up every year. At this time, this year the fireworks will be done from a cul de sac in Montechino. They are requesting \$15,000.
 - h. Lago Vista Players
June Freeman appeared and thanked Council for the previous years' support. She spoke about the participants that come in from outside of Lago Vista. The requested funds go towards advertising, production costs such as lights, sets, costumes and storage of these items. They are requesting \$5,000.
 - i. Other requestors not listed above
Bill Phipps appeared and provided some background of the Education Foundation. This is the first year that they are requesting funds. They are requesting \$ 2,000.
3. Receive and discuss monthly update on Water Treatment Plant #3 by Shay Ralls Roalson, PE, HDR and Gary Graham, PE, Public Works Director.

Gary Graham, Public Works Director provided the update on the Water Treatment Plant #3. He stated that there has not been a lot of activity in the past month. It is not online because one of the two water pumps motor burned up. We were advised that it was a manufacture defect and will be covered under the warranty. He is hopeful that two weeks from now the Water Treatment Plant will be online. The Plant is able to work if one pump goes down, but because the one burned up, he was unsure whether it was a manufacture defect or some other problem that the second pump might have also.

CONSENT AGENDA

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

4. Approval of the following minutes:

May 5, 2016 Special called meeting;

On a motion by Mayor Pro Tem Smith, seconded by Councilman Cox, the Council voted unanimously to approve the May 5, 2016 minutes as presented. Motion passed.

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

5. Discussion and consideration and possible action regarding Resolution No. 16-1656; A Resolution by the City Council of the City of Lago Vista, Texas cancelling the Regular City Council meeting scheduled for July 21, 2016.

City Manager, Melissa Byrne Vossmer provided a brief overview of the agendas for the July and August meetings.

Mayor Pro Tem Smith motioned to approve Resolution No. 16-1656 as presented. The motion was seconded by Councilman Sullivan. Councilwoman Smith asked if cancelling a regular meeting better than cancelling a special meeting. Melissa Byrne Vossmer said that if we do that, then the budget will not be delivered to Council for another two weeks after July 7. Mayor Mitchell advised that if we adopt this Resolution tonight, Council call a special meeting for July 21 or any other date if needed.

Voting in favor; Sullivan, R. Smith, Mitchell and S. Smith. Voting in opposition; Cox. Motion passed.

6. Discussion and Approval of an Electronic Device Use Policy for the City of Lago Vista.

David Street, IT Manager said there were no real changes from when he presented to Council at the June 2 Council meeting.

On a motion by Councilman Cox, seconded by Councilwoman Smith, the Council voted unanimously to approve the Electronic Device Use Policy as presented. Motion passed.

Melissa advised Council that a hard copy will be put in their boxes because there is an acceptance sheet that must be signed.

7. Discussion and Consideration of Council Liaison assignments to Boards, Committees and Commissions.

Melissa Byrne Vossmer, City Manager advised Council that this was put on the agenda in hopes of having a Liason to the newly formed Parks and Recreation Advisory Committee and to talk about assignments with the joining of a new Council Members. Councilwoman Smith advised that she would like to put the Library back up for the taking as she is unable to attend the meetings during the work week. Councilman Sullivan volunteered to be the Library Liaison as well as the Parks and Recreation Advisory Committee Liaison with Councilwoman Smith as a backup to attend the Parks and Recreation Advisory Committee meetings if Councilman Sullivan is unable to attend.

8. Discussion, Consideration and possible action authorizing the City Manager to Execute a Contract with JW Properties for Broker Services in the Sale of City Property Located at 18001 Marshall's Point Dr.

On a motion by Councilman Cox, seconded by Councilman Sullivan, the Council voted unanimously to authorize the City Manager to execute a contract with JW Properties as presented. Motion passed.

Councilman Sullivan asked if once the property has a contract, does it come back to Council. Melissa advised that any decisions concerning the property will be brought back to Council. Jacqueline Wittmuss, Broker with JW Property appeared to answer any questions/concerns from Council.

WORK SESSION

9. LVGC Clubhouse Restaurant Report.

Mark Cote, Golf Course Manager provided an update of the restaurant operations and status of the repairs needed at the Lago Vista Clubhouse.

Councilman Cox advised Council that he would recommend taking the recommendations from Mark and in 60 days the City may do another RFP which includes beer and wine sales.

10. Overview of Automatic Meter Reader Program.

Gary Graham, Public Works Director advised Council about some issues regarding the current automated reading water meters and addressed questions from Council.

RG3, the current manufacturer, has made an offer to replace all of the registers for \$139,470.10, which should reduce the number of failures.

11. Infill/Redevelopment of Residential Incentives Program.

David Harrell, Development Services Director provided the Council with an oral overview.

Councilman Cox would like any policy to contain information regarding notifying anyone about the upfront costs. Council provided David with some direction for developing a policy.

12. Departmental Reports

- A. Airport Report

- B. Development Services – Councilwoman Smith requested a code enforcement report stating if the people receiving notices are repeat offenders and if the offenders are renters or the owners of the property.

Mayor Pro Tem Smith requested reports or data that may show a trend of the areas getting citations.

- C. Financial Report – Mayor Pro Tem asked if the water sales have been down.

- D. Golf Course Report

- E. Library Report

- F. Municipal Court Report

- G. Police Department

- H. Public Works Reports

- a. Street Department
- b. Utility Department (Water/Wastewater Services)
- c. Water Loss Report
- d. Water/Wastewater Treatment

13. Reports/Minutes from City Boards, Committees and Commissions

- a. November 23, 2015 Impact Fee Advisory Committee meeting minutes
- b. March 31, 2016 Planning and Zoning Commission minutes
- c. April 7, 2016 Planning and Zoning special called meeting minutes
- d. April 12, 2016 Impact Fee Advisory Committee meeting minutes
- e. April 19, 2016 Planning and Zoning special called meeting minutes
- f. May 5, 2016 Planning and Zoning special called meeting minutes
- g. May 10, 2016 DRAFT Golf Course Advisory Committee meeting minutes – Councilwoman Smith asked for clarification of item 2C regarding the signage, Melissa provided clarification.
- h. May 12, 2016 KLVB meeting minutes
- i. June 9, 2016 KLVB Bullet Report

FUTURE MEETINGS

14. Consider schedule and items for future Council meetings.

- July 7 meeting: FY16/17 Budget
 CAPMetro final report
 Employee Handbook
 Water/Wastewater rates study
 CIP closeout
 PEC Franchise agreement
 Infill policy draft
 6 month report from Golf Course Advisory Committee.

EXECUTIVE SESSION

15. At 9:22 p.m. the Council convened into Executive Session pursuant to Sections 551.071 (Advice of Counsel), 551.072 (Real Property), 551,074 (Personnel), Texas Government Code and Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:

- A. Consultation with legal counsel regarding real property and possible issues and questions related to acquisition, sale or lease.
- B. Consultation with legal counsel regarding contractual claims or possible claims or charges, contractual modifications, and questions related thereto.
- C. Pending or threatened litigation pertaining to Cause No. D-1-GN-16-002483, *Brian Atlas v. City of Lago Vista*, Travis County 200th District Court.

D. Consider, conduct and discuss the City Manager's performance evaluation.

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

16. At 11:34 p.m. the Council reconvened from Executive Session into open session to take action as deemed appropriate in City Council's discretion regarding:

A. Consultation with legal counsel regarding real property and possible issues and questions related to acquisition, sale or lease.

No action taken

B. Consultation with legal counsel regarding contractual claims or possible claims or charges, contractual modifications, and questions related thereto.

On a motion by Councilman Cox, seconded by Councilman Sullivan, the Council voted unanimously for Councilman Cox and the City Attorney to take direction as discussed in Executive Session and talk with the parties to reach an agreement.

C. Pending or threatened litigation pertaining to Cause No. D-1-GN-16-002483, *Brian Atlas v. City of Lago Vista*, Travis County 200th District Court.

No action taken

D. Action pertaining to City Manager performance evaluation.

No action taken

ADJOURNMENT

Mayor Dale Mitchell adjourned the meeting at 11:35 p.m.

Respectfully submitted,

ATTEST:

Dale Mitchell, Mayor

Sandra Barton, City Secretary

On a motion by Councilman _____, seconded by Council Member _____, the above and foregoing instrument was passed and approved this ____ day of _____, 2016.



AGENDA ITEM
City of Lago Vista

To: Mayor and City Council

Council Meeting: July 7, 2016

From: Starr Lockwood

Subject: Update from Nelisa Heddin, Heddin Consulting, on the Annual Water/Wastewater Utility Rate Study

Request: Report

Legal Document: Other

Legal Review:

EXECUTIVE SUMMARY:

The FY14-15 Budget included funding to conduct the first comprehensive water/wastewater utility rate study. The study was important since there were several water/wastewater improvements identified through the Impact Fee Study that had been recently updated and approved by the City Council. Further, the City had just incurred significant debt in 2014 for construction of Water Treatment Plant #3. The purpose of the study would be to determine whether the utility rate structure that was in place was sufficient to pay for the cost of providing water / wastewater utility services to the citizens of Lago Vista.

After careful consideration, Nelisa Heddin Consulting, Inc., was selected to conduct the study. The project started in December 2014 with a request for massive amounts of information about the utilities including CIP documents, budgets, operational issues, consumption reports, meters, and years worth of history and data to establish the background information from which to begin the process. Meetings with staff began in January 2015. In February 2015, Council received the first report from Ms. Heddin in which she outlined the scope of her work to that point in terms of patterns of usage, projections, operations, revenue requirements, and a five year outlook. Meetings continued between Ms. Heddin, staff, and Council culminating in the official Rate Study and Analysis presented to Council in August 2015. Council voted to accept the suggested rates presented in that study on a year to year basis and to continue to fund annual rate studies to monitor whether the rates charged for utilities were sufficient to pay for providing those services.

Ms. Heddin attended the May 19, 2016 City Council meeting and presented her initial findings regarding Year 2 of the Rate Study analysis. A copy of the presentation was provided in the Council Packet. It contained background information from the previous Rate Study as well as updated information. As Council is aware, much has happened in the past year. Additional bonds have been issued for the property that gained access to the easement needed to complete Water Treatment Plant #3. And Mother Nature has reversed the almost drought of record to bring back a full lake. That, too, has an impact on the rate study since it affects water usage and revenues for the current fiscal year as well as those projected in the 2016-2017 Budget.

Attached is the next presentation from Ms. Heddin and she will be attending the worksession.

Impact if Approved:

N/A - Discussion Only

Impact if Denied:

N/A - Discussion Only

Is Funding Required? Yes No If Yes, Is it Budgeted? Yes No N/A

Indicate Funding Source:

N/A - Discussion Only

Suggested Motion/Recommendation/Action

Motion to - -

Motion to - -

Motion to - -

Known as:

Update from Nelisa Heddin, Heddin Consulting, on the Annual Water/Wastewater Utility Rate Study

Agenda Item Approved by City Manager

City of Lago Vista, TX

Cost of Service and Rate Design Study Water and Wastewater Utility

July 7, 2016



Nelisa Heddin Consulting, LLC
(512) 589-1028
nheddin@nelisaheddinconsulting.com

Background

- Presented preliminary findings on May 19, 2016
 - Analysis included 3 CIP Scenarios
 - 100% CIP Funding
 - 50% of CIP Funding
 - No CIP Funding
- Council requested additional information:
 - Comparison to revenue requirements identified in 2015 study
 - Sensitivity to changes in growth
 - Determine impact to bill for an average customer
- Staff requested updates:
 - Update to analysis for credit for impact fee funding of projects
 - Determine flat fee for Jonestown customers



Updated Rates – Water

Scenario 1	Current	2017	2018	2019	2020	2021
Base Fee per LUE	\$32.68	\$36.66	\$40.63	\$44.61	\$48.58	\$52.56

Scenario 2	Current	2017	2018	2019	2020	2021
Base Fee per LUE	\$32.68	\$35.23	\$37.78	\$40.33	\$42.88	\$45.43

Scenario 3	Current	2017	2018	2019	2020	2021
Base Fee per LUE	\$32.68	\$33.80	\$34.93	\$36.05	\$37.17	\$38.29

- Scenario 1 - 100% CIP Funding
- Scenario 2 - 50% of CIP Funding
- Scenario 3 - No CIP Funding



Updated Rates –

Scenarios 1, 2 and 3 – Volumetric Rates (Residential)

Rates	Current	2017	2018	2019	2020	2021
0-2,000						
2,001-5,000	\$4.78	\$5.04	\$5.99	\$6.99	\$7.56	\$8.26
5,000-10,000	\$6.03	\$6.29	\$7.24	\$8.24	\$8.81	\$9.51
10,001-15,000	\$8.03	\$8.29	\$9.24	\$10.24	\$10.81	\$11.51
15,001-25,000	\$10.53	\$10.79	\$11.74	\$12.74	\$13.31	\$14.01
25,001-50,000	\$13.53	\$13.79	\$14.74	\$15.74	\$16.31	\$17.01
Above 50,001	\$17.03	\$17.29	\$18.24	\$19.24	\$19.81	\$20.51



Updated Rates –

Scenarios 1, 2 and 3 – Volumetric Rates (Commercial)

Rates	Current	2017	2018	2019	2020	2021
0-2,000	\$3.95	\$3.95	\$3.95	\$4.16	\$4.94	\$5.83
2,001-5,000	\$4.95	\$4.95	\$4.95	\$5.16	\$5.94	\$6.83
5,000-10,000	\$6.20	\$6.20	\$6.20	\$6.41	\$7.19	\$8.08
10,001-15,000	\$8.20	\$8.20	\$8.20	\$8.41	\$9.19	\$10.08
15,001-25,000	\$10.70	\$10.70	\$10.70	\$10.91	\$11.69	\$12.58
25,001-50,000	\$13.70	\$13.70	\$13.70	\$13.91	\$14.69	\$15.58
Above 50,001	\$17.20	\$17.20	\$17.20	\$17.41	\$18.19	\$19.08



Updated Rates –

Scenarios 1, 2 and 3 – Volumetric Rates (Irrigation)

Rates	Current	2017	2018	2019	2020	2021
0-2,000	\$4.65	\$4.65	\$4.65	\$4.65	\$4.65	\$4.65
2,001-5,000	\$5.65	\$5.65	\$5.65	\$5.65	\$5.65	\$5.65
5,000-10,000	\$6.90	\$6.90	\$6.90	\$6.90	\$6.90	\$6.90
10,001-15,000	\$8.90	\$8.90	\$8.90	\$8.90	\$8.90	\$8.90
15,001-25,000	\$11.40	\$11.90	\$11.90	\$11.90	\$11.90	\$11.90
25,001-50,000	\$14.40	\$14.90	\$14.90	\$14.90	\$14.90	\$14.90
Above 50,001	\$17.90	\$17.90	\$17.90	\$17.90	\$17.90	\$17.90



Updated Rates – Wastewater

Scenario 1	Current	2017	2018	2019	2020	2021
Base Fee per LUE	\$12.33	\$18.09	\$23.29	\$27.94	\$34.37	\$39.89
Volumetric Charge	\$8.16	\$10.74	\$10.99	\$11.26	\$11.53	\$11.81
Jones Town	\$50.99	\$65.62	\$71.99	\$77.84	\$85.50	\$92.33

Scenario 2	Current	2017	2018	2019	2020	2021
Base Fee per LUE	\$12.33	\$15.90	\$19.04	\$21.98	\$26.07	\$29.88
Volumetric Charge	\$8.16	\$10.75	\$11.01	\$11.28	\$11.56	\$11.84
Jones Town	\$50.99	\$63.48	\$67.82	\$71.99	\$77.35	\$82.46

Scenario 3	Current	2017	2018	2019	2020	2021
Base Fee per LUE	\$12.33	\$13.84	\$15.14	\$16.61	\$18.41	\$19.86
Volumetric Charge	\$8.16	\$10.76	\$11.03	\$11.31	\$11.59	\$11.88
Jones Town	\$50.99	\$61.47	\$64.00	\$66.73	\$69.82	\$72.59

- Scenario 1 - 100% CIP Funding
- Scenario 2 - 50% of CIP Funding
- Scenario 3 - No CIP Funding



Average Bill Comparison

Water Bill	Current Rates	Scenario 1	Scenario 2	Scenario 3
Commercial 2,000 Gallons	\$40.58	\$44.56	\$43.13	\$41.70
Commercial 10,000 Gallons	\$86.43	\$90.41	\$88.98	\$87.55
Commercial 77,000 Gallons	\$1,041.33	\$1,045.31	\$1,043.88	\$1,042.45
Residential 3,000 Gallons	\$37.46	\$41.70	\$40.29	\$38.86
Residential 5,000 Gallons	\$47.02	\$51.78	\$50.42	\$48.98
Residential 7,500 Gallons	\$62.10	\$67.51	\$66.21	\$64.75
Residential 10,000 Gallons	\$77.17	\$83.24	\$81.99	\$80.52

- Scenario 1 - 100% CIP Funding
- Scenario 2 - 50% of CIP Funding
- Scenario 3 - No CIP Funding



Average Bill Comparison

Sewer Bill	Current Rates	Scenario 1	Scenario 2	Scenario 3
Commercial 2,000 Gallons	\$28.65	\$39.57	\$37.40	\$35.36
Commercial 10,000 Gallons	\$93.93	\$125.49	\$123.40	\$121.43
Commercial 77,000 Gallons	\$640.65	\$845.07	\$843.63	\$842.29
Residential 3,000 Gallons	\$36.81	\$50.31	\$48.15	\$46.12
Residential 5,000 Gallons	\$53.13	\$71.79	\$69.65	\$67.64
Residential 7,500 Gallons	\$73.53	\$98.64	\$96.52	\$94.54
Residential 10,000 Gallons	\$93.93	\$125.49	\$123.40	\$121.43

- Scenario 1 - 100% CIP Funding
- Scenario 2 - 50% of CIP Funding
- Scenario 3 - No CIP Funding



Comparison to 2015 Study

Water Revenue Requirements	2017	2018	2019	2020	2021
2015 Study	\$2,958,844	\$3,236,950	\$3,507,015	\$3,760,468	\$4,030,774
2016 Study	\$3,004,376	\$3,414,030	\$3,844,703	\$4,198,978	\$4,587,821

Wastewater Revenue Requirements	2017	2018	2019	2020	2021
2015 Study	\$1,800,121	\$1,893,758	\$2,000,197	\$2,128,275	\$2,244,813
2016 Study	\$1,900,145	\$2,170,471	\$2,425,563	\$2,763,124	\$3,072,492



Sensitivity to Growth

- Assumed 3-year average annual growth rate = 1.5% (approximately 45 connections per year)
- For every 1% additional growth on the system, the City can expect to achieve approximately \$40,000 in additional water/wastewater revenues (using 2017 rates at 100% CIP funding)
- The City's water and wastewater revenue requirements for FYE2017 are in excess of \$4M, and by FYE2021, they are anticipated to be in excess of \$7.4M



Questions?





AGENDA ITEM
City of Lago Vista

To: Melissa Byrne Vossmer

Council Meeting: July 7, 2016

From: Lisa Meyers

Subject: Discussion of Proposed Revised Personnel Policies and Procedures Manual

Request: Workshop

Legal Document: Other

Legal Review:

EXECUTIVE SUMMARY:

The current Personnel Policies & Procedures Manual was originally adopted in 1998. Revisions to specific policies have been made over the years but the manual is considerably outdated. In May, Mayor Pro Tem Smith volunteered to review the proposed Personnel Policies and Procedures as it is a lengthy document. This was completed. This item is coming to Council for discussion only. When finalized, the City Charter requires it to be adopted by ordinance.

Changes highlighted in the proposed Personnel Policies & Procedure include:

1. Mandatory reporting requirements are part of a more detailed sexual and other types of harassment policy.
2. New laws, changes in current laws and an expanded dress code.
3. A greater focus on safety standards.
4. Stricter policies for employees who drive City vehicles
5. A more detailed explanation of the new employee probationary period and the progressive disciplinary process.
6. Modifications to hours worked when calculating overtime for the work week.
7. A detailed travel policy and the Department of Transportations Drug and Alcohol policy for employees who drive City commercial vehicles are two new sections in the manual.
8. A change in policy is the discontinuance of accumulated sick leave pay out to employees who leave the City in good standing. Current employees will be "grandfathered" but any employees hired after the adoption of the manual will fall under the new policy eliminating future liabilities.

Impact if Approved:

Discussion only.

Impact if Denied:

Discussion only.

Is Funding Required? Yes No If Yes, Is it Budgeted? Yes No N/A

Indicate Funding Source:

N/A

Suggested Motion/Recommendation/Action

Motion to - -

Motion to - -

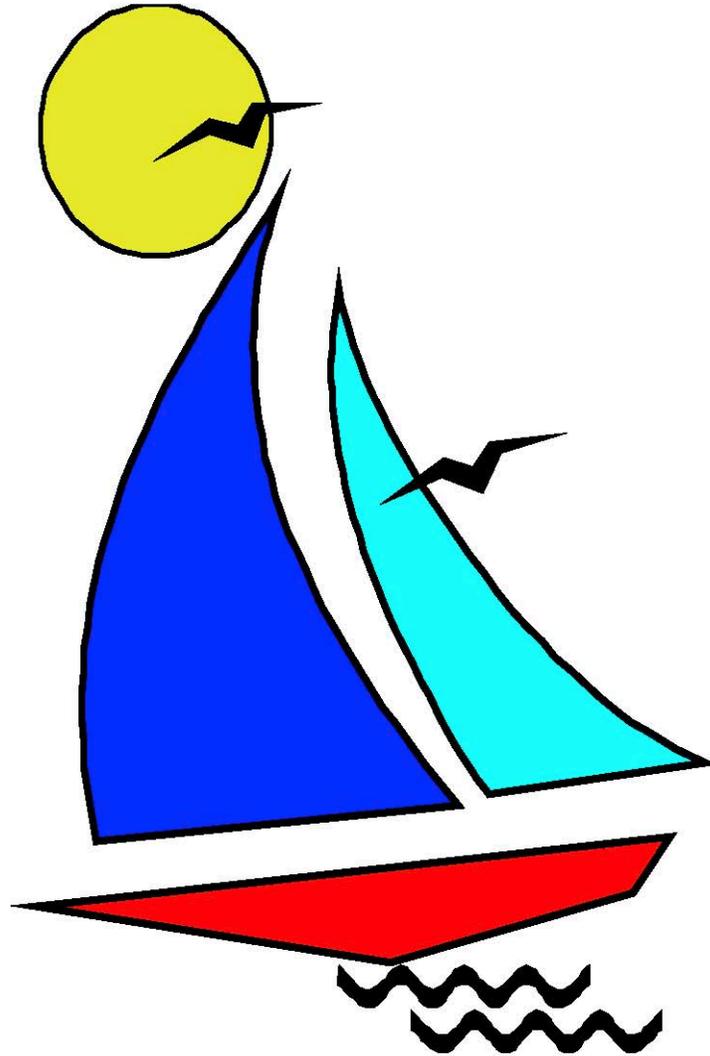
Motion to - -

Known as:

Discussion on Proposed Personnel Policies and Procedures

Agenda Item Approved by City Manager

City of Lago Vista



Personnel Policies and Procedures

City of Lago Vista

Personnel Policies and Procedures

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SECTION 1. GENERAL POLICIES

A. PURPOSE OF THESE POLICIES

The purpose of these Personnel Policies is to provide a uniform set of guidelines governing employment with the City. The policies contained here inform employees of the benefits and obligations of employment with the City. They have been prepared and adopted in order to promote consistent, equitable, and effective practices by both employees and supervisors. These policies have also been prepared to provide a high quality of public service to the citizens of this City. These policies do not in any way constitute a contract of employment with the city.

B. AUTHORITY

These policies are established by the City Council, and any deletions, amendments, revisions, or additions of substance to the policies must be approved by the Council. These policies completely replace and supersede any and all personnel policies previously adopted, either individually or as a set of policies, by the City Council. General and final authority for personnel administration rests with the City Manager, with the exception of matters reserved to the City Council by state law or the City Charter.

1. **Management Authority and Amendments.** The City may modify, revoke, suspend, interpret, terminate, or change any or all of its policies and procedures, in whole or in part, at any time, with or without notice. The issuance of these policies and procedures does not constitute a contract between the City and its employees for any duration of employment. There is no specified length of employment, and either the City or the employee can terminate the employment relationship at any time, for any reason.

Policy administration rests with City management and City management reserves sole authority to administer City operations. Authority may be delegated to appropriate staff members to act in the City Manager's behalf in the administration of these policies; however, the final authority on personnel decisions shall be reserved to the City Manager. Operational changes to any policy, practice, or process will require approval by the City Manager.

No City supervisor is authorized to modify these policies for any employee or to enter into any agreement, oral or written, in conflict with these policies.

1. **Departmental Policy and Procedural Requirements.** Individual City departments may develop policies and procedures that are consistent with City policies and procedures. Department policies and procedures that are operational and do not relate to those in this handbook, or other approved operational manuals, do not need to be reviewed and approved by the Human Resources Manager or other appropriate departments. All employment related department policies must be reviewed by the Human Resources Manager, and if necessary, the City Manager. Department directors are responsible for obtaining the necessary review and approval prior to issuing such departmental policies and procedures.

Departmental policies and procedures will not become effective unless they have been reviewed and approved in accordance with this policy.

2. **Miscellaneous.** Policies and procedures apply to all employees of the City, both on and off duty where applicable, unless otherwise restricted by proper authority, or prohibited by state and/or federal law.

Only the City Manager or the City Council, depending on the position, has the authority to enter into an employment agreement, promise, or commitment contrary to these policies and procedures, and all such agreements, promises, and/or commitments entered into by the City Manager or City Council must be contained in an express written employment contract signed by both the City Manager and the affected employee.

C. SEVERABILITY

The provisions of these policies are severable, and if any provision or part of a provision is held invalid, illegal, or unenforceable, this shall not affect the validity of the remaining provisions or parts of provisions, which shall remain in force and effect.

D. APPLICABILITY OF PERSONNEL POLICIES

These personnel policies and procedures apply equally to all employees of the City unless a class of employees is specifically exempted; the provisions of these policies may be varied in the case of an employee with a written employment agreement approved by the City Council. Individuals performing community service work for the City are not covered by the terms of these policies. It is the responsibility of all employees to become familiar with and abide by these policies.

In cases where federal or state laws or regulations supersede local policy for specific groups of employees, such laws or regulations will substitute for these personnel policies only insofar as necessary to comply.

E. DISSIMINATION OF PERSONNEL POLICIES

The Human Resources Manager maintains the official set of the personnel policies, with all revisions, for reference by employees, and is responsible for providing a complete copy of this manual and copies of all subsequent revisions or policy changes to each employee. If a question arises about a particular policy, the official set of policies in the Human Resources Manager's office should be consulted and will control.

As a part of the initial orientation process, the Human Resources Manager will provide a copy of the *Personnel Policies and Procedures* to new employees. This copy is the employee's to keep. Upon receipt of the personnel policies and before beginning work on the job, each employee is required to read the policies and sign an acknowledgment that he or she has received a copy of the *Personnel Policies and Procedures* and understands that he or she is responsible for knowing the contents. The signed acknowledgment is filed in the employee's official personnel file in the Human Resources Manager's office.

F. EMPLOYMENT AT WILL

Employment with the City is for no fixed or definite term. All employment by the City has been and continues to be at-will, except for those positions that may have a written contract approved by the city council.

That means that both the employee and/or the City have the right to terminate employment at any time, with or without notice, and with or without cause. These personnel policies do not constitute a contract of employment. Nothing in these policies is intended to alter the continuing at-will status of employment with the City.

G. EQUAL EMPLOYMENT OPPORTUNITY

The city is an equal opportunity employer. It is the policy of the City of Lago Vista to prohibit discrimination against any person in job structuring, recruitment, examination, selection, appointment, rate of pay, training, awards, compensation and benefits, promotion and transfer, disciplinary measures, or any other aspect of employment based on race, age, sex, religion, color, disability, national origin, genetics, veteran's status, sexual orientation, pregnancy, or other unlawful basis.

An employee will not engage in conduct at work that involves the use of racial or ethnic joking or derogatory remarks. Reports of such conduct will be investigated, and disciplinary action will be taken, if appropriate.

The city prohibits retaliation or discrimination against any employee for opposing an unlawful or discriminatory employment practice, or for alleging such a practice or participating in an investigation of an allegation of discrimination.

(Legal reference: U.S. Civil Rights Acts of 1871 and 1964, as amended; Lilly Ledbetter Fair Pay Act of 2007; Genetic Information Nondiscrimination Act of 2009; V.T.C.A. Civil Practices and Remedies Code, Chapter 106; Texas Commission on Human Rights Act, V.T.C.A. Government Code, Sec. 461; V.T.C.A. Labor Code, Chapters 21-22; U.S. Age Discrimination in Employment Act of 1967, as amended; U.S. Rehabilitation Act of 1973, as amended; U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008; U.S. Executive Order 11246; U.S. Equal Pay Act; V.T.C.A. Health and Safety Code, Chapters 592.)

H. SEXUAL AND OTHER UNLAWFUL HARASSMENT

All City employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, citizens, and vendors. This means that each employee must be respectful of others and act professionally. City employees are also prohibited from engaging in unlawful harassment of other employees, citizens, vendors, and all other third parties.

1. **Sexual Harassment.** All types of sexual harassment are prohibited. Unwelcome sexual advances, insinuations, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - ◆ Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or

- ◆ Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
- ◆ Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Sexual harassment does not require sexual attraction or interest. This policy prohibits sexual advances and requests for sexual favors, sexual jokes and innuendo; comments about bodies, sexual prowess, sexual preferences, sexual experiences or sexual deficiencies; leering, whistling, or touching; verbal abuse of a sexual nature, including insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures, including nudity and pornography; and all inappropriate conduct of a sexual nature, whether it be physical, verbal or visual conduct.

2. **Other Prohibited Harassment.** In addition to the City's prohibition against sexual harassment, harassment on the basis of any other legally protected characteristic is also strictly prohibited. This means that verbal or physical conduct that singles out, belittles, or shows hostility or aversion toward someone because of race, religion, color, national origin, age, disability, genetics, veteran status, citizenship, or any other characteristic protected by law is also prohibited.

