



City of Colleyville City Council Agenda

City Hall
100 Main Street
Colleyville, Texas 76034
817.503.1000
www.colleyville.com

Tuesday, August 16, 2016

City Council Chambers

**PRE COUNCIL MEETING
EXECUTIVE SESSION
5:00 P.M.
EXECUTIVE CONFERENCE ROOM
THIRD FLOOR**

CALL TO ORDER

PC-1 Discussion of the Water and Wastewater Rate Analysis

PC-2 Discussion of the August 16, 2016, City Council regular agenda items

1. EXECUTIVE SESSION - In accordance with Texas Government Code, Chapter 551, Subchapter D

Section 551.071 - Legal - Consultation with City Attorney on legal issues raised by public hearing or action items on the agenda

Section 551.071 - Legal - Consultation with City Attorney regarding litigation - Lincoln et al v. City of Colleyville

Section 551.071 - Legal - Consultation with City Attorney regarding City sign ordinance

Section 551.071 - Legal - Consultation with City Attorney regarding City Developer Agreement

Section 551.072 - Real Estate - Deliberate the purchase, exchange, lease, or value of real property for City facilities

Section 551.074 - Personnel - Deliberate the appointment, employment, evaluation, and duties of the Municipal Court Judge

Section 551.074 - Personnel - Deliberate the appointment, employment, evaluation, and duties of the economic development director

Section 551.074 - Personnel/Officers - Discussion of the appointment and duties of the Planning and Zoning Commission and the Zoning Board of Adjustment

Section 551.087 – Economic Development - Discuss or deliberate regarding commercial or financial information that the City has received from business prospects that the City seeks to have locate, stay, or expand in the City and with which the City is conducting economic development negotiations; deliberate the offer of a financial or other incentive to a business prospect

RESUME REGULAR MEETING

7:30 P.M.

CITY COUNCIL CHAMBERS

INVOCATION: Pastor Lanre Sobo, Glory House

PLEDGE OF ALLEGIANCE: City Attorney Matthew Boyle

2. EXECUTIVE SESSION READING AND PUBLIC HEARING: CONSIDER AND TAKE ANY ACTION(S) NECESSARY RELATIVE TO ITEMS DISCUSSED IN EXECUTIVE SESSION - RESOLUTION R-16-4016

3. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

Announcements of civic and charitable events

Presentation of calendar events and updates

Announcements of awards and recognition

Proclamation recognizing the Grapevine High School Baseball Team - Mayor Richard Newton and Coach Steven Hutcherson

In recognition of Colleyville's Featured Business of the Month - Red Barn Bar-B-Que, 4913 Colleyville Boulevard, Restaurant Owner Von Husbands - Mayor Richard Newton and SH26 Project Coordinator James Hubbard

4. CONSENT: READING AND PUBLIC HEARING- Resolution R-16-4017

4a Approval of the minutes of the regular City Council meeting of July 19, 2016

4b Approval of the minutes of the City Council Worksession of July 25, 2016

4c Approval of the minutes of the City Council Worksession of July 27, 2016

- 4d** Approval of the minutes of the City Council Worksession of August 2, 2016
- 4e** Approval of an Interlocal Agreement and funding for the Metroport Teen Court Program
- 4f** Approval of an engineering services agreement with Kimley-Horn and Associates, in an amount not to exceed \$347,500, for the design of drainage improvements, trail construction, water and sanitary sewer line replacement, and the street reconstruction of Pleasant Run Road, from Shelton Road to John McCain Road, and authorize the city manager to execute the agreement
- 4g** Approval of an interlocal agreement between the City of Colleyville and the City of Fort Worth to extend participation in Fort Worth's Environmental Collection Center Household Hazardous Waste Program through Fiscal Year 2017, and authorize the city manager to execute the agreement
- 4h** Approval of a construction contract with Intermountain Slurry Seal, Inc. through an Interlocal Agreement with the City of North Richland Hills for the Fiscal Year 2016 Micro-Surfacing Project in an amount not to exceed \$169,748, and authorize the city manager to execute the contract
- 4i** Approval to use Voluntary Park Fund monies to make improvements to Sparger Park, Pleasant Run Park, and City Park, in an amount not to exceed \$137,000
- 4j** Approval of the Colleyville Center Advisory Committee bylaws

5. ORDINANCE(S): SECOND READING AND PUBLIC HEARING

5a Ordinance O-16-1984

Consideration of amending Ordinance O-14-1936, adopting the 2015 edition of the *International Energy Conservation Code*; amending all conflicting portions of Section 18 of the Colleyville Code of Ordinances and amending Chapter 11 of the 2012 International Residential Code

6. ORDINANCE(S): FIRST READING AND PUBLIC HEARING

6a Ordinance O-16-1985

Consideration of a Special Use Permit for Food Packaging and Manufacturing on Lot 8R, Block 1, of the Industrial Park Addition, located at 1904 Industrial Boulevard, Case ZC16-010

6b Ordinance O-16-1986

Consideration of an ordinance amending Appendix A - Water and Sewer Policy Manual, Section 8 Financial Management, of the Colleyville, Texas, Code of Ordinances, modifying the transfers from the Utility Fund to the General Fund

7. RESOLUTION(S): READING AND PUBLIC HEARING**7a Resolution R-16-4018**

Acceptance of the Colleyville Citizen's Charter Review Committee recommendations

7b Resolution R-16-4019

A resolution calling a special election for the purpose of submitting to the registered voters of the City of Colleyville the adoption or rejection of proposed amendments to the existing Colleyville City Charter

7c Resolution R-16-4020

Approval of a proposal to set the ad valorem tax rate for Fiscal Year 2017 at \$0.33913 per hundred dollars of valuation and schedule the two required public hearings on the tax rate for August 25, 2016 and September 6, 2016

7d Resolution R-16-4021

Approval of a resolution relating to the Texas Municipal Retirement System supporting additional flexibility or alternatives in regard to cost of living adjustments for retirees

7e Resolution R-16-4022

Appointing a City Councilmember to the Audit Committee

7f Resolution R-16-4023

Approval to replace Resolution R-13-3645, adopting City Council Rules of Procedure

7g Resolution R-16-4024

Approval of an amendment to an existing agreement between CTC, Inc. and the City of Colleyville to provide maintenance services on the active warning and advance pre-emption equipment installed at the Fort Worth and Western Railroad crossings at Bransford Road, Pleasant Run Road, and John McCain Road, and authorize the city manager to execute the amendment

7h Resolution R-16-4025

Consideration of an appeal to the provisions of Section 5.9 (Minimum Tree Preservation Requirements) of the Land Development Code on Lot 4, Block 2, and Lot 3, Block 1, of the St. Andrews Addition, located at 6004 and 5812 St. Andrews Court, Case GC16-006

8. CITIZEN COMMENTS/PRESENTATIONS REGARDING ITEMS NOT ON THE AGENDA**9. REPORTS**

Planning and Zoning Commission Meeting Minutes of July 11, 2016

Zoning Board of Adjustment Meeting Minutes of July 13, 2016

Monthly Financial Report – July 2016

Quarterly Performance Management Report

10. ACTION/RESOLUTION: DISCUSSION AND CONSIDERATION OF A RESOLUTION RATIFYING COUNCIL AGENDA ACTION FOR AUGUST 16, 2016 - READING AND PUBLIC HEARING - RESOLUTION R-16-4026**11. ADJOURNMENT**

I hereby certify this agenda was posted on City Hall bulletin boards Friday, August 12, 2016, by 5:00 p.m.

Amy Shelley, TRMC
City Secretary

A quorum of any Colleyville board, commission, or committee may be present at this meeting.

Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number PC-1

Agenda Date 08/16/2016

Type Pre Council

Department Finance

Title

Discussion of the Water and Wastewater Rate Analysis

Strategy Map Connection

F2- Invest to provide and maintain high quality public assets

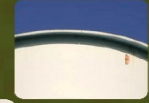
F3- Forecast needs and plan for the future, balancing priorities with resources

Explanation

Concurrent with the action taken by the City Council to provide immediate water rate relief by adopt a temporary flat volumetric rate of \$4.36 per 1,000 gallons, NewGen Strategies & Solutions has been engaged to conduct a full analysis of the City's water and wastewater rates to provide options for permanent rates. NewGen has completed their cost of service analysis, which will be shared in the attached presentation. This presentation and discussion provides an opportunity to present the cost of service findings and seek City Council direction and feedback on the goals for cost recovery for a permanent rate structure.

Attachments

1. Water and Wastewater Rate Study presentation
2. Handout- Water and Wastewater Expense Summary



August 16, 2016

City of Colleyville, Texas Water and Wastewater Rate Study



ECONOMICS

STRATEGY

STAKEHOLDERS

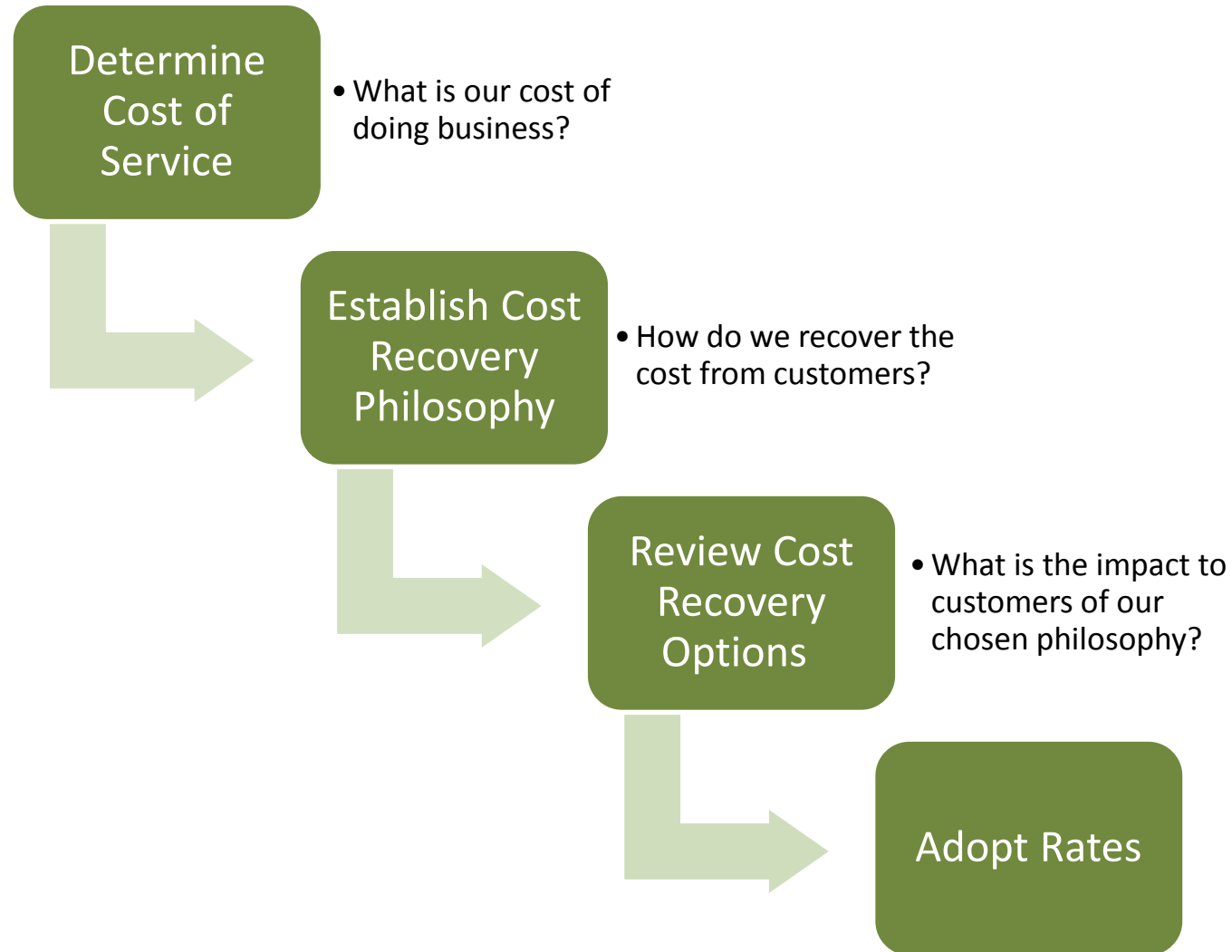
SUSTAINABILITY

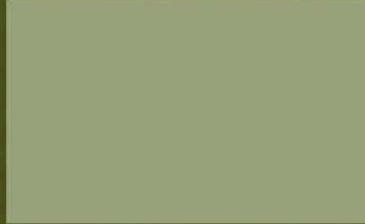
www.newgenstrategies.net

Objectives

- Provide Council with initial findings of cost of service study
- Discuss policy goals for recovering costs
- Seek input / direction on future rate design or other data needed

Rate Process





Cost of Service Findings

Water Background

- Adopted flat rate structure in July 2016 of \$4.36 / 1,000 gallons
- Approximately 75% of total water utility expenses are attributable to purchased water costs
- Meter factor equivalencies are inconsistent with recommended practices

Water Meter Factors

	AWWA Max Flow Rate (GPM)	Equivalent Relative to 1"	Current Meter Equivalencies	Current Residential Rate
Meter Size				
5/8 inch	20	1.00	1.00	\$ 13.55
3/4 inch	30	1.00	1.00	\$ 13.55
1 inch	50	1.00	1.00	\$ 13.55
1 1/2 inch	100	2.00	1.15	\$ 15.57
2 inch	160	3.20	1.50	\$ 20.29
3 inch	300	6.00	2.45	\$ 33.20
4 inch	500	10.00	3.78	\$ 51.27

Summary of Water Expenses

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Total Cost of Service	\$ 12,207,177	\$ 12,694,119	\$ 13,189,351	\$ 13,603,569	\$ 13,935,714
Non-Rate Revenue**	<u>(155,356)</u>	<u>(155,356)</u>	<u>(155,356)</u>	<u>(155,356)</u>	<u>(155,356)</u>
Total Revenue Requirement	\$ 12,051,821	\$ 12,538,763	\$ 13,033,995	\$ 13,448,213	\$ 13,780,358

- Total Cost of Service (FY 2017) = \$12,207,177
- The Revenue Requirement, which is the amount that should be generated from rate revenues (FY 2017) = \$12,051,821

**Includes revenues from earned interest, water installation, penalties, and other miscellaneous sources

Components of Water Utility Expenses

- There are two primary components of expenses for the water utility:
 - Distribution Cost of Service (FY 2017): \$3,071,054
 - Purchased Water Cost (FY 2017): \$8,980,767

Water Distribution Cost

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Distribution Revenue Requirement	\$ 3,071,054	\$ 3,085,175	\$ 3,099,884	\$ 3,114,666	\$ 3,129,522
Meter Count*	<u>9,823</u>	<u>9,869</u>	<u>9,916</u>	<u>9,964</u>	<u>10,011</u>
Average Cost per Meter per Month	\$ 26.05	\$ 26.05	\$ 26.05	\$ 26.05	\$ 26.05

- The average distribution cost per meter is approximately \$26.05 if 100% of distribution costs are recovered through the monthly minimum bill
- The current average rate per meter per month is \$13.55 as compared to an average cost of \$26.05 per meter per month
- Water sales (via the volumetric rate) are currently used to recover a portion of distribution costs, which are not fully recovered by the monthly minimum charge

*Meter count excludes government meters as these are non-billed

Water Distribution Cost

	Current
Total Revenue Generated from Monthly Minimum Bill	\$ 1,608,803
Annual Volumes included in Minimum Bill (1,000 gallons)	176,814
Current Volumetric Rate (TRA O&M)	\$2.39
Total Purchased Water Cost Recovery	<u>\$ 422,586</u>
Total Distribution Cost Recovery	\$ 1,186,218

- The City currently recovers approximately \$1.6 million annually through the monthly minimum charge
 - The City currently includes 1,500 gallons of consumption in the monthly minimum charge
 - The cost recovered from the 1,500 gallons is approximately \$422,586
 - The total distribution cost recovered is approximately \$1,186,218

Purchased Water Expense

- The purchased water cost is a variable rate that is comprised of the following:
 - O&M: A volumetric charge for water that is based on projected usage
 - Debt: A fixed charge that is based on a volumetric rate and budgeted debt service
- The City must purchase more water than it sells due to the following:
 - Water Loss: The percentage of water lost from the distribution system
 - Non-Revenue Water: (i.e. Government accounts are not currently billed for water usage)

Purchased Water Expense

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Purchased Water	\$ 8,980,767	\$ 9,453,587	\$ 9,934,111	\$ 10,333,547	\$ 10,650,836
Annual Consumption* (1,000 gallons)	2,152,978	2,163,140	2,173,354	2,183,618	2,193,934
Cost per 1,000 gallons	\$ 4.17	\$ 4.37	\$ 4.57	\$ 4.73	\$ 4.85

- The average volumetric cost (per 1,000 gallons) is approximately \$4.17 for FY 2017 if 100% of purchased water expenses are recovered through the volumetric rate
- The current volumetric rate is \$4.36 per 1,000 gallons
- Water sales (via the volumetric rate) are currently used to recover a portion of distribution costs, which are not fully recovered by the monthly minimum charge

*Annual consumption excludes government volumes as these are non-billed

Water Cost Analysis Findings

- The City is not recovering sufficient revenue in the monthly minimum charge to fund the utility's distribution expense
- The purchased water volumetric rates are currently adequate and providing support for the distribution service
- Rate adjustments will be needed to ensure the balance between components as well as to account for future cost increases, particularly with purchased water

Wastewater Background

- City uses the winter months' average of December – February for sewer calculations on residential customers
 - This is a commonly accepted practice within the utility industry
 - The average residential customer is billed for 8,500 gallons per month
- Approximately 55% of total wastewater utility costs are attributable to purchased wastewater treatment
 - Purchased wastewater treatment is anticipated to increase to 69% of total wastewater utility costs over the next five years

Summary of Wastewater Expenses

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Total Cost of Service	\$ 4,500,243	\$ 4,870,943	\$ 5,295,476	\$ 5,782,328	\$ 6,340,840
Non-Rate Revenue**	<u>(128,356)</u>	<u>(128,356)</u>	<u>(128,356)</u>	<u>(128,356)</u>	<u>(128,356)</u>
Total Revenue Requirement	\$ 4,371,887	\$ 4,742,587	\$ 5,167,120	\$ 5,653,972	\$ 6,212,484

- Total Cost of Service (FY 2017) = \$4,500,243
- The Revenue Requirement, which is the amount that should be generated from rate revenues (FY 2017) = \$4,371,887

**Includes revenues from earned interest, sewer installation revenues, penalties, and other miscellaneous sources

Components of Wastewater Utility Expenses

- There are two primary components of expenses for the water utility:
 - Collection Cost of Service (FY 2017): \$1,965,254
 - Purchased Wastewater Treatment (FY 2017): \$2,406,633

Wastewater Collection Cost

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Collection Revenue Requirement	\$ 1,965,254	\$ 1,974,959	\$ 1,984,349	\$ 1,993,785	\$ 2,003,268
Customer Count	<u>9,050</u>	<u>9,093</u>	<u>9,136</u>	<u>9,179</u>	<u>9,223</u>
Average Cost per Customer per Month	\$ 18.10	\$ 18.10	\$ 18.10	\$ 18.10	\$ 18.10

- The average monthly cost per meter is approximately \$18.10 if 100% of collection costs are recovered through the monthly minimum charge
- The current average rate per customer per month is \$10.45 as compared to an average cost of \$18.10 per customer per month
- Flow revenues (via the volumetric sewer rate) are currently used to recover a portion of collection costs, which are not fully recovered by the monthly minimum charge

*Customer count excludes the government customer class as it is non-billed

Wastewater Collection Cost

	Current
Total Revenue Generated from Monthly Minimum Bill	\$ 1,129,478
Annual Volumes included in Minimum Bill (1,000 gallons)	162,900
Current Volumetric Rate (TRA O&M/Debt)	\$2.42
Total Purchased Wastewater Treatment Cost Recovery	<u>\$ 394,218</u>
Total Collection Cost Recovery	\$ 735,260

- The City currently recovers approximately \$1.1 million annually through the monthly minimum charge
 - The City currently includes 1,500 gallons of flow in the minimum charge
 - The treatment cost recovered from the 1,500 gallons is approximately \$394,218
 - The total collection cost recovered is approximately \$735,260

Purchased Wastewater Treatment

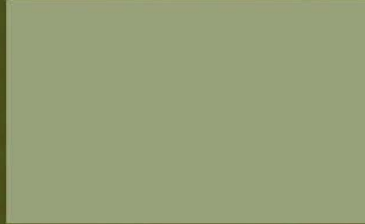
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Purchased Wastewater Treatment	\$ 2,406,633	\$ 2,767,627	\$ 3,182,772	\$ 3,660,187	\$ 4,209,215
Annual Billed Flow* (1,000 gallons)	1,042,284	1,046,918	1,051,575	1,056,255	1,060,958
Cost per 1,000 gallons	\$ 2.31	\$ 2.64	\$ 3.03	\$ 3.47	\$ 3.97

- The average cost (per 1,000 gallons) is approximately \$2.31 for FY 2017
- The current volumetric rate is \$3.14 per 1,000 gallons
- Flow revenues (via the volumetric sewer rate) are currently used to recover a portion of collection costs, which are not fully recovered by the monthly minimum charge

*Annual billed flow exclude government volumes as these are non-billed

Wastewater Cost Analysis Findings

- The City is not recovering sufficient revenue in the monthly minimum charge to fund the utility's collection expense
- The wastewater treatment volumetric rates are currently adequate and providing support for the collection service
- Rate adjustments will be needed to ensure the balance between components as well as to account for future cost increases, particularly with purchased wastewater treatment



Cost Recovery Philosophy

Cost Recovery Policy Discussions

- Utility is a revenue-neutral entity
 - Revenues must match or equal expenditures
- Like a business, cash-flow matters
 - Greater revenue in the summer, expenses year-round
- Two-Part rate structure must be balanced

City's Cost Structure

- Purchased water / wastewater treatment service consists of two parts
 - Debt Service (Fixed)
 - O&M Payment (Varies based on use)
- Distribution / Collection cost primarily fixed
 - Only varying elements are electricity and chemicals

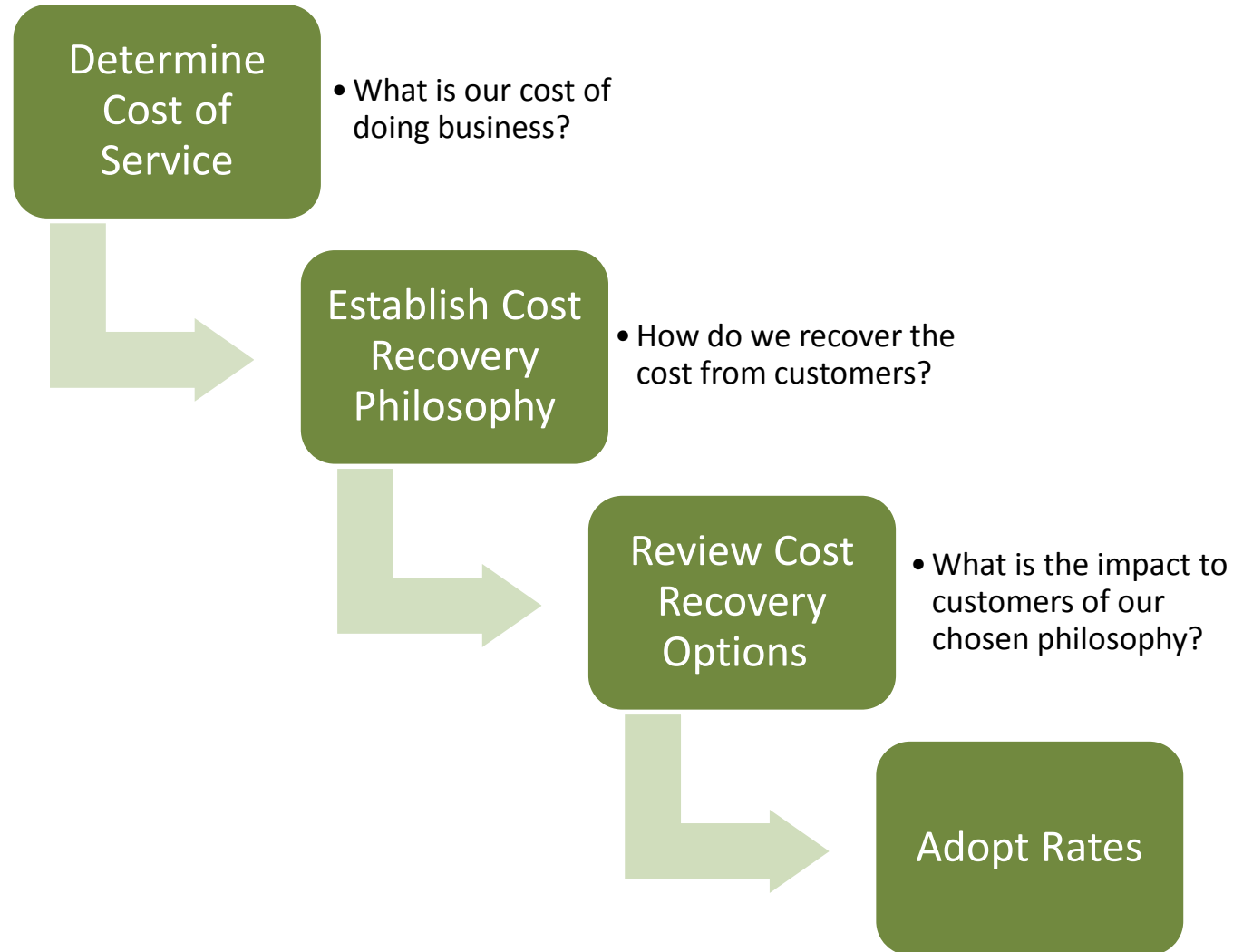
Two-Part Rate Structure

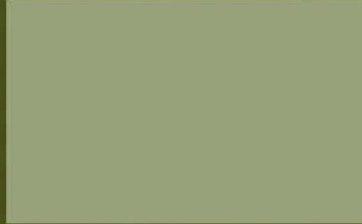
- What cost should be recovered in fixed charge?
 - Stable component of revenue stream
 - Not impacted by use / weather
 - Unavoidable cost for customer
 - Recommend the City recover Distribution / Collection cost in fixed charge
- Other Recommendations
 - The City should continue its plan to remove all volumes from minimum bill
 - Consider implementation of AWWA meter equivalencies

Two-Part Rate Structure

- What cost should be recovered in the variable charge?
 - Impacted by weather / use
 - Element allowing a customer to control their bill
 - Recommend the City recover the purchased water / wastewater treatment service in variable charge
- How should variable charge be structured?
 - Preliminary direction: For volumetric water rates, Council has indicated the preference of a flat rate structure versus a tiered rate structure

Next Steps . . .





Questions / Discussion

City of Colleyville, Texas
Water and Wastewater Cost of Service and Rate Design
Forecast Summary

	Year 1 FY 2017	Year 2 FY 2018	Year 3 FY 2019	Year 4 FY 2020	Year 5 FY 2021
<u>WATER EXPENSE SUMMARY</u>					
Utility Billing					
Fixed Costs	\$213,051	\$217,312	\$221,658	\$226,091	\$230,613
Variable Costs	-	-	-	-	-
Subtotal	\$213,051	\$217,312	\$221,658	\$226,091	\$230,613
Utility Support					
Fixed Costs	\$618,637	\$631,009	\$643,629	\$656,502	\$669,632
Variable Costs	-	-	-	-	-
Subtotal	\$618,637	\$631,009	\$643,629	\$656,502	\$669,632
Water Utility Operations					
Fixed Costs	\$605,045	\$617,146	\$629,489	\$642,079	\$654,920
Variable Costs (Chemicals)	2,450	2,499	2,549	2,600	2,652
Purchased Water	8,980,767	9,453,587	9,934,111	10,333,547	10,650,836
Subtotal	\$9,588,262	\$10,073,232	\$10,566,149	\$10,978,226	\$11,308,408
Non-Departmental					
Fixed Costs	\$97,675	\$99,628	\$101,621	\$103,653	\$105,726
Variable Costs (Electricity)	62,727	63,982	65,261	66,566	67,898
Subtotal	\$160,402	\$163,610	\$166,882	\$170,219	\$173,624
Tomorrow Fund Transfer	32,772	-	-	-	-
Compensation Adjustments	14,104	-	-	-	-
Capital					
Cash Funded	\$1,400,000	\$1,530,293	\$1,591,033	\$1,572,530	\$1,553,437
Debt Service	179,950	78,663	-	-	-
Subtotal	\$1,579,950	\$1,608,956	\$1,591,033	\$1,572,530	\$1,553,437
Total Water Cost of Service	\$12,207,177	\$12,694,119	\$13,189,351	\$13,603,569	\$13,935,714
Non-Rate Revenue Offsets	(\$155,356)	(\$155,356)	(\$155,356)	(\$155,356)	(\$155,356)
Water Revenue Requirement	\$12,051,821	\$12,538,763	\$13,033,995	\$13,448,213	\$13,780,358

City of Colleyville, Texas
Water and Wastewater Cost of Service and Rate Design
Forecast Summary

	Year 1 FY 2017	Year 2 FY 2018	Year 3 FY 2019	Year 4 FY 2020	Year 5 FY 2021
<u>WASTEWATER EXPENSE SUMMARY</u>					
Utility Billing					
Fixed Costs	\$213,051	\$217,312	\$221,658	\$226,091	\$230,613
Variable Costs	-	-	-	-	-
Subtotal	\$213,051	\$217,312	\$221,658	\$226,091	\$230,613
Utility Support					
Fixed Costs	\$618,637	\$631,009	\$643,629	\$656,502	\$669,632
Variable Costs	-	-	-	-	-
Subtotal	\$618,637	\$631,009	\$643,629	\$656,502	\$669,632
Wastewater Utility Operations					
Fixed Costs	\$292,653	\$298,506	\$304,476	\$310,566	\$316,777
Variable Costs (Chemicals)	3,300	3,366	3,433	3,502	3,572
Purchased Wastewater Treatment	2,406,633	2,767,627	3,182,772	3,660,187	4,209,215
Subtotal	\$2,702,586	\$3,069,499	\$3,490,681	\$3,974,255	\$4,529,564
Non-Departmental					
Fixed Costs	\$97,675	\$99,628	\$101,621	\$103,653	\$105,726
Variable Costs (Electricity)	62,727	63,982	65,261	66,566	67,898
Subtotal	\$160,402	\$163,610	\$166,882	\$170,219	\$173,624
Tomorrow Fund Transfer	11,514	-	-	-	-
Compensation Adjustments	14,104	-	-	-	-
Capital					
Cash Funded	\$600,000	\$710,850	\$772,626	\$755,260	\$737,406
Debt Service	179,950	78,663	-	-	-
Subtotal	\$779,950	\$789,512	\$772,626	\$755,260	\$737,406
Total Wastewater Cost of Service	\$4,500,243	\$4,870,943	\$5,295,476	\$5,782,328	\$6,340,840
Non-Rate Revenue Offsets	(\$128,356)	(\$128,356)	(\$128,356)	(\$128,356)	(\$128,356)
Wastewater Revenue Requirement	\$4,371,887	\$4,742,587	\$5,167,120	\$5,653,972	\$6,212,484



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number PC-2

Agenda Date 08/16/2016

Type Pre Council

Department City Secretary

Title

Discussion of the August 16, 2016, City Council regular agenda items



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 1

Agenda Date 08/16/2016

Type Executive Session

Department City Secretary

Title

Section 551.071 - Legal - Consultation with City Attorney on legal issues raised by public hearing or action items on the agenda

Section 551.071 - Legal - Consultation with City Attorney regarding litigation - Lincoln et al v. City of Colleyville

Section 551.071 - Legal - Consultation with City Attorney regarding City sign ordinance

Section 551.071 - Legal - Consultation with City Attorney regarding City Developer Agreement

Section 551.072 - Real Estate - Deliberate the purchase, exchange, lease, or value of real property for City facilities

Section 551.074 - Personnel - Deliberate the appointment, employment, evaluation, and duties of the Municipal Court Judge

Section 551.074 - Personnel - Deliberate the appointment, employment, evaluation, and duties of the economic development director

Section 551.074 - Personnel/Officers - Discussion of the appointment and duties of the Planning and Zoning Commission and the Zoning Board of Adjustment

Section 551.087 - Economic Development - Discuss or deliberate regarding commercial or financial information that the City has received from business prospects that the City seeks to have locate, stay, or expand in the City and with which the City is conducting economic development negotiations; deliberate the offer of a financial or other incentive to a business prospect

Attachments

RESOLUTION R-16-4016

**A RESOLUTION APPROVING COUNCIL ACTION REGARDING
EXECUTIVE SESSION ITEMS AT THE
REGULAR CITY COUNCIL MEETING OF AUGUST 16, 2016**

WHEREAS, following discussion in Executive Session, and in full accordance with the requirements of the Open Meetings Act, the City Council determines that the following action is in the best interests of the health, safety, and welfare of the public.

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

Sec. 1. THAT

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS
ON THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 3

Agenda Date 08/16/2016

Type Announcements, Proclamations, and Presentations

Department City Secretary

Title

Proclamation recognizing the Grapevine High School Baseball Team - Mayor Richard Newton and Coach Steven Hutcherson

In recognition of Colleyville's Featured Business of the Month - Red Barn Bar-B-Que, 4913 Colleyville Boulevard, Restaurant Owner Von Husbands - Mayor Richard Newton and SH26 Project Coordinator James Hubbard

Attachments

1. Proclamation recognizing the Grapevine High School Baseball Team

Proclamation

CITY OF

Colleyville,
Texas

WHEREAS: the Grapevine High School Baseball Team finished the 2016 season as Undefeated District Champions, Class 5A, Region 1 Champions, and Class 5A State Champions; and

WHEREAS, this year's team is now the record holder for the most wins by a Grapevine High School (GHS) Baseball Team with 35, as well as the best overall record with a final record of 35-6-2; and

WHEREAS, by winning the Texas Class 5A State Championship, the 2016 GHS Baseball Team is now the only team in the history of the GHS baseball program to achieve this; and

WHEREAS, several individual achievements were also accomplished by the members of the 2016 GHS Baseball Team, among those were: one player being named to the THSBCA All-State Team; three players named to the All-DFW Team; one player made the THSBCA 5A-6A All-Star Game; 13 players received an All-District Honor; and three seniors were awarded Academic All-State; and

WHEREAS, this year's Varsity baseball team consisted of 26 members – 13 seniors, 12 juniors, and one sophomore. Five of the seniors will be continuing their baseball careers in college; and

WHEREAS, the coaches for the 2016 GHS baseball program were Steven Hutcherson, Tommy Maddox, and Darien Mooney.

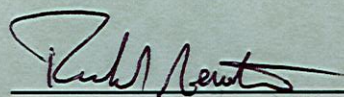
NOW, THEREFORE, I, RICHARD NEWTON, MAYOR OF THE CITY OF COLLEYVILLE, TEXAS, on behalf of the City Council and the citizens of Colleyville, do hereby extend congratulations to the

GRAPEVINE HIGH SCHOOL BASEBALL TEAM

for their outstanding athletic performance and representation of the State of Texas, and further applaud and recognize their academic achievements.

IN WITNESS WHEREOF, I do hereby set my hand and seal of the City of Colleyville, Texas, affixed this 16th day of August 2016.





Mayor



RESOLUTION R-16-4017

A RESOLUTION APPROVING CITY COUNCIL ACTION UNDER CONSENT ITEMS AT THE REGULAR CITY COUNCIL MEETING OF AUGUST 16, 2016

WHEREAS, City Council has taken action on certain items on the agenda under Consent Items.

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

- Sec. 1. THAT the agenda decisions approved by City Council action under Consent Items as follows are hereby adopted:
- a. Approval of the minutes of the regular City Council meeting of July 19, 2016
 - b. Approval of the minutes of the City Council Worksession of July 25, 2016
 - c. Approval of the minutes of the City Council Worksession of July 27, 2016
 - d. Approval of the minutes of the City Council Worksession of August 2, 2016
 - e. Approval of an Interlocal Agreement and funding for the Metroport Teen Court Program
 - f. Approval of an engineering services agreement with Kimley-Horn and Associates, in an amount not to exceed \$347,500, for the design of drainage improvements, trail construction, water and sanitary sewer line replacement, and the street reconstruction of Pleasant Run Road, from Shelton Road to John McCain Road, and authorize the city manager to execute the agreement
 - g. Approval of an interlocal agreement between the City of Colleyville and the City of Fort Worth to extend participation in Fort Worth's Environmental Collection Center Household Hazardous Waste Program through Fiscal Year 2017, and authorize the city manager to execute the agreement

- h. Approval of a construction contract with Intermountain Slurry Seal, Inc., through an Interlocal Agreement with the City of North Richland Hills for the Fiscal Year 2016 Micro-Surfacing Project, in an amount not to exceed \$169,748, and authorize the city manager to execute the contract
- i. Approval to use Voluntary Park Fund monies to make improvements to Sparger Park, Pleasant Run Park, and City Park, in an amount not to exceed \$137,000
- j. Approval of the Colleyville Center Advisory Committee bylaws

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS
ON THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor



City of Colleyville City Council Minutes - Draft

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
www.colleyville.com

Tuesday, July 19, 2016

City Council Chambers

Mayor Richard Newton called the Pre Council meeting of the Colleyville City Council to order on Tuesday, July 19, 2016, at 5:30 p.m.

ROLL CALL: Mayor Richard Newton, Mayor Pro Tem Chris Putnam, and Councilmembers Tammy Nakamura, Bobby Lindamood, Jody Short, Nancy Coplen and Mike Taylor

City Manager Jennifer Fadden, Deputy City Manager Chris Fuller, Assistant City Manager/Director of Public Safety Mike Holder, Fire Marshal Rob McKeown, Assistant Police Chief Robert Hinton, Chief Financial Officer Brian Hogan, Human Resources Director Rachel Huitt, Public Works Director Jeremy Hutt, City Engineer Cheryl Taylor, Recreation and Library Director Mary Rodne, Community Development Director Ben Bryner, Colleyville Center Manager Leslie Hill, Accounting Manager Karen Hines, Parks Manager Heather Dowell, SH26 Coordinator James Hubbard, Strategic Services Manager Adrienne Lothery, City Attorney Matthew Boyle, and City Secretary Amy Shelley

PC-1 Discussion of Community Garden Survey

Parks Manager Heather Dowell presented this item and briefed the City Council.

Mayor Pro Tem Putnam asked staff if they have any personal experience with community gardens. Manager Dowell replied yes, she was involved in the community garden on UTA property in Arlington; however, the city managed and maintained it along with the gardeners and the Garden Board. She stated there were a lot of challenges and some conflicts, and she organized all garden work days since no one would step up to the leadership role.

Mayor Pro Tem Putnam asked staff how the water is managed with a garden on City owned property, but not managed by the City. Manager Dowell replied the gardeners are in charge of it, but it essentially falls back on the City to make sure water is not being wasted.

Councilmember Nakamura asked staff who the survey was sent to. City Manager Jennifer Fadden replied it was promoted through all City communication tools. Manager Dowell added she had contacted the garden groups who had an interest.

Councilmember Nakamura asked staff about the Garden Club and if they have interest in running this. Manager Dowell replied the Garden Club has not informed

her of that. Councilmember Coplen added nobody wants to be in charge of it, that she is aware of.

Councilmember Coplen stated she spoke to the persons who run the community gardens for GRACE and 6 Stones (both non-profit agencies), and they do well because they are planting to give away the crops. She added there has been one lady who has been doing the one for GRACE for over 10 years. She stated at the garden for 6 Stones, which is on 6 Stones property, gardeners pay for their plot.

Councilmember Lindamood stated he is very familiar with community gardens, and the ones he has seen have been very well organized. He stated being pro gardens and seeing families working in the garden is nice. He stated there will always be challenges with group efforts. Mayor Newton agreed, and stated McPherson Park seems to be a logical location for this. He stated the garden should be run by a group, and if they stop maintaining it, then it will go away.

Councilmember Coplen suggested the garden be planted on Compass Church land, and a percentage of the crops could go to GRACE, since there is a pick-up station across the street. Councilmember Lindamood stated he believes that is why 6 Stones is so good since they know they are helping to feed the community.

Councilmember Short stated taking on another program, especially when contemplating revenue reductions is a concern.

Councilmember Nakamura asked Mayor Newton if we are contemplating any funds for this. Mayor Newton replied with being on City property, the only thing would be water. He stated there are ways to accomplish this, maybe with volunteer funds, with a little City oversight. He added he does not believe it will be successful without that.

Councilmember Taylor stated he does not believe this is a government function, and he would defer to the Garden Club's wisdom and they do not want to run this. He added City staff would be the one to have to take this over.

Mayor Newton asked staff about the project at the Webb House. Manager Dowell replied the Garden Club had installed some drip irrigation for the landscaping at the Webb House. She stated the irrigation system did not function properly. She added the Garden Club has provided more money for staff to fix and maintain that system.

Councilmember Taylor asked staff about the flower bed at Kidsville. Manager Dowell replied it is a small bed, and the City maintains it.

Mayor Newton asked staff if the Garden Club provides money for the City to maintain the Webb House landscaping, or do they just donate money, and then they would maintain it. Manager Dowell replied the last agreement was to provide

funds for the City to update the landscaping. Councilmember Coplen added maintenance was previously included.

Councilmember Lindamood stated if this is pursued, and all monies are donated, it may be worth a chance. He added if it does not work out, then the City can remove it.

Mayor Newton asked City Council if they would like to move forward, and involve citizens, not staff, who want to move ahead with the project. Councilmember Lindamood suggested taking baby steps and if there is not a response, then the project can be wiped off the table. Mayor Pro Tem Putnam stated it is a legitimate community effort, not a staff initiative, and if there is a group that can bring forward a plan, inclusive of remedies to mitigate issues, then there is no harm in entertaining the idea. He added he preferred the Garden Club to participate. Councilmember Nakamura stated Manager Dowell would be a great person to work with whichever group, but not to run it ourselves.

PC-2 Presentation and discussion of fees and charges

Strategic Services Manager Adrienne Lothery presented this item and briefed the City Council. Colleyville Center Manager Leslie Hill and Colleyville Center Advisory Committee Chair Mark Johnson were also present.

Mayor Newton asked staff about the timeframe for the rates. Manager Hill replied it is for a four-hour block.

Councilmember Lindamood asked staff if this includes all non-profits, or just Colleyville based non-profits. Manager Lothery replied Colleyville based non-profits.

Councilmember Short asked staff about the concern for the Friday morning group. Mr. Johnson replied that issue has eroded away over the years, and there were no "no" votes from the Colleyville Lions Club just an abstention.

Councilmember Short asked staff if there are other types of groups who utilize the Center every week, and would have the same financial impact. Manager Hill replied the Colleyville Womans' Club meets four or five times a month, and the Garden Club meets once a month. She added staff has to open up the Center extremely early on Friday, weekly, and staff allows an extension on the four-hour block, with the Lions Club being there five and six hours.

Councilmember Short asked if there is any differentiation between non-profit and service oriented groups. Manager Lothery replied not from a rate perspective. Manager Hill replied the non-profit organizations are utilizing the Center 60 percent of the time, Monday through Friday, with only 16 percent of the generated revenue. She stated there has not been an increase in this rate in 20 years, and

she has already renegotiated the contracts; therefore, these rates will not affect those contracts, until next year.

Mayor Newton asked staff if these are the annual contracts. Manager Hill replied yes.

Councilmember Lindamood asked staff if in 2017 they will pay \$90 or \$75. Manager Lothery replied \$75.

Mayor Pro Tem Putnam asked staff if there is a way to grandfather the existing contracts into the step increase, and then use the new rates for new customers. Manager Hill replied there are only a few non-profits in the City.

Councilmember Nakamura asked staff if they have discussed it with everyone. Manager Hill replied yes.

Mayor Pro Tem Putnam asked staff if revenue recovery has been slipping. Managers Hill and Lothery replied yes

Councilmember Short asked staff if one or more find other places to meet, will that be a positive or negative impact on the Center. Manager Hill replied it would affect about 16-25 percent of the Center's revenue; however, it could be replaced with customers paying the higher rates.

Mayor Newton asked staff if other fees have changed over the 20 years. Manager Hill replied rates have been increased for non-standard rates and non-citizens.

Mayor Newton asked staff if these rates include audio and visual use. Manager Hill replied yes, those are not increasing.

Councilmember Lindamood asked staff how much of the revenue will this small increase help with catch up. Manager Hill replied it could honestly be a wash, from an operational stand point.

Councilmember Nakamura asked staff if customers are charged for using their own thumb drive for open records requests. City Secretary Amy Shelley replied no.

Councilmember Taylor asked staff if there would be a security issue with using someone else's thumb drive. City Secretary Amy Shelley replied there could be, but we have not had this occur.

Councilmember Nakamura asked staff if there would be a charge for using a new, right out of the box, thumb drive. City Secretary Amy Shelley replied there would not be a charge.

Mayor Newton asked staff where the fees are located that the City charges for development. Manager Lothery replied these fees are located in the Local Government Code, Municode, on the City's website, Section 2-26 includes fees and administrative charges for City services where the vast majority of those are located. She added each time a fee is updated, staff tries to include it in this section.

PC-3 Discussion of any proposed TML resolutions

Mayor Newton led the discussion regarding this item. He stated there have been two items come up: (1) the Judge has made a request for the state to separate how the data is collected for paraphernalia because it currently goes into the alcohol category.

Councilmember Short asked Mayor Newton if this is a statewide record keeping issue. Mayor Newton replied yes, the information gets buried because it goes into the incorrect category.

Councilmember Short asked Mayor Newton if the records are also maintained locally. Mayor Newton replied yes, the Judge does for her court.

Mayor Newton asked staff if this item is in alignment for TML to push this up. Assistant City Manager/Director of Public Safety Mike Holder replied it could be more of a procedural issue with the Department of Public Safety. He stated the way the state says we have to report it, is not the way the law is written as it does not capture fine only offenses. He added it is not a law that needs to be written or changed.

Mayor Newton asked staff about how this is done. Assistant City Manager/Director of Public Safety Mike Holder replied the way he has seen it done with other committees is that rather than recommending wording for law or law change, it is more set up as a point of action to be addressed. Mayor Newton replied he is good with whatever is the appropriate way to get at what we are trying to change.

Mayor Newton stated the other item that has been brought to his attention is with the Texas Municipal Retirement System and how COLA is done. He stated currently if the City wants to add COLA to the retirement system, TMRS makes this retroactive, which is cost prohibitive, but if they change that process, maybe we could make a COLA change, but right now we cannot.

Councilmember Nakamura asked Mayor Newton if he is proposing not to make it retroactive. Mayor Newton replied yes, but currently TMRS does not have a process for this. City Manager Jennifer Fadden added it is part of the TMRS Act.

Councilmember Taylor stated he would like for some relief with the cost of health coverage, such as to put together coops for health insurance. He stated there are

a lot of cities with common interests and common payrolls, and it could be done statewide. He suggested something like what Colleyville has done with the combination of Colleyville and Keller Court, Animal services, and Teen Court. Mayor Newton replied being supportive of that.

Mayor Newton stated he wants to also push these to the state representatives.

Councilmember Coplen asked staff about who will write these requests. City Manager Jennifer Fadden replied staff will write these requests for City Council's consideration on the next City Council agenda.

PC-4 Discussion of the July 19, 2016, City Council regular agenda items

There was no discussion of this item.

Mayor Newton adjourned the Pre Council meeting at 6:35 p.m.

The regular meeting of the Colleyville City Council was called to order by Mayor Newton at 7:30 p.m.

ROLL CALL: Mayor Richard Newton, Mayor Pro Tem Chris Putnam, and Councilmembers Tammy Nakamura, Bobby Lindamood, Jody Short, Nancy Coplen and Mike Taylor

City Manager Jennifer Fadden, Deputy City Manager Chris Fuller, Assistant City Manager/Director of Public Safety Mike Holder, Fire Marshal Rob McKeown, Assistant Police Chief Robert Hinton, Chief Financial Officer Brian Hogan, Human Resources Director Rachel Huitt, Public Works Director Jeremy Hutt, City Engineer Cheryl Taylor, Community Development Director Ben Bryner, Parks Manager Heather Dowell, SH26 Coordinator James Hubbard, Strategic Services Manager Adrienne Lothery, Information Systems Manager Chris Pena, City Attorney Matthew Boyle, and City Secretary Amy Shelley

1. EXECUTIVE SESSION - In accordance with Texas Government Code, Chapter 551, Subchapter D

Section 551.071 - Legal - Consultation with attorney on legal issues raised by public hearing or action items on the agenda

Section 551.071 - Legal - Consultation with City attorney regarding litigation - Lincoln et al v. City of Colleyville

Section 551.072 - Real Estate - Deliberate the purchase, exchange, lease, or value of real property for City facilities

Section 551.087 – Economic Development - Discuss or deliberate regarding commercial or financial information that the City has received from business prospects that the City seeks to have locate, stay, or expand in the City and with which the City is conducting economic development negotiations; deliberate the offer of a financial or other incentive to a business prospect

Mayor Newton explained the Executive Session had been called in accordance with the Texas Government Code, Chapter 551, Subchapter D, Section 551.071, Legal, Section 551.072, Real Estate, and Section 551.087, Economic Development. He further explained there would be no decisions made or action taken during this time. The meeting was convened and recessed at 6:56 p.m.

INVOCATION: Jackie and Graeme Stratto, Colleyville Baha'i Community

PLEDGE OF ALLEGIANCE: City Attorney Matthew Boyle

2. EXECUTIVE SESSION READING AND PUBLIC HEARING: CONSIDER AND TAKE ANY ACTION(S) NECESSARY RELATIVE TO ITEMS DISCUSSED IN EXECUTIVE SESSION - RESOLUTION R-16-4012

This resolution was not needed.

3. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

Announcements of civic and charitable events

Presentation of calendar events and updates

Announcements of awards and recognition

In recognition of the Colleyville's featured business - Market Street, 5605 Colleyville Boulevard, Store Director Allen Strange and Assistant Store Director Mike Fuller - Mayor Richard Newton and SH26 Project Coordinator James Hubbard

Mayor Richard Newton and SH26 Project Coordinator James Hubbard welcomed Market Street Store Director Allen Strange and Assistant Store Director Mike Fuller, and recognized Market Street as the featured business of the month.

4. CONSENT: READING AND PUBLIC HEARING- Resolution R-16-4013

4a Approval of the minutes of the regular City Council meeting of July 12, 2016

4b Approval of the sale or disposal of abandoned/found property, seized items, obsolete and non-serviceable equipment and vehicles

- 4c** Consideration of a Right-of-Way Encroachment and Joint Use Agreement on Somerset Boulevard at the entrance to the Lakes of Somerset subdivision. Case ENG 1605-001
- 4d** Approval of bid awards for medical and dental insurance to Blue Cross Blue Shield of Texas; vision insurance to Superior Vision of Texas; life insurance from Dearborn National Life Insurance Company; third-party administration of the flexible spending account to Discovery Benefits, Inc.; and pricing transparency services to Compass Professional Health Services, and authorize the city manager to execute the agreements

Mayor Newton read Resolution R-16-4013 in its entirety.

Public Works Director Jeremy Hutt presented item 4c and briefed the City Council.

Mayor Newton asked staff if the guard house will be unmanned by the HOA. Director Hutt replied correct, it will not be a gated subdivision or manned.

Councilmember Lindamood asked staff if the red oak tree will be removed in front of the proposed guard house. Director Hutt replied he is not aware of the removal of any trees.

Councilmember Lindamood asked staff if the tree will obstruct the view of the guard house. Director Hutt replied that was not specified in the request, and no changes in the right-of-way have been requested.

Jim Makens, 1312 Somerset, stated the guard house in question will be located in the open space in the median, no trees or landscaping will be removed, security cameras will be installed, and the trees will not impair the cameras.

Human Resources Director Rachel Huitt presented item 4d, and briefed the City Council.

Mayor Newton asked staff if it is correct there are no additional costs to the employees, the HRA is going away, because only 35 employees are using it, and next year will be a bigger challenge in front of us for insurance costs. Director Huitt replied correct, especially if we receive another increase.

Mayor Newton opened the public hearing at 7:56 p.m.

Kathleen Hennessey, 5013 Stonebridge Drive, asked the following questions about item 4d: (1) is there coverage for catastrophic events or illness; (2) are there provisions about prescription drugs; (3) are there provisions for physical therapy; (4) are there substance abuse programs; and, (5) does the wellness program work in conjunction with the employee and their physician.

There were no others present wishing to speak and Mayor Newton closed the public hearing at 7:59 p.m.

Rachel Huitt responded to Ms. Hennessey's questions and explained that the health insurance does cover, or provide provisions for each of her concerns.

Mayor Pro Tem Putnam made a motion to approve Resolution R-16-4013. Councilmember Lindamood seconded the motion.

The motion carried with the following vote:

Aye: 7 – Mayor Richard Newton, Mayor Pro Tem Chris Putnam, and Councilmembers Tammy Nakamura, Bobby Lindamood, Jody Short, Nancy Coplen, and Mike Taylor

5. ORDINANCE(S): SECOND READING AND PUBLIC HEARING

5a Ordinance O-16-1982

Consideration of an amendment to the PUDC-Planned Unit Development Commercial District on Lots 1R, 2, and 3, Block 1 of the Village Park Addition, located at 1001, 1005, and 1009 Glade Road, Case ZC16-009

Mayor Newton read the caption of Ordinance O-16-1982.

Deputy City Manager Chris Fuller presented this item and updated the City Council.

Mayor Newton asked staff if the re-zoning of this commercial area is to allow for additional uses, and is consistent with what surrounds it. Deputy City Manager Chris Fuller replied yes.

Mayor Newton asked staff about the parking for the current and newly proposed uses. Deputy City Manager Chris Fuller replied there are currently 68 parking spaces with 64 being utilized. He stated if the most restrictive uses in the CN or CPO zoning district were to be utilized on this site, 83 parking spaces would be required.

Mayor Newton asked staff how the City would handle that if that were to occur. Deputy City Manager Chris Fuller replied if that were to occur, staff can only permit or issue certificates of occupancy that would accommodate those parking spaces.

Terry Lyons, 1907 Renfro, property owner and applicant, presented the item and briefed the City Council. He stated they are currently utilizing about 38 parking

spaces each day. He added they want health and beauty spa uses, and they do not envision using all of the existing parking spaces.

Mayor Newton asked Mr. Lyons if he understands that a Mr. Jims Pizza, or anything like it, would not be allowed again, if it goes away. Mr. Lyons replied he did not know that since it is considered retail space, not really office type space. Deputy City Manager Chris Fuller added the ordinance states "upon termination or abandonment of the existing restaurant use, future uses shall thereafter conform to the regulations applicable to the governing zoning ordinance." City Manager Jennifer Fadden stated they could renew their lease.

Mayor Newton asked staff if Mr. Jims does not renew their lease, then another similar place, such as "Soup or Salad" could not come in its place. Deputy City Manager Chris Fuller replied correct, another like-minded business would not be able to come in.

Mayor Newton asked staff if this rezoning does not affect the businesses currently there. Deputy City Manager Chris Fuller replied correct.

Councilmember Taylor asked staff if the nine uses, listed in the briefing, are allowed to go into this location. Deputy City Manager Chris Fuller replied this rezoning would allow those new uses in addition to the existing uses.

Councilmember Taylor asked staff where a yoga studio would fit. Deputy City Manager Chris Fuller replied a yoga studio would be considered a fitness gym.

Mayor Pro Tem Putnam stated on a positive side, he could build a golf course.

Mayor Newton opened the public hearing at 8:18 p.m.

There was no one present wishing to speak and Mayor Newton closed the public hearing at 8:18 p.m.

Councilmember Taylor made a motion to approve Ordinance O-16-1982. Councilmember Nakamura seconded the motion.

The motion carried with the following vote:

Aye: 7 – Mayor Richard Newton, Mayor Pro Tem Chris Putnam, and Councilmembers Tammy Nakamura, Bobby Lindamood, Jody Short, Nancy Coplen, and Mike Taylor

5b Ordinance O-16-1983

Authorizing the sale and issuance of \$6,140,000 of General Obligation Refunding Bonds, Series 2016 and providing for the redemption of the obligations being refunded

Mayor Newton read the caption of Ordinance O-16-1983.

Chief Financial Officer Brian Hogan presented this item and briefed the City Council. Jorge Delgado, First Southwest, was also present to answer any questions.

Councilmember Taylor asked Mr. Delgado to explain what it means that we do not extend duration, but we are reissuing bonds. Mr. Delgado replied basically when you do not extend the duration of the bond, you simply replace your existing debt with new debt at a lower rate. He then compared this to refinancing a mortgage. He stated the average coupon that you are paying on the old debt is 3.96 percent, but the average coupon on the new debt was replaced at 2.4 percent.

Mayor Newton opened the public hearing at 8:25 p.m.

There was no one present wishing to speak and Mayor Newton closed the public hearing at 8:25 p.m.

Councilmember Taylor made a motion to approve Ordinance O-16-1983. Councilmember Coplen seconded the motion.

The motion carried with the following vote:

Aye: 7 – Mayor Richard Newton, Mayor Pro Tem Chris Putnam, and Councilmembers Tammy Nakamura, Bobby Lindamood, Jody Short, Nancy Coplen, and Mike Taylor

6. ORDINANCE(S): FIRST READING AND PUBLIC HEARING

6a Ordinance O-16-1984

Consideration of amending Ordinance O-14-1936, adopting the 2015 edition of the *International Energy Conservation Code*; amending all conflicting portions of Section 18 of the Colleyville Code of Ordinances and amending Chapter 11 of the 2012 International Residential Code

Mayor Newton read the caption of Ordinance O-16-1984.