Prohibited conduct includes, but is not limited to, epithets, slurs and negative stereotyping; threatening, intimidating, bullying or hostile conduct; denigrating jokes and comments; and writings or pictures that single out, denigrate, or show hostility or aversion toward someone on the basis of a protected characteristic. Conduct, comments, or innuendoes that may be perceived by others as offensive are wholly inappropriate and are strictly prohibited.

This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, comics, stories, etc., including but not limited to via facsimile, email, cell phone or other electronic devices, social media, and/or the Internet, such as YouTube and Facebook. Harassment of any nature, when based on race, religion, color, sex, sexual orientation, pregnancy, national origin, age or disability, genetics, veteran status, citizenship or any other characteristic protected by law is prohibited and will not be tolerated.

This policy applies to City employees, citizens, vendors, and other visitors to the workplace.

3. **Mandatory Reporting.** The City requires that employees report all perceived incidents of harassment, regardless of the offender's identity or position. Any employee who observes or otherwise learns of possible harassment in the workplace or who feels that harassment has occurred or has been subjected to conduct prohibited by this policy must report it immediately to:

- ◆ The Department Director;
- ◆ The Human Resources Manager; or
- ◆ The City Manager.

More than one avenue for reporting harassment is included to allow the employee to choose an organizational level that s/he is comfortable with in reporting the incident.

Any supervisor, manager, or department director who becomes aware of possible conduct prohibited by this policy must immediately advise the department director and /or the Human Resources Manager. A formal Complaint Form is available from the Human Resources Manager.

Under this policy, an employee may report to and/or contact the Human Resources Manager directly, without regard to the employee's normal chain of command.

Voice messages or emails may be left at any time.

4. **Investigation.** All reports of prohibited conduct will be investigated promptly and in as confidential a manner as possible. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have other relevant knowledge. All employees are required to cooperate with the investigation and to maintain confidentiality.
5. **Retaliation Prohibited.** Retaliation against any employee who makes a good faith charge or report of prohibited conduct or who assists in a complaint investigation is prohibited. Acts of retaliation must be reported immediately as set out above.
6. **Responsive Action.** Misconduct constituting harassment or retaliation will be dealt with appropriately. Discipline, up to and including dismissal, will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. Likewise, disciplinary action will be imposed in situations where claims of prohibited conduct were untruthful, fabricated or exaggerated, or when employees are untruthful during an investigation.

I. AMERICANS WITH DISABILITIES ACT

To ensure compliance with the Americans with Disabilities Act and Americans with Disabilities Act as Amended (ADAAA), the City offers equal employment opportunity to qualified individuals and strictly prohibits discrimination against qualified individuals on the basis of disability.

The City will provide reasonable accommodation to the known physical or mental impairments of an otherwise qualified individual with a disability if such reasonable accommodation will enable the individual to perform the essential functions of the position at issue. The City's obligation under this policy is limited to providing reasonable accommodations that will not result in undue hardship to the City.

Any employee seeking a reasonable accommodation for a disability that affects the employee's work schedule or ability to perform the essential functions of the position shall make a written application on a form provided by the Human Resources Manager. The employee will be required to furnish documentation from a treating physician to substantiate an ADA disability and the need for accommodation.

Employees who have a complaint involving potential violations of the Americans with Disabilities Act or ADAAA, including but not limited to harassment, discrimination, or failure to provide a reasonable accommodation, must immediately contact the immediate supervisor, Human Resources Manager, the City Manager, or the City Manager's designee.

(Legal reference: U.S. Rehabilitation Act of 1973, as amended; U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008.)

J. LACTATING/BREASTFEEDING POLICY

Accommodations will be made for lactating mothers for up to one year after the child's birth. An employee who is breastfeeding her child will be provided reasonable break times to express breast milk for her baby. The City will designate a room for this purpose. A small refrigerator reserved for the specific storage of breast milk will be made available. Any breast milk stored in the refrigerator must be labeled with the name of the employee and the date of expressing the breast milk. Any nonconforming products stored in the refrigerator may be disposed of. Employees storing milk in the refrigerator assume all responsibility for the safety of the milk and the risk of harm for any reason, including improper storage, refrigeration and tampering.

Nursing mothers wishing to use this room must request/reserve the room by contacting the Human Resources Department. Additional rules for use of the room and refrigerator storage are posted in the room. City employees who work offsite or in other locations will be accommodated with a private area as necessary. Breaks of more than 20 minutes in length will be unpaid, and the employee should indicate this break period on her time record.

SECTION 2. EMPLOYEE RESPONSIBILITIES

A. GENERAL EMPLOYEE RESPONSIBILITIES

The city is a public tax-supported organization. Its employees must adhere to high standards of public service that emphasize professionalism, courtesy and avoidance of even the appearance of illegal or unethical conduct.

Employees are required to give a full day's work, to carry out efficiently the work items assigned as their responsibility, to maintain honest conduct, and to do their part in maintaining good relationships with the public, their supervisors, city officials and their fellow employees.

B. FINANCIAL RESPONSIBILITY

Employees of the City are expected to maintain a good credit standing in the community and to pay their obligations promptly. The City shall in no way serve as a collecting agency or arbitrator. If an employee fails to pay, or make reasonable provisions for future payment, of his or her debts to such an extent that the failure is detrimental to the employee's job performance, the employee may be disciplined, up to and including dismissal.

C. DRESS, APPEARANCE, AND UNIFORMS

Employees must, at all times, dress appropriately and professionally and present a clean and neat appearance while at work and while representing the City or conducting City business. The City allows business casual dress in the work place year-round, in accordance with this policy. This policy applies to all employees except those who are required to wear uniforms. Department directors are strongly encouraged to allow their employees to participate in business casual dress, as practical. Department directors and supervisors are responsible for enforcing this policy in their respective departments in order to maintain acceptable dress and appearance.

Professional business attire or a required uniform is to be worn when there is a need to present a more formal professional appearance for meetings or special events. Clean and presentable attire that is typical for the job function (i.e. suits or dresses for the City Manager's Office, polo with city logo and slacks for Parks & Recreation) are proper attire for personnel scheduled for City Council meetings, receptions, etc., unless otherwise directed by the City Manager for the occasion.

Employees must remember that they are professional 100% of the time and are dressing for business, not for pleasure. All clothing must be clean, neatly pressed and in good repair and appropriate to the work setting. Attire must always reflect a professional business attitude and presence. Provocative, suggestive articles or other inappropriate dress are not allowed in the workplace. When there is a question on whether or not an item of clothing is prohibited, please err in favor of being conservative and assume that it is not acceptable attire.

The City Manager may designate a specific day in which casual attire may be worn. However, it is at the City Manager's discretion and the attire worn on "casual days" should still reflect an appropriate professional appearance. Department directors may occasionally allow employees to wear casual attire if a specific work assignment dictates that casual attire is appropriate and to ensure the safety of an employee.

1. **Standards for Business Casual Work Attire**

- ◆ Jeans, T-shirts and athletic shoes are not acceptable during normal work hours unless a special day is declared by City management or as specifically approved by the appropriate department director as work assignment dictates.
- ◆ Sweatshirts, sweat pants and hoodies of any type are not acceptable unless a special casual wear or festive occasion is declared by City management.
- ◆ Shorts shall not be worn unless they are part of a City department's approved uniform and worn with a shirt that identifies them as an employee of a particular City department or division or approved by the department director as special circumstances warrant.
- ◆ Women: Camisoles or tank tops are required to be worn under low cut blouses/tops. Clothing with thin or spaghetti straps or tank tops need to be worn with an acceptable jacket. Skirts and dresses shall be worn no shorter than 2 inches above the top of the knee. Ankle length and Capri dress slacks are appropriate. Dress shoes or dress sandals are appropriate. No more than 3 earrings in each ear may be worn, provided the earrings are not unprofessional in appearance.
- ◆ Men: Knit shirts with collar, banded collar shirts, short sleeve or long sleeve dress shirts without a tie are acceptable. All shirts are to be tucked in unless specifically designed to be worn outside trousers. Dress shoes, boots or loafers are acceptable footwear. No more than 3 earrings in each ear may be worn, provided the earrings are not unprofessional in appearance.

2. **Examples of Inappropriate Attire.**

- ◆ Provocative or revealing attire including low cut, bare backs, bare shoulders, midriffs, body-hugging, see-through garments, tube tops or excessively loose or tight fabrics;
- ◆ Stirrup pants, spandex pants, casual cargo pants, leggings, form fitting or tight slacks/trousers;
- ◆ Clothing with unclear or obscene messages or that endorses alcohol, tobacco products, drugs, pornography, or offensive material of any kind;
- ◆ Un-pressed, soiled, ripped and tattered clothing;
- ◆ Visible tattoos which could be deemed offensive;
- ◆ Nose rings, eyebrow rings, tongue studs, lip piercings, gauge piercings, or similar type facial jewelry.

3. **Jewelry.** All jewelry worn by employees must be appropriate so it does not detract from a professional appearance or conflict with department uniform guidelines.

4. **Hair and Facial Hair.** Hair styles and hair colors must be appropriate to the employee's position, and extremes of any type are unacceptable. For example, green hair, Mohawk style haircuts, and severely spiked hair are not allowed. The length of hair must not pose a safety hazard for employees working around machinery and moving objects. Hair, including facial hair, must be clean and neatly groomed at all times.

5. **Perfume and Cologne.** While at work, employees should minimize the use of scented aftershaves, colognes, perfumes, and lotions as these products may impact the health of chemically-sensitive customers and other employees.
6. **Personal Hygiene.** All employees must maintain a clean, presentable appearance. Personal hygiene includes a regular bath/shower, use of deodorant, and appropriate oral hygiene.
7. **Uniforms.** The City supplies many Police, Parks and Recreation, and Public Works personnel with appropriate uniforms. Employees in jobs that require a uniform will be told how and where the uniforms can be obtained. The City will provide replacement uniforms as necessary. Uniforms must be clean and neat. City-owned or authorized uniforms may not be worn outside of work, for personal use, or by any third party. City uniforms may be worn by City employees in connection with outside employment only with the department director's prior written authorization.

Employees who are provided with uniforms are required to wear their uniforms when on duty and keep them in good, clean and serviceable condition. No part of the uniform shall be worn by itself. An employee must wear the entire uniform when on duty. No part of the uniform shall be worn when off duty, except to and from work, unless in connection with outside employment with the department director's authorization.

When an employee terminates, uniforms and any other City equipment which the employee possesses must be returned in good condition. The cost of lost or damaged City property and unreturned uniforms will be deducted from the employee's final pay check. Employees will be required to sign an authorization form at time of employment to allow the City to deduct lost, damaged and unreturned supplies and uniforms.

8. **Employee Purchasing of City Logo Clothing.** Employees who work primarily in offices are not eligible to receive uniforms. However, employees are permitted to purchase City logo apparel at their own expense and at the City's contract price from selected vendors.
9. **Exceptions.** Employees having a conflict with any aspect of this policy, based on cultural or religious traditions or medical reasons, may request an exemption. The employee must place the request in writing to his/her department director. The Department director and the Human Resources Manager shall review the request and determine whether an exception will be granted.
10. **Enforcement.** Employees and supervisors are responsible for ensuring compliance with the City's dress code standards. In all cases, the City will make the determination as to acceptable dress, appearance and grooming. Employees should direct questions about appropriate appearance or dress to your supervisor, Department director or the Human Resources Manager.

Department directors shall specify requirements for uniforms and other work attire. Departments may impose special dress and grooming requirements necessary for employee safety, including use of appropriate personal protective equipment, shoes and clothing.

Supervisors are responsible for ensuring that employees know, understand and adhere to this policy as well as any department specific dress policy. Department directors and supervisors shall counsel employees' whose dress, personal hygiene or grooming is inappropriate.

Each employee is expected to adhere to the clothing, uniform and personal appearance guidelines set forth in this policy. Each employee must use good judgment and common sense in selecting clothing that fits with the function of his/her position, while also promoting a professional image. In order to avoid bringing discredit to the City, employees shall exercise caution in their conduct when wearing uniforms or other apparel bearing the name or logo of the City of Lago Vista.

Employees in violation of this policy may be sent home. Under such circumstances, non-exempt employees will not be paid for work time missed, and exempt employees will be required to make up the work time missed. Employees whose grooming or personal appearance violates this policy may be disciplined, up to and including termination of employment.

The department director, with approval of the City Manager's office, may make departmental exceptions to this policy when deemed necessary for business reasons or implement a more restrictive dress and appearance policy.

Dress Guidelines

	Men	Women
Appropriate	<ul style="list-style-type: none"> ◆ Knit shirts with collar and banded collars ◆ Short sleeve or long sleeve dress shirts ◆ Dress shoes, boots, and loafers 	<ul style="list-style-type: none"> ◆ Camisoles or tank tops worn under low cut blouses/tops ◆ Thin or spaghetti straps and tank tops worn with jacket ◆ Skirts and dresses no shorter than 2 inches above top of knee ◆ Ankle length and Capri dress slacks
Inappropriate*	<ul style="list-style-type: none"> ◆ Provocative or revealing attire ◆ Excessively loose or tight fabrics ◆ Bare shoulders ◆ Clothing with unclear or obscene messages or that endorses alcohol, tobacco produces, drugs, pornography, or offensive material of any kind ◆ Stirrup pants, spandex pants, casual cargo pants, and leggings ◆ Form fitting or tight slacks/trousers ◆ Visible tattoos which could be deemed offensive ◆ Un-pressed, soiled, ripped, or tattered clothing 	
<p>*Listing of inappropriate apparel is not intended to be exhaustive and all-inclusive and is provided to establish a guideline for what is acceptable in the workplace.</p>		

D. USE OF CITY PROPERTY, VEHICLES, AND EQUIPMENT

The City attempts to provide employees with adequate tools, equipment, vehicles and facilities for the job being performed, and the City requires all employees to observe safe work practices and lawful, careful, and courteous operation of vehicles and equipment. Any required safety equipment provided by the City must be used at all times.

From time to time, the City may issue various equipment or other property to employees, e.g., credit cards, keys, tools, security passes, manuals, written materials, uniforms, cell phones, computers, and computer-related equipment. Employees are responsible for items formally issued to them by the City, as well as for items otherwise in their possession or control or used by them in the performance of their duties. At the time of issuance, employees may be required to sign certain forms or other documentation evidencing their receipt of property and/or equipment and authorizing a payroll deduction for the cost of lost, damaged, or unreturned items. In addition to payroll deductions, the City may take any other action it deems appropriate or necessary to recover and/or protect its property.

Employees must notify their supervisor immediately if any vehicle, equipment, machinery, tools, etc., appear to be damaged or defective, or are in need of repair. The appropriate supervisor can answer questions about an employee's responsibility for maintenance and care of equipment used on the job. The improper, careless, negligent, destructive, unauthorized, or unsafe use or operation of equipment will likely result in disciplinary action.

1. **Personal Use Prohibited.** City property, materials, supplies, tools, equipment or vehicles may not be removed from the premises without prior written approval by the City Manager, or the Department Director, and may not be used for the personal benefit of an employee.
2. **Tobacco Use Prohibited.** The City's policy is to provide a smoke free workplace. Smoking is prohibited in City buildings, or outdoors within twenty five (25) feet of any entrance utilized by employees or the public. Smoking is also prohibited in all City vehicles, in garages or around the entrances to buildings. Smoking is only allowed in designated smoking areas. Cigarette or cigar butts may not be discarded on the ground at any City facility, including parking lots. This prohibition against smoking applies to electronic cigarettes.

Users of smokeless tobacco are prohibited from spitting on sidewalks, parking lots, on landscaping or in the bathroom facilities. Spit cups must be kept out of the view of other employees or the general public and must not be disposed of in any of the trash cans inside of the buildings.

3. **Vehicle Allowance.** An employee may be given a monthly allowance for consistently using such employee's own vehicle for City business if the use is deemed necessary by the City Manager. The amount of the allowance shall be determined by the City Manager.
4. **Take Home Vehicles.** A City vehicle may be assigned to a position or employee when it is more economical than payment of a car allowance or mileage reimbursement.

To be eligible for assignment of a take-home vehicle, an employee must be subject to emergency call back during off duty hours to locations other than the employee's normal work station. No personal use of a take-home vehicle is permitted except to commute to and from home or work. A City vehicle is not to be used for personal business such as going to the bank, grocery store, etc., without prior written approval of the City Manager or department director. No alcoholic beverages are allowed in City vehicles. No passengers may be transported in take-home vehicles except as required by official duties.

If approved by the City Manager, use of a City owned vehicle may be included within a contract of employment and may be exempt from this policy.

The City's vehicles are classified as either "exempt" or "non-exempt" as prescribed by law. Most pickups, vans and automobiles are classified as "non-exempt" vehicles. Employees to whom a "non-exempt" vehicle is assigned for take-home may incur a federal income tax liability for the benefit of commuting to and from work in a City vehicle. Police vehicles used by employees on call 24-hours are normally exempt from the benefit tax liability.

5. **Use of City Vehicles.** City-owned or leased vehicles may be used only for official City business. City owned or leased vehicles may only be driven by authorized City employees. If an employee drives a personal vehicle, or a City-owned, rented or leased vehicle on the job or while carrying out City-related business, the employee must comply with the following:

- ◆ Drivers must have a valid State of Texas driver's license appropriate for the vehicle operated, must maintain a satisfactory driving record, and must inform their supervisor of any change in status.
- ◆ Always observe all posted laws and speed limits.
- ◆ Always wear seat belts when the vehicle is in operation.
- ◆ No passengers other than City employees or others on City business may ride in a City vehicle unless otherwise approved in advance by the Department Director.
- ◆ No personal use of City-provided vehicles is allowed.
- ◆ All maintenance and use records for City vehicles must be completed as directed by the employee's supervisor. City vehicles must be kept clean; dispose of trash and put away tools daily.
- ◆ Report any broken, missing, or worn parts, tires, etc., or any needed maintenance of City vehicles to the appropriate supervisor immediately.
- ◆ All drivers must be eligible for coverage under the City's insurance policy.
- ◆ Drivers covered by Department of Transportation (DOT) regulations must comply with the DOT regulations at all times.
- ◆ AT NO TIME MAY AN EMPLOYEE UNDER THE INFLUENCE OF ALCOHOL OR A PRESENCE IN THE SYSTEM OF ILLEGAL DRUGS DRIVE A CITY VEHICLE OR A PERSONAL VEHICLE WHILE CONDUCTING CITY BUSINESS.

- ◆ EMPLOYEES INVOLVED IN AN ACCIDENT WHILE OPERATING A CITY VEHICLE, OR WHILE OPERATING A PERSONAL VEHICLE ON CITY BUSINESS, MUST IMMEDIATELY NOTIFY THE POLICE AND HIS/HER SUPERVISOR, DEPARTMENT DIRECTOR, AND/OR CITY MANAGER. THE EMPLOYEE SHALL **NOT** LEAVE THE SCENE OF THE ACCIDENT UNLESS REQUIRED TO DO SO BECAUSE OF INJURY. THE EMPLOYEE MAY LEAVE THE SCENE AFTER THE POLICE INVESTIGATION IS COMPLETE OR IF THE POLICE DIRECT HIM/HER TO MOVE THE VEHICLE. ACCIDENT REPORTS, ALONG WITH ANY LAW ENFORCEMENT REPORT, MUST BE FILED BY THE EMPLOYEE WITH THE DEPARTMENT DIRECTOR AND THE CITY SECRETARY. IN ADDITION, THE EMPLOYEE IS REQUIRED TO PROVIDE A WRITTEN STATEMENT TO HIS/HER SUPERVISOR WITHIN TWENTY-FOUR (24) HOURS DETAILING THE INCIDENT AND INCLUDING WHETHER ANY CITATIONS WERE ISSUED.
 - ◆ EMPLOYEES WHO ARE INVOLVED IN AN ACCIDENT WHILE OPERATING A CITY VEHICLE WILL BE SUBJECT TO A DRUG SCREEN.
6. **Driver's License Check.** The City may, at any time, check the driving record of a City employee who drives as part of the job duties to determine that the necessary qualifications are maintained as a City driver.
 7. **Public Perception.** City employees must be aware of the fact that their actions while driving or in the vicinity of City vehicles are being observed by the public. Employees' irresponsible behavior and use of poor judgement reflects directly on the City and will not be tolerated. City employees must be courteous to other drivers and pedestrians.
 8. **Violations of This Policy.** The above is not a complete and exhaustive list of vehicle use policies. Violations of any of the specific items listed, as well as the improper, careless, negligent, destructive, unauthorized, or unsafe use or operation of a vehicle, may result in loss of driving privilege or disciplinary action, up to and including dismissal.
 9. **Personal Property.** All employees shall be solely responsible for their personal property at all times.

E. OUTSIDE EMPLOYMENT

1. **Written Authorization Required.** City employees may engage in outside employment provided they receive prior written approval from their Department Director, the Human Resources Manager, and the City Manager. Authorized outside employment may be subject to review in the event of schedule changes or interference with City duties.
2. **Outside Jobs Coordinated Through Police Department.** Police officers authorized to work part-time jobs coordinated by and through the City's Police Department must perform the outside employment in accordance with applicable Police Department procedures.

3. **Prohibited Activities.** Employees will not be permitted to engage in outside employment (including self-employment) or other activities that might discredit the City, result in a conflict of interest or a potential conflict of interest, or adversely affect the employee's job performance. City employees may not use City property, equipment, facilities, or telephones for outside business activities or for personal gain.
4. **Workers' Compensation Coverage.** Employees are not covered by the City's workers' compensation insurance while working for another employer.
5. **Outside Employment While on Leave Prohibited.** Approval for outside employment as set out in this policy does **not** authorize an employee on FMLA leave, sick leave, disability leave, workers' compensation leave, administrative leave, or an unpaid leave of absence, or on restricted or light duty, to engage in any outside employment. Any exceptions must be expressly authorized in writing by the Department Director and the Human Resources Manager, or if applicable, by the City Manager.
6. **Outside Employment Prohibited During Normal Working Hours.** Employees are prohibited from conducting outside employment activities during normal working hours.

F. EMPLOYEE SAFETY

The City is interested in all employees' safety and well-being. Accordingly, the City has developed safety rules and regulations. Each and every employee is required to comply with all safety rules and to exercise caution in all work activities. From time to time employees will be updated and reviewed on safety procedures in an effort to increase awareness of the importance of safety on the job. Employees can prevent accidents and injuries by following the safety rules of your job, by remaining alert and by THINKING SAFETY at all times. If an employee sees something that the employee believes is an unsafe act or an unsafe condition, the employee should immediately report it to a supervisor or to management.

1. **Safety Rules.** The following safety rules apply at all times, and some specific job descriptions may contain additional operational safety guidelines. Each employee must be familiar with such rules, and apply them at all times.
 - ◆ Use prescribed protective equipment such as eye protection, hearing protection, hard hats, safety shoes or boots, gloves, shields, etc., when those items are appropriate to the task being performed.
 - ◆ Smoke only during designated times in authorized outside areas.
 - ◆ Walk, do not run. Wipe spills and pick up fallen objects and debris. Keep floor surfaces clear of hazards and other obstacles, electric cords, etc. For your comfort and safety, wear shoes with non-slip soles, in good condition and with enclosed toes. Do not wear sandals, sneakers, moccasins or tennis shoes on any job site where feet could be injured. Employees working in departments that require steel toe boots must wear them at all times.
 - ◆ To avoid back injuries, use correct lifting methods. Get additional help with heavy (or difficult to handle) objects.

- ◆ Be aware of sharp tools. Use safety devices where provided, and do not alter or remove them in any way. Report hazards to management immediately.
- ◆ Material Safety Data Sheets (MSDS Sheets) - Employees will be shown the location of the City's Material Safety Data Sheets. MSDS sheets provide valuable information about various chemicals and other agents that may be encountered in the work.

MSDS explain possible reactions to exposure, and steps for employees should take if it occurs. Review this information from time to time.

- ◆ Fire - Be alert for causes and report smoke, heat or unusual odors immediately. Alert other people in the area to the possibility of danger in order to evacuate, if necessary. Try to verify the location and call 911. Use proper portable extinguishers for small fires.
- ◆ Do not put fingers, hands, feet or clothing in moving machinery.
- ◆ Do not carry items in a manner that obscures vision.
- ◆ Do not block access to fire extinguishers.
- ◆ Do not touch open or loose electrical circuits.
- ◆ Report unusual vibrations, smells, or noises coming from equipment.
- ◆ Do not wear rings or jewelry while operating machinery.
- ◆ Do not perform maintenance or repairs on running equipment.
- ◆ Do not remove or alter warning tags or safety devices.
- ◆ Never leave nails or spikes protruding from planks or boards.
- ◆ Perform routine maintenance at all scheduled intervals.
- ◆ Do not use compressed air for cleaning clothing or floors.

2. **Accident Reporting.** All accidents and injuries, however slight or seemingly inconsequential, **must immediately be reported** to the appropriate supervisor or the Human Resources Manager. Failure to report any accident or injury within 24 hours of its occurrence may lead to disciplinary action, up to and including termination of employment. Such reports are necessary so that the City can remain in compliance with applicable laws and begin workers' compensation benefit procedures where appropriate.

Employees who violate safety standards, who cause or exacerbate hazardous or dangerous situations, or who fail to report or, where appropriate, correct such situations, will likely be subject to immediate disciplinary action, up to and including termination of employment.

3. **Accidents Involving City Equipment or Vehicles.** Any employee involved in an accident while operating City equipment or vehicles shall report the accident immediately to the supervisor and to the proper law enforcement agency. The employee must immediately complete an accident report, no matter how minor the damage is to the vehicle, and submit the report to the supervisor and to the City Secretary.

Drivers must obey all traffic rules and regulations prescribed by law and use every reasonable safety measure to prevent accidents. No one under the age of 18 may operate a City vehicle. Wearing of seat belts is mandatory.

Any traffic fines imposed upon a City employee while operating a City vehicle will be the personal responsibility of the employee and not the City.

Any employee involved in any type of accident involving City equipment may be disciplined if, upon investigation, it is determined that the employee was negligent or through carelessness or recklessness contributed to the cause of the accident.

G. POLITICAL ACTIVITY

City employees will not be appointed or retained on the basis of their political support or activities. City employees are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies. No City employee is prohibited from becoming a candidate for public office. However, City employees may not:

- ◆ Publicly endorse or campaign in any manner for any person seeking a City public office.
- ◆ Use the employee's position or office to coerce political support from employees or citizens.
- ◆ Use the employee's official authority or influence to interfere with or affect the result of a campaign issue, an election or nomination for public office.
- ◆ Make, solicit or receive any contribution to the campaign funds of any candidate, directly or indirectly through an organization or association, for the City Council, or take any part in the management, affairs or political campaign of any such candidate; provided nothing herein shall infringe upon the rights of an employee to seek office himself/herself, express his or her opinions, and to cast his or her vote.
- ◆ Use working hours or City property to be in any way concerned with soliciting or receiving any subscription, contribution or political service to circulate petitions or campaign literature on behalf of an election issue or candidate for public office in any jurisdiction.
- ◆ Contribute money, labor, time or other valuable thing to any person for City election purposes, except as permitted by law.
- ◆ Hold an appointive or elective office of public trust where service would constitute a direct conflict of interest with City employment, e.g., City of Lago Vista City Council, Lago Vista ISD, and Travis County. Upon being elected to such an office, an employee must immediately resign or will be dismissed upon failure to do so.

H. CONFLICTS OF INTEREST/SOLICITATION AND ACCEPTANCE OF GIFTS

1. **Conflicts of Interest.** No employee of the City may:

- ◆ Have any financial or other interest, directly or indirectly, in any proposed or existing contract, purchase, work, sale or service to, for, with or by the City;
- ◆ Use City employment, authority, or influence in any manner for personal betterment, financial or otherwise;
- ◆ Have any financial interest, directly or indirectly, in the sale to the City of any land, materials, supplies or services;
- ◆ Have discussions or participate in decisions of any City agency, board, commission or instrumentality if the employee has any personal economic interest or is employed, directly or indirectly, by the person or entity that is the subject of the discussion or decision;
- ◆ Accept other employment or engage in outside activities incompatible with the performance of duties and responsibilities as a City employee or that might impair independent judgement in the performance of duties to the City; or
- ◆ Accept remuneration or provide services for compensation, directly or indirectly, to a person or organization requesting an approval, investigation, or determination from the City.

(Legal reference: V.T.C.A., Local Government Code, Section 171; V.T.C.A. Penal Code, Chapter 36).

2. **Solicitation and Acceptance of Gift.**

- ◆ Solicitation of funds or anything of value for any purpose whatsoever shall be permitted of or by City employees on the job only with the express approval of the City Manager. No employee may be required to make any contribution nor may an employee be penalized in any way concerning employment according to the employee's response to a solicitation.
- ◆ No employee shall accept or solicit any money property, service, or other thing of value from a person, business entity or other organization regulated by, contracting with, or having any other business relationship with the City department of which the employee is a member. However, this section shall not be interpreted to include any pen, pencil, calendar, cap, or similarly valued item distributed by any such business or organization for advertising purposes.
- ◆ If a person presents a gift to a City employee as a reward for service or as an act of expressing appreciation, then the employee shall report the gift (other than the minimal gifts listed in the paragraph above) in writing to the supervisor and the City Manager.
- ◆ No employee shall accept or solicit any money, property, service or other thing of value in excess of \$50.00 for the benefit of the City, or any employee, or department of the City, unless approved in advance by the City Council.

Violations of this policy may result in disciplinary action. Employees should direct questions regarding the prohibitions imposed by this policy to your Department Director, the Human Resources Manager, or the City Manager's office.

I. PURCHASING

Purchases by City employees will be made only as authorized by the City Manager or the City Council and must be made in accordance with state purchasing laws as they apply to cities.

J. ARRESTS, CONFINEMENTS, AND INDICTMENTS

1. **Policy.** City employees are subject to disciplinary action and/or job restrictions for violations of law. This policy applies to acts prohibited by law that result in charges being filed, arrest, confinement, indictment, and/or conviction, as well as to acts prohibited by law not resulting in charges filed, arrest, confinement, or indictment.
2. **Procedure.**
 - ◆ **Employee Notice of Felony and Misdemeanor Charges.** Employees must immediately notify their supervisor and/or Department Director within twenty-four (24) hours if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead *nolo contendere* to any misdemeanor or felony. Employees who do not drive as a part of their job duties with the City are not required to report minor traffic violations. Failure to report these events in a timely manner may result in immediate termination.
 - ◆ **Employee Status after Alleged Violation of Law.** At the time the employee's department is made aware of an employee's arrest or conduct constituting an offense, the Department Director shall consult with the Human Resources Manager to determine available options which may include, but are not limited to:
 - ✓ allowing the employee to return to regular duty with pay;
 - ✓ allowing the employee to return to restricted duty with pay;
 - ✓ placing the employee on paid administrative leave;
 - ✓ placing the employee on unpaid administrative leave; or
 - ✓ terminating the employee.
 - ◆ **Employee Status after Adjudication.** Once the indictment or information is dismissed or fully adjudicated without trial, and if tried, until the trial and appeal (if any) are commuted and all related administrative matters are completed, the Department Director will determine, in conjunction with Human Resources Manager the status of the employee. An employee on administrative leave may, in the City's sole discretion, be reinstated to the position held before being placed on administrative leave (if available), if the indictment or information is dismissed, the employee is acquitted, or the conviction is reversed on appeal.
 - ◆ **Disciplinary Action:** Disciplinary action may be pursued concurrently or in place of the above options or imposed at a later date. Multiple violations of law or confinements within a prescribed time period may also result in disciplinary action.

- ◆ **Violations of Law Discovered through Criminal History Check:** The City may conduct criminal history checks on existing employees at any time during their employment, for any reason. Conduct constituting an offense, arrest or conviction that is discovered may result in disciplinary action, up to and including termination.
- ◆ **Other Policies:** This policy should not be construed to limit disciplinary action that may be taken in accordance with other Personnel Policies and Procedures, department policies, or other city-wide policies.

K. TELEPHONE CONTACT

1. All supervisory personnel and service personnel must have a telephone number at which they can be reached during off-duty hours. This can be a cell phone or a land line telephone.
2. No reimbursement shall be made to the employee for the City's use of such employee's private telephone to contact the employee regarding work related matters.
3. All employees must immediately notify supervision of any change in phone number(s), and provide a phone number for a secondary contact, i.e., spouse, parent.

L. SOCIAL MEDIA POLICY

An employee's use of social media, both on and off duty, must not interfere with or conflict with the employee's duties or job performance, reflect negatively on the City or violate any City policy. The intent of these standards is to regulate the creation and distribution of information concerning the City, its employees, and citizens through electronic media, including but not limited to online forums, instant messaging, and internet social media and blogging sites. This policy is designed to protect the City's reputation and ensure that an employee's communications not only reflect positively on the employee as an individual, but also on the City.

The term "social media" encompasses: tweets and twittering, Facebook, LinkedIn, Instagram, Snapchat, blogs, and other online journals and diaries; bulletin boards and chat rooms, microblogging, and all other social networking sites, instant messaging, and the posting of video on YouTube and similar media.

1. **Use of City's Internet.** Use of the City's Internet is a privilege and City employees must use it responsibly and ethically. The City may monitor an employee's access, use, and postings to the City's Internet to: ensure compliance with internal policies; support the performance of internal investigations; assist management of information systems; and for all other lawful purposes. The City expects all employees to follow the guidelines below when posting information on the City's social media sites.
2. **Other City Policies.** This policy should be read and interpreted in conjunction with other City policies, including but not limited to, policies prohibiting harassment, discrimination, offensive conduct or inappropriate behavior. Violations of the Social Media Policy may lead to disciplinary action. The City provides an effective system for employee complaints "off-line" through the "Grievance" policy without resorting to social media.

M. EMPLOYEE GUIDELINES: USE OF CITY'S SOCIAL MEDIA ON WORK TIME

Any blogging or posting of information on the Internet or other City social media sites must comply with the City's guidelines, regardless of where the blogging or posting is done.

1. Blogging or posting information of a personal nature on the Internet or other City social media sites is prohibited during work hours. Employees are not permitted to engage in social networking of a personal nature while using any of the City's electronic social media sites.
2. Employees must obtain written authorization from the City Manager to update or post on social media sites on behalf of the City, and all content must be approved prior to posting. All of the employee's time spent updating or posting on City social media sites as part of the employee's job duties is compensable time that must be reported and counted in the calculation of overtime.
3. No use of social media on work time and on City equipment on City-operated networks is considered private or confidential, even if password protected or otherwise restricted. The City reserves the rights to access, intercept, monitor, and review all information accessed, posted, sent, stored, printed, or received through its communications systems or equipment at any time.
4. Never disclose any confidential information concerning another employee of the City in a blog or other posting to the Internet. Posting of confidential information may violate state law and subject the user to criminal penalty. All requests for City documents must be processed through the Public Information Act.
5. Employees must abide by all federal and state laws and policies of the City with regard to information sent through the City's Internet.
6. Individual supervisors do not have the authority to make exceptions to these guidelines.

N. EMPLOYEE GUIDELINES: USE OF PERSONAL SOCIAL MEDIA WHILE NOT ON WORK TIME

The City recognizes that many City employees utilize social media when not at work. The City requires that employees be aware of guidelines regarding posting of work-related information on personal social media sites, and they are listed below:

1. If the employee's social networking includes any information related to the City, the employee must make it clear to the readers that the views expressed are the employee's alone and not reflective of the views of the City.
2. Employees are encouraged to act responsibly on and off duty, and to exercise good judgment when using social media. Recognize that postings on your social media site, even if done off premises and while off duty, could have an adverse effect on the City's legitimate business interests.
3. Respect the City and co-workers. Do not put anything on your personal social media site that may defame, embarrass, insult, demean, or damage the reputation of the City or any of its employees.

4. Do not put anything on your personal social media site that may constitute a violation of the City's harassment policy. Do not post any pornographic pictures of any type that could identify you as an employee of the City. Be mindful that the City's harassment policy covers both work and non-work time, including postings on social media sites.
5. Do not post pictures of yourself or others on your personal social media site containing images of City uniforms or insignia, City logos, City equipment or City work sites.
6. Do not post information on your personal social media site that could adversely impact the City and/or an employee of the City.
7. Do not permit or fail to remove postings violating this policy, even when placed by others on your social media site.

SECTION 3. EMPLOYMENT PRACTICES

A. EMPLOYEE RECRUITMENT AND SELECTION

The City hires employees based on their knowledge, skills and abilities, experience, and other qualifications as they relate to the duties and responsibilities of a position without regard to race, national origin, religion, color, sex, age, citizenship, political affiliation, disability, genetics, veteran's status, or any other characteristic protected by law. It is the desire and intent of management to provide promotional opportunities for employees of the City by offering assistance to interested employees in developing career plans and making applicable training and educational opportunities available within budget limits.

1. **Methods of Recruitment and Selection.** The city has several methods of recruiting and selecting persons to fill vacancies:
 - ◆ Promotion from within; or
 - ◆ Transfer from within; or
 - ◆ Public announcement (including media announcement and posting of notice for city employees) and competitive consideration of applications for employment; or
 - ◆ Referral from a job training program; or
 - ◆ Selection from a valid current eligibility list of applicants. (A valid current eligibility list is a record of applications for the same or a similar position for which recruitment was conducted within the preceding six (6) months.)

The City Manager approves the method of selection to be used in filling each vacancy. However, the City Council must have approved funding for a position before recruitment begins.

2. **Recruitment Requirements.** The recruitment process is initiated by a City department director submitting a request to fill a vacancy of a budgeted position to the Human Resources Manager. Job vacancies will normally be posted internally for the benefit of any qualified employee. External recruitment may also be conducted simultaneously with an internal posting.
3. **Public Announcements.** When public announcements of position openings at the City are used, and competitive consideration will be given, the announcements are disseminated by the Human Resource Manager in the manner most appropriate for the particular position being filled, as determined by the City Manager. City department directors wanting to fill job vacancies within their departments must submit relevant information about the position to the Human Resource Manager who ensures that job opening announcements are made public through publication in the local newspaper and posting on the City website and bulletin board at City Hall.

Current employees may apply for positions for which they believe themselves to be qualified.

If selected for the position for which he or she applied, a City employee can transfer to another City position without loss of pay provided that his or her current pay is within the limits set by the City Council for the transfer position.

The length of time during which applications will be accepted will be determined by the Human Resources Manager in accordance with the circumstances that exist at the time.

4. **Applications.** When a specific vacancy exists, each person desiring employment with the City must submit a written application and other pertinent information regarding training and experience. To be valid, an application must be made on the City's official application form. Each person desiring employment with the City may obtain an application for employment from the Human Resources Manager or his or her designee.

The City will make appropriate inquiries to verify criminal history, education, experience, character, and required certificates and skills of an applicant prior to extending an offer of employment. In the case of applicants for positions with the City which require driving a vehicle, the City must check the prospective employee's driving record prior to offering the applicant employment with the City.

The City does not accept applications for employment unless a specific job opening exists. Persons wishing to apply for a job with the City when a specific vacancy does not exist will be informed that City job openings are advertised in the local newspaper, on the City website and posted on the bulletin board at City Hall; and they may file an application when an advertised vacancy exists for which they consider themselves to be qualified. After a City position has been filled, all applicants who were interviewed but were not chosen will be notified in writing or by telephone as soon as practicable by the Human Resources Manager.

The City should retain each employment application for two years after receipt of the application. (*Legal reference: 29 Code of Federal Regulations 1602; V.T.C.A. Government Code, Section 441.158; State Library and Archive Commission Local Schedule GR, as amended.*)

5. **Qualifications.** The City maintains a job (class) description, which establishes the required knowledge, skills and abilities for each staff position and the acceptable levels of experience and training for each. The job description sets forth the minimum acceptable qualifications to fill the position.
6. **Testing.** Except for drug/alcohol tests, physical examinations, psychological tests for law enforcement officers, and any other tests that may be required by state law, the only performance tests administered for employment or promotion will be specifically job related ("piece-of-the-job") tests (e.g., typing, operating a computer, operating a piece of equipment, lifting something heavy which is specifically required to be lifted in the job, tabulating columns of numbers, providing writing samples, etc.)
7. **Drug and Alcohol Testing.** In addition to the physical examination required by the city for all prospective employees, all prospective employees for any regular, full-time position in the city are required to be tested to show no trace of drug dependency or illegal drug usage.

All prospective employees are required to pass a drug/alcohol test after a conditional offer of employment has been extended, but prior to their first day of work. The offer of employment is contingent upon the prospective employee passing a drug/alcohol test. After employment, any employee may be required to submit to a test for drug dependency or illegal drug use. For more information on drug testing or drug usage, see the chapter of these policies on **Drug and Alcohol Use**.

8. **Selection**. In accordance with the City Charter, the City Council appoints and may remove the City Manager and Municipal Court Judge. Except for appointments reserved to the City Council by statute, ordinance, or charter, the City Manager has exclusive authority to select and employ personnel within the limits of these policies and the City budget. The City Manager may authorize City Department Heads to appoint and remove employees within their departments, subject to approval by the manager and within the limits of these policies and the City budget. Other supervisors may be asked for recommendations as appropriate.

Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city employees whom the City Manager or any of his or her subordinates is authorized to appoint. However, the City Council or its members may express freely to the City Manager their views and opinions on such matters.

Vacancies on the City Staff are filled on the basis of merit, whether by promotion or by initial appointment. Selections of the most qualified persons are made on the basis of occupational qualifications and job-related factors such as skill, knowledge, education, experience, and ability to perform the specific job.

After making a decision to hire, the hiring department must submit the appropriate paperwork to the Human Resources Manager, along with the applicable Personnel Action Form. Offers for City employment, other than department heads, will be communicated by the Human Resources Manager upon receipt of the hiring recommendation and all related paperwork. Offers for City Department Heads will be communicated by the City Manager.

9. **Physical Standards**. Knowledge of physical conditions and existing health problems of employees is necessary to avoid occupational injuries and to ensure that it will be possible to differentiate any future job-related injuries from existing medical problems. For these reasons employees are required to pass a drug/alcohol test and a physical examination after a conditional offer of employment has been extended, but prior to their first day of work. Employees will not be placed on the City payroll prior to passing these exams. Back X-rays are required for persons who will perform strenuous physical activity. The required physical examinations will be performed by a physician of the City's choice and will be paid for by the City.

In each instance, the examining doctor will be provided a copy of the appropriate job description or summary of duties, and will be required to certify that the prospective employee is physically able to perform the essential duties of the job.

In addition, prospective new employees for active or reserve Police Officer certification must undergo an examination by a licensed psychologist or psychiatrist and be declared in writing by the psychologist or psychiatrist to be in satisfactory psychological and emotional health.

The City also may require all prospective active Police or reserve employees to submit to a polygraph test. The required examinations will be made by a physician and psychologist or psychiatrist of the City's choice and will be paid for by the City. (*Legal reference: Police only – V.T.C.A., Government Code, Section 415.057.*)

10. **Age Requirements.** No persons under seventeen (17) years of age will be employed in any regular full-time position. No persons under eighteen (18) years of age will be employed in any position requiring the operation of a motorized vehicle owned by the City of Lago Vista. A person under the age of eighteen (18) may be employed in a temporary or part time position if the person furnishes the City with a properly completed and signed minor's release form.
11. **Residency Requirements.** Employees who may be subject to emergency call and/or periodic service in a stand-by status may be required to establish residency within a reasonable distance from the principal work site in order to assure a timely response. For these purposes, the City Council has established that for employees hired after July 2016, a reasonable response time to a civil emergency is thirty (30) minutes. As a general rule, only those employees who reside within the City are potentially eligible for a City issued "take-home" vehicle.
12. **Employment of Relatives (Nepotism).** Nepotism is the showing of favoritism toward a relative. In order to prevent conflicts of interest, to avoid accusations and perceptions of biased conduct, and to maintain the confidentiality of restricted information, the City forbids the practice of nepotism in hiring personnel or awarding contracts.

A person who is related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood) to any member of the City Council or to the City Manager may not be hired. (See Figures 1 and 2 on the following page for the prohibited degrees of relationship).

A person who is already employed by the City and is related in a prohibited manner may not stay in City employment unless the employee had been continuously employed by the City for a period of:

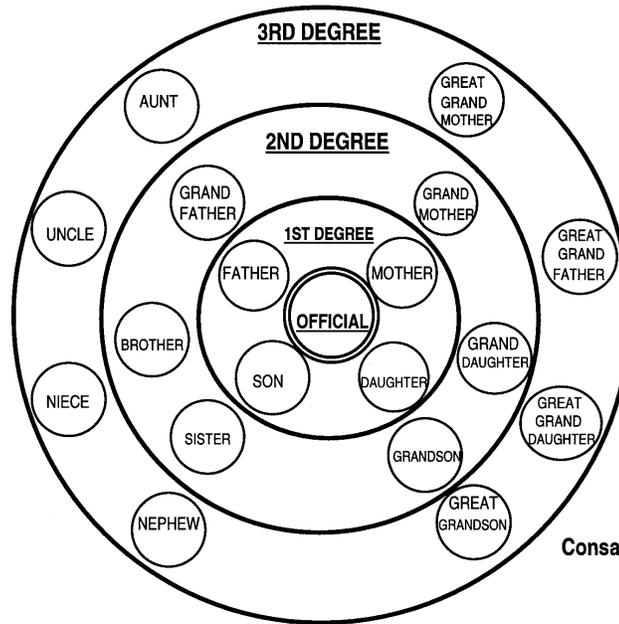
At least 30 days, if the officer or member is appointed; or

- ◆ At least six months, if the officer or member is elected at an election other than the general election for state and county officers; or
- ◆ One year if the related City officer is elected at a general election for state and county officers.

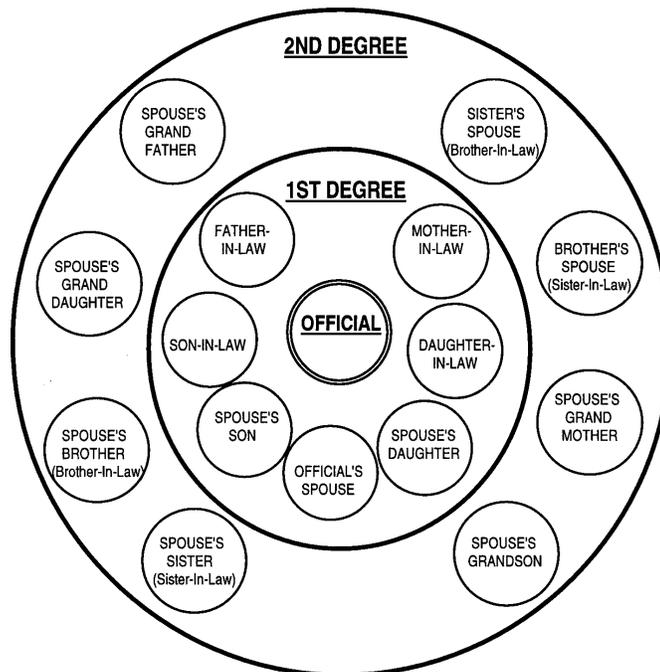
(*Legal reference: V.T.C.A. Government Code, Section 573.062, as amended.*)

In addition, no personnel action (hiring, demotion, promotion, transfer, reorganization) will be taken that would result in any employee's directly or indirectly supervising or being supervised by another employee who is related within the second degree of affinity or the third degree of consanguinity. Prohibited degrees of relationships are defined in Figures 1 and 2 of the Nepotism Charts. Spouses of relatives within the first or second degree of consanguinity (e.g., son-in-law, mother-in-law, brother-in-law, sister-in-law, etc.) are also included in the prohibition.

NEPOTISM CHARTS



**Consanguinity Kinship Chart
(Blood)**



**Affinity Kinship Chart
(Marriage)**

In the event that two City employees within the same chain of command become related or members of the same household, receive a promotion, or any other situation giving rise to a relationship prohibited by the paragraph preceding the above charts, one or both of the affected employees must immediately seek a transfer to another available position within the City for which the employee is qualified and that meets the requirements of the paragraph preceding the Nepotism charts.

If a suitable transfer cannot be made within ninety (90) days of the event giving rise to a relationship prohibited by this policy, one or both of the affected employees will be required to resign from employment. In addition, written authorization must also be obtained from the City Manager (or designee) to employ any relative of a current City employee.

13. **Verification of Eligibility to Work.** In order to comply with the Immigration Reform and Control Act of 1986, each new employee will be required to complete and sign an INS Form I-9 within three days of his or her first day of employment to provide proof of his or her identity and employment eligibility. (Legal reference: P.L. Number 99-603; Federal Immigration Reform and Control Act of 1986.)

In the event the employee has not provided evidence of eligibility to work within the first three days of employment, the employee will not be allowed to continue working and shall be subject to termination.

14. **Driving Record.** Every City employee who is required to drive a vehicle or operate a piece of equipment which requires a valid driver's license must maintain a safe driving record. The City will check a prospective employee's driving record if the applicant's employment will be in a capacity which requires operating a vehicle or piece of equipment. For this reason, any offer of employment will be contingent upon verification that the prospective employee has maintained a safe driving record.

15. **Medical Records.** All records relating to the medical condition, medical testing, or drug testing of an employee or prospective employee are maintained separately from employee personnel files. These medical files are confidential and are not released to anyone unless a "need to know" has been clearly established. Only the Human Resources Manager has routine access to employee medical records. (Legal reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008.)

NOTICE OF PRIVACY PRACTICES. This Notice of Privacy Practices is provided as a requirement of the Health Insurance Portability and Accountability Act (**HIPAA**). It describes how the City may use or disclose an employee's protected health information, with whom that information may be shared, and the safeguards the city has in place to protect it. This notice also describes an employee's rights to access and amend his/her protected health information. The employee has the right to approve or refuse the release of specific information outside of the City's system except when the release is required or authorized by law or regulation.

"Protected health information" is individually identifiable health information. This information includes demographics, for example, age, address, e-mail address, and relates to the employee's past, present, or future physical or mental health or condition and related health care services. The City of Lago Vista is required by law to do the following:

- ◆ Make sure that an employee's protected health information is kept private;
- ◆ Give each employee this notice of the City's legal duties and privacy practices related to the use and disclosure of an employee's protected health information;

- ◆ Follow the terms of the notice currently in effect;
- ◆ Communicate any changes in the notice to each employee.

By law, the City must disclose the employee's health information to that employee unless it has been determined by a competent medical authority that it would be harmful to the employee. The City must also disclose health information to the Secretary of the Department of Health and Human Services (DHHS) for investigations or determinations of City compliance with laws on the protection of the employee's health information.

The City will share the employee's protected health information with third-party "business associates" who perform various activities for the City of Lago Vista (for example, the City's health insurance company). The business associates will also be required to protect the employee's health information.

The City may disclose protected health information during any judicial or administrative proceeding, in response to a court order or administrative tribunal (if such a disclosure is expressly authorized) and in certain conditions in response to a subpoena, discovery request, or other lawful process.

The City may disclose the employee's protected health information to comply with workers' compensation laws and other similar legally established programs.

The employee may exercise the following rights by submitting a written request (depending on the request, the employee may also have rights under the Privacy Act of 1974):

- ◆ The employee may inspect and obtain a copy of his/her protected health information that is contained in a "designated record set" for as long as the City maintains the protected health information;
- ◆ The employee may request the City to provide him/her with an accounting of the disclosures the City has made of the employee's protected health information;
- ◆ The employee may obtain a paper copy of the notice.

This Notice of Privacy Practices is provided to each employee as a requirement of the Health Insurance Portability and Accountability Act (HIPAA). There are several other privacy laws that also apply, including the Freedom of Information Act, the Privacy Act and the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act. These laws have not been superseded and have been taken into consideration in developing City policies and this Notice of how the City will use and disclose the employee's protected health information.

16. **Disqualification.** Applicants will be disqualified from consideration for one or more of the following:

- ◆ Failure to meet the minimum qualifications necessary for performance of the duties for the position;

- ◆ If they previously worked for the City and were involuntarily terminated, or resigned in lieu of termination;
- ◆ If employment will result in a violation of the City’s Nepotism Policy;
- ◆ Failure to meet minimum age requirement of 17;
- ◆ False statements or material omissions on the application form or during the application process;
- ◆ Failing any of the City’s background and employment requirements including, but not limited to, drug/alcohol testing;
- ◆ The applicant commits or attempts to commit a fraudulent act at any stage of the selection process;
- ◆ The applicant is not legally permitted to work in the United States;
- ◆ The applicant is unable to perform the essential functions of the job applied for with or without a reasonable accommodation; or
- ◆ Any other reason deemed to be in the best interests of the City.

17. Prior Service with the City. Employees entering service with the City who have had prior service with the City may be considered for appointment above the customary entry salary level. In addition, employees rehired to fill regular full time positions with the City will receive credit for their prior length of service as regular full-time employees for longevity pay purposes.

A break in continuous service with the City, however, forfeits vacation and sick leave benefits accrued prior to the break. For details pertaining to how a break in service affects retirement benefits, please refer to your Texas Municipal Retirement System “Member Information Guide.”

18. Reinstatement. An employee is eligible for reinstatement if:

- ◆ The employee is returning from a military duty leave of absence; or
- ◆ The employee was previously incapacitated, is no longer incapacitated, and remains otherwise qualified to perform duties of job; or
- ◆ The employee is being rehired after having been laid off. Reinstatement allows the person to maintain his or her previous regular status for recording leave and longevity accrual.

B. CLASSIFICATION AND COMPENSATION PLAN

1. **Placement on City Payroll.** New employees must report to the Human Resources Manager before or during their first day of employment to fill out employment forms and be scheduled for new employee probationary.

2. **Minimum Pay.** Employees shall be paid no less than the minimum of the salary range established for the position. The following exceptions may be made when approved by the City Manager:
 - ◆ When a period of training is required to demonstrate the employee's ability to perform the duties; (i.e., trainee status, normally not to exceed three (3) months); or
 - ◆ When the employee is temporarily assigned to a position in a higher grade, normally not to exceed one (1) month.
3. **Maximum Pay.** The City's classification and compensation plan establishes a maximum for each pay range, which is the maximum pay the market will support for the positions listed in that pay range on the pay schedule.

New employees may not be hired into City employment above the minimum pay range without the written approval of the City Manager.

4. **Promotion.** A promotion is the assignment of an employee from a position in one classification to a position in another job classification having a higher starting salary. Promotional opportunities will be provided whenever possible to City employees; therefore, the selection may, at the discretion of the department director, be limited to qualified City employees. A director may, with the approval of the Human Resources Manager or the City Manager, authorize a temporary promotion to insure the proper performance of a City function while a position is vacant, or if the position's regular incumbent is temporarily absent. Temporary assignment pay shall be considered on a case-by-case basis and shall be determined by the department director and the Human Resources Manager with the approval of the City Manager.
5. **Lateral Transfer.** A transfer is the assignment of an employee from one position to another position in the same pay classification or same pay grade either within the same department or in a different department. Directors shall have the authority to transfer employees to other positions within their department. Transfers may be made for administrative convenience or upon the request of an employee. An employee may also be transferred when the employee applies for and is selected for a position in a different department.
6. **Demotion.** A demotion is the assignment of an employee to a position having a lower starting salary. A demotion requires the approval of the department director, the Human Resources Manager, and the City Manager.
 - ◆ **Voluntary Demotions** – A voluntary demotion is not a disciplinary action and does not disqualify the employee from consideration for future advancement.
 - ◆ With the approval of the department director and, if qualified to perform the duties of a lower level position, an employee may be administratively demoted at the employee's own request or as an alternative to a layoff.

- ◆ **Involuntary Demotions** – An involuntary demotion is a disciplinary action. (See section of these policies on Disciplinary Actions). The salary of a demoted employee (voluntary or involuntary) shall be adjusted. (See section of these policies on Classification and Compensation). Involuntary demotions are subject to the grievance process (See section of these policies on Grievances).

C. NEW EMPLOYEE ORIENTATION AND TRAINING

Before an individual begins performing his or her actual duties, he or she normally will be given a brief orientation session, conducted by the supervisor for whom he or she will be working, or by that person's designated representative. The purpose of the session is to enable a new employee to understand his or her job better, as well as that job's relationship to the overall operation of the City.

An orientation session will also be provided by the Human Resources Manager. During the orientation, employees are given a copy of these *Personnel Policies and Procedures*. Employees are responsible for knowing and following the information contained in the personnel policies, and must turn in a signed acknowledgment to this effect to the Human Resources Manager within the first two days of employment with the City.

Training an employee is the responsibility of the supervisor for whom the employee works. Whenever possible, employees receive on-the-job training under close supervision.

D. NEW EMPLOYEE PROBATIONARY PERIOD

All new employees hired to fill regular full time or part time positions must satisfactorily complete a probationary period. All police officers are required to successfully complete a one (1) year probationary period and all other employees are required to successfully complete a six (6) month probationary period.

Additionally, all current employees, including police officers, who are transferred, promoted, demoted, or reclassified to a supervisory position, as well as former City employees who are rehired, must satisfactorily complete a probationary period of six (6) months.

The probationary period assists the City in maintaining an effective, productive, and efficient workforce to provide quality services to the citizens. Only those employees who meet acceptable performance and other standards during their probationary period will be retained as employees. The probationary period may be extended for additional training as determined by the supervisor. In the event that an employees' probationary period is to be extended, the supervisor will meet with employee to clarify the need for additional training or performance improvement. Employees are considered in the probationary period until they have actually performed their regular job duties for the full length of the period applicable to their job to assure their ability to meet acceptable standards of work performance and behavior for the employee's position. A probationary period is not to be construed as a guarantee of 6 months of employment.

Each employee serving in the probationary period is responsible for knowing, understanding, and meeting the expectations and standards for the position.

In addition, each employee is also responsible for performing the job in a safe, productive, and effective manner within the instructions and established standards for the position.

During the probationary period, employees are expected to maintain acceptable standards of conduct and attendance and it will be the responsibility of the employee to correct any deficiencies or inadequacies in job performance, conduct or attendance.

1. **Seasonal/Temporary Employees.** Seasonal and temporary full and part time employees do not serve a probationary period and have no right of appeal when terminated at any time.
2. **Change in Assignment of Employee serving in the Initial Probationary Period.** Employees serving in the probationary period may not request or make application for reassignment, promotion, or voluntary transfer during the probationary period without written approval from the City Manager, or if requested, by their department director. If the reassignment, promotion, or transfer is approved, the employee will serve a six (6) month probationary period in the new position beginning with the date of the position change.
3. **Absences during Probationary Period.** During the probationary period, an employee is eligible to use sick leave for qualifying absences, and may use vacation leave for an absence due to illness or injury only if all sick leave has been exhausted. Compensatory time off or recognized holidays during the probationary period may be used as approved in accordance with established City/departmental policy or practice. Transferred or promoted employees serving in the probationary period retain eligibility for all types of leave established by City policy.
4. **Probationary Period Performance Evaluations.** All employees serving in the probationary period shall be constantly evaluated and will receive a performance evaluation(s) in accordance with the "Performance Evaluation System" policy. These reviews are designed to evaluate each employee's performance and to communicate that performance to the employee. The written reviews include a supervisory recommendation to retain or terminate the employee.
5. **Extensions to Probationary Period.** The probationary period may be extended under the following circumstances:

At the end of the initial probationary period, the performance probationary period may be extended for up to an additional six (6) months when:

- ◆ An employee's performance has been marginal due to extenuating circumstances,
- ◆ Additional training is warranted, or
- ◆ Frequent absences or an employee's absence from work for an extended period of time did not permit an opportunity for adequate assessment of performance.