Building Official Eddie Wilson presented this item and updated the City Council.

Councilmember Taylor asked staff if the standards are the same for residential and commercial. Official Wilson replied not for duct leakage testing, but there are certain sections that are not that different. He added it depends on the builder.

Mayor Newton asked staff if thermal and duct leakage are the major components of this amendment. Official Wilson replied those are the major changes, and it is

now mandatory testing whereas before it was not. He added there are now air leakage requirements.

Mayor Newton asked staff if the builders have to meet this code because the City adopts the amendments, but it does not say how the builders will meet these requirements. Official Wilson replied correct, the builders will meet this regardless.

Mayor Newton asked staff if these requirements are added costs to building houses. Official Wilson replied correct.

Mayor Pro Tem Putnam asked staff if this will create additional annual inspections for homeowners. Official Wilson replied no, this is a one-time inspection, and done with new construction, and inspected by a third party.

Mayor Newton asked staff if this inspection will apply to existing or remodel efforts. Official Wilson replied the inspection will only apply to remodels where the structure is taken down to bare studs, and all mechanical and electrical systems are replaced.

Councilmember Lindamood asked staff if their equipment is able to test these new regulations. Official Wilson replied the inspections will be completed through a third party rated to rate the leakage.

Mayor Pro Tem Putnam asked staff what is being prescribed or amended in section 11.09.2.1 relative to unisex toilets and bathing rooms. Official Wilson replied not being familiar with that provision. City Manager Jennifer Fadden replied Ordinance O-05-1509 was repealed and replaced with the 2012 Energy Code adopted in 2014.

Councilmember Taylor asked staff what are the options whether or not we adopt this amendment. City Attorney Matthew Boyle replied if City Council choses not to adopt the amendment, you would simply fall out of compliance with state law. Official Wilson added the builders would follow the correct code in case there was any type of action taken against them, any investigations would be measured up with the 2015 code compliance.

Mayor Newton opened the public hearing at 8:40 p.m.

There was no one present wishing to speak and Mayor Newton closed the public hearing at 8:40 p.m.

This is a first reading, therefore, City Council did not take any action.

7. RESOLUTION(S): READING AND PUBLIC HEARING

7a Resolution R-16-4014

Approval to award an economic development incentive grant to
LOVERIA CAFFE', LLC

Deputy City Manager Chris Fuller presented this item and briefed the City Council.

Mayor Newton read Resolution R-16-4014 in its entirety.

Mayor Newton opened the public hearing at 8:43 p.m.

There was no one present wishing to speak and Mayor Newton closed the public hearing at 8:43 p.m.

Councilmember Taylor expressed his support of this item. He added there is a residual benefit with the improvements this money will be used for.

Councilmember Lindamood expressed his appreciation to staff for working with the small business owner.

Councilmember Taylor made a motion to approve Resolution R-16-4014. Councilmember Nakamura seconded the motion.

The motion carried with the following vote:

Aye: 7 – Mayor Richard Newton, Mayor Pro Tem Chris Putnam, and Councilmembers Tammy Nakamura, Bobby Lindamood, Jody Short, Nancy Coplen, and Mike Taylor

8. CITIZEN COMMENTS/PRESENTATIONS REGARDING ITEMS NOT ON THE AGENDA

Kathy Hadley, 204 Timberline Drive North, spoke about the garden plots discussed earlier this evening, and added it would be really something interesting if the item was brought forward to the school district and on school grounds. She stated we should do whatever is necessary to save the state trees on Roberts Road, and she expressed her appreciation to staff for accommodating her in a meeting. She stated she does not believe the Planning and Zoning Commission members are in favor of saving trees and upholding Colleyville's values.

Mark Harrison, 1421 Douglas, stated the email mentioned in the last meeting by Anthony Seris, was not sent by him. He encouraged people to check the facts on items posted.

9. REPORTS

Zoning Board of Adjustment Minutes - May 10, 2016

Planning and Zoning Commission Minutes - June 13, 2016

There was no discussion of this item.

10. ACTION/RESOLUTION: DISCUSSION AND CONSIDERATION OF A RESOLUTION RATIFYING COUNCIL AGENDA ACTION FOR July 19, 2016 - READING AND PUBLIC HEARING - RESOLUTION R-16-4015

This resolution was not needed.

11. ADJOURNMENT

There being no further business before the City Council, Mayor Newton adjourned the City Council meeting at 8:53 p.m.

APPROVED BY A VOTE OF _ AYES, _ NAYS, AND _ ABSTENTIONS ON THIS THE 16TH DAY OF AUGUST 2016.

Minutes taken and prepared by:

Amy Shelley, TRMC
City Secretary



City of Colleyville City Council Worksession Minutes - Draft

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
www.colleyville.com

Monday, July 25, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

Mayor Richard Newton called the Colleyville City Council Worksession to order on Monday, July 25, 2016, at 6:00 p.m.

ROLL CALL: Mayor Richard Newton, Mayor Pro Tem Chris Putnam, and Councilmembers Tammy Nakamura, Bobby Lindamood, Jody Short, Nancy Coplen and Mike Taylor

City Manager Jennifer Fadden, Deputy City Manager Chris Fuller, Assistant City Manager/Director of Public Safety Mike Holder, Fire Chief Brian Riley, Chief Financial Officer Brian Hogan, Human Resources Director Rachel Huitt, Public Works Director Jeremy Hutt, City Engineer Cheryl Taylor, Accounting Manager Karen Hines, SH26 Coordinator James Hubbard, Strategic Services Manager Adrienne Lothery, and City Secretary Amy Shelley

2. PRESENTATION AND DISCUSSION

2a Discussion of the FY 2017 budget

Strategic Services Manager Adrienne Lothery presented this item and answered questions of the City Council.

Mayor Pro Tem Putnam asked staff about the effective rate. Manager Lothery replied the effective rate is minus new construction, looking at the properties on the roll in 2015 and 2016, and what is needed to collect the same amount from the same properties on the roll. She stated there are some adjustments made with exemptions and new construction.

Mayor Newton asked staff if the 9.1 percent includes the TIF. Manager Lothery replied yes.

Mayor Newton asked staff if the \$5,006,297,719 appraised value for July 15, 2016, includes the TIF. Manager Lothery replied yes.

Mayor Newton asked staff about the number for last year, not in the TIF. Lothery replied \$3.9 billion.

Councilmember Taylor asked staff if his protest is reflected in this number. Manager Lothery replied yes.

Mayor Newton asked staff about the over 65 exemptions and how those are handled in that number. Manager Lothery replied the certified roll would reflect any properties that have frozen value on them. She explained there are some special reports to make the appropriate calculations for the effective tax rates, but those did not come out this afternoon.

Mayor Newton asked staff if they know the number of parcels in which the 65 exemption applies. Manager Lothery replied yes, we could get that information.

Councilmember Coplen asked staff why the water sales decreased for the 2017 projections (according to the Utility Fund totals). Manager Lothery replied this is based on usage and the \$4.36 rate change.

Mayor Newton asked staff if there are additional funding requests relative to the Utility Fund. Manager Lothery replied yes, there are department requests, aside from any personnel or benefit related requests. She added this also does not include developer contribution or impact fees.

Councilmember Lindamood asked staff what are sewer tie-on charges. Manager Lothery replied that when a building already exists that would need to come onto the City's system.

Councilmember Lindamood asked staff if there are not any projected for the 2017 year. Manager Lothery replied correct.

Councilmember Taylor asked staff how that can be. Public Works Director Jeremy Hutt replied previously if homes or buildings were not connected to City sewer, they had to connect; however, all are now connected. He added that new construction falls under a different section. He added there are still homes connected to their own septic.

Mayor Newton asked staff about the budget for installations. Manager Lothery replied the \$7,000 is based on an estimate from the year-to-date tracking. Chief Financial Officer Brian Hogan added this number represents the residential tap fees for the 600 new residential lots.

Councilmember Lindamood asked staff about engineering charges. Director Hutt replied that is tied directly to new development plan review fees.

Chief Financial Officer Brian Hogan presented the Finance: 002-2010 portion of the annual budget.

Councilmember Lindamood asked staff how much is needed additionally for the new position. Chief Financial Officer Brian Hogan replied \$32,000.

Mayor Newton asked staff if this would be an additional position under utility billing. Chief Financial Officer Brian Hogan replied yes, and it will be a more analytical position.

Mayor Newton asked staff if the money was already budgeted. Chief Financial Officer Brian Hogan replied \$17,000 already existed, and was listed as a part-time position.

Councilmember Nakamura asked staff if the long tenured employee, 30 years, has indicated how long she wants to continue working. Chief Financial Officer Brian Hogan replied she has stated she wants to continue working.

Mayor Newton asked staff about the summary spreadsheet. City Manager Jennifer Fadden replied no additional budget requests have been added to the budget at this time.

Councilmember Taylor asked staff how close is this employee to retirement. Chief Financial Officer Brian Hogan replied she is eligible now, but she wants to continue working. Accounting Manager Karen Hines concurred.

Councilmember Lindamood asked staff about the billing clerk. Chief Financial Officer Brian Hogan replied he is going to reclassify the billing clerk to an administrative clerk which will limit the future pay and will cap the position.

Public Works Director Jeremy Hutt presented the Utility Operations: 002-6110 portion of the annual budget.

Councilmember Coplen asked staff about the water cost estimates for 2017, and if staff is adding in TRA's perspective of an increase in water. Manager Lothery replied these are the same numbers which were to be presented at the June 20th worksession, and TRA's numbers have not been updated in the 2017 proposed budget.

Mayor Newton asked staff about last year's budget for utility operations and water. City Manager Jennifer Fadden replied fiscal year 2016 for utility operations and water was \$9.4 million.

Mayor Newton stated the 2017 budget is down \$350,000 from last year. City Manager Jennifer Fadden stated the FY17 preliminary numbers do not include personnel costs because those have not been loaded into the budget software, which is about \$336,000 in personnel.

Public Works Director Jeremy Hutt presented the Wastewater: 002-6120 portion of the annual budget.

Mayor Newton asked staff how many personnel are for the water. Director Hutt replied there are five full time equivalents. He added there are eight employees paid from these two budgets.

Public Works Director Jeremy Hutt presented the Utility Support: 002-6130 portion of the annual budget.

Councilmember Lindamood asked staff about the mobile tool used. Director Hutt replied we are using mobile Wi-Fi to have the connectivity in the field. Mayor Newton added this allows employees access to the network while in the field.

Mayor Newton asked staff about the study, are the consultants using staff's data? City Manager Jennifer Fadden replied they are doing a complete cost of service analysis using the last two years of actual expenditures and the current year budget data. She added they are incorporating every element of the utility fund that pertains to water and wastewater services.

Mayor Newton asked staff if they are satisfied with paying the costs out of the utility fund. Director Hutt replied correct.

Chief Financial Officer Brian Hogan presented the Transfers: 002-6410 portion of the annual budget.

There were no questions about this portion of the budget.

Chief Financial Officer Brian Hogan presented the Debt Service: 002-6510 portion of the annual budget.

There were no questions about this portion of the budget.

Strategic Services Manager Adrienne Lothery presented the Non-Departmental: 002-9999 portion of the annual budget.

Mayor Newton asked staff where the \$81,100 capital outlay comes from. Manager Lothery replied the Utility Fund budget. City Manager Jennifer Fadden added it is included in the costs of service.

Mayor Newton asked staff if they want input from the City Council, at this point. City Manager Jennifer Fadden replied staff would certainly welcome input.

Mayor Newton asked staff how much is spent on the third party contractor for televised lines. Director Hutt replied he did not know, but the return-on-investment (ROI) is about two-three years, but it does make financial sense. Mayor Newton stated that ROI is good. Councilmember Lindamood stated it could also be used for other things.

Strategic Services Manager Adrienne Lothery presented the Debt Service Fund Totals: 004-6510 portion of the annual budget

Mayor Newton asked staff about the use of available cash. Manager Lothery replied this is the use of available cash that lives within the debt service fund on eligible expenditures.

Mayor Newton asked staff about the drainage ending fund balance. Chief Financial Officer Brian Hogan replied at the end of 2015, the balance was \$4.2 million.

Public Works Director Jeremy Hutt presented the Drainage: 017-5210 portion of the annual budget.

Councilmember Coplen asked staff about the six low water crossings. Director Hutt replied Martin Parkway, Jackson Road, Oak Knoll (2), Bedford Road, and Cheshire are the six low water crossings.

Councilmember Lindamood asked staff who cleaned the pond at Black Walnut Café. Director Hutt replied the Black Walnut Café cleaned the pond as a part of their development of the property.

Councilmember Coplen asked if the amount of cleanup in the low water areas depends on the season. Director Hutt replied yes, the rain events determine that.

Mayor Newton asked staff if they have had to clean out the creeks from trees. Director Hutt replied only when the trees start to hinder the flow of water.

Councilmember Lindamood asked staff if they do erosion control on creeks. Director Hutt replied if it is within City property we do address those areas, even if they are in the drainage easements.

Public Works Director Jeremy Hutt presented the Stormwater: 017-5220 portion of the annual budget.

Mayor Newton asked staff if \$12,000 is budgeted for the Clean Sweep Event. Manager Lothery replied yes.

Mayor Newton asked staff if the event is worth it since it fills up so quickly. Manager Lothery replied we have heavier utilization than any other mobile event in most other cities.

Mayor Newton asked staff if the capacity could be increased to be able to service everyone. Manager Lothery replied there is no expansion of the Crud Cruiser, as that is the only one the Fort Worth Collection Center has.

Councilmember Lindamood asked staff if IESI is the one who collects those items. Manager Lothery replied it is actually the City of Fort Worth, which operates an environmental collection center. Councilmember Lindamood stated most landfills take hazardous waste.

Mayor Newton asked staff if the \$30,000 includes the annual event and the drop-off. Manager Lothery replied yes.

Councilmember Short asked staff if the City is charged for a drop-off. Manager Lothery replied yes, the City is charged whether the customer drops off the materials at the event or at the collection site.

Councilmember Short asked staff if it is a lower cost to customers to use the event. Manager Lothery replied no.

Councilmember Taylor asked staff what the outcome would be if we did not do this event, would staff provide a mailer that would let customers know they can go to the collection site at anytime. Manager Lothery replied yes, the facility is open Thursday – Saturday with flexible hours.

Councilmember Taylor asked staff if the City would still pay for the service. Manager Lothery replied yes.

Councilmember Coplen stated the paper shredding and electronic service is a huge benefit to the event.

Councilmember Coplen asked staff if the Mayor and City Council could work the event, with their trucks, and take stuff to the collection site for the customers. Manager Lothery replied she does not know the restrictions, but there is a limit to the amount one person can transport.

Mayor Newton replied we should discuss how this event is done when it gets closer. Councilmember Lindamood stated the event could be promoted better too.

Mayor Newton asked staff who does or handles the water sampling. Director Hutt replied there is a pump maintenance technician who coordinates the water sampling.

Chief Financial Officer Brian Hogan presented the Transfers: 017-6410 portion of the annual budget.

There were no questions about this portion of the budget.

Chief Financial Officer Brian Hogan presented the Debt Service: 017-6510 portion of the annual budget.

There were no questions about this portion of the budget.

Strategic Services Manager Adrienne Lothery presented the Non-Departmental: 017-9999 portion of the annual budget.

There were no questions about this portion of the budget.

Councilmember Taylor asked staff if the numbers reflect the exemptions and freezes. Manager Lothery replied as of July 15, those numbers reflect the final certified values.

Councilmember Short asked staff if we are able to reduce the tax rate, will that reset the freeze for those with the 65+ exemption. City Manager Jennifer Fadden replied she believes that is correct.

Councilmember Taylor asked staff what a reduction of one cent in the tax rate would reduce revenue by. Manager Lothery replied she does not know that, at this time.

Mayor Newton stated he would like a summary to better help City Council understand the various cost increases while working through the budget.

Mayor Newton recessed the worksession at 7:54 p.m.

Mayor Newton reconvened the worksession at 8:01 p.m.

2b Discussion of the Annual Market Study results

Human Resources Director Rachel Huitt presented this portion of the budget and answered questions of the City Council.

Councilmember Lindamood asked staff about the percentages of merit. Director Huitt replied those employees whose performance evaluations rated exceptional received four percent; satisfactory received three percent; and, those who received a needs improvement did not receive anything.

Councilmember Lindamood asked staff if the same applies for top tiered employees. Director Huitt replied yes.

Councilmember Nakamura asked staff how often is the compensation study done. Director Huitt replied every three to four years.

Mayor Newton asked staff where the data comes from. Director Huitt replied these are National data and Dallas metro data.

Councilmember Taylor asked staff about the differential between the groups of employees. Director Hutt replied the consultant recommends that one group gets a 1.9 percent adjustment on their ranges, while the rest are showing a 2.1 percent increase.

Councilmember Taylor asked about the compression issue. Director Huitt replied the compression issue is resolved if we continue to do the merit increase.

Councilmember Lindamood asked staff if everybody has a chance for a raise every year. Director Huitt replied if the employee is topped out, then it is a one-time flat payment.

Councilmember Lindamood asked staff how much is spent annually on contractual services Citywide. Director Huitt replied she did not know at this time. Mayor Pro Tem Putnam added you can pull the expenses throughout all budgets. Director Huitt also added she would be able to pull all public data, with no problems; however, the private data is not accessible to the general public, therefore the consultant can provide that data.

Mayor Newton asked staff about the range change from last year. Director Huitt replied it was 2.6 percent.

Mayor Newton asked staff about the year before that. Director Huitt replied one was not done that year.

Councilmember Lindamood asked staff if we use the data from comparable cities. Director Huitt replied yes.

Mayor Newton asked staff what is driving up the percentage. Director Huitt replied the salaries in the north Texas area are going up because of the growth, which also drives competitiveness in the marketplace.

Mayor Newton asked staff if the 15 employees are spread out across the organization. Director Huitt replied yes, one is in the Drainage Fund, four in the Utility Fund, one in the CEDC, and the nine remaining are in the General Fund.

Mayor Newton asked staff about the level of those employees. Director Huitt replied levels A = M&O Technicians and Library; B = Administrative support, M&O Specialists, Library Assistants; and C= Administrative Support Supervisor.

Mayor Newton asked staff if any of those are in management. Director Huitt replied none are in management (D, E, F)

Councilmember Short asked staff if compression will be caused without the merit. Director Huitt replied yes.

Councilmember Taylor asked staff if only 16 employees will receive a two percent increase with Option 1. Director Huitt replied yes.

Mayor Newton asked staff if the study is being budgeted for next year. Director Huitt replied yes.

Councilmember Nakamura asked staff why the private sector is considered, why not just the public sector. Director Huitt replied City Council provided direction for staff to consider both the private and public sectors. Councilmember Short added there are some jobs within the organization that can be considered in the private sector as well. Director Huitt also added Colleyville competes with the private sector for certain jobs such as engineers, administrative, and accounting.

Mayor Newton asked staff when we talk about the merit. City Manager Jennifer Fadden replied during the proposed budget.

2c Discussion of the Capital Improvement Plan (CIP)

Public Works Director Jeremy Hutt presented the CIP and answered questions of the City Council.

Councilmember Lindamood asked staff about which streets are relative to the TIF plan. Director Hutt replied only those within the TIF boundary, such as SH26, Glade Road, and Cheek-Sparger Road.

Mayor Newton asked staff about where the data comes from for the improved/unimproved street map. Director Hutt replied this map is an excerpt from the street assessment completed in 2014.

Mayor Newton asked staff if the information is based on how the streets were built. Director Hutt replied the information contains a little bit of everything; for example, there is information about the last time Pleasant Run Road was over hauled, it just happened to be a two inch mill and overlay in 2008.

Councilmember Taylor asked staff about what is included in the 2014 street assessment. Director Hutt explained a comprehensive street assessment was completed which detailed the pavement condition index (PCI) of the entire street network. He stated the consultant takes all deficiencies into account and assigns a value or PCI rating to the street, and this is done every few years. He added the next one is due in 2017.

Councilmember Nakamura asked staff about the cost of that study. Director Hutt replied it is a little under \$50,000. He added staff is looking to combine with other cities who are currently using the same service to offset the costs.

Councilmember Short asked staff about the benefit of doing that. Director Hutt replied by having the rating and criteria of the street network helps to project and model to ensure the maintenance being applied is sufficient to slow the deterioration rate of the good infrastructure as much as we possibly can. He stated the assessment helps with the developing of the capital improvement project plan too.

Councilmember Nakamura asked staff if the consultant provides recommendations at this stage. Director Hutt replied the consultant provides the data, and we utilize a street modeling software to come up with the recommendations.

Councilmember Lindamood asked staff if there are times in which a 10 foot trail could be reduced in width. Director Hutt replied yes.

Councilmember Nakamura asked staff if people actually use the trails. Parks Manager Heather Dowell replied yes, they are heavily used, especially the Cotton Belt Trail.

Councilmember Short asked staff if the surveys indicate a need for the trail and parks system. City Manager Jennifer Fadden replied yes. Councilmember Lindamood added the cyclists would rather have a bike lane rather than a 10 foot trail.

Councilmember Lindamood asked staff if a two inch mill and overlay can be considered for the Glade Road Phase 2 section all the way to Heritage Avenue. Director Hutt replied absolutely and staff can look into something like this and provide the costs.

Mayor Pro Tem Putnam asked staff if Westcoat was a full-depth reclamation project. Director Hutt replied yes.

Councilmember Short asked staff about the life of a reconstructed street. Director Hutt replied about 50 years with proper maintenance.

Councilmember Lindamood asked staff what is micro. Director Hutt replied it is an emulsion with a sand mixture, somewhat similar to a fog seal, but applied differently.

Councilmember Nakamura asked staff about what were the issues with the roundabout at Glade Road and Pool Road. Director Hutt replied there was a little bit of a learning curve, given this was the first one, particularly with the size and the speed.

Councilmember Short asked staff if the right-of-way needed, for Westcoat, is right at the intersection or up the street. Director Hutt replied it is at the intersection.

Councilmember Nakamura asked staff if this is a priority list, or just a list. Director Hutt replied it is the current project list, with no particular order.

Councilmember Coplen asked why Glade Road Phase 1 is taking so long. Director Hutt replied we are in the process of appraising the right-of-way needed.

Councilmember Short asked staff about the completion of that task. Director Hutt replied January, depending on the negotiations.

Councilmember Nakamura asked staff how the negotiations are going. Director Hutt replied staff will discuss the appraisals with City Council in a future executive session.

Councilmember Coplen asked staff if the utilities are being done now. Director Hutt replied yes the planning is being done now, not the relocations.

Councilmember Lindamood asked staff what percentage is Phase 2 currently at. Director Hutt replied we have expended about nine percent of the contract costs, and the consultant is somewhat working on the design of Phases 3 and 4.

Councilmember Short asked staff if the consultant is beyond 30 percent, but not at 60 percent on the design phase. Director Hutt replied yes.

Mayor Newton asked staff if they have slowed down the consultant until after the Glade Road worksession. Director Hutt replied yes.

Mayor Newton asked staff what the fiber does for us. Assistant City Manager/Director of Public Safety Mike Holder replied it connects all of our City facilities with fiber at a much lower cost than if we did this on our own. He added the cities and the school district working together helps to accomplish this.

Mayor Newton asked staff if this is more about connectivity and not sharing servers. Assistant City Manager/Director of Public Safety Mike Holder replied correct, and long range we have explored expanding our partnerships. Councilmember Taylor added we will no longer have to lease the fiber, which is also a huge savings.

Mayor Newton asked staff if the City will own this fiber. Assistant City Manager/Director of Public Safety Mike Holder replied yes.

Councilmember Coplen asked staff if rusting has been happening on the Justice Center roof or is that what could happen. Director Hutt replied that is what could happen if the repair is not done.

Mayor Newton asked staff where the generator will go. Director Hutt replied behind the parks maintenance facility, by the radio tower, almost to Bransford Road.

Mayor Newton asked staff if the doors at Fire Station 3 have a problem. Fire Chief Brian Riley replied there have been a lot of repairs done over the years.

Mayor Newton asked staff if they would prefer new doors at Station 1. Chief Riley replied Station 1 would be the preferable replacement.

Councilmember Short asked staff if Station 1 doors are done now, when would the doors be done for Station 3. Chief Riley replied likely another couple of years. City Manager Jennifer Fadden replied additional funding could be looked at to consider doing it sooner.

Councilmember Lindamood suggested fixing the one that is the highest priority.

Councilmember Nakamura asked staff how long before Station 3 needs the doors replaced. Assistant City Manager/Director of Public Safety Mike Holder replied the biggest issue with Station 1 is that it gets the most use, and more maintenance has been spent on it.

Councilmember Taylor asked Mayor Newton if he would prefer to spend a little more to repair Station 1. Mayor Newton replied that is where it is needed.

Councilmember Lindamood asked staff if a lease has ever been considered for the fire engine. Chief Riley replied we are currently doing a lease-purchase.

Mayor Pro Tem Putnam asked staff if L.D. Lockett Road is scheduled for 2018. City Manager Jennifer Fadden replied the rehabilitation of L.D. Lockett Road from Pleasant Run Road to Precinct Line Road is currently proposed for 2018 at \$1.5 million dollars. Mayor Pro Tem Putnam added that John McCain Road, L.D. Lockett Road and Glade Road are all priorities for him. Councilmember Lindamood concurred.

Councilmember Coplen asked staff if there is an updated traffic count for Glade Road. Director Hutt replied traffic counts are provided annually from October through December.

Councilmember Coplen asked staff if there has been an increase in traffic, given the new development in Euless. Director Hutt replied he does not know at this time.

Councilmember Lindamood asked staff if the Vermeer hydro excavator has a holding tank. Director Hutt replied yes.

Councilmember Coplen asked if a colored retaining wall at Bedford Road would be a maintenance issue. Director Hutt replied yes.

Councilmember Taylor asked staff why the Bedford Road retaining wall replacement project would take four months. Director Hutt replied traffic would never be detoured through residential areas, only through collectors and arterials, and staff is looking at reducing the timeline.

Councilmember Taylor asked staff if the wall consists of panels. Director Hutt replied no.

Mayor Newton asked staff how John McCain is broken up. Director Hutt replied staff is looking at the major cross-sections (Westcoat to Pleasant Run Road; Pleasant Run Road to Shepherds Glen; or, Shepherds Glen to Maranatha Court) be considered.

Councilmember Nakamura asked staff if they would like direction at this meeting. Director Hutt replied any guidance provided will help with the recommendations.

Councilmember Coplen asked staff if this will cut into other projects for 2017. Director Hutt replied it is a possibility. Councilmember Taylor added the roundabout may impact this as well. Mayor Pro Tem Putnam stated he would like to see the funding sources.

Councilmember Lindamood asked staff if the \$300,000 could be put to street repairs rather than to the trail. City Manager Jennifer Fadden replied this funding is from CEDC and could only be used for other purposes such as parks, Library, or Colleyville Center, but it could not be used for streets.

Councilmember Taylor asked staff about the location of the new trail. City Manager Jennifer Fadden replied the new trail location has not been identified. Parks Manager Heather Dowell added the update to the Parks Master Plan is about to be underway, which may help to identify the location of the trail based on the citizen's priorities.

Mayor Newton asked staff about the priority of the civil improvements to the Public Works Service Center. Director Hutt replied there is an existing City Developer Agreement (CDA) to coincide with the civil improvements and are related to the roadway improvement.

Mayor Newton asked staff if the cul-de-sac road leading to Fred Monk's property is part of the CDA. Director Hutt replied yes, and he further explained the developer agreement.

Mayor Newton asked if those plans were part of a bigger plan with the City's property. Director Hutt replied correct, there was some discussion of selling off a portion of the site for redevelopment.

Councilmember Taylor asked Mayor Newton about his objection to the possible selling of the property. Mayor Newton replied not being in favor of selling any City property.

Councilmember Taylor asked staff if that will affect the CDA. Director Hutt replied the sale of the property has nothing to do with the agreement, it applies to access and the detention pond.

Mayor Newton asked staff why it is important to get detention on that property. Director Hutt replied it freed up land we did not have to use our own land.

Councilmember Short asked staff if the Bransford Road project is a mill and overlay. Director Hutt replied it is a full-depth reclamation from Glade Road to L.D. Lockett, and working with the county; however, it could be shifted to a different roadway.

Councilmember Short asked staff if the approach on Bransford Road would address the roadside ditches. Director Hutt replied no.

Councilmember Taylor asked staff what has accelerated the Hunter Lane issue. Director Hutt replied there is not a whole lot that can be done from a small maintenance standpoint, given the PCI level, short of doing a mill and overlay, to address the roadway condition.

Councilmember Lindamood asked staff about the \$162,000 for Roberts Road. Director Hutt replied this is for the design of Roberts Road from Glade Road to the City limits.

Councilmember Lindamood asked staff where they would store dirt if the Service Center property is sold. Director Hutt replied there is a little bit of room to spread out, and that is what is being done. He stated some dirt is hauled off, and they do not stock pile more than needed.

Councilmember Lindamood asked staff if the extra dirt and rip-rap could be used where the area in the Tara development is eroding. Director Hutt replied staff could work with residents who want to come and get the fill dirt. Councilmember Lindamood suggested as staff is working on a project, they could dump the dirt off at the Tara site rather than haul it off to another site.

Mayor Newton asked staff how much the City's portion of the CDA will cost. Director Hutt replied \$500,000 is the budgeted amount and that does not include facility improvements, civil only.

Mayor Newton asked staff what that includes. Director Hutt replied the utility relocation and drainage improvements.

Mayor Newton suggested something in the future projects for upgrades to the Senior Center, such as a multi-use facility.

Councilmember Taylor asked Mayor Newton to define multi-use. Mayor Newton replied something similar to a recreation center, like some surrounding cities have (Grapevine). Councilmember Taylor stated he remembered there being a concern about competing with Lifetime Fitness or competing with the sports fields. He added he agreed that the Senior Center could be a lot better.

Councilmember Nakamura asked Mayor Newton when the Senior Center was built. Mayor Newton replied it was a church the City purchased.

Councilmember Short asked Mayor Newton if he envisions more than the current plan for the Senior Center. Mayor Newton replied more. City Manager Jennifer Fadden added there has been consideration to renovation to the center for more usable, under the same roof, space.

Councilmember Coplen asked staff if a citizen's survey will be done this next year. City Manager Jennifer Fadden replied yes, and an update to the parks and recreation master plan.

Councilmember Lindamood suggested if the Senior Center location went away, then the Colleyville Center could be used in conjunction with the Senior Center, and used as one facility.

City Manager Jennifer Fadden asked City Council if they would like to use the opportunity with the parks and recreation master plan update. Councilmember Taylor stated he is fatigued on waiting on things getting done. Councilmember Nakamura suggested looking at the surrounding facilities to see how they are used.

Mayor Newton asked staff if the looping of systems has been considered. Director Hutt replied yes, absolutely.

Mayor Newton asked staff how many delivery systems are not looped that could be looped. Director Hutt replied untimely all could be looped, it is just a matter of how or what point is that feasible, and he added he did not have that number.

Mayor Newton asked staff why the Bransford Road project was moved up. Director Hutt replied it was moved up because it is a good candidate for a county project; however, based on this discussion, it will likely move back to 2018 in order to address the other priorities.

Councilmember Coplen asked staff if they can still go to the county, if needed. Director Hutt replied yes.

Councilmember Taylor asked staff about the Glade Road project relative to the CIP. Director Hutt replied it is currently slated for 2016.

3. ADJOURNMENT

There being no further business before the City Council, Mayor Newton adjourned the worksession at 10:50 p.m.

APPROVED BY A VOTE OF _ AYES, _ NAYS, AND _ ABSTENTIONS ON THIS THE 16TH DAY OF AUGUST 2016.

Minutes taken and prepared by:

Amy Shelley, TRMC
City Secretary



City of Colleyville City Council Worksession Minutes - Draft

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
www.colleyville.com

Wednesday, July 27, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

Mayor Richard Newton called the Colleyville City Council Worksession to order on July 27, 2016 at 5:32 p.m.

ROLL CALL: Mayor Richard Newton, Mayor Pro Tem Chris Putnam, and Councilmembers Tammy Nakamura, Bobby Lindamood, Jody Short, Nancy Coplen and Mike Taylor

City Manager Jennifer Fadden, Deputy City Manager Chris Fuller, Assistant City Manager/Director of Public Safety Mike Holder, Community Development Director Ben Bryner, Principal Planner Shane Pace, and City Secretary Amy Shelley

EXECUTIVE SESSION - 5:30 P.M.

2. EXECUTIVE SESSION - In accordance with Texas Government Code, Chapter 551, Subchapter D

Section 551.071 - Consultation with and legal advice from the City Attorney regarding the comprehensive plan and zoning

Mayor Newton explained the Executive Session had been called in accordance with the Texas Government Code, Chapter 551, Subchapter D, Section 551.071, Legal. He further explained there would be no decisions made or action taken during this time. The meeting was convened and recessed at 5:32 p.m.

RESUME WORKSESSION - EXECUTIVE CONFERENCE ROOM - 6:00 PM

3. PRESENTATION AND DISCUSSION

3a Discussion of the Comprehensive Plan and the Land Development Code

Mayor Newton presented this item and briefed the City Council. Wendy Shabay and Daniel Harrison, Freese and Nichols, and staff members were present to answer any questions.

Councilmember Short asked Mayor Newton if the calculation is based on the number of dwellings per subdivision, or number of acres per subdivision. Mayor Newton replied it could be done both ways, but by acreage.

Councilmember Taylor asked Mayor Newton if the open space is to be pedestrian usable or landscape and detention usable. Mayor Newton replied usable is to be determined.

Councilmember Coplen asked Mayor Newton if a property plat includes the right-of-way. Mayor Newton replied yes. Councilmember Coplen suggested staying with the gross density calculations because that is what the industry uses.

Mayor Newton restated what Councilmember Coplen explained as two approaches: (1) define how you compute it; or (2) take all the acreage, no matter what, but if you do that, you have to lower the 1.8 to something else.

Councilmember Short asked Mayor Newton if we are talking about removing the right-of-way from the computation. Mayor Newton replied he disagrees with the master plan statement of going to gross rather than net.

Councilmember Coplen asked Mayor Newton what page that statement is on. Mayor Newton replied it also states it is going to use the 2004 information, which is inconsistent.

Councilmember Coplen asked Mayor Newton where the plan states, "Neighborhood Areas: change wording regarding "trends of high density continuing." Mayor Newton replied it does not state this, it is how it is computed for the neighborhood areas.

Councilmember Coplen asked Mayor Newton why the comprehensive plan and the Land Development Code standards are not the same. Mayor Newton explained he wants it to be the same.

Councilmember Coplen asked Mayor Newton if he wants it to be net everywhere. Mayor Newton explained that the sequence in which this should be done is the comp plan is policy, and all zoning ordinances and the Land Development Code need to be consistent with the comp plan. He stated there is work to do in both places to make them consistent.

Councilmember Coplen asked Mayor Newton if the calculations were based on gross originally. Mayor Newton replied no. Councilmember Nakamura added it was based on net up to 1987.

Councilmember Short asked Mayor Newton if the 1.8 density was a rough equivalent to the R20 zoning. Mayor Newton replied yes. He added there have been cases approved where there have been deviations made from what traditionally the City has as a standard.

Councilmember Coplen asked Mayor Newton if R20 used to be considered as 2.1 units per acre. Mayor Newton replied yes, and that is a gross computation.

Councilmember Coplen asked Mayor Newton if they should be talking above the policy level. Mayor Newton replied they should be talking at the policy level. He added we should be considering whether or not the R20 standard, at 1.8, is the policy standard.

Councilmember Short asked Mayor Newton if the 1.8 is considered the gross or the net. Mayor Newton replied it is net and he does not desire to change that, and everyone can quote that R20 is 1.8 and the Colleyville standard.

Mayor Newton suggested adding "City initiated rezoning" back into the comp plan, because if the language does not exist, there is a possibility the integrity of a neighborhood, such as the R10 zoning on Colleyville Terrace, will be lost as homes are torn down and reconstructed, as a right, to the existing zoning district.

Councilmember Nakamura asked Mayor Kelly what is the zoning on the properties where the two homes are being constructed on Colleyville Terrace. Mayor Newton replied R10, and the entire neighborhood is zoned the same. He added Bridlewood Estates is zoned RMF (multi-family), but it is not currently built that way, as it was an agreement with HUD.

Councilmember Taylor asked Mayor Newton if they would have to reach out to the homeowners before the City rezones their property. Mayor Newton replied yes, the City would have to notify the homeowners.

Councilmember Taylor asked Mayor Newton what about the residents that object to the change. Mayor Newton replied they could object, but it could still be done.

Councilmember Short asked Mayor Newton about how much reshuffling of the comprehensive plan he is talking about. Mayor Newton replied he does not know the specifics now, as those would be the details when we decide to do it.

Councilmember Coplen asked Mayor Newton if there would be very many rezoning initiatives. Mayor Newton replied he did not believe so.

Councilmember Coplen asked Mayor Newton about where the "City initiated rezoning" would be stated in the comp plan. Mayor Newton replied it could be added to the neighborhood section, maybe as an action plan.

Councilmember Nakamura asked Mayor Newton how long it has been since the need for a transitional area has been discussed. Mayor Newton replied many years ago residents did not want the commercial uses, so City Council defined the commercial corridors as SH26, SH121, and Precinct Line Road. He stated this calmed the peoples concerns about commercial coming into residential areas, and that is when transition areas were discussed.

Councilmember Lindamood asked Mayor Newton if the transition area is like the commercial line. Mayor Newton replied yes, and we have the commercial lines.

Councilmember Short asked Mayor Newton what happens when a resident is adjacent to a commercial area but would prefer residential rather than commercial. Mayor Newton replied that has happened, but the question is, is the transition area already built on or not, which he believes it is, and it may not be a big argument anymore, but it should be indicated on the map.

Councilmember Coplen asked Mayor Newton if the appraisal district looks at land adjacent to commercial as commercial land versus residential. Mayor Newton replied he does not believe they do.

Councilmember Taylor asked Mayor Newton if we are talking about future land use or current. Mayor Newton replied we are talking about future land use.

Councilmember Short stated he does not believe transition areas should be designated on the map because then it draws for the want of a transition area. He then asked Mayor Newton if there is an urgency to designate more areas as transitional. Mayor Newton replied no, but he wants the standard at lower density.

Councilmember Lindamood stated some were afraid that transitional areas would go beyond the Colleyville Boulevard area, and that is why they wanted the areas to be shown on the map. Mayor Newton stated one way to address the fear factor is to show the strips on the map. Councilmember Lindamood suggested a commercial line.

Mayor Newton suggested getting the policies straight and modify the ordinances to match the policies, and then stick to the ordinances with no deviation. Councilmember Lindamood and Nakamura agreed.

Mayor Newton stated the private park acreages were factored into the comp plan benchmark (per capita to park acreage). He stated he is biased against using the private park acreage in the benchmark calculation, unless the private park acreage meets the benchmark in and of its own right. He added a policy statement should be added to the comp plan relative to park benchmarks since a parks master plan is going to be considered soon.

Councilmember Coplen asked staff what is the park benchmark. City Manager Jennifer Fadden replied the information is on page 96 of the comp plan, and it varies depending on the park type.

Ms. Shabay asked Mayor Newton if his desire is to have a recommendation from a policy level in the comp plan on that, or is this something that needs to be looked at further. Mayor Newton replied rather than duplicate work, at a minimum there should be a policy statement to indicate this is how we would compute it.

Councilmember Short suggested not having to go up to the national standards. Mayor Newton restated that if the private park acreage meets the benchmark in and of its own right, then it can be counted in the public computation.

Councilmember Taylor asked Mr. Harrison about the population estimates. Mr. Harrison replied they have used the vacant residential acres and applied those to the 1.8 ratio.

Councilmember Taylor asked Mr. Harrison if the calculation is based on gross or net. Mr. Harrison replied gross because only the raw number is known. He added net would not be known until later. Mayor Newton added the computation changes as more land is developed.

Councilmember Taylor asked Mr. Harrison if there are 13.23 private park acres per 1,000 capita. Mr. Harrison replied yes.

Councilmember Taylor asked Mr. Harrison if the City is meeting the standard of 11.25-22.5 public park acres per 1,000 capita. Mr. Harrison replied yes, that is one way to interpret those. Mayor Newton replied those are aggregate numbers, and what we do not have is if every single private park meets the NRPA standards on its own or not.

Councilmember Short asked Ms. Shabay what standard we are trying to meet. Ms. Shabay replied there is a whole standard that applies to parks and maybe a simpler way to do this, is to increase your standards for parks relative to the national park standards.

Mayor Newton stated he likes to stay with national benchmarks because it is hard to argue. He stated if we have all of the data, it can be done.

City Manager Jennifer Fadden asked Mayor Newton, for clarification, if the City Council would like the transitional areas in the comp plan or not; and, on the map or not. Mayor Newton replied he would like to see the suggestions for the transition areas, and what they would look like on the map.

Councilmember Coplen asked Mr. Harrison if transition areas is a term used in planning. Mr. Harrison replied yes.

Councilmember Coplen asked Mr. Harrison if a transitional area can also be between commercial and commercial. Mr. Harrison replied yes, and often times it is between a higher end commercial, industrial, versus a lower end commercial, office.

Councilmember Lindamood stated if the standard is outlined in the verbiage of what can and cannot be done, then there is no need to have the transitional line.

Mayor Newton agreed, and added what may be considered transitional may already be built on. Ms. Shabay suggested deleting page 116, and just defining what the future land use map states.

Ms. Shabay asked the City Council if they would like to take out the references to transition areas and just have the line. Councilmember Lindamood agreed.

Councilmember Taylor asked Mr. Harrison if there is an issue with taking it out. Mr. Harrison replied the only issue with taking it out of the comp plan is that the Land Development Code and PUDR zoning explains transitional areas. Councilmember Taylor followed up that the Land Development Code would be cleaned up for consistency.

Mr. Harrison stated with the removal of page 116, there is no reason to show the transitional areas on the future land use map.

Councilmember Short asked Mayor Newton if we are inserting a use between commercial and the existing residential. Mayor Newton replied no, and the question is about the details around the compatibility, and he stated not knowing the answer for that. He stated we will need to decide what that compatibility means.

Councilmember Taylor asked Mayor Newton what about a situation in which the homeowners want a particular development that abuts the high commercial area, with more density to buffer the commercial, but that use is not what has been decided is best for the area. Mayor Newton replied he did not state residential would not be okay for it, and there are existing PUD examples of that. He added there will be less high density areas if we have a stout policy in place, and it does not preclude the City Council in making an amendment to the future land use plan.

Mayor Newton recessed the worksession at 7:50 p.m.

Mayor Newton reconvened the worksession at 8:00 p.m.

Mayor Newton asked staff if there are action steps included to have more or less interconnectivity within developments. City Manager Jennifer Fadden replied there are action steps on page 62, relative to policy direction as it relates to residential neighborhoods, to encourage neighborhoods to work together through the development process to build those appropriate designs.

Councilmember Short asked staff if any comments have been provided by citizens since the comp plan was approved. Mayor Newton replied he has provided his high level points. Deputy City Manager Chris Fuller replied none have been received to date. City Manager Jennifer Fadden added none have been received by staff.

Councilmember Short asked Mr. Harrison if it is common practice in the industry to have a hard line between land uses. Mr. Harrison replied there are several philosophies in which cities use parcel specifics or bubble maps, which are not set to property boundaries.

Mayor Newton stated the comp plan does not focus much on Precinct Line Road, even though there are parcels along it for development, and asked if more should be said about it. Deputy City Manager Chris Fuller explained page 150 includes the policy, while page 151 includes the action items for future overlay development.

Mayor Newton began discussing the possible Land Development Code amendments relative to open space, density bonus, mechanisms for floodplain development, and straight zoning standards.

Mayor Newton stated open space should be usable.

Mayor Newton stated it is not wise to use density bonus, we should stick to the 1.8 density.

Councilmember Coplen asked Mayor Newton if there is undeveloped land in the floodplain. Mayor Newton replied yes.

City Manager Jennifer Fadden added the City has basic design development standards as it relates to the floodplain. She stated it requires mitigation, and a developer would need a certified letter of map revision from FEMA removing the property from the floodplain in order to develop it. She stated the developer would need to prove there is not a desperate impact on downstream properties. Mayor Newton stated those are outside controls from the City. Principal Planner Shane Pace added the Land Development Code has certain restrictions in that no construction is allowed in the floodplain without written approval from the City of Colleyville.

Deputy City Manager Chris Fuller stated staff can look into additional controls for certain development standards, such as floodplain and floodway, if the City Council would like. Councilmember Coplen stated that would be good.

Mayor Newton stated we need to look at the straight zoning standards to ensure our standards are as good as our neighboring cities.

Councilmember Taylor asked staff if that can be done. City Manager Jennifer Fadden replied yes. Deputy City Manager Chris Fuller replied currently you cannot approve a site plan with straight zoning; however, if the standards are improved, it can be implemented with future developments.

Councilmember Coplen asked staff when the last time the Land Development Code was amended. City Manager Jennifer Fadden replied sections of the Code have been updated, and 2005 was the last time Chapter 3 was amended.

Mayor Newton recommends all PUD applications should include a preliminary plat and building elevations. Councilmember Short stated there has always been a site plan provided. Councilmember Lindamood stated there have been concept plans, but there were no details attached.

Mayor Newton stated being uncomfortable with only the Planning and Zoning Commission approving plats because platting is critically important.

Councilmember Taylor stated being in favor of amending straight zoning, especially if issues such as drainage could be solved at the straight zoning level.

Mayor Newton asked staff about the scope of the engagement with the consultant, Freese and Nichols. Deputy City Manager Chris Fuller replied the scope of the engagement includes the comprehensive plan updates, but the Land Development Code amendments are not included. He added it includes the changing from gross to net density, the transitional areas, the Precinct Line Road corridor, and the flood map information. He added staff has received comments from the Mayor and the Mayor Pro Tem, and he encouraged City Council to submit any other comments to staff. He stated, at this point, staff anticipates a 60 day turn-around.

Councilmember Coplen asked staff if all of City Council could see Mayor Pro Tem Putnam's comments. Deputy City Manager Chris Fuller replied yes.

Councilmember Short asked Mayor Newton about the extension of McDowell School Road, and its removal, asking if it should be investigated further, and communicate to see if that is not wanted. Mayor Newton stated he does not want to take that on, but he did not see putting the extension in would be of any benefit to the traffic flow. Councilmember Taylor stated it would not change the commuter route, and the citizens in the area do not want it or need it.

Councilmember Short asked City Council if they would like to add it back to the plan. Mayor Newton and Councilmembers Nakamura, Lindamood, and Coplen stated not being in favor of putting the McDonwell School Road extension on the map.

Councilmember Lindamood asked staff if a trade has been considered relative to the floodplain area, for a park. Deputy City Manager Chris Fuller replied it could be considered if it is submitted to the City for consideration.

Councilmember Taylor stated he is officially asking for changes to the straight zoning standards.

Mayor Newton stated, relative to the engagement of citizens for these changes, we could hold public hearings, have town hall meetings, or put a committee together to discuss the recommended changes. He stated he personally believes there are specific changes, not a revamp of the plan, and we do need citizen involvement, but how do we do that.

Councilmember Coplen suggested having town hall meetings so the citizens can visually see it, like in the water bills, and they could also provide comments to the changes. Councilmember Taylor agreed, and the Mayor can chair the meeting. Councilmember Short stated he did not believe a committee is necessary. Councilmember Lindamood agreed with Councilmember Coplen and added the bigger the better to show the changes, and then the citizens can provide comments with sticky notes.

Councilmember Coplen stated there needs to be a very concise branding for the Colleyville Boulevard corridor. Mayor Newton added one of the unfortunate things about the corridor is the power lines. City Manager Jennifer Fadden explained that the cost in 2005 was \$11 million to bury the power lines, and now it could cost \$20 million. Mayor Newton added just because something is expensive and hard does not mean we should not consider it and give it a shot.

Councilmember Short agreed the corridor should be cleaned up, but there may be other solutions to the utility poles that are less expensive, such as putting them to the back of the properties. He added the first step may be to address the lines that cross SH26 first. Mayor Newton agreed.

Councilmember Taylor asked staff if the \$20 million included the amount to purchase the property to bury the lines. City Manager Jennifer Fadden replied no, this was a back-end estimate from Oncor. She stated she does not know if there would be adequate right-of-way to bury those lines today.

Councilmember Taylor stated the central business district would be the best location to start. Mayor Newton added the vision has to be put out there.

4. ADJOURNMENT

There being no further business before the City Council, Mayor Newton adjourned the worksession at 9:17 p.m.

APPROVED BY A VOTE OF _ AYES, _ NAYS, AND _ ABSTENTIONS ON THIS THE 16TH DAY OF AUGUST 2016.

Minutes taken and prepared by:

Amy Shelley, TRMC
City Secretary



City of Colleyville City Council Worksession Minutes - Draft

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
www.colleyville.com

Tuesday, August 2, 2016
5:30 p.m.

Executive Conference Room
Third Floor – City Hall

Mayor Richard Newton called the Colleyville City Council Worksession to order on August 2, 2016, at 5:30 p.m.

ROLL CALL: Mayor Richard Newton, Mayor Pro Tem Chris Putnam, and Councilmembers Tammy Nakamura, Bobby Lindamood, Jody Short, Nancy Coplen and Mike Taylor

City Manager Jennifer Fadden, Deputy City Manager Chris Fuller, Strategic Services Manager Adrienne Lothery, Chief Financial Officer Brian Hogan, City Attorney Matthew Boyle, and City Secretary Amy Shelley

The meeting recessed at 5:30 p.m. and reconvened at 6:00 p.m.

2. EXECUTIVE SESSION - In accordance with Texas Government Code, Chapter 551, Subchapter D

Section 551.074 - Personnel - Deliberate the appointment, employment, evaluation, and duties of the economic development director

Mayor Newton explained the Executive Session had been called in accordance with the Texas Government Code, Chapter 551, Subchapter D, Section 551.074, Personnel. He further explained there would be no decisions made or action taken during this time. Executive Session was adjourned at 5:52 p.m. and the meeting was reconvened at 6:00 p.m.

3. PRESENTATION AND DISCUSSION

3a Discussion of the amendments proposed by the Charter Review Committee

Colleyville City Charter Review Committee Chairman Frank Carroll presented this item and briefed the City Council on each recommended amendment. Committee member Nelson Thibodeaux was also present to answer any questions.

Mayor Pro Tem Putnam asked Chairman Carroll if there was discussion regarding the current charter language which requires members to forfeit their seat if they choose to run for another office. Chairman Carroll replied yes, but the sense of the committee was that the provision is to remain in the Charter, as it is currently stated.

Councilmember Coplen asked Chairman Carroll for an explanation regarding the requirement to vacate a seat. Chairman Carroll explained if the Councilmember term is up in May and the Councilmember is going to run for an office which does not take office until the following January, then he does not believe the seat would have to be resigned, but if it cuts into the councilmember's term, the seat would have to be resigned.

Mayor Newton thanked Chairman Carroll for the thorough and efficient work of the Committee.

Councilmember Short asked Chairman Carroll if other cities who have implemented term limits were reviewed, and if they were, what were the downstream effects. Chairman Carroll responded the Committee reviewed the Charters of 10-12 surrounding cities which implemented terms limits, some implemented after one term, one immediately, others at the next election. The Committee reviewed both extremes and recommends if the amendments are passed, the citizens would best be served by implementing at the next election, this would allow voters to not be frustrated, thinking action is not being taken immediately and will save expense and disruption to City business by not having to have a special election.

Councilmember Short clarified the question was more about the impact of term limits on the community, demographics of the Council, silo government, and how things get done with term limits. Chairman Carroll replied there was Committee discussion whether it would be beneficial to keep people on for some period of time, for "institutional memory." Chairman Carroll said it was his belief, and the belief of the Committee that we do not need "institutional memory" because we have staggered terms, and as some members of the current City Council have served one term or have previously served, there will still be "institutional memory." Additionally, the Committee believes there is institutional memory present in City staff.

Councilmember Short asked Chairman Carroll if the institutional memory is present in the staff, is there a perception there is a shift in power to the staff and is there academic research which examined this issue. Chairman Carroll replied the Committee did not look into if there is a shift of power and if there is academic research regarding the topic, he is not aware of it, but he does not believe there is a shift in power.

Mayor Newton said it is important for the community to understand what the vision and policies of the City are, and continue to rally around that as an elected body and staff.

Councilmember Nakamura said the vision should be reflected in the policies and procedures of the City.

Mayor Newton stated the City Council was formally receiving the recommendations of the Committee, the next step is to accept or reject the report through a resolution, and finally set an election to put this before the citizens.

Councilmember Coplen asked Chairman Carroll how many subjects get linked together on the ballot. Chairman Carroll explained he believed altogether there would be five sections, and each section is voted on separately.

Councilmember Coplen asked Chairman Carroll to explain Section 3.09 – the use of names in the voting procedure. Chairman Carroll explained the Charter does not disallow voting by name, however, the amendment will clean up the language.

Mayor Newton asked Chairman Carroll when modifications or repeal of the ordinances noted in the Committee report would need to be made. Chairman Carroll replied the recommendation is to repeal the ordinances, but it is not necessary to do it right away. He noted once the Charter amendments take effect, to the extent the ordinances are contrary to the Charter, the ordinances are then void, and the Charter governs, but there is no technical conflict. Chairman Carroll stated repealing the ordinances will just be cleaner.

Mayor Newton stated we will have staff look at the financial disclosure forms, but they do not have to be on the ballot. Chairman Carroll concurred.

Councilmember Coplen stated Article XIII has to be on the ballot as it provides direction for the citizens, otherwise everyone will be wondering how the election and implementation will work. She added there may also need to be some education provided to the citizens about this deletion.

Councilmember Coplen expressed her appreciation to Chairman Carroll for leading this Committee.

3b Discussion of the 2016 Citizen Survey

Strategic Services Manager Adrienne Lothery presented this item and answered questions of the City Council.

Mayor Newton asked staff if the 2015 survey was delayed. Manager Lothery replied the surveys are designed to have the data in and evaluated to allow for budget preparation, meaning the citizen survey results reported in 2015 were used for the FY2015 budget planning, but the survey took place in 2014.

Mayor Pro Tem Putnam asked staff how responses to the online survey were controlled. Manager Lothery stated the previous online versions did not have any code controls, but if that is something City Council would like, it could be added.

Councilmember Nakamura stated citizens could take the survey as many times as they wanted. Manager Lothery concurred.

Mayor Pro Tem Putnam stated the survey data is only good at that time, and these surveys quickly become statistically irrelevant.

Councilmember Coplen asked staff if the survey is distributed per household, or per adult in the household. Manager Lothery replied one hard copy is mailed per household, but citizens could always call and get an additional hard copy or complete the survey online, so there is an ability to complete more than one per household.

Mayor Newton asked staff if the survey response results were computed based on residential water accounts or the population. Manager Lothery said the number is based on residential water accounts.

Councilmember Taylor stated citizens could complete both a mailed and online survey and asked staff about an audit component. Manager Lothery replied the company compiles and analyzes the results, for example, if one person gave one specific response, it is unlikely there will be enough duplication to have an effect on the overall results.

Mayor Newton asked the City Council what is the fundamental objective of this survey, and when is the right time to do it. Additionally, what are people responding to; he is interested in what the response is relative to, are citizens being asked to comment on what has been done since the election, if so, we would require waiting a little bit of time.

Councilmember Coplen stated she believes the survey reflects policy changes, piggy backs on the comprehensive plan, advises if the community is still aligned with what City Council has presented, helps with budgeting by telling us what they want to see; and how demographics have changed.

Councilmember Nakamura generally asked whether or not we are doing a good enough job on getting it out there.

Mayor Newton wondered how the questions are constructed, and if we are looking for trends to basic information.

Councilmember Coplen asked staff if the proposed questions were the standard questions. Manager Lothery noted there were standard questions to measure trends, and alternating questions to provide a preference of priorities.

Mayor Newton generally asked if there are any gaps in our priorities, which a survey would help us answer.

Councilmember Short said the survey should be designed in such a way citizens are not asked about a specific amenity.

Councilmember Nakamura asked if the survey is done every two years, are we surveying just to do it, and suggested there is no hurry to conduct a survey until we know where we are headed.

Councilmember Lindamood noted the survey controls need to be tightened up. Manager Lothery ensured the data is handled by a third party.

Councilmember Short stated the survey is handled by outside professionals which should ensure no one "stuffs the box."

Mayor Pro Tem Putnam asked staff if a post card could be placed in the water bill, providing a code for online survey response. Manager Lothery replied yes.

Councilmember Taylor stated the survey has always been used as a guide to assist with reviewing the basics. He is in favor of moving forward with using technology which will make it easier for citizens to participate.

Manager Lothery and the City Council discussed costs for different survey options and methodology variables.

Councilmember Lindamood asked if City Council could make suggestions for survey questions. Manager Lothery replied yes.

Mayor Pro Tem Putnam generally asked about the function of the survey, and how the data will be treated.

Councilmember Lindamood suggested having an idea box at the end of each section which would allow citizens a chance to voice their opinion.

Mayor Newton asked City Council how they would like to proceed, noting he is happy to wait and not move forward with the survey yet. Councilmember Coplen stated she would like to do it now and add an idea box. Councilmembers Lindamood and Nakamura would like to wait. Councilmember Short said he would like to do it now, but avoid specific initiatives. Mayor Pro Tem Putnam suggested waiting, and tying this process and results in with the managed City Council priority setting worksessions.

There was further discussion regarding survey autonomy, identification, audit control, and methodology.

Mayor Newton recapped the City Council's directions:

- The survey will be electronic
- The narrative and questions will be reviewed

- Wait until after the new online utility billing and website have been rolled out – plan for January or February distribution

City Manager Jennifer Fadden advised the City Council the new website will be demonstrated on September 20 and a preliminary meeting to discuss citizen communications is being planned.

Councilmember Mike Taylor asked for general discussion regarding an electronic voting system and enhanced audio video equipment and use in City Council Chambers.

City Secretary Amy Shelley gave a recap of the voting systems which have currently been reviewed.

4. ADJOURNMENT

There being no further business before the City Council, Mayor Newton adjourned the worksession at 7:45 p.m.

APPROVED BY A VOTE OF _ AYES, _ NAYS, AND _ ABSTENTIONS ON THIS THE 16TH DAY OF AUGUST 2016.

Minutes taken and prepared by:

Amy Shelley, TRMC
City Secretary



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 4e

Agenda Date 08/16/2016

Number Resolution R-16-4017

Type Resolution

Department Finance

Title

Approval of an Interlocal Agreement and funding for the Metroport Teen Court Program

Strategy Map Connection

B3- Utilize partnerships to implement cost-effective service solutions

Explanation

Reading and Public Hearing

Since 1994, the City of Colleyville has participated in the Metroport Teen Court program with the cities of Grapevine and Southlake. Fiscal Year 2011 was the first year that the City of Keller participated in the program. Attached is the proposed Interlocal Agreement for the Metroport Teen Court for Fiscal Year 2017, for an annual cost of \$36,750. The cost of the program is split equally between the four participating cities, and there is no cost increase from Fiscal Year 2016. Per the attached memo, in Fiscal Year 2016, the Metroport Teen Court program was used by 71 participants for violations occurring in Colleyville, which reflects 11.7 percent of the 609 Metroport Teen Court participants.

Financial Impact

Funding in the amount of \$33,750 was approved in the Fiscal Year 2016 Colleyville Crime Control and Prevention District budget, approved by City Council on July 12, 2016. The remaining \$3,000 is funded out of the Court Building Security Fund for bailiff security services provided during teen court sessions.

Recommendation

Approve

Attachments

1. Interlocal Agreement among City of Colleyville, City of Grapevine, City of Keller and City of Southlake
2. Memorandum dated August 2, 2016 - Interlocal Agreement for funding of the Teen Court Program

INTERLOCAL AGREEMENT

AMONG

CITY OF COLLEYVILLE, CITY OF GRAPEVINE, CITY OF KELLER, AND CITY OF SOUTHLAKE

This Interlocal Agreement (“Agreement”), entered into effective on the 1st day of October, 2016, by and among the City of Colleyville, the City of Grapevine, City of Keller, and the City of Southlake, all municipal corporations of the State of Texas (herein called “Cities” or “each participating City”), the parties acting herein under the authority and pursuant to the terms of Chapter 791, INTERLOCAL COOPERATION CONTRACTS, Texas Government Code, **WITNESSETH THAT:**

WHEREAS, the City Councils of the Cities of Colleyville, Grapevine, Keller, and Southlake jointly find that it will be in the publics’ best interest to enter into this Agreement for the purposes set forth herein below.

NOW, THEREFORE, it is mutually agreed between each participating City that:

1. Teen Court is a volunteer program which allows juvenile misdemeanor offenders an alternative to the criminal justice system while allowing them also to assume responsibility for their own actions through their involvement in the judicial process and community services in order that their offenses will not be recorded. Bringing juvenile offenders to a jury of their peers and to the community for constructive punishment will provide the juveniles with an understanding of the judicial system and a realization of their roles and responsibilities in the community.

2. The community will benefit from this interaction in that, through Teen Court, the community is afforded a unique opportunity to become involved in the education of juvenile offenders and will benefit from the community services provided to the community by the juvenile offenders.

3. A Teen Court Advisory Board shall be appointed by the respective governing bodies comprised of two (2) members at large from each participating City and one (1) city council member from each participating City as each so chooses all of whom are voting members. The role and duties of the Teen Court Advisory Board shall be established by the

Municipal Court Judges in the participating Cities.

4. The name of the program established by this Agreement shall be the "METROPORT Teen Court Program." The City of Southlake shall employ teen court staff to administer and coordinate the activities of the METROPORT Teen Court Program, under the direction of the Southlake Municipal Court Manager.

5. This Agreement shall be executed in separate counterparts for each participating city, which counterparts shall be valid and binding as if the original. Each participating city, as its contribution for participating in the METROPORT Teen Court Program, shall pay to the City of Southlake \$36,750.00 ("Service Fee") upon such participating City's execution of this Agreement. It is expressly agreed that such payment fairly compensates the City of Southlake for the performance of services contemplated under this Agreement. Each participating City shall make this payment from current revenues available to that City.

6. The scope of responsibilities of the Teen Court Staff shall be established by the City of Southlake.

7. The term of this Agreement shall be for a period of (12) twelve months beginning October 1, 2016, and ending September 30, 2017. If the parties have failed to adopt a new Agreement by the expiration date of this Agreement, this Agreement shall be deemed to continue on the same terms and conditions until such time as the new Agreement is adopted for the ensuing year, unless any party terminates its participation in this Agreement as provided below. In such event, this Agreement shall continue in effect until either the City of Southlake or all other participating Cities have terminated this Agreement. Upon renewal or continuation of this Agreement, each participating City shall pay the Service Fee to the City of Southlake for the ensuing year.

8. Any party hereto may terminate its participation in this Agreement without recourse or liability upon thirty (30) days written notice to the other party.

9. By execution of this Agreement, each party represents to the other that:

- a. In performing its duties and obligations hereunder, it will be carrying out one or more governmental functions or services which it is

authorized to perform; and

- b. The undersigned officer or agent of the party has been properly authorized by that party's governing body to execute this Agreement and that any necessary resolutions extending such authority have been duly passed and are now in effect.

- 11. This Agreement is made pursuant to Chapter 791 and Subchapter E, Chapter 418, Texas Government Code. It is agreed that in the execution of this Agreement, no party waives any immunity or defense that would otherwise be available to it, against claims arising from the exercise of governmental powers and functions.

ATTEST:

_____ City Secretary, City of Colleyville	_____ Date	_____ Mayor, City of Colleyville	_____ Date
--	---------------	-------------------------------------	---------------

_____ City Secretary, City of Grapevine	_____ Date	_____ Mayor, City of Grapevine	_____ Date
--	---------------	-----------------------------------	---------------

_____ City Secretary, City of Keller	_____ Date	_____ Mayor, City of Keller	_____ Date
---	---------------	--------------------------------	---------------

_____ City Secretary, City of Southlake	_____ Date	_____ Mayor, City of Southlake	_____ Date
--	---------------	-----------------------------------	---------------

Approved as to form and legality:

City Attorney, City of Colleyville

City Attorney, City of Grapevine

City Attorney, City of Keller

City Attorney, City of Southlake

MEMORANDUM

August 2, 2016

TO: Karen Hines, Colleyville Finance Manager

FROM: Jodi Bolton, Court Supervisor *JB*

SUBJECT: Interlocal Agreement for funding of the Teen Court Program

The attached FY 2017 Interlocal Agreement outlines the METROPORT Teen Court Program, as well as the appointment process for the METROPORT Teen Court Advisory Board. The agreement defines the duties of Board members and authorizes the City of Southlake to employ Teen Court staff. Also discussed in the contract is the City of Southlake's responsibility to provide office space for staff and collect an equal share in cost from the other participating Cities for program maintenance.

Metroport Teen Court has a success rate of 92.5%. North Texas Teen Courts average a success rate of 71%, putting Metroport 21.5% above average. Listed below is the requested data of Teen Court referrals for the City of Colleyville:

- FY 2016: 76 Total Referrals for Metroport Teen Court
- FY 2016: 71 case referrals with 76 violations from the City of Colleyville
- FY 2016: 609 Total Referrals for the cities of Colleyville, Grapevine, Keller, and Southlake as of July 28, 2016

Historical Data of Colleyville Referrals:

- FY 2015: 111 case referrals with 117 violations
- FY 2014: 90 case referrals with 107 violations
- FY 2013: 109 case referrals with 119 violations
- FY 2012: 199 case referrals with 215 violations
- FY 2011: 175 case referrals with 187 violations
- FY 2010: 247 case referrals with 255 violations

Metroport Teen Court would like to thank the City of Colleyville for its long-standing and continued support and look forward to a lasting relationship. Should you need any further information and/or data, please feel free to contact Jodi Bolton at (817) 748-8346.



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 4f

Agenda Date 08/16/2016

Number Resolution R-16-4017

Type Resolution

Department Public Works

Title

Approval of an engineering services agreement with Kimley-Horn and Associates, in an amount not to exceed \$347,500, for the design of drainage improvements, trail construction, water and sanitary sewer line replacement, and the street reconstruction of Pleasant Run Road, from Shelton Road to John McCain Road, and authorize the city manager to execute the agreement

Strategy Map Connection

F2- Invest to provide and maintain high quality public assets

Explanation

Reading and Public Hearing

This item for consideration is an engineering services agreement with Kimley-Horn and Associates in an amount not to exceed \$347,500 for the design of the Pleasant Run Road project. Based on qualifications and experience in similar types of street, utility and drainage projects, staff has selected Kimley-Horn and Associates to design and prepare the engineering construction drawings for the project.

In September 2015, City Council approved the 2016 Capital Improvement Program by Resolution R-15-3907, which included the design of Pleasant Run Road from John McCain Road to Shelton Road. The original project scope included street rehabilitation, addition of a trail along the east side of the roadway, and any necessary drainage improvements for trail/sidewalk installation, as well as consideration of a ribbon curb. The approved cost of the original design was \$140,000.

Engineering Design

While evaluating the design scope, staff identified two utility projects along this corridor in the City's Water and Wastewater (W/WW) Master Plan. By combining these projects with the road project, the City will realize a cost savings and will limit disruptions to residents for the duration of one construction project rather than with three separate projects over several years. The utility projects are as follows:

Water Project #11 includes upsizing the existing 6-inch water line along Pleasant Run from John McCain Road to Tinker Road to a 12-inch water line. With the approval of the 5-year CIP (attached), the project was slated for design in FY2018 and construction in FY2020.

Wastewater Project #3 includes upsizing an existing 4-inch sanitary sewer line to the soccer fields to a 6-inch sanitary sewer line. With the approval of the 5-year CIP (attached), the project was slated for design in FY2017 and construction in FY2018.

The Pleasant Run Road project was presented to City Council as part of the budget work sessions on June 20, 2016 and July 25, 2016. As presented at the worksessions, the current project scope includes the addition of the water and wastewater projects as well as the design of a ribbon curb option. Inclusion of the water and wastewater projects increased the design cost along with the drainage design required to accommodate the ribbon curb and trail/sidewalk. The consultant intends to design the plans to stay within the existing easements or right of way. However, if during the design process it is determined additional easement or right of way is required, a task to prepare the exhibits is included in the design contract.

The total engineering contract amount of \$347,500 includes a \$25,000 owner's contingency to cover any additional services that may be required. The engineering design proposal is comprised of basic services, in the amount of \$278,000 and additional services of \$44,500, billed at an hourly rate, on an as needed basis.

Preliminary Construction Cost Estimate (based on the attached conceptual design)

The original maintenance project scope included full depth reclamation of the road surface with an estimated cost of \$760,000. The current scope of the project includes full depth reclamation of the road surface, the addition of ribbon curb, adding a variable width trail/sidewalk along the east side, the upsizing of a 6 inch water line to a 12 inch water line, and the upsizing of a 4 inch sewer line to a 6 inch sewer line. The preliminary construction cost is broken down as follows:

Item Description	Conceptual Construction Cost Projection
Roadway Rehabilitation (full depth)	\$1,382,848
Ribbon Curb and Concrete Driveway Approaches	\$556,000
Utility Projects	\$1,064,250
Trail including Drainage Improvements	\$407,800
Misc. Items - Traffic Control, Mobilization, Site Preparation, Landscaping, etc.	\$510,472
Construction Contingency 10%	\$378,630
Total Estimate Cost of Construction	\$4,300,000

The preliminary cost of construction is \$4,300,000 and has been included in the proposed 2017-2021 Capital Improvement Program for consideration in the FY2017 budget. The project schedule anticipates completion of the design by the second quarter of calendar year 2017 with construction to begin late summer or early fall of 2017.

Financial Impact

Funding for this engineering design contract in the amount of \$347,500 is available as follows:

\$140,000 – FY 2016 Pleasant Run CIP Project

\$179,280 - Water Impact Fees

\$28,220 - Capital Projects Fund cash reserves for future CIP projects

Form 1295 - Acknowledged by City

Recommendation

Approve

Attachments

1. Agreement
2. Conceptual Design
3. Project Location Map
4. Typical Section Exhibit
5. Resolution R-15-3907

AGREEMENT BETWEEN
THE CITY OF COLLEYVILLE, TEXAS and
CONSULTANT
FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this _____ day of _____, 2016, by and between the City of Colleyville, Texas, (hereafter referred to as "CITY" or "CLIENT") and Kimley-Horn and Associates, Inc. (hereafter referred to as "CONSULTANT" or "ENGINEER").

Whereas CITY desires to have CONSULTANT perform certain services as follows:

Providing the design documents for reconstruction of Pleasant Run Road from Shelton Drive to John McCain Road. This includes the preparation of plans and quantities for the reconstruction.

Whereas CITY desires to engage CONSULTANT to provided and perform certain professional services in connection with the Project and CONSULTANT desires to provide and perform said professional services, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and their mutual covenants hereinafter set forth, CITY and CONSULTANT agree as follows:

SECTION 1
BASIC SERVICES OF CONSULTANT

Section 1.1 Basic Services. In connection with the Project, CONSULTANT shall provide for CLIENT the professional services and perform, furnish or obtain from others the work and services expressly described in, and referred to those set forth in Exhibit A, attached hereto and incorporated herein by reference (collectively the "Basic Services"). CONSULTANT shall provide the Basic Services for CLIENT in all phases of the Project to which this Agreement applies, all as more particularly set forth in Exhibit A.

Section 1.2 CONSULTANT'S Duties. In addition to the general duties, obligations and responsibilities set forth elsewhere in this Agreement, the specific duties and responsibilities of CONSULTANT in performing the Basic Services under this Agreement are set forth in Exhibit A. In addition to the specific duties and responsibilities of

CONSULTANT in performing the basic services under this Agreement as set forth in Exhibit A, the following specific provisions shall apply to CONSULTANT'S duties.

SECTION 2

ADDITIONAL SERVICES OF CONSULTANT

Section 2.1. Additional Services. In connection with the Project, CONSULTANT may be called on to perform, provide, furnish or obtain from others services or work which are not part of, or are in addition to, the Basic Services ("Additional Services"). If authorized in writing by CITY and agreed to by CONSULTANT, CONSULTANT shall perform, provide, furnish or obtain from others the agreed upon Additional Services. CONSULTANT shall not be authorized to perform, provide, furnish or obtain any Additional Services without the prior written authorization of CITY. Except to the extent expressly provided otherwise in Exhibit A or as otherwise agreed to in writing by the parties hereto, compensation to CONSULTANT for Additional Services will be paid for by CITY as indicated in the written authorization, or if not indicated in the written authorization, then according to Section 5.

Notwithstanding the foregoing, when required due to an emergency, in order to prevent additional costs from arising, CONSULTANT shall perform Additional Services in order to prevent additional costs or any harm to work already completed when needed only on an emergency basis. CITY shall be promptly informed of any such work as soon as possible, and such services shall only continue after CITY is informed and upon written authorization of CITY.

Additional Services may be any service or work not included as part of the Basic Services and may include, but are not limited to, services or work in connection with environmental or funding assistance, investigations not specifically required herein, services resulting from changes in the scope, extent or character of the project providing renderings or computer models, services to develop alternate bids or sequencing of work, outside CONSULTANT services not specifically required herein, out-of-town travel, and preparing to serve or serving as a CONSULTANT or witness in any litigation, arbitration or other legal or administrative proceeding. "Basic Services" and "Additional Services" are sometimes collectively referred to herein as "Services".

Section 2.2 Changes in the Services.

Section 2.2.1 Agreed Upon Changes in the Services. It is the desire of the parties to keep changes in the Scope of Services at a minimum, but the parties recognize that such changes may become necessary and agree that CITY may initiate deletions, modifications or changes to the Services by advising CONSULTANT in writing of the change believed to be necessary. As soon thereafter as practicable, CONSULTANT shall prepare a cost estimate of the change and shall inform CITY of the adjustment in the compensation due CONSULTANT under Section 5 hereof ("CONSULTANT'S Compensation") and/or the Completion Date set forth in Section 4 hereof, if any, applicable

to such requested change. CLIENT shall then advise CONSULTANT in writing of its approval or disapproval of the change. If CITY approves the change, a written contract amendment shall be executed by both parties and CONSULTANT shall perform the Services as changed and the adjustment in CONSULTANT'S Compensation and/or the Completion Date set forth in the executed contract amendment shall become effective. CONSULTANT may initiate changes in the Services by advising CLIENT in writing that in its opinion a change is necessary. Changes can only be made in writing and must be signed by CITY. If a change is not approved, or if a written contract amendment is not executed, by both CITY and CONSULTANT, the change shall not become effective and CONSULTANT shall not be obligated to perform the change.

Section 2.2.2 Constructive Changes and Other Additional Costs. In the event of (1) the CITY'S written addition to, modification or change of or deletion from the Services to be performed by CONSULTANT (other than additions, modifications, changes or deletions handled through the provisions of Section 2.1 or Section 2.2.1 above); (2) a request for or approval from CITY in writing, signed by CITY, of performance of Services in excess of CONSULTANT'S standard work day or work week or such shorter times as are provided by applicable collective bargaining agreements, or on a holiday customarily observed by CONSULTANT; (3) the discovery of any subsurface or other conditions, which differ materially from those shown in or reasonably inferable from the documents or other information on which this Agreement is based and/or those ordinarily encountered and generally recognized as inherent in the locality of the Project; (4) a modification of applicable law by which CONSULTANT is required to pay increased or additional taxes, government-regulated transportation costs, insurance or other amounts which are not required as of the date of this Agreement; (5) modification to or delay in furnishing design criteria or other information supplied by any person or entity, other than CONSULTANT, if CONSULTANT'S performance of the Services under this Agreement depends upon such criteria or information; and/or (6) any other increase in CONSULTANT'S costs, or the time required for completion of the Services due to "Force Majeure Event" as set forth in Section 4 hereof, or any other cause beyond CONSULTANT'S control, then the CONSULTANT'S Compensation and/or the Completion Date, if any, shall be equitably adjusted and CONSULTANT shall be paid, and CONSULTANT'S Compensation shall be adjusted by, an amount equal to the additional costs to CONSULTANT, as agreed upon by the CITY, resulting there from.

SECTION 3

CLIENT'S RESPONSIBILITIES

CITY shall perform the following unless agreed otherwise:

Section 3.1 City Representative. Designate a person to act as CITY'S representative with respect to the Services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret, and define CITY'S policies and decisions with respect to CONSULTANT'S Services for the Project.

Section 3.2 Project Information. Provide all criteria, all available information pertinent to the Project, and full information as to CITY'S requirements for the Project.

Section 3.3 Notices. Give notice to CONSULTANT whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT'S Services, or any defect or non-conformance in the Services by CONSULTANT (or its independent professional associates or CONSULTANTS) or in the work of any contractor or other party performing or providing work or services in connection with the Project. CITY shall have no duty to inform CONSULTANT of problems in CONSULTANT'S services or other work for which the CITY is entitled to rely upon CONSULTANT'S expertise.

Section 3.4 Additional Services. When CITY deems it necessary or appropriate for Additional Services to be performed in connection with any phase of the Project, CITY shall furnish or direct CONSULTANT to provide, Additional Services as stipulated in Section 2 of this Agreement or other services as required.

Section 3.5 Other Duties. Perform any other duties, obligations or responsibilities of the CITY set forth in this Agreement, such as the obligation to make the payments or perform any responsibilities and duties agreed to by the CITY and which are specifically identified on Exhibit B, if any.

Section 3.6 Construction Management. If the CLIENT elects to employ a construction manager, the CLIENT will promptly notify CONSULTANT.

SECTION 4

PERIODS OF SERVICE, COMPLETION DATE, FORCE MAJEURE

Section 4.1 Period of Service. The provisions of this Section 4 and the various rates of compensation for CONSULTANT'S Services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project. CONSULTANT'S obligation to render Basic Services hereunder will extend during the period required for the Project including any Additional Services, extra or changed work and required extensions thereto.

Section 4.2 Completion Date. It is estimated that the Basic Services will be completed per a mutually agreed upon schedule.

Section 4.4 Notice of Delay. If CONSULTANT becomes aware of delays due to time allowances for review and approval being exceeded, delay by the Contractor, the CITY, or any other cause beyond the control of

CONSULTANT, which will result in the schedule for performance of CONSULTANT'S services not being met, CONSULTANT shall promptly notify the CITY. If the CITY becomes aware of any delays or other causes that will affect CONSULTANT'S schedule, the CITY shall promptly notify CONSULTANT. In either event, CONSULTANT'S schedule for performance of its services may be adjusted as agreed to in writing by CITY and CONSULTANT.

Section 4.5 Force Majeure. For purposes hereof, a "Force Majeure Event" shall mean the occurrence of a failure or delay due to circumstances beyond CONSULTANT'S control including, acts of God, acts of a public enemy, fires, floods, earthquakes, wars, civil disturbances, sabotage, accidents, insurrection, blockages, embargoes, severe storms, explosions, catastrophes, epidemics, unavailable utilities and power, water, or other causes completely beyond CONSULTANT'S control.

SECTION 5

CONSULTANT'S COMPENSATION

Section 5.1 Compensation for Services and Expenses of CONSULTANT in connection with Basic Services

Section 5.1.1 For Basic Services. As compensation for the performance of the Basic Services rendered by CONSULTANT under Section 1, CITY shall pay CONSULTANT \$278,000. The CITY shall pay CONSULTANT up to \$44,500 for Additional Services rendered. The total contract value for Basic and Additional Services is \$322,500 CONSULTANT shall submit monthly invoices for Basic Services. The statements will be based on CONSULTANT'S estimate of the portion of the total services actually completed at the time of billing. CITY shall review statements and shall make payments within 30 days of receipt of the statements.

Section 5.2 Compensation for Services and Expenses of CONSULTANT in connection with Additional Services

Section 5.2.1 For Additional Services. As compensation for the performance of the Additional Services rendered by CONSULTANT under Section 2, CLIENT shall pay CONSULTANT on basis of CONSULTANT'S Schedule of Rates and Expenses attached to this Agreement as Schedule 1, which shall remain in effect during the course of this Agreement. "Reimbursable expenses" as agreed to by CITY and CONSULTANT shall be paid at cost.

Section 5.2.2 Payments after Termination by City. In the event of termination by CITY under paragraph 7.1 upon the completion of any phase of the Basic Services, payments due CONSULTANT for all Services

rendered and expenses incurred through such phase shall constitute total payment for such Basic Services. In the event of such termination by CLIENT during any phase of the Basic Services, CONSULTANT will be paid for Services rendered and expenses incurred during that phase through the date of termination on the basis of CONSULTANT'S Schedule of Rates and Expenses

Section 5.2.3 Payments after Termination by CONSULTANT. In the event of termination by CONSULTANT under paragraph 7.1, CONSULTANT will be paid for Services rendered and expenses incurred, as agreed and approved by CITY, during that phase through the date of termination on a pro rata basis as set out in this Agreement.

Section 5.2.4 Records. Records of CONSULTANT'S salary costs pertinent to CONSULTANT'S compensation under this Agreement will be kept in accordance with generally accepted accounting practices. If CITY desires to have copies of such records, copies will be made available to CITY upon CITY'S request.

SECTION 6

OPINIONS OF COST AND SCHEDULE

Section 6.1 Opinions of Cost and Schedule. Since CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over the resources provided by others to meet construction or other Project schedules, or over the methods of others in determining prices, or over competitive bidding or market conditions, CONSULTANT'S opinions of probable costs (including probable Total Project Costs and Construction Cost) and of Project schedules shall be made on the basis of CONSULTANT'S experience and qualifications and represent CONSULTANT'S best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but CONSULTANT cannot and does not guarantee that proposals, bids or actual Project costs (including Total Project Costs or Construction Costs) will not vary from opinions of probable cost prepared by CONSULTANT or that actual schedules will not vary from the projected schedules prepared by CONSULTANT.

SECTION 7

GENERAL CONSIDERATIONS

Section 7.1 Termination. The obligation to provide further services under this Agreement may be terminated by either party upon thirty (30) days written notice to the other party in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

Section 7.2 Delivery of Electronic Files. In the event that CITY requests any electronic deliverables under this agreement, CONSULTANT and CLIENT shall execute a separate CADD agreement.

Electronic files furnished by either party shall be subject to an acceptance period of sixty (60) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

The CITY is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by CONSULTANT and electronic files, the signed or sealed hard-copy construction documents shall govern.

Section 7.3 Standard of Practice, Warranties. Services performed by the CONSULTANT under this Agreement will be conducted in a manner consistent with the level of care, diligence and skill ordinarily possessed and exercised by members of the profession currently practicing in the same locality under similar conditions

Section 7.4 Limitation of Responsibility, Job Site Safety/Techniques. Neither the professional activities of CONSULTANT, nor the presence of CONSULTANT or its employees and sub-consultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies.

Section 7.5 Insurance.

Section 7.5.1 CONSULTANT Insurance. CONSULTANT shall maintain throughout the duration of this Agreement insurance in the following amounts and will, upon request of the CITY furnish a copy of certification thereof:

- (a) Worker's Compensation and Employer's Liability
 - Worker's Compensation Statutory
 - Employer's Liability

\$500,000/\$500,000/\$500,000

(b) Comprehensive Automobile Liability

\$1,000,000 combined single limit Bodily Injury and Property Damage

(c) Comprehensive General Liability

\$1,000,000 - per occurrence

\$2,000,000 - annual aggregate

\$2,000,000 - product / completed operations per
occurrence

\$1,000,000 - personal injury / advertising liability

(d) Umbrella/Excess Liability

\$1,000,000 - per occurrence

\$1,000,000 - annual aggregate

(e) Professional Liability Insurance in an amount of \$1,000,000 per claim and \$2,000,000 annual aggregate.

Section 7.6 Liability and Indemnification.

Section 7.6.1 General. Having considered the potential liabilities that may exist during the performance of the Services, the benefits of the Project, and CONSULTANT'S Compensation for the performance of the Services, and in consideration of the promises contained in this Agreement, CITY and CONSULTANT agree to allocate and limit such liabilities in accordance with the provisions of this Section 7.7.

Section 7.6.2 CONSULTANT Indemnification.

CONSULTANT agrees, to the fullest extent permitted by law, to indemnify and hold the CLIENT harmless from any damage, liability or cost (including reasonable attorney's fees and costs of defense) to the extent caused by CONSULTANT'S negligent acts, errors or omissions in the performance of professional services under this Agreement and those of its sub-consultants or anyone for whom CONSULTANT is legally liable.

Section 7.6.3 City Indemnification. The CITY is not obligated to indemnify CONSULTANT in any manner whatsoever.

Section 7.6.4 Employee Claims. CONSULTANT shall indemnify CITY against any loss, damage, cost or expense arising out of claims by CONSULTANT'S employees.

Section 7.6.5 Survival. The terms and conditions of this Section 7.7 shall survive the termination of this Agreement and/or the completion of the Services.

Section 7.7 Use of Logo. CONSULTANT may only use CITY'S logo when express permission is granted, on a case by case basis. CITY will not grant any blanket or ongoing permission for use of CITY logo.

SECTION 8

SPECIAL PROVISIONS, EXHIBITS AND SCHEDULES

Section 8.1 Special Provisions. This Agreement is subject to no special provisions

Section 8.2 Contract Documents. This Agreement consists of this contract document and the following Exhibits and Schedules, which are attached to and made a part of this Agreement:

Exhibit A - Project Description and Basic Services

Schedule 1 – CONSULTANT'S Schedule of Rates and Expenses

Section 8.3 Entire Agreement. This Agreement together with the Exhibits and Schedules identified above constitute the entire agreement between CITY and CONSULTANT and supersede all prior written or oral understandings. This Agreement and said Exhibits and Schedules may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or CONSULTANT. CONSULTANT'S services under this Agreement are being performed solely for the CITY'S benefit, and no other party or entity shall have any claim against CONSULTANT because of this Agreement or the performance or nonperformance of services hereunder. The CITY and CONSULTANT agree to require a similar provision in all contracts with contractors, subcontractors, sub-consultants, vendors and other entities involved in this Project to carry out the intent of this provision.

Section 8.4 Hazardous Materials. CONSULTANT shall report to CITY the presence and location of any hazardous material which it notices or which an engineer of similar skill and experience should have noticed.

Section 8.5 Attorneys Fees. In the event that either party hereto employs an attorney to enforce any provision of this Agreement or to collect damages for default or breach of this Agreement, or pursue claims in litigation or arbitration, the prevailing party in any such action shall be entitled to recover from the other such attorneys' fees and costs of collection as the prevailing party may expend or incur with respect thereto. In the event that a settlement is reached between the parties before a final decision in any such litigation or arbitration, then neither party shall be entitled to recover its attorneys fees or costs from the other and neither party shall be responsible for the other party's attorney's fees or costs, unless otherwise agreed by the parties.

Section 8.6 Disputes. In the event a dispute arises between CONSULTANT and CITY regarding the application or interpretation of any provision of this Agreement, or quality of Services by CONSULTANT, the aggrieved party shall promptly notify the other party to this Agreement of the dispute, but in no event more than 20 calendar days after such dispute arises. If the parties fail to resolve the dispute within 20 calendar days after receipt of such notice, each party shall, within five days thereafter, proceed to make application for non-binding mediation, and each party shall proceed to mediation pursuant to an agreed upon schedule with each party to bear its own costs and attorneys' fees (except as otherwise provided in Section 8.5 above) and the parties shall share equally in the cost of the mediator. In the event that the mediation is unsuccessful, the aggrieved party may elect to litigate its dispute with the other party. All disputes shall be governed by the laws of the State of Texas and the jurisdiction and venue for litigation between the parties shall be solely and exclusively in Tarrant County, Texas, or the nearest United States District Court.

Section 8.7 Independent Contractor. CONSULTANT shall be an independent contractor with respect to the Services to be performed hereunder. Neither CONSULTANT, nor its independent professional associates, CONSULTANTS or subcontractors, nor the employees of any of the foregoing, shall be deemed to be the servants, employees or agents of CLIENT.

Section 8.8 Assignment, Subcontractors. This Agreement shall not be assignable by either party without the prior written consent of the other party hereto. No assignment of this Agreement shall be valid until this Agreement shall have been assumed by the assignee. This Agreement shall be binding upon and shall inure to the benefit of the CONSULTANT'S and CITY's respective successors and assigns. Nothing in this Section 8.9 shall prevent or be deemed to prevent CONSULTANT from employing, contracting with or engaging independent professional associates, CONSULTANTS and other subcontractors to perform or assist in the performance of the Services.

Section 8.9 Notices. All notices or communications pertaining to this Agreement shall be in writing and shall be sufficient when mailed or delivered to the address specified below:

If to CLIENT:

Director of Public Works
City of Colleyville
100 Main Street
Colleyville, TX 76034

If to CONSULTANT:

Kimley-Horn and Associates, Inc,
ATTN: L. Nathan Ante, P.E.
2201 West Royal Lane
Suite 275
Irving TX, 75063

Nothing in this Section 8.9 shall be construed to restrict the transmission of routine communications between representatives of CLIENT and CONSULTANT.

Section 8.10 Interpretation.

(a) This Agreement shall be governed by and interpreted in accordance with the laws of Texas..

(b) Headings and titles of sections, paragraphs and other subparts of this Agreement are for convenience of reference only and shall not be considered in interpreting the text of this Agreement. Modifications or amendments to this Agreement must be in writing and executed by duly authorized representatives of each party.

(c) Unless specifically stated to the contrary therein, indemnities against, releases from and limitations on liability expressed in this Agreement shall apply even in the event of the fault, negligence or strict liability of the party indemnified or released or whose liability is limited and shall extend to the officers, directors, employees, agents, licensors and related entities of such party.

(d) In the event that any portion or all of this Agreement is held to be void or unenforceable, the parties agree to negotiate in good faith to reach an equitable agreement which shall effect the intent of the parties as set forth in this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the _____ day of _____ 2016.

City of Colleyville, Texas

Kimley-Horn and Associates, Inc

By: _____

By: _____

Jennifer Fadden

Printed Name: _____

City Manager

Title: _____

Date: _____

ATTEST:

Title: _____

Approved as to form:

City Attorney

EXHIBIT "A"

Scope of Services**Task 1 - Survey (via Subconsultant)**

- Prepare a ground topographic survey of the existing ground based on visible features and markers. The survey will be used for design purposes. The limits of the survey are as follows:
 - Right-of-way width along Pleasant Run Road from 200 linear feet south of the intersection of Shelton Drive to 300 linear feet south of John McCain Road (Approximately 5,800 linear feet total);
 - Intersections of Pleasant Run Road with Fegans Path, McDonwell School Road, L D Lockett Road, Tinker Road, Hardage Lane, Cooks Lane and Shelton Drive will be surveyed for 50 linear feet along the intersecting road.
- Coordinate with TEXAS811 to locate and mark existing franchise and public utilities prior to performing the field survey.
- Establish horizontal control points and a vertical control benchmark circuit as needed throughout the project.
- Perform a field survey to identify and locate existing topographic elements within the roadway corridor including:
 - Property corner monumentation;
 - Existing pavement, curbs, sidewalks, barrier free ramps, etc;
 - Side streets;
 - Existing storm sewer culverts (including pipe sizes and invert elevations) and existing ditch flowline;
 - Utility manholes, vaults, water valves, water meters, sprinkler heads, utility poles, utility markers, other public utilities, and franchise utilities;
 - Signs;
 - Trees;
 - Fence limits and material types (excluding temporary fences);
 - Landscaping elements;
 - Retaining walls and landscape walls;
 - Light poles and electrical components;
 - Other applicable physical features that may impact design.
- Gather existing plat information.
- Collect property owner and record information.
- Gather existing right-of-way and easement information. Identify easements available through typical research methodologies (i.e. plats, court house filings, etc.). Undocumented easements may not be identified. Title research may be performed as an additional service only upon written City authorization.
- Prepare a final topographic drawing in digital format (including contours and breaklines) showing the features located in the field, an ASCII coordinate file of the points located in the field, AutoCAD file, and a hard copy of the coordinates and feature descriptions.

Task 2 - Geotechnical (via Subconsultant)

- Subsurface Exploration
 - Along the roadway alignment, drill and extrude four (4) sample borings to depths of 8' to 10' below existing grade using truck-mounted equipment. Additional depths or borings will be provided as *Additional Services* only upon written CITY authorization.
 - Check samples for consistency with a hand penetrometer;

- Stake the boring locations using normal taping procedures;
 - Backfill bore holes and plug at the surface.
- Laboratory Services
 - Considering the planned facilities, anticipated soil conditions, and geology, the following laboratory tests will be required for classification purposes and to determine strength characteristics:
 - Moisture content and soil identification;
 - Sieve test for every stratum encountered within the pavement test borings;
 - Liquid and plastic limit determinations;
 - Unit weight determinations;
 - Eades and Grim lime series tests;
 - Soluble sulfate tests (to determine lime-induced heaving potential).
- Engineering Services
 - Prepare an engineering report presenting the following:
 - Sample boring location map;
 - General soil and ground-water conditions;
 - Recommendations for pavement subgrade stabilization type and concentration;
 - Comments on the presence and effect of expansive soils on roadway construction will be provided. Alternative methods of reducing any anticipated shrink/swell movements associated with expansive clays will be included for roadway construction, if required;
 - Pavement Design. The pavement design will use a 20-year life cycle analysis and will follow standard AASHTO design guidelines;
 - Earthwork recommendations.
 - The geotechnical engineer's design recommendations will be relied upon by the civil engineer for pavement design.
- Submit one (1) copy of the report to the CITY.

Task 3 - Preliminary Design

- Project Management
 - Conduct progress meetings to monitor the development of the project. During this phase of the project, conduct up to:
 - Two (2) meetings with the CITY regarding project status and coordination issues. The first meeting being the project kick-off meeting;
 - One (1) work sessions with the City Council.
 - Coordinate with subconsultants.
 - Prepare and e-mail progress reports to the project team (CITY and CONSULTANT staff).
 - Develop design criteria chart (review with CITY staff at the project kick-off meeting).
 - Prepare project correspondence and invoicing documents.
- Data Collection will include performing work associated with collecting existing plans and record drawings, standards, etc.
 - The CONSULTANT will gather existing record drawings and file information of the project intersection from the CITY.
 - The CONSULTANT will visit the project for the site investigation. The CONSULTANT will perform a field reconnaissance.
 - The CONSULTANT will prepare a base map of existing geometrics, apparent or known utilities from record drawings and the topographic survey.
- Roadway
 - Prepare one (1) preliminary roadway alignment:
 - Prepare typical sections:
 - Existing and Proposed;

- Preliminary subgrade and pavement design (provided by the Geotechnical subconsultant)
- Prepare preliminary plan and profile (roll plot format, 1"=40' scale). Items to be included:
 - Plan:
 - Control data;
 - Existing / proposed right-of-way;
 - Existing topography;
 - Existing pavement;
 - Proposed centerline alignment and horizontal curve data;
 - Proposed edge of pavement;
 - Proposed ribbon curb location and width;
 - Proposed residential driveway reconstruction limits;
 - Proposed transition pavement tie-ins to existing pavement;
 - Proposed storm sewer and culvert alignments and sizes;
 - Proposed sanitary sewer alignment and sizes;
 - Proposed water line alignment and sizes;
 - Proposed trail alignment and width;
 - Proposed easement;
 - Existing trees to remain (if possible);
 - Existing trees to be removed;
 - Existing driveway locations;
 - Existing storm drain locations;
 - Existing water line locations;
 - Existing sanitary sewer line locations;
 - Existing franchise utility locations (relying upon information provided by franchise utilities).
 - Profile:
 - Existing Ground Profile and Proposed Vertical Alignment;
 - Superelevation Data.
- Drainage
 - Compile the hydrological and hydraulic data.
 - Develop the project drainage area map:
 - Determine conveyance paths, channel slopes, time of concentration, and runoff coefficients to calculate design-year flows;
 - Subdivide the overall drainage areas into sub-areas and calculate the discharge to each ditch. Analyze ditch capacities and adjust ditch cross sections and sub-areas as needed to meet CITY design criteria.
 - Analyze drainage improvements to accommodate the proposed roadway improvements. Evaluate the need for any offsite drainage improvements and report to the CITY (the need for offsite improvements is not anticipated). The design of any offsite drainage improvements will be considered as *Additional Services*. *Additional Services* will be performed only upon written authorization of the CITY after additional engineering fee has been agreed upon.
 - Identify the need for additional drainage easements to accommodate the proposed offsite drainage improvements.
 - Improvements include ditch regrading and minor storm drain improvements to accommodate the proposed trail.
- Utilities
 - Establish the location of existing public utilities based upon information provided by the CITY and field survey information;

- Preliminary plan of approximately 4,150 linear feet of new 12" water main;
- Preliminary plan of approximately 860 linear feet of new 6" sanitary sewer main.
- Streetscape
 - Pedestrian Facilities: Determine alignment of pedestrian trail and associated width, locations of the following with also be included:
 - Crosswalks;
 - Sidewalks;
 - Ramps.
- Traffic
 - Traffic Control Plans: Narrative of the suggested sequence of construction including utility construction phasing.
- Compile and prepare a preliminary opinion of probable construction cost for the entire project using recent average unit bid prices which are representative of similar types of construction in the local area.
- Preliminary design submittal
 - Submit one (1) electronic copy to the CITY for review and comment.
 - Submit three (3) copies to the CITY for review and comment.
 - Submittal shall include the following:
 - Preliminary roadway and pedestrian trail alignment:
 - Preliminary ditch design and drainage area map:
 - Preliminary utilities design:
 - Preliminary traffic control plan narrative:
 - Preliminary opinion of probable construction cost.

Task 4 – Final Design

- Project Management
 - Conduct progress meetings to monitor the development of the project. During this phase of the project, conduct up to:
 - Two (2) meetings with the CITY regarding project status and coordination issues.
 - Coordinate with subconsultants.
 - Prepare and e-mail progress reports to the project team (CITY and CONSULTANT staff).
 - Prepare project correspondence and invoicing documents.
 - CONSULTANT will perform up to two (2) field visits.
- Roadway
 - Incorporate the preliminary design submittal review comments.
 - Prepare plan / profile sheets (22"x34" plan sheets at a scale of 1"=20' horizontal, and 1"=4' vertical).
 - Analyze driveways within the project and develop driveway profiles as needed. Typically driveways will be defined vertically by spot elevations.
 - For side street reconstruction more than 100 linear feet beyond right-of-way, prepare a plan / profile of the side street improvements. Otherwise, the side street improvements will be defined vertically by spot elevations.
 - Develop design cross-sections.
 - In locations where the elevation difference between the roadway and adjacent property warrants, provide standard design details to construct retaining walls. Structural design of retaining walls is not included.
 - Prepare roadway details to clarify intent of design.
 - Compile applicable City standard details.
- Drainage
 - Incorporate the preliminary design submittal review comments.

- o Perform final storm sewer sizing and alignment design. Prepare final ditch design sheets and hydraulic design sheets for inclusion in the plans.
- o Prepare storm sewer plan / profile sheets depicting storm sewer lines, inlets, junction boxes, connections, manholes, utility crossings, and the hydraulic grade lines (if applicable).
- o Prepare profiles for the proposed storm drain laterals (if applicable).
- o Determine outfall grading requirements and provide plans and details for channel protection. Design of retaining walls and gabion mattresses (beyond specification of material/method) will be provided as *Additional Services* only upon CITY written authorization.
- o Provide plan sheets and details to construct storm sewer outfalls.
- o Prepare drainage details to clarify intent of design. Compile applicable City standard details. Modify standard details as needed.
- o Create details for connections to existing system (where applicable).
- o Prepare erosion control plan.
- Utilities
 - o Water
 - Minor adjustments to existing water valve boxes, etc. will be specified in the plans.
 - Prepare the plan and profile plan for the 12" water line.
 - Intersecting mains and service lines will be replaced to just beyond the limits of new pavement construction.
 - o Sewer
 - Minor adjustments to existing manholes, etc. will be specified in the plans.
 - Prepare the plan and profile plan for the 6" sanitary sewer main.
 - o Prepare utility details to clarify intent of design
 - o Compile applicable CITY standard details. Modify standard details as needed.
- Streetscape
 - o Pedestrian Facilities: Prepare geometrics to be included on roadway plan and profile for the pedestrian trail including layout, grading, materials, specifications, and details for construction.
- Traffic
 - o Traffic Control Plans (to be prepared by the Contractor and reviewed by CONSULTANT during construction). Update narrative of the suggested sequence of construction from preliminary design for bidding purposes.
- Pavement Marking Plans
 - o Prepare pavement marking layouts in accordance with CITY design standards and the Texas Manual of Uniform Traffic Control Devices (TMUTCD).
 - o Prepare details to clarify intent of design.
 - o Compile applicable CITY standard details. Modify standard details as needed.
- Prepare general notes and specification data. Identify and prepare special specifications and/or special provisions applicable to the project.
- Compile and update the overall opinion of probable construction cost.
- Prepare opinion for construction duration using anticipated production rates applicable to the local area.
- Final design submittal (90%)
 - o Submit one (1) electronic copy to the CITY for review and comment.
 - o Submit three (3) copies to the CITY for review and comment
 - o Submittal shall include the following:
 - Final design plans;
 - CITY standard Contract documents;
 - Opinion of probable construction cost;

- Submit to a Registered Accessibility Specialist (along with one of the plan sets) for review in accordance with to the Elimination of Architectural Barriers Act. The application and plan review fees will be paid directly by the CONSULTANT.
- Incorporate the final design submittal review comments.
- Prepare the final opinion of probable construction cost.
- Final design submittal (100%)
 - Submit one (1) electronic copy of full-size plans to the CITY;
 - Submit three (3) full-size and three (3) half-size sets of plans and specifications to the CITY;
 - Submit the final opinion of probable construction cost;
 - Submit a letter of notification to the CITY stating completion of the design of the project.

Task 5 – Easement Instruments of Conveyance

- After the preliminary design submittal, and prior to the preparation of formal Easement Instruments of Conveyance, prepare up to ten (10) exhibits for CITY's use during property owner negotiations showing an aerial, the existing ROW and easements in addition to the proposed easements, and improvements.
- Prepare up to ten (10) easement instruments (narrative and graphic exhibits of easements required for drainage, trail, CITY utilities, temporary construction, etc.)
- Individual parcel exhibits will be on 8 ½"x11" paper, will be sealed, dated, and signed by a Registered Professional Land Surveyor and will contain the following:
 - Parcel number, area required, area remaining, legal description and current owner;
 - Any existing platted easements or easements filed by separate instrument including easements provided by utility companies;
- Metes and bounds description of parcel to be acquired. The description will be provided on a separate sheet from the exhibit. Each type of easement will be described separately.

Estimated Costs:

- Easements - \$900/each

Task 6 – Franchise Utility Coordination (Hourly)

The Consultant may perform the following services as authorized by the CITY:

- Collect franchise utilities' contact information and maps
- Notify the CITY and franchise utility companies if any relocations are required
- Submit plans to franchise utility companies
- Coordinate with franchise utility companies and inform them of necessary relocations
- Attend meetings as requested with franchise utility companies

CONSULTANT will perform Task 6 on an hourly basis based on the rate schedule shown in Schedule 1. Due to the unknown level of effort required for this task we have assumed 20 hours of effort. If additional effort is required beyond 20 hours, it will be considered *Additional Services*.

Task 7 – Bid Phase Services (Hourly)

This task will include preparing the final design plans as a bid package. The CONSULTANT shall provide for the CITY:

- Project Manual
 - CITY Front End Documents
 - Bid Form
 - CITY Specifications

- o Technical Specifications
- Upload all plans and contract documents onto CivCast (or similar website) for access to potential bidders. Contract documents shall be uploaded in 11X17 .pdf files.
- Issue addenda to provide responses to all bidder's questions.
- Maintain plan holder list
- Attend the bid opening
- Tabulate the bids received and evaluate the compliance of the bids received with the bidding documents.
- Incorporate any addenda into the contract documents and issue conformed sets

Task 8 – Construction Phase Services (Hourly)

This task may include the following services:

- Attend and assist with a pre-construction meeting
- Review shop drawings and samples
- Respond to requests for information
- Review change orders
- (2) Site Visits
- Prepare record drawings from information provided by the Contractor

CONSULTANT will perform Task 8 on an hourly basis based on the rate schedule shown in Schedule 1. Due to the unknown level of effort required for this task we have assumed 40 hours of effort. If additional effort is required beyond 40 hours, it will be considered *Additional Services*.

Deliverables:

Record Drawings – One (1) electronic copy of the storm drain plan sheets and one (1) 11"x17" hard copy
 Shop drawing review
 Response to RFIs
 Review Change Orders

Task 9 – Record Drawings (Hourly)

Prepare project "Record Drawings" based on information provided by the Contractor and/or City as to the actual field placement of the work including any changes or deletions. CONSULTANT is not responsible for the accuracy of the information provided by the Contractor and/or the City. CONSULTANT will provide the following deliverables:

One (1) set of reproducible (22" x 34") Record Drawings.

One (1) set of .pdf file Record Drawings (each sheet will be a separate .pdf file)

Task 10 – Council Meetings and Exhibits (Hourly)

This task may include the following services as authorized by the CITY:

- Develop of documentation and memorandums for City Council discussion
- Develop of exhibits for city council discussions
- Develop presentation materials (i.e. Powerpoint, boards, etc.)
- Attend and present at city council meetings and work sessions

CONSULTANT will perform Task 10 on an hourly basis based on the rate schedule shown in Schedule 1. Due to the unknown level of effort required for this task we have assumed 75 hours of effort. If additional effort is required beyond 75 hours, it will be considered *Additional Services*.

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives.

Schedule of Rates and Expenses

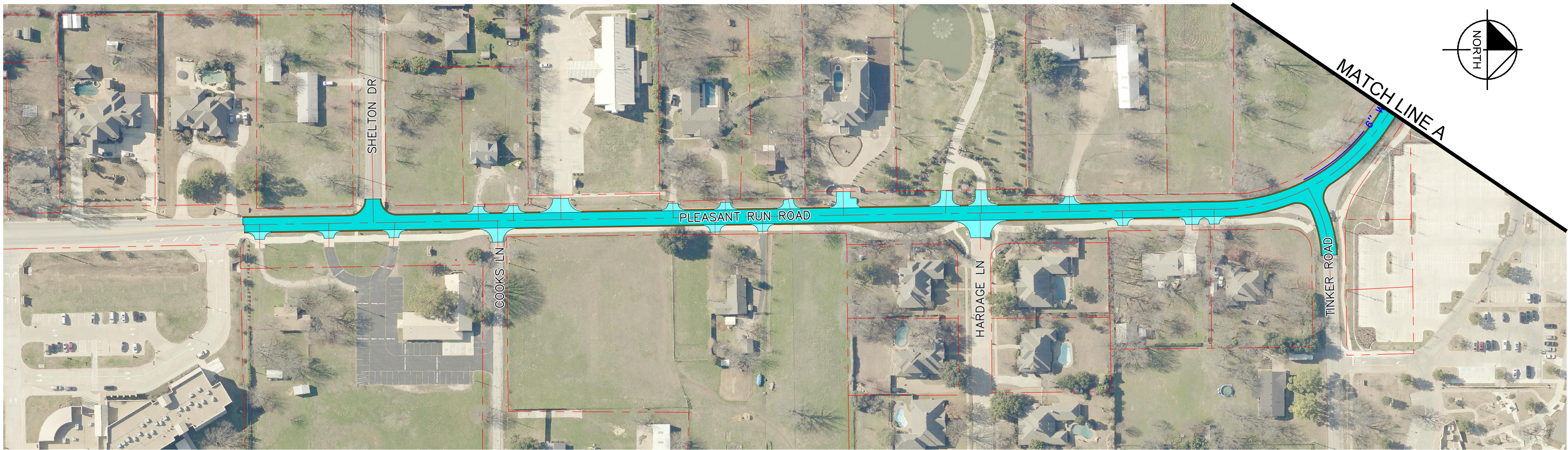
Refer to Schedule 1.