The decision to extend or not to extend an employee's probationary period may not be appealed. If an extension is granted, the employee will be advised in writing and given the date on which the extended probationary period will be completed. Such extensions will be at the sole discretion of the department director and the Human Resources Manager.

A probationary period may be extended for time spent on an approved Leave of Absence including leaves of absences due to injury or illness or approved Military Leave. The approved extension will normally equal the length of time away from work. Accordingly, each full-day absence incurred by an employee during the probationary period will normally extend the probationary period by an additional day.

6. **Successful Completion of Probationary Period; “Regular” Status Granted.** Employees have no guarantee of employment either during or after their probationary period. Only employees who meet acceptable performance, conduct, attendance, and other standards during the probationary period will be retained as regular employees. An employee is granted “regular” status in the new position if the employee satisfactorily completes the probationary period.
7. **Failure of Probationary Period.** An employee is considered to have failed the probationary period when it is determined that the employee’s fitness, job performance, quality or quantity of work, attendance, or combination thereof, does not meet minimum job performance standards and expectations for the position. Failure of probationary period may occur at any time within the probationary period. An employee who does not successfully complete the probationary period will normally be terminated from the City’s employment. If desirable and feasible, the employee may be administratively transferred to a more suitable position at the sole discretion of the Human Resources Manager and the City Manager.

A transferred or promoted employee who fails the probationary period may, at the sole discretion of the City, be reinstated to the former position provided there is a vacancy and if approved by the affected department director(s). Department directors are responsible for ensuring the thorough written documentation of all cases of failure of the probationary period, including documentation of counseling, training, and other efforts to help employees during their probationary period. All such documentation must be reviewed by the Human Resources Manager before an employee serving in the probationary period can be terminated.

8. **Termination of Employees Serving in the Probationary Period.** All employees of the City, including those serving in the initial probationary period, are at-will employees and may be terminated at any time during the probationary period, with or without notice or cause. An employee serving in the initial probationary period who is terminated has no right of appeal. Employees serving in the initial probationary period are subject to all policies and procedures of the City with the exception of appeal rights.
9. **Sexual and Other Unlawful Harassment.** Employees serving in the probationary period are subject in all respects to the City’s Sexual and Other Unlawful Harassment Policy. Employees serving in the probationary period have no right of appeal; however, if it is believed that unlawful harassment or discrimination has occurred; such conduct must immediately be reported as set out in City policy.

E. HEALTH / MEDICAL EXAMINATIONS / FITNESS FOR DUTY

1. **Safe Work Environment.** The City endeavors to provide a safe work environment for all employees. It is the responsibility of each employee to maintain the standards of physical and mental health fitness required for performing the essential functions of the position, either with or without reasonable accommodation.
2. **Serious Health Condition/Disabilities.** The City recognizes that employees with a potentially life-threatening and/or infectious illness or physical and/or mental disabilities may wish to continue to engage in as many of their normal pursuits as their condition allows, including their employment. As long as these employees are able to perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship on other employees, and medical evidence indicates that their condition is not a direct threat to themselves or others, the City will treat them consistently with other employees. All employees must notify Human Resources of any health development or condition which could require reasonable accommodations to assist them in continuing to perform their essential job functions.
3. **Medical Exams for Current Employees.** The Human Resources Manager, or an employee's department director (with the prior written approval of the Human Resources Manager) may require a current employee to undergo a medical and/or psychological examination to determine fitness for continued employment, as may be necessary in order for the City to provide a reasonable accommodation; following an injury or accident; and as otherwise permitted in accordance with applicable laws.
4. **Medical Information from an Employee's Doctor.** Under certain circumstances (e.g., FMLA Certifications), Human Resources may require employees to provide medical information from their health care provider. In such cases, employees are to inform their health care provider not to provide any genetic information when responding to such request.
5. **Genetic Information.** In accordance with the Genetic Information Nondiscrimination Act (GINA), the City will neither request nor require genetic information of an employee or his/her family member, except as specifically allowed by GINA. To comply with GINA, employees are directed not to provide any genetic information when responding to any City request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or embryo lawfully held by an individual or family member receiving assistive reproductive services.
6. **Medical Records.** Medical records and sensitive information regarding an employee's health will be kept confidential as required by law. Limited information may be provided to supervisors and managers, first aid and safety personnel, government officials, Texas Workers' Compensation Commission, and as necessary for insurance and other business-related purposes.

7. **Return to Work/Fitness for Duty.** Before returning to work following a medical and/or psychological examination under this policy, the employee must coordinate his/her return through Human Resources. An employee who misses work due to medical reasons may be required to provide a fitness-for-duty certification before returning to work.
8. **Time Off From Work.** Time away from work undergoing a City mandated fitness for duty examination will normally be coded to paid administrative leave, but may be retroactively changed to sick leave, Family Medical Leave Act leave, and/or other leave as circumstances warrant.

F. WEAPONS CONTROL AND VIOLENCE PREVENTION POLICY

The City strives to provide a safe and secure working environment for its employees. This policy is designed to help prevent incidents of violence from occurring in the workplace and to provide for the appropriate response when and if such incidents do occur.

1. **Zero Tolerance.** This policy prohibits harassment, intimidation, threats, bullying and violent behavior by or toward anyone in the workplace that is in any way job or City related, that is or might be carried out on City property, or that is in any way connected to the employee's employment with the City, whether the conduct occurs on-duty or off-duty. The City has a zero tolerance policy for this type of misconduct.
2. **Firearms and Other Weapons Banned.** Unless specifically authorized by the City Manager, no employee, other than a City licensed peace officer, shall carry or possess a firearm or other weapon inside any City buildings. Prohibited weapons include firearms, long guns, clubs, explosive devices, knives with blades exceeding 5 ½ inches, switchblades, etc. Employees do not have an expectation of privacy and the City retains the right to search for firearms or other weapons inside City buildings.

Signs clearly stating the City's ban against weapons are conspicuously displayed and clearly visible at all entrances to City buildings.

- ◆ The signs are in both English and Spanish and read, in accordance with Texas Penal Code Chapter 30.06:
 - ✓ “NO OPENLY DISPLAYED OR CONCEALED FIREARMS ALLOWED: Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law) may not enter this property with either a concealed handgun or a handgun carried openly.”
 - ◆ The signs have contrasting colors with block letters at least one inch in height, as required in the statute.
3. **License to Carry a Firearm.** Employees licensed by State of Texas to carry a handgun or other gun may have a permitted weapon only on the City parking lot if it is locked in the employee's vehicle. Employees licensed to carry handguns must report to the Human Resources Manager their identity and license plate numbers of all vehicles that employee may park in City parking lots.

4. **Mandatory Reporting.** Each City employee must immediately notify his/her supervisor, department director, the Human Resources Manager, and /or the Police Department of any act of violence or of any threat involving a City employee that the employee has witnessed, received or has been told that another person has witnessed or received. Even without an actual threat, each City employee must also report any behavior that the employee regards as threatening or violent when that behavior is job related or might be carried out on City property, a City controlled site or City job site, or when that behavior is in any manner connected to City employment or activity. Each employee is responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons threatened or the target of the threatening behavior. A supervisor who is made aware of such a threat or other conduct must immediately notify his/her department director and the Human Resources Manager.
5. **Protective Orders.** Employees who apply for or obtain a protective or restraining order which lists City locations as being protected areas, must immediately provide to the Human Resources Manager and the City's Police Department a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent. City employees must immediately advise their department director and the Human Resources Manager of any protective or restraining order issued against them.
6. **Confidentiality.** To the extent possible, while accomplishing the purposes of this policy, the City will respect the privacy of reporting employees and will treat information and reports confidentially. Such information will be released or distributed only to appropriate law enforcement personnel, City management, and others on a need-to-know basis and as may otherwise be required by law.
7. **Documentation.** When appropriate, threats and incidents of violence will be documented. Documentation will be maintained by the Human Resources Manager and the Police Department.
8. **Policy Violations.** Violations of this policy may lead to disciplinary action, up to and including termination of employment. Policy violations may also result in arrest and prosecution.

SECTION 4. TYPES OF EMPLOYMENT

A. CATEGORIES OF EMPLOYMENT

The City has four categories of employment:

1. **Regular Full Time.** A regular full time employee is appointed to an authorized regular position that involves, on the average, 40 work hours per week. Regular full time employees may be either hourly or salaried employees.
2. **Regular Part Time.** A regular part time employee is appointed to an authorized regular position that involves, on the average, at least 20 but fewer than 40 work hours per week.
3. **Temporary Full Time.** A temporary full time employee is an employee hired to work an average of 40 hours per week for a period of time which is normally specified in advance and is expected to last fewer than six months. Temporary full time employees may be either hourly or salaried employees.
4. **Temporary Part Time.** A temporary part time employee is an employee hired to work an average of fewer than 40 hours per week for a period of time which is normally specified in advance and is expected to last fewer than six months. Temporary part time employees are paid on an hourly basis.

See the **Benefits** chapter of these policies for details of benefits available to each category of employee.

The following two designations indicate whether or not an employee is eligible for overtime compensation:

1. **Non-exempt.** A non-exempt employee is paid by the hour. A non-exempt employee's position is covered under the overtime pay provisions of the Fair Labor Standards Act (FLSA). Non-exempt employees will be compensated for overtime as required by law.
2. **Exempt.** An exempt employee is considered exempt from overtime pay provisions of the Fair Labor Standards Act (FLSA) and is expected to render necessary and reasonable services beyond 40 hours per week with no additional compensation. Their salaries are set with this consideration in mind. City employees who are in exempt positions most often qualify under the executive, administrative or professional exemptions, as defined below:
 - ♦ **Executive.** The executive exemption is for persons whose primary duty is "management" of the business. An employee who has management of a department or a sub-unit thereof as his or her primary duty, and regularly supervises two or more employees, also qualifies for the executive exemption. The Department of Labor regulations define "management" as interviewing, selecting, and training employees; planning and assigning work and determining how the work will be done; directing and evaluating the work of other employees; handling complaints and grievances; and

disciplining employees, or having the responsibility to participate in these functions and have your participation given weight in the process.

- ◆ **Administrative.** Administrative employees are “white collar” employees who perform “work of substantial importance to the management of the operation” or the enterprise. An employee whose primary duty is performing office or non-manual work directly related to management policies or general business operations of the City, as opposed to production or direct services, and includes work requiring the exercise of discretion and independent judgment, will qualify as an exempt administrative employee.
- ◆ **Professional.** To qualify for the professional exemption, an employee must have as his or her primary duty work requiring knowledge of an advance type customarily acquired by a prolonged course of specialized intellectual instruction and study. The work must require the consistent exercise of discretion and independent judgment and must be predominantly intellectual and varied in character. Examples of the professional exemption include attorneys, doctors, teachers and registered nurses. In addition, computer programmers, systems analysts and certain other computer employees qualify as professional employees.

Assigned Staff. Staff who are assigned to the City but are paid directly by another government or private organization are not employees of the City. These employees’ benefits are specified in the contract for services. Assigned staff are governed by all terms of these policies not in conflict with their contract for services.

SECTION 5. EMPLOYEE COMPENSATION AND ADVANCEMENT

A. PAY

Compensation for City employees is set each year by the City Council in the adopted City operating budget. Rules governing salary administration and pay increases are also established by the City Council.

B. PAYDAYS AND CHECK DELIVERY

The pay period for the City is biweekly. Checks are issued every two weeks on Friday, for the 14-day period ending the previous Friday at midnight. If the payday falls on a holiday, checks will be issued on the last working day preceding the holiday.

Employees may receive a paycheck early only for the following reasons:

1. An emergency situation, or
2. Employee will be out of town on City business on the payday, or
3. Employee will be out of town on approved, scheduled vacation leave.

Paychecks will be given to someone other than the employee only if the employee provided advance written permission to the Human Resources Department. If an employee is deceased, the final paycheck will be distributed only to the employee's estate.

The City encourages employees to have their paychecks electronically deposited.

No salary advances or loans against future salary will be made to any employee for any reason. (*Legal reference: Texas Constitution, Article III, Sections 51, 52, and 53.*)

An employee must promptly bring any discrepancy in a paycheck (such as overpayment, underpayment, or incorrect payroll deductions) to the attention of the appropriate department head, who will notify the Human Resources Manager.

C. PAYROLL DEDUCTIONS

Any deductions must be approved and authorized by the City Council or City Manager. Deductions will be made from each employee's pay for the following:

- ◆ Federal social security;
- ◆ Federal income taxes;
- ◆ Medicare;
- ◆ Texas Municipal Retirement System contributions (for regular full-time and covered part-time employees);
- ◆ Court-ordered child support; and
- ◆ Any other deductions required by law.

If a terminating City employee fails to return City-owned equipment or property to the City before his or her final paycheck is issued, the value of the property or equipment will be deducted from the final pay.

In accordance with policies and general procedures approved by the City Council, deductions from an employee's pay may be authorized by the employee for:

- ◆ Group health/medical/life/vision insurance for employees and dependents;
- ◆ Deductions for official City uniform rentals;
- ◆ City authorized 457 deferred compensation plans;
- ◆ Such other deductions as may be authorized by the City Council.

If there is a change in the employee's family status, address, or other factor affecting his or her payroll withholding or benefits status, the employee is responsible for obtaining, completing and returning the appropriate forms to the Human Resources Department forms for communicating these changes.

D. POSITION CLASSIFICATION PLAN

The Human Resources Manager is responsible for preparation and administration of a Position Classification Plan for all City positions. All positions are assigned an official classification title, a description of duties and minimum qualifications. Each new or revised position must be reviewed and approved by the Human Resources Manager and the City Manager. All City positions are classified as either exempt or nonexempt from overtime compensation under the Fair Labor Standards Act (FLSA). Each job has an official job classification title which is used in all personnel matters, official records, payroll records and budgets.

E. COMPENSATION PLAN

The Human Resources Department is responsible for preparation and administration of a Compensation and Benefits Plan for all City employees. The Human Resources Department shall be responsible for conducting salary and benefits surveys for the City. Survey information gathered will be for the purpose of making recommendations to the City Manager and City Council on pay policies and benefit plan changes in order to keep the City's compensation and benefit plans current, equitable and competitive. Salary administration shall be as follows:

1. **Probationary Employees.** A new employee shall normally be compensated at the minimum rate of the approved salary range. At the end of the first six months of employment (one year for Police Officers), probationary employees will be eligible for a salary increase based on their performance.
2. **Salary Increases.** Each budget year the City Council may consider approval of a salary increase budget for the next fiscal year. If approved, the funds appropriated are utilized for increases according to an established salary increase matrix. Annual salary increases will normally become effective on January 1st.

3. **Reallocation to a Higher Pay Grade.** Reallocation is the reassignment of an entire class of positions to a new pay grade based on market data and/or the current duties and responsibilities of the class. Reallocation can be to either a lower or a higher pay grade. Reallocations are recommended by the Human Resources Manager and approved and implemented by the City Manager within budget limitations. If an employee's job is reallocated to a higher or lower pay grade, the employee will not be required to serve another probationary period. An employee shall normally be compensated at the minimum rate of the new range, unless that pay rate is less than the employee's current salary, in which case the employee's rate of pay will remain the same.
4. **Reclassification.** A reclassification is a reassignment of a position to a lower, higher, or different class (job title) based on current duties and responsibilities of the position. An employee whose position is reclassified upward does not automatically receive a pay increase unless an increase occurs to place the employee at the entry of the pay range of the new pay group. Downward reclassifications will not result in a decrease in pay unless the demotion was for disciplinary reasons. Reclassifications are recommended by the Human Resource Manager and approved and implemented by the City Manager within budget limitations.
5. **Lateral Transfers.** An employee who transfers laterally from one position to another position in the same pay grade shall continue to receive the same salary.
6. **Demotion.** An employee who is demoted from one position to another position having a lower pay grade shall be compensated at a rate within the lower pay grade as determined by the department director and the Human Resources Manager with approval of the City Manager. All demotions require a reduction in salary unless otherwise approved by the City Manager.
7. **Maximum Rate of Pay.** An employee shall not be paid above the maximum rate established in the approved salary schedule. If salary ranges are adjusted, making an employee's pay higher than the maximum of the pay grade to which his or her job is assigned, the employee's pay will be "frozen" until such time as the pay schedule has been adjusted a sufficient number of times that the employee's pay once again falls within the pay range.
8. **Termination Pay.** Employees who terminate prior to completing the six (6) month probationary period are not eligible to receive vacation pay at termination. Terminated employees will be paid within six (6) calendar days.

A regular employee, who has completed the probationary period and has given the appropriate notice of resignation, will be paid for unused vacation leave, up to the limit established by these policies. Employees who are resigning from employment with the City will normally be paid on the next regularly scheduled payday. Payment for such leave balances will be included in the employee's final paycheck and will be calculated in the following manner:

- ◆ The total work time and allowable vacation and compensatory leave time, if any, will be calculated as a total number of hours for which compensation is due. The employee's regular hourly rate is listed on the City's pay schedule.

- ◆ For employees who are subject to the overtime provisions of the Fair Labor Standards Act (FLSA), any overtime hours worked during the employee's final pay period which have not been compensated through either of the time off methods described in the "**Overtime Worked**" section of these policies, will be paid in the final paycheck at a rate of one and one-half times the employee's regular hourly rate for each overtime hour worked.
- ◆ Compensatory time which has been entered and carried on the employee's records at one and one-half times the number of hours worked will be paid at the employee's regular straight-time rate for the total number of hours on the employee's compensatory time record. (Since the compensatory time was recorded at one and one-half times the number of hours worked, the straight time payment for these hours is equivalent to time and one-half pay for the overtime hours actually worked.)

SECTION 6. ATTENDANCE, WORK SCHEDULE, TIME REPORTING AND OVERTIME

A. HOURS WORKED

1. **Normal Working Hours.** Normal working hours for most City employees are Monday through Friday, 8:00 a.m. to 5:00 p.m., with one hour for lunch, for a total of 40 hours per workweek. However, other hours of work and official work periods for individuals or groups of employees may be set by the department head with approval of the City Manager. A morning and an afternoon break of 15 minutes each will be available to each employee, but this time does not accumulate if not taken and may not be applied to any other absence, leave, or time off.

2. **Adjustment to Work Hours.** In order to assure the continuity of City services, it may be necessary for the City Manager to establish other operating hours for their departments. Work hours and work shifts must be arranged to provide continuous service to the public. Employees are expected to cooperate when asked to work overtime or a different schedule. Acceptance of work with the City includes the employee's acknowledgement that changing shifts or work schedules may be required, and indicates that the employee will be available to do such work. The schedule of a workday may be adjusted to accommodate an employee's needs with the approval of the employee's supervisor. Flex-time arrangements for longer than one (1) month, however, must be formalized by memorandum to the department director and the Human Resources Manager.

During the summer months employees may work different hours, while still working five (5) days a week, eight (8) hours per day. This seasonal work schedule is changed at the discretion of the department directors, who confer with the City Manager before making the transition each year.

Police Officers schedules may also vary, with some being on four (4) ten (10) hour shifts per week.

Determination of Hours Worked and Compensation. The City Manager determines the number of hours worked by an employee for the compensation to be received subject to laws governing pay and working hours and to the provisions of the City's budget and these policies.

B. OFFICIAL WORK PERIOD

The official work period for most City employees is a seven day period beginning at 12:01 a.m. on Saturday and ending at 12:00 midnight on the following Friday.

C. OVERTIME WORKED

Overtime compensation is paid to all non-exempt employees in accordance with federal and state wage and hour requirements. Exempt employees are not paid overtime compensation.

The policy of the City is to allow overtime only in cases of emergencies, special circumstances, or when specifically authorized by the City Manager. Employees may be required in emergencies to provide services in addition to normal hours or on weekends or holidays.

1. **Non-Exempt Employees.** When the City's operating requirements or other needs cannot be met during regular working hours, non-exempt employees may be scheduled to work overtime, at the request of their supervisor. When possible, advance notification of mandatory overtime assignments will be provided. Overtime assignments will be distributed as equitably as practical to all non-exempt employees qualified to perform the required work. Refusal or other failure to work mandatory overtime may result in disciplinary action up to and including termination of employment. Overtime work is otherwise subject to the same attendance policies as straight-time work.

All non-exempt employees must receive their supervisor's and department director's prior authorization before performing any overtime work. This means employees may not begin work prior to their scheduled workday, may not work through their lunch break and may not continue working beyond the end of their scheduled workday, without prior authorization from the appropriate supervisor.

On the employee's timesheet, the appropriate supervisor must also approve any overtime before the timesheet is submitted for processing and payment. Non-exempt employees shall not remain on the work premises without authorization unless they are on duty or are scheduled to begin work within a short period of time. Non-exempt employees who work overtime without receiving proper authorization will likely be subject to disciplinary action, up to and including possible termination of employment.

Overtime pay for non-exempt employees is at the rate of 1½ times the employee's regular hourly rate of pay for hours actually worked in excess of 40 in the City's workweek. (The City's workweek begins at 12:01 a.m. on Saturday and ends at midnight the following Friday.)

Employees who are required to attend training at an outside location will be paid for travel time and it will be considered time worked for the purpose of calculating overtime.

2. **Leave Taken and Overtime.** Paid holidays are included as hours worked for purposes of determining eligibility for overtime pay. Vacation, sick leave, witness duty leave, bereavement leave, jury duty or any unscheduled leave of absence is not considered time worked for purposes of calculating overtime.
3. **Compensatory Time.** Non-exempt employees may accrue compensatory time in lieu of being paid overtime compensation. Compensatory time accrues at a rate of 1½ hours for every hour of overtime worked by non-exempt employees. Compensatory time accruals are to be monitored at the department level and any accrued time must be used within 60 days of its accrual.

An employee who has accrued compensatory time and requests use of such time, must be permitted to use the time off within a "reasonable period" after making the request if it does not "unduly disrupt" the work of the department. If use of requested compensatory time would be disruptive, the department may elect to pay the employee in lieu of approving the requested time off. The City may, at any time, elect to pay a non-exempt employee for any or all of the employee's accrued compensatory time.

The City may also require employees to take time off in order to reduce their accrued compensatory time. Otherwise, compensatory time off may be used the same as leave time.

4. **Payment of Compensatory Time.** All employees who are reclassified from a non-exempt position to an exempt position will be paid all accrued compensatory time upon approval of the reclassification and will cease to be eligible for any additional overtime and/or compensatory time. Likewise, an employee who is promoted, transferred, or demoted to another non-exempt position will be paid in full for any compensatory time accrued before the promotion or demotion becomes effective.

Upon leaving employment with the City, a non-exempt employee will be paid for unused compensatory time at the employee's current hourly rate.

5. **Flex-time Work Schedule.** In situations where overtime payment is not feasible due to budgetary constraints, the department director or supervisor may consider flexing the employee's work schedule in an effort to minimize the need for overtime compensation. Flexing must be completed within the same work cycle that the overtime was worked and must be accurately reflected on the affected employee's time record.
6. **Exempt Employees.** Exempt employees are those who are not covered by the overtime requirements of the FLSA. Accordingly, exempt employees are not entitled to overtime compensation for work performed beyond 40 hours in a workweek. Exempt employees are expected to work the hours necessary to complete their assignments with an acceptable level of quality in a timely manner.

"Docking" an exempt employee's pay for a partial day's absence will be permitted only as authorized by law and approved by the Human Resources Manager. It is the policy of the City not to make improper deductions from an exempt employee's pay. Any exempt employee, who believes an improper pay deduction has been made, must immediately notify the Human Resources Manager. The City will promptly reimburse an exempt employee for any improper deduction(s) and will make a good faith commitment to comply in the future.

Absent accrued paid leave time, an exempt employee need not be paid for any workweek in which no work was performed.

Employees engaged in recreational or seasonal activities which do not operate for more than seven months in any calendar year, and which meet the other statutory prerequisites, are also exempted from the minimum wage and overtime provisions of the Fair Labor Standards Act as recreational, seasonal employees.

Each City job description designates whether persons hired in that classification are covered (non-exempt), or not covered (exempt) by the overtime provisions of FLSA. See Section 4 of these policies under the main heading "**Categories of Employment**" for additional information on FLSA exemptions.

D. ON-CALL DUTY PAY

The City provides for after-hour service needs by allowing some departmental operations to designate certain non-exempt employees to be on-call. Employees designated to be on-call are expected to respond to departmental after hour service needs as required by procedures established by their Department.

1. **Return to work provisions.** After regularly scheduled working hours, on-call employees are free to pursue personal activities but must respond to a call back (via phone or radio) by arriving at the worksite within 30 minutes. Employees designated as on-call must be fit, both mentally and physically, to accomplish on-call services needed within the time frame required. An employee is considered officially scheduled and designated as on-call only when approved by the supervisor in accordance with procedures established by the department.
2. **On-Call Compensation.** On-call status is not considered time worked and is not compensable unless the employee actually responds to a call back. However, in recognition of the added commitment the employee is being asked to make when designated as “on call,” the City pays the on-call employee an additional stipend per week for serving on-call.

In addition, the City pays on-call employees called back to the workplace at one and one-half (1 ½) their regular rate of pay for actual hours worked, as well as guaranteeing a minimum of two (2) hours pay for each call-back within the same 24 hours after their regularly scheduled working hours or on a regular day off.

Time worked immediately after regularly scheduled working hours at the request or approval of the supervisor is not considered call-back time and is paid at the employee’s regular rate of pay until overtime requirements are met.

Travel time to and from a call-back is compensable under this policy. On-call employees who do not return to the workplace but who handle a workplace issue by phone will be paid for actual time spent on the phone. In all cases, employees must report their actual hours worked on their timesheets.

Employees exempt from overtime are not eligible for compensation under the provisions of this policy.

3. **Employees Called in for Emergencies Who Are Not Designed as “On Call”.** Employees who may be asked to report to duty at any time due to an emergency situation are not considered to be on call. When such employees report for duty, they are paid for time actually worked at their regular hourly wage unless the additional hours actually worked constitute overtime under the FLSA provisions explained earlier in this Section.

E. INCLEMENT WEATHER / EMERGENCY CLOSING

During normal operating hours, City offices DO NOT CLOSE during inclement weather conditions. All City employees, whether exempt or non-exempt, are expected to make a sincere effort to report to work during inclement weather conditions or other emergency situations.

If an employee determines that the weather conditions constitute a danger to life and/or property, the employee must notify his or her immediate supervisor and/or department director and make arrangements to report to work if weather conditions improve. Any leave taken due to inclement weather can be flexed or charged to vacation or compensatory time. Regular full time and part time non-exempt employees who are unable to flex their time and who have no accrued vacation or compensatory time available will not be paid for the time missed.

Each department director or immediate supervisor is responsible for seeing that City services are staffed while City offices are open for business during inclement weather or emergency conditions. Any City service that cannot be provided during inclement weather or other emergency conditions must be immediately reported to the City Manager's Office.

When weather or other conditions are such that the City Manager declares certain City offices/departments officially closed, all affected, non-essential personnel who were scheduled to work during the time of closure will be granted paid "administrative leave" for the time the office/department is closed. Essential personnel must report to work even when other City departments are officially closed due to weather or other types of extraordinary circumstances. Essential personnel required to be on the job regardless of adverse weather or other conditions are designated by the department director and/or the City Manager. Essential personnel who fail to report to work may be subject to disciplinary action up to and including termination of employment.

In the event that weather conditions prohibit certain departments whose primary work location is outdoors, employees may be asked to perform other duties, attend training sessions or the supervisor may deem it necessary to send the employees home until conditions improve. Employees sent home due to adverse weather conditions will be paid at their regular pay rate but those hours will not count towards calculating overtime.

F. TIME REPORTING

Supervisors will keep records of all hours worked and time not worked. Forms for this purpose are provided by the City. Time records must be signed by the employee's immediate supervisor and department head.

It is recommended that these forms be filled out after each day's work in order to maintain an accurate and comprehensive record of the actual time worked.

Altering, falsifying, tampering with time records, or recording time on another employee's time record will result in disciplinary action, up to and including termination of employment.

Each department head is responsible for ensuring that all hours worked and leave time taken are reported on the timesheets sent to the Human Resources Manager and recorded on the individual department's records.

SECTION 7. BENEFITS

A. MEDICAL AND LIFE INSURANCE

Regular full-time employees of the city are eligible for group health benefits (general medical, hospitalization, prescription drug, dental, life and AD&D insurance benefits). The city pays 100 percent of the premiums for the employee for this coverage. The City also pays up to \$220.00 per month toward employee's dependent medical coverage and 100% of dependent dental coverage. The Human Resources Manager provides current information concerning eligibility, coverage and cost. The city offers vision insurance benefits for employees and dependents on a voluntary basis. Employees may pay for vision insurance coverage through bi-weekly payroll deductions.

The nature and extent of insurance coverage is subject to change for medical, dental, life and AD&D insurance for new employees. Retirees from the City of Lago Vista are eligible to have their health insurance continued through the City's health insurance provider as long as the retiree pays the premiums for such health insurance. (*Legal Reference: Tex. Local Gov't Code §§ 175.001 et seq., as amended.*)

Upon employment, each regular full time employee is given a benefits booklet containing detailed information about the City's insurance programs. See the provisions in these policies on **Continuation of Group Insurance** for information on continued coverage after certain status changes.

B. SOCIAL SECURITY

All employees of the City are covered by Social Security. The City also contributes to the Social Security System on behalf of each employee.

C. RETIREMENT

The City is a member of the Texas Municipal Retirement System (TMRS). Regular full-time employees and employees expected to work at least 1000 hours per year are required to become members of TMRS and are eligible for this benefit immediately upon employment. Members contribute six percent (6%) of their gross salary each month toward retirement. The City matches the employee's TMRS contributions on a 2 to 1 ratio.

The City has a five-year (5) vesting plan, and allows retirement at or after age 60 or at any age after 20 years of participation in the TMRS plan. Accidental death and disability benefits are also incorporated into this retirement plan should an employee become disabled prior to retirement.

Funds contributed by the employee may only be withdrawn upon retirement or resignation. Vested employees will receive the City's matching funds only when they are eligible for retirement and began receiving monthly retirement benefits.

More information is provided in the TMRS Handbook or on their website at www.tmr.com.