*Schedule 1 – Page 2***Kimley-Horn and Associates, Inc.****Standard Rate Schedule**

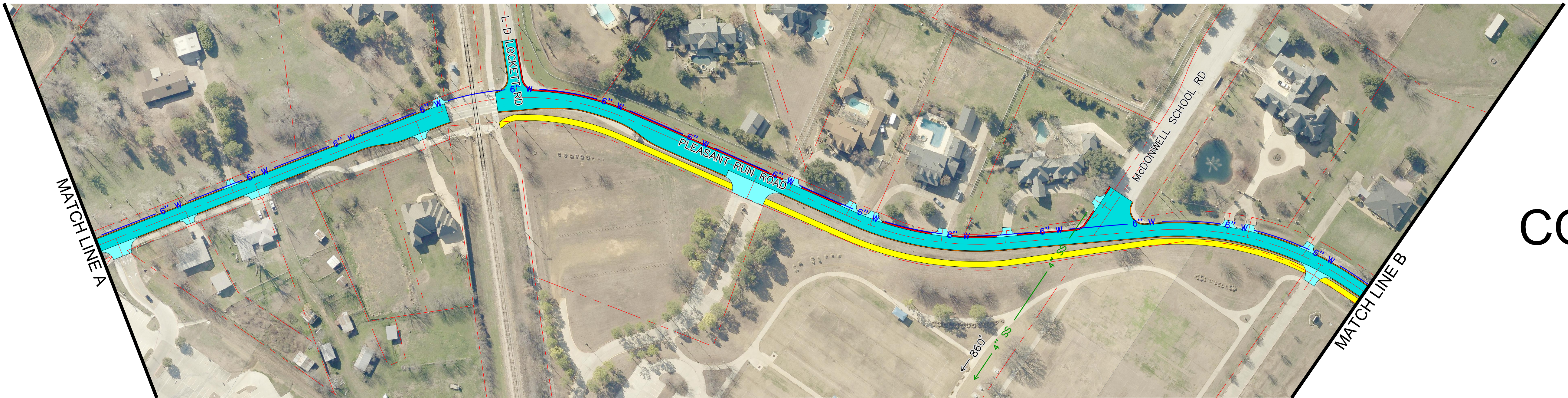
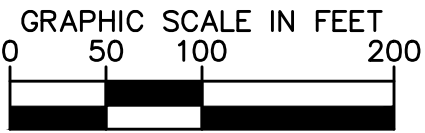
(Hourly Rate)

Senior Professional I	\$230 - \$250
Senior Professional II	\$190 - \$240
Professional	\$150 - \$205
Analyst	\$145 - \$165
Designer	\$170 - \$180
Technical Support	\$65 - \$160
Clerical/Administrative Support	\$70 - \$125

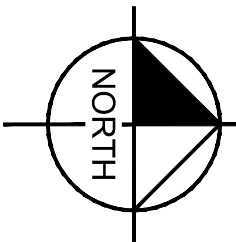
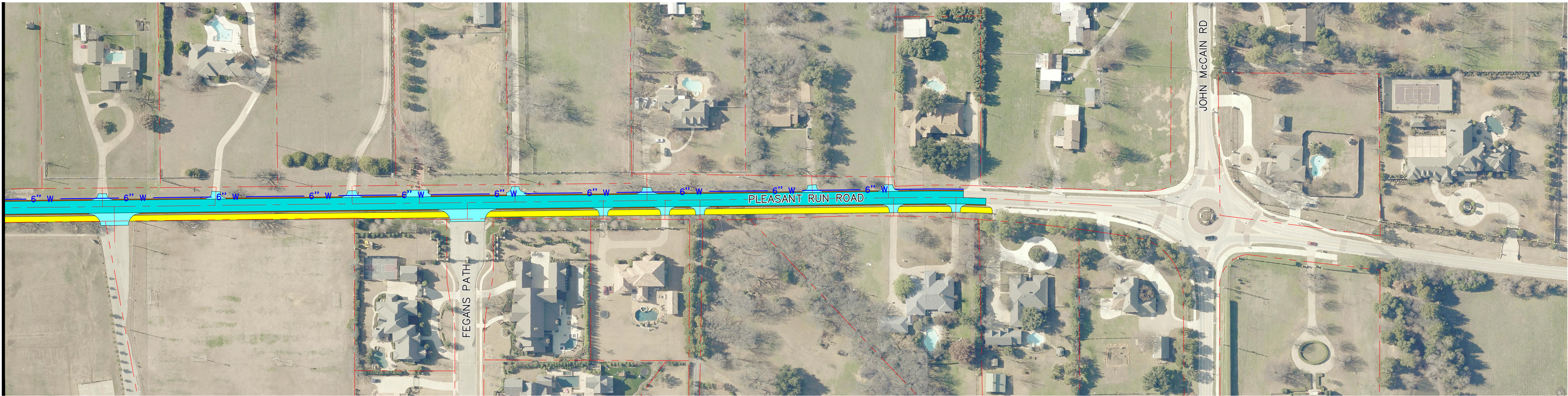
Effective July 2016



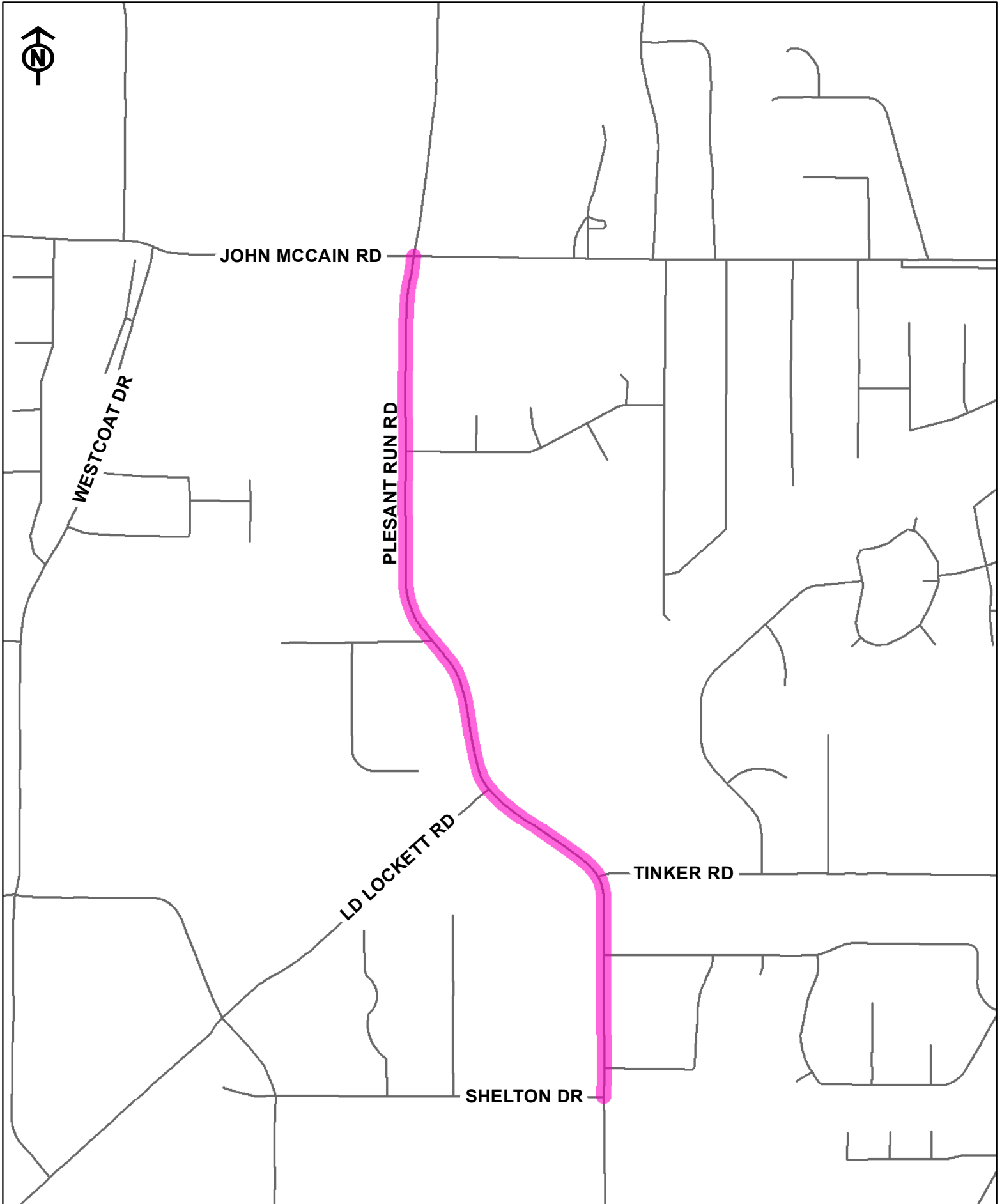
Pleasant Run Road
Shelton Drive to
John McCain Road
August 11, 2016



CONCEPTUAL
ONLY



LEGEND	
ITEM	DESCRIPTION
	EXISTING RIGHT OF WAY
	PROPOSED ALIGNMENT
	PROPOSED 12\" WATER LINE
	PROPOSED 6\" SEWER LINE
	PROPOSED ASPHALT PAVEMENT
	PROPOSED CONCRETE DRIVEWAY
	PROPOSED VARIABLE WIDTH CONCRETE TRAIL
	PROPOSED RIBBON CURB
	PROPOSED CURB AND GUTTER



LOCATION MAP

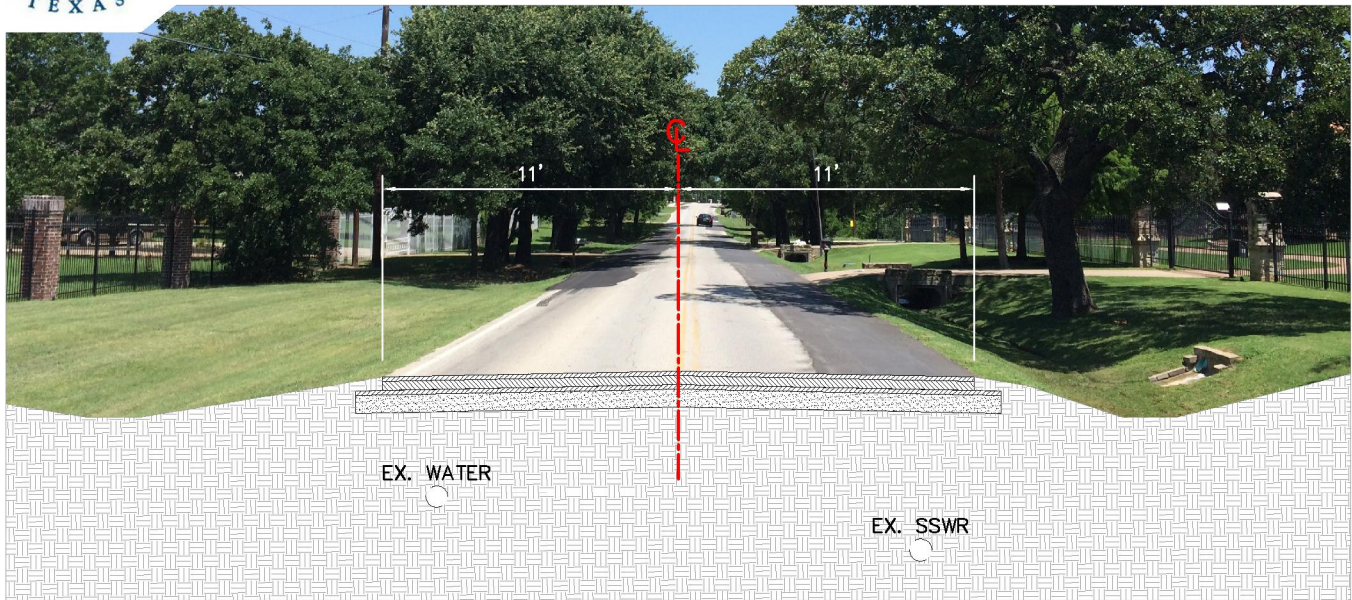
 PROJECT LIMITS



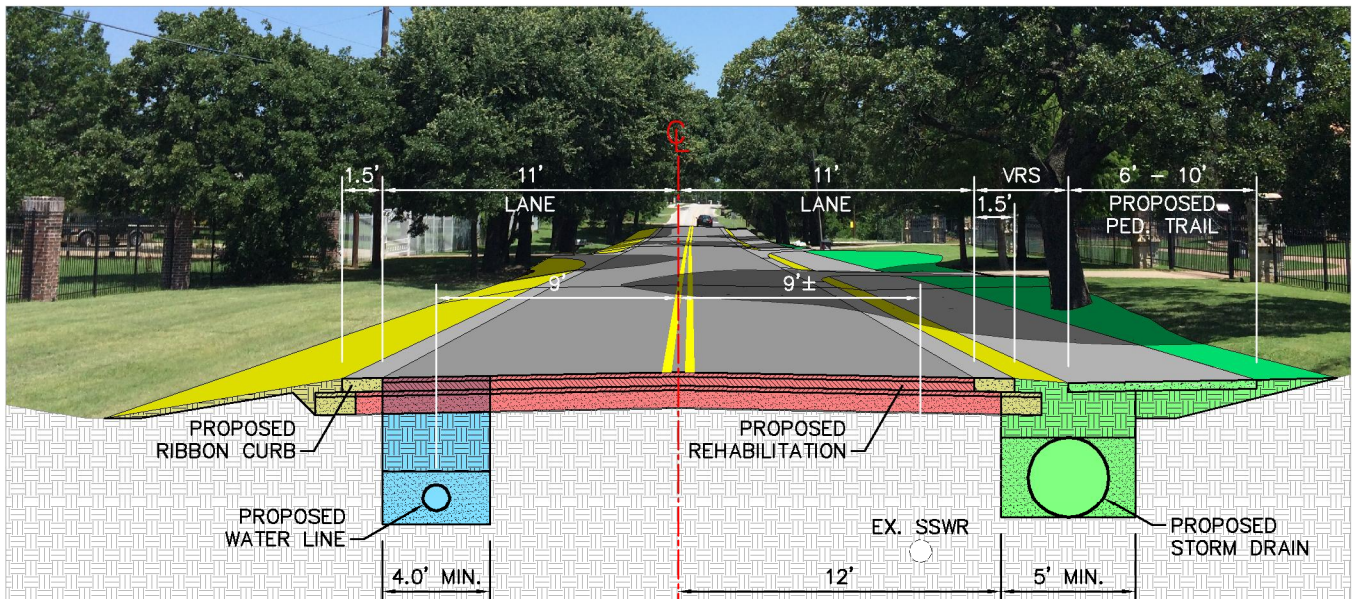


PLEASANT RUN ROAD

TYPICAL SECTION EXHIBIT



EXISTING TYPICAL SECTION



PROPOSED TYPICAL SECTION

LEGEND

	PROPOSED REHABILITATION
	PROPOSED RIBBON CURB
	PROPOSED WATER LINE
	PROPOSED PED. TRAIL

RESOLUTION R-15-3907

**A RESOLUTION ADOPTING A COMPREHENSIVE FIVE-YEAR
CAPITAL IMPROVEMENT PROGRAM FOR
FISCAL YEARS 2016- 2020 FOR THE
CITY OF COLLEYVILLE, TEXAS**

WHEREAS, planning for capital expenditures is an essential function of local government; and

WHEREAS, a multi-year capital improvement program is an important communication tool for residents and businesses; and

WHEREAS, a multi-year capital improvement program is a valuable tool in addressing infrastructure renewal and replacement needs and an essential part of the City's financial planning.

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

- Sec. 1. THAT the Fiscal Year 2016-2020 Capital Improvement Program attached as Exhibit "A", is hereby adopted.
- Sec. 2. THAT the Capital Improvement Program will be reviewed and updated on an annual basis, or as otherwise necessary.
- Sec. 3. THAT changes to the Capital Improvement Program will require approval of the City Council.
- Sec 4. THAT this resolution replaces Resolution R-14-3781

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 5 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS
THE 15TH DAY OF SEPTEMBER 2015.

ATTEST:


Amy Shelley, TRMC
City Secretary

COLLEYVILLE CITY COUNCIL


David Kelly
Mayor

Exhibit "A"

Project Year	Title	Total Project Cost	CEDC (Parks, Trails & Libraries)		COG/TxDOT County	FWHA/TxDOT	General Fund	Other, City Funds	Perimeter	Roadway Impact	Roadway Impact	TIF	Tomorrow Fund	Utility Fund	Wastewater Impact Fees	Water Impact Fees	Total Funding	
			Street Fees	Service Area 1 (East of SH 26)					Service Area 2 (West of SH 26)									
2016	Folding Doors- Fire Station #1	\$66,000.00	\$0.00		\$0.00	\$0.00	\$66,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$66,000.00	
	Down-payment on Fire Engine replacement	\$125,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$125,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$125,000.00	
	City Hall - Backup Power	\$181,000.00	\$0.00		\$0.00	\$0.00	\$56,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$125,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$181,000.00	
	Justice Center - Roof Repair	\$100,171.00	\$0.00		\$0.00	\$0.00	\$0.00	\$100,171.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$100,171.00	
	Colleyville Center AV Replacement	\$170,000.00	\$170,000.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$170,000.00	
	Senior Center Repairs	\$100,000.00	\$100,000.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$100,000.00	
	Construct New Trail 2016	\$150,000.00	\$150,000.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$150,000.00	
	Cheek-Sparger Road (Brown Trail to Bedford Road) - Rehabilitation	\$750,000.00	\$0.00		\$0.00	\$0.00	\$750,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$750,000.00	
	Glade Road Design (Phase 2 - Manning to Pool)	\$460,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$460,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$460,000.00	
	Glade Road Design (Phase 3 - Pool to Heritage)	\$309,500.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$309,500.00	\$0.00	\$0.00	\$0.00	\$0.00	\$309,500.00	
	Glade Road Design (Phase 4 - West City Limits to Bransford Road)	\$360,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$360,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$360,000.00	
	John McCain (Pleasant Run Rd to Shepherds Glen) - Rehabilitation	\$662,222.00	\$0.00		\$0.00	\$0.00	\$662,222.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$662,222.00	
	Pleasant Run Design (Shelton to John McCain)	\$140,000.00	\$0.00		\$0.00	\$0.00	\$140,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$140,000.00	
	Westcoat - Rehabilitation	\$613,849.00	\$0.00		\$0.00	\$0.00	\$613,849.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$613,849.00	
	Glade Road Reconstruction (Phase 1 - Bransford to Manning)	\$3,755,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$23,514.00	\$604,471.00	\$49,784.00	\$3,077,230.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,755,000.00	
	Construct SH26 - Phase II and III	\$31,848,898.00	\$0.00	\$15,918,251.00	\$14,930,647.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,000,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$31,848,898.00
	Bandit Trail (County project) - Rehabilitation	\$300,000.00	\$0.00	\$100,000.00	\$0.00	\$200,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$300,000.00
	Emergency Asphalt Maintenance	\$300,000.00	\$0.00		\$0.00	\$0.00	\$300,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$300,000.00
	Fiber Build Phase 1-3	\$394,700.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$394,700.00	\$0.00	\$0.00	\$0.00	\$394,700.00
	Install Backup Generator for Emergency Power at L.D. Lockett Pump Station	\$140,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$140,000.00	\$0.00	\$0.00	\$140,000.00
	Water Project 4: Upsize and Replace Water Lines in Sunrise Terrace Subdivision	\$380,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$380,000.00	\$0.00	\$0.00	\$380,000.00
	Water Project 7: Demolish Overland Trail Pump Station and Storage Tank	\$130,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$130,000.00	\$0.00	\$0.00	\$130,000.00
	Water Project 9: Misc Repairs to Elevated Storage Tanks	\$226,600.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$226,600.00	\$0.00	\$0.00	\$226,600.00
	WW Project 2: Rehabilitate Sewer Manholes Identified to be in Poor Condition	\$186,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$186,000.00	\$0.00	\$0.00	\$186,000.00
	Vermeer Hydro Excavator-2008 (886)	\$87,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$87,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$87,000.00
		\$41,935,940.00	\$420,000.00	\$16,018,251.00	\$14,930,647.00	\$2,788,071.00	\$312,171.00	\$23,514.00	\$604,471.00	\$49,784.00	\$5,331,730.00	\$394,700.00	\$1,062,600.00	\$0.00	\$0.00	\$0.00	\$0.00	\$41,935,940.00
2017	UPS Battery Backup Replacement at Justice Center	\$85,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$85,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$85,000.00	
	Construct New Trail 2017	\$150,000.00	\$150,000.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$150,000.00	
	Construct Pleasant Run Trail (Cottonbelt RR to John McCain)	\$300,000.00	\$300,000.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$300,000.00	
	Bedford Road (County project) - Rehabilitation	\$500,000.00	\$0.00	\$175,000.00	\$0.00	\$325,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$500,000.00	
	Glade Road ROW (Phase 2 - Manning to Pool)	\$430,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$430,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$430,000.00	
	Glade Road ROW (Phase 3 - Pool to Heritage)	\$190,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$190,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$190,000.00	
	McDonwell School Road - Rehabilitation	\$713,316.00	\$0.00		\$0.00	\$713,316.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$713,316.00	
	Pleasant Run Rehabilitation (Shelton to John McCain)	\$760,000.00	\$0.00		\$0.00	\$760,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$760,000.00	
	Tinker Rehabilitation (Pleasant Run to Highway 26)	\$453,334.00	\$0.00		\$0.00	\$453,334.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$453,334.00	
	Emergency Asphalt Maintenance	\$300,000.00	\$0.00		\$0.00	\$300,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$300,000.00	
	Water Project 10: Water Group E Capital Improvements - Design	\$53,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$53,000.00	\$0.00	\$0.00	\$0.00	\$53,000.00	
	Water Project 5: Upsize and Replace Water Lines in Brighton Oaks Subdivision	\$1,515,100.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,515,100.00	\$0.00	\$0.00	\$1,515,100.00	
	Water Project 8: Design for the Installation of Pressure Relief and Flow Control Valves and Associated Piping	\$42,500.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$42,500.00	\$0.00	\$0.00	\$42,500.00	
	WW Project 3: Design Replacement of Pipelines on Manning Drive and near Pleasant Run Rd and McDonwell School Rd	\$75,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$75,000.00	\$0.00	\$0.00	\$75,000.00	
	WW Project 4: Design for the Replacement of 10" Sewer Lines in Remington Park and Clairemont Subdivisions	\$33,000.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$33,000.00	\$0.00	\$0.00	\$33,000.00	
	Elgin Street Sweeper-2009 (601)	\$197,527.00	\$0.00		\$0.00	\$0.00	\$0.00	\$197,527.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$197,527.00	
	Ford F550 Bucket-2001 (695)	\$84,379.00	\$0.00		\$0.00	\$0.00	\$0.00	\$84,379.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$84,379.00	
		\$5,882,156.00	\$450,000.00	\$175,000.00	\$0.00	\$2,551,650.00	\$366,906.00	\$0.00	\$0.00	\$0.00	\$620,000.00	\$0.00	\$1,718,600.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,882,156.00
2018	Construct New Trail 2018	\$150,000.00	\$150,000.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$150,000.00	
	Bransford (LD Lockett to Glade) - Rehabilitation	\$706,667.00	\$															

Exhibit "A"

[illegible]

Exhibit "A"

Project Year	Title	Total Project Cost	CEDC (Parks, Trails & Libraries)		COG/TxDOT County	FWHA/TxDOT	General Fund	Other, City Funds	Perimeter Street Fees	Roadway Impact Service Area 1 (East of SH 26)	Roadway Impact Service Area 2 (West of SH 26)	TIF	Tomorrow Fund	Utility Fund	Wastewater Impact Fees	Water Impact Fees	Total Funding
	Renfro Rd - Rehabilitation	\$169,476.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Ross Downs Estates - Rehabilitation	\$4,000,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Saddlebrook Addition - Rehabilitation	\$667,333.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Sand Oak Acres Addition - Rehabilitation	\$864,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Shelton - Rehabilitation	\$288,293.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Stafford Heights Subdivision - Rehabilitation	\$542,222.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Stone Creek Estates - Rehabilitation	\$63,556.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Suellen Circle - Rehabilitation	\$44,373.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Tara Plantation Addition - Rehabilitation	\$495,444.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Thompson Terrace - Rehabilitation	\$167,378.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Van Oaks Drive - Rehabilitation	\$126,720.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Waller Lane - Rehabilitation	\$81,600.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Wayne Drive - Rehabilitation	\$160,276.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Western Trails Subdivision - Rehabilitation	\$1,200,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Woodland Hills Subdivision - Rehabilitation	\$1,295,667.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Woodbriar, Quail Creek Estates - Rehabilitate	\$1,984,400.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Sunrise Terrace/Brighton Oaks - Rehabilitate	\$1,730,200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 12: Water Group F Capital Improvements - CONSTRUCT	\$2,417,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 12: Water Group F Capital Improvements - DESIGN	\$363,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 13: Water Group L Capital Improvements - CONSTRUCT	\$1,426,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 13: Water Group L Capital Improvements - DESIGN	\$214,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 14: Water Group I Capital Improvements - CONSTRUCT	\$1,470,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 14: Water Group I Capital Improvements - DESIGN	\$220,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 15: Water Group G Capital Improvements	\$5,389,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 16: Water Group H Capital Improvements	\$2,264,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 17: Water Group J Capital Improvements	\$1,404,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 18: Water Group K Capital Improvements	\$8,158,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 19: Water Group M Capital Improvements	\$4,094,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 20: Water Group W Capital Improvements	\$1,477,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 21: Water Group X Capital Improvements	\$646,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 22: Water Group C Capital Improvements	\$1,225,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 23: Water Group Q Capital Improvements	\$1,827,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 24: Water Group N Capital Improvements	\$2,567,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 25: Water Group R Capital Improvements	\$1,211,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 26: Water Group S Capital Improvements	\$176,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Water Project 27: Water Group T Capital Improvements	\$4,570,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 10: Sewer Group P Improvements	\$710,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 11: Sewer Group Q Improvements	\$277,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 12: Sewer Group R Improvements	\$415,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 13: Sewer Group E Line Improvements	\$1,407,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 14: Sewer Group V Improvements	\$3,304,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 15: Sewer Group D Line Improvements	\$758,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 16: Sewer Group S Improvements	\$1,416,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 17: Sewer Group W Improvements	\$3,946,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 6: Sewer Group A Line Improvements	\$800,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 7: Sewer Group T Line Improvements	\$790,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 8: Sewer Group G Line Improvements	\$412,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	WW Project 9: Sewer Group U Improvements	\$2,936,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	F750 Single Axle Dump-2007 (896)	\$84,761.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		\$116,096,059.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		\$191,832,669.00	\$1,320,000.00	\$16,648,251.00	\$14,930,647.00	\$10,053,551.00	\$1,339,536.00	\$611,634.00	\$604,471.00	\$49,784.00	\$13,826,860.00	\$394,700.00	\$10,989,200.00	\$134,000.00	\$4,833,975.00	\$75,736,610.00	



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 4g

Agenda Date 08/16/2016

Number Resolution R-16-4017

Type Resolution

Department City Manager

Title

Approval of an interlocal agreement between the City of Colleyville and the City of Fort Worth to extend participation in Fort Worth's Environmental Collection Center Household Hazardous Waste Program through Fiscal Year 2017, and authorize the city manager to execute the agreement

Strategy Map Connection

C5- Achieve the highest standards of safety & security

B3- Utilize partnerships to implement cost-effective service solutions

Explanation

Reading and Public Hearing

The City of Fort Worth operates the Environmental Collection Center (ECC), a permanent collection facility for household hazardous waste. In 1997, the City of Colleyville entered into an interlocal agreement which allows Colleyville residents to utilize the facility for disposal of pesticides, solvents, paints, cleansers, and other household chemicals. The ECC is open three days a week and is located at 6400 Bridge Street in Fort Worth. Colleyville residents present a current water bill or drivers license, and are allowed to drop off items at the ECC free of personal charge throughout the year. The City of Fort Worth then bills the City of Colleyville quarterly at a rate of \$47.00 per household visit as stated in the attached interlocal agreement, which extends the interlocal agreement through fiscal year 2017 with no changes to pricing.

Utilization of the ECC minimizes the disposal of chemicals in sink drains, which aids in the prevention of excessive wear on the City's sewer infrastructure, and provides an alternative to dumping chemicals in yards, streets, or gutters, which facilitates compliance with regulations for runoff and protects creeks and rivers.

In addition to being able to drop off hazardous waste throughout the year at the ECC, citizens may take their waste to a mobile collection unit that is brought to Colleyville once a year. A mobile collection unit (Crud Cruiser) is scheduled to participate in the annual Clean Sweep event held each spring. Residents bring their household hazardous waste to the Clean Sweep event location where it is off-loaded by City staff and volunteers. Drop off of household hazardous waste at the Clean Sweep event is billed to the City of Colleyville at the same rate as drop offs at the ECC, \$47.00 per household visit.

In Fiscal Year 2015, a total of 658 Colleyville households utilized the ECC (135 of those occurred at the Clean Sweep event) for a total cost of \$30,926. Through the first three quarters of Fiscal Year 2016, 611 households have utilized the ECC (128 at the Clean Sweep event).

Financial Impact

The City is billed quarterly at \$47.00 per household use of the ECC. Historically, \$15,000 from the garbage and recycling franchise fee is utilized to pay for a portion of the ECC cost. The remaining cost is paid for out of Miscellaneous Contractual Services in the Drainage Fund. It is estimated that Fiscal Year 2017 costs will be \$30,000.

Recommendation

Approve

Attachments

1. FY 2017 Interlocal Agreement- Fort Worth ECC

INTERLOCAL AGREEMENT FOR PARTICIPATION IN FORT WORTH'S
ENVIRONMENTAL COLLECTION CENTER
HOUSEHOLD HAZARDOUS WASTE PROGRAM

FY2017

INTERLOCAL AGREEMENT FOR PARTICIPATION IN FORT WORTH'S
ENVIRONMENTAL COLLECTION CENTER
HOUSEHOLD HAZARDOUS WASTE PROGRAM

THIS AGREEMENT is entered into by and between the City of Fort Worth, Texas, a home-rule municipal corporation situated in Tarrant, Denton, Parker, and Wise Counties, Texas, hereinafter called "Fort Worth," acting by and through Fernando Costa, its duly authorized Assistant City Manager and the City of Colleyville, hereinafter referred to as "Participating City" and located in Tarrant County, Texas acting herein by and through Jennifer Fadden its duly authorized City Manager.

DELIVERY OF NOTICES

Any notices required to be given under this Agreement shall be delivered as follows:

If to Fort Worth:

Cody Whittenburg, Environmental Program Manager
Code Compliance – Environmental Management Division
City of Fort Worth
1000 Throckmorton
Fort Worth, Texas 76102

If to Participating City:

Adrienne Lothery, Strategic Services Manager
City Manager's Office
City of Colleyville
100 Main Street
Colleyville, Texas 76034

OPERATIONAL CONTACTS

Participating City's Operational Contact Persons:

Designated person is: _____ telephone number: _____
Mobile phone number (24-hour) where he/she can be reached: _____
Email Address: _____

Alternate person is _____ telephone number: _____
Mobile phone number (24-hour) where he or she can be reached: _____
Email Address: _____

VOUCHER UTILIZATION

The Participating City:

_____ DOES wish to use a voucher system for its residents visiting the ECC or a mobile event.

 X DOES NOT wish to use a voucher system for its residents visiting the ECC or a mobile event.

If a voucher system is used only residents with an official voucher provided by Participating City will be allowed to drop wastes off at the ECC or at mobile events in Participating City. **A copy of the official voucher must be attached to this agreement.**

INVOICE DELIVERY

Invoices to Participating City shall be delivered to:

Adrienne Lothery

Name

City Manager's Office

Department (if applicable)

100 Main Street

Street Address or PO Box

Colleyville, Texas 76034

City, State, ZIP

alothery@colleyville.com

email address for billing questions and correspondence

Participating City shall notify Fort Worth in writing if the above contact information changes during the term of this Agreement.

WITNESSETH

WHEREAS, Texas Government Code, Chapter 791, authorizes the formulation of interlocal cooperation agreements between and among local governments; and

WHEREAS, Texas Government Code, §791.011 provides that a local government may contract with another local government to perform governmental functions and services, and §791.003(3)(H) defines waste disposal as a governmental function and service; and

WHEREAS, Texas Government Code, §791.025 provides that a local government may agree with another local government to purchase services; and

WHEREAS, Fort Worth and Participating City desire to enter into an interlocal agreement whereby Fort Worth will purchase the services of a waste disposal/recycling firm or firms and will administer a household hazardous waste collection program; and

WHEREAS, Fort Worth and Participating City mutually desire to be subject to the provisions of Texas Government Code, Chapter 791, also known as the Interlocal Cooperation Act.

NOW THEREFORE, it is agreed as follows:

1.
DEFINITIONS

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

Act of God means an act occasioned by the direct, immediate, and exclusive operation of the forces of nature, uncontrolled or uninfluenced by the power of humans and without human intervention.

Bill of Lading lists the contents of the mobile collection unit.

Environmental Collection Center (ECC) means the City of Fort Worth Code Compliance-Environmental Management Division facility located at 6400 Bridge Street, Fort Worth, Texas, which is to be used by Fort Worth for the aggregation of household hazardous wastes that have been brought to the facility by participating cities' households for subsequent recycling, disposal, and/or reuse.

Environmental damages means all claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs, and expenses of investigation and defense of any claim, whether or not such claim is ultimately defeated, and of any good faith settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or un-matured, foreseeable or unforeseeable, including without limitation reasonable attorney's fees and disbursements and consultant's fees, any of which are incurred subsequent to the execution of

this Agreement as a result of the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of waste pursuant to this Agreement, or the existence of a violation of environmental requirements pertaining to same, and including without limitation:

- (a) Damages for personal injury and death, or injury to property or natural resources;
- (b) Fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such wastes or violation of environmental requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration or monitoring work required by any federal, state or local governmental agency or political subdivision, or otherwise expended in connection with the existence of such wastes or violations of environmental requirements, and including without limitation any attorney's fees, costs and expenses incurred in enforcing this Agreement or collecting any sums due hereunder; and
- (c) Liability to any third person or governmental agency to indemnify such person or agency for costs expended in connection with the items referenced in subparagraph (b) herein.

Environmental requirements means all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states, and political subdivisions thereof and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including without limitation:

- (a) All requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of hazardous materials, pollutants, contaminants, or hazardous or toxic substances, materials, or wastes whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, storm water, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, or hazardous or toxic substances, materials, or wastes, whether solid, liquid, or gaseous in nature; and
- (b) All requirements pertaining to the protection of the health and safety of employees or the public.

Force majeure means decrees of or restraints by a governmental instrumentality other than the Parties, acts of God, work stoppages due to labor disputes or strikes, failure of Fort Worth's contractor(s) to perform pursuant to their agreements with Fort Worth for the conduct of the collection of household hazardous waste, fires, explosions, epidemics, floods, extreme weather, riots, war, rebellion, and sabotage.

Household hazardous waste (HHW) means any solid waste generated in a household by a consumer which, except for the exclusion provided for in 40 CFR § 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

Manifest means the uniform hazardous waste manifest form(s) that must accompany shipments of municipal hazardous waste or Class 1 industrial solid waste.

Mobile collection event means a household hazardous waste collection event by Participating City utilizing a mobile collection unit.

Mobile Collection Unit (MCU) means a non-self-propelled vehicle used for the periodic collection of household hazardous waste by Participating City, off-site of the ECC, which is transported to the ECC to dispose of the household hazardous waste collected at the mobile collection event. Mobile Collection Units owned by Fort Worth are designed to hold the hazardous waste of approximately 50 to 75 households.

Participating City means the municipality which has entered into this agreement with the City of Fort Worth.

Participating Entities, when used in the plural, means Fort Worth, Participating City, and all other entities which have entered into interlocal agreements with Fort Worth for the ECC household hazardous waste collection program.

Person means an individual, corporation, organization, government, or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

Waste has the same meaning as "solid waste" as that term is defined in Texas Health and Safety Code §361.003, and including hazardous substances.

- B. Unless a provision in this Agreement explicitly states otherwise, the following abbreviations, as used in this Agreement, shall have the meanings hereinafter designated.

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act, its amendments, associated case law, and state counterparts.

CPR - cardiopulmonary resuscitation

DOT - United States Department of Transportation

ECC – Fort Worth Environmental Collection Center

EPA - United States Environmental Protection Agency

HAZCAT - hazardous categorization

HAZWOPER - hazardous waste operations and emergency response and the training, certification, and legal requirements associated therewith

HM - hazardous materials

HHW - household hazardous waste

MCU - Mobile Collection Unit

TCEQ – Texas Commission on Environmental Quality

2.

PURPOSE

The purpose of this interlocal agreement (hereafter “Agreement”) is the provision of services by Fort Worth to Participating City whereby, subject to the terms and conditions specified below, Fort Worth will administer and supervise a regional household hazardous waste collection program, which will be available to households within Participating City as described herein.

3.

TERM

This Agreement shall be effective from October 1, 2016 or the date the last party has signed this Agreement, whichever is later, through September 30, 2017; however, the duties and responsibilities of the Parties for events which occurred during the term of the contract shall survive. If Participating City has mobile collection events scheduled during the months of October through December 2017 and this Agreement has not been renewed by the end of the regular term, this agreement shall be extended on a month to month basis until the mobile collection events have been completed or cancelled by Participating City.

In addition, this agreement may be extended by the duly authorized, mutual, and written agreement of the parties for one (1) additional one-year term.

4.

SERVICES OF FORT WORTH

Fort Worth agrees to perform the following services for Participating City in connection with the ECC household hazardous waste collection program:

- A. Fort Worth will administer a regional household hazardous waste collection program. This program will include the operation of the Environmental Collection Center, which will accept for disposal and/or recycling household hazardous waste from households located within Participating City. Fort Worth shall not accept compressed flammable gas containers; radioactive materials; explosives or potentially shock sensitive materials; biological, etiologic, or infectious materials; wastes from businesses; or any other wastes that Fort Worth has determined are unacceptable. Commercial waste is never accepted by Fort Worth.
- B. Fort Worth will employ or retain personnel to provide the services necessary to perform Fort Worth's obligations in this Agreement.

- C. Fort Worth will enter into a contract(s) with a waste disposal/recycling firm(s) for the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of household hazardous waste that is collected at the ECC or during mobile collection events.
- D. Fort Worth will, if requested in writing by Participating City, provide Participating City with copies of waste manifests for shipments of waste from the ECC.
- E. Fort Worth will, if requested in writing by Participating City, provide Participating City a monthly report of the Participating City's households who disposed of household hazardous waste at the Environmental Collection Center or a mobile collection event.
- F. Fort Worth will issue a report and an invoice at the end of each quarter detailing the number of Participating City's households that disposed of household hazardous waste at the Environmental Collection Center or at mobile collection events.
- G. Fort Worth will act under this Agreement in accordance with all applicable state and federal laws.
- H. Mobile Collection Events

Participating City may schedule a mobile collection event to be operated by Fort Worth personnel using one of Fort Worth's MCUs or conduct their own mobile collection events using either Participating City's MCU or Fort Worth's Reserve MCU (as available). State regulations require notification to the Texas Commission on Environmental Quality (TCEQ) at least 45 days prior to conducting the event.

1. Fort Worth Operated Events:

If Participating City would like to schedule a mobile collection event with the Fort Worth Mobile Collection Unit, Participating City shall contact the ECC as soon as possible for a list of available dates. The time and location shall be agreeable to both parties. Participating City may schedule one mobile collection event each contract year. Fort Worth will file notification of the event with TCEQ as required by 30 TAC §335.403.

(a) Scheduling Events

Fort Worth will begin scheduling mobile collection events for the 2017 calendar year on January 9, 2017. To ensure proper notification to TCEQ, events must be scheduled at least sixty (60) days ahead of the proposed date. Participating City acknowledges that Fort Worth contracts with other municipalities and that Fort Worth will be accommodating each Participating City's request on a first come first served basis. Therefore, Participating City acknowledges that its chosen date to schedule a mobile collection event may be reserved by another city and Participating City will have to then choose another date. Participating City will, in no event, be entitled to any damages or recovery of any costs, except as provided herein. Only one mobile collection event using Fort Worth staff and equipment per city is entitled under this contract. Additional events may be accommodated if feasible.

(b) Location

If Participating City chooses to hold the Mobile Collection Event on private property, Participating City shall obtain a signed waiver from the owner of the property sixty (60) days prior to the event. The waiver shall be in the form of Exhibit B or similar form approved by Fort Worth. The signed waiver must be sent to Fort Worth sixty (60) days before the Mobile Collection Event. If the signed waiver is not sent to Fort Worth sixty (60) days before the Mobile Collection Event, Fort Worth will not send the Fort Worth Mobile Collection Unit to the event and Participating City will, in no event, be entitled to any damages or recovery of any costs, except as provided herein. All events must be held on an impervious surface.

- (c) At the Mobile Collection Event, Participating City acknowledges and agrees that Fort Worth shall accept household hazardous waste from the first 50 households that show proof of residency at the Mobile Collection Event. After the first 50 households, Fort Worth will determine in its sole discretion how much more waste it can accept for proper transport back to the ECC. If more households arrive at the event than Fort Worth can accept, Participating City will in no event be entitled to any damages or recovery of any costs, except as provided herein.
- (d) Due to limited storage space at the ECC, Participating City acknowledges and agrees that if it requests the Fort Worth Mobile Collection Unit at a mobile collection event, a Participating City's MCU shall not also be at the event.
- (e) Fort Worth, in its sole discretion, will determine whether to send the Fort Worth Mobile Collection Unit to Participating City's Collection Event during adverse weather, the threat of adverse weather, or other hazardous conditions including but not limited to sleet, snow, rain, mist, or hail. In the event Fort Worth determines not to send the Fort Worth Mobile Collection Unit, Fort Worth shall attempt to notify persons listed herein as an "Operational Contact" by the Participating City and shall attempt to send a Fort Worth employee to the Participating City's event to tell any residents that come to dispose of household hazardous waste that the Fort Worth Mobile Collection Unit will not be coming to the event, but the resident can go to the ECC to dispose of the waste. A map with directions to the ECC also will be provided.
- (f) The Participating City agrees to collect collection data at the MCU and provide Fort Worth with a list of total MCU participants and total quantities of wastes listed in an Excel spreadsheet in a template provided by Fort Worth as Exhibit C, within ten (10) days of the mobile collection event. No vouchers, sign-in sheets, or copies of either will be accepted by Fort Worth.

2. Participating City Mobile Collection Unit:

- (a) Fort Worth agrees to accept household hazardous waste from mobile collection events conducted by Participating City using Participating City's MCU in accordance with the terms of this Agreement.

- (b) Fort Worth agrees to restock the items it removes from Participating City's MCU, however, Fort Worth shall only restock items listed in Exhibit "A," attached and incorporated herein as if set forth.

3 Loan of the Reserve Mobile Collection Unit

The reserve MCU is a specially designed and equipped thirty-six (36) foot gooseneck box-trailer and one (1) ton pickup owned by Fort Worth. Participating City may request the loan of Fort Worth's Reserve MCU free of charge for use in a Household Hazardous Waste collection event when available. Participating City may use the Reserve MCU to transport HHW to Fort Worth's ECC or another collection center that may lawfully receive HHW. Participating City shall provide Fort Worth with a written request, facsimile or e-mail, at least sixty (60) days prior to the event date for which the request is made. Fort Worth shall have sole determination whether the Reserve MCU is available for use by Participating City and shall notify Participating City as soon as is reasonably practicable of such decision. Fort Worth shall not participate in nor be responsible for any part of the Participating City's HHW Collection Event unless and except by written mutual agreement.

- (a) Fort Worth shall disclose any known problems the Reserve MCU may have in performing the tasks necessary for the HHW Collection Event. Prior to issuance of the Reserve MCU, a pre-trip inspection for potential maintenance problems will be performed by Fort Worth. Also, both parties will complete a pre-trip aesthetic assessment. Participating City shall be responsible for all certifications and insurance necessary for the proper operation of the Reserve MCU.
- (b) Participating City agrees to maintain and return the Reserve MCU in as good condition as it was in when Participating City took possession for use. Participating City shall return the Reserve MCU to Fort Worth in a timely manner and as mutually agreed upon.
- (c) Participating City shall be responsible for all property damage, personal injury, or death caused by Participating City's employees, volunteers, contractors, or agents and arising out of the use of the Reserve MCU during the term of this Agreement.
- (d) It is expressly understood and agreed that, in the execution of this Agreement, neither of the parties waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement the parties do not intend to create any obligations, expressed or implied, other than those set forth herein and this Agreement shall not create any rights in parties not signatories hereto.

5.

DUTIES OF PARTICIPATING CITY

Participating City agrees to perform the following duties in connection with the household hazardous waste collection program:

- A. Participating City will designate one of its employees, and another as an alternate, to act as its household hazardous waste collection Operational Contact to interact with Fort Worth as designated on the signature page to this contract.
- B. Participating City will coordinate and fund all program advertising targeted to its own citizens, as it deems necessary. Such advertising shall include the type of wastes that will be accepted at the ECC, the requirement of proof of residency, and weather cancellation information.
- C. Participating City shall notify its residents of the ECC hours of operation and dates it is closed as provided in Section 9 "The Environmental Collection Center Hours of Operation."
- D. Participating City may choose to utilize a voucher system for its residents in order for them to bring HHW to the ECC. If Participating City chooses to use such a system, it shall designate so herein and include a copy of the official voucher. In addition, if a citizen from a Participating City that utilizes a voucher system comes to the ECC or a mobile collection event without a voucher, Participating City acknowledges and agrees that Fort Worth will not accept the household hazardous waste until Participating City authorizes the acceptance in writing.
- E. Participating City may submit a written request for a monthly report listing the number of its city's households that have disposed of household hazardous waste at the ECC or a mobile collection event.
- F. Participating City shall provide traffic control and signage for the mobile collection event, and shall provide personnel to assist Fort Worth with the offloading of material, surveys, and screening of persons dropping off household hazardous waste. Prior to the event, the parties shall agree upon the details of the traffic control, signage, and personnel assistance.
- G. If a Participating City resident presents waste that was collected from multiple households, Fort Worth reserves the right to charge the Participating City based on the total number of households from which the waste originated even if the resident has only one voucher.
- H. Participating City shall provide a means for disposing of solid waste (e.g. boxes, trash, containers) on site during a mobile collection event.
- I. Mobile Collection Events using Participating City's MCU or Reserve MCU
 - 1. Participating City is responsible for proper notification to TCEQ as required by 30 TAC §335.403.
 - 2. Participating City shall advise the ECC at least 72 hours in advance of its mobile collection events. Participating City shall collect only HHW during a mobile collection event. Wastes from commercial, agricultural, and industrial sources shall not be accepted. Participating City shall not accept compressed flammable gas containers;

radioactive materials; explosives or potentially shock sensitive materials; biological, etiologic, or infectious materials; or any other wastes that Fort Worth has determined are unacceptable.

3. In accordance with the latest DOT requirements, Participating City's MCU operators will properly categorize, package, mark, label, and load into the MCU, all wastes received at the mobile collection event. Recyclable products (used oil, used oil filters, latex paint, recyclable anti-freeze, lead-acid batteries, and fluorescent lights) will be segregated into containers for recyclables.
4. After accepting wastes, Participating City's MCU operators shall thoroughly check each container for proper labeling and identification. If a container is properly identified, the material will be segregated according to hazard class and prepared for packaging. If a container does not have adequate labeling to permit identification, the MCU operators shall then attempt to identify the material from its physical characteristics using HAZCAT analysis and from information provided by the household presenting the waste.
5. The Participating City's MCU operators shall package all hazardous materials in accordance with DOT requirements, EPA requirements, and all other applicable federal and state requirements. After all the wastes have been properly identified and segregated, the MCU operators will reexamine the wastes for compatibility, list them on the container content sheets, and pack them into drums. Oil-based paints and latex paints shall be bulked separately in 55-gallon drums, or if the paint is left in its container, the paint can be packed in a lined cubic yard box, and packed and labeled according to federal and state regulations. Participating City shall not transport waste that is not HHW to the ECC. Participating City agrees to make its own arrangements to dispose of any non-HHW waste collected at the event.
6. Prior to transporting the HHW from the collection event site, Participating City's MCU operators shall complete a Bill of Lading, and shall keep the Bill of Lading in the cab of the truck hauling the MCU during transportation of the HHW to the ECC. Participating City shall require that a minimum of one copy of the latest North American Emergency Response Guidebook be kept within the cab of the truck.
7. During transportation, Participating City's MCU operators shall placard the MCU for transportation of hazardous waste in accordance with federal and state law.
8. Upon the return of the MCU to the ECC, Participating City's MCU operators shall follow the instructions of Fort Worth regarding the placement of the MCU for unloading. Fort Worth shall take possession of the MCU from Participating City after the MCU has been properly parked for unloading in accordance with Fort Worth's instructions and all required documents have been delivered to the ECC manager or his/her designee at the ECC. Fort Worth shall, within a reasonable amount of time, unload the HHW from the Participating City's MCU and store the unit at the ECC. After being contacted, Participating City shall pickup their unit within 10 days.

9. If Fort Worth, in its sole discretion, determines that Participating City's MCU operators improperly packaged any of the HHW delivered to the ECC, Fort Worth shall repackage such waste, and Participating City shall reimburse Fort Worth as set forth herein.
10. If a spill emanating from the Participating City's MCU or the Reserve MCU occurs at the ECC while the MCU is still in Participating City's possession, Fort Worth shall take control of the spill response and Participating City will reimburse Fort Worth for its response costs as set forth herein.

6.

USE OF WASTE DISPOSAL/RECYCLING FIRMS FOR HOUSEHOLD HAZARDOUS WASTE

- A. Fort Worth will enter into a contract(s) with a waste disposal/recycling firm(s) for the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of household hazardous waste, from the ECC.
- B. Such firm(s) shall be required pursuant to the contract(s) to assume generator status for the waste collected, (excluding used oil, lead-acid batteries and antifreeze) to choose a disposal site for the waste subject to Fort Worth's approval, and to indemnify Fort Worth and participating cities against any and all environmental damages and the violation of any and all environmental requirements resulting from the handling, collection, transportation, storage, disposal, treatment, recovery, and/or recycling of waste collected pursuant to this agreement, when said environmental damages or the violation of said environmental requirements was the result of any act or omission of contractor, its officers, agents, employees, or subcontractors, or the joint act or omission of contractor, its officers, agents, employees, or subcontractors and any other person or entity.
- C. **THE PARTIES RECOGNIZE THAT ALTHOUGH THE FIRM (S) WILL BE REQUIRED TO ASSUME GENERATOR STATUS, THIS ASSUMPTION WILL NOT RELIEVE PARTICIPATING CITY OF LIABILITY FOR THE WASTE UNDER FEDERAL LAW AND STATE LAW.** Fort Worth will arrange for recycling vendors for used oil, batteries, antifreeze, and other materials, as it deems appropriate.

7.

REUSE OF COLLECTED MATERIALS

- A. From time-to-time Fort Worth will make available to residents and businesses of Fort Worth, as well as, Participating City residents and businesses of Participating City for their use, collected household hazardous waste materials that are suitable for reuse, such as paint, fertilizer, motor oil, and antifreeze. Fort Worth shall not charge for any materials that are picked up for reuse.
- B. Some materials made available for reuse may have been consolidated and filtered by Fort Worth prior to being made available. Used antifreeze will have been consolidated in a barrel, filtered, and pH balanced, and new antifreeze may have been added to the barrel.
- C. In regards to materials accepted by Participating City, its employees, residents, or any other person **FORT WORTH MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTIES THAT:**

1. the container contents are what the label indicates;
2. the container contents are those originally placed into the container by the manufacturer;
3. the product is of the quality intended for its use;
4. the contents of the container have been stored properly;
5. the instructions on the container label for use, storage, and first aid are current or correct;
6. the container is in unimpaired condition;
7. the product is still approved for use (i.e., it has not been banned or recalled); and
8. the product can be used without risk to persons, property or the environment.

FURTHERMORE, ALL WARRANTIES, EXPRESS AND IMPLIED, ARE SPECIFICALLY DENIED. PARTICIPATING CITY SHALL NOTIFY RECIPIENTS OF THESE TERMS AND CONDITIONS.

- D. Participating City shall contact the ECC manager to arrange a pickup time to obtain materials. Participating City agrees that it shall not return to Fort Worth, directly or indirectly, any materials it obtains from Fort Worth under this paragraph.

E. **INDEMNIFICATION REGARDING REUSED OR RECYCLED MATERIALS.**

1. IN REGARDS TO REUSED OR RECYCLED MATERIALS ACCEPTED BY PARTICIPATING CITY, PARTICIPATING CITY DOES HEREBY WAIVE ALL CLAIMS, INCLUDING PRODUCTS LIABILITY CLAIMS, AND RELEASES, AND HOLDS HARMLESS THE CITY OF FORT WORTH, AND ALL OF ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, AND VOLUNTEERS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS, EXPENSES OF LITIGATION, OR CAUSES OF ACTION WHICH MAY ARISE BY REASON OF INJURY TO PERSONS, LOSS OF PROPERTY, DAMAGE TO PROPERTY, OR LOSS OF USE OF ANY PROPERTY , OCCASIONED BY THE TRANSPORTATION, STORAGE, HANDLING, USE, AND DISPOSAL BY PARTICIPATING CITY OF ANY MATERIALS ACCEPTED BY PARTICIPATING CITY UNDER THIS AGREEMENT FROM FORT WORTH.

2. IF THE PARTICIPATING CITY DOES NOT AGREE TO THE INDEMNIFICATION AND WAIVER IN PARAGRAPH E ABOVE, THEN THE PARTICIPATING CITY SHALL NOT ACCEPT, NOR ALLOW ANY OTHER PERSON TO ACCEPT ANY OF THE REUSED OR RECYCLED MATERIALS AND SHALL NOT BE REQUIRED TO AGREE TO THE WAIVER IN PARAGRAPH E. Initial here to reject term 7.E.1. and accept alternate term 7.E.2. _____.

- F. In regards to materials accepted by residents or businesses of Participating Cities, FORT WORTH MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTIES THAT:

1. the container contents are what the label indicates;
2. the container contents are those originally placed into the container by the manufacturer;
3. the product is of the quality intended for its use;
4. the contents of the container have been stored properly;
5. the instructions on the container label for use, storage, and first aid are current or correct;
6. the container is in unimpaired condition;
7. the product is still approved for use (i.e., it has not been banned or recalled); and
8. the product can be used without risk to persons, property or the environment.

FURTHERMORE, ALL WARRANTIES, EXPRESS AND IMPLIED, ARE SPECIFICALLY DENIED.

- G. Participating City shall attempt to inform its residents and businesses that if they go to the Environmental Collection Center to pick up household hazardous waste for reuse, a release of liability must be signed to accept the household hazardous waste for reuse.

8.

RIGHT TO REFUSE WASTE

Participating City agrees that Fort Worth shall have the right to refuse to accept waste at the ECC from Participating City or Participating City's resident, if in the reasonable judgment of Fort Worth:

- A. The waste is not household hazardous waste;
- B. The waste fails to meet other established criteria established by this Agreement, or that have been established by Fort Worth subsequent to the execution of the Agreement;
- C. The individual does not have sufficient identification to establish that he/she is in fact a resident of Participating City;
- D. Participating City has implemented a voucher system for its residents to dispose of waste, and the individual does not have a valid voucher; or
- E. The waste or the individual presents a hazard to the ECC or to persons or property at the ECC.

9.

ENVIRONMENTAL COLLECTION CENTER HOURS AND DAYS OF OPERATION

A. Hours of Operation

During the term of the Agreement, the ECC's hours of operation are as follows:

Thursday and Friday 11:00 a.m. - 7:00 p.m.

Saturday 9:00 a.m. - 3:00 p.m.

B. Days the Environmental Collection Center will be closed

During the term of the agreement, the ECC will be closed on the following holidays that are observed on days the ECC would otherwise be open to the public:

Thanksgiving holiday, Thursday and Friday, November 24-25, 2016

Christmas holiday, Saturday, December 24, 2016

New Year's holiday, Saturday, December 31, 2016

In addition to the above closures Fort Worth employees may not be available to conduct mobile collection events on other dates to conduct mobile collections within the City of Fort Worth, although the ECC will remain open on those days. The ECC may close due to furlough days or other causes, and the City of Fort Worth does not represent to Participating City that the ECC will be open on any particular days. If additional closures due to any cause are necessary Fort Worth will notify Participating City prior to the closure unless due to an unforeseeable event.

C. Notifying Residents

Participating City agrees to notify its residents of the ECC's hours of operation and dates it will be closed. Participating City also may advertise the 24-hour Environmental Collection Center telephone number: 817-392-5257.

10.
COMPENSATION

As fair compensation for the services provided by Fort Worth pursuant to this Agreement:

- A. Participating City agrees to pay Fort Worth the sum of **\$47.00** per household per visit to the ECC (or per participating household in a Mobile Collection Event) to dispose of household hazardous waste. If a Participating City resident presents waste that was collected from multiple households, Fort Worth reserves the right to charge the Participating City based on the total number of households from which the waste originated.
- B. If Fort Worth determines that Participating City's MCU operators improperly packaged any of the HHW delivered to the ECC, Fort Worth shall repackage such waste, and Participating City shall reimburse Fort Worth for its staff time at \$20.00 an hour and the cost of supplies.
- C. If a spill emanating from the Participating City's MCU or the Reserve MCU occurs at the ECC while the MCU is still in Participating City's possession, Fort Worth shall take control of the spill

response and Participating City will reimburse Fort Worth for its response costs for City staff time (\$60.00 per hour) plus the cost of supplies and the actual costs for the spill response and remediation incurred by the City of Fort Worth for third party contractors and responding governmental agencies.

- D. The amount due to Fort Worth for services provided under this Section, Paragraphs A, B, and C, shall be billed to Participating City quarterly. Participating City shall pay Fort Worth within 30 days of receiving a bill from Fort Worth. If Fort Worth does not receive payment within 30 days, Fort Worth shall inform Participating City in writing that it will not accept any household hazardous waste from Participating City's residents and that Fort Worth will not participate in a mobile collection event or provide a mobile collection unit until paid.
- E. At the end of the term of this Agreement, Fort Worth shall provide a final accounting to Participating City, which will include the total number of Participating City's households which participated in the program, repackaging fees, if any, and the total cost of spill response charged to Participating City, if any.
- F. Pursuant to the requirements of Government Code §791.011 (a)(3), the amount due to Fort Worth under Subparagraph D. above shall be paid from revenues currently available to Participating City in the present fiscal year.

11.

ARTWORK, "CAPTAIN CRUD AND THE CRUDDIES," AND PROMOTIONAL MATERIALS
LICENSE AGREEMENT

Fort Worth is the owner of "**Captain Crud**" and the Cruddies ("**Bloomer**," "**Otto**," "**Pestie**," "**Scrub**," and "**Van Goo**") and the recycling buddies ("**Scrappy**," "**Juggles**," and "**Cana Nana**"), "**Conquer Your Crud**," and "**Crud Cruiser**", and therefore all ownership rights belong to Fort Worth. Fort Worth has registered these marks as service marks with the Secretary of State.

- A. Fort Worth hereby grants to Participating City a non-transferable, non-exclusive license to use all the artwork and promotional materials that may be provided by Fort Worth to be used solely in the conduct of the business of Participating City's disposal and recycling of household hazardous waste programs. If Participating City wishes to use to Licensed Art and/or Promotional Materials in other limited situations, Participating City must first obtain express written consent from Fort Worth.
- B. Fort Worth may provide licensed Artwork and Promotional Materials to Participating City pursuant to the terms of this Agreement. Participating City acknowledges that by virtue of this License, Participating City acquires only the right to use the original and permitted duplicate copies of the Licensed Artwork and Promotional Materials and does not acquire any rights of ownership in the Licensed Artwork and Promotional Materials, which rights shall remain exclusively with Fort Worth. If Participating City wants to modify or change the artwork and/or promotional materials in any manner, Participating City hereby agrees to contact Fort Worth in

writing to obtain written consent before modifying or changing any artwork and/or promotional materials.

12.
IMMUNITY

It is expressly understood and agreed that, in the execution of this Agreement, none of the Participating Cities waives, nor shall be hereby deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions, and that the services described in this Agreement are a governmental function.

13.
FORCE MAJEURE

A delay or failure of Fort Worth to perform services pursuant to this Agreement shall be excused to the extent that the delay or failure to perform resulted from a force majeure event, and the delay or failure was beyond the control of Fort Worth and not due to its fault or negligence. Participating City shall not have, and hereby waives, any claim whatever for any damages resulting from delays or failure to perform caused by a force majeure event.

14.
TERMINATION

The parties shall each have the right to terminate the Agreement for any reason, with or without cause, upon thirty (30) days written notice to the other party. Upon termination, the parties shall be released from all contractual obligations to the other party excluding "USE OF WASTE DISPOSAL/RECYCLING FIRMS FOR HOUSEHOLD HAZARDOUS WASTE" "REUSE OF COLLECTED MATERIALS" and ARTWORK, "CAPTAIN CRUD AND THE CRUDDIES," AND "PROMOTIONAL MATERIALS LICENSE AGREEMENT" and any terms and conditions arising from events occurring during the term of the contract .

15.
ENTIRETY

This Agreement contains all commitments and Agreements of the parties hereto, and no other oral or written commitments shall have any force or effect if not contained herein, except that this Agreement can be amended or modified by the parties if such amendment or modification is in writing and signed by Participating City and Fort Worth.

16.
SEVERABILITY

In the event anyone or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall

not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

17.
VENUE

Should any action, real or asserted, at law or in equity, arise out of the terms and conditions of this Agreement, venue for said action shall be in Tarrant County, Texas.

18.
AUTHORITY

This Agreement is made for Fort Worth and Participating City as an Interlocal Agreement, pursuant to Texas Government Code, Chapter 791.

19.
AUTHORIZATION

The undersigned officers and/or agents of the parties hereto are properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.

CITY OF FORT WORTH

CITY OF COLLEYVILLE

By:

By:

Fernando Costa

Printed name: _____

Assistant City Manager

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM
AND LEGALITY:

APPROVED AS TO FORM
AND LEGALITY:

Arthur N. Bashor
Assistant City Attorney

City Attorney / Assistant City Attorney

ATTEST:

Mary J. Kayser
City Secretary

Contract Authorization

Date

ATTEST:

City Secretary

Exhibit "A"

RESTOCKING LIST FOR THE MOBILE COLLECTION UNIT

Material	Amount Restocked	Special Needs	Remarks
55 gallon open top drums (open top for loose packs)	Amount taken off the trailer		
55 gallon drums (closed top) (oil, antifreeze, bulk flammable materials and one extra)	Amount taken off the trailer		
Fiber drums (55 or 30 gallon) Aerosols, acids, bases and oxidizers)	Amount taken off the trailer		
Gaylord box liners (plastic)	Amount taken off the trailer		
55 gallon drum liners	Amount taken off the trailer		
5 gallon buckets (filters/haz chemicals)	Amount taken off the trailer		
Survey Forms	Amount taken off the trailer		
Labels/drum placard	Amount taken off the trailer		
Gaylord boxes	Amount taken off the trailer		
Absorbent pads	Amount taken off the trailer		
Vermiculite	Amount taken off the trailer		
Oil dry	Amount taken off the trailer		
Promotional Materials & Brochures	Amount needed		

Exhibit "B"

WAIVER AND RELEASE OF LIABILITY FOR COLLECTION OF HOUSEHOLD
HAZARDOUS WASTE

I being the owner of property located at _____
have been asked by the City of _____ to allow a mobile collection event on
my property to collect household hazardous waste on the _____, 20____. I hereby give my
permission to the City of _____ and the City of Fort Worth, to hold a household
hazardous waste collection event on my property in which the City of _____
has asked the City of Fort Worth to send its mobile collection unit to collect the household hazardous
waste that is brought to the event.

Therefore, I hereby RELEASE, DISCHARGE, HOLD HARMLESS, INDEMNIFY the City of Fort Worth or its
officers, agents, and employees and the City of _____ and its officers, agents,
and/or employees for any and all claims, demands, liability, causes of action, actions or suits of any
character that I may have against the City of Fort Worth or its officers, agents, and/or employees and
the City of _____ or its officers, agents, and/or employees for any property loss
or damage, for any and all personal injury including death or any other damage of any kind or character
which may arises or that arises from allowing the City of _____ to hold a household
hazardous waste collection event, in which the City of Fort Worth sends its mobile collection unit on my
property.

I have read this Waiver and Release and fully understand its terms and conditions. I have not been
influenced in any extent whatsoever by any representation or statements not contained in this
Agreement.