1. **Military Leave Buy-Back.** Employees who performed active-duty military service prior to employment with the City, are eligible to establish credit in TMRS for a maximum of 60 months of military service, if the employee has been employed by the City for ten (10) years, and has at least ten (10) years of creditable service in TMRS.

Employees who voluntarily leave employment with the City to enter into active-duty military service, and terminate their TMRS membership by withdrawing their deposits are eligible to establish credit in TMRS for a maximum of 60 months of military service provided the employee is re-employed by the City within 90 days of:

- ◆ Release or discharge from active duty; or
- ◆ Release from hospitalization continuing for not more than one year after discharge.

The credit received is only for the months of active-duty service performed (maximum of 60), has no monetary value, and is not included in the calculation of Updated Service Credits. More detailed information is provided in the TMRS Handbook.

2. **Updated Service Credits.** Employees who have current service credit or prior service credit in TMRS in force and effect on the first day of January of the calendar year preceding such allowance, by reason of service in the employment of the City, and on such date have at least thirty-six (36) months of credited service with the System, shall be and are hereby allowed "updated service credits" as defined in subsection (d) of Section 853.402 of the TMRS Act. The updated service credit is one hundred percent (100%) of the "base updated service credit," calculated as provided in subsection (c) of Section 853.402 of the TMRS Act. Each updated service credit replaces any updated service credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service. More detailed information is provided in the TMRS Handbook

D. WORKERS' COMPENSATION

Employees of the City are covered by the workers' compensation insurance program. This coverage provides medical and salary continuation payments to employees who receive bona fide, on-the-job, work-related injuries. Detailed information about workers' compensation benefits is found in the sections of this manual under the main headings of **Workers' Compensation** and **Injury Leave**. (*Legal reference: V.T.C.A. Labor Code, Title 5, Subtitle A and Chapter 504.*)

E. UNEMPLOYMENT INSURANCE

All employees of the City are covered under the Texas Unemployment Compensation Insurance program. This program provides payments for unemployed workers in certain circumstances. (*Legal reference: V.T.C.A. Labor Code, Title 4, Subtitle A.*)

F. LEAVE TIME

Regular full-time City employees are eligible for holidays, vacation leave, sick leave, and other types of released time under certain circumstances. Detailed information about leave and other types of released time are found in this manual under **Section 8 - Leave Time** and **Section 9 - Holidays**.

G. LONGEVITY PAY

Longevity pay is paid at the rate of \$25.00 for the first year of employment (regardless of the number of days employed) and an additional \$25.00 for every year thereafter. The maximum longevity pay is \$500 per year. Employees are eligible for longevity pay if they are full-time, active employees on the day the longevity payroll is published. In addition, the City pays the FICA and TMRS matching costs related to the longevity pay. Longevity pay is paid within the first two weeks of December each year.

H. CONTINUATION OF GROUP HEALTH INSURANCE (COBRA)

COBRA is a federal law that requires most employers who sponsor group health plans to offer employees and their families the opportunity to temporarily extend their group coverage at group rates in certain instances where coverage under the employer's group health plan would otherwise terminate. The employee is responsible for paying for the cost of any such continuation coverage.

Under COBRA, employees may elect COBRA continuation of coverage for up to 18 months after termination of employment (unless the employee is terminated due to gross misconduct), or if an employee's hours are reduced to such an extent that the employee no longer qualifies for participation in the group health plan. Under other circumstances, COBRA coverage is available for up to 36 months following a qualifying event. Employees must notify the City within 60 days of the occurrence of the employee's legal separation or divorce and of a covered dependent ceasing to qualify as a dependent under the medical plan.

Detailed COBRA notices are given to employees when an employee becomes eligible for participation in the City's group health plan and again when a qualifying event occurs. For more complete information on COBRA and your health plan, you should review your summary plan description or review a copy of the full health plan at the Human Resources Manager's office.

I. EDUCATION / PROFESSIONAL DEVELOPMENT

1. **General Policy**. The City encourages its regular full-time employees to take advantage of educational or training opportunities and professional memberships that are related to and will enhance their performance of work with the City.
2. **Required Attendance**. When the City requires an employee to attend any educational or training course, conference, or seminar, the City will provide the necessary time off with pay and will reimburse the employee for associated costs, including tuition or registration fees and authorized travel, meals and lodging.

When appropriate, the City may prepay registration fees, hotel costs, and/or airline or other public transportation costs directly to the entity involved. See additional information in the chapter of these policies **Travel/Expense Reimbursement**.

3. **Professional Memberships and Seminars**. Subject to the prior approval of the City Manager, an employee who joins a professional association related to his or her work at the City may be reimbursed for dues and necessary travel expenses when meetings are judged to offer special training or information of value to the employee in his or her work at the City. Likewise, subject to the City Manager's prior approval, an employee may be reimbursed for conference or seminar expenses if the conference or seminar is related to his or her work.

SECTION 8. LEAVE TIME

A. DEFINITIONS

1. **Leave Time**. Leave time is time during normal working hours in which an employee does not engage in the performance of job duties. Leave time may be either paid or unpaid.
2. **Excused Absences**. Excused absences are defined in this policy manual and approved by the employee's supervisor. Examples include: paid sick leave, vacation, holidays, bereavement leave, administrative leave, work-related injury leave, and other types of approved time off. To be eligible for an excused absence, an employee must contact his/her supervisor no later than thirty (30) minutes after the employee's regularly scheduled starting time. The reasons for the absence and the date and the time the employee expects to return to work must be reported at this time. This thirty (30) minutes provision may be waived by the supervisor if there are extenuating circumstances.
3. **Unexcused Absences**. Unexcused absences are defined as follows:
 - ◆ Tardiness.
 - ◆ Unverified sick time.
 - ◆ Unauthorized time off.
 - ◆ Failure to call within thirty (30) minutes after regularly scheduled starting time.
 - ◆ An employee may be required to furnish a doctor/hospital statement to the supervisor verifying an illness or accident under any of the following circumstances in order for the absence to be considered excused:
 - ✓ When illness or accident caused the employee to be hospitalized.
 - ✓ When the absence was for three (3) or more consecutive work days.
 - ✓ When the absence occurred on a regularly scheduled workday preceding or following a holiday or regularly scheduled vacation day.
 - ✓ When the supervisor feels that the employee's return to work may pose a health hazard to others.
 - ✓ When the employee has a record of excessive use of paid or unpaid sick leave.
4. **Repeated Unexcused Absences**. Employees repeatedly incurring unexcused absences are considered absence repeaters and are subject to disciplinary action. The disciplinary action of the absence repeater shall be handled in the following manner:
 - ◆ An employee with more than two (2) unexcused absences (not approved by the employee's supervisor) in any six (6) month period will be given a written warning by his/her supervisor.
 - ◆ A copy of the warning (signed by the Supervisor and the employee) will be forwarded to the Human Resources Department to be placed in the employee's file.
 - ◆ An employee with more than three (3) unexcused absences in any six (6) month period may be suspended without pay for up to three (3) days.

The signed notice of suspension will be forwarded to the Human Resources Department to be placed in the employee's personnel file.

- ◆ An employee with four (4) unexcused absences in a six (6) month period may be terminated.
- ◆ Unexcused absences from work for a period of three (3) consecutive working days shall be considered as a resignation, and the employee will not be eligible for rehire by the City.

B. APPROVAL OF LEAVE

In order to be considered an excused absence, any leave request must be authorized by the employee's immediate supervisor and approved by the appropriate department head. Employees should submit leave request forms at least seven (7) calendar days before the requested time off. Copies of signed leave forms are attached to the time sheets and sent to the payroll office for recording.

C. VACATION LEAVE

Temporary and part-time employees do not earn vacation leave.

1. **Vacation Leave Accrual.** All new employees are subject to a six (6) month probationary period during which time vacation leave will accrue but cannot be taken. Regular full-time employees earn vacation leave on the following basis:

Number of Years of Service	Number of Hours / Days of Vacation Leave	Hours Accrued Per Pay Period
End of 1 st 6 Months	40 Hours / 5 Days	3.08
End of 1 st Year – 5 Years	80 Hours / 10 Days	3.08
6 Years	88 Hours / 11 Days	3.39
7 Years	96 Hours / 12 Days	3.69
8 Years	104 Hours / 13 Days	4.00
9 Years	112 Hours / 14 Days	4.31
10 Years	120 Hours / 15 Days	4.62
11 Years	128 Hours / 16 Days	4.92
12 Years	136 Hours / 17 Days	5.23
13 Years	144 Hours / 18 Days	5.54
14 Years	152 Hours / 19 Days	5.85
15 Years	160 Hours / 20 Days	6.15

Vacation leave is accrued at a rate of 10 days per year of continuous employment through the fifth year of employment. One additional day per year accrues beginning with the sixth year and ending with a maximum of 20 days the fifteenth year. (Example: 6 years = 11 days per year, 7 years = 12 days per year, etc.)

2. **Use of Vacation Leave.** Vacation leave usage shall be scheduled with the employee's supervisor as far in advance as possible. Use of vacation leave will be at the convenience of the employee whenever possible. However, use of vacation leave should not interfere with normal functioning of City operations. Vacation leave may be taken in increments of one-half day or more.
3. **Sickness during Vacation Leave.** Employees who become ill during their vacation should notify their supervisor so that the time they are ill may be counted as sick leave. At the discretion of the supervisor, medical proof of illness may be required.
4. **Payment upon Termination.** Upon termination, all regular employees who resign or are terminated after completing the full six (6) month probationary period will be compensated for unused vacation leave, up to a maximum of thirty (30) days (240 hours). Employees who leave City employment before completing six (6) months of service shall not be entitled to vacation pay. Payment will be based on the employee's salary at the time of termination. Employee's who leave employment without providing at least a two (2) week written notice will forfeit accumulated vacation leave.
5. **Holidays during Vacation.** City holidays that occur during an employee's vacation will not be charged to vacation time.
6. **Payment upon Death.** Payment for the employee's accrued vacation leave will be paid to the employee's estate.
7. **Restrictions.** An employee shall not be granted vacation leave in excess of accumulated leave. Employees may not elect to receive pay in lieu of vacation leave. Vacation leave is not transferable to another employee. Employees shall be allowed to retain their vacation leave credits if they are reassigned, promoted, or demoted. Employees do not accumulate vacation leave while on leave of absence.

D. SICK LEAVE

Sick leave is a benefit provided to regular City employees to be used when an employee or a member of the employee's immediate family is unable to work due to illness, physical incapacity, doctor and dental visits. (Dependent family member is defined as husband, wife, son, daughter, mother, father or other family member who is dependent upon and/or resides with the employee.) Abuse of this sick leave benefit will not be tolerated. Employees who willfully use sick leave for purposes other than those intended by these policies shall be subject to discipline. All regular full time employees of the City are entitled to accumulate paid sick leave credit according to the following rules:

1. **Sick Leave Accrual.** All regular full-time employees accrue sick leave at the rate of twelve (12) days per year (or eight (8) hours per month), with accrual allowed to continue without limit.

2. **Use of Sick Leave.** Sick leave may be taken in hourly increments; however, sick leave must be accrued before it is used. The following rules govern the use of sick leave:
 - ◆ Sick leave will accumulate and may be used during the probationary period; however, sick leave may not be used in advance of its being earned.
 - ◆ Employees may use sick leave for illness of a dependent family member. (Dependent family member is defined as husband, wife, son, daughter, mother, father or other family member who is dependent upon and/or resides with the employee.)
 - ◆ Sick leave may be used, if approved by the City Manager, as additional Bereavement Leave (See paragraph on Bereavement Leave.)
 - ◆ After an employee's accumulated sick leave has been exhausted, accrued vacation leave may be used in lieu of sick leave. When absence due to illness exceeds the amount of paid leave earned, authorized pay to the employee shall be discontinued until the employee returns to work.
 - ◆ To receive paid sick leave, an employee must communicate with his/her immediate supervisor or the supervisor's authorized representative, before or within one (1) hour of the time set for beginning work unless a justifiable excuse is presented regarding an emergency situation.
 - ◆ Supervisors and department directors may require satisfactory proof of illness according to these policies (for either the employee or the employee's dependent family member) if there are three (3) or more consecutive days of absence.(See paragraph relating to "Unexcused Absences.") If there is a question of an employee's fitness to continue in his/her present position, an employee may be required to undergo a physical examination by a physician designated by the City at the City's expense.
 - ◆ Employees shall not earn sick leave while on a leave of absence.
3. **Light Duty.** An arrangement mutually acceptable to both the employee and supervisor may be made to allow an employee to return to work when regular duty is not possible. Light duty must be approved by the department director and the Human Resources Manager on a case by case basis. A physician must specify what will constitute light duty.
4. **Payment for Sick Leave at Termination.** The following is the policy for employees who started employment before July 1, 2016:
 - ◆ The number of sick days that an employee will be paid at time of termination is fifty percent (50%) of the employee's accumulated leave balance. The maximum sick leave payment an employee will receive at termination is ninety (90) days/720 hours).
 - ◆ Any employee employed by the City after July 1, 2016 will not be eligible for paid accrued sick leave at termination.

E. CIVIL LEAVE

The City provides paid leave to regular full time employees required to serve on jury duty or requested to testify as a witness by the City in a City-related civil, criminal, legislative, or administrative proceeding. Court appearances for testimony, investigation, and court preparation as a result of official duties as a City employee (e.g., police, fire, inspections, animal control, etc.) are compensated as actual hours worked and are not classified as paid leave. In all other cases, employees are required to schedule accrued vacation, holiday or compensatory leave; otherwise a nonexempt employee's time off to testify will be considered a leave without pay. (*Legal reference: V.T.C.A. Labor Code, Sec. 52.051; Election Code, Sec. 276.004.*)

The employee must provide documentation of the requirement for jury duty, subpoena compliance, etc., with the leave request. Employees must submit a Leave Request Form, along with supporting documentation to their supervisor as soon as possible so that arrangements can be made to accommodate the absence.

An employee who is on jury duty typically must report for City duty for the remainder of the day upon completion of court or jury service, or request approval for use of other available paid time off. An employee, who is called for jury duty, must provide his or her supervisor with an acknowledgement of service from the court. Any payment for jury duty received by the employee may be retained by the employee.

Jury duty leave is paid at the employee's base rate at the time of leave and does not include overtime or any other special forms of compensation.

F. VOTING LEAVES

Employees are encouraged to exercise the right to vote in elections. If the polls are not open on election day for voting for two consecutive hours outside of the employee's working hours, the employee will be permitted reasonable time to vote during working hours.

Upon ten (10) days' notice to the supervisor, employees may be granted time off to attend a precinct convention or a county, district, or state convention to which the employee is a delegate. Time may be charged to vacation, accrued compensatory time, or leave without pay for the period of time missed.

G. FAMILY AND MEDICAL LEAVE (FMLA)

1. **Policy.** In accordance with the Family and Medical Leave Act of 1993, an employee may be eligible to take up to twelve (12) weeks of unpaid family and medical leave during a rolling twelve (12) month period. An eligible employee is one who has worked for the City for twelve (12) months and has worked at least 1,250 hours during the twelve (12) months preceding the first date leave is to be taken. Leave can be taken for any of the following reasons:

- ◆ Birth of a child;
- ◆ Placement with the employee of a child for adoption or foster care (entitlement to family and medical leave expires twelve months after birth or placement);
- ◆ When the employee is needed to care for a child, spouse, or parent who has a serious health condition; or
- ◆ When an employee's own serious health condition leaves the employee unable to perform the essential functions of his/her position.

2. Procedure:

- ◆ **Twelve Month Period:** The twelve (12) month period for counting family and medical leave is a "rolling" 12-month period measured backward from the date an employee requests or is placed on FMLA leave. Each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months, or 26 weeks provided in certain circumstances.
- ◆ **Employee Notification:** An employee must give at least thirty (30) days' advance notice for the need to take foreseeable family and medical leave, unless the need is unforeseeable, in which case, as much notice as possible should be given. A form for requesting family and medical leave is available in the Human Resources Department. If it is determined that the need for family and medical leave was foreseeable, the leave may be delayed until at least thirty (30) days after the date that the employee provides notice to the City.
- ◆ **Department Notification:** Each department supervisor is responsible for notifying the Human Resources Department immediately when an employee is away from work for a family and medical leave qualifying event (if family and medical leave has not been approved), even if the employee is utilizing paid vacation, sick or personal leave, or is out due to a work-related injury. An employee using sick leave should be reported to the Human Resource Department if it is anticipated that the duration of the illness will be three (3) or more days, or once the employee exceeds three (3) days.
- ◆ **Human Resources Responsibility:** The Human Resources Manager is responsible for central administration of all requests for family and medical leave. The Human Resources Department reserves the right to automatically place an employee on family and medical leave if it is determined that a qualifying event has occurred. The Human Resources Department may retroactively designate the beginning date of FMLA to the beginning date of the employee's absence for the qualifying event.
- ◆ **Approval:** An employee shall submit a request for family and medical leave through proper channels to the department director who will then forward it to the Human Resources Manager for approval. Confidential medical information that accompanies the application can be submitted directly to the Human Resources Manager.

- ◆ **Substitution of Paid Leave:** An employee utilizing this policy for the placement of a child for adoption or foster care with the employee shall be required to exhaust all accrued vacation and any other applicable paid leave prior to going on unpaid leave. An employee utilizing this policy for the serious illness of a child, spouse or parent must exhaust all accrued personal leave, vacation leave and any other applicable paid leave prior to going on unpaid leave. If an employee gives birth to a child, sick leave can be utilized until the employee receives a release from the doctor. After being released, the employee may use additional sick leave if permitted in accordance with the sick leave policy. Once all applicable sick leave has been used, the employee shall be required to exhaust all accrued vacation, compensatory time, holiday leave and any other accrued paid leave, prior to going on unpaid leave.

An employee utilizing this policy for the employee's own serious health condition shall exhaust all accrued sick leave, vacation leave and personal leave prior to going on unpaid leave. If an employee is off work due to a work-related injury and the employee qualifies for family and medical leave, the family and medical leave will run concurrently with any paid leave. *The City reserves the right to count any paid leave that qualifies for family and medical leave toward the twelve (12) or twenty-six (26) weeks allowed under this policy.*

- ◆ **Maximum Time Allowed:** The maximum amount of family and medical leave available is twelve (12) weeks during a twelve (12) month period even if there is more than one family and medical leave qualifying event. The only exception to the twelve (12) week maximum is the leave to provide care of an injured service member, described below, which allows for an extended FMLA leave of 26 weeks.
- ◆ **Medical Certification:** The City requires medical certification from a health care provider to support a claim for leave to care for a seriously ill child, spouse or parent, or for the employee's own serious health condition. Medical certifications must be returned to the Human Resource Department within fifteen (15) working days. Recertification may also be required every 30 days. An employee will be notified if recertification is required.

For leave to care for a seriously ill child, spouse, or parent, the certification must include an estimate of the amount of time the employee is needed to provide care. For the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of the position, and the expected duration.

The City does not seek and should not be provided genetic information. If an employee or applicant's genetic information is inadvertently received by the City; the City will return it to the health care provider and not use genetic information for any employment decision or action.

- ◆ **Check-In Requirement:** Employees on an extended FMLA leave must check in at least once each week by phone or email during their absence with the Human Resources Department or their supervisor.

- ◆ **Certification Required to Return to Work after FMLA Leave for Self:** Upon returning to work after leave for the employee's own illness, an employee is required to provide certification to the supervisor that the employee is able to return to regular duties.

If the validity of a certification is questioned, the City may require that a second opinion be obtained.

If the first and second opinions differ, the City may require a third opinion be obtained. The employee and the City must agree upon a health care provider for the third opinion and this opinion shall be binding on both parties. The City shall bear the expense of the second and third opinions.

- ◆ **Return to Work:** When an employee returns to work after family and medical leave, the employee shall be restored to the same position or to an equivalent position involving the same or substantially similar duties and responsibilities. An employee will be restored to the same worksite or to a geographically proximate worksite. The employee is also entitled to return to the same shift or an equivalent schedule.
- ◆ **Effect on Married Couples:** If a City employee is married to another City employee and either or both employees request family and medical leave for the birth or placement of a child with the employee for adoption or foster care, the total time allowed shall be limited to no more than twelve (12) weeks combined during any rolling twelve (12) month period. For other qualifying family and medical leave events, each employee is entitled to leave as long as the total amount of leave taken during any twelve (12) month period does not exceed twelve (12) weeks (or twenty-six (26) weeks, if applicable).
- ◆ **Continuation of Insurance Benefits:** While utilizing unpaid family and medical leave, an employee's insurance benefits will continue without interruption as long as the employee pays his or her portion of the insurance premiums. Insurance premiums can be deducted from the paycheck before the leave begins, or during the leave, if the employee continues to receive pay (pre-tax), paid monthly or bi-weekly.
- ◆ **Intermittent Leave:** When medically necessary, an employee may take family and medical leave on an intermittent basis or work a reduced schedule. Arrangements should be made with the employee's immediate supervisor so that the operations of the department are not unduly disrupted. An employee taking intermittent leave or leave on a reduced schedule may be temporarily assigned to an alternative position with equivalent pay and benefits if it better accommodates the needs of the department.
- ◆ **Holidays:** Holidays will be paid in accordance with the Holidays policy. City holidays will be counted as part of the twelve (12) or twenty-six (26) weeks of family and medical leave, whether the employee is on paid or unpaid leave.
- ◆ **TMRS:** Employee contributions to TMRS may be made on a voluntary basis through a special arrangement with the City while an employee is in a leave without pay status. It is the employee's responsibility to initiate such an arrangement by timely contacting the City's Human Resources Manager and completing the necessary paperwork.

- ◆ **Recordkeeping:** Family medical leave time will be tracked on an hourly basis for payroll and compliance purposes. To determine entitlement for employees who work variable hours, the minimum hours required for eligibility is calculated on a pro rata or proportional basis by averaging the weekly hours worked during the twelve (12) weeks prior to the start of family and medical leave.
- ◆ **Exempt Employees:** Paid leave accounts may be charged for less than one (1) full workday according to department policy, and the salary of an exempt employee may be docked for absences of less than one (1) full workday. Salaried executive, administrative, professional and other employees of the City who meet the Fair Labor Standards Act (FLSA) criteria for exemption from overtime do not lose their FLSA-exempt status by using any unpaid FMLA leave.

3. Definitions

- ◆ **12-Month Period:** A rolling 12-month period measured backward from the date leave is taken.
- ◆ **12-Month Service Member Period:** A single 12-month period measured forward from the first day Service member Family Leave is taken.
- ◆ **Child:** A biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis, who is standing in the place of a parent, who is either under age 18, or age 18 or older and requires active assistance or supervision to provide daily self-care. A biological or legal relationship is not necessary. A more detailed definition is provided in the Family and Medical Leave Act of 1993 which is available in the Human Resources Department.
- ◆ **Health Care Provider:** A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing health care services. A more expansive definition is provided in the Family and Medical Leave Act of 1993 which is available in the Human Resources Department.
- ◆ **Next of Kin:** The nearest blood relative of a Covered Service member.
- ◆ **Parent:** A biological parent or an individual who stands or stood in the place of a parent to an employee when the employee was a child. This term does not include parents-in-law.
- ◆ **Serious Health Condition:** An illness, injury, impairment, or physical or mental condition that involves: (1) any period of incapacity or treatment that results in inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; (2) any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider; or (3) continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or 4) for prenatal care.

Voluntary or cosmetic treatments (such as most treatments for orthodontia or acne) which are not medically necessary are not "serious health conditions," unless inpatient hospital care is required. Restorative dental surgeries after an accident or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met.

- ◆ **Spouse:** A husband or wife as defined or recognized under state or federal law for purposes of marriage, including common law marriage.

4. Military Family Leave Entitlement.

- ◆ **Military Exigency Leave** – Employees who are otherwise eligible for FMLA and have a spouse, child, or parent on covered active duty (deployed to a foreign country) or called to covered active duty status in the National Guard or Reserves (deployment to a foreign country or in support of a contingency operation) may use their 12-week leave entitlement to address certain qualifying exigencies including eligible: short-notice deployments; attendance at military events and related activities; childcare and school activities; addressing financial and legal arrangements; attending counseling sessions; attending post-deployment activities; up to 15 days of rest and recuperation; and parental care.
- ◆ **Military Caregiver Leave** – Employees who are the spouse, parent, child or next of kin of a service member who incurred a serious injury or illness while on active duty in the Armed Forces and is undergoing medical treatment, recuperation or therapy, may take up to 26 weeks of leave to care for the injured service member in on 12-month period. The covered service member must be a current member or eligible veteran of the Armed Forces (including a member of the National Guard or Reserves) with a serious injury or illness incurred in, or aggravated by, service in the line of duty on active duty that may render him/her medically unfit to perform his/her duties.

5. **Retention of Benefits.** An employee on family leave does not lose any previously accrued seniority or employment benefits, but does not earn any leave credits or other benefits during the unpaid portion of the leave.

6. **Posting of Summary of Act.** The city has posted a summary of the Family and Medical Leave Act on its central bulletin board for employees' information.

(Legal references: Family and Medical Leave Act of 1993 (Pub. L. 103-3), as amended; and National Defense Authorization Act of 2008 (Pub. L. 110-181); and related U. S. Department of Labor regulations).

7. **Request for Leave without Pay Immediately Following Family and Medical Leave.** If an employee requests additional unpaid leave beyond the 12-week maximum allowable under the family and medical leave provisions of these policies (or the 26-week period, if applicable), any extension granted will be under the terms set out in these policies headed **Other Leaves of Absence without Pay**. Employees should read the referenced section carefully and understand the differences between these two types of leaves before requesting an extension.

8. **Documentation.** All documentation regarding family leave will be filed in the employee's medical file, which is maintained separate from the personnel files, and is accessible to a limited number of persons, and only on a "need-to-know" basis. *(Legal reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008; Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended; and Ragsdale v. Wolverine Worldwide Inc.)*

H. MILITARY LEAVE

The City complies with all state and federal laws relating to employees in reserve or active military service and does not discriminate against employees who serve in the military. Temporary employees who have brief or non-recurrent positions with the City and who have no reasonable expectation that their employment with the City will continue indefinitely or for a significant period of time are generally ineligible for extended paid military leave in excess of 15 days, re-employment rights, or any other military leave benefits under this policy.

This policy covers employees who serve in the uniformed services in a voluntary or involuntary basis, including active duty, active duty for training, initial active duty for training, inactive duty training, and full-time National Guard duty.

1. **Notice to City of Need for Leave.** Employees must provide as much advance written or verbal notice to the City as possible for all military duty (unless giving notice is impossible, unreasonable, or precluded by military necessity). Absent unusual circumstances, such notice must be given to the City no later than 24 hours after the employee receives the military orders. To be eligible for paid military leave, employees must complete and submit a Request for Leave Form along with the official documents setting forth the purpose of the leave and, if known, its duration. The Leave Request Form must be turned into the department director and the Human Resources Manager as far in advance of the leave as possible.
2. **Paid and Unpaid Leave for Training and Duty.**
 - ◆ **Full Pay For Up to 15 Days.** Employees will be paid for military absences of up to a maximum of 15 workdays per fiscal year. Shift employees will be transitioned to a 40 hour workweek during military absences. This leave may be used when an employee is engaged in National Guard or U.S. armed forces reserve training or active military duty ordered or approved by proper military authority. The paid leave days may be consecutive or scattered throughout the year. An employee who qualifies for this leave may request an annual accounting of the use of this leave.
 - ◆ **Other Paid Leave.** Employees who have exhausted all available paid military leave may, at their option, may use any other available paid leave time (i.e., vacation leave, holiday leave, and compensatory time) to cover their absence from work.
 - ◆ **Unpaid Leave.** After an employee has exhausted all available paid military leave (including any other paid leave time that the employee chooses to use to cover a military absence), the employee will be placed on leave without pay.
 - ◆ **Benefits.** The City will continue to provide employees on paid military leave with most City benefits.
 - ◆ **Medical and Dental.** While an employee is on paid military leave (or any military leave of less than 31 days), the City will continue to pay its portion of the monthly premium for group health benefits. When military leave is unpaid, the employee may elect to continue group health coverage for up to 24 months following separation of employment or until the employee's reemployment rights expire, whichever event occurs first, for the employee and eligible dependents.

- ◆ **Return to Employment.** Upon an employee's return to employment following military service, the City will provide health insurance coverage immediately. In addition, a returning employee will not be subjected to exclusions from coverage unless the exclusions apply to injuries or conditions that were incurred as a result of military service.
- ◆ **Other Benefits.** While on *paid* military leave, employees continue to accrue vacation, sick leave, and other benefits provided to other employees on paid leave. The City will also continue to pay the premium for any City-provided life insurance while the employee is on *paid* military leave. While on unpaid military leave, employees are generally ineligible for most City-provided benefits. Benefits, such as vacation and sick leave, do not accrue while an employee is on unpaid leave, including unpaid military leave. While on unpaid military leave, benefit accruals will be suspended and will resume upon the employee's return to active employment. Once an employee returns to work following an unpaid leave, the employee will be treated as though continuously employed for purposes of determining benefits based on length of service, such as vacation accrual and longevity pay.
- ◆ **TMRS.** Typically, an employee's period of uniformed service is deemed to constitute service for purposes of vesting and benefit accrual. Thus, employees earn service credit for time spent on active duty military leave. Service time is credited when an employee returns to work. To qualify for service credit, an employee must: return to work for the City within 90 days after discharge; receive an honorable discharge; and timely complete the necessary application. In order to receive monetary credit, an employee has the lesser of five years or three times the length of the military service to make up any TMRS contributions that were missed while on military leave.
- ◆ **Returning from Leave.**
 - ✓ **Return to Work:** A person returning from service must report back to work or apply for reemployment within the time constraints prescribed by USERRA. The City shall re-employ a returning veteran according to the provisions of USERRA. Civil service employees shall be required to meet additional requirements in Chapter 143 of the *Texas Local Government Code* before being reinstated.
 - ✓ **Deadline to Notify City of Intent to Return to Work.** The deadline for an employee to return to work and/or notify the City that the employee intends to return to work following military leave depends upon how long the employee's military service lasted:
 - For service of less than 31 days, employees have eight (8) hours following their release from service to report for their next scheduled work period.
 - For service between 31 days and 180 days, employees have 14 days following their release from service to apply for reemployment.
 - For service of more than 180 days, employees have 90 days following their release from service to apply for reemployment.

- ✓ These deadlines may be extended for 2 years or more when an employee suffers service-related injuries that prevents the employee from applying for reemployment or when circumstances beyond the employee's control make reporting within the time limits impossible or unreasonable.
- ◆ **Required Documentation.** To qualify to return to work, an employee returning from leave must provide documentation of the length and character of military service. Also, evidence of discharge or release under honorable conditions must be submitted to the City if the military leave lasted more than 31 calendar days.

I. ADMINISTRATIVE LEAVE

The City may grant Administrative Leave with or without pay to an employee, at the discretion of the City Manager (or designee), when no other paid leave category is available or applicable.

Department directors, in consultation with the Human Resources Manager, may designate Administrative Leave with pay only pending a disciplinary decision or drug/alcohol screening results, or during an internal investigation.

Written notice of administrative leave shall be provided to the employee and a copy forwarded to the Human Resources Manager for proper payroll processing.

J. BEREAVEMENT LEAVE

With the approval of the Department Director, bereavement leave with full pay, up to a maximum of three (3) working days, shall be granted employees in the case of the death of an immediate family member. This applies to regular full time employees and employees serving their probationary period. Immediate family shall be defined as a husband, wife, father, father-in-law, mother, mother-in-law, son, daughter, brother, sister, grandfather, grandmother, brother-in-law, sister-in-law or other members of kinship who may be residing under the same roof with an employee at the time of death.

An employee may be required to provide proof of death/funeral/family relationship in support of bereavement leave. Bereavement leave pay is paid at the employee's base rate at the time of absence. Paid time off for bereavement leave is not counted as hours worked for purposes of determining overtime.

The terms of and reasons for the leave must be documented and filed in the employee's personnel file. Bereavement leave cannot be accumulated or carried forward.

Additional Bereavement Leave may be granted by the department director with the approval of the City Manager. This additional leave (in excess of the up to (3) three days allowed) will be charged to the employee's sick leave.

Employees who wish to attend funerals for other than immediate family must use vacation, compensatory time, or unpaid leave.

K. OTHER LEAVES OF ABSENCE WITHOUT PAY

In extraordinary circumstances, the City may grant employees an unpaid leave of absence (LOA). All requests for LOA must be submitted on the City's Leave Request Form. Department directors are authorized to grant an unpaid LOA for up to 30 days. Any LOA beyond 30 days must be authorized by the City Manager. The employee may seek extensions of leave, up to a maximum of 180 total days away from work. This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act, the American with Disabilities Act as Amended and the Family Medical Leave Act (FMLA). An LOA will not be authorized unless there is a reasonable expectation that the employee will return to employment with the City at the end of the approved leave period.

1. **Use of All Other Available Leave.** All vacation, compensatory time, holiday time and/or leave authorized under FMLA must be used prior to authorizing an LOA to an employee. If the LOA is due to illness or injury, all sick leave must also be used prior to authorizing an LOA.
2. **Criteria.** Factors considered by the City in granting an LOA include the reason for the leave; departmental work requirements; the employee's length of service, work performance and disciplinary history.
3. **Reasons for LOA.** An LOA may be considered in the following circumstances:
 - ◆ Recovery from extended illness, injury or temporary disability.
 - ◆ Extended care for immediate family members.
 - ◆ Educational purposes when successful completion will contribute to the work of the City.
 - ◆ Public service assignment.
4. **Documentation.** Requests for LOA without pay must be made in writing to the employee's department director as far in advance as possible prior to the requested leave date. Requests for an extension of leave must also be in writing and submitted to the department director, who will forward the request to the City Manager's office and the Human Resources Manager. The need for a medical LOA must be supported by documentation acceptable to the City, including but not limited to a doctor's explanation of why the employee cannot perform the essential functions of the position, when the employee is expected to return to work, and periodic updates regarding the employee's ability or inability to return to work in a full or modified duty capacity.

Any employee on LOA without pay must contact the department head or the Human Resources Manager weekly to report on the employee's condition or status. Before returning to work from a medical LOA, the employee must submit a letter from the doctor stating that the employee is able to resume normal job duties. The City may also impose additional return to work requirements.

5. **Other Employment during Leave.** Under no circumstances may an employee on an authorized LOA without pay work another job, whether for pay, as a volunteer or as self-employment, unless expressly authorized in writing by the department director and the Human Resources Manager.
6. **Reinstatement.** Employees returning from an LOA will be reinstated to their same position or one of similar pay and status, provided the City's circumstances have not changed to the extent that it would be impossible or unreasonable to provide reinstatement. If the same job or one of similar pay and status is not available, reinstatement may, at the City's discretion, be deferred until a position is available. Usually, an employee who fails to return to work at the conclusion of an approved LOA will be considered to have voluntarily resigned employment with the City.
7. **Benefits/Premium Payments.** All LOA's are unpaid. Vacation, sick leave, holiday pay, and other benefits do not accrue during an unpaid LOA. Any benefit continuation during an LOA must be approved in advance by the Human Resources Manager and the City Manager.

Any insurance premiums, or partial premiums, normally paid on behalf of the employee by the City will not be paid by the City beginning the first day of the month following the starting date of an LOA. Employees who have group health or any other kind of insurance through the City continue to be responsible for paying their portion of the premiums while on a LOA. An employee's failure to pay either the employee's, or the City's, portion of insurance premiums during an LOA may result in cancellation of coverage.

8. **Revocation.** The City Manager may revoke authorized leave without pay at any time. Failure to return to work after the expiration of an authorized LOA or failure to provide required medical status reports, physician's statements, or to contact the City per the required schedule will likely result in revocation of the LOA and/or disciplinary action up to and including dismissal.

L. INJURY LEAVE

Every injury, no matter how minor, must be reported to the Human Resources Manager within 24 hours of occurrence by the injured employee's supervisor.

1. **Police Personnel.** Police personnel will be compensated according to State law for injuries occurring in the course of employment.
2. **All Other City Employees.** All other employees will adhere to the following policy upon incurring an on-the-job injury:
 - ◆ **First Seven (7) Days.** The City will pay the employee's full salary for the first seven (7) calendar days, whether that employee is a regular employee, still in the probationary period, full-time, or temporary

- ◆ **After First Seven (7) Days.** If the employee must be absent from work for more than seven (7) calendar days, Worker's Compensation will pay either 66 2/3% of the employee's full salary, or a set amount (whichever is less). The City will provide the difference between the employee's regular pay and the Worker's Compensation payment. The combined total of the City paycheck and the Worker's Compensation check shall not exceed the employee's regular salary.
- ◆ **Time Limit.** The time limit for use of injury leave is five (5) months, with the count beginning on the first day the employee is off work. At the end of five (5) months, the employee will either receive Workers' Compensation checks only, or he/she will begin to use accrued sick or vacation leave. No exceptions to this policy will occur.
- ◆ **Modified Duty.** If modified duty can be arranged by the supervisor, the employee shall return to work on a modified duty status with no loss in pay. The doctor is to determine what modified duty entails as far as activity. As soon as the doctor rules that the employee is able to return to full duty, he/she will be taken off modified duty and placed back on his/her regular tasks.
- ◆ **Return to Work.** If at any point information is obtained that the employee is able to return to work but not willing to do so, the Human Resources Manager will report this information to the Worker's Compensation insurance carrier and the carrier will investigate the matter. Refusal to return to work could result in the loss of Worker's Compensation benefits and the possibility of termination.
- ◆ **Benefits.** Employees accrue vacation, sick and holiday leave while on injury leave.

For information on eligibility and injury reporting procedures for bona fide, on-the-job, work-related injuries, please see the section in this manual under the main heading **Worker's Compensation**.

M. USING LEAVE IN COMBINATION

When an employee who is on sick leave has exhausted his or her accrued sick leave, the employee will automatically be placed on vacation leave if the employee has accrued vacation leave available, and then on compensatory leave if the employee has that leave available.

Sick leave cannot be used for vacation purposes when vacation leave is exhausted.

With the approval of the employee's department head and the City Manager, other types of leave may be used in combination or coupled with holidays if it is determined to be in the best interests of the City and the employee.

SECTION 9. HOLIDAYS

A. LIST OF HOLIDAYS

The following is a list of approved holidays:

Holiday	Date(s)
New Year's Day	January 1
Martin Luther King, Jr. Day	3rd Monday in January
President's Day	3rd Monday in February
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Veteran's Day	November 11th
Thanksgiving Day	Fourth Thursday In November
Day after Thanksgiving	Fourth Friday in November
Christmas Eve	December 24th
Christmas Day	December 25th
Employee Option Day	Employee/Supervisor Discretion

1. Rules Governing Holidays

- ◆ If the holiday occurs on Saturday, it will be observed on the preceding Friday. If the holiday occurs on Sunday, it will be observed the following Monday. The Mayor, upon approval by the City Council, may issue a proclamation declaring any day a holiday.
- ◆ Full-time regular employees will receive holidays off with pay. If a full-time regular, non-exempt employee is required to work on a holiday, that employee will be paid at their regular hourly rate and will accrue a leave day to be taken in the future. Any accrued holiday leave will be paid upon termination.
- ◆ Part-time employees who regularly work at least 25 hours weekly may be granted reduced holiday benefits. Temporary employees are not eligible for paid holidays.
- ◆ An employee who is absent without leave on the day immediately preceding or following a City holiday shall not be paid for the holiday.

- ◆ City employees accrue an Employee Option Day after the employee completes six (6) months of satisfactory performance. Police officers accrue an Employee Option Day after the officer completes one (1) year of satisfactory performance.
- ◆ If an official holiday falls within a regular employee's vacation, the employee will be granted the holiday and not charged for a day of vacation.
- ◆ This section applies to employees who work on shifts other than Monday through Friday. Whenever a legal holiday on the current year's list of approved holidays falls on a regular employee's regular day off and the employee does not work that day, he or she will (1) be provided with an alternate day off on what would otherwise have been a regular workday for the employee, or (2) be paid his or her regular salary amount for the pay period involved, plus eight additional hours for the holiday.

SECTION 10. WORKERS' COMPENSATION

A. ELIGIBILITY FOR WORKER'S COMPENSATION

1. **Purpose.** Workers' compensation is designed to cover the costs associated with injuries resulting from identifiable and specific accidents or injuries occurring during the course and scope of one's employment. It is not designed to cover ordinary diseases of life. All employees and volunteers of the City are covered by workers' compensation insurance.
2. **Eligibility.** Employees injured on the job are generally eligible for worker's compensation benefits, which may cover the cost of hospitalization, doctors, treatment, prescription drugs and other related expenses, as well as possible partial salary continuation.
3. **Not Covered.** Injuries not directly related to or caused by a specific accident or incident that occurred in the performance of the employee's job duties for the City, injuries occurring while an employee or volunteer is working or volunteering for an employer or organization other than the City, and/or injuries occurring during self-employment, are not covered under the City's workers' compensation plan.

B. ACCIDENT AND INJURY REPORTING PROCEDURES

1. **Medical Attention.** When an employee is injured on the job, the City's first priority is to ensure that the employee gets timely medical attention. The employee must immediately report the circumstances of the accident and/or injury to the supervisor who will direct the employee to seek medical treatment, if necessary, from an approved provider list as provided by the City's Workers' Compensation insurance carrier or the Texas Department of Insurance.
2. **Reporting and Documentation.** The employee's supervisor is responsible for notifying the Human Resources Manager and the employee's department head immediately upon being made aware of an employee's involvement in an accident or injury. This timely notification is critical.
3. **Investigation.** The employee's supervisor will initiate a thorough investigation into the cause and circumstances of the accident causing the injury, including interviewing all witnesses and preparing a detailed written report explaining the facts of the accident that occurred. The supervisor must submit the City's Accident Report and any other related information to the Human Resources Manager no later than the next business day after the injury was reported or no later than 9 a.m. on Monday for injuries occurring over the weekend.
4. **Report Suspicious Circumstances.** If the employee's supervisor has reason to believe that an injury has been reported that is not directly related to or caused by a specific accident or incident occurring in the performance of the employee's assigned job duties,

the supervisor must advise Human Resources of these circumstances. The decision of whether or not an injury will be covered by worker's compensation will be made by the City's Workers' Compensation insurance carrier or the Texas Department of Insurance and not by the City.

5. **Employee Reporting Requirements.** If the employee's treating physician recommends convalescence at home, the employee is required to contact the supervisor each day during the time away from work and to report to the Human Resources Manager each Friday. For every doctor's office visit, the employee is required to obtain from his doctor a completed Work Status Report, which includes the employee's diagnosis, when the employee is expected to be able to return to work, the employee's restrictions and the date of the employee's next appointment. It is the employee's responsibility to ensure that a copy of the Work Status Report is forwarded to the Human Resources Manager and to the employee's supervisor. Failure to report to Human Resources as required may result in disciplinary action, up to and including termination of employment.
6. **Returning to Work.** The employee is to return to work immediately after treatment unless the employee's physician will permit neither regular duty nor modified duty. The employee must have a written release from the doctor to return to work and the release must specify any restrictions. The City does not guarantee the availability of a modified duty opportunity. However, the employee must accept any modified duty assignment that is offered, including an assignment in another department.
7. **Approval of Modified Duty Assignments.** All modified duty assignments must be approved by the Human Resources Manager to ensure compliance with the City's policies, the physician's restrictions/release, and with the Americans with Disabilities Act (ADA,) the Americans with Disabilities Act as Amended (ADAAA).
8. **Maximum Time Limits.** The City will hold open an employee's position, following an injury that occurred while performing official job duties or conducting City business, for a reasonable time period if holding the position does not result in undue hardship on the City. Twelve (12) weeks of this period will be deemed leave under the Family and Medical Leave Act (FMLA), running concurrently with the employee's worker's compensation leave.
9. **Consideration of Reasonable Accommodations.** The Human Resources Manager will engage in discussions of any reasonable accommodations that may assist the employee in performing the essential functions of the job. At the end of the reasonable period of time, should the employee still be unable for any reason to perform the essential duties of the job, with or without accommodation, the employee's position may be filled and the employee may be considered for a vacant position for which the employee is qualified and released from the physician to perform.

If no vacant position is available for which the employee is qualified, if not selected to fill the vacant position or if the employee declines to accept another position, employment with the City will be terminated.

SECTION 11. DRUG AND ALCOHOL USE POLICY

A. DRUG-FREE AND ALCOHOL-FREE WORKPLACE

It is the desire of the City to provide an alcohol and drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory and safe manner.

B. PROHIBITION AGAINST ALCOHOL AND ILLEGAL AND UNAUTHORIZED DRUGS

While on City premises, while on duty, while conducting City-related business or other activities off premises, while at City locations that sell alcohol, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment, no employee may use, possess, distribute, sell, or be under the influence of alcohol (except under the limited circumstances described below), inhalants, illegal drugs, including drugs which are legally obtainable but which were not legally obtained, and prescribed or over-the-counter drugs which are not being used as prescribed or as intended by the manufacturer.

The use of alcohol by a City employee during a business lunch is prohibited even though the person with whom the employee is having lunch may be consuming alcohol. Further, an employee on duty or conducting City business, including City-related business entertainment, may not drive his or her own personal vehicle while under the influence of alcohol. No employee in his or her work-related capacity should ever be impaired because of the excessive use of alcohol. City employees may not bring alcoholic beverages on City premises, including parking lots adjacent to City work areas, and may not store or transport alcohol in a City-owned or leased vehicle.

C. PROHIBITION AGAINST ILLEGAL AND UNAUTHORIZED DRUG-RELATED PARAPHERNALIA

This policy also prohibits the use, possession, distribution and sale of drug-related paraphernalia while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment. Drug-related paraphernalia includes material and/or equipment designed for use in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing illegal or unauthorized drugs into the body.

D. PERMISSIVE USE OF PRESCRIBED AND OVER-THE-COUNTER DRUGS

The legal use of prescribed and over-the-counter drugs is permitted while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment only if it does not impair an employee's ability to perform the essential functions of the job (or operate the vehicle, property, or other equipment) effectively and in a safe manner that does not endanger the employee, citizens, or other individuals in the workplace. Examples of impairment include, but are not limited to, slurred speech, drowsiness, dizziness, confusion, or feeling shaky.

E. POLICE DEPARTMENT EMPLOYEES

Certain City Police Department employees may be required to be in possession of alcohol and/or drugs in carrying out their job duties. Such employees will be exempted from certain portions of this policy under certain limited conditions. Additional guidelines may be established by Police Department operating procedures.

F. MANDATORY DISCLOSURE BY EMPLOYEES

Employees taking prescription medication and/or over-the-counter medication must report such use to either their department director or to the City Manager if there is a reasonable likelihood the medication will impair the employee's ability to perform the essential functions of his or her job (or operate a vehicle, property, or other equipment, if applicable) effectively and in a safe manner that does not endanger the employee, citizens, or other individuals in the workplace. Examples of impairment include, but are not limited to, slurred speech, drowsiness, dizziness, confusion, or feeling shaky.

G. ON-CALL EMPLOYEES

Employees scheduled to be on call are expected to be fit for duty upon reporting to work. Any employee who is scheduled to be on call, and is called out, is governed by this policy. Sometimes, an employee who is not scheduled to be on call may nevertheless be called out. If this or any other situation occurs where the employee called out is under the influence of alcohol or has a presence in the system of drugs, such that reporting to work would result in a violation of this policy, the employee must so advise the appropriate supervisor on duty. The employee will not be required to report to work.

H. MANDATORY REPORTING OF ARRESTS AND CONVICTIONS

Employees must notify their immediate supervisor and the department director, in writing, of any alcohol or drug-related arrest and/or conviction (including a plea of *nolo contendere*) or deferred adjudication, for a violation occurring off duty and/or in the workplace as soon as possible or no later than twenty-four (24) hours after the arrest and/or conviction.

I. OFF-DUTY CONDUCT

The City may take disciplinary action, up to and including termination of employment, if an employee's off-duty use of or involvement with drugs or alcohol is damaging to the City's reputation or business, is inconsistent with the employee's job duties, or when such off-duty use or involvement adversely affects the employee's job performance. Any employee reporting to work under the influence of illegal drugs or alcohol (.02 bac or higher) may be disciplined, up to and including termination.

J. REHABILITATION/TREATMENT.

1. It is the City's desire to assist employees who voluntarily request assistance with alcohol or drug dependency. For City support and assistance, however, an employee must acknowledge the problem and seek and accept counseling and/or rehabilitation before it impairs job performance and/or jeopardizes the employee's employment.

2. Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take a leave of absence to participate in a rehabilitation or treatment program. (An employee may not enroll in a rehabilitation or treatment program in lieu of disciplinary action.) The leave of absence may be granted in the City's sole discretion. Factors considered by the City in deciding whether to grant leave include:
 - ◆ The length of the employee's employment with the City;
 - ◆ The employee's prior work and disciplinary history;
 - ◆ The employee's agreement to abstain from the use of the problem substance and follow all other requirements of the rehabilitation/treatment program;
 - ◆ The reputation of the program and the likelihood of a successful outcome;
 - ◆ The employee's compliance with City policies, rules, and prohibitions relating to conduct in the workplace;
 - ◆ The resulting hardship on the City due to the employee's absence. Unless otherwise required by law, it is the City's policy to grant such a leave of absence only once during the course of an employee's employment with the City.
3. The cost of any rehabilitation or treatment may be covered under the City's group health insurance policy. In any case, the employee is responsible for all costs associated with any rehabilitation or treatment program.
4. During time off for a City-approved rehabilitation or treatment program, the employee must use any available vacation leave, sick leave, compensatory time off, or other accrued paid leave time.
5. If the employee successfully completes the prescribed rehabilitation or treatment, the City will make reasonable efforts to return the employee to the prior position or one of similar pay and status. However, employment with the City following a City-approved leave for rehabilitation or treatment is conditioned on the following:
 - ◆ Initial negative test for drugs and/or alcohol before returning to work;
 - ◆ A written release to return to work from the City-approved rehabilitation or treatment facility/program;
 - ◆ Periodic and timely confirmation of the employee's on-going cooperation and successful participation in any follow-up or ongoing counseling, testing, or other treatment required in connection with the City-approved rehabilitation or treatment program, if applicable;
 - ◆ In addition to any testing required in connection with the employee's ongoing treatment or follow-up to treatment, all employees who participate in rehabilitation or treatment under this section will also be required to submit to periodic and/or random testing by the City during the two years following the employee's return to work following treatment;
 - ◆ The employee must sign a formal written agreement to abide by the above conditions, as well as any other conditions deemed appropriate by the Human Resources

Manager. The employee must meet with the Human Resources Manager to discuss the terms of continued employment and sign a formal agreement before returning to work.

K. POLICY VIOLATIONS

Violations of this policy will lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. The Police Department may have stricter disciplinary rules regarding violation of this policy. Employees with questions or concerns about substance dependency or abuse are encouraged to discuss these matters with their supervisor or the Human Resources Manager to receive assistance or referrals to appropriate resources in the community.

L. TESTING

1. **Types of Tests.** Testing may include one or more of the following: urinalysis, hair testing, breathalyzer, Intoxilyzer, blood, or other generally-accepted testing procedure. City employees are subject to five types of testing: pre-employment (applicants), post-accident (all employees), random (employees in safety-sensitive positions), reasonable suspicion (all employees), and return to duty (specific employees).
2. **Testing of Applicants.** All applicants to whom a conditional offer of employment has been made will be required to submit to testing for alcohol and illegal and unauthorized drugs. A positive test result, refusal to test, or attempts to alter or tamper with a sample or any other part of the test, will render the applicant ineligible for consideration of employment or future employment with the City.
3. **Testing of Employees.**
 - ◆ Employees may be tested for alcohol and/or illegal and unauthorized drugs after a workplace injury or accident or “near miss,” when reasonable suspicion exists, or in connection with any required treatment or rehabilitation. The City may conduct random testing on employees holding safety-sensitive positions.
 - ◆ Police Department employees are also subject to any applicable departmental rules and regulations regarding illegal and unauthorized drug and alcohol testing.
 - ◆ For purposes of this policy, reasonable suspicion is a belief based on articulable observations (e.g., observation of alcohol or drug use, apparent physical state of impairment, incoherent mental state, changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, a work-related accident or injury, evidence of possession of substances or objects which appear to be illegal or unauthorized drugs or drug paraphernalia) sufficient to lead a supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Supervisors who refer an employee for reasonable suspicion testing must document the specific factors that support reasonable suspicion testing (e.g., the who, what, when, where of the employee’s behavior and other symptoms, statements from other employees or third parties, and other evidence supporting the reasonable suspicion testing).

- ◆ Tests will be paid for by the City. To the extent possible, testing will normally be done during the employee's normal work time.
- ◆ Any employee who refuses to be tested, or who attempts to alter or tamper with a sample or any other part of the testing process, will be subject to disciplinary action up to and including termination.
- ◆ A positive test result is a violation of the City's Drug and Alcohol Use Policy and may result in disciplinary action up to and including termination of employment. Any employee who is terminated for violation of the City's Drug and Alcohol Use Policy is ineligible for future employment with the City.
- ◆ The City has additional obligations when testing for controlled substances and alcohol for those employees who are licensed to drive commercial City vehicles regulated by the U.S. Department of Transportation. Please see the City's Drug and Alcohol Policy for DOT Employees for additional information.

Testing Procedures.

- ◆ All testing must normally be authorized in advance by both the employee's department director and the Human Resources Manager. If the department director is unavailable within a reasonable period of time, the Human Resources Manager may, with sole discretion, authorize the testing of an employee. If the Human Resources Manager is unavailable within a reasonable period of time, the department director may, with sole discretion, authorize the testing of an employee. For reasonable suspicion testing, testing may not be authorized without the supervisor's documentation of the articulable factors which led the supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Testing should be arranged as soon as possible after the supervisor's articulable observations.
- ◆ If an employee's conduct resulted in a work place accident, injury or "near miss," or reasonable suspicion exists to believe that the employee has violated the City's Drug and Alcohol Use Policy, the employee will be provided with transportation to the testing facility. A supervisor or other designated City representative may be required to stay with the employee during the testing process. The City may, in its discretion, reassign the employee or put the employee on administrative leave until the test results are received. The City will make arrangements to have the employee transported home after the testing.
- ◆ All substance abuse testing will be performed by an approved laboratory or healthcare provider chosen by the City. Positive test results may be subject to confirmation testing.
- ◆ Test results will be maintained in a confidential file separate and apart from the employee's personnel file. Any medical-related information will be confidential and accessible only by the Human Resources Manager; supervisors and managers on a need to know basis, including those who have a need to know about necessary restrictions on the work or duties of an employee and any necessary accommodation; first aid and safety personnel when appropriate; government officials; insurance companies as may be necessary to provide health or life insurance to employees; by court order or as otherwise legally mandated; and as necessary to protect the interests of the City.

M. SEARCHES

The City may conduct unannounced searches or inspections of the work site, including but not limited to City property used by employees such as lockers, file cabinets, desks, and offices, computer and electronic files, social media sites, cell phones, text messages, whether secured, unsecured or secured by a lock or password provided by the employee; the employee shall have no expectation of privacy. No supervisor has the authority to deviate from City policy. If reasonable suspicion exists, the City may also conduct unannounced searches or inspections of the employee's personal property located on City premises, including vehicles parked on City parking lots.

All searches must be authorized and conducted under the direction of the Human Resources Manager and/or the City Manager. Employees who refuse to cooperate with a search may be subject to disciplinary action up to and including termination.

SECTION 12. DRUG AND ALCOHOL POLICY FOR EMPLOYEES UNDER DOT REQUIREMENTS

A. EMPLOYEES / APPLICANTS SUBJECT TO TESTING.

City employees who drive a commercial motor vehicle (CMV) requiring a Commercial Driver's License (CDL) as part of their job duties are subject to alcohol and drug testing as required by the U.S. Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration and as outlined in this policy. The employee's supervisor or the Human Resources Manager will advise the employee if the employee is subject to DOT testing and the terms of this policy. Employees who are not required by DOT to hold a CDL are not subject to this policy. Applicants for employment for a position requiring a CDL are also subject to testing under this policy.

Employees covered by this policy are also required to comply with the City's Drug and Alcohol Use Policy. In other words, this DOT Drug and Alcohol Policy is in addition to, not in lieu of, the provisions of the City's general Drug and Alcohol Use Policy. DOT tests will be completely separate from non-DOT tests in all respects. DOT tests take priority and will be conducted and completed before a non-DOT test is begun. All drug and alcohol testing performed under this DOT Policy will comply with applicable DOT procedures. If this policy conflicts with DOT regulations in any way, the DOT regulations will govern.

An employee subject to the provisions of this policy may be a person employed by the City, a contractor engaged by the City or an employee of such contractor. City positions currently subject to the testing provisions of this policy are all drivers with Class A, Class B or Class C CDL's. The positions may change as job responsibilities change or as new jobs are added to the City's work force. Employees required by DOT to hold a CDL, due to the type of equipment they operate, are subject to this policy whether or not this list is immediately updated to include their job titles. Employees who hold these jobs are required to carry their CDLs when they are at work or are operating City equipment.

B. PROHIBITED ALCOHOL USE.

1. **On-duty and Pre-duty Use.** Reporting for, or remaining on, duty requiring the performance of safety-sensitive functions is prohibited under the following conditions:
 - ◆ While having a breath alcohol concentration of 0.04 or more as indicated via breath test;
 - ◆ While using alcohol; or
 - ◆ Within 4 hours after using alcohol.
2. **Use Following an Accident.** An employee required to take a post-accident alcohol test pursuant to this policy is prohibited from using alcohol for 8 hours following the accident, or until undergoing a post-accident alcohol test, whichever occurs first.

C. PROHIBITED DRUG USE

Illicit use of drugs by safety sensitive drivers is prohibited both on and off duty. An employee may not report for duty or remain on duty when using or after use of any controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a CMV. An employee may not report for duty, remain on duty or perform a safety sensitive function if the employee tests positive for controlled substances or has adulterated or substituted a test specimen.

D. REQUIRED ALCOHOL AND DRUG TESTS

DOT requires the following testing for covered drivers: pre-employment, post-accident, random, reasonable suspicion, return-to-duty and follow-up testing. Before conducting any required DOT testing, the City will notify the driver that the alcohol or drug test is required by DOT regulations.

1. **Pre-employment Testing.** Drug and alcohol tests will be conducted after a conditional offer of employment is made, but before actually performing safety-sensitive functions for the first time. These tests are also required when employees are promoted, demoted or transferred into a safety sensitive driver position.
2. **Post-accident testing.** Drug and alcohol tests will be conducted after accidents in which the driver's performance could have contributed to the accident (as determined by a citation for a moving traffic violation) and for all fatal accidents even if the driver is not cited for a moving traffic violation. Post-accident testing must be conducted as soon as practicable on all surviving drivers following an occurrence involving a CMV operating on a public road in commerce, as follows:
 - ◆ When the employee is issued a moving traffic violation citation and one or more of the vehicles involved is disabled and must be towed from the scene;
 - ◆ When the employee is issued a moving traffic violation citation and any person involved in the accident is injured to the extent that he/she requires and receives immediate medical treatment away from the scene of the accident; or
 - ◆ In an accident involving a fatality, testing will be performed on anyone who was performing safety sensitive functions with respect to the vehicle.

An employee subject to post-accident testing must remain readily available for such testing or will be deemed by the City to have refused to test. Nothing in this policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

In post-accident situations, the City may substitute a blood or breath alcohol test for a urine drug test, so long as the test is performed by state or local law enforcement officials

using procedures required by their jurisdictions, provided such test results are received directly from the local jurisdiction or the driver. A positive post-accident test administered by law enforcement will result in the same action as a positive post-accident test performed at the City's behest.