Signature

Date

Witness

Date

Exhibit "C"

MOBILE COLLECTION DATA FORMAT

[illegible][illegible]



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 4h

Agenda Date 08/16/2016

Number Resolution R-16-4017

Type Resolution

Department Public Works

Title

Approval of a construction contract with Intermountain Slurry Seal, Inc. through an Interlocal Agreement with the City of North Richland Hills for the Fiscal Year 2016 Micro-Surfacing Project in an amount not to exceed \$169,748, and authorize the city manager to execute the contract

Strategy Map Connection

B3- Utilize partnerships to implement cost-effective service solutions

F2- Invest to provide and maintain high quality public assets

Explanation

Reading and Public Hearing

City staff recommends inclusion of the Meadowview and Stonecrest Additions as part of the ongoing FY 2016 (FY 2016) street maintenance program. The contract being considered will facilitate the micro-surfacing of the asphalt streets in the identified subdivisions. This maintenance project includes the streets shown on the attached location map and are listed below:

Meadowview Addition

- Meadowview Drive
- Meadowview Court
- Green Oaks Drive
- Shadycreek Lane
- Shadywood Lane
- Wildwood Court
- Jackson Court
- Shenandoah Lane
- Lakeside Drive

Stonecrest Addition

- Coventry Court
- Crestedge Court
- Coventry Place
- Gatehouse Court

These street segments have an average Pavement Condition Index (PCI) of 80.2 and

are prime candidates for a micro-surface treatment. This maintenance technique applies a thin surface that seals any cracks that may be forming and provides a new wearing surface. This will slow the deterioration of the existing pavement, keeping the PCI rating at a higher level for a longer period of time, thus extending the useful life of the existing pavement.

This treatment technique was last used by the City during Fiscal Year 2015 (FY 2015) to address eight street segments in the Highland Meadows subdivision. This treatment slows the rate of deterioration of the existing pavement which delays the need for more expensive maintenance techniques. The advantage of using the micro-surface technique is that vehicle traffic can utilize the road surface within two to four (2-4) hours depending on weather and curing time.

In preparing for the micro-surfacing contract, City staff determined that it could utilize an interlocal agreement between the City of North Richland Hills and the City of Colleyville. Both cities collaborated on an agreement, which was approved by the City of North Richland Hills March 2, 2015, and by Colleyville City Council approval of attached Resolution R-15-3853, on March 3, 2015.

Intermountain Slurry Seal, Inc., currently holds a contract with the City of North Richland Hills and has a contract rate that was established through the required bidding process. Intermountain Slurry Seal, Inc. performed the micro-surface treatment in the Highland Meadows subdivision in FY 2015. Included in this contract is a \$30,000 owner's contingency to cover any additional services that may be required, in the event that unknown conditions arise that may require additional contract services. Use of the attached interlocal agreement between the City of Colleyville and City of North Richland Hills will allow the City of Colleyville to perform the proposed work at the established rate of the North Richland Hills contract.

Financial Impact

The total contract amount is \$169,748. Funding is available for this project from the capital projects cash account 003-1508 which is a restricted account set up for the micro-surfacing program with a current balance of \$305,704. Form 1295 - Acknowledged by City

Recommendation

Approve

Attachments

1. Exhibit 1 - Project Location Map
2. Proposed Contract
3. City of Colleyville and City of North Richland Hills Interlocal Agreement
4. Resolution R-15-3853

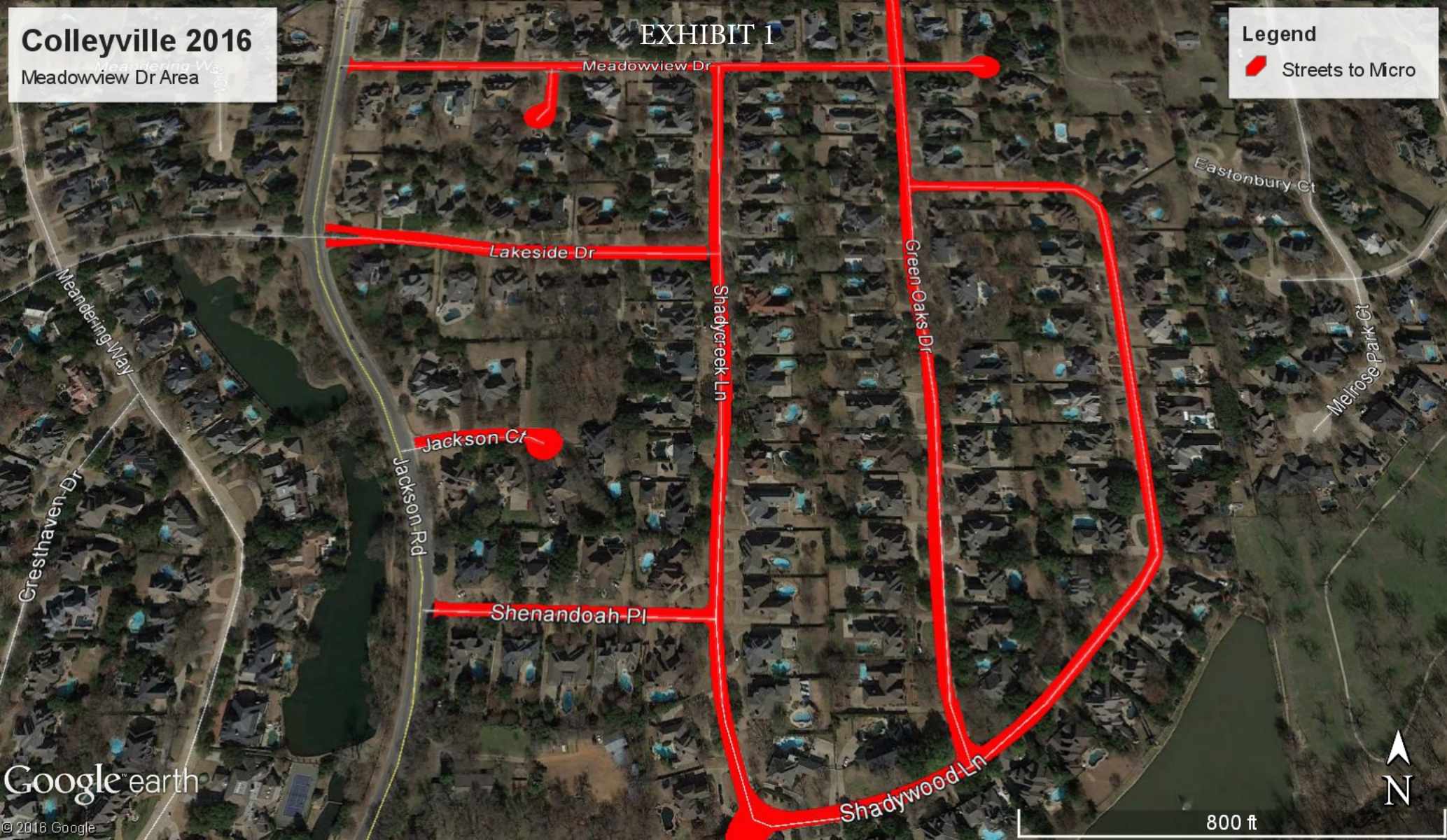
Colleyville 2016

Meadowview Dr Area

EXHIBIT 1

Legend

 Streets to Micro



Google earth

© 2016 Google

800 ft

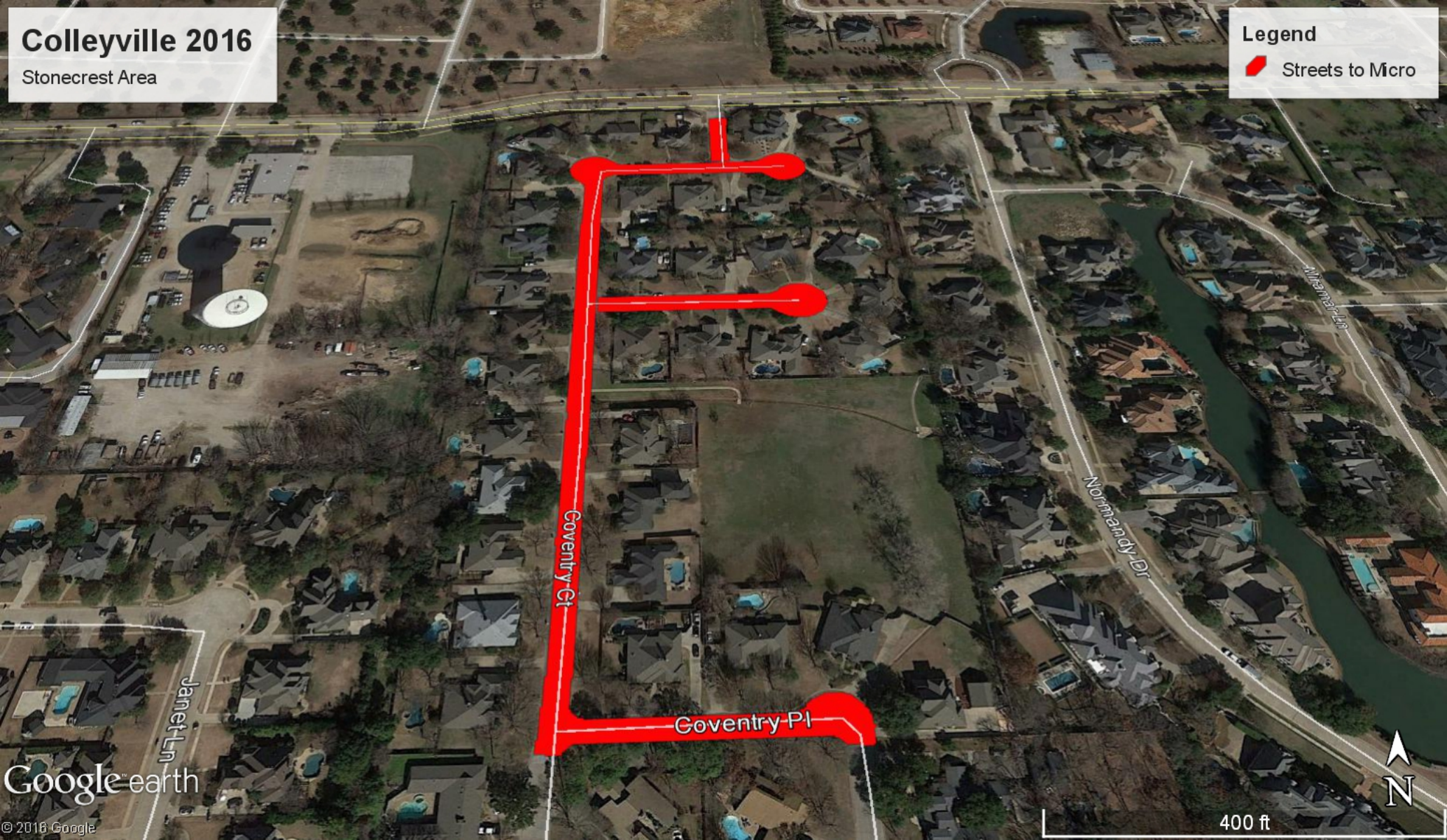
N

Colleyville 2016

Stonecrest Area

Legend

 Streets to Micro



Google earth

© 2016 Google

400 ft



PROPOSAL AND CONSTRUCTION CONTRACT

Date of Proposal: **6.28.16**

Proposal Valid Until: **10.31.16**

This Proposal and Construction Contract (including the General Conditions appearing on the reverse side hereof or attached hereto and any additional attachments identified in Section 6 below) (herein "Contract") is entered into as of the Date of Proposal by and between INTERMOUNTAIN SLURRY SEAL, INC., a Wyoming corporation, (herein "Contractor") and City of Colleyville (herein "Owner"). Owner and Contractor agree as follows:

1. **Description and Location of Work.** Contractor agrees to perform the following work (herein, "Work"): Place approximately 39,928 SY (Micro-Surfacing (25#/SY) (Dry) per ISSA/TxDOT Specifications.

Located At: (See Attachment "A & B" – Site Maps) Formal Quote: (See Attachment "C"- Quote)
Quantities: (See Attachment "D"- Grand Summary)

2. **Plans and Specifications.** The Work described above shall be performed in accordance with the following plans and specifications: ISSA/TxDOT Specifications. Piggybacking off of North Richland Hills' contract 15-020.

Such plans and specifications are, by this reference, incorporated herein and made a part of this Contract, but are not attached.

3. **Payment.** Owner shall pay to Contractor, as full compensation for performance by Contractor of the Work (herein, "Contract Amount") the following amount:

- A. Payments shall be made in accordance with the provisions of Section 2 on the reverse side hereof. Progress payments shall be 100% of the estimate and the sum of 1.5 % per month shall be added to any balance unpaid when due.
- B. The Contract amount shall include all applicable Sales, Use, Franchise, Excise and other taxes which may now or hereafter be levied.
- C. In the event the above price is a unit price based on quantities, final payment shall be for actual quantities jointly determined by the Owner and Contractor, upon completion of all Work hereunder.
- D. Contractor shall have the right to terminate this Contract if Owner is unable to demonstrate to the satisfaction of Contractor prior to commencement of Work (or at any time during the course of the Work in response to the written request of Contractor) Owner's ability to make payments for the Work to be performed hereunder in the manner and at the times set forth herein.

4. **Time.** Contractor shall commence and continue thereafter to diligently perform the Work in accordance with a mutually agreed upon schedule. The mutually agreed upon schedule shall provide for 20 working days in which to perform the Work. A working day is defined as any day except Saturdays, Sundays and legal holidays and except days on which the Contractor is prevented from proceeding with at least ninety percent (90%) of the normal labor and/or equipment force required to perform the Work due to events or circumstances, beyond the control of Contractor including, but not limited to, those events or circumstances identified in Sections 7 and 8 of the General Terms.

5. **Special Conditions.** Owner is responsible for all prep work including removal of raised pavement markers, removal of excess gravel from edges, applying herbicide, crack sealing, trimming trees, fog sealing patches and patching. Contractor to sweep streets prior to micro-surfacing. Contractor to notify residents by use of "Door Hangers" 24 hours in advance of paving operations. Contractor to be allowed to work on Saturday and Sunday if needed.

IN REFERENCE TO MICRO-SURFACING / SLURRY SEAL:

- A. Schedule to be mutually agreed upon by owner and contractor.
- B. Special permits and licensing prices are not included in the contractual price agreement. If permitting or licensing is required for work to be conducted, all costs to obtain permits and licenses will be the responsibility of the owner.
- C. The complete elimination of any existing drainage problem or reflective cracking is not intended or guaranteed.
- D. Contractor is not responsible for any damage done to existing asphalt due to weights of machinery during the construction process.
- E. Sweeping may be required by the Owner approximately two months after micro-surfacing placement to remove any excess aggregate.
- F. Price excludes quality control besides initial mix design.

6. **Attachments.** The following documents are attached hereto and incorporated herein and made a part of this contract by this reference: Attachment "A& B"- (Site Maps), Attachment "C"- (Quote), Attachment "D"- (Grand Summary of streets).



7. OWNER ACKNOWLEDGES THAT INTERMOUNTAIN SLURRY SEAL, INC. IS NOT SIGNATORY TO ANY COLLECTIVE BARGAINING AGREEMENTS. OWNER AND CONTRACTOR AGREE THAT CONTRACTOR WILL NOT BE REQUIRED TO BECOME SIGNATORY TO, OR BOUND BY, ANY COLLECTIVE BARGAINING AGREEMENTS OR OTHER UNION AGREEMENTS AND THE OBLIGATIONS THEREUNDER.

THIS CONTRACT IS SUBJECT TO THE GENERAL CONDITIONS APPEARING ON THE REVERSE SIDE
HEREOF OR, IF NOT APPEARING ON THE REVERSE SIDE HEREOF, THEN ATTACHED HERETO.

Executed at: _____ as of the date first above written.

Please Sign Original and Return to:

BY: _____
Owner

Business Address

Residence Address

Name of Construction Lender (if any)

Address

INTERMOUNTAIN SLURRY SEAL, INC.
A WYOMING CORPORATION
Contractor

BY: _____
Contractor

(Address)

ISS Job No. _____

For ISS Use Only
Initial _____



GENERAL CONDITIONS

1. **WORKMANSHIP AND MATERIALS:** Contractor acknowledges that it is familiar with the nature and location of the Work. All Work shall be performed by Contractor in a workmanlike manner, and in accordance with industry standards.
2. **PAYMENTS:** Contractor shall receive progress payments monthly in proportion to the amount of Work performed during the period covered by Contractor's billing. Progress payments will be made within ten (10) days after Owner receives a billing from Contractor setting forth the amount due for the Work performed and covered by the billing. Owner will make payment to Contractor for work performed in the percentage amount set forth under §3.A. appearing on the face page of the Contract. Final payment shall be due Contractor within ten (10) days after (i) Owner's receipt of a final billing from Contractor or (ii) completion of the Work, whichever shall occur last. The proportionate amount of Work billed on Contractor's progress billings shall be subject to the approval of Owner. Progress payments shall not be construed as an acceptance of any Work, the entire Work being subject to final inspection and approval by Owner. As it would be extremely difficult to fix and ascertain the actual damages the Contractor would sustain by Owner's failure to pay moneys due to Contractor under the terms of this Contract at the times and in the manner specified herein, it is hereby agreed by the parties hereto that the Owner shall pay to the Contractor in addition to all sums due hereunder the sum of the percentage per month set forth under §3.A. appearing on the face of the Contracts a fixed amount of any balance unpaid when due under this Contract. Nothing contained herein shall be deemed consent by the Contractor to extend the due date for payment under this Contract.
3. **CHANGES IN THE WORK:** Owner may, from time to time, by instructions or drawings issued to Contractor, make changes to the scope of the Work, issue additional instructions, request additional work or direct the omission of work previously ordered, and the provisions of this Contract shall apply to all such changes, modifications and additions with the same effect as if they were embodied in the original contract. The price or a formula for establishing the price and any time impacts to the schedule for such work shall be set forth in a written change order either prior to the commencement of work or as soon as practical thereafter and shall be mutually agreed upon with Contractor. Absent the parties' agreement to price and/or time extension for a change in the Work, Owner shall pay Contractor its actual direct costs in completing said extra work plus a mark-up of 15 percent thereon for overhead and profit.
4. **INDEMNITY:** Contractor shall indemnify and hold Owner harmless against all claims, damage suits, actions, recoveries and judgments to the extent caused by the negligence of Contractor, its agents, employees, or subcontractors, in performing the Work. Owner shall indemnify and hold Contractor harmless against all claims, damage suits, actions, recoveries and judgments to the extent caused by the negligence of Owner, its agents, employees, or other contractors.
5. **RESPONSIBILITY FOR WORK:** Except to the extent insured by property insurance provided by Owner, Contractor shall be responsible for and shall bear any loss of or damage to the Work and all materials, supplies and equipment until such time as Contractor has de-mobilized from the Work site. In no event, shall Contractor be liable for such loss or damage that results from the actions, omissions, fault or negligence, either active or passive, of the Owner, Owner's representatives, agents, employees, its other contractors or anyone acting on Owner's behalf or others over whom Contractor has no authority or control.
6. **INSURANCE:** Contractor shall maintain such insurance as will protect it from claims under workers' compensation acts and from claims for damages because of bodily injury, including death, or injury to property which may arise from and during the operation of this Contract. A certificate of such insurance shall be provided to the Owner if the Owner so requests.
7. **DELAYS BEYOND CONTROL OF CONTRACTOR:** In the event Contractor shall be delayed in the performance of the Work under this Contract by causes beyond the control of the Contractor and not caused by Contractor's negligence, including, but not limited to, Change Orders, Acts of God, or of the public enemy, acts of any governmental agency, fire, flood, epidemics, strikes, freight embargoes, inclement weather, over optimum moisture content of ground or base course, unsuitable ground conditions or delays caused by Owner, its other contractors, their subcontractors of any tier and the suppliers to any of the foregoing, Contractor shall have a time extension to the mutually agreed schedule for the time caused by said delay and shall be paid its additional costs incurred as a result of the delay, including labor and material cost or price escalations, and extended jobsite and home office overhead.
8. **DIFFERING SITE CONDITIONS:** (A) Contractor shall promptly, and before the conditions are disturbed, give a written notice to Owner of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this Contract, including but not limited to any subsurface utilities not accurately shown on plans or drawings, or (2) unknown physical conditions at the site of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, or (3) the existence of contaminated, toxic or hazardous materials or conditions not specifically described in type, character, or quantity in this Contract, which existence is deemed to be a differing site condition. (B) Owner shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ or are deemed to so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the Work under this Contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the Contract price increased to reflect Contractor's increased costs plus a mark-up of 15 percent, and the mutually agreed schedule extended accordingly.
9. **LAWS AND REGULATIONS:** Contractor shall at all times comply with all applicable safety, licensing, employment and environmental laws, ordinances, statutes, rules and regulations of the Federal Government, State, County, Municipalities or their Agencies of Government (herein "Law" or "Laws").
10. **OWNER:** Owner represents he/she/it is the Owner in fee simple of the real property upon which the construction improvement is to be made.
11. **ACCEPTANCE:** Upon receipt of written notice from Contractor requesting acceptance of the Work being performed hereunder, Owner and Contractor shall promptly inspect the job jointly and, in the event the same has been completed in conformity herewith, provide Contractor with a Notice of Completion in recordable manner and form. In the event the Work performed is subject to further inspection and/or final acceptance by another person or entity, and such inspection and/or final acceptance cannot be obtained through no fault of Contractor, then in such event the Work shall be deemed completed and accepted. Contractor shall warrant its Work against defects in materials and workmanship for a period of one year from the date of completion of the Work.
12. **PERMITS:** Owner will obtain and pay for all permits, inspection fees, soils test, engineering, staking, fees for utility connections, or other such similar items required for the performance of Work hereunder.
13. **SUBCONTRACTING:** Contractor shall have the right to subcontract any portion of the Work hereunder, and all Work performed by subcontractors shall be subject to all of the applicable Contract terms and conditions.
14. **LIENS AND CLAIMS:** Provided Contractor has been, and continues to be, timely paid all amounts due it, Contractor shall promptly pay valid claims of all persons, firms or corporations performing labor or furnishing equipment, materials and other items used in, upon or for the Work done hereunder.
15. **FAILURE TO MAKE PAYMENTS:** In the event Owner shall fail to make payment at the times and in the amounts provided for in this Contract, Contractor shall have the right to stop Work. In such event all amounts due Contractor, including retention, if any, shall immediately become payable and Contractor shall have the right to recover all damages sustained by Contractor as a result of such breach of contract by Owner.
16. **DEFAULT:** In the event Contractor shall fail to timely perform any provision of this Contract and if such failure should continue for thirty (30) days after receipt of written notice from Owner, then Owner may terminate this Contract and cause the balance of the Work to be completed by other parties. In any such event, if the reasonable cost of such completion exceeds the unpaid balance due on the Contract price, Contractor shall promptly pay such difference to Owner; otherwise, the unpaid contract balance shall be paid to Contractor. The Owner and Contractor each waive the right to recover from the other any indirect, incidental or consequential damages regardless of how such damages are caused.
17. **COSTS AND ATTORNEYS' FEES:** Should either party bring suit in court to enforce or interpret any of the terms hereof, or for a breach thereof, and/or to foreclose any mechanic's lien attributable to the Work done hereunder, the prevailing party, to the extent permitted by applicable law, shall be entitled to cost and reasonable attorneys' fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which the prevailing party may be entitled.
18. **NOTICES:** Any notice required or permitted hereunder shall be served personally on Contractor's construction manager or on the representative of Owner at the job site, or may be served by certified mail directed to the address of the party shown on the face of the Contract. Notices shall be effective upon receipt by the intended recipient.
19. **ASSIGNMENT:** Except as provided in Section 13 above, neither party shall assign all or any portion of this Contract without first obtaining the signed written consent of the other party. Subject to the foregoing, this agreement shall be binding upon and inure to the heirs, successors and assigns of the parties hereto.
20. **WAIVER OF RIGHTS:** Failure to enforce any rights hereunder shall not waive any rights in respect of other or future occurrences.
21. **SEVERABILITY:** To the best knowledge and belief of the Parties, this Contract now contains no provision that is contrary to any Laws. In the event that any provision of this Contract shall at any time contravene in whole or in part any applicable Law, then such provision shall remain in effect only to the extent permitted, and the remaining provisions hereof shall remain in full force and effect.
22. **JURISDICTION AND VENUE:** It is understood and agreed that each and every provision of this Contract, including any alleged breach thereof, shall be interpreted in accordance with the laws of the state where the Work is to be performed. Venue for all matters arising under this Contract shall be in the county in which the Work is to be performed. Contractor is authorized to do business in the state in which the Work is performed.
23. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between Owner and Contractor and contains all terms and conditions agreed upon by the parties. This Contract supersedes all earlier proposals, discussions, correspondence and oral agreements, if any, between Owner and Contractor.



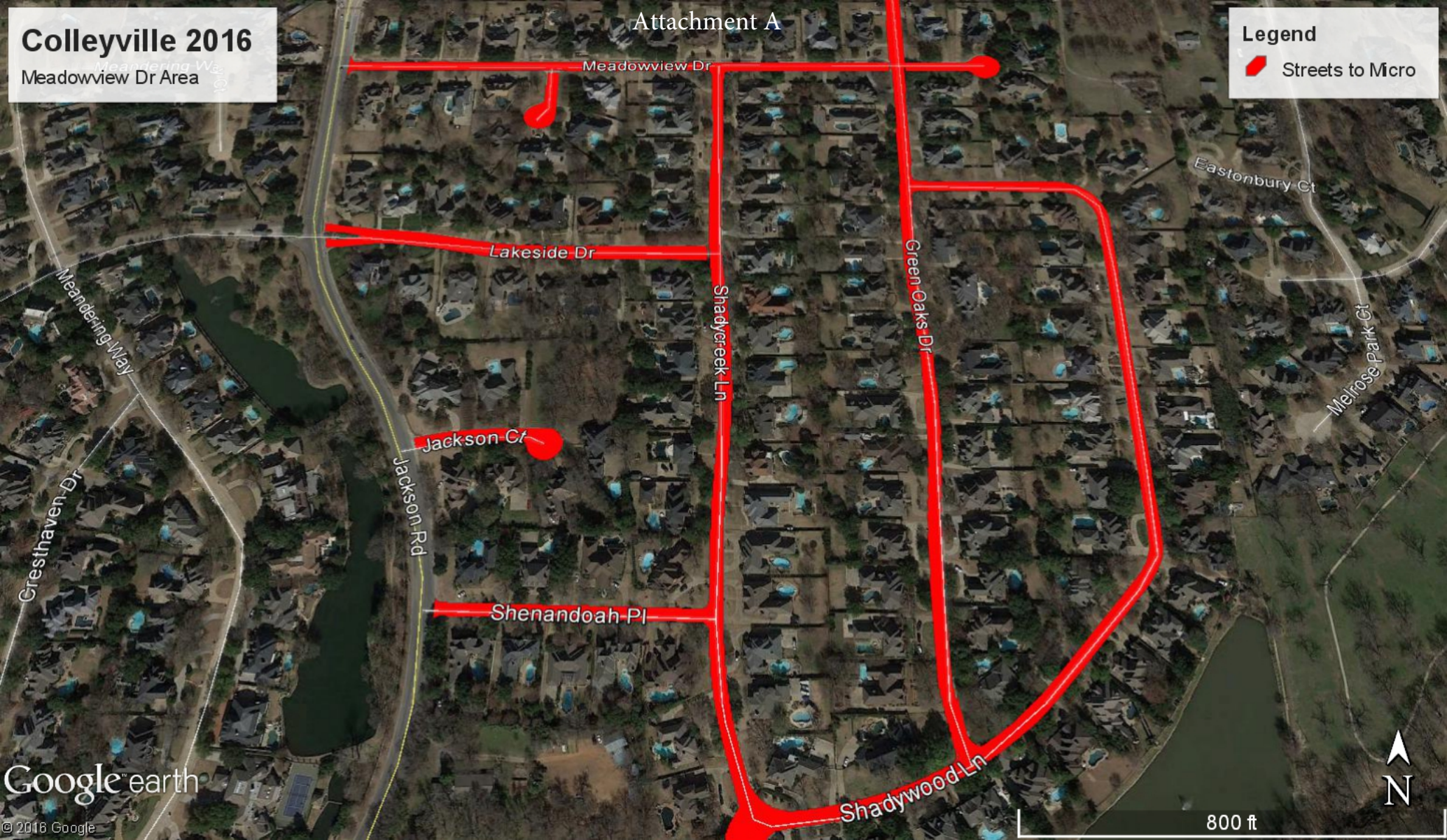
Colleyville 2016

Meadowview Dr Area

Attachment A

Legend

 Streets to Micro



Google earth

© 2016 Google

800 ft

N

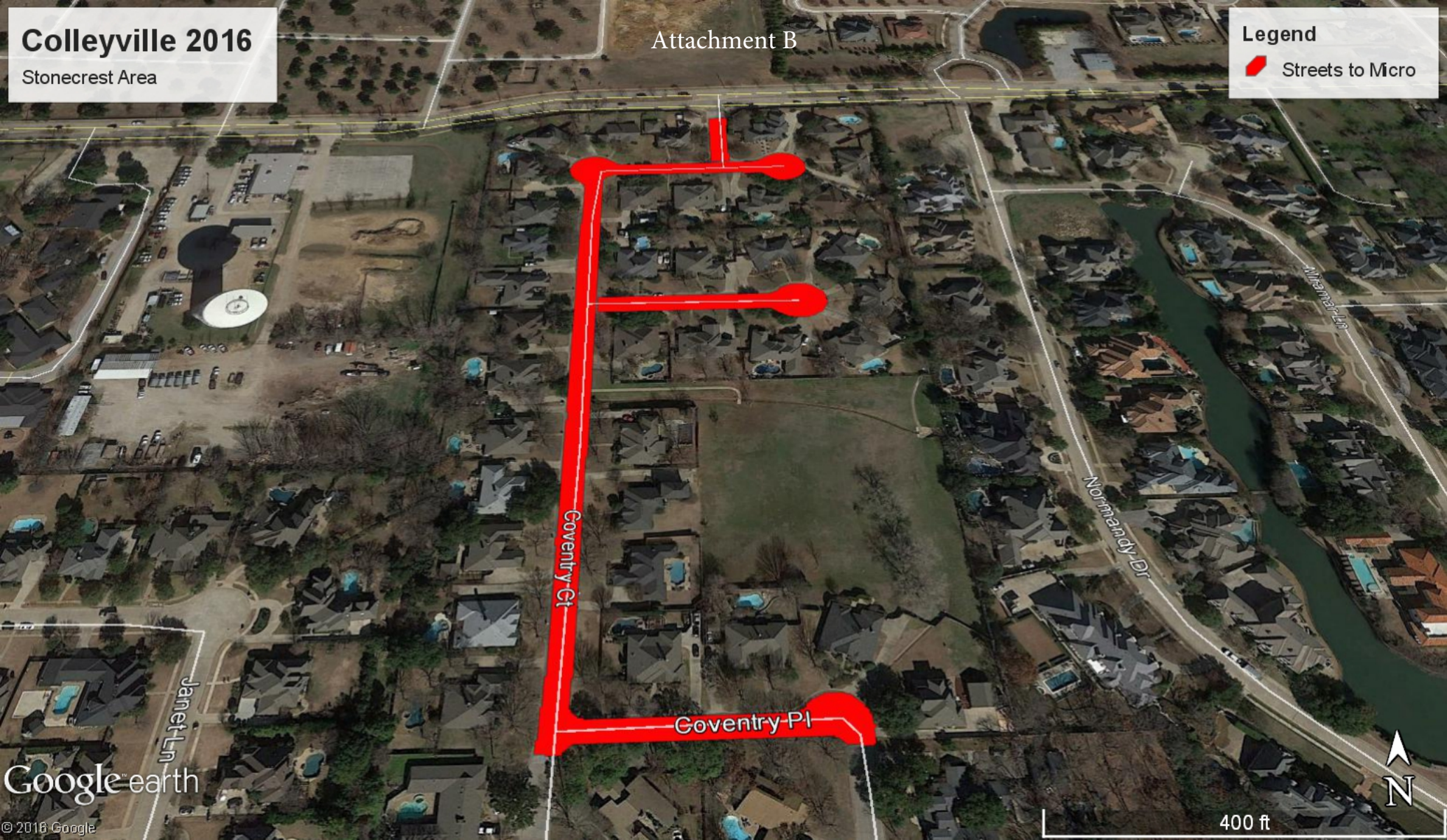
Colleyville 2016

Stonecrest Area

Attachment B

Legend

 Streets to Micro



Google earth

© 2016 Google

400 ft

N

Attachment C



520 North 400 West, North Salt Lake, UT 84054

Phone (801) 532-8200 | Fax (801) 526-6198

ESTIMATE

Agency: City of Colleyville
Project Number: N/A
Project Name: Micro-surfacing
Date: 8.3.16
Letting Time: N/A

Contractor: Intermountain Slurry Seal
Contact: Kevin Harris
Phone: 682.229.0843
Fax:
Email: kevin.harris@gcinc.com

Item #	Description	Quantity	Unit	Unit Price	Total
1	* Furnish & Install Micro-surfacing	39,928	SY	\$ 3.50	\$ 139,748.00
2	Contingency account	1	LS	\$ 30,000.00	\$ 30,000.00
					\$ -
	* Work is being structured through an Interlocal Agreement with City of North Richland Hills and in accordance with NRH Contract 15-020				\$ -
					\$ 169,748.00

Quote is for Labor, Equipment, and Materials for Micro-surfacing Only

NOTES:

- * Micro-surfacing to be place in one lift at a rate of 25#/SY (Dry)
- * Work to performed using Truck Mount or Continuous pavers.
- * Estimated to complete micro-surfacing in 2 shifts.
- * It is recommended that the streets be crack sealed and patched by City of Colleyville prior to our operations.
- * City to trim any tree limbs that are lower than 14' vertical clearance.
- * This project to be billed per square yard of actual area covered.
- * Price is for work to be performed through 2016 micro-surfacing season.
- * Traffic control for Micro-Surfacing only.
- * ISS to provide 1 week notice prior to starting work, and must have a mutually agreed upon schedule.

EXCLUSIONS:

- * Pavement Markings, Temporary Pavement Markings, Striping Layout, Pavement Marking Removal, Crack Sealing, Patching, Heavy Debris Removal, Noise Permits,

Estimate valid for 30 days.

Please review, sign and return VIA fax to (972)353.6275 or e-mail to kevin.harris@gcinc.com

Authorized Signature

Date

Attachment D

BIG PICTURE COST - COLLEYVILLE								
CITY OF COLLEYVILLE INFORMATION						MICRO-SURFACING		
Micro-Surface streets via City						Single Course at 25 lbs/SY (Dry)		
LISTINGS	STREET	LENGTH	AREA	Google Area	ACCUM. AREA	UNIT COST	COST PER STREET	ACCUM. COST
		LF	SY	SY	SY	\$/SY	\$	\$
	Meadowview Addition							
1	Meadowview Dr			4,071	4,071	\$ 3.50	\$ 14,248.50	\$ 14,248.50
2	Meadowview Ct			987	5,058	\$ 3.50	\$ 3,454.50	\$ 17,703.00
3	Green Oaks Dr			6,169	11,227	\$ 3.50	\$ 21,591.50	\$ 39,294.50
4	Shadycreek Ln			6,117	17,344	\$ 3.50	\$ 21,409.50	\$ 60,704.00
5	Shadywod Ln			7,030	24,374	\$ 3.50	\$ 24,605.00	\$ 85,309.00
6	Wildwood Ct			854	25,228	\$ 3.50	\$ 2,989.00	\$ 88,298.00
7	Jackson Ct			1,279	26,507	\$ 3.50	\$ 4,476.50	\$ 92,774.50
8	Shenandoah Ln			1,678	28,185	\$ 3.50	\$ 5,873.00	\$ 98,647.50
9	Lakeside Dr			3,686	31,871	\$ 3.50	\$ 12,901.00	\$ 111,548.50
			SubTotal		31,871			\$ 111,548.50
	Stonecrest Addition							
1	Coventry Ct			4,161	4,161	\$ 3.50	\$ 14,563.50	\$ 14,563.50
2	Crestedge Ct			1,439	5,600	\$ 3.50	\$ 5,036.50	\$ 19,600.00
3	Coventry Pl			1,200	6,800	\$ 3.50	\$ 4,200.00	\$ 23,800.00
4	Gatehouse Ct			1,257	8,057	\$ 3.50	\$ 4,399.50	\$ 28,199.50
			SubTotal		8,057			\$ 28,199.50
			Total		39,928		Total	\$ 139,748.00

INTERLOCAL AGREEMENT

This Interlocal Agreement ("the Agreement") is made and entered into by and between the **CITY OF COLLEYVILLE, TEXAS**, a municipal corporation ("**COLLEYVILLE**") and **CITY OF NORTH RICHLAND HILLS** ("**NORTH RICHLAND HILLS**"), each organized and existing under the laws of the State of Texas, and acting by, through and under the authority of their respective governing bodies and officials in accordance with the "Interlocal Cooperation Act," Chapter 791 of the Texas Government Code (the "Act").

WHEREAS, **COLLEYVILLE and NORTH RICHLAND HILLS** are both governmental entities engaged in the purchase of goods and services, which is a recognized governmental function; and

WHEREAS, **COLLEYVILLE and NORTH RICHLAND HILLS** wish to enter into this Agreement to set forth the terms and conditions upon which they may purchase various goods and services commonly utilized by each entity; and

WHEREAS, participation in this Agreement will be highly beneficial to the taxpayers of **COLLEYVILLE and NORTH RICHLAND HILLS** through the anticipated savings to be realized and is of mutual concern to the parties; and

WHEREAS, **COLLEYVILLE and NORTH RICHLAND HILLS** have current funds available to satisfy any fees owed pursuant to this Agreement.

NOW THEREFORE, **COLLEYVILLE and NORTH RICHLAND HILLS**, for and in consideration of the premises and the mutual covenants set forth in this Agreement, and pursuant to the authority granted by the governing bodies of each of the parties hereto, do hereby agree as follows:

1. **COLLEYVILLE and NORTH RICHLAND HILLS** may cooperate in the purchase of various goods and services commonly utilized by the parties, where available and applicable, and may purchase goods and services from vendors under present and future contracts;
2. **COLLEYVILLE and NORTH RICHLAND HILLS** shall each be individually responsible for payments directly to the vendor and for the vendor's compliance with all conditions of delivery and quality of the purchased items under such contracts. **COLLEYVILLE and NORTH RICHLAND HILLS** shall each make their respective payments from current revenues available to the paying party;
3. The City Manager of **COLLEYVILLE** and the City Manager of **NORTH RICHLAND HILLS** are designated to act on all matters related to this Agreement;
4. The Agreement shall be in full force and effect for a period of 12 months and then continue to automatically renew for additional 12 month periods unless it is terminated by either party as provided below.
5. Notwithstanding anything herein to the contrary, participation in this Agreement may be terminated by either party upon thirty (30) days written notice to the other party;
6. The undersigned officer and/or agents of the party(ies) hereto are duly authorized officials and possess the requisite authority to execute this Agreement on behalf of the parties;

7. This Agreement may be executed separately by the parties, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective upon execution and dating by each party. This Agreement shall be effective from the last date signed and marked on this Agreement by a participating party.

APPROVED BY THE CITY OF COLLEYVILLE, TEXAS:

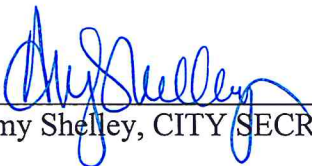
BY:



Jennifer Fadden, CITY MANAGER

DATE: 3/4/15

ATTEST:



Amy Shelley, CITY SECRETARY

APPROVED AS TO FORM:



Matthew Boyle, CITY ATTORNEY

APPROVED BY THE CITY OF NORTH RICHLAND HILLS, TEXAS:

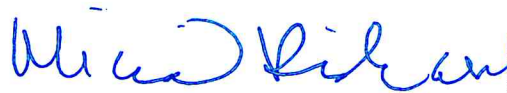
BY:



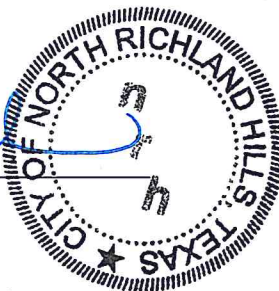
Mark Hindman, CITY MANAGER

DATE: 3-12-15

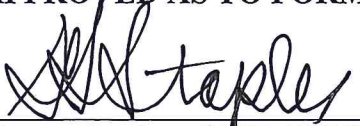
ATTEST:



Alicia Richardson, CITY SECRETARY



APPROVED AS TO FORM:



George Staples, CITY ATTORNEY

RESOLUTION R-15-3853

**A RESOLUTION APPROVING CITY COUNCIL ACTION UNDER
CONSENT ITEMS AT THE REGULAR CITY COUNCIL MEETING OF
MARCH 3, 2015**

WHEREAS, City Council has taken action on certain items on the agenda under Consent Items.

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

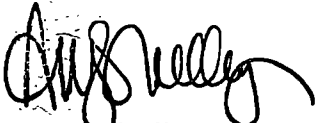
Sec. 1. THAT the agenda decisions approved by City Council action under Consent Items as follows are hereby adopted:

- a. Approval of the minutes of the regular City Council meeting of February 17, 2015
- b. Approval of a construction contract with A & M Construction & Utilities, Inc., for Area 1 and Area 2 Water Facility Renewals, in an amount not to exceed \$1,874,119.25, and authorize the city manager to execute the contract
- c. Approval of an Interlocal Agreement with the City of North Richland Hills for cooperative purchasing of goods and services, and authorize the city manager to execute the agreement

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 6 AYES, 0 NAYS, AND 0
ABSTENTIONS ON THIS THE 3RD DAY OF MARCH 2015.

ATTEST:


Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE


David Kelly
Mayor



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 4i

Agenda Date 08/16/2016

Number Resolution R-16-4017

Type Resolution

Department Parks and Recreation

Title

Approval to use Voluntary Park Fund monies to make improvements to Sparger Park, Pleasant Run Park, and City Park, in an amount not to exceed \$137,000

Strategy Map Connection

C1- Provide attractive and unique spaces for enjoyment of personal interests and community interaction

F2- Invest to provide and maintain high quality public assets

Explanation

Reading and Public Hearing

Staff is requesting approval to use Voluntary Park Fund monies to complete a list of park revitalization projects throughout the City. The projects include replacement and new shade structures, trash and recycling receptacles, and landscape improvements at Pleasant Run Park; and a portion of the cost for three new scoreboards for the softball fields in City Park. Improvements also include a new fence and repainting the restrooms at Sparger Park, as well as repainting the pavilion and concession stand restrooms in City Park. The \$137,000 from the Voluntary Park Fund, compiled with several other funding sources, will allow completion of many projects in order to update and improve our Park assets.

Financial Impact

If approved, the funding will help offset general funds, so we may complete additional park improvement projects. The requested amount for the list of projects is \$ 137,000.

Recommendation

Approve

Attachments

1. Voluntary Park Fund Overview
2. Current Voluntary Fund Financial Report
3. Parks Voluntary Fund Programing Presentation

Voluntary Park Fund Programing - July 2016 – January 2017

Shade Structures in Pleasant Run Park – Replace all current shade structures with new material that is all the same color. Current material is faded, stained and has holes. Repaint the structure supports to create a new and consistent look throughout the park. This will give the park a vibrant and updated look. Install two new bleacher pads on the big field; as it currently has no option for a shaded viewing area.

- 7 replacement shade fabric
- 7 support structures painted
- 2 new concrete bleacher pads
- 6 new shade structures frames and shade fabric

Total Cost = \$45,000.00

Trash Receptacles – Replace 55 gallon drum trash cans with the new standard park trash receptacles we are utilizing in all our parks for a unified and consistent look. Replace recycling plastic bottles with the new park standard receptacles.

- 20 Trash Receptacles
- 20 Recycling Receptacles

Cost = \$36,000.00

Repaint Restroom Interior Floors and Walls – Repair the cracks and seal the floors, remove the peeling paint from the walls and repaint interior to provide a clean and bright surface area in the restrooms.

- Sparger Park Restrooms
- City Park Restrooms – Pavilion and Concession

Cost = \$ 12,000.00

Landscape and Irrigation Conversion – Remove the sharp, dying Pampas grass at Pleasant Run and the spray head irrigation and replace with new beds and drip irrigation. This will allow us to naturally fence off some of the little kids soccer fields from the road, that we currently having to put up orange fencing to keep a barrier from the road. This new landscape and irrigation will include additional trees and native plants that will provide natural barriers, conserve water and upgrade the look of the park overall.

- Three long beds at the front of the park

Cost = \$ 20,000.00

Fence Replacement at Sparger Park – The current split rail fences at Sparger are in complete disrepair. Park Staff is going to remove the current fence around the small parking lot near the POW Memorial and we do not intend to replace this fence, as it serves no purpose. We desperately need to replace the fence along the large parking lot that separates parkland from private property.

- Replace fencing along park/private property line

Cost = \$15,000.00

City Park Softball Scoreboards – The current 3 softball scoreboards are approximately 18yrs old and starting to show their age. The scoreboards are the old bulb boards; which are inefficient with their power usage and we are having difficulty with their wiring allowing the score keeper boxes to work properly. We have had the most difficulties with field 1 and 3. We have replaced several parts during the spring season on these boards. The Colleyville Girls Softball Association would like to replace the scoreboards so they have timers for their games and to try and gain additional tournaments in Colleyville. CGSA would like to partner with us to help replace these scoreboards. The total cost is \$15,000.00 for the three scoreboards, CGSA is willing to pay almost half of the cost. That leaves us with \$ 6000.00 for this project.

Cost = \$ 9000.00

Total Cost \$137,000.00

FINANCIAL STATUS OF VOLUNTARY PARK FUND AT 5-31-2016

FUND BALANCE AT 9-30-2015: \$851,338

FY 2016 REVENUE

Donations:	PROJECTED	ACTUAL
October	\$13,573	\$13,573
November	\$12,505	\$12,505
December	\$14,563	\$14,563
January	\$12,670	\$12,670
February	\$13,055	\$13,055
March	\$13,093	\$13,093
April	\$13,156	\$13,156
May	\$13,430	\$13,430
June	\$13,440	\$0
July	\$13,450	\$0
August	\$13,460	\$0
September	\$13,470	\$0
Total Donations	\$173,347	\$106,046
Interest income Received	\$2,500	\$3,893
TOTAL	\$175,847	\$109,939

FY 2016 EXPENDITURES

	RECOMMENDED (PARKS BOARD)	APPROVED (COUNCIL)	EXPENDED YEAR-TO-DATE	
BALANCE OF COTTONBELT TRAIL PHASE III --	\$44,954	\$44,954	\$21,305	Future projects for capital maintenance
BALANCE OF MCPHERSON - PHASE II <<	\$14,812	\$14,812	\$4,600	
BALANCE OF FY 2015 LASER LEVELING OF BASEBALL FIELDS ##	\$12,611	\$12,611	\$0	Heather to use this & include Reagan
FLASHING SIGNAGE AT TRAIL INTERSECTION**	\$23,000	\$23,000	\$21,808	
REPLACE KIMZEY PARK TRASH RECEPTACLES**	\$8,500	\$8,500	\$7,244	repaint bathrooms, trashcans, shade covers - \$15,000
REPLACE KIMZEY PARK FOUNTAIN**	\$8,000	\$8,000	\$7,097	retro fit spray heads in beds
PLEASANT RUN SOCCER FIELD IMPROVEMENTS^^^	\$70,000	\$70,000	\$0	update irrigation systems
PLEASANT RUN PLAYGROUND^^	\$55,000	\$55,000	\$55,732	resurfacing courts
TOTAL	\$236,877	\$236,877	\$117,786	replacing fountains
				park signage

UNENCUMBERED FUND BALANCE AT 5-31-2016 (COUNCIL APPROVED) \$724,399

PROJECTED FUND BALANCE AT 9-30-2016 \$790,307

EXPENDITURE KEY:

EXPENDITURE KEY:

-- FY 2015 PROJECT/APPROVED JUNE 2001

<< FY 2015 PROJECT/APPROVED JAN 2006

FY 2015 PROJECT/APPROVED NOV 2013

^FY 2015 PROJECT/APPROVED JAN 2015 (R-15-3835)

**FY2015 PROJECT/APPROVED OCT 2015

^^FY2016 PROJECT/APPROVED FEB 2016 (R16-3957)

Must deauthorize funds if will
not spend left over funds.

Parks Voluntary Fund Programing

July 2016 – January 2017

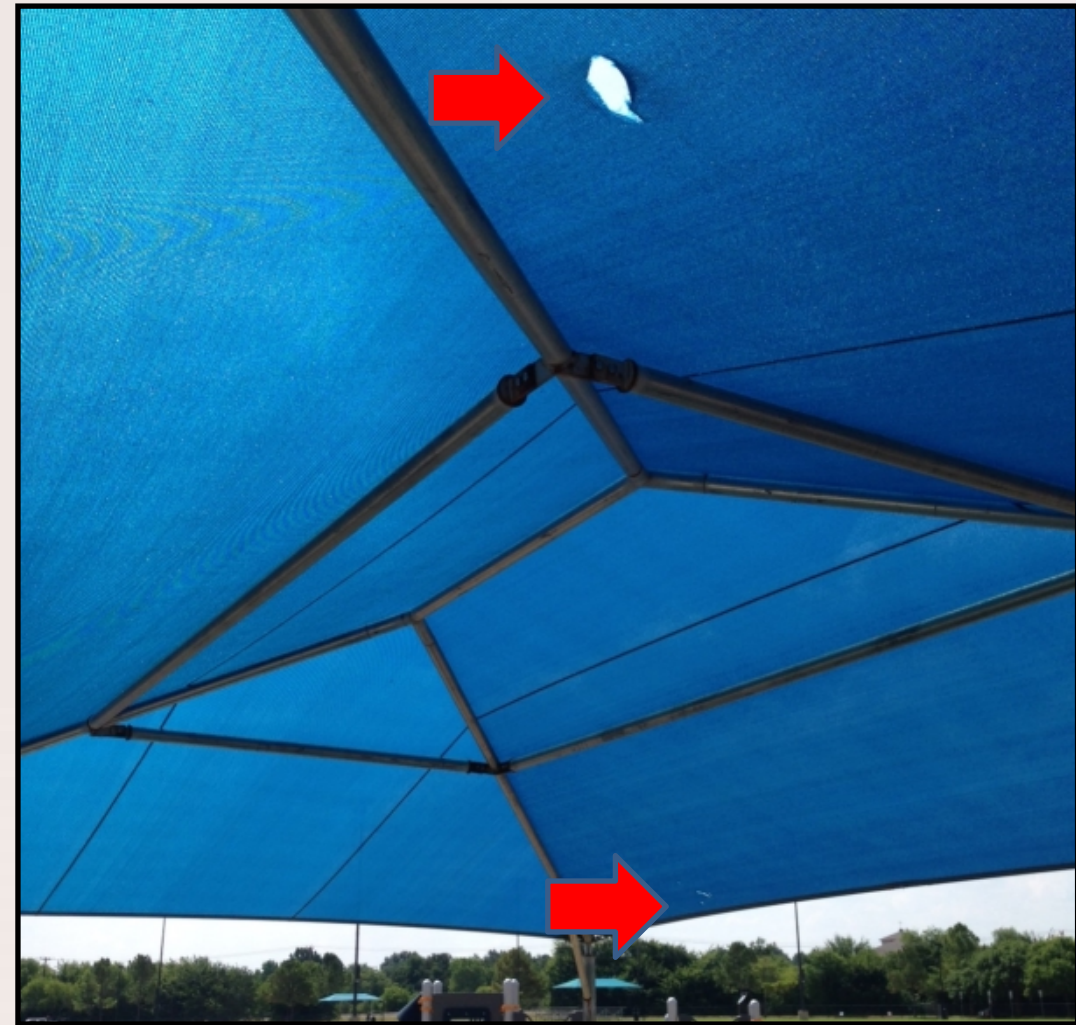
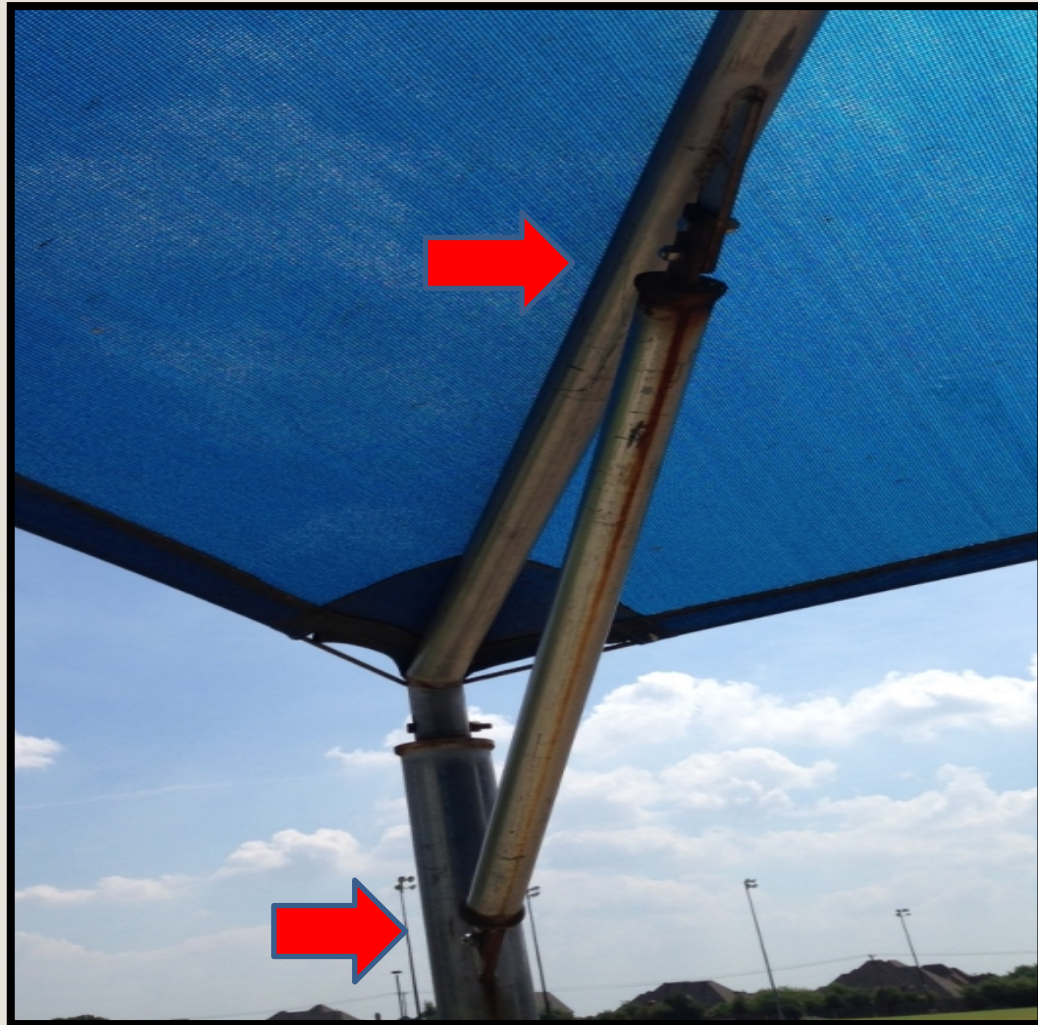
Pleasant Run Shade Structures



Shade Structures



Shade Structures



Shade Structure Revitalization

- Add 2 new concrete pads
- Add 6 new shade structure frames & shade fabric
- Replace 7 current shade fabric
- Repaint 7 current shade structure frames
- Total Cost of Revitalization = \$ 45,000.00

Litter & Recycling Receptacles



Current Receptacles



New Standard Receptacles



Litter and Recycling Receptacles

- 20 New Litter Receptacles
- 20 New Recycling Receptacles

- Total Cost of Replacements = \$ 36,000.00

Pleasant Run Current Grass Beds



Landscape Border Examples



Landscape Re-design

- Remove Pampas Grass
- Retro-fit spray heads to drip irrigation
- Install additional trees
- Create bed outline with stone border
- Install native grasses and plants
- Total Cost of redesign request = \$20,000.00

Restrooms



Restrooms



Restroom Repainting

- Sparger Park repair floor and repaint interior
- City Park Concession interior repainting
- City Park Pavilion interior repainting
- Total restroom repainting cost = \$ 12,000.00

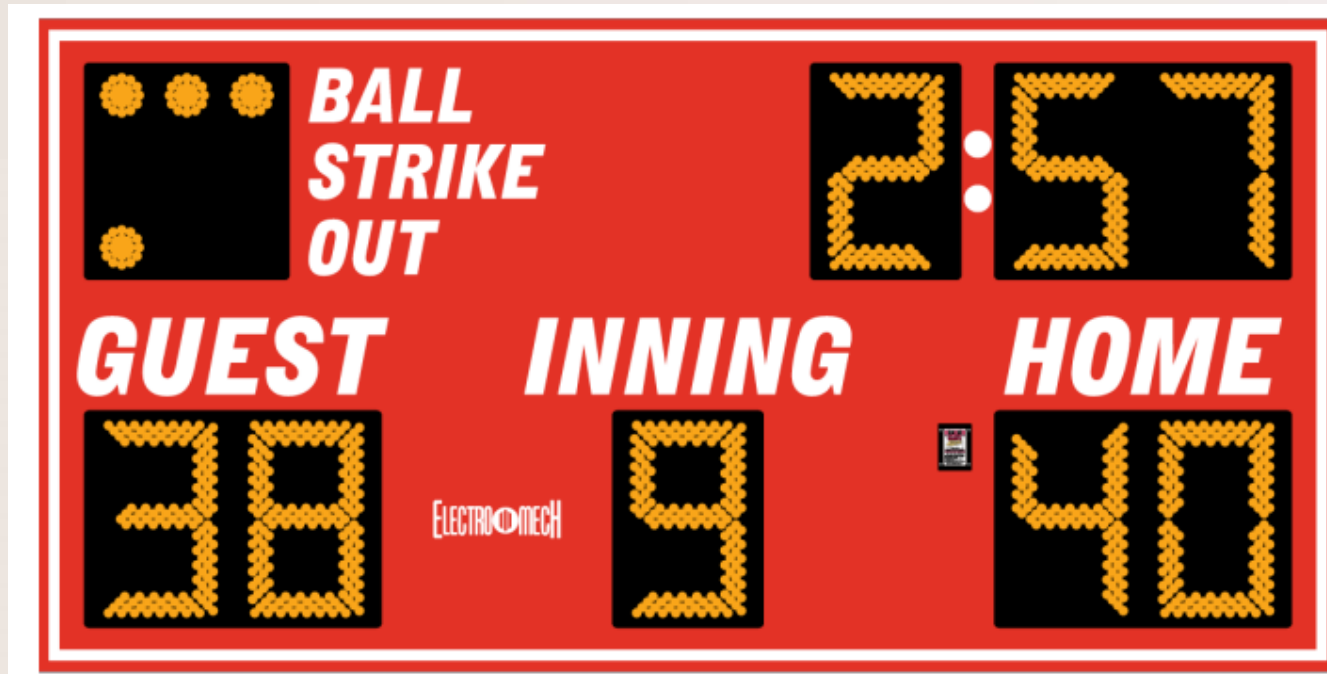
Sparger Park Fence Replacement



Sparger Park Fence Replacement

- Remove fence at Sparger Park
- Replace fence along private property line
- Total Fence Replacement Cost = \$15,000.00

Softball Scoreboards



Softball Scoreboards

- Remove 3 - 18 year old, light bulb 10' x 4' scoreboards
- Replace with 3 new LED, wireless remote 10' x 5' scoreboards
- Total Project Cost \$ 15,000.00
- Colleyville Softball Association \$ 6,000.00
- Total Request for Voluntary Park Fund **\$ 9,000.00**

Park Revitalization Projects

• Pleasant Run Shade Structures	\$45,000.00
• Litter and Recycling Receptacles	\$ 36,000.00
• Restroom Repair and Repainting	\$ 12,000.00
• Landscape and Irrigation Conversion	\$ 20,000.00
• City Park Softball Scoreboards	\$ 9,000.00
• Sparger Park Fence Replacement	<u>\$ 15,000.00</u>
• Total Cost of all Projects	\$ 137,000.00

Voluntary Park Funds

• Current Voluntary Park Fund Total	\$ 724,399.00
• Requested Amount	<u>\$ 137,000.00</u>
• Remaining Voluntary Park Fund	\$ 587,399.00

*Approx. Annual Donations – past 3 yrs.	\$150,000.00
---	--------------

- Questions?