- ◆ **Post-Accident Alcohol Testing.** If alcohol testing cannot be administered within 2 hours of one of the above listed occurrences, a written statement explaining why the alcohol test was not promptly administered must be provided to the Human Resources Manager by the appropriate supervisor. If alcohol testing cannot be administered within 8 hours after the occurrence, the City will cease attempts to administer an alcohol test and document the reasons the alcohol test was not administered. This report must be promptly forwarded to the Human Resources Manager.
- ◆ **Post-Accident Drug Testing.** A driver will be drug tested as soon as practicable but not later than 32 hours after one of the above listed occurrences. If the driver is not drug tested within 32 hours, the appropriate supervisor must prepare a report documenting the reason why and promptly forward the report to the Human Resources Manager.

3. **Reasonable Suspicion Testing.** Reasonable suspicion drug and alcohol testing is conducted when a trained supervisor has reason to believe that an employee is in violation of this policy. The reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee; the observations may also include indications of the chronic and withdrawal effects of controlled substances. The supervisor must consult with the Department Director (or designee) and affirm the basis of the suspicion. If the Department Director concurs, the employee will be required to undergo testing only after consultation with the Human Resources Manager. A written report of the reasonable suspicion observations must be prepared by the supervisor(s) who made the observation within 24 hours of the observed behavior or before the results of tests are released, whichever is earlier. This report must be promptly forwarded to the Human Resources Manager.

- ◆ **Reasonable Suspicion Alcohol Testing.** Reasonable suspicion alcohol testing is permitted only if the reasonable suspicion observation is made during, just before, or just after, the period of the workday the employee is required to be in compliance with this policy. An employee may be directed to undergo reasonable suspicion testing only while the employee is performing, just before performing, or just after performing, safety sensitive functions.

If alcohol testing cannot be administered within two (2) hours after the reasonable suspicion observation, a written statement that explains why the alcohol test was not promptly administered must be given to the Human Resources Manager. If alcohol testing cannot be administered within 8 hours after the observation, the City will cease attempts to administer an alcohol test and the appropriate supervisor must immediately document the reasons that the alcohol test was not administered; this report must be promptly forwarded to the Human Resources Manager.

Notwithstanding the absence of a reasonable suspicion alcohol test under this policy, an employee may not report for duty or remain on duty requiring the performance of

safety sensitive functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse. In such instances, the employee will not be permitted to perform or continue to perform safety sensitive functions until:

- ✓ An alcohol test measures the employee's alcohol concentration at less than 0.02; or
- ✓ 24 hours have elapsed since the reasonable suspicion observation was made.

◆ **Reasonable Suspicion Drug Testing.** A driver will be drug tested as soon as practicable but not later than 32 hours after the reasonable suspicion observation. If the driver is not drug tested within 32 hours, the appropriate supervisor must prepare a report documenting the reason why and promptly forward the report to the Human Resources Manager.

4. **Random Testing.** Drivers are selected for random, unannounced drug and alcohol testing using a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with the employee's Social Security number, payroll identification number, or other comparable identifying numbers. Each driver subject to this policy will have an equal chance of being tested each time random selections are made. The number of drivers randomly selected will be in accordance with applicable DOT regulations. Each driver randomly selected for testing will be tested during the selection period. Dates and times for random testing are unannounced and spread reasonably throughout the calendar year.

Each driver selected for random testing must proceed to the test site immediately after notification; if, however, the driver is performing a safety-sensitive function, other than driving a CMV, at the time of notification, the City will instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible. A driver will be randomly tested for alcohol just before, during, or just after performing, safety sensitive functions; random testing for drugs does not have to be conducted in immediate time proximity to performing safety sensitive functions.

5. **Return-to-duty and follow-up testing.** Return-to-duty tests are conducted when a driver who has violated DOT's prohibited drug and alcohol standards returns to performing safety sensitive duties. Follow-up tests are unannounced, and at least 6 tests must be conducted in the first 12 months after a driver returns to duty; follow-up tests may be extended for up to 60 months following a driver's return to duty. Drug tests must be negative and alcohol tests must demonstrate a breath alcohol level of less than 0.02. The driver will pay all costs associated with return-to-duty testing.

When applicable, the City will follow all applicable DOT regulations in requiring return-to-duty and follow-up testing. The City is not, however, required to hire an applicant or continue the employment of a driver who has violated DOT drug and alcohol regulations or this policy, and it is the policy of the City not to do so.

Thus, return-to-duty and follow-up tests are generally applicable only for those seeking assistance as set out below and, based on individual circumstances, for those who may have had an alcohol concentration of 0.02 or greater, but less than 0.04.

E. REFUSAL TO TEST

An employee who refuses to be tested in any of the above circumstances, who obstructs the testing process, or who tampers with/alters a specimen, will not be permitted to perform or continue to perform safety sensitive functions and will likely be terminated. An applicant who does one of these prohibited acts will not be hired. Except in the case of pre-employment testing, a refusal to test includes the failure to appear for testing within a reasonable time, as well as failure to remain at the testing site until the testing process is complete. Failure to test also includes the failure to provide the required sample with no adequate medical explanation, and the failure to cooperate with any part of the testing process (e.g., refusing to empty pockets when asked to do so, behaving in a confrontational way that disrupts the collection process, or failure to undergo a medical exam or evaluation as directed by the physician medical review officer (MRO) as part of the verification process).

F. ADDITIONAL INFORMATION ABOUT ALCOHOL TESTING.

1. **Consequences of a Positive Alcohol Test.** An employee who is tested and has an alcohol concentration of 0.04 or greater will be removed from safety sensitive functions and may be terminated. An employee who is tested and has an alcohol concentration of .02 to .039 will not be permitted to perform safety sensitive functions for a minimum of 24 hours and will be disciplined, up to and including termination. If not terminated, then the employee will receive a mandatory referral to a substance abuse professional. Any non-compliance with the treatment recommendations of the substance abuse professional will result in disciplinary action, up to and including termination. (The employee will be placed on administrative leave without pay during the treatment period. That employee may use accrued sick leave during the treatment period.)
2. **Alcohol Testing Procedures.** A trained breath alcohol technician will conduct alcohol tests. If the alcohol concentration is 0.02 or greater, a second confirmation test will be conducted in accordance with DOT regulations, the results of which will determine any actions taken. Any result of less than 0.02 alcohol concentration is considered a “negative” test. The second, confirmation test results determine if the employee is in violation of this policy. Testing procedures that ensure accuracy, reliability and confidentiality of test results will be followed pursuant to DOT regulations.

G. ADDITIONAL INFORMATION ABOUT DRUG TESTING.

1. **Drug Testing Procedures.** Drug testing is conducted by analyzing a driver’s urine specimen at a lab certified by the U.S. Department of Health and Human Services. The driver provides a specimen in a location that affords privacy and the “collector” seals and labels the specimen, completes a chain of custody document, and prepares the specimen and accompanying paperwork for shipment to a drug-testing lab. “Split” urine specimens provide drivers with an opportunity for a second test, if needed.
2. If the driver challenges the validity of the test, then the employee has 72 hours to request that the split specimen be sent for testing to another certified lab approved by the City’s Human Resources Manager. The second test will be at the driver’s own expense.

3. **Drugs Tested For.** DOT requires testing for the following drugs:

- ◆ Marijuana (THC)
- ◆ Cocaine
- ◆ Amphetamines
- ◆ Opiates
- ◆ Phencyclidine (PCP)

A screening test is performed first. If the results are positive for one or more of these drugs, then a confirmation test is performed. Whenever the terms “drug,” “drugs” or “controlled substances” are used in this policy, they refer to the substances listed above. The City will not test for any other substances under this policy. The City may, however, (1) test for other controlled substances pursuant to its general Drug and Alcohol Use Policy; or (2) modify the list of DOT tested drugs at the direction of DOT.

4. **Review of Drug Test Results.** All positive drug test results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City. If the lab reports a positive result to the MRO, the MRO will contact the driver (either in person or by phone) and will conduct an interview to determine if there is an alternative medical explanation for the drug(s) found in the driver’s urine specimen. If the driver provides appropriate documentation and the MRO determines that it is a legitimate medical use of the prohibited drug(s), the drug test result is reported as a negative to the City.
5. **Consequences of a Positive Drug Test.** A driver will be removed from safety sensitive duties and placed on administrative leave if the test returns a positive for drugs. The removal cannot take place until the MRO has interviewed the driver and determined that the positive test resulted from the unauthorized use of a controlled substance. A confirmed positive drug result will result in termination of employment.

H. CONFIDENTIALITY

Test results may be released only to the driver, designated City officials, a substance abuse professional, laboratory officials or a medical review officer (MRO). Records will also be made available to a subsequent employer or other identified person upon the driver’s specific written request. Test results will not be released to others except as required by law or expressly authorized in the applicable DOT regulations (e.g., the decision maker in a lawsuit, appeal or administrative proceeding initiated by or on behalf of the driver and arising from a positive DOT drug or alcohol test or refusal to test; this includes worker’s compensation and unemployment proceedings.)

All test results will be kept in a confidential file by the Human Resources Manager. Management and supervisory personnel who are authorized to have access to alcohol and drug testing results must maintain complete confidentiality regarding this information. City employees who make a reasonable suspicion observation or who witness an accident must also maintain confidentiality. Breach of confidentiality relating to test results, or any other related matters, will likely result in disciplinary action, up to and including termination of employment.

I. INFORMATION FROM PRIOR EMPLOYERS

For new hires, promotions and transferred employee-drivers seeking to perform safety sensitive functions for the first time, the City is required, with the driver's written consent, to obtain information from previous employers regarding alcohol test results of 0.04 or greater, verified positive drug test results, refusals to test (including verified adulterated or substituted drug test results), and any other violation of DOT drug and alcohol testing regulations within the two years prior to the date of the driver's application, promotion or transfer. Affected individuals must sign a Breath Alcohol and Drug Testing Results Request. The City will obtain and review the information before allowing the person to perform safety sensitive functions. If the City receives any such information about an applicant-driver, the applicant will not be hired; if such information is received about an employee seeking promotion or transfer, the employee will not be promoted or transferred to the driver position and may also receive disciplinary action, up to and including termination of employment.

The City will maintain a written, confidential record of the information it obtains and/or the good faith efforts it made to obtain the information. This information will be retained for a minimum of three (3) years. The City will also ask if the person has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the driver applied for, but did not obtain, safety sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two (2) years. If the person admits to such conduct, the person will not be allowed to perform safety sensitive functions for the City. If the driver refuses to provide the City with the required written consent, the driver will not be permitted to perform safety sensitive functions and will likely be disciplined (up to and including termination of employment) if employed, or not hired if applying for employment.

J. NOTIFICATION TO APPLICANTS/EMPLOYEES OF POSITIVE TEST RESULTS

The City will notify applicants of the results of a pre-employment drug test if the applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. The City will notify an employee of the results of random, reasonable suspicion and post-accident drug tests if the test results are confirmed positive, and also which controlled substance(s) verified positive after the MRO confirms the positive. The City will also make reasonable efforts to contact and request each driver who tested positive to contact and discuss the results of their drug test with an MRO who has been unable to contact the driver. The City will immediately notify the MRO that the driver has been notified to contact the MRO within 72 hours.

K. EMPLOYEE ADMISSION OF DRUG/ALCOHOL USE

An employee who admits to alcohol misuse or drug use must do so in accordance with the City's general Drug and Alcohol Use Policy; provided, however, the employee may not self-identify in order to avoid the testing requirements of this DOT policy. Further, the employee must make the admission prior to performing a safety sensitive function, i.e., prior to reporting for duty.

The employee may not perform a safety sensitive function until the City is satisfied that the employee has been evaluated and has successfully completed educational or treatment requirements in accordance with the City's general Drug and Alcohol Use Policy.

A drug and alcohol abuse evaluation expert, i.e., an EAP professional, a substance abuse professional or a qualified drug and alcohol counselor, will determine successful completion. Prior to the employee performing safety sensitive functions, the employee must undergo a return to duty alcohol test with a result of less than 0.02 and/or a return to duty drug test with a negative test result.

L. SAFETY SENSITIVE FUNCTIONS

For purposes of this policy, safety sensitive function or duty means all the time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety sensitive functions/duties include:

1. All time at a City, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City;
2. All time inspecting equipment as required by applicable DOT regulations or otherwise inspecting, servicing, or conditioning any CMV at any time;
3. All time spent at the driving controls of a CMV in operation;
4. All time, other than driving time, in or upon any CMV;
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

M. TRANSPORTATION TO TESTING SITE

With the exception of pre-employment and random testing, employees will be driven to the testing facility by a supervisor. The supervisor will remain with the employee during the testing process. The City will make arrangements to have the employee transported back to the City or home, as appropriate, after the testing is complete.

N. QUESTIONS

Anyone with questions regarding this policy should contact the Human Resources Manager.

SECTION 13. PERFORMANCE APPRAISALS

A. PURPOSES OF PERFORMANCE APPRAISAL SYSTEM

The City uses a thorough performance appraisal system for assisting supervisors in communicating job expectations, measuring the employee's level of past performance, recognizing employee achievements and exemplary performance, and strengthening the supervisor-employee relationship. The performance appraisal system provides necessary information for management decisions including career development and training, assignments, advancements, transfers, disciplinary actions, retention, compensation, etc. The purpose of the performance appraisal system as outlined herein is to achieve optimum employee performance resulting in outstanding citizen service.

B. SCHEDULE

1. Regular full time and part time employees are eligible for:
 - ◆ A performance review after six (6) months of their initial probationary period, except for new Police Officers, who serve a twelve (12) month probationary period; and
 - ◆ Annual performance appraisal in December of each year.
 - ◆ Newly transferred or promoted employees who are serving their initial probationary period may also receive periodic evaluations during their probationary period.
 - ◆ Department directors are not governed by the above schedule; the City Manager's office establishes a performance appraisal system for director-level positions.

C. PERFORMANCE APPRAISAL PROCESS

1. **Written Appraisals.** All performance appraisal information must be written where required and forwarded to the Human Resources Manager for retention in the employee's official personnel file. An appraisal is considered complete at the time the employee signs and dates the appraisal document or the supervisor and/or department director has a witness acknowledge the employee's refusal to sign the appraisal document.
2. **Clear Communication.** Supervisors will strive to clearly communicate all elements of job performance, key result areas, performance standards, measures, goals, strengths and areas of development needed. Each employee will sign and date a copy of the performance appraisal when it is reviewed with him or her and the supervisor will forward a copy to the Human Resources Manager for filing in the employee's official personnel file and provide the employee a copy.
3. **Reviewers Properly Trained.** Department directors are expected to ensure compliance with this policy and ensure that supervisors and managers under their direction are adequately trained in the performance appraisal process. In order to correct any obvious errors or rating bias, department directors and/or mid-level managers are encouraged to review all performance appraisal documents for validity prior to the department supervisor conducting the performance appraisal meeting with the affected employee.

4. **Human Resources Manager Responsibilities.** The Human Resources Manager will review all appraisal documents for obvious errors and return them to the department directors for any clarifications or procedural corrections. The Human Resources Manager is responsible for maintaining original appraisal documents in the City's official personnel files and for timely processing appraisals for any compensation due.
5. **Employee Responsibilities.** Employees are expected to be knowledgeable of their essential job functions and key result areas and maintain established performance standards and requirements as outlined. Employees are encouraged to address issues and concerns regarding their annual performance appraisal with their evaluating supervisor. If the employee is unable to resolve issues and concerns with the evaluating supervisor, the employee may address them with the department director; if the department director is the evaluating supervisor, the employee may go to the City Manager to address concerns.

D. PERFORMANCE APPRAISAL APPEALS

Employees have the right to present an appeal concerning their performance appraisal. The performance appraisal appeal will follow the grievance procedure guidelines (See the Section on **Grievances**), through the City Manager level. The City Manager's decision is final.

SECTION 14. EMPLOYEE CONDUCT & WORK RULES / DISCIPLINARY ACTION

A. PURPOSE

To ensure orderly and productive operations and provide the best possible work environment, the City requires employees to follow rules of conduct that will protect the interests and safety of the City, its citizens and employees.

B. PROGRESSIVE DISCIPLINE

In certain instances, the City will use a progressive disciplinary system. The City is not obligated to use all of the progressive disciplinary steps available, and may begin the disciplinary process at any level, up to and including immediate discharge, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, the employee's length of service, and any mitigating circumstances. At-will employment status is not affected by the use of the progressive discipline process. Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following:

- ◆ oral warning
- ◆ letter of counseling
- ◆ written reprimand
- ◆ probation
- ◆ suspension (without pay)
- ◆ demotion
- ◆ Performance Improvement Plans
- ◆ discharge

C. DOCUMENTATION

All forms of discipline, other than oral warnings, must be documented and will be placed in the employee's personnel file. Even an oral warning should be noted in writing by the supervisor or director issuing the oral warning; the employee should be asked to acknowledge the oral warning, and the note, signed by the employee and the person conducting the oral warning, should be sent to the employee's personnel file.

Any written disciplinary action should set forth:

1. Examples of conduct, incidents, actions, or failures to act, that resulted in the discipline;
2. The discipline to be imposed,
3. The effective dates, and
4. If the action is not a dismissal, the likely effect if the employee continues to perform, or to fail to perform, in the manner that resulted in the disciplinary action.

In the event an employee is to be discharged, the supervisor, prior to taking the action, shall forward a copy of the documentation to the Human Resources Manager for review, who shall forward a copy of the proposed dismissal to the City Manager. The supervisor will also make a recommendation concerning the possible rehiring (or not rehiring) of the person in the future.

D. SUPERVISORY RESPONSIBILITY

All employees with the responsibility and authority to supervise and direct employees under their control shall administer policies and procedures within their scope of authority; document their subordinates' job performance, conduct, and behavior as appropriate; properly conduct evaluations of subordinates in a timely manner; and discipline their subordinates as required under their departmental and/or City policies and procedures. Employees with supervisory responsibilities shall also address performance appeals submitted to them, as provided by policy, in a professional manner. The intent of these policies is to attempt to resolve such issues at the lowest possible supervisory level.

E. REVIEW BY HUMAN RESOURCES MANAGER AND APPROVAL BY CITY MANAGER

Any proposed disciplinary action in excess of an oral warning must be reviewed by the Human Resources Manager prior to being given to the employee. This applies to both employees serving the initial probationary period and regular employees that have completed the initial probationary period.

Disciplinary actions, other than oral or written warnings, require the advance approval of the Human Resources Manager unless an emergency situation exists. Any written notice of disciplinary action will be included in the employee's personnel file.

F. APPEAL RIGHTS

Where a disciplinary action involves a suspension of one (1) day (or one (1) shift) or more, demotion, and/or termination, the employee will normally be given an opportunity to respond to the allegations prior to disciplinary action being taken. However, positions classified as Director level and above are employed at the will and pleasure of the City Manager and have no right of appeal for any type of disciplinary action, including termination. Employees serving the initial probationary period have no right of appeal for disciplinary action taken against them.

G. PROHIBITED ACTIVITIES

Disciplinary action will be imposed for violations of City or departmental policies and procedures, codes of conduct, rules and regulations, either written or verbal. In addition, acts which are not specifically addressed in policies and procedures, codes of conduct, and rules and regulations, yet may adversely affect the City or put the health and safety of fellow employees, citizens, or other third parties at risk, may also result in disciplinary action. It is impossible to list all the forms of behavior that are considered unacceptable in the workplace. The following are some examples of conduct that will likely result in disciplinary action, up to and including termination of employment:

- ◆ Theft or inappropriate removal or use of City property or other property not belonging to the employee;

- ◆ Falsification of timekeeping or other records, including employment application;
- ◆ Reporting for work or working under the influence of or a presence in the system of alcohol or illegal drugs;
- ◆ Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating City-owned equipment;
- ◆ Violation of City's policy regarding sexual or other unlawful harassment;
- ◆ Interfering with work schedules or another employee's ability to work;
- ◆ Misuse of City telephones, computers, mail systems, internet, etc.;
- ◆ Excessive or unscheduled absenteeism, tardiness in reporting for work or returning from lunch and breaks, or absence without notice and/or approval;
- ◆ Breaks in excess of the allotted time allowed;
- ◆ Violation of smoking/tobacco policy;
- ◆ Violation of safety or health rules and failure to immediately report an on-the-job injury/accident;
- ◆ Profanity, abusive language, or racial slurs;
- ◆ Unauthorized disclosure of confidential information;
- ◆ Violation of any provision of the City Charter;
- ◆ Violation of City or departmental policies, codes of conduct, rules and procedures;
- ◆ Coercion, intimidation, or threats against citizens, supervisors, co-workers, City officials, or others;
- ◆ Making or publishing false, vicious, or malicious statements about the City, or a City employee or citizen, or others;
- ◆ Unsatisfactory performance or conduct;
- ◆ Inefficiency, incompetence, or neglect of duty;
- ◆ Fighting, provoking or instigating a fight, or threatening violence;
- ◆ Disruptive activity in the workplace;
- ◆ Engaging in a work stoppage;
- ◆ Conduct which results in waste or damage of a co-worker's, the City's, or citizen-owned property;
- ◆ Insubordination or other disrespectful or unprofessional conduct;
- ◆ Discourteous treatment of the public;
- ◆ Possession of weapons on City time, City premises, or while on City business (except for licensed police officers required to carry a weapon as part of their job duties or employees with concealed handgun license with permitted weapon locked in their personal vehicle);
- ◆ Violation of local, state or federal law;

- ◆ Conviction of a felony, including reasonable belief employee has committed a crime under Texas Penal Code or Class A or B misdemeanor involving moral turpitude, or repeated conviction of Class C misdemeanor charges, or any crime;
- ◆ Failure to timely return to work upon conclusion of authorized leave or disciplinary suspension;
- ◆ Outside employment that conflicts with, or potentially conflicts with, City interests;
- ◆ Acceptance of payment of any kind for activities related to City employment;
- ◆ Failure or refusal to follow lawful orders;
- ◆ Sleeping on the job;
- ◆ Dishonesty, including misrepresentation during the hiring process; or
- ◆ An accumulation of minor infractions.

H. DISCIPLINARY MEETING

A disciplinary meeting will be scheduled prior to the imposition of a suspension of one (1) day (or one (1) shift) or more, demotion, or termination. The department director, the affected employee, the Human Resources Manager and anyone else deemed necessary by the department director typically attend the disciplinary meeting. During the meeting, the affected employee will be given an opportunity to present an explanation of the conduct leading up to the proposed disciplinary action. Employees will be given advance notice of the meeting. Employees may, in the City's sole discretion, be placed on administrative leave prior to, during, or after the disciplinary meeting. The employee will be notified of the City's determination following the meeting.

I. ADMINISTRATIVE LEAVE

During an investigation into alleged offenses or violations of City policies, the City may, in its sole discretion, place the employee on administrative leave. The leave may be with or without pay, and may be charged to available accrued leave if authorized by the City Manager.

J. ADDITIONAL INFORMATION

For additional information regarding procedures to be followed if the discipline results in separation by involuntary dismissal see the following sections of this manual relating to **Separations**.

SECTION 15. SEPARATIONS

A. TYPES OF SEPARATIONS

The City designates all employee separations as one of the following types:

1. **Resignation.** An employee who intends to resign is expected to notify the supervisor and/or the Human Resources Manager in writing at least (2) two weeks prior to the last day of work. Department Managers are expected to notify the City Manager and the Human Resources Manager at least thirty (30) days in advance. Employees who fail to give the required advance notice are typically not eligible for rehire.
2. **Retirement.** An employee who intends to retire is requested to notify the department director, supervisor, and the Human Resources Manager, in writing at least one month prior to the date of retirement. The Texas Municipal Retirement System (TMRS) application for retirement must be in the TMRS office the day of intended retirement date to lock in the in-service-date.
 - ◆ **Retiree Health Coverage.** An employee who retires from City employment and who is entitled to receive retirement benefits from TMRS is entitled to purchase continued health benefits coverage for the retiree and eligible dependents unless the person is eligible for group health benefits coverage through another employer. To receive continued coverage under the plan, the employee must inform the Human Resources Manager before the date of retirement.

An employee can elect retiree coverage only if covered under the plan at the time of retirement. Similarly, a retiree may elect to cover only those eligible dependents that were covered under the plan at the time the employee retired. A person who was not covered under the plan at the time of the employee's retirement is not eligible for retiree coverage.

3. **Dismissal/Termination.** The City may terminate an employee's employment as a result of unsatisfactory performance or conduct and/or violation of City policies or procedures, including a new hire who fails the probationary period. City employees who are terminated, or who resign in lieu of termination, due to unsatisfactory performance, pending results of an investigation, or conduct and/or violation of City policies or procedures, are not eligible for rehire.

Dismissal may also occur for the following:

- ◆ **Job Abandonment.** If an employee fails to properly notify the City of an absence from work or if an employee is absent without authorization and/or notification for three (3) or more consecutive days, the City will normally consider the employee to have abandoned employment, and the employee will be terminated.

- ◆ **Long-Term Absence.** Leave of absence beyond 180 days may be granted if it is a reasonable accommodation justified by medical necessity.
 - ✓ This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act and the Amendments to the Americans with Disabilities Act.
- ◆ **Incapacity.** An employee may be terminated for incapacity when the employee no longer meets the physical or mental requirements of the job with or without accommodations. A termination for incapacity is not considered a disciplinary action. The employee may receive accrued vacation and sick leave benefits if provided by policy, payable upon termination.
- ◆ **Reductions-in-Force/Reorganization.** An employee may be separated from City service when it is deemed necessary by reason of shortage of funds or work, the elimination of the position, other material change in the duties of the organization, or for other reasons which are outside the employee's control and which do not reflect discredit upon the service of the employee.

When reductions in force are necessary, decisions on individual separations will be made after considering:

- ✓ The relative necessity of each position to the organization,
- ✓ The performance record of each employee,
- ✓ Qualifications of the employee for remaining positions with the city, and
- ✓ The employee's length of service with the city.

Employees who have been laid off may reapply to the City for another position. Qualified former employees will be given priority consideration in the event of a vacancy.

When a regular employee who has been employed by the city for 12 continuous months is dismissed as a result of a reduction in force, he or she will be given a minimum of two (2) weeks' written notice and paid in full to the time of discharge including accrued benefits. In addition, the City department director will attempt to guide the employee to any available, suitable job openings in the area for which the employee qualifies.

- ◆ **Death.** If a City employee dies, the designated beneficiary or estate will be paid all earned pay and payable benefits.

B. EXIT INTERVIEWS

The City usually provides separating employees with an exit interview prior to their last day of work. The purpose of the exit interview is to finalize all compensation due, return City equipment, provide explanation of any continuing benefits, review employment history, discuss the reason(s) for the separation, and solicit constructive feedback to improve the City. The Human Resources Manager shall complete an Exit Interview Form, and the supervisor also completes a form.

Exit interviews are conducted confidentially by the Human Resources Manager. Information discussed during the exit interview may be shared with the City Manager's office and acted upon as deemed appropriate by the City. The department director (or designee) is responsible for promptly notifying the Human Resources Manager of all separations, arranging for the exit interview, and providing documentation of receipt of all departmental and/or City property from the exiting employee.

SECTION 16. GRIEVANCES

A. POLICY

It is the policy of the city, insofar as possible, to prevent the occurrence of grievances, and to deal promptly with those that occur. No adverse action will be taken against an employee for reason of his or her exercise of the grievance right. The Texas Whistle Blower Act provides that the city may not suspend or terminate the employment of, or otherwise discriminate against, a city employee who reports a violation of law to an appropriate law enforcement authority, if the employee report is made in good faith.

A regular employee may file a grievance on one or more of the following grounds:

- ◆ Improper application of rules, regulations, and procedures (but not the rules, regulations, and procedures themselves);
- ◆ Unfair treatment;
- ◆ Illegal discrimination based on race, religion, color, sex (including sexual harassment), age, disability, or national origin;
- ◆ Improper application of fringe benefits; or
- ◆ Improper or unsafe working conditions.

The City follows a grievance procedure which ensures the employee due process in the city's consideration of his or her work-related grievances: the right to be represented, the right to mount a defense, and the right to present written response(s) regarding resolution of the grievance. Terminations, which must be approved by the City Manager, are not grievable actions.

B. FINAL AUTHORITY

Grievances can be appealed through the employee's supervisor to the City Manager whose decision is final.

C. PROCEDURE

The following procedures are applicable to regular employees.

1. **Informal Grievances**. The first step in the grievance procedure is for the employee to attempt to resolve the grievance by informal conference with his or her supervisor. If this informal conference does not result in a resolution of the problem(s) that is satisfactory to the employee, he or she must file a formal, written grievance.
2. **Formal Grievances**. Formal grievances must be in writing, signed by the employee, and presented to the employee's supervisor within 10 working days after the alleged grievance occurred. A statement of the specific remedial action requested by the employee must be included in the written grievance.

An employee may be represented throughout the grievance process by another City employee of his or her choosing who has not been an employee representative in any other City grievance proceeding within the previous 12-month period.

After being presented with a written and signed grievance, the supervisor will:

- ◆ Meet with the employee and such other persons as may be necessary to gather the facts;
- ◆ Notify his or her supervisor and department director, who must notify the Human Resources Manager and the City Manager's office immediately upon learning that a grievance has been filed;
- ◆ Attempt to resolve the grievance with the employee and, if requested by the employee, with the employee's representative; and
- ◆ Communicate the decision to the employee in writing within fifteen (15) working days after receipt of the grievance, sending a copy of the proposed resolution to the Human Resources Manager and City Manager, as well as the department head.

Written Appeal. If an employee either receives no written resolution from the supervisor within fifteen (15) working days from the date on which the grievance was filed, or if the employee is not satisfied with the proposed resolution, he or she must file a written appeal with the department director within ten (10) working days after the time period for the receipt of a proposed resolution has elapsed. The department director will review the facts and the file; consult with the Human Resources Manager; meet with the parties involved; attempt to resolve the grievance within five (5) working days after receipt of the grievance appeal; and respond in writing to the employee within ten (10) working days of the date on which the appeal was received in the department director's office, sending a copy to the Human Resources Manager and the City Manager.