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 4j

Agenda Date 08/16/2016

Number Resolution R-16-4017

Type Resolution

Department City Secretary

Title

Approval of the Colleyville Center Advisory Committee bylaws

Strategy Map Connection

B4- Cultivate a culture of transparency and consistent communication

Explanation

Reading and Public Hearing

As the City Council creates, establishes, and appoints boards, commissions, and committees per the City Charter (excerpt attached), and reviews the minutes of each board, commission, and committee, under the Reports section of the City Council agenda, staff is seeking City Council approval of all bylaws approved by each board, commission, and committee, as they are approved. As some boards, commissions, and committees meet on an as needed basis only, bylaws will be attached to the Consent Agenda as they are adopted and approved by the board, commission, and committee.

At the February 16, 2016, City Council meeting, City Council requested for the Colleyville Center Advisory Committee to review their bylaws and amend Article II Membership, 2.1, to remove an Arts Council NE representative, and replace it with a representative from another local organization.

This item provides for City Council approval of the amended bylaws which were approved by the Colleyville Center Advisory Committee on May 16, 2016, replacing the Arts Council NE representative with a representative from the Colleyville Area Chamber of Commerce.

Financial Impact

There is no financial impact to the City.

Recommendation

Approve

Attachments

1. City Charter Excerpts
2. Colleyville Center Advisory Committee bylaws

City Charter Excerpts

Section 7.07 Other Departments, Boards and Commissions:

The City Council may abolish or consolidate any office or department except those created by this Charter. The City Council may divide the administration of any such departments as it may deem advisable and may create new departments.

The City Council shall create, establish, or appoint, as may be required by State law, circumstances, or this Charter, those Boards, Commissions, and Committees which are deemed necessary to carry out the functions and obligations of the City. The City Council shall prescribe accountability and tenure of each Board, Commission, and Committee where such are not prescribed by State law or this Charter.

ARTICLE XI PLANNING AND ZONING, BOARD OF ADJUSTMENTS

Section 11.01 The Planning and Zoning Commission:

There shall be established a Planning and Zoning Commission, which shall consist of seven (7) citizens of the City of Colleyville. Members of said Commission shall be appointed by the City Council for a term of two (2) years and will serve at the will and pleasure of the City Council. Three (3) members of the Planning and Zoning Commission shall be appointed each odd numbered year and four (4) members shall be appointed each even numbered year. The Commission shall elect a chairman from its membership and shall meet in the City Hall not less than once each month. The chairman of the Commission shall be a voting member. Vacancies created by resignation, removal by vote of a majority of the City Council, or by any other reason shall be filled by the City Council for the remainder of the term. A majority of the members shall constitute a quorum; however, no action shall be approved with less than four (4) affirmative votes. Attendance requirements for members shall be the same as for members of the City Council. The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation. (Amended May 7, 2005)

Section 11.02 Powers and Duties:

The Planning and Zoning Commission shall:

- (A) Recommend a City Plan for the physical development of the City.
- (B) Recommend to the City Council, approval or disapproval of proposed changes in the Zoning Plan.

(C) Exercise control over the platting or subdividing of land within the corporate limits of the City and outside same corporate limits to the extent authorized by State law; provided, however, this grant of authority shall not limit the City Council's right to provide that the City Council shall have final approval of plats, as provided by State law (Amended April 4, 1981)

The Commission shall be responsible to and act as an advisory body to the City Council, and shall have and perform such additional duties as may be prescribed by ordinance.

Section 11.05 Zoning Board of Adjustment:

There shall be a Zoning Board of Adjustment as specified by State law. Vacancies which are created by resignation, or for any other reason shall be filled by the City Council for the remainder of the term. (Amended May 7, 2005)

Section 11.06 Separation of Planning and Zoning Commissions:

The City Council may by ordinance, at such time as deemed in the best interest of the citizens of Colleyville, create a separate Commission to perform the duties of Planning. This Commission shall have the same structure as provided for the Zoning Commission in

Section 11.01, and will perform all duties listed in Section 11.01 through 11.05 of this Charter, for Planning only. The Zoning Commission will perform only the duties described in the same Sections for Zoning, and as advisory board to the Planning Commission.

COLLEYVILLE CENTER ADVISORY COMMITTEE BYLAWS

ARTICLE I – Identification and Purpose

The Colleyville Community Center Advisory Committee was established by the City Council of Colleyville, Texas, by Resolution R-93-893 on June 15, 1993. The purpose of the Colleyville Community Center Advisory Committee is to maximize the role of citizens in the planning, design, and operation of the Community Center project and was established for a time period not to exceed one year.

The Colleyville Community Center Advisory Committee's charge was revised by the City Council of Colleyville, Texas, by Resolution R-97-1326 on October 21, 1997. The purpose of the Colleyville Community Center Advisory Committee is to recommend policies for rental and use of the Colleyville Center including policies and procedures; fee structure; develop long range plans for the use and marketing of the Center; and provide a written report of the Committee's activities and future plans for City Council on an annual basis.

The Colleyville Community Center name was changed by City Council by Resolution R-02-2058 on November 19, 2002, to Colleyville Center.

ARTICLE II – Membership

- 2.1 The Colleyville Center Advisory Committee shall consist of 14 members who shall be appointed by the City Council for a two-year term. The following civic organizations shall select a single representative from their organization to serve on the Advisory Committee for a two-year term: Colleyville Woman's Club, Colleyville Lions Club, Colleyville Garden Club, Colleyville Chapter of National Charity League, Colleyville Area Chamber of Commerce, and Colleyville Rotary Club. All other members of the Advisory Committee shall serve at-large.
- 2.2 Members shall serve without compensation and until their successors are appointed.
- 2.3 Members must be residents of Colleyville, Texas, unless City Council waives the residency requirement.

- 2.4 Vacancies on the Colleyville Center Advisory Committee shall be reported to the City Secretary, and filled by appointment of the City Council for the length of the unexpired term.
- 2.5 If a member of the Colleyville Center Advisory Committee fails to maintain a seventy-five percent (75%) attendance record for all regularly scheduled meetings, the Chair or staff liaison will notify the City Secretary. City Council may, at its discretion, declare a vacancy, advertise the open position, or appoint a replacement without advertising.

ARTICLE III – Officers

- 3.1 The officers of the Colleyville Center Advisory Committee shall be the Chair and the Vice Chair.
- 3.2 The Colleyville Center Advisory Committee shall elect the Chair and Vice Chair from among the members at the next regularly scheduled meeting following City Council appointments. The Chair, shall have a minimum committee tenure of one-year, and the Vice Chair with no length of term requirement. The officers shall serve one-year terms, or until a successor is elected.
- 3.3 In the event of resignation or incapacity of the Chair, the Vice Chair shall serve as the Chair for the unexpired portion of the term.
- 3.4 City staff shall take minutes of the meeting and serve as custodian of Colleyville Center Advisory Committee records.

ARTICLE IV – Meetings

- 4.1 Regular meetings shall be held quarterly, on the second or third Monday of February, May, August, and November at 5:30 p.m., at Colleyville Center. Meeting dates, times, and location may be changed, as necessary.
- 4.2 Members unable to attend a regular meeting shall notify the Chair or staff liaison by noon of the meeting day.
- 4.3 A majority of the voting Colleyville Center Advisory Committee members shall constitute a quorum to conduct business of the Colleyville Center

Advisory Committee. The act of the Colleyville Center Advisory Committee members present at a meeting, at which a quorum is in attendance, shall constitute the act of the Colleyville Center Advisory Committee.

- 4.4 Meeting agendas will be posted on the City Hall bulletin boards and the City's web site 72 hours prior to a meeting. Approved meeting minutes will be included in City Council agenda packets under Reports.
- 4.5 Meeting agenda packets will be distributed to each member 72 hours prior to a meeting.
- 4.6 The Chair shall preside at all meetings. In the absence of the Chair, the Vice Chair shall preside.
- 4.7 The Chair may recognize individuals wishing to speak regarding an item on the agenda.
- 4.8 Special meetings may be called at the request of the Chair or three members of the Colleyville Center Advisory Committee for the transaction of business. Posting and notification of meeting requirements shall apply to special meetings.
- 4.9 The Colleyville Center Advisory Committee may establish sub committees as deemed appropriate. Such committees will be dissolved upon completion of the charge or task.

ARTICLE V – Duties and Responsibilities

- 5.1 The Colleyville Center Advisory Committee acts in an advisory capacity to the City Council in all matters pertaining to Colleyville Center.
- 5.2 Committee members recommend policies for rental and use of the Colleyville Center including policies and procedures, and fee structure, develop long range plans for the use and marketing of the Center, and provide a written report of the Committee's activities and future plans to City Council on an annual basis.
- 5.3 Committee members shall cooperate with City boards, commissions, and committees, other governmental agencies, civic groups, and all citizens of the City in the advancement of the Colleyville Center.

- 5.4 The Colleyville Center Advisory Committee members shall sign the Acknowledgement Statement in accordance with the Colleyville City Charter, Section 14.02, Personal Financial Interest, Subsection G, Oath, which acknowledges familiarity with the referenced section and Chapter 171 of the Local Government Code pertaining to conflict of interest.
- 5.5 The Colleyville Center Advisory Committee member shall meet the filing requirements of The Disclosure Act. The City is required to place all Conflict Disclosure Statements submitted to the City on the City's web site.
- 5.6 The Colleyville Center Advisory Committee member will take the Attorney General Texas Open Meetings Act on-line training course or obtain a DVD of the training course from the City Secretary, and provide a copy of the Certificate of Course Completion to the City Secretary. The training must be completed not later than the 90th day after the date the member takes the oath of office or otherwise assumes responsibilities as a member of the governmental body.

ARTICLE VI – Amendments

- 6.1 These bylaws may be amended by a majority vote at any regular meeting, if all members have been notified of the proposed amendment 72 hours prior to such meeting. Amendments must be in compliance with applicable City ordinances.



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 5a

Agenda Date 08/16/2016

Number Ordinance O-16-1984

Type Ordinance

Department Community Development

Title

Consideration of amending Ordinance O-14-1936, adopting the 2015 edition of the *International Energy Conservation Code*; amending all conflicting portions of Section 18 of the Colleyville Code of Ordinances and amending Chapter 11 of the 2012 International Residential Code

Strategy Map Connection

C5- Achieve the highest standards of safety & security

Explanation

Second Reading and Public Hearing

There were no speakers regarding this request at the July 19, 2016 City Council meeting.

First Reading and Public Hearing

On November 5, 2014, City Council approved the adoption of the 2012 editions of the *International Building Code*, *International Residential Code*, and *International Energy Conservation Code*, and the 2014 edition of the *National Electrical Code*, by attached Ordinance O-14-1936. The City of Colleyville is currently operating under the 2012 editions of the *International Building Code*, the *International Residential Code*, and the 2014 edition of the *National Electrical Code*.

As part of the code updates in 2014, attached Ordinance O-05-1509 and Ordinance O-05-1511 were repealed. Also at that time, staff had been participating in the North Central Texas Council of Governments (NCTCOG) Regional Codes Coordinating Committee (RCCC). The RCCC reviews all the building codes and develops a list of local amendments that can be adopted by the area cities in the North Central Texas region. Cities and contractors benefit from adopting a standardized set of local building amendments, and the local amendments to the code updates were adopted by reference. The NCTCOG serves as the repository for information and provides the venue for regular meetings. However, they do not participate in the code development process, as this function is performed entirely by code officials from North Texas, with participation from the Home Builders Association and third-party energy inspection firms.

This item seeks to amend Ordinance O-14-1936, by adopting the 2015 edition of the *International Energy Conservation Code* by reference and amending all conflicting portions of Section 18 of the Colleyville Code of Ordinances; Chapter 11 of the 2012 *International Residential Code* and the 2012 *International Energy Conservation Code* as referenced in Ordinance O-14-1936.

The recommended amendments to the *2015 International Energy Conservation Code*, for the North Central Texas Council of Governments Region, Climate Zone 3 of the IECC, are attached to this briefing. Below is a summary of the codes which the City of Colleyville operates under and a bullet list of changes which will go into effect once the proposed ordinance is adopted:

Colleyville is currently under the 2012 International Code Editions for:

1. Commercial Building Code - *International Building Code* (IBC)
 2. Residential Building Code - *International Residential Code* (IRC)
 3. Energy Conservation Code - *International Energy Conservation Code* (IECC)
- The IECC contains references to both Residential and Commercial
 - The IBC references that energy compliance shall be per the IECC
 - The IRC contains energy compliance in Chapter 11 which is the same as the residential provisions of the IECC
 - The State of Texas has mandated the energy compliance code statewide shall be in accordance with the 2015 IRC provisions
 - The 2015 IRC does not list the residential energy provisions in Chapter 11 and references the 2015 IECC energy provisions
 - The 2012 IRC will remain in effect for Colleyville except that Chapter 11 is amended in order to enforce the 2015 IECC provisions
 - The 2012 IECC is amended to be replaced by the 2015 IECC

The City of Colleyville has chosen not to adopt the entire 2015 I-Codes as the 2012's have been in effect less than two years. Staff plans to evaluate and recommend adoption of the 2018 I-Codes during the first or second quarter of 2019.

Financial Impact

There is no financial impact to the City.

Recommendation

Approve

Attachments

1. Ordinance O-05-1509
2. Ordinance O-05-1511

3. Ordinance O-14-1936
4. Recommended amendments to the 2015 International Energy Conservation Code, for the North Central Texas Council of Governments Region
5. Ordinance O-16-1984

ORDINANCE O-05-1509

AN ORDINANCE OF THE CITY OF COLLEYVILLE, TEXAS, AMENDING CHAPTER 18, ARTICLE II AND CHAPTER 22, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF COLLEYVILLE, TEXAS TO ADOPT THE 2003 EDITION OF THE INTERNATIONAL BUILDING CODE, THE 2003 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE AND THE 2003 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE AND TO ESTABLISH A CONTRACTOR'S BOARD OF APPEALS; PROVIDING FOR THE ADOPTION OF LOCAL AMENDMENTS RECOMMENDED BY THE REGIONAL CODES COMMITTEE OF THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS; PROVIDING FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING A PENALTY AND AUTHORIZING PUBLICATION.

WHEREAS, the City Council of the City of Colleyville has determined that it is in the best interest of the citizens of Colleyville, Texas to adopt the 2003 Edition of the International Building Code, the 2003 Edition of the International Residential Code and the 2003 Edition of the International Energy Conservation Code; and

WHEREAS, the City Council of the City of Colleyville has determined that it is in the best interest of the citizens of Colleyville, Texas to additionally adopt the local amendments to the 2003 Edition of the International Building Code, the 2003 Edition of the International Residential Code and the 2003 Edition of the International Energy Conservation Code as recommended by the Regional Codes Committee of the North Central Texas Council of Governments; and

WHEREAS, notice of a public hearing before the City Council was published in a newspaper of general circulation in Colleyville at least 15 days before such hearing.

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

Sec. 1. THAT Chapter 18, Section 18-14, paragraph (a), of the Code of Ordinances of the City of Colleyville, Texas, is hereby amended in its entirety to read as follows:

(a) *Adopted.* The International Building Code, 2003 edition, as recommended by the International Code Council, one copy of which is on file in the Office of the City Secretary, is hereby adopted and incorporated by reference and made a part of this article as the building code of the City, subject to and including by reference such amendments, corrections, and additions as shall appear in this article.

Sec. 2. THAT Chapter 18, Section 18-14, paragraph (c), of the Code of Ordinances of the City of Colleyville, Texas, is hereby amended in its entirety to read as follows:

(c) *Amendments.* The International Building Code, 2003 edition, as recommended by the International Code Council is hereby amended to include the recommendations of the Regional Codes Committee of the North Central Texas Council of Governments for buildings and structures in the City of Colleyville, Texas, which are as follows:

Sec. 3. THAT Chapter 18, Section 18-14, paragraph (c), (1) through paragraph (c), (51), of the Code of Ordinances of the City of Colleyville, Texas, are hereby deleted and replaced with the following paragraphs to read as follows:

1. Section 101.2; exception 2, change to read as follows:

2. Existing buildings undergoing repair, alterations or additions, and change of occupancy shall be permitted to comply with the *International Existing Building Code* with prior approval of the Building Official. Otherwise see Chapter 34.

2. Section 101.4; change to read as follows:

101.4 Referenced codes. The other codes listed in Sections 101.4.1 through 101.4.7 and referenced elsewhere in this code, when specifically adopted, shall be considered part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the ICC *Electrical Code* shall mean the Electrical Code as adopted.

3. Section 109.3.5; delete.

4. Section 112 – Board of Appeals, delete.

5. Section 202; add a new definition to read as follows:

HIGH-RISE BUILDING. A building having any floor used for human occupancy located more than 55 feet (16 764 mm) above the lowest level of fire department vehicle access.

6. Section 302.1.1, change to read as follows:

302.1.1 Incidental use areas. Spaces which are incidental to the main

occupancy shall be separated or protected, or both, in accordance with Table 302.1.1. Areas that are incidental to the main occupancy shall be classified in accordance with the main occupancy of the portion of the building in which the incidental use area is located.

Exception: Incidental use areas within and serving a dwelling unit are not required to comply with this section.

7. Section 302.2.1; change to read as follows:

302.2.1 Assembly areas. Accessory assembly areas are not considered separate occupancies if the floor area is equal to or less than 750 square feet (69.7 m²). Assembly areas that are accessory to Group E occupancies are exempt from the separation requirements of Table 302.3.2 and are considered Group E occupancies only for the application of Table 503. *{Last sentence to remain unchanged}*

8. Table 302.2; change the footnote reference in row R-3, R-4, column U, from "d" to "f" and add foot note "f" to read as follows:

f. See Section 406.1.4.

9. Section 303.1; change to read as follows:

303.1 Assembly Group A. *{1st four sentences to remain unchanged}*. Assembly areas which are accessory to Group E occupancies are exempt from the separation requirements of Table 302.3.2 and are considered Group E occupancies only for the application of Table 503. *{Last sentence to remain unchanged}*

10. Section 304.1; add the following to the list of occupancies:

Fire stations
Police stations with detention facilities for 5 or less

11. Section 403.1, change to read as follows:

403.1 Applicability. The provisions of this section shall apply to buildings having any occupied floors located more than 55 feet (16 764 mm) above the lowest level of fire department vehicle access.

12. Section 403.1, exception 3; change to read as follows:

3. Buildings with an occupancy in Group A-5 in accordance with Section 303.1 when used for open air seating; however, this exception does not

apply to accessory uses including but not limited to sky boxes, restaurants and similarly enclosed areas.

13. Section 403.2, exception 3; delete.

14. Section 404.1.1; change definition of "Atrium" as follows:

ATRIUM. An opening connecting three or more stories . . . *{Balance remains unchanged}*

15. Section 406.1.4; add item 4 to read as follows:

4. A separation is not required between a Group R-2 and U carport provided that the carport is entirely open on all sides and that the distance between the two is at least 10 feet (3048 mm).

16. Section 406.6.1; add a second paragraph to read as follows:

This occupancy shall include garages involved in servicing of motor vehicles for items such as lube changes, inspections, windshield repair or replacement, shocks, minor part replacement and other such non-major repair. When the repair garage is only involved in such minor repair, it need not comply with Section 406.6.2.

17. Section 506.2.2; add a sentence to read as follows:

In order to be considered as accessible, if not in direct contact with a street or fire lane, a minimum 10-foot wide pathway from the street or approved fire lane must be provided. (See *International Fire Code* Section 503.1.1 for hose lay measurement pathway requirements.)

18. Table 602; amend footnote b by the addition of the following sentence:

- b. Group R-3 and Group U when used as accessory to Group R-3, as applicable in 101.2 shall be required to have a fire-resistance rating where fire separation distance is 3 feet or more. Group R-2 and Group U carport, as applicable in 406.1.4, exception 4 shall be required to have a fire-resistance rating where fire separation distance is 10 feet or less.

19. Section 705.11; change the exception to read as follows:

Exception: For other than hazardous exhaust ducts, penetrations by ducts and air transfer openings of . . . *{remainder of exception unchanged}*.

20. Section 707.2, change exception 7 as follows:

{7, 7.1, 7.2 and 7.3 are unchanged}

7.4 Is separated from floor openings... *{remainder of exception unchanged}*

21. Section 716.5.2; add exception 4 to read as follows:

4. In the duct penetration of the separation between the private garage and its residence when constructed in accordance with Section 406.1.4, exception 2.

22. Section 902.1; under "Standpipe, Types of" definition amend "Manual dry" by adding a sentence to read as follows:

The system must be supervised as specified in Section 905.9.

23. Section 903.2; delete exception.

24. Section 903.2.8.3 to read as follows:

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

Exception:

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

25. Section 903.2.10; amend 903.2.10.3 and add 903.2.10.4, 903.2.10.5, and 903.2.10.6 as follows:

903.2.10.3 Buildings more than 35 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level, other than penthouses in compliance with Section 1509 of the *International Building Code*, that is located 35 feet (10 668mm) or more above the lowest level of fire department vehicle access.

Exception: Open parking structures in compliance with Section 406.3 of the *International Building Code*.

903.2.10.4 High-Piled Combustible Storage. For any building with a clear height exceeding 12 feet (4572 mm), see Chapter 23 to determine if those provisions apply.

903.2.10.5 Spray Booths and Rooms. New and existing spray booths and spraying rooms shall be protected by an approved automatic fire-

extinguishing system.

903.2.10.6 Buildings Over 6,000 sq. ft. An automatic sprinkler system shall be installed throughout all buildings with a building area over 6,000 sq.ft. For the purpose of this provision, fire walls shall not define separate buildings.

Exceptions:

1. Open parking garages in compliance with Section 406.3 of the *International Building Code*.
2. Type A-5.

26. Section 903.3.1.1.1; change to read as follows:

903.3.1.1.1 Exempt locations. When approved by the code official, automatic sprinklers shall not be required in the following rooms or areas where such . . . {bulk of section unchanged} . . . because it is damp, of fire-resistance-rated construction or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.
2. Any room or space where sprinklers are considered undesirable because of the nature of the contents, when approved by the code official.
3. Generator and transformer rooms, under the direct control of a public utility, separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than 2 hours.

27. Section 903.3.5; add a second paragraph to read as follows:

Water supply as required for such systems shall be provided in conformance with the supply requirements of the respective standards; however, every fire protection system shall be designed with a 10 psi safety factor.

28. Section 903.4; add a second paragraph after the exceptions to read as follows:

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

29. Add Section 903.6.2 to read as follows:

903.6.2 Spray booths and rooms. New and existing spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing system in accordance with IFC Section 1504.

30. Section 905.2; change to read as follows:

905.2 Installation standards. Standpipe systems shall be installed in accordance with this section and NFPA 14. Manual dry standpipe systems shall be supervised with a minimum of 10 psig and a maximum of 40 psig air pressure with a high/low alarm.

31. Section 905.3.2; delete exceptions 1 and 2.

32. Section 905.4, item 5; change to read as follows:

5. Where the roof has a slope less than four units vertical in 12 units horizontal (33.3-percent slope), each standpipe shall be provided with a two-way hose connection located either . . . {*remainder of paragraph unchanged*} . . .

33. Section 905.9; add a second paragraph after the exceptions to read as follows:

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

34. Add Section 907.1.3 to read as follows:

907.1.3 Design Standards. All alarm systems new or replacement serving 50 or more alarm actuating devices shall be addressable fire detection systems. Alarm systems serving more than 75 smoke detectors or more than 200 total alarm activating devices shall be analog intelligent addressable fire detection systems.

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

35. Section 907.2.3; change to read as follows:

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

36. Section 907.2.3; change exception 1 and add exception 1 to read as follows:

1. Group E educational and day care occupancies with an occupant load of less than 50 when provided with an approved automatic sprinkler system.
1.1 Residential In-Home day care with not more than 12 children may use interconnected single station detectors in all habitable rooms. (For care of more than five children 2 1/2 or less years of age, see Section 907.2.6.)

37. Section 906.2.12 change to read as follows:

907.2.12 High-rise buildings. Buildings having any floor used for human occupancy located more than 55 feet (16 764 mm) above the lowest level of fire department vehicle access shall be provided with an automatic fire alarm system and an emergency voice/alarm communications system in accordance with Section 907.2.12.2.

38. Section 907.2.12, exception 3; change to read as follows:

3. Buildings with an occupancy in Group A-5 in accordance with Section 303.1, when used for open air seating; however, this exception does not apply to accessory uses including but not limited to sky boxes, restaurants and similarly enclosed areas.

39. Section 907.3; add a second paragraph to read as follows:

Manual alarm actuating devices shall be an approved double action type.

40. Add Section 907.5.1 to read as follows:

907.5.1 Installation. All fire alarm systems shall be installed in such a manner that the failure of any single alarm-actuating or alarm-indicating device will not interfere with the normal operation of any other such devices. All systems shall be Class "A" wired with a minimum of six feet separation between supply and return loops. IDC – Class "A" style – D – SLC Class "A" Style 6 – notification Class "B" Style Y.

41. Section 907.8.2; change to read as follows:

907.8.2 High-rise buildings. In buildings that have any floor located more than 55 feet (16 764 mm) above the . . . *{remainder of section unchanged}*.

42. Section 1008.1.3.4; add criteria 7 as follows:

7. If a full building smoke detection system is not provided, approved smoke detectors shall be provided on both the access and egress sides of doors and in a location approved by the authority having jurisdiction of NFPA 72. Actuation of a smoke detector shall automatically unlock the door.

43. Section 1016.1; add an exception 5 to read as follows:

5. In Group B office buildings, corridor walls and ceilings need not be of fire resistive construction within office spaces of a single tenant when the space is equipped with an approved automatic smoke-detection system within the corridor. The actuation of any detector shall activate alarms audible in all areas served by the corridor. The smoke-detection system shall be connected to the building's fire alarm system where such a system is provided.

44. Section 1019.1.8; change to read as follows:

1019.1.8 Smokeproof enclosures. In buildings required to comply with Section 403 or 405, each of the exits of a building that serves stories where any floor surface is located more than 55 feet (16 764 mm) above the lowest level of fire . . . *{remainder of section unchanged}*.

45. Section 1101.2; add an exception to read as follows:

Exception: Buildings regulated under State Law and built in accordance with State certified plans, including any variances or waivers granted by the State, shall be deemed to be in compliance with the requirements of this Chapter.

46. Section 1109.2.1; change to read as follows:

1109.2.1 Unisex toilet and bathing rooms. In assembly and mercantile occupancies, an accessible unisex toilet room shall be provided where an aggregate of six or more male or female water closets is provided. In buildings of mixed occupancy, only those water closets . . . *{remainder of section unchanged}*.

47. Section 1210.2; exception 2; change to read as follows:

2. Toilet rooms that are not accessible to the public and which have not more than one water closet; provided that walls around urinals comply with the minimum surrounding material specified by Section 419.3 of the *International Plumbing Code*.

48. Section 1403.3; change to read as follows:

1403.3 Vapor retarder. In all framed walls, floors and roof/ceilings comprising elements of the building thermal envelope, a vapor retarder, when installed, shall be installed in a manner so as to not trap moisture. Vapor retarders shall be tested in accordance with ASTM E 96.

(delete all exceptions)

49. Table 1505.1; replace footnotes b and c with the following:

- b. All individual replacement shingles or shakes shall be in compliance with the rating required by this table.
- c. Non-classified roof coverings shall be permitted on buildings of U occupancies having not more than 120 sq.ft. of projected roof area. When exceeding 120 sq.ft of projected roof area, buildings of U occupancies may use non-rated non-combustible roof coverings.

50. Section 1505.7; delete.

51. Add Section 2308.2.3 to read as follows:

2308.2.3 Application to engineered design. When accepted by the Building Official, any portion of this section is permitted to apply to buildings that are otherwise outside the limitations of this section provided that:

1. The resulting design will comply with the requirements specified in Chapter 16;
2. The load limitations of various elements of this section are not exceeded; and
3. The portions of this section which will apply are identified by an engineer in the construction documents.

52. Section 2901.1; add a sentence to read as follows:

The provisions of this Chapter are meant to work in coordination with the provisions of Chapter 4 of the *International Plumbing Code*. Should any conflicts arise between the two chapters, the Building Official shall determine which provision applies.

53. Section 2902.1, 2902.1.1 and 2902.1.2; change to read as follows and add sub sections:

2902.1 Minimum number of fixtures. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number as follows:

1. Assembly Occupancies: At least one drinking fountain shall be provided at each floor level in an approved location.

Exception: A drinking fountain need not be provided in a drinking or dining establishment.

2. Groups A, B, F, H, I, M and S Occupancies: Buildings or portions thereof where persons are employed shall be provided with at least one water closet for each sex except as provided for in Section 2902.2.
3. Group E Occupancies: Shall be provided with fixtures as shown in Table 2902.1.
4. Group R Occupancies: Shall be provided with fixtures as shown in Table 2902.1.

It is recommended, but not required, that the minimum number of fixtures provided also comply with the number shown in Table 2902.1. Types of occupancies not shown in Table 2902.1 shall be considered individually by the code official. The number of occupants shall be determined by this code. Occupancy classification shall be determined in accordance with Chapter 3.

2902.2 Finish material. Finish materials shall comply with Section 1210.

Sec. 4. THAT Chapter 18, Section 18-16, paragraph (a), of the Code of Ordinances of Ordinances of the City of Colleyville, Texas, is hereby amended in its entirety to read as follows:

- (a) *Adopted.* The International Residential Code, 2003 edition, as recommended by the International Code Council, one copy of which is on file in the Office of the City Secretary, is hereby adopted and incorporated by reference and made a part of this article as the building code of the City, subject to and including by reference such amendments, corrections, and additions as shall appear in this article.

Sec. 5. THAT Chapter 18, Section 18-16, paragraph (c), of the Code of Ordinances of Ordinances of the City of Colleyville, Texas, is hereby amended in its entirety to read as follows:

- (c) *Amendments.* The International Residential Code, 2003 edition, as

recommended by the International Code Council is hereby amended to include the recommendations of the Regional Codes Committee of the North Central Texas Council of Governments for buildings and structures in the City of Colleyville, Texas, which are as follows:

Sec. 6. THAT Chapter 18, Section 18-16, paragraph (c), (1) through paragraph (c), (79), of the Code of Ordinances of the City of Colleyville, Texas, are hereby deleted and replaced with the following paragraphs to read as follows:

1. Section R102.4; change to read as follows:

R102.4 Referenced codes and standards. The codes, when specifically adopted, and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference made to NFPA 70 or the ICC *Electrical Code* shall mean the Electrical Code as adopted.

Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

Exception: Where enforcement . . . *{remainder of exception unchanged}*. . . .

2. Section R105.2, item 1; change as follows:

1. One-story detached accessory structures, provided the floor area does not exceed 120 square feet (11.15 m²).

3. Section R109.1.3; change to read as follows:

R109.1.3 Floodplain inspections. For construction permitted in areas prone to flooding as established by Table R301.2(1), upon . . . *{bulk of section unchanged}* . . . construction, the building official may require submission . . . *{remainder of section unchanged}*.

4. Section R110 (R110.1 through R110.4); delete.

5. Sections R112.1, R112.2, R112.2.1, R112.2.2, R112.3 & R112.4 delete.

6. Section R202, change definition of "Townhouse" to read as follows:

TOWNHOUSE. A single-family dwelling unit constructed in a group of

attached units separated by property lines in which each unit extends from foundation to roof and with open space on at least two sides.

7. Section R202, add definition of "Naturally durable wood" as follows:

NATURALLY DURABLE WOOD. The heartwood of the following species with the exception that an occasional piece with corner sapwood is permitted if 90 percent or more of the width of each side on which it occurs is heartwood.

Decay resistant. Redwood, cedars, black locust and black walnut.

Termite resistant. Redwood and Eastern red cedar.

8. Table R301.2(1); fill in as follows:

GROUND SNOW LOAD	WIND SPEED ^{ed} (mph)	SEISMIC DESIGN CATEGORY ^{gn}		
5 lb/ft ²	90 (3-sec-gust)/75 fastest mile	A		
SUBJECT TO DAMAGE FROM				
Weathering ^a	Frost line depth ^b	Termite ^c	Decay ^d	
moderate	6"	very heavy		
WINTER DESIGN TEMP ^{fe}	ICE SHIELD UNDER-LAYMENT REQUIRED ^{ih}	FLOOD HAZARDS ^{hg}	AIR FREEZING INDEX ^{il}	MEAN ANNUAL TEMP ^{ki}
22°F	No	local code	69°F	64.9°F

For SI: 1 pound per square foot = 0.0479 kN/m.⁰², 1 mile per hour = 1.609 km/h.

- a. No revisions.
- b. No revisions.
- c. No revisions.
- d. No further revisions.
- e. No further revisions.
- f. No further revisions.
- g. No further revisions.
- h. No further revisions.
- i. No further revisions.
- j. No further revisions.

9. Figure R 301.2(7); delete and renumber figures as needed.

10. Section R302.1; add a second exception as follows:

Exceptions:

- 1. Tool and storage sheds, playhouses and similar structures exempted

from permits by Section R105.2 are not required to provide wall protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.

2. Open metal carport structures may be constructed within zero (0) feet of the property line without fire-resistive or opening protection when the location of such is approved as required by other adopted ordinances.

11. Section R303.3, exception; change to read as follows:

Exception: The glazed areas shall not be required where artificial light and a mechanical ventilation system, complying with one of the following, are provided.

1. The minimum ventilation rates shall be 50 cfm (23.6 L/s) for intermittent ventilation or 20 cfm (9.4 L/s) for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside.
2. Bathrooms that contain only a water closet, lavatory or combination thereof may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

12. Section R303.8; change to read as follows:

R303.8 Required heating. Every dwelling unit shall be provided with heating facilities capable of maintaining a minimum room temperature of 68°F (20°C) at a point 3 feet (914 mm) above the floor and 2 feet (610 mm) from exterior walls in all habitable rooms at the design temperature. *{Remainder of section unchanged}*

13. Section R311.2.2; change to read as follows:

R311.2.2 Under stair protection. Enclosed accessible space under stairs shall have walls, under stair surface and any soffits protected on the enclosed side with 5/8-inch (15.8 mm) fire-rated gypsum board or one-hour fire-resistive construction.

14. Section R317.1; add a second exception to read as follows:

Exceptions:

1. *{existing exception unchanged}*
2. Two-family dwelling units that are also divided by a property line through the structure shall be separated as required for townhouses.

15. Section R318; delete.

16. Sections R319 and R320; change to read as follows:

Revise Section R319.1 to read as follows:

R319.1 Location required. Protection from decay shall be provided in the following locations by the use of naturally durable wood or wood that is pressure preservatively treated in accordance with AWPA C1, C2, C3, C4, C9, C15, C18, C22, C23, C24, C28, C31, C33, P1, P2, and P3.

1. *No revision.*
2. *No revision.*
3. *No revision.*
4. *No revision.*
5. *No revision.*
6. *No revision.*
7. *No revision.*

R319.1.1 Field treatment. Field cut ends, notches and drilled holes of pressure preservatively treated wood shall be retreated in the field in accordance with AWPA M4.

Renumber existing sections R319.1.1 (Ground contact) through R319.1.4 (Wood columns).

Delete Section R320.1 and substitute the following:

R320.1 Subterranean termite control. In areas favorable to termite damage as established by Table R 301.2 (1), methods of protection shall be by one of the following: or any combination of these methods.

R 320.1.1 Pressure preservatively treated or naturally durable wood shall be provided as per HUD standards. Pressure perservatively treated wood shall be treated in accordance with the standards cited in R 319.1.

R 320.1.1.1 Quality Mark. Lumber and plywood required to be pressure preservatively treated in accordance with R324.1 shall bear the quality mark of an approved inspection agency which maintains continuing supervision, testing, and inspection over the quality of the product and which has been approved by an accreditation body which complies with the requirements of the American Lumber Standards Committee treated wood program.

R320.1.1.2 Field treatment. Field cut ends, notches and drilled holes of pressure preservatively treated wood shall be retreated in the field in accordance with AWPA M4.

Revise sections R320.2 through R320.4 as follows:

R320.1.2 Pesticide treatment. The concentrations, rate of application and treatment methods of the termiticide shall be consistent with the termiticide label. Pesticide treatment shall be provided using methods approved by the Environmental Protection Agency and the Texas Structural Pest Control Board.

R320.1.3 Physical Barriers. Physical barriers shall be installed as recognized by Texas Structural Pest Control Board.

R320.2 Foam plastic protection. *{Remainder of section unchanged.}*

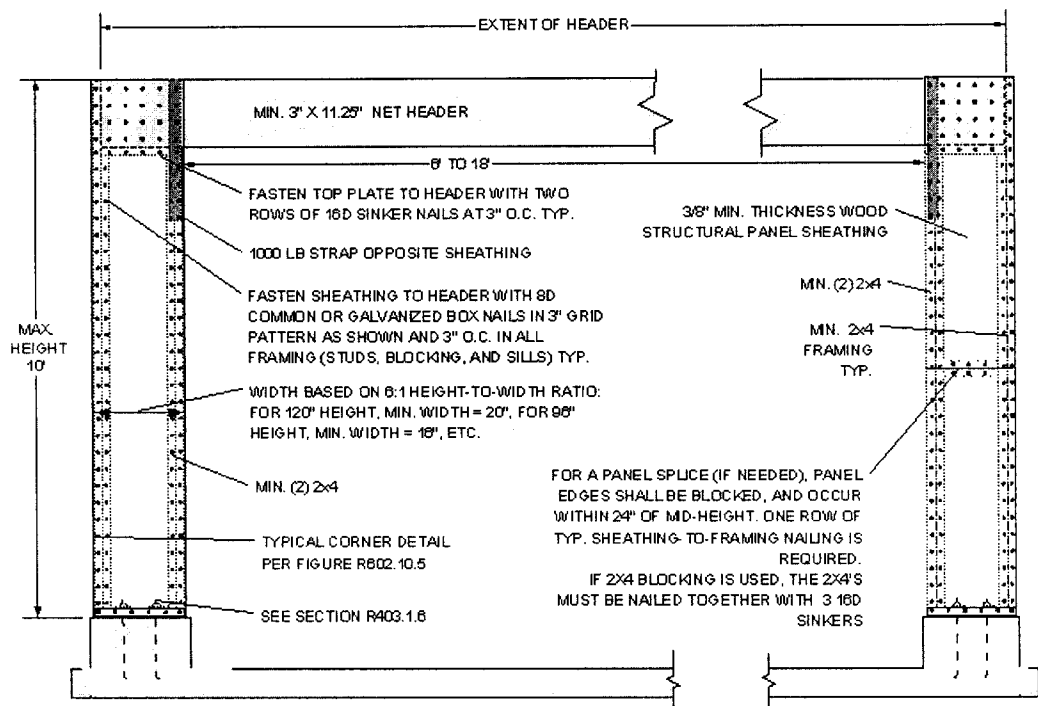
17. Section R323.1; change to read as follows:

R323.1 General. Buildings and structures, when permitted to be constructed in flood hazard areas . . . *{bulk of section unchanged}* . . . shall be designed and constructed as required in accordance with the provisions contained in this section or by other local provisions as applicable.

18. Section R602.10.5; add the following exception and figure:

Exception: Vertical wall segments in the first of one- or first of two-story buildings next to garage openings shall be permitted to have a 6:1 height-to-width ratio (with height being measured from top of header to sill plate) when constructed in accordance with the following provisions. Each panel shall have a length of not less than 16 inches (406 mm) and a height of not more than 10 feet (3048 mm). Each panel shall be sheathed on one face with a single layer of 3/8-inch-minimum-thickness (9.5 mm) wood structural panel sheathing nailed with 8d common or galvanized box nails in accordance with Figure R602.10.5(2). The wood structural panel sheathing shall extend up over the solid sawn or glued-laminated header and shall be nailed in accordance with Figure R602.10.5(2). The header shall extend between the inside faces of the first full-length outer studs of each panel. The clear span of the header between the inner studs of each panel shall be not less than six feet (1829 mm) and not more than 18 feet (5486 mm) in length. A strap with an uplift capacity of not less than 1000 pounds (454 kg) shall fasten the header to the side of the inner studs opposite the sheathing. Two anchor bolts shall be installed in accordance with Section R403.1.6, and plate washers shall be a minimum of 2 inches by 2 inches by 3/16 inch (51 mm by 51 mm by 4.88 mm) thick and shall be used on each bolt. This exception is only permitted in Seismic Design Categories A-C.

Figure R602.10.5(2)
GARAGE DOOR BRACED WALL PANEL
FOR USE WITH CONTINUOUSLY SHEATHED WALLS



19. Section R703.7.4.1; add a second paragraph to read as follows:

For $3\frac{1}{4}$ square feet (0.302 m²) of wall area, the following dimensions shall be adhered to:

1. When ties are placed on studs 16 in (407 mm) o.c., they shall be spaced no further apart than 29 in (737 mm) vertically starting approximately 15 in (381 mm) from the foundation.
2. When ties are placed on studs 24 in (610 mm) o.c., they shall be spaced no further apart than 19 in (483 mm) vertically starting approximately 10 in (254 mm) from the foundation.

20. Add Section R902.3 to read as follows:

R902.3 Minimum Roof Class. All roof coverings shall be a minimum Class C. All individual replacement shingles or shakes shall be a minimum Class C.

Exception: Non-classified roof coverings shall be permitted on buildings of U occupancies having not more than 120 sq.ft. of projected roof area. When exceeding 120 sq.ft. of projected roof area, buildings of U occupancies may use non-rated non-combustible coverings.

21. Section R907.1; add a sentence to read as follows:

All individual replacement shingles or shakes shall comply with Section R902.3.

22. Section N1101.2; amend as follows:

N1101.2.1 Compliance. Compliance with this chapter shall be demonstrated by meeting either one of the following:

1. Meeting the requirements of this chapter for buildings with a glazing area that does not exceed 15 percent of the gross area of exterior walls; or
 2. Meeting the requirements of this chapter for buildings with a glazing area that is greater than 15 percent but not exceeding 20 percent of the gross area of exterior walls and air conditioning equipment rated 12 SEER or higher;
 3. Meeting the requirements of this chapter for buildings with a glazing area that is greater than 20 percent but not exceeding 25 percent of the gross area of exterior walls and air conditioning equipment rated 14 SEER or higher; or
 4. Meeting the requirements of the *International Energy Conservation Code* for residential buildings, detached one- and two-family dwellings.
- {Remainder of section unchanged}*

23. Add Section N1101.3.4 to read as follows:

N1101.3.4 Exterior basement or slab insulation. When susceptibility to termite damage is classified as "very heavy" according to Table R301.2(1), designs employing basement or slab exterior insulation capable of harboring termites shall not be utilized.

24. Section N1102.1; amend as follows:

N1102.1 Thermal performance criteria. The minimum required insulation R-value or the area-weighted average maximum required fenestration U-factor (other than opaque doors which are governed by Section N1102.1.3) for each element in the building thermal envelope (fenestration, roof/ceiling, opaque wall, floor, slab edge, crawl space wall and basement wall) shall be in accordance with the criteria in Table N1102.1.

Detached one-and-two family dwellings with greater than 25-percent glazing

area; townhouses with greater than 25-percent glazing area; shall determine compliance using the building envelope requirements of Chapters 4 or 5 of the *International Energy Conservation Code*.

25. Replace Table N1102.1 with:

TABLE N1102.1 SIMPLIFIED PRESCRIPTIVE BUILDING ENVELOPE THERMAL COMPONENT CRITERIA MINIMUM REQUIRED THERMAL PERFORMANCE (U-FACTOR AND R-VALUE)							
MAXIMUM GLAZING U-FACTOR [Btu/(hr·ft ² ·°F)]	MINIMUM INSULATION R-VALUE [(hr·ft ² ·°F)/Btu]						
	Ceilings open to Attic Space	Ceiling Joist/Roof Rafter Assembly	Walls	Floors	Basement Walls	Slab perimeter	Crawl space walls
0.65	R-38	R-22	R- 13	R-19	R-0	R-0	R-7 ^a

a. Crawl space insulation is only required for structures with uninsulated floors.

Use of this table is limited to projects where the cathedral ceiling area is limited to one third or less of the total ceiling area.

26. Section N1102.1.6; delete last sentence of exception.

27. Section N1102.2; amend as follows:

N1102.2 Maximum solar heat gain coefficient for fenestration products. The area-weighted-average solar heat gain coefficient (SHGC) for glazed fenestration installed in locations with 3,500 or fewer heating degree days shall not exceed 0.40.

Exceptions:

1. Any glazing facing within 45 degrees of true north;
2. Any glazing facing within 45 degrees of true south which is shaded along its full width by a permanent overhang with a projection factor of 0.3 or greater.
3. Any fenestration with permanently attached screens where the screens have a rated shading coefficient of .6 or less.

28. Table N1103.5; amend as follows:

Cooling Systems	FLUID TEMP RANGE (°F)	INSULATION THICKNESS inches ^b
Chilled water, refrigerant or brine	40-55	0.5
	Below 40	1.25

{Remainder of table unchanged.}

Amend footnote "b" to read as follows:

- b. For piping lengths in excess of five (5) feet (1,524 mm) exposed to outdoor air, increase thickness by 0.5 inch (13 mm).

29. Section M1305.1.3; change to read as follows:

M1305.1.3 Appliances in attics. Attics containing appliances requiring access shall be provided . . . *{bulk of paragraph unchanged}* . . . from the opening to the appliance. The passageway shall have continuous unobstructed solid flooring in accordance with Chapter 5 not less than 30 inches (762 mm) wide. A level service space at least 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present along all sides of the appliance where access is required. The clear access opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), or larger where such dimensions are not large enough to allow removal of the largest appliance. As a minimum, access to the attic space shall be provided by one of the following:

1. A permanent stair.
2. A pull down stair.
3. An access door from an upper floor level.

Exception: The passageway and level service space are not required where the appliance is capable of being serviced and removed through the required opening.

30. Section M1305.1.3.1; add a sentence to read as follows:

Low voltage wiring of 50 Volts or less shall be installed in a manner to prevent physical damage.

31. Section M1305.1.4.1; change to read as follows:

M1305.1.4.1 Ground clearance. Appliances supported from the ground shall be level and firmly supported on a concrete slab or other approved material extending above the adjoining ground a minimum of 3 inches (76 mm). Appliances suspended from the floor shall have a clearance of not less than 6 inches (152 mm) above the ground.

32. Section M1305.1.4.3; add a sentence to read as follows:

Low voltage wiring of 50 Volts or less shall be installed in a manner to

prevent physical damage.

33. Section M1307.3.1; delete.

34. Section M1501.2; delete and replace with the following:

M1501.2 Exhaust duct size. The minimum diameter of the exhaust duct shall be as recommended by the manufacturer, shall be at least the diameter of the appliance outlet and shall be a minimum nominal size of 4 inches (102 mm) in diameter. The size of duct shall not be reduced along its developed length nor at the point of termination.

35. Section M1501.3; change to read as follows:

M1501.3 Length limitation. The maximum length of a clothes dryer exhaust duct shall not exceed 25 feet (7620 mm) from the dryer location to the wall or roof termination with not more than two bends. When extra bends are installed, the maximum length of the duct shall be reduced 2.5 feet (762 mm) for each 45-degree (0.79 rad) bend and 5 feet (1524 mm) for each 90-degree (1.6 rad) bend that occur after the first two bends, measuring in the direction of airflow. The maximum length of the exhaust duct does not include the transition duct.

{Exception is unchanged}

36. Section M2005.2: change to read as follows:

M2005.2 Prohibited locations. Fuel-fired water heaters shall not be installed in a room used as a storage closet. Water heaters located in a bedroom or bathroom shall be installed in a sealed enclosure so that combustion air will not be taken from the living space. Access to such enclosure may be from the bedroom or bathroom when through a solid door, weather-stripped in accordance with the exterior door air leakage requirements of the *International Energy Conservation Code* and equipped with an approved self-closing device. Direct-vent water heaters are not required to be installed within an enclosure.

37. Section G2408.3; delete.

38. Section G2412.5; add a second paragraph to read as follows:

Both ends of each section of medium pressure gas piping shall identify its operating gas pressure with an approved tag. The tags are to be composed of aluminum or stainless steel and the following wording shall be stamped into the tag:

"WARNING
1/2 to 5 psi gas pressure
Do Not Remove"

39. Section G2413.3; add an exception to read as follows:

Exception: Corrugated stainless steel tubing (CSST) shall be a minimum of 1/2".

40. Section G2415.6; change to read as follows:

G2415.6 (404.6) Piping in solid floors. Piping in solid floors shall be laid in channels in the floor and covered in a manner what will allow access to the piping with a minimum amount of damage to the building. Where such piping is subject to exposure to excessive moisture or corrosive substances, the piping shall be protected in an approved manner. As an alternative to installation in channels, the piping shall be installed in accordance with Section G2415.11 (404.11)

41. Section G2415.9; change to read as follows:

G2415.9 (404.9) Minimum burial depth. Underground piping systems shall be installed a minimum depth of 18 inches (458 mm) below grade.

42. Section G2415.9.1; delete.

43. Section G2417.1; change to read as follows:

G2417.1 (406.1) General. Prior to acceptance and initial operation, all piping installations shall be inspected and pressure tested to determine that the materials, design, fabrication, and installation practices comply with the requirements of this code. The permit holder shall make the applicable tests prescribed in Sections 2417.1.1 through 2417.7.4 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the piping system is ready for testing. The equipment, material, power and labor necessary for the inspections and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests.

44. Section G2417.4; change to read as follows:

G2417.4 (406.4) Test pressure measurement. Test pressure shall be measured with a monometer or with a pressure-measuring device designed

and calibrated to read, record, or indicate a pressure loss caused by leakage during the pressure test period. The source of pressure shall be isolated before the pressure tests are made. For tests requiring a pressure of 3 psig, mechanical gauges shall utilize a dial with a minimum diameter of three and one half inches (3 ½"), a set hand, 1/10 pound incrementation and pressure range not to exceed 6 psi for tests requiring a pressure of 3 psig. For tests requiring a pressure of 10 psig, mechanical gauges shall utilize a dial with a minimum diameter of three and one-half inches (3 ½"), a set hand, a minimum of 2/10 pound incrementation and a pressure range not to exceed 20 psi.

45. Section G2417.4.1; change to read as follows:

G2417.4.1 (406.4.1) Test pressure. The test pressure to be used shall be not less than 3 psig (20 kPa gauge), or at the discretion of the Code Official, the piping and valves may be tested at a pressure of at least six (6) inches (152 mm) of mercury, measured with a manometer or slope gauge. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa) (1/2 psi) and less than 200 inches of water column pressure (52.2 kPa) (7.5 psi), the test pressure shall not be less than ten (10) pounds per square inch (69.6 kPa). For piping carrying gas at a pressure that exceeds 200 inches of water column (52.2 kPa) (7.5 psi), the test pressure shall be not less than one and one-half times the proposed maximum working pressure.

46. Section G2417.4.2; change to read as follows:

G2417.4.2 (406.4.2) Test duration. The test duration shall be held for a length of time satisfactory to the Code Official, but in no case for less than fifteen (15) minutes. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa), the test duration shall be held for a length of time satisfactory to the Code Official, but in no case for less than thirty (30) minutes.

47. Add Section G2420.1.4 to read as follows:

G2420.1.4 Valves in CSST installations. Shutoff valves installed with corrugated stainless steel (CSST) piping systems shall be supported with an approved termination fitting, or equivalent support, suitable for the size of the valves, of adequate strength and quality, and located at intervals so as to prevent or damp out excessive vibration but in no case greater than 12-inches from the center of the valve. Supports shall be installed so as not to interfere with the free expansion and contraction of the system's piping, fittings, and valves between anchors. All valves and supports shall be designed and installed so they will not be disengaged by movement of the

supporting piping.

48. Section G2421.1; add a second paragraph and exception to read as follows:

Access to regulators shall comply with the requirements for access to appliances as specified in Section M1305.

Exception: A passageway or level service space is not required when the regulator is capable of being serviced and removed through the required attic opening.

49. Section G2439.5; add a sentence to read as follows:

The size of duct shall not be reduced along its developed length nor at the point of termination.

50. Section G2439.5.1; change to read as follows:

G2439.5.1 (614.6.1) Maximum length. The maximum length of a clothes dryer exhaust duct shall not exceed 25 feet (7620 mm) from the dryer location to the outlet terminal with not more than two bends. When extra bends are installed, the maximum length of the duct shall be reduced 2 1/2 feet (762 mm) for each 45-degree (0.79 rad) bend and 5 feet (1524 mm) for each 90-degree (1.6 rad) bend that occur after the first two bends, measuring in the direction of airflow.

{Exception is unchanged}

51. Section G2445.2; change to read as follows:

G2445.2 (621.2) Prohibited use. One or more unvented room heaters shall not be used as the sole source of comfort heating in a dwelling unit.

Exception: Existing approved unvented heaters may continue to be used in dwelling units, in accordance with the code provisions in effect when installed, when approved by the Code Official unless an unsafe condition is determined to exist as described in *International Fuel Gas Code* Section 108.7.

52. Section G2448.1.1; change to read as follows:

G2448.1.1 (624.1.1) Installation requirements. The requirements for water heaters relative to access, sizing, relief valves, drain pans and scald protection shall be in accordance with this code.

53. Section P2503.5.1, item 1; add a second paragraph to read as follows:

Shower receptors shall be tested for water tightness by filling with water to the level of the rough threshold. The drain shall be plugged in a manner so that both sides of pans shall be subjected to the test at the point where it is clamped to the drain.

54. Section P2503.7.2; change to read as follows:

P2503.7.2 Testing. Reduced pressure principle . . . *{bulk of section unchanged}* . . . at the time of installation, immediately after repairs or relocation and at regular intervals as required by applicable state or local provisions.

55. Section P2603.2.1; change to read as follows:

P2603.2.1 Protection against physical damage. In concealed locations...*{bulk of section unchanged}*...Protective shield plates shall be a minimum of .062-inch-thick (1.6 mm) steel and shall cover the area of the pipe where the member is notched or bored.

56. Section P2603.6.1; delete and replace with the following:

P2603.6.1 Sewer depth. Building sewers shall be a minimum of 12 inches (304 mm) below grade.

57. Section P2709.1; add an exception to read as follows:

Exception: Showers designed to comply with ICC/ANSI A117.1.

58. Section P2801.6; add an exception as follows:

Exception: Elevation of the ignition source is not required for water heaters that are listed as flammable vapor resistant and for installation without elevation.

59. Section P2902.4.3; changed to read as follows:

P2902.4.3 Lawn Irrigation Systems. The potable water supply system to lawn irrigation systems shall be protected against backflow by an atmospheric-type vacuum breaker, a pressure type vacuum breaker, a double-check assembly or a reduced pressure principle backflow preventer . *{remainder of section unchanged}*.

60. Table P2904.4.1 & P2904.5; delete "Polybutylene (PB) plastic pipe and

tubing".

61. Sections P2904.5.1 and P2904.14; delete reference to "PB" plastic pipe.

62. Section P3005.2.6; changed to read as follows:

P3005.2.6 Upper terminal. Each horizontal drain shall be provided with a cleanout at its upper terminal.

Exception: Cleanouts may be omitted on a horizontal drain less than five (5) feet (1524 mm) in length unless such line is serving sinks or urinals.

63. Section P3103.1; change to read as follows:

P3103.1 Roof extension. All open vent pipes which extend through a roof shall be terminated at least six (6) inches (152 mm) above the roof, except that . . . *{remainder of section unchanged}*.

64. Sections P3105.2; change to read as follows:

P3105.2 Fixture drains. The total fall in a fixture drain due to pipe slope shall not exceed one pipe diameter, nor shall the vent pipe connection to a fixture drain, except for water closets, be below the weir of the trap.

65. Section 3105.3 and Figure P3105.3; delete.

66. Section P3111; delete.

67. Section P3112.2; delete and replace with the following:

P3112.2 Installation. Traps for island sinks and similar equipment shall be roughed in above the floor and may be vented by extending the vent as high as possible, but not less than the drainboard height and then returning it downward and connecting it to the horizontal sink drain immediately downstream from the vertical fixture drain. The return vent shall be connected to the horizontal drain through a wye-branch fitting and shall, in addition, be provided with a foot vent taken off the vertical fixture vent by means of a wye-branch immediately below the floor and extending to the nearest partition and then through the roof to the open air or may be connected to other vents at a point not less than six (6) inches (152 mm) above the flood level rim of the fixtures served. Drainage fittings shall be used on all parts of the vent below the floor level and a minimum slope of one-quarter (1/4) inch per foot (20.9 mm/m) back to the drain shall be maintained. The return bend used under the drainboard shall be a one (1) piece fitting or an assembly of a forty-five (45) degree (0.79 radius), a ninety

(90) degree (1.6 radius) and a forty-five (45) degree (0.79 radius) elbow in the order named. Pipe sizing shall be as elsewhere required in this Code. The island sink drain, upstream of the return vent, shall serve no other fixtures. An accessible cleanout shall be installed in the vertical portion of the foot vent.

68. Chapters 33 through 42; delete. Replace with the electrical code as adopted.

Sec. 7. THAT Chapter 18, Section 18-18, paragraph (a), of the Code of Ordinances of Ordinances of the City of Colleyville, Texas, is hereby amended in its entirety to read as follows:

(a) *Adopted.* The International Energy Conservation Code, 2003 edition, as recommended by the International Code Council, one copy of which is on file in the Office of the City Secretary, is hereby adopted and incorporated by reference and made a part of this article as the building code of the City, subject to and including by reference such amendments, corrections, and additions as shall appear in this article.

Sec. 8. THAT Chapter 18, Section 18-18, paragraph (c), of the Code of Ordinances of Ordinances of the City of Colleyville, Texas, is hereby amended in its entirety to read as follows:

(c) *Amendments.* The International Energy Conservation Code, 2003 edition, as recommended by the International Code Council is hereby amended to include the recommendations of the Regional Codes Committee of the North Central Texas Council of Governments for buildings and structures in the City of Colleyville, Texas, which are as follows:

Sec. 9. THAT Chapter 18, Section 18-18, paragraph (c), (1) through paragraph (c), (20), of the Code of Ordinances of the City of Colleyville, Texas, are hereby deleted and replaced with the following paragraphs to read as follows:

1. Add the following section:

101.4.1.3 Alternative compliance. A building certified by a national, state, or local accredited energy efficiency program and determined by the Energy Systems Laboratory to be in compliance with the energy efficiency requirements of this section may, at the option of the Code Official, be considered in compliance. The United States Environmental Protection Agency's Energy Star Program certification of energy code equivalency shall be considered in compliance.

2. Section 302.1; Replace blank Table 302.1 Exterior Design Conditions with

the following:

CONDITION	VALUE
Winter ^a , design dry-bulb (°F) (99.6%)	17
Summer ^a , design dry-bulb (°F) (0.4%)	100
Summer ^a , design wet-bulb (°F) (0.4%)	78
Degree days heating ^b	2407
Degree days cooling ^b	2603
Climate zone ^c	5B

3. Delete note "a" and replace with the following:

- a. These values are from ASHRAE Handbook of Fundamentals for Dallas/Ft. Worth International Airport 99.6% Winter DB, 0.4% Summer DB, and 0.4% Summer WB; and from Local Climatological Data for Dallas-Ft. Worth published by the National Climatic Data Center, National Oceanic and Atmospheric Administration. These values are for the purpose of providing a uniform basis of requirements for North Central Texas. This will not preclude licensed professionals from submitting design analyses based on site measurements or published data more specific to the building site. Adjustments shall be permitted to reflect local climates which differ from the tabulated values, or local weather experience determined by the code official.

4. Section 502.1.1; delete exception 2 and substitute the following:

2. Buildings located in Climate Zones 5b.

5. Section 502.1.5; add the following exceptions:

Exceptions:

1. Any glazing facing within 45 degrees of true north;
2. Any glazing facing within 45 degrees of true south which is shaded along its full width by a permanent overhang with a projection factor of 0.3 or greater.
3. Any fenestration with permanently attached screens where the screens have a rated shading coefficient of .6 or less.

6. Section 502.2; Replace blank Table 502.2 Heating & Cooling Criteria with the following:

Table 502.2^{a,g}
HEATING AND COOLING CRITERIA

Element	Mode	Detached One-Family Dwellings U _o	Detached Two-Family Dwellings U _o
Walls	Heating or cooling	0.15	0.22
Roof/ceiling	Heating or cooling	0.03	0.03
Floors over unheated spaces	Heating or cooling	0.05	0.05
Heated slab on grade	Heating	R-value = 6	R-value = 6
Unheated slab on grade	Heating	R-value = 0	R-value = 0
Basement wall	Heating or cooling	U-factor = 0.15	U-factor = 0.15
Crawl space wall	Heating or cooling	U-factor = 0.15	U-factor = 0.15

7. Delete Note "a" and replace with the following:
 - a. The above values have been determined for all counties in the North Central Texas Council of Governments region.
8. Add Note "g":
 - g. These requirements apply only to the boundaries of conditioned space. Air conditioning equipment and ductwork is recommended, but not required, to be located within the conditioned space in North Central Texas zones.
9. Delete Figures 502.2(1-6)
10. Section 502.2; Add note to Fig 502.2(7):

All counties within the North Central Texas Council of Governments region are designated as within the area of very heavy termite infestation probability for purpose of uniform interpretation of this requirement.
11. Section 502.2.2; add a second paragraph as follows:

A building demonstrating envelope compliance at least 10% better than code may utilize R6 duct insulation in both supply and return air ducts in lieu of the insulation required by Table 503.3.3.3.
12. Section 502.2.4; Delete prescriptive Tables 502.2.4(1-9) and substitute the following:

Replace Tables 502.2.4 (1-6) with:

Table 502.2.4(1) Prescriptive Building Envelope Requirements, Detached One-Family Dwellings, Based on Window Area as a Percent of Gross Exterior Wall Area							
% Glazing	Maximum	Minimum					
	Glazing U-factor	Ceiling R-value	Exterior wall R-value	Floor R-value	Basement wall R-value	Slab perimeter R-value and depth	Crawl space wall R-value
<8%	0.70	R-26	R-11	R-11	R-5	R-0	R-6
<12%	0.65	R-26	R-13	R-11	R-5	R-0	R-5
<15%	0.60	R-30	R-13	R-19	R-6	R-0	R-7
<18%	0.52	R-30	R-13	R-19	R-6	R-0	R-7
<20%	0.50	R-38	R-13	R-19	R-6	R-0	R-7
<25%	0.46	R-38	R-16	R-19	R-6	R-0	R-7

Replace Tables 502.2.4 (7-9) with:

Table 502.2.4(2) Prescriptive Building Envelope Requirements, Detached Two-Family Dwellings, Based on Window Area as a Percent of Gross Exterior Wall Area							
% Glazing	Maximum	Minimum					
	Glazing U-factor	Ceiling R-value	Exterior wall R-value	Floor R-value	Basement wall R-value	Slab perimeter R-value and depth	Crawl space wall R-value
<20%	0.55	R-30	R-13	R-11	R-5	R-0	R-5
<25%	0.55	R-30	R-13	R-11	R-5	R-0	R-5
<30%	0.47	R-38	R-13	R-19	R-7	R-0	R-8

13. Table 503.3.3.1 MINIMUM PIPE INSULATION. Amend footnote "a" to read as follows:

- a. For piping lengths in excess of five (5) feet exposed to outdoor air, increase the insulation thickness by 0.5 inch.

14. Table 503.3.3.3; add footnote "e" as follows:

- e. See Section 502.2.2

15. Section 503.3.3.4.3; change first sentence to read as follows:

503.3.3.4.3 Sealing required. All joints, longitudinal and transverse seams, and connections in ductwork, shall be made substantially airtight by means of welds, gaskets, mastics (adhesives), mastic-plus-embedded-fabric systems or tapes or other approved closure systems. *{Remainder to remain unchanged}*

16. Section 602.1.6; delete last sentence of exception.

17. Section 602.2 Maximum solar heat gain coefficient for fenestration products.

Add the following exceptions:

Exceptions:

1. Any glazing facing within 45 degrees of true north.
2. Any glazing facing within 45 degrees of true south which is shaded along its full width by a permanent overhang with a projection factor of 0.30 or greater.
3. Any fenestration with attached screens where the screens have a rated shading coefficient of 0.6 or less.

18. Section 802.2; Replace blank tables 802.2 (1-4) with the completed tables provided on the following four pages. Delete tables 802.2 (5-37).

TABLE 802.2(1) BUILDING ENVELOPE REQUIREMENTS WINDOW AND GLAZED DOOR AREA 10 PERCENT OR LESS OF ABOVE-GRADE WALL AREA			
ELEMENT	CONDITION/VALUE		
Skylights (<i>U</i> -factor)	1		
Slab or below-grade wall (<i>R</i> -value)	R-0		
Windows and glass doors	SHGC	<i>U</i> -factor	
PF < 0.25	Any	Any	
0.25 ≤ PF < 0.50	Any	Any	
PF ≥ 0.50	Any	Any	
Roof assemblies (<i>R</i> -value)	Insulation between framing	Continuous insulation	
All-wood joist/truss	R-19	R-16	
Metal joist/truss	R-25	R-17	
Concrete slab or deck	NA	R-16	
Metal purlin with thermal block	R-25	R-17	
Metal purlin without thermal block	X	R-17	
Floors over outdoor air or Unconditioned space (<i>R</i> -value)	Insulation between framing	Continuous insulation	
All-wood joist/truss	R-11	R-6	
Metal joist/truss	R-11	R-6	
Concrete slab or deck	NA	R-6	
Above-grade walls (<i>R</i> -value)	No framing	Metal Framing	Wood framing
Framed			
R-value cavity	NA	R-11	R-11
R-value continuous	NA	R-0	R-0
CMU, ≥ 8 in., with integral insulation			
R-value cavity	NA	R-0	R-0
R-value continuous	R-0	R-0	R-0
Other masonry walls			
R-value cavity	NA	R-0	R-0
R-value continuous	R-0	R-0	R-0

TABLE 802.2(2)			
BUILDING ENVELOPE REQUIREMENTS			
WINDOW AND GLAZED DOOR AREA 10 PERCENT BUT NOT GREATER THAN 25 PERCENT OF ABOVE-GRADE WALL AREA			
ELEMENT	CONDITION/VALUE		
Skylights (<i>U</i> -factor)	1		
Slab or below-grade wall (<i>R</i> -value)	R-0		
Windows and glass doors	SHGC	<i>U</i> -factor	
PF ≤ 0.25	0.6	Any	
0.25 < PF < 0.50	0.7	Any	
PF ≥ 0.50	Any	Any	
Roof assemblies (<i>R</i> -value)	Insulation between framing	Continuous insulation	
All-wood joist/truss	R-25	R-19	
Metal joist/truss	R-25	R-20	
Concrete slab or deck	NA	R-19	
Metal purlin with thermal block	R-30	R-20	
Metal purlin without thermal block	X	R-20	
Floors over outdoor air or Unconditioned space (<i>R</i> -value)	Insulation between framing	Continuous insulation	
All-wood joist/truss	R-11	R-6	
Metal joist/truss	R-11	R-6	
Concrete slab or deck	NA	R-6	
Above-grade walls (<i>R</i> -value)	No framing	Metal Framing	Wood framing
Framed			
R-value cavity	NA	R-11	R-11
R-value continuous	NA	R-0	R-0
CMU, ≥ 8 in., with integral insulation			
R-value cavity	NA	R-11	R-11
R-value continuous	R-5	R-0	R-0
Other masonry walls			
R-value cavity	NA	R-11	R-11
R-value continuous	R-5	R-0	R-0

TABLE 802.2(3) BUILDING ENVELOPE REQUIREMENTS			
WINDOW AND GLAZED DOOR AREA OVER 25 PERCENT BUT NOT GREATER THAN 40 PERCENT OF ABOVE-GRADE WALL AREA			
ELEMENT	CONDITION/VALUE		
Skylights (<i>U</i> -factor)	1		
Slab or below-grade wall (<i>R</i> -value)	R-0		
Windows and glass doors PF ≤ 0.25 0.25 < PF < 0.50 PF ≥ 0.50	SHGC	<i>U</i> -factor	
	0.4	0.7	
	0.5	0.7	
	0.6	0.7	
Roof assemblies (<i>R</i> -value)	Insulation between framing	Continuous insulation	
All-wood joist/truss	R-25	R-19	
Metal joist/truss	R-25	R-20	
Concrete slab or deck	NA	R-19	
Metal purlin with thermal block	R-30	R-20	
Metal purlin without thermal block	X	R-20	
Floors over outdoor air or Unconditioned space (<i>R</i> -value)	Insulation between framing	Continuous insulation	
All-wood joist/truss	R-11	R-6	
Metal joist/truss	R-11	R-6	
Concrete slab or deck	NA	R-6	
Above-grade walls (<i>R</i> -value)	No framing	Metal Framing	Wood framing
Framed			
R-value cavity	NA	R-11	R-11
R-value continuous	NA	R-0	R-0
CMU, ≥ 8 in., with integral insulation			
R-value cavity	NA	R-11	R-11
R-value continuous	R-5	R-0	R-0
Other masonry walls			
R-value cavity	NA	R-11	R-11
R-value continuous	R-5	R-0	R-0

TABLE 802.2(4) BUILDING ENVELOPE REQUIREMENTS WINDOW AND GLAZED DOOR AREA OVER 40 PERCENT OF ABOVE-GRADE WALL AREA			
ELEMENT	CONDITION/VALUE		
Skylights (<i>U</i> -factor)	1		
Slab or below-grade wall (<i>R</i> -value)	R-0		
Windows and glass doors PF $\leq$ 0.25 0.25 < PF < 0.50 PF $\geq$ 0.50	SHGC	<i>U</i> -factor	
	0.4	0.7	
	0.5	0.7	
	0.6	0.7	
Roof assemblies (<i>R</i> -value)	Insulation between framing	Continuous insulation	
All-wood joist/truss	R-25	R-19	
Metal joist/truss	R-25	R-20	
Concrete slab or deck	NA	R-19	
Metal purlin with thermal block	R-30	R-20	
Metal purlin without thermal block	R-38	R-20	
Floors over outdoor air or Unconditioned space (<i>R</i> -value)	Insulation between framing	Continuous insulation	
All-wood joist/truss	R-11	R-6	
Metal joist/truss	R-11	R-6	
Concrete slab or deck	NA	R-6	
Above-grade walls (<i>R</i> -value)	No framing	Metal Framing	Wood framing
Framed			
R-value cavity	NA	R-11	R-11
R-value continuous	NA	R-0	R-0
CMU, $\geq$ 8 in., with integral insulation			
R-value cavity	NA,NA	R-11	R-11
R-value continuous	R-5	R-0	R-0
Other masonry walls			
R-value cavity	NA	R-11	R-11
R-value continuous	R-5	R-0	R-0

19. Add footnote "f" to SHGC column heading in Tables 802.2 (2), 802.2 (3) and 802.2 (4) to read as follows:

- f. Minimum SHGC requirements do not apply to glazing as follows:
1. Any glazing facing within 45 degrees of true north.
 2. Any glazing facing within 45 degrees of true south which is shaded along its full width by a permanent overhang with a projection factor of 0.30 or greater.
 3. Any glazing with permanent attached screens where the screens have a rated shading coefficient of 0.60 or less.

20. Section 805.2.1 Interior Lighting Controls; add a third sentence to read:

Large spaces shall have a separate switch or control for each 2500 square feet of floor area.

21. Delete Figures 902.1 (1-43, 45-51)

22. Chapter 10; Replace referenced standard as follows:

ASHRAE/IES -- 99 Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings -- 1999 Edition

Sec. 10 THAT Chapter 18 of the Code of Ordinances of the City of Colleyville, Texas, shall remain in full force and effect, except where amended by this ordinance.

Sec. 11. THAT Chapter 22, Article II, Section 22-26. Contractor's Board is hereby amended in its entirety to read as follows:

Sec. 22-26. Contractor's Board of Appeals.

A. Creation of Contractor's Board of Appeals – There is hereby created a Contractor's Board of Appeals consisting of five (5) members and two (2) alternate members, each to be appointed by the Council for a two year term, or until a successor is appointed. Three members of the Board and one (1) alternate member shall be selected in even numbered years and two members and one (1) alternate member in odd numbered years. In the event of a vacancy, the Council shall appoint a member to serve for the unexpired term. Alternate Board members shall serve in the absence of regular members. The Contractor's Board of Appeals shall consist of the same members and officers as the Zoning Board of Adjustment.

B. Authority – The Contractor's Board of Appeals shall have the authority to work with contractors and hear cases relating to building, mechanical, electrical and plumbing code requirements by hearing and deciding on reasonable interpretations of the provisions of all prevailing codes contained within Chapter 18 of the Code of Ordinances of the City of Colleyville and the fire code contained in Chapter 46 of the Code of Ordinances. The Contractor's Board of Appeals shall have the authority to make a correct determination of any appeal arising from actions of the administrative authority, determine the suitability of alternate materials and methods of construction, consider and decide on complaints or suggestions relating to any of the building trades regulated by the prevailing codes contained within Chapter 18 and Chapter 46 of the Code of Ordinances of the City of Colleyville. The Board may make recommendations to the City Council on changes in or additions to the current policies and procedures of the city that

relate to the building trades.

- C. Quorum and Organization – Four members of the Contractor's Board of Appeals shall constitute a quorum. In the event of the absence of the Chairman and Vice-Chairman, the four members constituting the quorum shall elect for that meeting a member to preside as Acting Chairman and to assume all duties of the Chairman.
- D. Meetings, Hearings and Rules of Procedures – The Board shall adopt rules of procedure for the conduct of its meetings. Meetings shall be held at the call of the Chairman or at such times as the Board may determine. All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and the rules of procedure adopted by the Contractor's Board of Appeals. Such rules of procedure may be amended by the Contractor's Board of Appeals membership. The minutes of the meetings shall be recorded, showing the vote of each member upon the question, and shall be made a matter of public record. The concurring vote of four members of the Board shall be necessary to render a decision on any matter before the Board.
- E. Appeal Procedure – A person may submit a request for an appeal to the Contractors' Board of Appeals by filing said request with the building official. Each request shall be accompanied by a non-refundable filing fee. The filing fee shall be established by separate ordinance by the City Council. In addition to considering an appeal request of an applicant, the Contractor's Board of Appeals shall be authorized to solicit testimony and advice from recognized professionals within the applicable building construction trades. No decision of the Contractor's Board of Appeals shall in any way have an affect as to amend the prevailing codes and ordinances of the City of Colleyville.
- F. Fees – No action shall be taken on any application submitted to the Contractor's Board of Appeals until all applicable fees have been paid in full. No refund of any application fee shall be made after the request has been advertised and scheduled for consideration by the Board.
- G. Public Hearing – No action to approve or deny any application shall be taken until the Board has held a public hearing and received comment.
- H. Appeal to City Council – The decision by the Contractor's Board of Appeals shall be final, unless the applicant submits a written notice of appeal within ten (10) days from the date of the action by the Board. The enforcement official shall place the applicant's appeal request on the next available agenda for consideration by the City Council. The City Council shall have the authority to overrule any decision of the Board which it feels is not in the

best interest of the city.

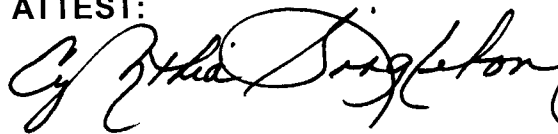
- Sec. 12 THAT Chapter 22 of the Code of Ordinances of the City of Colleyville, Texas, shall remain in full force and effect, except where amended by this ordinance.
- Sec. 13. THAT any person, firm, or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed Two Thousand Dollars (\$2,000.00). Each and every day such violation continues shall constitute a separate offense and shall be punishable as such.
- Sec. 14. THAT the City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause hereof as an alternative method of publication provided by law.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 15th day of February, 2005.

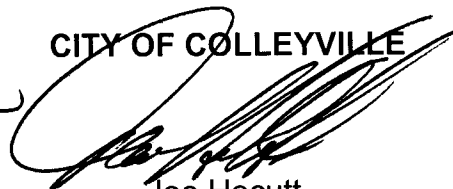
The second reading and public hearing being conducted on the 15th day of February, 2005.

ATTEST:



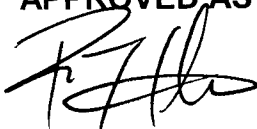
Cynthia Singleton, TRMC
City Secretary

CITY OF COLLEYVILLE



Joe Hocutt
Mayor

APPROVED AS TO FORM AND LEGALITY:



Ross T. Foster
City Attorney

ORDINANCE O-05-1511

AN ORDINANCE OF THE CITY OF COLLEYVILLE, TEXAS, AMENDING CHAPTER 18, ARTICLE III OF THE CODE OF ORDINANCES OF THE CITY OF COLLEYVILLE, TEXAS TO ADOPT THE 2002 EDITION OF THE NATIONAL ELECTRICAL CODE; PROVIDING FOR THE ADOPTION OF LOCAL AMENDMENTS RECOMMENDED BY THE REGIONAL CODES COMMITTEE OF THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS; PROVIDING FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING A PENALTY AND AUTHORIZING PUBLICATION.

WHEREAS, the City Council of the City of Colleyville has determined that it is in the best interest of the citizens of Colleyville, Texas to adopt the 2002 Edition of the National Electrical Code; and

WHEREAS, notice of a public hearing before the City Council was published in a newspaper of general circulation in Colleyville at least 15 days before such hearing.

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

Sec. 1. THAT Chapter 18, Section 18-59, paragraph (a) of the Code of Ordinances of the City of Colleyville, Texas, is hereby amended in its entirety to read as follows:

(a) Adopted. The National Electrical Code, 2002 edition, as recommended by the National Fire Protection Association, one copy of which is on file in the office of the City Secretary, is hereby adopted and incorporated by reference and made a part of this article as the electrical code of the City, subject to and including by reference such amendments, corrections, and additions as shall appear in this article.

Sec. 2. THAT Chapter 18, Section 18-59, paragraph (c) of the Code of Ordinances of the City of Colleyville, Texas, is hereby amended in its entirety to read as follows:

(c) Amendments. The National Electrical Code, 2002 edition, as recommended by the National Fire Protection Association is hereby amended to include the recommendations of the Regional Codes Committee of the North Central Texas Council of Governments for electrical installations in the City of Colleyville, Texas, which are as follows:

Sec. 3. THAT Chapter 18, Section 18-59, paragraph (c)(A) through paragraph (c)(F) of the Code of Ordinances of the City of Colleyville, Texas, are hereby deleted and replaced with the following paragraphs to read as follows:

1. Section 230.2(A) add a sixth special condition.

230.2 Number of Services. A building or other structure served shall be supplied by only one service unless permitted in 230.2(A) through (D). For the purpose...{text unchanged}...shall be considered to be supplying one service.

(A) Special Conditions. Additional services shall be permitted to supply the following:

(1) Fire Pumps

.

(6) In supplying electrical service to multifamily dwellings, two or more laterals or overhead service drops shall be permitted to a building when both of the following conditions are met:

- a. The building has six or more individual gang meters and all meters are grouped at the same location.
- b. Each lateral or overhead service drop originates from the same point of service.

2. Section 230.71(A) add an exception.

230.71 Maximum Number of Disconnects.

(A) General. The service disconnecting means for each service permitted by 230.2, or for each set of service-entrance conductors permitted by 230.40, Exception Numbers. 1, 3, 4, or 5, shall consist of not more than six switches or sets of circuit breakers, mounted in a single enclosure, in a group of separate enclosures, or in or on a switchboard. There shall be no more than six sets of disconnects per service grouped in any one location. For the purpose...{text unchanged}...shall not be considered a service disconnecting means.

Exception: Multi-occupant Buildings. Individual service disconnecting means is limited to six for each occupant. The number of individual disconnects at one location may exceed six.

3. Section 250.52 add a paragraph.

250.52 Grounding Electrodes.

(A) Electrodes Permitted for Grounding.

Where a metal underground water pipe, as described in item (1), is not

present, a method of grounding as specified in (2) through (4) below shall be used.

4. Section 300.11(A)(1) change to read as follows:

300.11 Securing and Supporting.

(A) Secured in Place.

(1) Fire-Rated Assemblies. Wiring located within the cavity of a fire-rated floor-ceiling or roof-ceiling assembly shall not be secured to, or supported by, the ceiling assembly, including the ceiling support wires, unless tested as part of a fire-rated assembly. An independent means of secure support...{text unchanged}...are part of the fire-rated design.

(delete exception)

5. Section 300.11(A)(2) change to read as follows:

300.11 Securing and Supporting.

(A) Secured in Place.

(2) Non-Fire-Rated Assemblies. Wiring located within the cavity of a non-fire-rated floor-ceiling or roof-ceiling assembly shall not be secured to, or supported by, the ceiling assembly, including the ceiling support wires, unless authorized by, and installed in accordance with the ceiling system manufacturer's instructions. An independent means of secure support shall be provided.

(delete existing exception)

Add exception: From the last point of independent support or base for connections within an accessible ceiling to luminaire(s) (lighting fixture(s)) or equipment, branch circuit or fixture whip wiring shall be allowed to be supported by the ceiling support wires.

6. Section 310.15(B)(6) change to read as follows:

310.15 Ampacities for Conductors Rated 0-2000 Volts.

(B) Tables.

(6) 120/240-Volt, 3-Wire, Single-Phase Dwelling Services and Feeders. For dwelling units, conductors, as listed in Table 310.15(B)(6), shall

be...{text unchanged}...provided the requirements of 215.2, 220.22, and 230.42 are met. This Section shall not be used in conjunction with 220.30.

7. Section 334.10 change to read as follows:

334.10. Uses Permitted. Type NM, Type NMC, and Type NMS cables shall be permitted to be used in the following:

(1) One- and two-family dwellings.

(2) In any multifamily dwelling not exceeding three floors above grade.

Exception: An additional level shall be permitted in multifamily dwellings where the entire structure is protected throughout by an approved automatic sprinkler system.

(3) Other structures not exceeding 3 stories in height.

Note: In paragraphs. 2 & 3 above: For the purpose of this article, the first floor of a building shall be that floor that has 50 percent or more of the exterior wall surface area level with or above finished grade. One additional level that is the first level and not designed for human habitation and used only for vehicle parking, storage, or similar use shall be permitted.

8. Section 334.12 add another use not permitted, (11):

334.12 Uses Not Permitted.

(A) Types NM, NMC, and NMS. Types NM, NMC, and NMS cables shall not be used as follows:

(1) As open runs...{text unchanged}

.
.
.

(11) In non-residential metal frame structures.

9. Section 500.8(A)(1) change to read as follows:

500.8 Equipment.

(A) Approval for Class and Properties.

(1) Equipment shall be identified...{text unchanged}...the maximum surface temperatures specified in 503.1.

FPN: Luminaries (lighting fixtures) and other heat-producing apparatus...{text unchanged}...see Exception No. 3 to 500.8(B).

10. Section 600.21 (E) change to read as follows:

600.21 Ballasts, Transformers, and Electronic Power Supplies.

(E) Attic and Soffit Locations.

Ballasts, transformers, and electronic power supplies shall be permitted to be located in attics and soffits, provided there is an access door at least 900 mm by 600 mm (3 ft by 2 ft) and a passageway of at least 900 mm (3 ft) high by 600 mm (2 ft) wide with a suitable permanent walkway at least 600 mm (2 ft) wide extending from the point of entry to each component.

11. Section 220.36. New Restaurants.

This specification shall apply to restaurants regarding new occupancy, new buildings, change of occupancy in existing building, or upgrading existing buildings to new electrical load requirements

Sec. 4. THAT Chapter 18, Section 18-67 of the Code of Ordinances of the City of Colleyville, Texas, regarding installations to conform to approved specifications, is hereby deleted in its entirety and re-titled to read as follows:

Sec. 18-67. Reserved.

Sec. 5. THAT Chapter 18, Section 18-68 of the Code of Ordinances of the City of Colleyville, Texas, regarding installations to commercial and industrial buildings, public meeting places, and multifamily dwellings, is hereby deleted in its entirety and re-titled to read as follows:

Sec. 18-68. Reserved.

Sec. 6. THAT Chapter 18, Section 18-70 of the Code of Ordinances of the City of Colleyville, Texas, regarding overcurrent devices and panels, is hereby deleted in its entirety and re-titled to read as follows:

Sec. 18-70. Reserved.

Sec. 7. THAT Chapter 18, Section 18-94 of the Code of Ordinances of the City of Colleyville, Texas, regarding change of ownership, use of occupancy, is hereby deleted in its entirety and re-titled to read as follows:

Sec. 18-94. Reserved.

- Sec. 8. THAT Chapter 18 of the Code of Ordinances of the City of Colleyville, Texas, shall remain in full force and effect, except where amended by this ordinance.
- Sec. 9. THAT any person, firm, or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed Two Thousand Dollars (\$2,000.00). Each and every day such violation continues shall constitute a separate offense and shall be punishable as such.
- Sec. 10. THAT the City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause hereof as an alternative method of publication provided by law.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 1st day of February 2005.

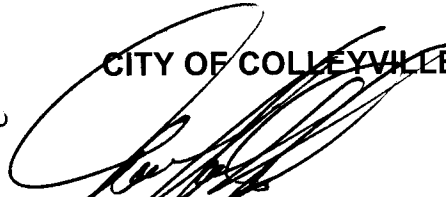
The second reading and public hearing being conducted on the 15th day of February 2005.

ATTEST:



Cynthia Singleton, TRMC
City Secretary

CITY OF COLLEYVILLE



Joe Hocutt
Mayor

APPROVED AS TO FORM AND LEGALITY:



Ross T. Foster
City Attorney

ORDINANCE O-14-1936

ADOPTING THE 2012 EDITION OF THE *INTERNATIONAL BUILDING CODE* BY REFERENCE; 2014 EDITION OF THE *NATIONAL ELECTRICAL CODE* BY REFERENCE; ADOPTING THE 2012 EDITION OF THE *INTERNATIONAL RESIDENTIAL CODE* BY REFERENCE; ADOPTING THE 2012 EDITION OF THE *INTERNATIONAL ENERGY CONSERVATION CODE* BY REFERENCE; AMENDING ALL CONFLICTING PORTIONS OF SECTION 18 OF THE COLLEYVILLE CODE OF ORDINANCES; REPEALING ORDINANCE O-05-1509 AND O-05-1511, AND REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR RECORDING OF SUCH CODE AS A PUBLIC RECORD; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Colleyville is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Colleyville deems it necessary to adopt this ordinance providing minimum standards to safeguard the health, property, and welfare of the citizens of Colleyville by regulating and controlling the use, occupancy, maintenance, repair, design, construction and quality of materials for buildings and structures within the City; and

WHEREAS, the International Code Council *Electrical Code* is no longer published as a separate document, but the administrative provisions are included in Appendix K, the *2014 National Electrical Code* is being adopted as a part of this ordinance; and

WHEREAS, beginning in the spring of 2012, the North Central Texas Council of Governments (NCTCOG) Regional Codes Coordinating Committee (RCCC) and its four advisory boards conducted open review meetings over a one year period to review the 2012 editions of the International Codes and to develop regional amendments. Their review and recommendations were completed and endorsed by the NCTCOG Executive Board in March 2013. Now NCTCOG encourages jurisdictions in North Central Texas to adopt the

2012 International Building Code along with its respective regional amendments.

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

- Sec. 1. THAT the *International Building Code, 2012 Edition*, published by the International Code Council, including the standards referenced therein, including Appendix Chapters A, C, F, G, H, I, J and K are hereby adopted by reference as the Building Code and the Electric Code of the City of Colleyville regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures, except one- and two-family dwellings and multiple single family dwellings (townhouses), in the City of Colleyville.
- Sec. 2. THAT the *2012 International Building Code*, as adopted herein, is hereby amended by reference through the adoption of the 2012 NCTCOG local amendments and the 2014 National Electric Code, as adopted herein, is hereby amended by reference through the adoption of the 2012 NCTCOG local amendments. The City of Colleyville, Texas may from time to time determine that additional local modifications to the Building Code are necessary and appropriate to meet the unique needs of the City of Colleyville, Texas. To effectuate these local modifications, the City Council shall enact individual ordinances amending this Ordinance, fully setting forth the change to be made in the Building or Electrical Code as adopted by reference through the adoption of the 2012 NCTCOG local amendments.
- Sec. 3. THAT the *International Residential Code for One- and Two-Family Dwellings, 2012 Edition*, published by the International Code Council, including the standards referenced therein, including Appendices A, B, C, E, G and H are hereby adopted by reference as the Residential Building Code of the City of Colleyville regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of

all one and two-family dwellings, multiple single-family dwellings (townhouses) and their accessory structures in the City of Colleyville.

- Sec. 4. THAT the *2012 International Residential Code*, as adopted herein, is hereby amended by reference through the adoption of the 2012 NCTCOG local amendments. The City of Colleyville, Texas may from time to time determine that additional local modifications to the Building Code are necessary and appropriate to meet the unique needs of the City of Colleyville, Texas. To effectuate these local modifications, the City Council shall enact individual ordinances amending this Ordinance, fully setting forth the change to be made as adopted by reference through the adoption of the 2012 NCTCOG local amendments.
- Sec. 5. THAT the *International Energy Conservation Code*, 2012 Edition, published by the International Code Council, including the standards referenced therein, is hereby adopted by reference as the *Energy Conservation Code* of the City of Colleyville regulating the design of building envelopes for adequate thermal resistance and low air leakage; the design and selection of mechanical and electrical service; water-heating and illumination systems; and equipment in the City of Colleyville, except for facilities otherwise regulated under the *International Residential Code for One- and Two-Family Dwellings* as adopted.
- Sec. 6. THAT the *2012 International Energy Conservation Code*, as adopted herein, is hereby amended by reference through the adoption of the 2012 NCTCOG local amendments. The City of Colleyville, Texas may from time to time determine that additional local modifications to the Energy Conservation Code are necessary and appropriate to meet the unique needs of the City of Colleyville, Texas. To effectuate these local modifications, the City Council shall enact individual ordinances amending this Ordinance, fully setting forth the change to be made as adopted by reference through the adoption of the 2012 NCTCOG local amendments.
- Sec. 7. THAT a copy of all codes and amendments adopted by this ordinance shall be kept on file with the City Secretary.

- Sec. 8. THAT this ordinance shall be cumulative of all provisions of ordinances of the City of Colleyville, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. This ordinance is intended to replace Ordinance O-05-1509, as amended, the 2003 Edition of the *International Building Code*, *International Residential Code*, and the *International Energy Conservation Code*.
- Sec. 9. THAT it is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.
- Sec. 10. THAT any person, firm or corporation who violates, disobeys, omits. neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$ 2,000.00) for any violation involving zoning, fire safety or public health and sanitation, including dumping or refuse, and shall be fined not more than five hundred dollars (\$500) for any other violation of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.
- Sec. 11. THAT all rights and remedies of the City of Colleyville are expressly saved as to any and all violations of the provisions of any ordinances affecting the regulation and control of the use, occupancy, maintenance, repair, design, construction and quality of materials for buildings and structures within the City 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.

Sec. 12. THAT this ordinance shall take effect immediately from and after its passage.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 21st day of October 2014.

The second reading and public hearing being conducted on the 5th day of November 2014.

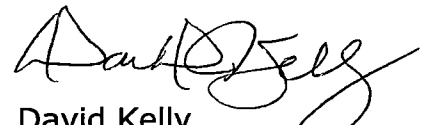
PASSED AND APPROVED by the City Council of the City of Colleyville, Texas, on this the 5th day of November 2014.

ATTEST:



Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE



David Kelly
Mayor

APPROVED AS TO FORM AND LEGALITY:



Matthew C. G. Boyle
City Attorney

**Recommended Amendments to the
2015 International Energy Conservation Code**
North Central Texas Council of Governments Region
(Climate Zone 3 of the IECC)

The following sections, paragraphs, and sentences of the *2015 International Energy Conservation Code* (IECC) are hereby amended as follows: Standard type is text from the IECC. Underlined type is text inserted. ~~Lined through type is deleted text from IECC.~~ A double (**) asterisk at the beginning of a section identifies an amendment carried over from the 2012 edition of the code and a triple (***) asterisk identifies a new or revised amendment with the 2015 code.

Note: Historically NCTCOG has limited Chapter 1 amendments in order to allow each city to insert their local policies and procedures. We now have suggested certain items to be brought to the attention of cities considering adoption of the code that may be of concern to several jurisdictions. **It is still intended to be discretionary to each city to determine which Chapter 1 amendments to include.**

The 2015 IECC contains separate provisions for commercial buildings and for residential buildings 3 stories or less. The provisions of the commercial buildings are preceded by “C” for Commercial. The provisions for residential buildings 3 stories or less are preceded by “R” for residential buildings. Each set of provisions are separately applied to buildings within their respective scope. Each set of provisions also contains a Scope and Administration chapter, a Definitions chapter, a General Requirements chapter and a chapter containing energy efficiency requirements applicable to building within their respective scope.

Recommended amendments that match sections in each of the respective provisions (“C” and “R”) are written to represent both sections rather than duplicating the recommended amendment in this document.

Sections N1101.2 through N1105 of the 2015 *International Residential Code* (IRC) are noted to be extracted from the 2015 IECC. The Building and Residential Advisory Board (BRAB) recommends amending Chapter 11 [RE] ENERGY EFFICIENCY of the 2015 IRC to refer to the residential provisions of the 2015 IECC.

The Governor signed HB1736 into law on June 16, 2015. HB1736 adopts energy efficiency chapter of the International Residential Code as it existing on May 1, 2015, as the energy code for single-family construction (as defined in Section 388.002 of the Health and Safety Code) effective September 1, 2016. The recommended amendments to the 2015 IECC have been analyzed by the Energy Systems Laboratory of the Texas A&M University for stringency with the current Texas Building Energy Performance Standards (TBEPS) which is the 2009 Edition of the IECC and the energy provisions of the 2009 IRC. Some amendments below are noted that effective September 1, 2016, the proposed amendment would be deemed less stringent than the provisions of the 2015 IECC and therefore would no longer be considered a recommended amendment.

****Section C102/R102; add Section C102.1.2 and R102.1.2 to read as follows:**

C102.1.2 Alternative compliance. A building certified by a national, state, or local accredited energy efficiency program and determined by the Energy Systems Laboratory to be in compliance with the energy efficiency requirements of this section may, at the option of the Code Official, be considered in compliance. The United States Environmental Protection Agency's Energy Star Program certification of energy code equivalency shall be considered in compliance.

R102.1.2 Alternative compliance. A building certified by a national, state, or local accredited energy efficiency program and determined by the Energy Systems Laboratory to be in compliance with the energy efficiency requirements of this section may, at the option of the Code Official, be considered in compliance. The United States Environmental Protection Agency's Energy Star Program certification of energy code equivalency shall be considered in compliance. Regardless of the program or the path to

compliance, each 1- and 2-family dwelling shall be tested for air and duct leakage as prescribed in Section R402.4 and R403.3.3 respectively.

(Reason: This amendment is added to allow alternative compliance in accordance with Texas HB 1365, 78th Legislature. Codified in Chapter 388 Texas Building Energy Performance Standards: §388.003(i). The last sentence to Section R102.1.2 was added to insure that every house is tested in accordance with the mandatory provisions of the code.)

Section C202 and R202; add the following definition:

*****PROJECTION FACTOR.** The ratio of the horizontal depth of the overhang, eave or permanently attached shading device, divided by the distance measured vertically from the bottom of the fenestration glazing to the underside of the overhang, eave or permanently attached shading device.

*(Reason: The amendment to **Section 402.3.2 Glazed fenestration SHGC** was proposed by the TAB and ESL determined the proposal to be not less restrictive than the 2009, 2012 and 2015 IECC. This added definition is necessary as part of that amendment. The amendment will provide additional options for SHGC selection.)*

Section R202; add the following definition:

*****DYNAMIC GLAZING.** Any fenestration product that has the fully reversible ability to change its performance properties, including *U*-factor, solar heat gain coefficient (SHGC), or visible transmittance (VT).

(Reason: This term is referenced in Section R402.3.2. This definition of DYNAMIC GLAZING is also found in the Commercial provisions of the code.)

**** Table R402.1.2 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT; Amend by changing the WOOD FRAME WALL R-VALUE for CLIMATE ZONE 3 to read as follows:**

~~20 or 13+5^h~~ 13

(Reason: Retain the values in the 2009 code.)

NOTE: Effective September 1, 2016 this proposed amendment is deemed less stringent than the residential provisions of the 2015 IECC and therefore would not be considered a recommended amendment.

**** Table R402.1.4 EQUIVALENT U-FACTORS; Amend by changing the WOOD FRAME WALL U-FACTOR for CLIMATE ZONE 3 to read as follows:**

~~0.060~~ 0.082

(Reason: Retain the values in the 2009 code.)

NOTE: Effective September 1, 2016 this proposed amendment is deemed less stringent than the residential provisions of the 2015 IECC and therefore would not be considered a recommended amendment.

*****Section R402.3.2 Glazed fenestration SHGC; amend by adding a paragraph and table following the exception to read as follows:**

Where vertical fenestration is shaded by an overhang, eave, or permanently attached shading device, the SHGC required in Table R402.1.2 shall be reduced by using the multipliers in Table R402.3.2 SHGC Multipliers for Permanent Projections.

Table R402.3.2 SHGC Multipliers for Permanent Projections ^a

Projection Factor	SHGC Multiplier (all Other Orientation)	SHGC Multiplier (North Oriented)
0 - 0.10	1.00	1.00
>0.10 – 0.20	0.91	0.95
>0.20 – 0.30	0.82	0.91
>0.30 – 0.40	0.74	0.87
>0.40 – 0.50	0.67	0.84
>0.50 – 0.60	0.61	0.81
>0.60 – 0.70	0.56	0.78
>0.70 – 0.80	0.51	0.76
>0.80 – 0.90	0.47	0.75
>0.90 – 1.00	0.44	0.73

^a North oriented means within 45 degrees of true north.

(Reason: The amendment to Section 402.3.2 Glazed fenestration SHGC was proposed by the TAB and ESL determined the proposal to be not less restrictive than the 2009 and 2015 IECC. This added definition is necessary as part of that amendment. The amendment will provide additional options for SHGC selection.)

****Section R402.4.1.2 Testing; modify the first paragraph to read as follows:**

R402.4.1.2 Testing. The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour in Climate Zones 1 and 2, and 3 air changes per hour in Climate Zones 3 through 8. {Remainder of text unchanged}

(Reason: The 2015 IECC requires mandatory door blower testing on each dwelling unit. The visual inspection is no longer an option to performance testing. This change will give some additional time for those builders not currently using a performance approach to adapt construction practices.)

NOTE: Effective September 1, 2016 this proposed amendment is deemed less stringent than the residential provisions of the 2015 IECC and therefore would not be considered a recommended amendment.

*****R402.4.1.2 Testing; Add a last paragraph to read as follows:**

Mandatory testing shall only be performed by individuals that are certified to perform air infiltration testing certified by national or state organizations as approved by the building official. The certified individuals must be an independent third-party entity, and may not be employed; or have any financial interest in the company that constructs the structure.

(Reason: The 2012/15 International Residential Code (IRC) and International Energy Conservation Code (IECC) includes enhanced emphasis on envelope infiltration and duct leakage. Significant changes in the

residential energy requirements include more frequent requirement of performance testing for leakage. Residential Duct systems must be tested unless all ducts and equipment are located within the conditioned space. Envelope testing is required to demonstrate compliance with maximum allowable leakage rate. This language puts the regulatory authority on notice that the testing requires specialized credentials and establishes a conflict of interest baseline).

***** R403.3.3 Duct Testing (Mandatory) Add a last paragraph to read as follows:**

Mandatory testing shall only be performed by individuals that are certified to perform duct testing leakage testing certified by national or state organizations as approved by the building official. The certified individuals must be an independent third-party entity, and may not be employed; or have any financial interest in the company that constructs the structure.

(Reason: The 2015 International Residential Code (IRC) and International Energy Conservation Code (IECC) includes enhanced emphasis on envelope infiltration and duct leakage. Significant changes in the residential energy requirements include more frequent requirement of performance testing for leakage. Residential Duct systems must be tested unless all ducts and equipment are located within the conditioned space. Envelope testing is required to demonstrate compliance with maximum allowable leakage rate. This language puts the regulatory authority on notice that the testing requires specialized credentials and establishes a conflict of interest baseline).

****Section C402.2.7/R402.2; Add Section C402.2.9 and R402.2.14 to read as follows:**

Section C402.2.7/R402.2.14 Insulation installed in walls. To insure that insulation remains in place, insulation installed in walls shall be totally enclosed on all sides consisting of framing lumber, gypsum, sheathing, wood structural panel sheathing, netting or other equivalent material approved by the building official.

(Reason: This will increase the performance of the insulation by ensuring that the insulation stays in place.)

*****Section R405.6.2; add the following sentence to the end of paragraph:**

Acceptable performance software simulation tools may include, but are not limited to, REM Rate™, Energy Gauge and IC3. Other performance software programs accredited by RESNET BESTEST and having the ability to provide a report as outlined in R405.4.2 may also be deemed acceptable performance simulation programs and may be considered by the building official.

(Reason: These performance software tools are accredited by RESNET at the time of recommendation.)

*****TABLE R406.4 MAXIMUM ENERGY RATING INDEX**; amend to read as follows:

TABLE R406.4¹
MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	65

¹ This table is effective until August 31, 2019.

TABLE R406.4²
MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	63

² The table is effective from September 1, 2019 to August 31, 2022.

TABLE R406.4³
MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	59

³ This table is effective on or after September 1, 2022.

(Reason: The tables reflect the values and time table set forth in HB1736.)

*****Section R504. Add the following sentence for Item #1:**

- I. Window replacements in existing residential buildings shall not require the issuance of a permit.

END

APPENDIX

In addition to the recommended amendments, the EAGB endorses the attached universal testing form and encourages municipalities to consider incorporating the use of the form locally to minimize the number of forms that the third party testers and energy providers are required to maintain.

YOUR CITY
LOGO HERE

2015 IECC PERFORMANCE TESTING COMPLIANCE CERTIFICATE

Job Address: _____ Date: _____
Permit Number: _____

DUCT LEAKAGE TESTING VERIFICATION

Choose option used for compliance: per 2015 IECC Section R403.3.4, system tested @ 25 Pascals across, including the manufacturer's air handler enclosure.

- ☐ **Rough-In Test Option** (see code for test specifics): Results of test: _____ CFM.
☐ **Post Construction Option** (see code for test specifics): Results of test: _____ CFM.

I certify that I have conducted a **duct blaster test and it has passed the requirements of the 2015 International Energy Conservation Code**. I further certify that I am certified to perform duct testing leakage testing certified by national or state organizations as approved by the building official. I certify I am an independent third-party entity, and have not installed the HVAC system; nor am I employed or have any financial interest in the company that constructs the structure.

Certification Number: Agency: _____

Signature of Inspector/Testing Technician: _____

Printed Name of Inspector/Testing Technician: _____

BUILDING THERMAL ENVELOPE LEAKAGE TESTING VERIFICATION

Compliance requirements: per 2015 IECC Section R402.4.1.2, building thermal envelope tested @ 50 Pascals in accordance with ASTM E 779 or ASTM E1827 to verify air leakage.

Building Thermal Envelope Leakage Testing: Results of test: _____ air changes per hour.

I certify that I have conducted an **air leakage test and it has passed the requirements of the 2015 International Energy Conservation Code**. I further certify that I am certified to perform air infiltration testing certified by national or state organizations as approved by the building official. I certify I am an independent third-party entity, nor am I employed or have any financial interest in the company that constructs the structure.

Certification Number: Agency: _____

Signature of Inspector/Testing Technician: _____

Printed Name of Inspector/Testing Technician: _____

ORDINANCE O-16-1984

ADOPTING THE 2015 EDITION OF THE *INTERNATIONAL ENERGY CONSERVATION CODE* BY REFERENCE; AMENDING ALL CONFLICTING PORTIONS OF SECTION 18 OF THE COLLEYVILLE CODE OF ORDINANCES; AMENDING CHAPTER 11 OF THE 2012 *INTERNATIONAL RESIDENTIAL CODE* AS REFERENCED IN ORDINANCE O-14-1936; AMENDING THE 2012 *INTERNATIONAL ENERGY CONSERVATION CODE* IN ITS ENTIRETY AS ADOPTED IN ORDINANCE O-14-1936; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR RECORDING OF SUCH CODE AS A PUBLIC RECORD; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Colleyville is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Colleyville deems it necessary to adopt this ordinance thus providing minimum standards to safeguard the health, property, and welfare of the citizens of Colleyville by regulating and controlling the use, occupancy, maintenance, repair, design, construction, and quality of materials for buildings and structures within the City; and

WHEREAS, the Texas Governor signed HB1736 into law on June 16, 2015, which adopts the energy efficiency chapter of the *International Residential Code* as existing on May 1, 2015, as the energy code for single-family construction (as defined in Section 388.002 of the Health and Safety Code) effective September 1, 2016. Sections N1101.2 through N1105 of the 2015 *International Residential Code* (IRC) are noted to be extracted from the 2015 *International Energy Conservation Code* (IECC). The Building and Residential Advisory Board (BRAB) recommends amending Chapter 11 [RE] ENERGY EFFICIENCY of the 2015 IRC to refer to the residential provisions of the 2015 IECC; and

WHEREAS, beginning in the spring of 2014, NCTCOG's Regional Codes Coordinating Committee (RCCC) and its Energy and Green Building Advisory Board conducted open review meetings over a one-year period to review the 2015 edition of the *International Energy Conservation Code* and to develop regional amendments. Their review and recommendations were completed and endorsed by NCTCOG's Executive Board in March 2015. Now NCTCOG encourages jurisdictions in North Central Texas to adopt the *2015 International Energy Conservation Code* along with its respective regional amendments; and

WHEREAS, all statutory and constitutional requirements for the passage of this ordinance have been adhered to, including but not limited to the Open Meeting Act.

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

- Sec. 1 THAT all the foregoing premises and finding are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.
- Sec. 2. THAT the *International Residential Code* for One and Two Family Dwellings, 2012 Edition, published by the International Code Council, is hereby amended and Chapter 11 is replaced with the 2015 *International Energy Conservation Code* as related to regulating the design of building envelopes for adequate thermal resistance and low air leakage, the design and selection of mechanical, electrical, service water-heating and illumination systems and equipment, in the City of Colleyville.
- Sec. 3. THAT the *International Energy Conservation Code*, 2015 Edition, published by the International Code Council, including the standards referenced therein, is hereby adopted by reference as the Energy Conservation Code of the City of Colleyville; regulating the design of building envelopes for adequate thermal resistance and low air

leakage and the design and selection of mechanical, electrical, service water-heating and illumination systems and equipment in the City of Colleyville.

- Sec. 4. THAT the 2015 *International Energy Conservation Code*, as adopted herein, is hereby amended by reference through the adoption of the 2015 NCTCOG local amendments. The City of Colleyville, Texas may from time to time determine that additional local modifications to the Energy Conservation Code are necessary and appropriate to meet the unique needs of the City of Colleyville, Texas. To effectuate these local modifications, the City Council shall enact individual ordinances amending this Ordinance, fully setting forth the change to be made as adopted by reference through the adoption of the 2015 NCTCOG local amendments.
- Sec. 5. THAT the *Energy Conservation Code*, 2015 Edition, and the 2015 NCTCOG local amendments are incorporated herein by reference and a copy of all codes and amendments adopted by this ordinance shall be kept on file with the City Secretary.
- Sec. 6. THAT this ordinance shall be cumulative of all provisions of ordinances of the City of Colleyville, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. This ordinance is intended to amend Ordinance O-14-1936, as amended, the 2012 Editions of the *International Residential Code*, and the *International Energy Conservation Code*.
- Sec. 7. THAT it is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this

ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

- Sec. 8. THAT any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$ 2,000.00) for any violation involving zoning, fire safety or public health and sanitation, including dumping or refuse, and shall be fined not more than five hundred dollars (\$500) for any other violation of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.
- Sec. 9. THAT all rights and remedies of the City of Colleyville are expressly saved as to any and all violations of the provisions of any ordinances affecting the regulation and control of the use, occupancy, maintenance, repair, design, construction and quality of materials for buildings and structures within the City 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.
- Sec. 10. THAT this ordinance shall take effect immediately from and after its passage.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 19th day of July 2016.

The second reading and public hearing being conducted on the 16th day of August 2016.

PASSED AND APPROVED BY A VOTE OF ___ AYES, ___ NAYS, AND ___ ABSTENTIONS ON THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor

APPROVED AS TO FORM AND LEGALITY:

Matthew C. G. Boyle
City Attorney



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 6a

Agenda Date 08/16/2016

Number Ordinance O-16-1985

Type Ordinance

Department Community Development

Title

Consideration of a Special Use Permit for Food Packaging and Manufacturing on Lot 8R, Block 1, of the Industrial Park Addition, located at 1904 Industrial Boulevard, Case ZC16-010

Strategy Map Connection

There is no strategy map connection for this item.

Explanation

First Reading and Public Hearing

Todd White, the applicant, has submitted a request for a Special Use Permit (SUP) to allow a Food Packaging and Manufacturing business at 1904 Industrial Boulevard, Suite 103. The subject property is zoned ML-Light Manufacturing district. A Food Packaging and Manufacturing business is allowed in the ML-Light Manufacturing zoning district with the approval of an SUP.

Existing Conditions/Background: The subject property is currently known as the Colleyville Technical Center and is developed as an approximately 13,400 square foot commercial building with a mix of office, light manufacturing, and warehouse uses. Per the attached site plan and floor plan exhibits, the proposed business would occupy 1,500 square feet of lease space that is currently vacant.

Proposed Business: Per the attached Statement of Planning Objectives the proposed name of the business is "Trulee Foods". The business currently has six employees and plans to relocate from Southlake to Colleyville upon approval of the Special Use Permit request.

According to the Statement of Planning Objectives the business will manufacture, package, and ship "Bliss Bites", a superfood dessert currently sold in Central Market grocery stores throughout Texas, with plans to begin selling in Market Street grocery stores in the near future.

The applicant has indicated that no cooking of food will take place on the premises. The process primarily consists of mixing ingredients, packaging, and shipping.

Ordinance – Chapter 3 (Land Use) of the Land Development Code identifies the purpose of a Special Use Permit as:

"The purpose of a Special Use Permit is to allow a use not normally allowed in a zoning district, which could be of benefit in a particular case to the general welfare, provided adequate development standards and special requirements are imposed to protect surrounding uses or to preserve the character of the neighborhood."

Analysis – The Special Use Permit request up for consideration is consistent with the land uses located on the subject property, and the governing zoning district. Based on the information provided by the applicant, the business appears to be a low intensity land use with few employees and standard hours of operation. Although residential adjacency exists to the east (Ross Downs Estates), the proposal does not appear to be of a nature anticipated to adversely impact the adjacent residential properties.

Hours of Operation: According to the applicant, the business will generally operate during the following hours:

- 8:00 am to 6:00 pm

Parking: The attached site plan identifies 43 parking spaces provided for 1904 Industrial Boulevard. The Land Development Code does not prescribe a specific parking ratio for the proposed land use. Rather, Chapter 3 of the Land Development Code states that the number of parking spaces for a Food Packaging and Manufacturing land use be established *"As set by the SUP or PUD approved ordinance"*. Based on the limited number of employees, the nature of the business, and no overnight parking of distribution trucks on the premises, staff recommends a parking ratio commensurate to a general office land use. This requirement is one parking space per 300 square feet of gross floor area. Utilizing this ratio, five parking spaces will be required for the proposed use.

Comprehensive Plan: The City's comprehensive plan, *Destination Colleyville*, identifies the subject property within the Upper Sector of the Colleyville Boulevard Corridor. This area is encouraged to evolve over time into a more attractive and cohesive section of the Corridor. The current land uses are characterized by auto-service and light industrial uses. However, a focus on transitioning to flex offices, garden offices, and retail services would create some redevelopment activity in an area of the Corridor that would benefit from incremental changes.