Next Level Written Appeal. If the employee either receives no written resolution from the department head within 10 working days from the date on which the appeal was filed with the department head, or if the employee is not satisfied with the department head's proposed resolution of the appeal, the employee must file a written appeal with the City Manager within 10 working days. The City Manager will then review the facts and the file and meet with the parties involved, if deemed appropriate, before responding in writing to the employee within fifteen (15) working days of the date the appeal was received in the City Manager's office. The City Manager's decision is final, except for grievances filed by department heads, who may appeal to the city council if they are alleging discrimination or sexual harassment against them by the City Manager.

3. **Maximum Time Periods.** At each stage of the grievance process, the time periods specified are maximums. Grievances should be dealt with promptly and written responses provided as quickly as possible, preferably within five (5) working days in simple grievance matters.
4. **Documentation.** Copies of all documentation relating to the grievance will be forwarded to the Human Resource Manager immediately upon conclusion of each step in the grievance process and will be placed in the employee's personnel file.

5. **Grievances Relating to Sexual or Other Harassment or Discrimination.** Any employee may file a grievance related to alleged sexual harassment or discrimination on the basis of race, religion, color, sex (including sexual or other harassment), national origin, age, or disability.
- ◆ The initial written grievance may, at the employee's option, be submitted directly to the Human Resources Manager immediately.
 - ◆ If the grievant is a City department director alleging discrimination or sexual or other harassment by the City Manager, he or she may file a grievance directly with the Human Resources Manager within 10 working days of the alleged discriminatory act. In such instances, to allow adequate time for proper investigation, the total cumulative time period which would have been allowed at the other steps in the grievance process is available to the appropriate authority before his or her written resolution of the grievance is required to be received by the employee.
 - ◆ In all instances of alleged discrimination or sexual or other harassment, the City Attorney will be consulted before a written resolution is provided to the grievant.
6. **Requirement for Appeal if Dissatisfied.** If the employee is dissatisfied with any proposed resolution during the grievance process, he or she must appeal to the next step within the established time period. Failure to appeal implies that the employee is satisfied with the latest resolution.

SECTION 17. TRAVEL EXPENSE / REIMBURSEMENT

A. POLICY

It is the City's policy to pay for, or reimburse, all reasonable and necessary expenses incurred by an employee when the employee travels on City-related business in accordance with this policy.

1. **Transportation.** The most efficient and economical mode of travel must be used. Air travel arrangements are to be made by each department. Air travel must be booked at the most discounted fare basis whenever possible. When authorized, an employee using a personal vehicle on City business shall be paid an amount per mile equivalent to the current IRS rate, or shall be paid the equivalent of a coach airline fare, whichever results in the lower cost to the City. In instances of approved private vehicle use, reimbursement will also be made for mileage tolls and parking fees. Receipts are required for toll and parking fees, as well as for taxi cabs, limos, and other modes of transportation. The City will pay for rental vehicles upon written approval of the City Manager (or designee).
2. **Travel Approval and Cash Advances.** All travel and cash advances must be approved in advance by the employee's department director (or designee), unless otherwise stated in this policy. In addition, any travel out of state must be approved by the City Manager as set out below.
3. **Lodging.** Expenses for lodging are to be at the single room rate, unless an employee is approved in advance for double occupancy. Extra charges for room service will not be paid by the City. An itemized hotel receipt must be provided.
4. **Meal Allowance.** The City shall pay actual necessary food expenses for an employee or City official traveling on City business. Expenses for meals shall either be reimbursed at actual cost as supported by receipts or by per diem allowance. Travelers are expected to make every effort to provide receipts. For in state travel, a per diem allowance of \$43.00 per day is authorized based on \$8.00 for breakfast, \$12.00 for lunch and \$23.00 for dinner. For out of state travel, a per diem allowance of \$59.00 per day is authorized based on \$13.00 for breakfast, \$15.00 per lunch and \$26.00 per day for dinner. Allowances include taxes and tips and may be reduced by twenty five (25) percent for first and last days of travel.
5. **Internet Expense.** Only reasonable and necessary computer related expenses for City business reasons will be reimbursed.
 - ◆ **Non-Allowable Expenses.** Expenses or charges for the following will normally not be reimbursed and must be paid for by the employee:
 - ◆ In-hotel pay television and movies
 - ◆ Dry cleaning and laundry;
 - ◆ Health club and spas;
 - ◆ Expenses of a spouse;
 - ◆ Alcoholic beverages; and
 - ◆ Other items of a personal nature.

6. **Request for Reimbursement and Return of Unexpended Funds.** Upon return to the City, a complete accounting of all expenditures of City funds is to be filed within three (3) working days on the City's Expense Form. Receipts for all expenses, including hotel bills and registration fees, must be attached to the statement. All unexpended advance funds must be returned with the statement. Authorized expenses in excess of advance funds received will be reimbursed with proper approval.
7. **Travel to Training.** The current mileage reimbursement will be paid to employees who must use their personal vehicles to travel to a training destination further than their designated work location or other City locations and/or facilities. Reimbursement will be made for miles driven from the normal work location or employee's home whichever is less. Actual mileage readings must be submitted for reimbursement. Employees will be paid for time traveling to and from training destinations. Travel time will be considered hours worked for the purpose of calculating overtime.
8. **Expenses Not Covered in Policy.** The City Manager's approval must be obtained prior to any expenditure of funds for items or charges which are not specifically addressed in the travel policy.
9. **Exceptions.** Employees who receive monthly automobile allowances are eligible for mileage reimbursements for out of city travel. Employees who travel in a city-owned vehicle will be reimbursed for the documented actual cost of fuel, oil, or other expenses related to the safe operation of the vehicle, which were necessary during the course of the employee's use of the vehicle on official business.

When two or more employees travel in a single automobile, only one employee will receive per-mile or other automobile reimbursements.

Conference registration checks will be made payable only to the organization sponsoring the conference.

10. **Compliance.** Abuse of this policy, including falsifying expense reports or submitting false claims, will result in disciplinary action, up to and including termination of employment.

SECTION 18. PERSONNEL RECORDS

A. PERSONNEL FILES

The City of Lago Vista believes it has a duty to protect its employee's right to privacy and therefore adopts the following principles:

1. **Retain Only Needed Information.** The City will request and retain only that information which it has a legitimate need to know for legal or business purposes.
2. **Confidentiality.** The City will protect the confidentiality of all personal information in its files to the extent permitted by the Texas Open Records Act, as amended from time to time. However, information in an employee's personnel file is public information and must be disclosed upon request unless specific items are excluded from disclosure by law.
3. **Employee Right of Access.** Each employee or his/her designated representative has the right of access to his/her personnel file.
4. **Correct Inaccurate Information.** Each employee has the right and responsibility to correct any inaccurate information such as address, phone number, name changes, change in dependents, etc.
5. **Limited Access.** The City will strictly limit accessibility of personnel files to the employee, the employee's designated representative, the employee's immediate supervisor, department director, Finance Department or designee (material is restricted to financial matters), the Human Resources Department, the City Manager, the City Attorney, and any duly sworn officer of the court upon proper subpoena, court order, or written request, except when a request for personnel information is required under the Texas Open Records Act.
6. **Prohibition against Removing Personnel Files.** Personnel files will not be removed from the Human Resources Department and will be reviewed in the presence of the Human Resources Manager or his/her designee.
7. **Limited Reproduction of Materials.** The Human Resources Department will strictly limit reproduction of any material within an employee's personnel file. All requests must be made in person or in writing. Requested material will be reproduced by the Human Resources Manager or designee upon approval of the employee and the Human Resources Manager or his/her designee.
8. **Notification of Requests for Information.** In instances where a request has been made under the Texas Open Records Act for information contained in an employee's personnel file, the employee will be notified in writing that such a request has been made, along with the name of the person making the request.

B. EMPLOYEE INFORMATION

1. **Contents of Employee Personnel Files.** An employee's official personnel file contains all documents related to an employee's employment relationship with the City, except for medical records and I-9 forms. Examples of information contained in employee official personnel files:
 - ◆ Initial employment information, including application form, reference checks, interview results, reports, evaluations, and test results.
 - ◆ Employee performance appraisals.
 - ◆ Letters of commendation or other recognition of performance.
 - ◆ Notices of suspension, disciplinary actions, letters of complaint.
 - ◆ Attendance records.
 - ◆ Notice of termination.
 - ◆ Letter of resignation.
 - ◆ W-4 Form
2. **Forms I-9 File.** Form I-9, Verification of Eligibility to Work, required for all City employees, documents a person's legal work status in this country. All I-9 forms are filed in a single file that is separated from individual personnel files. (*Legal Reference: U.S. Immigration Reform and Control Act of 1986.*)
3. **Separate Medical File.** An employee's personnel file does **not** contain information regarding an employee's medical record(s), nor does it contain any information relating to drug or alcohol testing. These medical files are confidential and are not released to anyone unless a "need to know" has been clearly established. Only the Human Resources Manager has routine access to employee medical records.

Federal law requires that the City maintain all employee medical information in separate, confidential files. Therefore, in addition to personnel files, the City maintains a separate medical file for each employee. The Human Resources Manager maintains these confidential medical files.

Examples of information that may be provided to the City by an employee or the employee's health care provider, and maintained in the confidential medical file, include:

- ◆ A note to justify an absence;
- ◆ A note to request a leave;
- ◆ A note to verify the employee's ability to return to work;
- ◆ Medical records to support a claim for sick pay or disability benefits;
- ◆ Insurance records;
- ◆ Workers' compensation records; and
- ◆ Medical history records.

Genetic Information. The City does not request genetic information from an applicant, employee, or health care provider. The City discourages health care providers from sending genetic information. Any genetic information inadvertently sent to the City will be returned to the health care provider. *(Legal Reference: Genetic Information Notification Act, GINA.)*

Confidentiality of Medical Information. It is important that employees understand that medical records are confidential but that the confidentiality may be waived when the employee provides medical information to the supervisor or the Human Resources Manager. When an employee provides information to the supervisor, the supervisor is expected to share the information only on an “as needed” basis with other members of management.

Maintaining Confidentiality of Co-Workers’ Information. In addition to protecting their own confidential medical information, employees must also respect the privacy and confidentiality of other co-workers’ medical information. Employees are expected to use discretion and judgment when dealing with such information and are to refrain from passing along information, gossip, rumors or anything else that may constitute an invasion of a co-worker’s privacy or breach of confidence.

(Legal reference: U.S. Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008.)

C. INFORMATION DISCLOSURE ELECTION

Each employee may choose whether the City discloses the employee’s home address and telephone number to the public on request. If a new employee does not request confidentiality within the first fourteen (14) days of employment, the home address and telephone number on file are considered public information, with the exception of police officers, whose addresses and telephone numbers are not public information.

However, employees may change their election for disclosure or confidentiality at any time. A form for designating this information as confidential or public is available from the Human Resources Manager.

(Legal reference: Public Information Act, V.T.C.A. Government Code, Sec. 552.024.)

D. LEAVE RECORDS

Official records of vacation leave and sick leave accrual and of leave usage are kept for each employee by the Human Resources Manager. Leave records are updated at the end of each biweekly pay period. Leave balances are shown on the official record to reflect any remaining leave to which an employee is entitled. Supervisors must submit a copy of an approved leave request to the payroll office for any paid leave time used by an employee under his or her supervision. The approved leave request forms must be attached to the payroll information sent to the payroll office at the end of each pay period.

SECTION 19. ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING

I, the undersigned employee of the City of Lago Vista, Texas, hereby acknowledge that I have received a copy of the City of Lago Vista's Personnel Policies and Procedures. I agree to read this Manual carefully within the first week of receipt and to abide by its policies and procedures. If I don't understand any part of the Manual, I will ask my supervisor or a member of Management for assistance.

I understand the City of Lago Vista is an at-will employer and all employees are subject to termination for any reason or no reason at all, either voluntarily or involuntarily.

I understand the City will attempt to apply its policies and regulations in a fair and impartial manner. However, I also understand such policies and regulations do not create any contract or due process rights for employees; and are intended as a guide only for use and application within the City organization; and that a decision by the City Manager or the City Council, as applicable, with respect to any employment issue controlled by such policies and regulations, will be final and unappealable.

Employee Signature

Date

**THIS PAGE IS TO BE DATED, SIGNED AND RETURNED TO THE HUMAN
RESOURCES DEPARTMENT UPON RECEIVING A COPY OF THESE POLICIES
AND PROCEDURES**



AGENDA ITEM

City of Lago Vista

To: Mayor & City Council Council Meeting: July 7, 2016

From: Melissa Byrne Vossmer, City Manager

Subject: Discussion of the Report and Recommendations from the CAPMetro Study Committee

Request: Report Legal Document: Other Legal Review:

EXECUTIVE SUMMARY:

Please see the attached report. This item is on the agenda for discussion and direction.

Impact if Approved:

N/A

Impact if Denied:

N/A

Is Funding Required? Yes No **If Yes, Is it Budgeted?** Yes No N/A

Indicate Funding Source:

N/A

Suggested Motion/Recommendation/Action

Motion to:

Approve Item

Motion to:

Motion to:

Known As:

Discussion of the Report and Recommendations from the CAPMetro Study Committee.

Agenda Item Approved by City Manager

July 7, 2016

To: Mayor and Council

From: Melissa Byrne Vossmer, City Manager

Re: CAPMetro Study Committee – Final Report

Background:

On May 19, 2015, the City sponsored the first Town Hall Meeting concerning CAPMetro held in a number of years. The Town Hall Meeting, held at the LVIDS Performing Arts Center (PAC), was the first step to initiate a community dialogue about the programs and services the City of Lago Vista receives from CAPMetro. It was a good meeting. About fifty persons attended, along with representatives from CAPMetro.

The City scheduled this Town Hall Meeting because Lago Vista has participated in CAPMetro for 30+ years, and it seemed like an appropriate time to examine CAPMetro's programs and services, as well as the community's needs. I hoped the meeting would spark dialogue between our community and CAPMetro about the future. Additionally, to best of staff's knowledge, CAPMetro had not visited or been in touch with the City Council, staff, or citizens about services, needs, or issues in a number of years. Since joining CAPMetro in 1984, the City has contributed 1% of total annual sales tax to CAPMetro services, and evaluation of the utility of Lago Vista's fiscal commitment seemed appropriate.

At the Town Hall Meeting, the City and received a lot of input about CAPMetro. A lot of the feedback received was supportive of public transportation services. Additionally, citizens requested that CAPMetro reach out and listen to residents. Citizens made clear that CAPMetro had not been as proactive as it could have been in terms of soliciting feedback from users and/or making service changes in response to citizen feedback.

Following the Town Hall Meeting, two CAPMetro community meetings have been held to solicit community input. The first meeting on June 25, 2015, drew approximately ten people. The second meeting on September 17, 2015, drew about three people. After the September meeting, CAPMetro notified the City that it would take the next several months and work through a comprehensive planning process for Lago Vista transit users.

On June 5, 2015, in a Weekly Report to Council, I outlined a plan to utilize Jim Speckmann, a resident of Lago Vista, as the City's community outreach on this project. Jim was well qualified for this role, having had over fifteen years of relevant work experience and a willingness to assist the community's evaluation of CAPMetro's transit services. Mr. Speckmann shared his observations concerning CAPMetro services as part of a work session discussion on January 7, 2016.

Another recommendation from June 2015 was to form a Community Study Group to handle tasks assigned by the City Council. I recommended to the City Council we put this on hold until after the November elections and a new City Council had been seated.

On January 7, 2016, a presentation was made to Council concerning the history of CAPMetro and some discussion of transit issues and other opportunities. As a result of that meeting, Staff was asked to prepare a resolution to establish a citizens committee and to identify committee tasks/duties. The City Council established the CAPMetro Study Committee on February 18, 2016. Staff then sought applications from interested residents. On April 7, 2016, the City Council appointed the Study Committee. Its members were Darren Webb (Chair), Carolina Hale (Vice Chair), Clive Rutherford, Gary Zaleski, Karen Bowling, Ross Dewhurst and Brigham Seaver. The Study Committee convened on April 19, 2016, and began its examination of transit services for the purpose of recommending to the City Council whether an election for the continuation of CAPMetro in Lago Vista is appropriate.

As part of the original examination process, the City began working with Leonard Smith, an Austin attorney, who has substantial experience in working with cities on CAPMetro issues. At the first meeting, the Study Committee spent time going through open meetings / ethics training; receiving an overview from Mr. Smith; receiving an overview of the route and services by a representative of CAPMetro; and in general discussions. Through my weekly reports I have kept the Council informed of their discussion, progress and concerns. The Study Committee met five times.

The concerns expressed during the five Study Committee meetings centered around what will residents who depend on CAPMetro services do to get to school, work, shopping, or personal appointments. Two members of the Study Committee had extensive personal experience with CAPMetro services. The Study Committee discussed why there was such low CAP Metro ridership in Lago Vista and suggested that additional efforts could be made to educate and to encourage residents to use CAPMetro. The Study Committee discussed the possibility of expanding CAPMetro services to include Saturdays so residents could catch the train for events in Austin. The Study Committee discussed revising routes to establish more of a Lago Vista “circulator” route. The Study Committee discussed how Lago Vista voters would learn about CAPMetro issues if the City Council called an election in November 2016. Finally, the Study Committee discussed the possibility of providing local transit services despite the cost to help residents. Letters expressing differing opinions were forwarded to the City Council with the June 4th Weekly Report.

Ultimately, the Study Committee refocused its deliberation on the specific charge from the City Council which was fairly narrow and required a response by July 1, 2016. The City Council’s charge was to:

1. Evaluate, report and make written recommendation(s) to the City Council as to whether the City Council should call an election for the continuation of CAPMetro in the City; and
2. Prioritize and report in writing to the City Council on possible other uses for sales tax currently dedicated to Capital Metro; and

3. Address other tasks or topics assigned by the City Council and / or the City Manager from time to time.

The Study Committee held its fifth and final meeting on June 21, 2016. At that meeting, the Study Committee took following actions:

1. Recommend to the City Council that the question of continued participation in CAPMetro be presented to Lago Vista voters on November 8, 2016. A decision by Council to add to the ballot would need to be made no later than August 9, 2016. The Transportation Code prescribes the following language for the ballot proposition:

Shall the Capital Metropolitan Transportation Authority be continued in the City of Lago Vista?

By a 5-2 vote, the Study Committee voted to recommend presenting the prescribed ballot proposition to Lago Vista voters.

2. Recommend to the City Council that if the question of continued participation in CAPMetro is placed on the November 8 ballot and if Lago Vista voters approved withdrawal, then the Study Committee voted to recommend an election to rededicate the available 1% sales tax follows:

- The establishment of a Type B Community Development Sales Tax at the rate of ½ of 1%.
- The establishment of a Street Maintenance Sales Tax at the rate of ½ of 1%.

The Type B Community Development Sales Tax, a “quality of life” sales tax, can support a broad range of projects. These projects include but are not limited to recreational or community facilities, economic development, water supply facilities, and affordable housing.

The Street Maintenance Sales Tax is very specific use and is for maintenance of streets that were in existence at the time of the election to adopt the tax. It cannot be used to build new roads. This sales tax use must be re-authorized by voters every 5 years.

By a 7-0 vote, the Study Committee voted to recommend rededicating available sales tax to these purposes if Lago Vista voters elect to withdraw from CAPMetro.

3. Recommend to the City Council that if the question is approved, that a local transportation plan be developed to provide some movement of residents from Lago Vista to Jonestown to catch the bus and study a circulator route as well.

It should be noted that if the Lago Vista withdraws from CAPMetro, the City will remain liable for the provision of disabled transportation services. CAPMetro will continue to

provide these services until and unless the City establishes an appropriate alternative program so there is no lapse in disabled transportation service.

The Committee approved this recommendation by a vote of 7-0.

Conclusion:

The Transportation Code requires that an election to consider the continuation of CAPMetro in Lago Vista to be held on the first uniform election date occurring at least 90 days after the City Council orders the election. The next uniform election date that could qualify under the statutory criteria is November 8, 2016. In order to hold an election on November 8, 2016, the City Council's deadline to call the election is August 9, 2016.

MEETING DATE: July 7, 2016

AGENDA ITEM: WORK SESSION (no action may be taken on the following agenda items):

Comments:

- 10. Reports/Minutes from City Boards, Committees and Commissions
 - a. May 26, 2016 DRAFT Planning & Zoning minutes
 - b. June 21, 2016 CAPMetro minutes

Motion by: _____

Seconded by: _____

Content of Motion: _____

Vote: Raley _____ ; **Sullivan** _____ ; **Tidwell** _____ ; **R. Smith** _____ ;

Mitchell _____ ; **S. Smith** _____ ; **Cox** _____

Motion Carried: Yes _____ ; **No** _____

MINUTES
Thursday, May 26, 2016 Regular Meeting
Planning and Zoning Commission
City of Lago Vista

Chair Tara Griffin called the meeting to order at 7:05 P.M. in the Council Chambers, City Hall, 5803 Thunderbird St., Lago Vista, Texas. Members present were Tara Griffin, Vernon Reher, Richard Brown, Gary Zaleski and Paul Smith. Members Jim Moss and Andy White were absent. City Attorney Barbara Boulware-Wells, City Council Liaison Rich Raley, and Development Services Administrative Assistant Sherry McCurdy were also present.

Citizen Comments for Non-Hearing Related Items.

There were no citizen comments.

Consent Agenda

1. Consider Approval Of The Following Minutes:

- A. November 23, 2015 Impact Fee Advisory Committee Regular Meeting
- B. March 31, 2016 Planning & Zoning Commission Regular Meeting
- C. April 7, 2016 Planning & Zoning Commission Special Meeting
- D. April 12, 2016 Impact Fee Advisory Committee Regular Meeting
- E. April 19, 2016 Planning & Zoning Commission Special Meeting
- F. May 5, 2016 Planning & Zoning Commission Special Meeting

On a motion by Gary Zaleski, seconded by Paul Smith, the Commission unanimously approved the Consent Agenda.

Public Hearing

1. Discussion and Potential Action regarding removal of chickens, turkeys, and guineas from the requirements of a Special Use Permit, clarification on allowance of these and other domestic farm birds, additions and changes to Chapter 2, Article 2.200 for definitions and limits of chickens, turkeys, rabbits, and guineas.

Barbara Boulware-Wells presented the staff report. She distributed handouts with correction to Section 7. Barbara explained how the proposal was initiated and the Special Use Permit process that is currently in place.

The Public Hearing was opened at 7:16 P.M.

Tara Griffin stated she would like to get away from the Special Use Permit due to staff restraints and current growth. She would prefer to have a clear cut ordinance instead of a Special Use Permit. She explained that chickens are allowed in some of the larger cities.

The Public Hearing was closed at 7:20 P.M.

The Commission, Barbara Boulware-Wells, and Rich Raley discussed chicken coops on properties that border golf courses, the possibility of chickens attracting predators, and other fowls that might be included in the Ordinance. They also discussed each Section of the proposed Ordinance, and reviewing other city's ordinances pertaining to the subject.

On a motion by Tara Griffin, seconded by Vernon Reher, the Commission voted four (4) ayes (Tara Griffin, Paul Smith, Vernon Reher, and Gary Zaleski) to one (1) nay (Richard Brown) to table the item until the next Meeting on June 23, 2016.

Tara Griffin made a motion to reconsider the ordinance, seconded by Vernon Reher, the Commission voted four (4) ayes (Tara Griffin, Paul Smith, Vernon Reher, and Richard Brown) to one (1) nay (Gary Zaleski) to table the item until the July 28, 2016 Meeting.

Gary Zaleski motioned that the Commission not consider adopting the Ordinance and stay with the provision to obtain a Special Use Permit; motion died for a lack of a second.

Future Agenda Items

There was discussion of the Subdivision Ordinance. Tara request that the Ordinance be sent to the Commission a minimum of ten (10) days before the decision needs to be made.

Barbara suggested that the Planning and Zoning Commission schedule a work shop to review the Subdivision Ordinance before the ordinance comes to the Commission for a decision.

On a motion by Vernon Reher, seconded by Tara Griffin, the Commission voted unanimously to adjourn at 9:07 P.M.

Tara Griffin, Chair

Sherry McCurdy, Development Services Admin. Assist.

On a motion by _____, seconded by _____, the foregoing instrument was passed and approved this 23rd Day of June, 2016.

**OFFICIAL MINUTES OF THE CAPMETRO STUDY COMMITTEE
LAGO VISTA, TEXAS
JUNE 21, 2016**

BE IT REMEMBERED that on the 21th day of June, A.D., 2016, the CAPMetro Study Committee held a Regular Meeting at 6:30 p.m. at City Hall, 5803 Thunderbird, in said City, there being present and acting the following:

CALL TO ORDER

Gary Zaleski	Committee Member	Melissa Byrne Vossmer	City Manager
Clive Rutherford	Committee Member	Belinda Kneblick	Assistant City Secretary
Darren Webb	Committee Member		
Karen Bowling	Committee Member	(arrived at 6:35 pm)	
Ross Dewhurst	Committee Member		
Carolina Hale	Committee Member		
Brigham Seaver	Committee Member		

Darren Webb called the Regular Meeting to order at 6:34 p.m.

The numbering below tracks that of the agenda, whereas the actual order of consideration may have varied.

PUBLIC COMMENTS

None

BUSINESS ITEMS

1. Approval of the following minutes: May 24, 2016 regular meeting. On a motion by Committee Member Clive Rutherford, seconded by Committee Member Ross Dewhurst, the Committee voted unanimously to approve the minutes as presented.

PRESENTATIONS

2. Sam Sargent of CAPMetro presented additional information that was requested.

ACTION ITEMS

3. Recommendation to City Council to place the question of withdrawal from Capitol Metropolitan Transportation Authority on the November 8, 2016 ballot. On a motion by Committee Member Clive Rutherford, seconded by Committee Member Ross Dewhurst, the Committee voted five yays and 2 nays; the two nays being Brigham Seaver and Karen Bowling. Motion carried.
4. Recommendation regarding reallocation of sales. On a motion by Committee Member Carol Hale, seconded by Committee Member Gary Zaleski, the Committee voted unanimously to approve options 1 and 2 for half a penny each. Motion carried.

Option 1: Type B Community Development Sales Tax

Source: Chapter 500 – 502 and 505 of the Local Government Code.

Chapter 505 authorizes a wide variety of Type B community development projects for:

- Recreational or Community Facilities
- Water Supply Facilities
- Business Enterprises & Development
- Economic Development
- Affordable Housing
- Sports Venue Project, if approved in a subsequent election

Option 2: Street Maintenance Sales Tax

Source: Chapter 327 of the Tax Code

The sales tax may be used only to maintain and repair municipal streets that existed on the date of the election to adopt the tax. It may not be used to build new streets.

Source: Sec. 327.008 of the Tax Code.

5. Recommendations regarding the provision of transportation services to the City Council. On a motion by Committee Member Clive Rutherford, seconded by Committee Member Carol Hale; motioned this Committee recommends to Council, based on the fact it believes that public transportation has an extremely high value, that city staff be assigned to research and develop a plan for the most cost effective public service available. The Committee voted unanimously. Motion carried.

ADJOURNMENT

Darren Webb adjourned the meeting at 7:26 P.M.

As the Committee will not meet again for actual approval of these minutes, these minutes are considered the final action of the CAPMetro Study Committee.

Respectfully submitted,



Darren Webb, Chair

ATTEST:



Belinda Kneblick, Assistant City Secretary

MEETING DATE: July 7, 2016

AGENDA ITEM: Presentation of Proposed FY 16/17 Budget

Comments:

Motion by: _____

Seconded by: _____

Content of Motion: _____

Vote: Raley _____ ; **Sullivan** _____ , **Tidwell** _____ ; **R. Smith** _____ ;

Mitchell _____ ; **S. Smith** _____ ; **Cox** _____

Motion Carried: Yes _____ ; **No** _____

MEETING DATE: July 7, 2016

AGENDA ITEM: Consider schedule and items for future Council meetings.

Comments:

Motion by: _____

Seconded by: _____

Content of Motion: _____

Vote: Raley _____; Sullivan _____; Tidwell _____; R. Smith _____;

Mitchell _____; S. Smith _____; Cox _____

Motion Carried: Yes _____; No _____

MEETING DATE: July 7, 2016

AGENDA ITEM: *EXECUTIVE SESSION*

Comments:

Convene into Executive Session pursuant to Sections 551.071 (Advice of Counsel), 551.072 (Real Property), 551.074 (Personnel), Texas Government Code and Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:

- A. Consultation with legal counsel regarding real property and possible issues and questions related to acquisition, sale or lease.
- B. Consultation with legal counsel regarding contractual claims or possible claims or charges, contractual modifications, and questions related thereto.
- C. Pending or threatened litigation pertaining to Cause No. D-1-GN-16-002483, *Brian Atlas v. City of Lago Vista*, Travis County 200th District Court.
- D. Consider, conduct and discuss the City Manager's performance evaluation.

Motion by: _____

Seconded by: _____

Content of Motion: _____

Vote: Raley _____; **Sullivan** _____; **Tidwell** _____; **R. Smith** _____;

Mitchell _____; **S. Smith** _____; **Cox** _____

Motion Carried: Yes _____; **No** _____

MEETING DATE: July 7, 2016

AGENDA ITEM: Reconvene from Executive Session into open session to take action as deemed appropriate in City Council's discretion regarding:

Comments:

- A. Consultation with legal counsel regarding real property and possible issues and questions related to acquisition, sale or lease.

- B. Consultation with legal counsel regarding contractual claims or possible claims or charges, contractual modifications, and questions related thereto.

- C. Pending or threatened litigation pertaining to Cause No. D-1-GN-16-002483, *Brian Atlas v. City of Lago Vista*, Travis County 200th District Court.

- D. Action pertaining to City Manager performance evaluation.

Motion by: _____

Seconded by: _____

Content of Motion: _____

Vote: Raley _____; Sullivan _____; Tidwell _____; R Smith _____;

Mitchell _____; S. Smith _____; Cox _____

Motion Carried: Yes _____; No _____