Surrounding Development: The table below reflects the surrounding zoning and existing land uses for the subject property as further illustrated on the attached location map:

ML-Light Manufacturing (Commercial Buildings)	ML-Light Manufacturing (Commercial Buildings)	PUD-R-Planned Unit Development-Residential (Ross Downs Estates)
ML-Light Manufacturing (Commercial Buildings)	<i>Subject Property</i> ML-Light Manufacturing (Commercial Buildings)	PUD-R-Planned Unit Development-Residential (Ross Downs Estates)
ML-Light Manufacturing (Commercial Buildings)	ML-Light Manufacturing (Commercial Buildings)	PUD-R-Planned Unit Development-Residential (Ross Downs Estates)

Public Notification: Staff mailed notices to all property owners within 200 feet as well as any Homeowners Associations within 500 feet of the subject property regarding this request. Grapevine-Colleyville ISD, where the subject property is located, was notified per State law. Notice was published in the *Fort Worth Star-Telegram* as required by State law and the Land Development Code. To date, no correspondence has been received.

Planning and Zoning Commission Recommendation: The Planning and Zoning Commission recommended approval of this request at the August 8, 2016 meeting by a vote of 7-0, subject to the following conditions:

The Special Use Permit shall be limited to Suite 103. The ordinance shall be revised to include this information.

Staff Recommendation: The proposed zoning change is generally consistent with the City's comprehensive plan. Additionally the request is consistent with the land uses located on the subject property and the governing zoning district. Staff recommends approval of the Special Use Permit.

Financial Impact

There is no financial impact to the City.

Recommendation

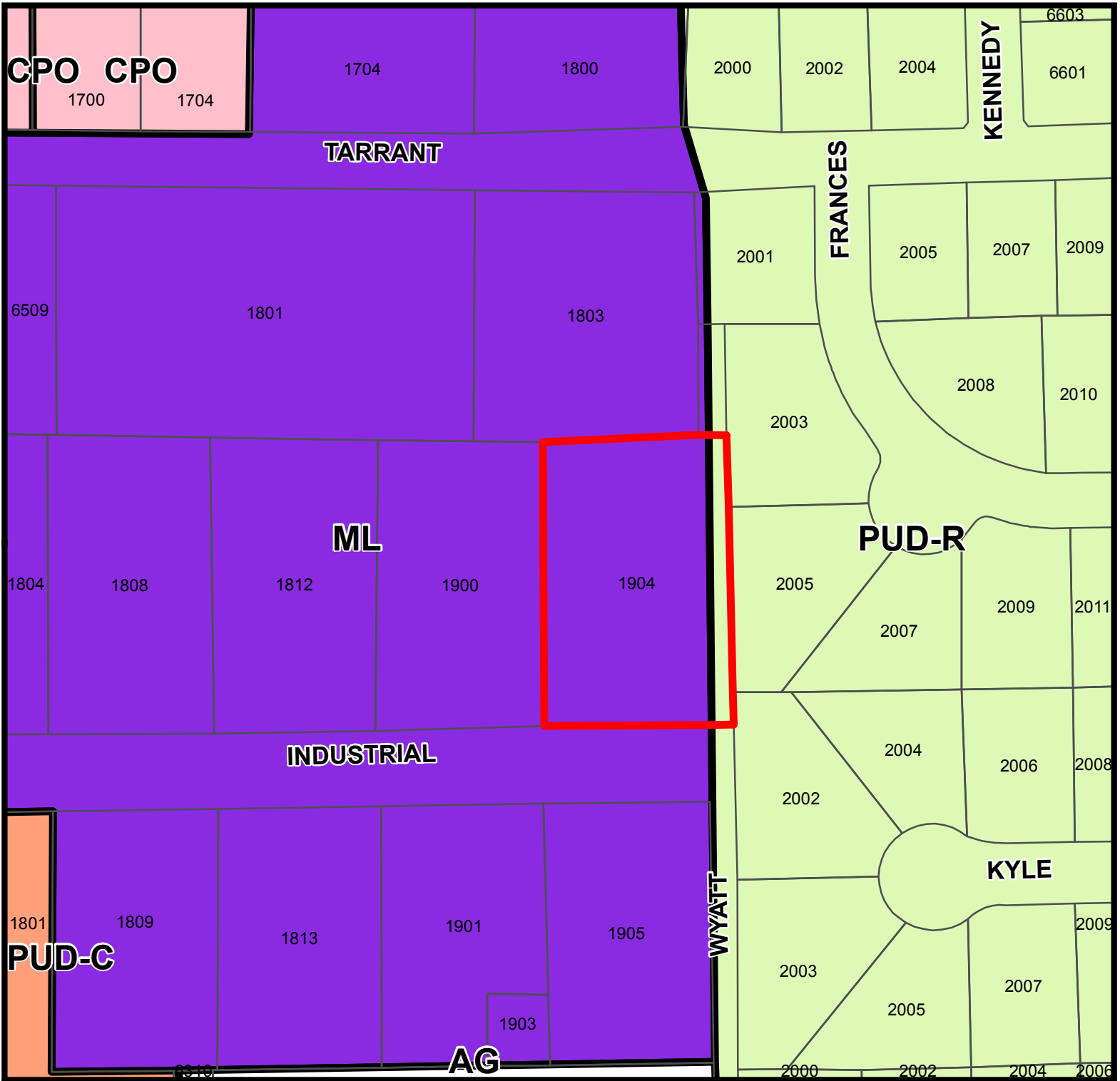
Approve

Attachments

1. Zoning Map
2. Aerial Map
3. Future Land Use Map
4. Statement of Planning Objectives
5. Site Plan
6. Suite 103 Floorplan
7. Executive Summary
8. Parking Analysis

9. Notification Map
10. Notification List
11. Ordinance O-16-1985

ZONING MAP



ZC16-010

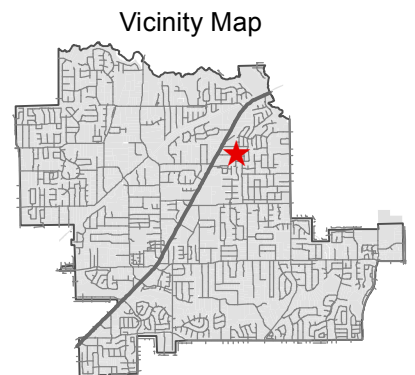
1904 INDUSTRIAL BLVD. # 103



1 inch = 125 feet

Legend

 Subject Property



DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of Colleyville. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of Colleyville, its officials or employees for any discrepancies, errors, or variances which may exist.

AERIAL MAP



ZC16-010

1904 INDUSTRIAL BLVD. # 103

Legend

Subject Property



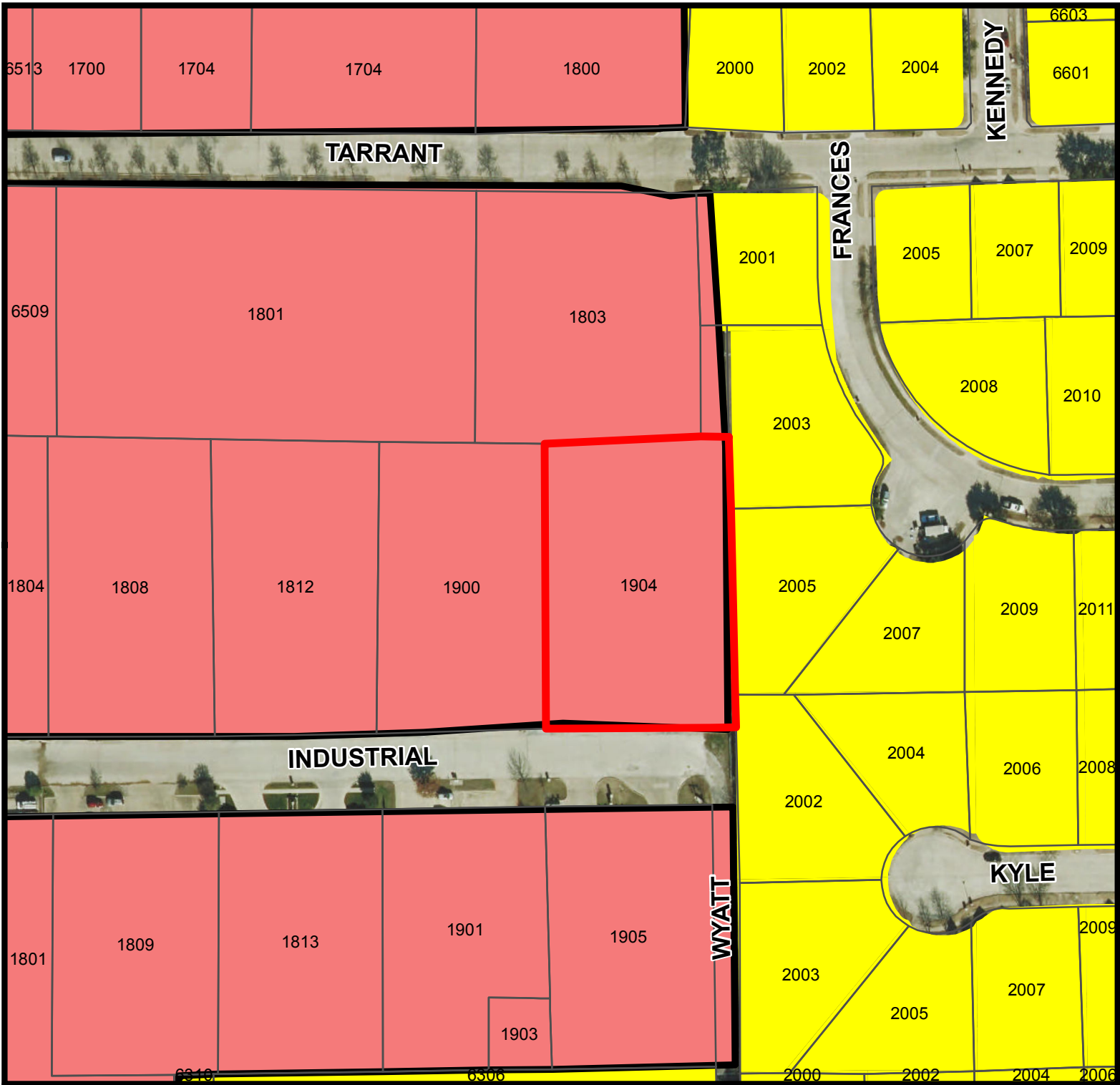
1 inch = 125 feet

Vicinity Map



DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of Colleyville. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of Colleyville, its officials or employees for any discrepancies, errors, or variances which may exist.

FUTURE LAND USE MAP



ZC16-010

1904 INDUSTRIAL BLVD. # 103

Legend

-  Subject Property

-  COLLEYVILLE BLVD CORRIDOR

- RESIDENTIAL

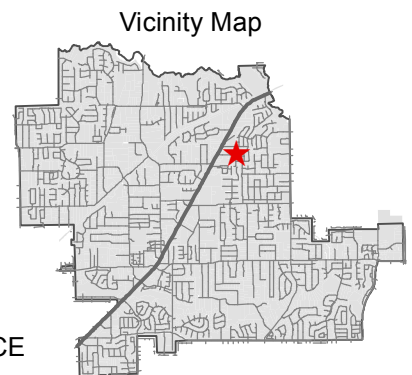
- COMMERCIAL

- INSTITUTIONAL

- PARKS/ OPEN SPACE**



1 inch = 125 feet



DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of Colleyville. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of Colleyville, its officials or employees for any discrepancies, errors, or variances which may exist.

Statement of Planning Objectives

Trulee Foods

Todd White

Chief Operating Officer

1904 Industrial Blvd., Suite 103
Colleyville, TX 76034
844-EAT-HAPPY

City of Colleyville

100 Main Street
Colleyville, TX 76034
817-503-1050

July 13, 2016

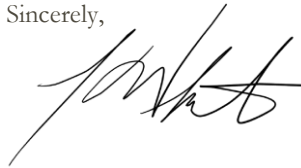
To whom it may concern,

Thank you so much for your consideration of our Special Use Permit.

We are beyond excited to be moving into a dedicated space with our very own loading dock in such a wonderful and business-friendly city! Our company, Trulee Foods, currently creates "Bliss Bites!" superfood desserts - gluten-free, dairy-free, vegan, and incredibly delicious! We pride ourselves on producing organic, raw, all-natural foods that are a key component in helping people achieve a healthy lifestyle. Our founder, Sherry Lee White (my wife), went through an incredible journey of self-healing that has ultimately lead us to this point, and we couldn't be more excited about this next step!

Bliss Bites! are currently available at all Central Market locations across Texas, and will soon be in Market Street as well, which as I'm sure you know, has a location right here in Colleyville. With more product lines on the way, we are anxious to get our new facility in full production mode as soon as possible.

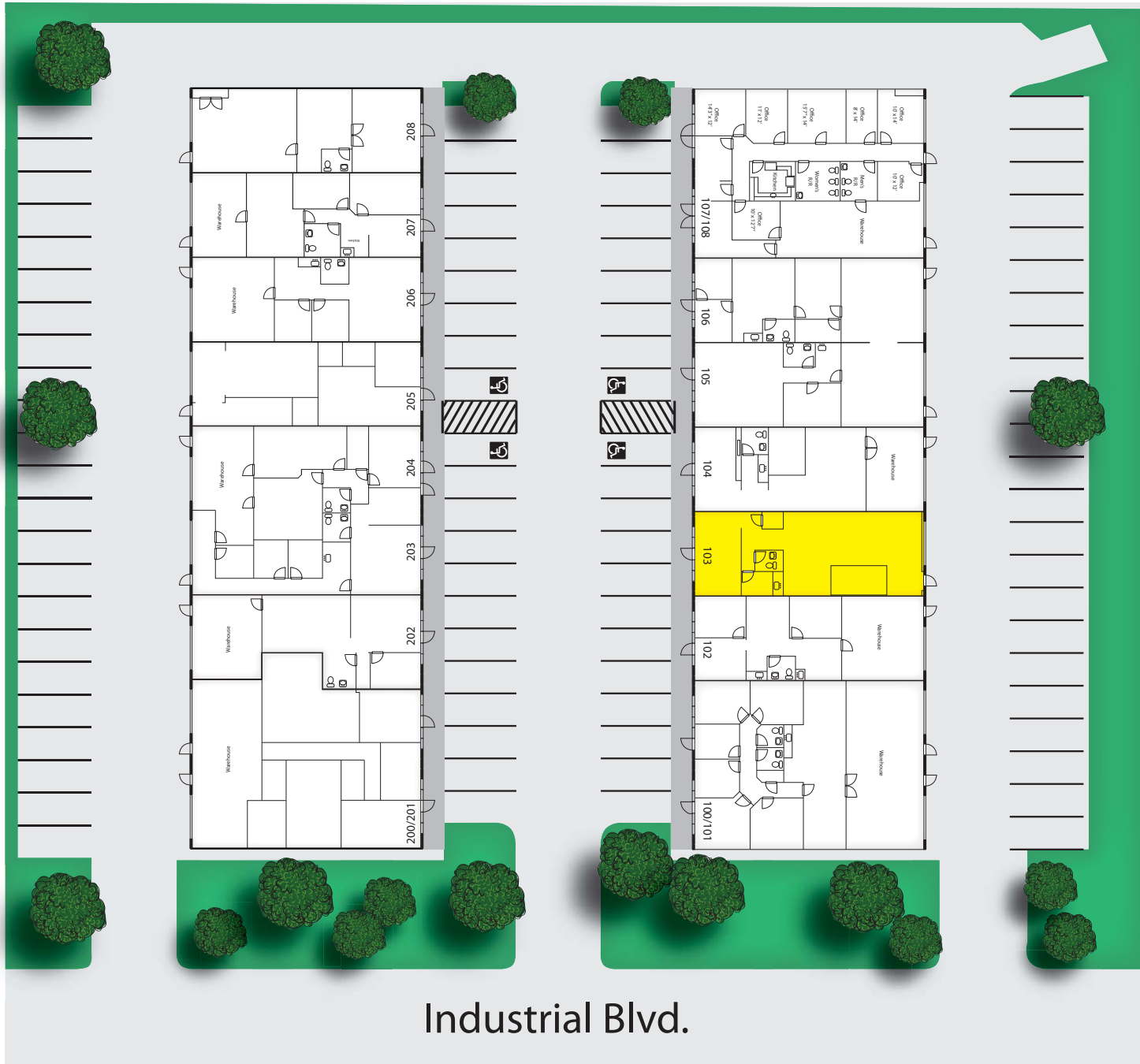
Sincerely,



Todd White

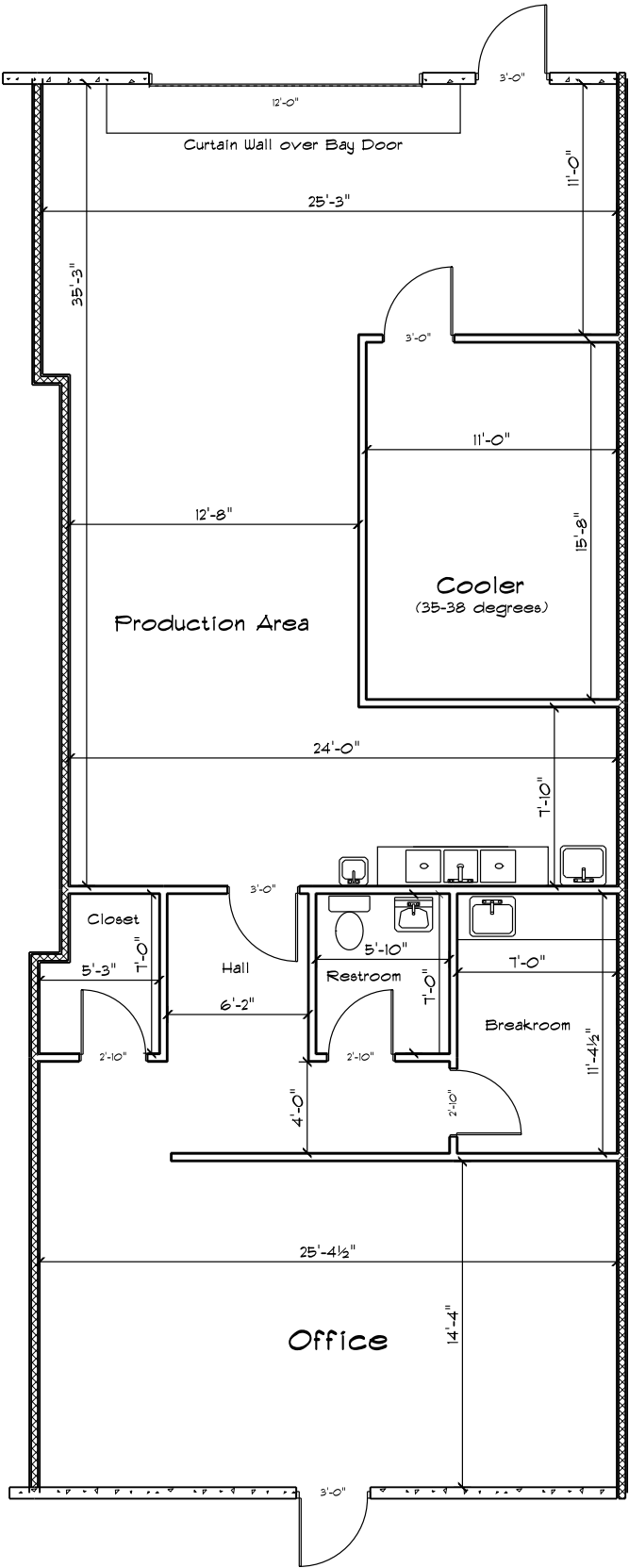
Site Plan

Colleyville Tech Center



Suite 103 Floorplan

Fork That Foods
Colleyville Tech Center Ste 103



CONFIDENTIAL

Fork That Foods Inc.

BUSINESS PLAN



WHERE NUTRITIOUS MEETS DELICIOUS!

PREPARED SEPTEMBER 2015

Contact Information

Sherry White

blissbites.co

**280 Commerce St.
Southlake, TX 76092
844-EAT-HAPPY**

Executive Summary

Overview

Fork That Foods Inc. ("Fork That!" or the "Company") has been steadily growing its Gourmet Superfood Desserts business in the Dallas / Fort Worth metroplex since September 2012. Fork That! began as a dietary consulting company offering a variety of meal plans and cleanse programs to its clients. The popularity of one of the desserts offered was so overwhelming, that Fork That! chose to focus entirely on the (then unnamed) gluten-free, dairy-free, superfood desserts now known as *Bliss Bites!* The home-based business began selling to friends and neighbors in 2013, and by Spring 2014 *Bliss Bites!* were available at local coffee shops and juice bars. Today, you can find them in a variety of local and regional gyms, coffee shops, juice bars, health foods distributors, and grocery stores. Fork That! delivered its first full pallet of *Bliss Bites!* to Central Market in September of 2015. Fork That Foods Inc. is on the verge of even more national accounts, and is poised to expand its market share even more within the next 6 to 9 months.

Background

The story behind Fork That! is actually the story of the company's owner, Sherry Lee White, and her struggle to overcome a debilitating auto-immune disease and clinical depression. For several years, Sherry was crippled with pain in her joints that multiple specialists and even the Mayo Clinic couldn't diagnose. With her joints literally dissolving away on MRI scans, the only treatment the doctors could offer was a course of chemotherapy followed by a lifetime of immuno-suppressant injections, with the possibility of life in a wheelchair. Sherry decided to find a better way. She spent nearly 5 years conducting her own research, and eventually found a big part of the answer was in the food that she ate. By cutting out gluten, dairy, and processed foods, Sherry began to find relief within days of implementing her new lifestyle. After only a month of putting better foods and supplements in her system, Sherry again felt like the healthy

young mother that she was, and Fork That! was born. She made it her mission to bring hope to anyone else suffering under similar circumstances, and bring healthy food options to everyone she could.

Opportunity

Problem

Consumers are actively looking for ready-made, healthier alternatives to the Standard American Diet. Today's explosive gluten-free consumer demand has grown 44% since 2011, and is projected to grow another 48% to \$15.6 billion by 2016. Organic and vegan markets are experiencing similar growth. Current gluten-free, vegan (dairy-free), options are lacking in either taste or nutrition.

Solution

Drawing from her personal experience, Fork That Foods' founder, Sherry Lee White, has created something that the health food market has never seen until now...decadent gourmet desserts that are actually good for you. By using only the highest quality ingredients, and avoiding refined sugars and other processed additives, Fork That! has invented a new way to look at health food. When most people think of "healthy" eating options, they usually assume that taste will be sacrificed. Not so with Fork That Foods' flagship product, *Bliss Bites!* By sourcing the best possible nutrient-dense ingredients to create treats that tantalize the taste buds of foodies and children alike, *Bliss Bites!* achieve the perfect blend of nutritious and delicious.

Who We Sell To

The appeal for healthy desserts is universal. *Bliss Bites!* are the perfect companion to a morning coffee, as an after school snacks for the kids, and go great with an evening glass of wine. Fork That! has been selling *Bliss Bites!* to coffee shops, juice bars, local gyms, and wine shops successfully for the past two years. Our target demographic markets include:

- Health Conscious Individuals
- Coffee Enthusiasts
- Dietary Restricted Individuals (diabetics, celiac, etc.)
- The Wine & Dine Crowd
- Special Needs Individuals (autistic, ADHD, etc.)

Competition

Several companies offer healthy foods. Several companies offer tasty foods. Very few offer both. Most "healthy" foods available on the market today suffer from either a gross misrepresentation of what it means to be truly healthy, or they sacrifice flavor for better nutrition metrics. Everyone who has tried a healthy dessert or bar has become accustomed to expecting flavor just slightly better than cardboard. Others products that do in fact taste good can only ***claim*** to be healthy in their marketing, but a closer look at their nutrition facts reveals a different story. While some competitors have either taste ***or*** nutrition, none have the superior taste ***and*** nutrition found in *Bliss Bites!*

Why Us?

By leveraging the incredibly compelling personal story of founder, Sherry Lee White, coupled with a solid team of successful business professionals and advisers, and a proven track record since its inception, Fork That! is poised to become the Mrs. Fields of today's health conscious generation.

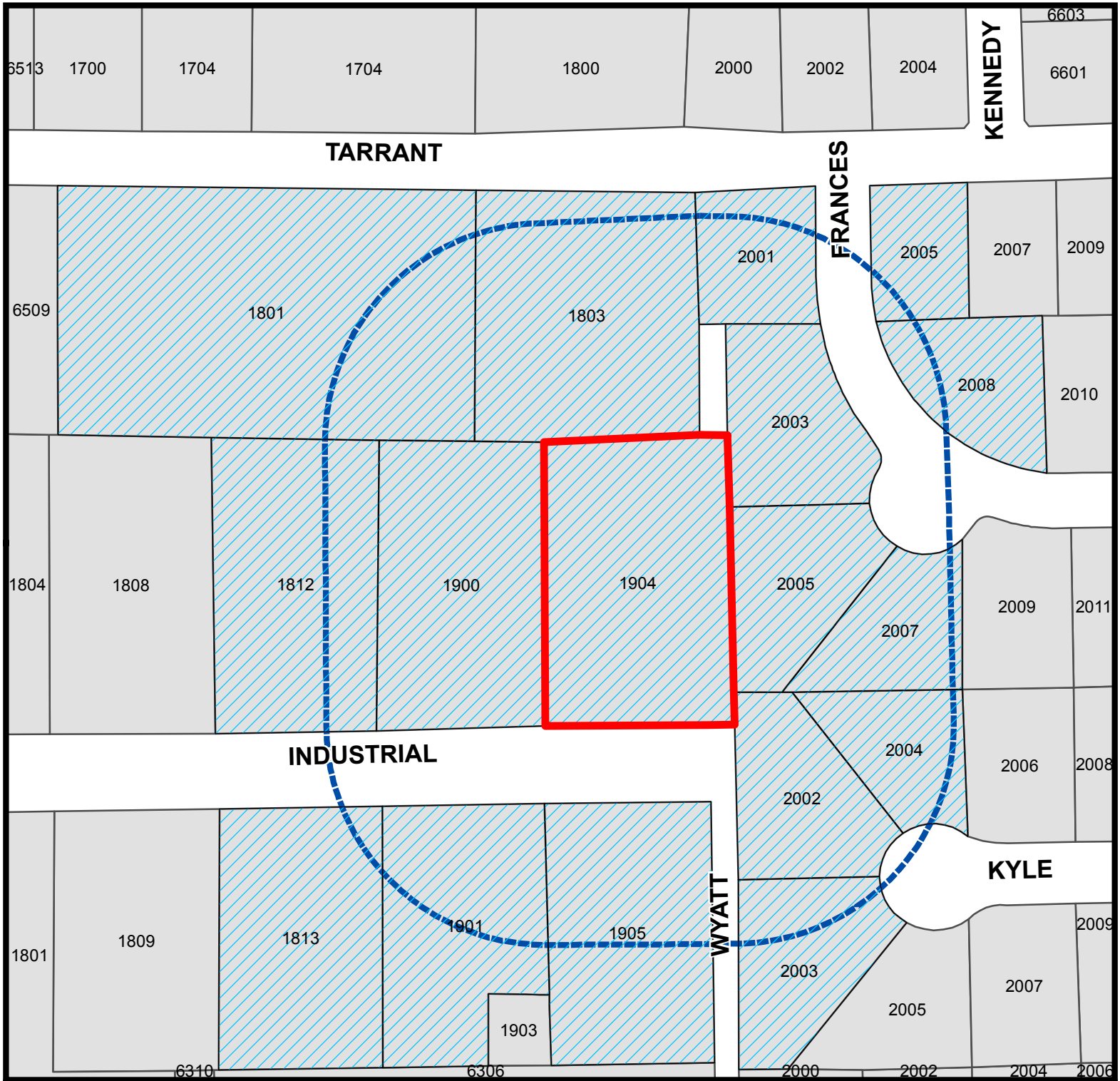
**Parking Analysis
1904 Industrial Boulevard**

Suite	Tenant Name	Gross Floor Area	Land Use	Parking Ratio	Required Parking	Parking Provided
100/101	Tek Nek Toys	3000	Warehouse and Distribution Facilities	1/300	10	
102	Mattress by Appointment	1500	Office/Showroom	*1/300	5	
103	Trulee Foods	1500	Food Packaging and Manufacturing	1/300	5	
104	Polk Design Build Group	1500	Contractor Office without Storage Yard	1/300	5	
105/106	Smart Parts Crafts	3000	Warehouse and Distribution Facilities	*1/300	10	
107/108	GSS Inc	3000	Contractor Office without Storage Yard	1/300	10	
					45	43

* Per Table 3.29 (Parking Group Schedule) of the Land Development Code, the minimum number of off-street parking spaces required for "Warehouse and Distribution Facilities" is *"Determined by the Building Official using acceptable industry comparables"*.

Staff has utilized a 1/300 parking ratio in the table above to demonstrate the most intense parking requirements. However, industry comparables typically prescribe a parking ratio of 1/1000 for "Warehouse and Distribution Facilities". Based on this information, the site appears to have adequate parking.

NOTIFICATION MAP



ZC16-010

1904 INDUSTRIAL BLVD.

Legend

- Subject Property
- Properties within 200 ft.
- 200 ft Buffer



1 inch = 125 feet

Vicinity Map



DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of Colleyville. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of Colleyville, its officials or employees for any discrepancies, errors, or variances which may exist.

Notification List

Owner Name	Owner Address	Owner City	Owner Zip	Situs Address
PRINCE, DOUG D	2003 KYLE CT	COLLEYVILLE, TX	76034	2003 KYLE CT
LAND, BRAD	813 HOLLY RIDGE CT	KELLER, TX	76248	1813 INDUSTRIAL BLVD
LINDLEY, SWIFT L	2002 KYLE CT	COLLEYVILLE, TX	76034	2002 KYLE CT
VIENNA CHANNELS REALTY LLC	1905 INDUSTRIAL BLVD	COLLEYVILLE, TX	76034	1905 INDUSTRIAL BLVD
COLLEYVILLE TECH CENTER LLC	PO BOX 742346	DALLAS, TX	75374	1900 INDUSTRIAL BLVD # 2
ECHOLS, BRENT K	2001 TARRANT LN	COLLEYVILLE, TX	76034	2001 TARRANT LN
MEDI-DYNE HEALTHCARE PRODUCTS	1812 INDUSTRIAL BLVD	COLLEYVILLE, TX	76034	1812 INDUSTRIAL BLVD
LUERS FAMILY REVOCABLE TRUST	3509 WINDVIEW CT	GRAPEVINE, TX	76051	1901 INDUSTRIAL BLVD
AMERICA'S STORAGE	4311 OAK LAWN AVE STE 360	DALLAS, TX	75219	1803 TARRANT LN # 220
OWENS, CHRISTOPHER D	2004 KYLE CT	COLLEYVILLE, TX	76034	2004 KYLE CT
LINZ, WILLIAM J	2005 FRANCES DR	COLLEYVILLE, TX	76034	2005 FRANCES DR
COLLEYVILLE TECH CENTER LLC	PO BOX 742346	DALLAS, TX	75374	1900 INDUSTRIAL BLVD
HAGEN, WILLIAM R	2005 TARRANT LN	COLLEYVILLE, TX	76034	2005 TARRANT LN
HANCOCK, LUID T	2007 FRANCES DR	COLLEYVILLE, TX	76034	2007 FRANCES DR
LOFTUS, DONNA M	2008 FRANCES DR	COLLEYVILLE, TX	76034	2008 FRANCES DR
CAMERON, DAVID A	2003 FRANCES DR	COLLEYVILLE, TX	76034	2003 FRANCES DR
DOOR WORKS OVERHEAD DOOR INC	1803 TARRANT LN STE 200	COLLEYVILLE, TX	76034	1803 TARRANT LN # 220
ROSS DOWNS ESTATES HOA	4113 GATEWAY DR #100	COLLEYVILLE, TX	76034	COURTESY NOTICE
TODD WHITE	1904 INDUSTRIAL BLVD, SUITE 103	COLLEYVILLE, TX	76034	APPLICANT
GRAPEVINE COLLEYVILLE ISD	3051 IRA WOODS AVE E	GRAPEVINE, TX	76051	STATE LAW REQUIRED

Public hearing notices were mailed
Friday, July 22, 2016 by Araceli Botello

ORDINANCE O-16-1985

AMENDING THE ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF COLLEYVILLE, TEXAS, BY CHANGING THE ZONING OF LOT 8R, BLOCK 1, OF THE INDUSTRIAL PARK ADDITION, LOCATED AT 1904 INDUSTRIAL BOULEVARD, SUITE 103, BY AUTHORIZING A SPECIAL USE PERMIT FOR FOOD PACKAGING AND MANUFACTURING; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Colleyville has received an application for rezoning under Case No. ZC16-010; and

WHEREAS, the City of Colleyville deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to enact a new zoning ordinance; and

WHEREAS, the City Council has appointed a Planning and Zoning Commission to recommend the boundaries of the various original zoning districts and appropriate regulations be enforced therein and to recommend a new zoning ordinance; and

WHEREAS, the Planning and Zoning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health, general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning and Zoning Commission, has given reasonable consideration to, among other things, the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City; and

WHEREAS, the Planning and Zoning Commission of the City of Colleyville and the City of Colleyville City Council, in compliance with the Charter of the City of Colleyville, and State Law with reference to changes to zoning classifications under the Zoning Ordinance Regulations and Zoning Map, having given the requisite notices

by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally, and to the persons interested and situated in the affected area and in the vicinity thereof, the governing body of the City of Colleyville is of the opinion that said change in zoning should be made.

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

- Sec. 1. THAT all the foregoing premises and findings are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.
- Sec. 2. THAT the Comprehensive Zoning Ordinance of the City of Colleyville, Texas, be, and the same is hereby amended by authorizing a Special Use Permit for Food Packaging and Manufacturing on Lot 8R, Block 1, of the Industrial Park Addition, located at 1904 Industrial Boulevard, Suite 103, as depicted on the attached as Exhibit "A".
- Sec. 3. THAT the above described tract of land shall be used only in the manner and for the purposes provided by the Comprehensive Zoning Ordinance of the City of Colleyville as heretofore amended, and as amended herein.
- Sec. 4. THAT the above described tract of land shall be subject to the following conditions:

1. GENERAL

- a. This Special Use Permit shall only apply to the use of Food Packaging and Manufacturing on the subject property as described in Exhibit "B".
- b. The name of the business authorized under this ordinance shall be "Trulee Foods".
- c. The subject property shall generally conform to the site plan as depicted in "Exhibit B".
- d. Noxious fumes shall not be emitted from the premises as a result of the manufacturing of food.

- e. Parking requirements for the business shall be: 1 space per 300 square feet of gross floor area.
- f. The Special Use Permit shall automatically expire upon the abandonment of the business, change in use, a change in ownership, or upon the expiration or termination of the Certificate of Occupancy for the approved use.

Sec. 5. THAT any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Colleyville, and upon conviction shall be punishable by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense.

Sec. 6. THAT if any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.

Sec. 7. THAT in addition to and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.

Sec. 8. THAT it has been found that there has been a change in conditions in the above described property, it is now necessary that it be given the above zoning classification in order to permit its proper development and in order to protect the public interest, comfort and general welfare, and requires that this ordinance shall take effect immediately from and after its passage.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 16th day of August 2016.

The second reading and public hearing being conducted on the 6th day of September 2016.

PASSED AND APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____
ABSTENTIONS ON THIS THE 6TH DAY OF SEPTEMBER 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor

APPROVED AS TO FORM AND LEGALITY:

Matthew C. G. Boyle
City Attorney

Exhibit "A" - Location and Zoning Map

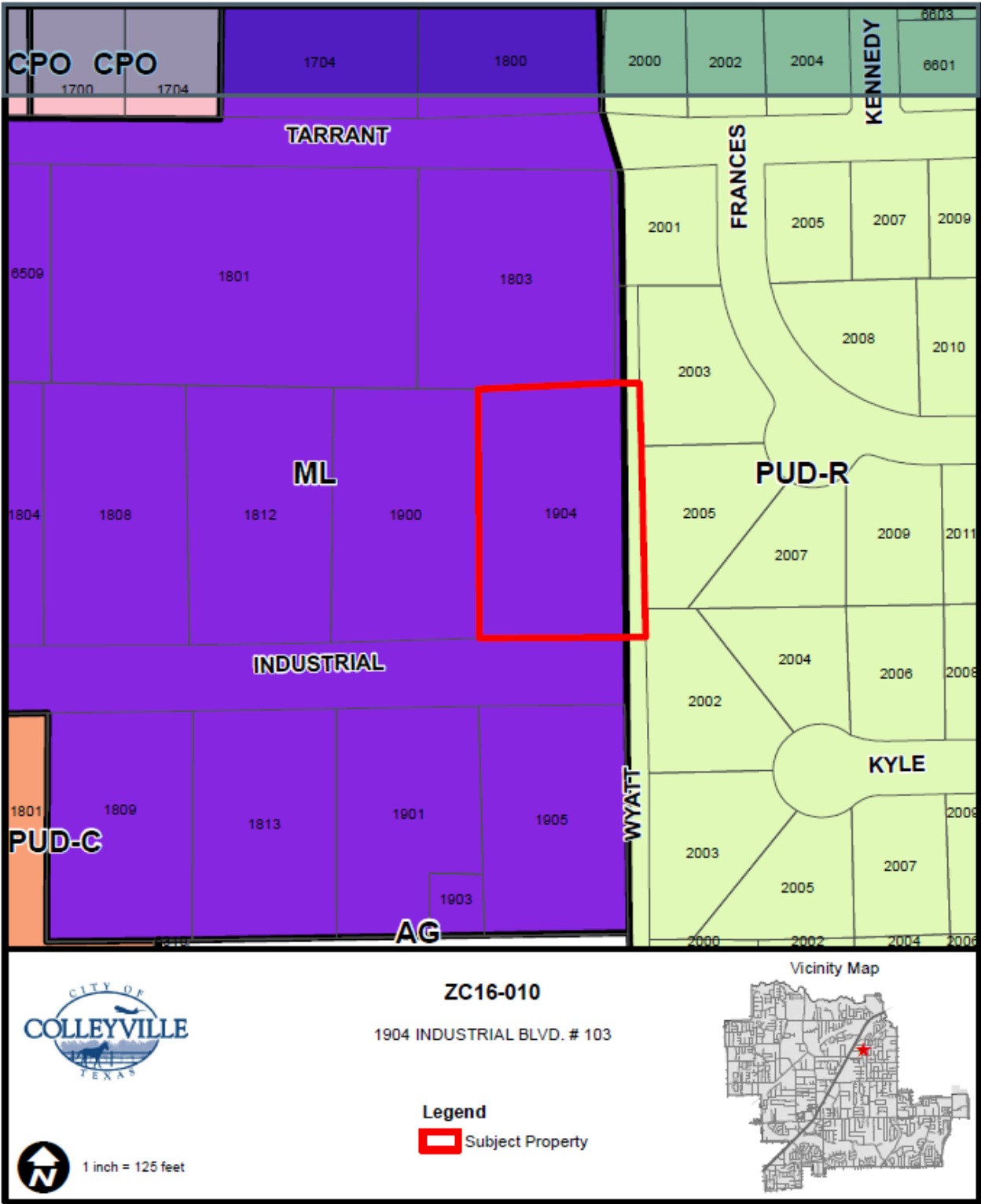
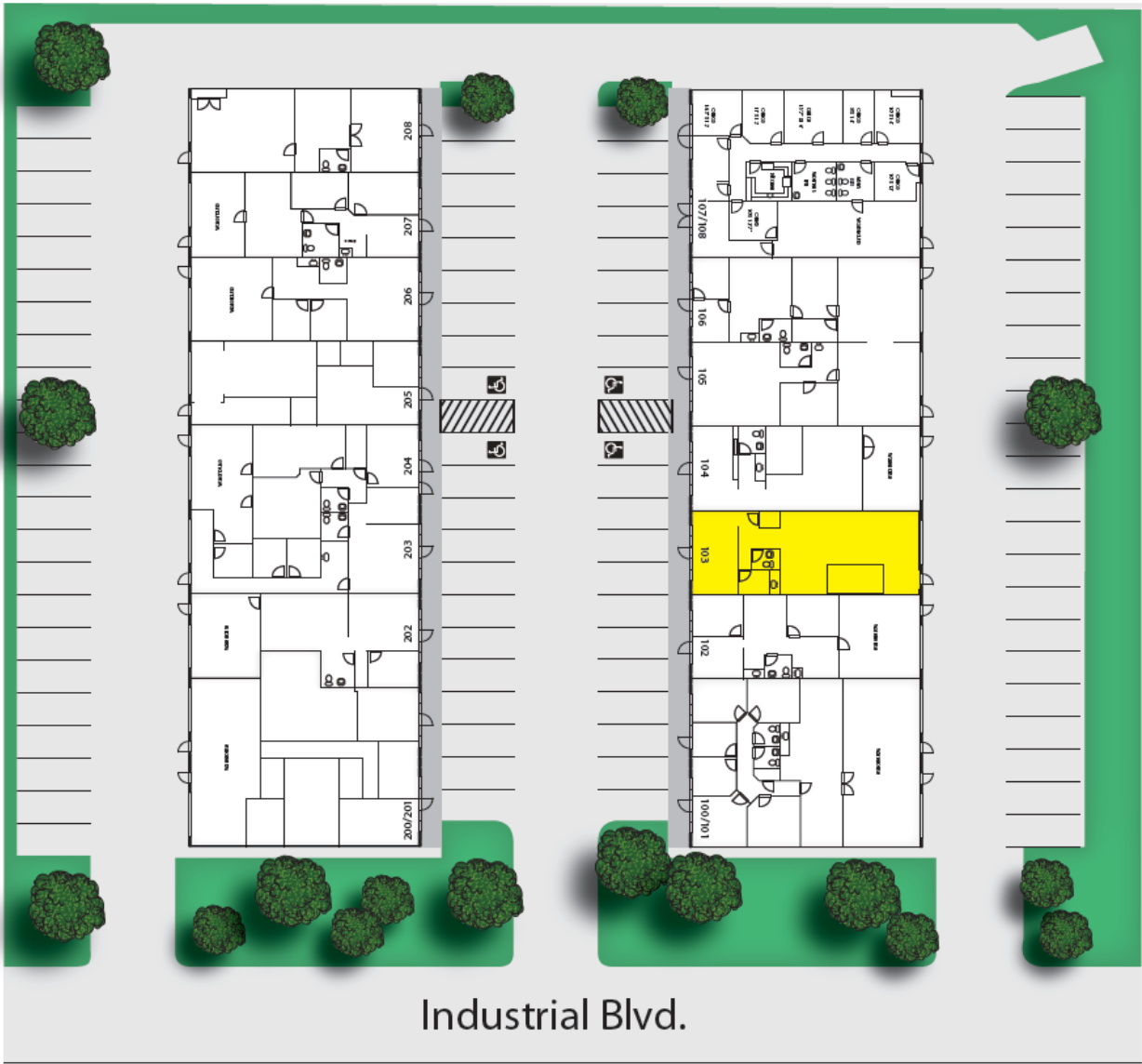


Exhibit “B” – Site Plan

Colleyville Tech Center





City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 6b

Agenda Date 08/16/2016

Number Ordinance O-16-1986

Type Ordinance

Department Finance

Title

Consideration of an ordinance amending Appendix A - Water and Sewer Policy Manual, Section 8 Financial Management, of the Colleyville, Texas, Code of Ordinances, modifying the transfers from the Utility Fund to the General Fund

Strategy Map Connection

C5- Achieve the highest standards of safety & security

F2- Invest to provide and maintain high quality public assets

F3- Forecast needs and plan for the future, balancing priorities with resources

Explanation

First Reading and Public Hearing

At the June 7, 2016 Pre Council meeting, staff made a presentation to City Council to discuss changing the current water rate structure. An interim flat rate of \$4.36 per thousand gallons, for all gallons not included in the base rate, was adopted by City Council on July 12, 2016. To offset the corresponding reduction in revenue, City Council directed staff to amend the Water and Sewer Policy Manual with regard to the Utility Fund transfers to the General Fund. This ordinance will reduce the transfers to the General Fund by a maximum of \$678,000 in FY 2016 (to accommodate the revenue reduction for July, August, and September due to the interim rate). This ordinance will also repeal the transfers to the General Fund effective October 1, 2016 (FY 2017).

Financial Impact

Adoption of this ordinance will decrease non-operating expenditures (transfers) in the Utility Fund by \$678,000 for Fiscal Year 2016. It will conversely decrease revenues in the General Fund by the same amount in Fiscal Year 2016. For Fiscal Year 2017 and all future years, this ordinance will repeal the transfer.

Recommendation

Approve

Attachments

1. Ordinance O-16-1986

ORDINANCE O-16-1986

AN ORDINANCE AMENDING APPENDIX A – WATER AND SEWER POLICY AND PROCEDURE MANUAL, SECTION 8 FINANCIAL MANAGEMENT, OF THE COLLEYVILLE, TEXAS, CODE OF ORDINANCES, MODIFYING THE TRANSFERS FROM THE UTILITY FUND TO THE GENERAL FUND, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council desires to modify the provisions for transfers from the Utility Fund to the General Fund.

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

- Sec. 1. THAT all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
- Sec. 2. THAT the franchise fee and operating transfer from the Utility Fund to the General Fund will end on September 30, 2016, and no franchise fees or operating transfers shall be paid by the Utility Fund to the General Fund of the City after said day.
- Sec. 3. THAT the combined amount of the franchise fee and operating transfer from the Utility Fund to the General Fund for Fiscal Year 2016 will be reduced by an amount not to exceed \$678,000.
- Sec. 4. THAT as of October 1, 2016, Appendix A – Water and Sewer Policy and Procedure Manual, Section 8 Financial Management, of the Code of Ordinances, shall be deleted and replaced in its entirety with the revisions as shown on Exhibit A.
- Sec. 5. THAT the effective date of this ordinance shall be September 6, 2016.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 16th day of August 2016.

The second reading and public hearing being conducted on the 6th day of September 2016.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON
THIS THE 6TH DAY OF SEPTEMBER 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST: **CITY OF COLLEYVILLE**

Amy Shelley, TRMC	Richard Newton
City Secretary	Mayor

APPROVED AS TO FORM AND LEGALITY:

Matthew C. G. Boyle
City Attorney

Exhibit "A"

SECTION 8. - FINANCIAL MANAGEMENT

Sec. A. - Guidelines adopted.

As a means of ensuring the financial integrity of the utility enterprise fund, the City Council hereby adopts the following as financial management guidelines:

1. Gross revenues of the utility enterprise fund shall be sufficient during each and every fiscal year period to pay all maintenance and operating expenses, debt service on all outstanding indebtedness payable by the fund, depreciation expense, and other nonoperating expenses. Retained earnings and working capital balances available from prior years shall not be used as a means of satisfying this requirement.
2. Net income before depreciation and other nonoperating expenses shall [be] equal to at least 1.2 times the average annual debt service requirement on all outstanding indebtedness secured by a pledge of utility fund revenues.
3. The working capital balance in the utility enterprise fund at the end of each fiscal year shall be equal to at least 90 days of operation.
4. The City shall develop and maintain accurate cash flow projections to ensure that sufficient funds are available at all times to pay current obligations of the utility enterprise fund, and to ensure that available cash is invested to the fullest extent possible.
5. All assumptions and projections concerning utility fund revenues and expenses shall be reviewed on at least an annual basis to ensure the adequacy of existing water and sewer rates.
6. Utility fund revenues and expenses shall be formally monitored on at least a quarterly basis to ensure that budget estimates are still valid.

Sec. B. - Separate account for delinquent penalties.

A separate revenue account is established in the water and sewer utility enterprise fund to account for penalties on delinquent utility bills.

Sec. C. - Pass through rate increase.

The City Council may by resolution increase water and sewer rates to pass through direct rate increases, originated by the Trinity River Authority, on a per 1,000 gallons basis for water delivery or sewer treatment charges on all water and sewer gallons billed and those gallons of usage included in the water and sewer minimum bill.



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 7a

Agenda Date 08/16/2016

Number Resolution R-16-4018

Type Resolution

Department City Secretary

Title

Acceptance of the Colleyville Citizen's Charter Review Committee recommendations

Strategy Map Connection

B4- Cultivate a culture of transparency and consistent communication

Explanation

Reading and Public Hearing

On June 21, 2016, City Council adopted Resolution R-16-4007, attached, which created the Colleyville Citizen's Charter Review Committee for the purpose of reviewing the City Charter for modifications. Ten citizens were appointed to serve on the Committee. Frank Carroll was named Chairman, and Michael Muhm was named Vice Chair.

The Committee met on Wednesday, July 6, 2016, and on Thursday, July 14, 2016. The enabling Resolution R-16-4007 provided for recommendations to be presented to the City Council by July 29, 2016.

Chairman Carroll provided recommendations in the attached report dated July 28, 2016.

Chairman Carroll also provided a summary to the Mayor and City Council during a City Council Worksession held on Tuesday, August 2, 2016.

The proposed Resolution R-16-4022 provides for the City Council to accept the Charter Review Committee recommendations for City Charter amendments, and will serve as a guide in the calling of the Special City Charter Election.

Financial Impact

Funding is available for a special election in the Strategic Initiatives Fund.

Recommendation

Approve

Attachments

1. Resolution R-16-4007
2. Colleyville City Charter
3. Charter Review Committee Report dated July 28, 2016

4. Resolution R-16-4018

RESOLUTION R-16-4007

A RESOLUTION OF THE CITY OF COLLEYVILLE, TEXAS ESTABLISHING A COLLEYVILLE CITIZENS CITY CHARTER REVIEW COMMITTEE, APPOINTING MEMBERS, AND PROVIDING A DATE FOR THE CHARTER REVIEW COMMITTEE TO SUBMIT A FINAL REPORT

WHEREAS, the City Council believes that positive changes can be possibly made to the Colleyville City Charter to enhance the document without significantly effecting the democratic principles of the Colleyville City Charter or the opportunities of citizens to become informed on City issues and make known to their elected representatives their concerns and comments; and

WHEREAS, the City Council understands the need to review the City Charter to clarify, add or subtract as necessary to ensure the powers, rights and duties of the City government adhere to its original concepts and structure as a "Council-Manager Government."

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

Sec. 1. THAT a Colleyville Citizens City Charter Review Committee is hereby established.

Sec. 2. THAT the following citizens are appointed to the Colleyville Citizens City Charter Review Committee:

Steve Waltens	Nelson Thibodeaux
Michael Muhm	David Medlin
Claudia Bevill	Tim Weymuth
Frank Carroll	Rich Hendler
Shirley Schollmeyer	Vince Hawkins

Sec. 3. THAT Frank Carroll is appointed as Chair, and Michael Muhm is appointed as Vice Chair.

Sec. 4. THAT the City Manager shall provide administrative support services to the Colleyville Citizens City Charter Review Committee.

Sec. 5. THAT the Colleyville Citizens Charter Review Committee's responsibilities may include:

- a. Section 3.01 Number, Selection, Term: should contain language which limits consecutive terms to two in the same office, and how or when this shall commence. Compare this amendment with those of area cities for benchmarking.
- b. Section 3.09C Quorum and Voting: should provide language which allows electronic voting for City Council meetings, and language that allows for nominations and appointments and voting by name.
- c. Section 14.02 Personal Financial Interest: should include an additional subsection to provide the following:
 - k. Financial Disclosure and Business Conflict of Interest Forms shall be provided by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file within two (2) business days following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures within five (5) days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:
 - i. The location, size, and current use of all property owned within the portion of Dallas, Denton, and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.

- ii. The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor children have received a fee, salary, or gift of a value exceeding one hundred dollars(\$100.00).
 - iii. The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.
- d. Section 7.02 City Secretary: should provide an addition of "with the approval of City Council" to the following statement: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary."
- e. Section 7.03(A) Chief of Police: should provide an addition of "with the approval of City Council" to the following statement: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- f. Section 7.04(A) Fire Chief: should provide an addition of "with the approval of City Council" to the following statement: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- g. Section 7.05 Department of Public Works: should provide an addition of "with the approval of City Council" to the following statement: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

h. Section 7.06 Department of Finance: should provide an addition of "with the approval of City Council" to the following statement: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council.*"

Sec. 6. THAT the recommendations of the Colleyville Citizens Charter Review Committee shall be finalized and ready to be presented to the City Council by July 29, 2016.

Sec. 7. THAT this resolution shall take effect immediately upon passage.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 21ST DAY OF JUNE 2016.

Mayor Richard Newton
Place 1, Tammy Nakamura
Place 2, Bobby Lindamood
Place 4, Jody Short

Aye
Aye
Aye
Aye

Mayor Pro Tem Chris Putnam
Place 5, Nancy Coplen
Place 6, Mike Taylor

Aye
Aye
Aye

ATTEST:


Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE


Richard Newton
Mayor

CHARTER

of



Revised May 7, 2005

COLLEYVILLE CITY CHARTER

TABLE OF CONTENTS

<u>Article</u>	<u>Section</u>	<u>Title</u>	<u>Page</u>
I		<u>Form of Government and Boundaries</u>	
	1.01	Form of Government	2
	1.02	Boundaries of the City	2
	1.03	Boundary Adjustment	2
II		<u>Powers of the City</u>	
	2.01	General Powers Adopted	3
	2.02	Eminent Domain	3
	2.03	Establishment and Control of Public Property	3
	2.04	Street Development and Improvements	4
III		<u>The Governing Body</u>	
	3.01	Number, Selection, Term	4
	3.02	Qualifications	5
	3.03	City Council to be the Judge of Election Qualification	5
	3.04	Compensation	6
	3.05	Vacancies	6
	3.06	Mayor and Mayor Pro Tem	6
	3.07	Powers of the City Council	7
	3.08	Forfeiture of Elected Office	7

3.09	Meetings and Rules of Procedure	7
3.10	Investigation by the City Council	8
3.11	Ordinances in General	8
3.12	Emergency Ordinances	9
3.13	Resolutions	9

IV

Elections

4.01	Laws Governing City Elections	9
4.02	General Elections	10
4.03	Special Elections	10
4.04	Publishing City Elections	10
4.05	Runoff Election	10
4.06	Election by Majority	10
4.07	Public Disclosure	10
4.08	Oath of Office	11

V

Recall of Officers by the People

5.01	Scope of Recall	11
5.02	Petitions for Recall	11
5.03	Form of Recall Petition	12
5.04	Various Papers Constituting Petition	12
5.05	Presentation of Petition to the City Council	12
5.06	Public Hearing to be Held	13
5.07	Election to be Called	13
5.08	Ballots in Recall Election	13

5.09	Result of Recall Election	13
5.10	Recall, Restrictions Thereon	13
5.11	Failure of City Council to Call an Election	14

VI

Legislation by the People, Initiative and Referendum

6.01	General Power	14
6.02	Initiative	14
6.03	Referendum	15
6.04	Voluntary Submission of Legislation by the City Council	15
6.05	Form of Ballots	15
6.06	Publication of Proposed and Referred Ordinance or Resolution	15
6.07	Adoption of Ordinances or Resolutions by Referendum or Initiative	16
6.08	Inconsistent Ordinances or Resolutions	16
6.09	Ordinances or Resolutions Passed by Popular Vote, Repeal or Amendment	16
6.10	Further Regulations by City Council	16
6.11	Franchise Ordinances	16
6.12	Compelling Submission	16

VII

Administrative Organization

7.01	City Manager	17
7.02	City Secretary	18
7.03	Department of Police	18
7.04	Fire Department	19

	7.05	Department of Public Works	19
	7.06	Department of Finance	20
	7.07	Other Departments, Boards and Commissions	20
VIII		<u>Legal and Judicial Services</u>	
	8.01	Municipal Court	20
	8.02	Judge of the Municipal Court	20
	8.03	Clerk of the Municipal Court	20
	8.04	City Attorney	21
IX		<u>Municipal Finance</u>	
	9.01	Fiscal Year	21
	9.02	Annual Budget	21
	9.03	Public Records	24
	9.04	Amendments after Adoption	24
	9.05	Lapse of Appropriations	25
	9.06	Administration of Budget	25
	9.07	Borrowing	25
	9.08	Purchasing	26
	9.09	Specified Reserve Fund	26
X		<u>Taxation</u>	
	10.01	Department of Taxation	27
	10.02	Power to Tax	27
	10.03	Limitation on Tax Rate	27
	10.04	Taxes - When Due and Payable	27

	10.05	Tax Liens	27
XI		<u>Planning and Zoning, Board of Adjustments</u>	
	11.01	The Planning and Zoning Commission	28
	11.02	Powers and Duties	28
	11.03	The Master Plan	29
	11.04	Legal Effect of the Master Plan	29
	11.05	Zoning Board of Adjustment	29
	11.06	Separation of Planning and Zoning Commissions	29
XII		<u>Franchises, Public Utilities and Other Users of Public Property</u>	
	12.01	Powers of the City	30
	12.02	Power to Grant Franchise	30
	12.03	Grant Not to be Exclusive	30
	12.04	Transfer of Franchise	30
	12.05	Right of Regulation	31
	12.06	Extensions	31
	12.07	Regulation of Rates	32
	12.08	Public Service Corporations to File Annual Reports	32
	12.09	Accounts of Municipally Owned Utilities	33
	12.10	Sales of Municipal Services	33
	12.11	Franchise Records	33
XIII		<u>Transitional Provisions</u>	
	13.01	Schedule	33
	13.02	Officers and Employees	34

	13.03	Preservation of Contract Rights	34
	13.04	Franchises	35
XIV		<u>General Provisions</u>	
	14.01	Publicity of Records	35
	14.02	Personal Financial Interest	35
	14.03	Nepotism	36
	14.04	Official Bond for City Employees	36
	14.05	Tort Liability	36
	14.06	Severability Clause	37
	14.07	Effect of Charter on Existing Laws	37
	14.08	Applicability of General Laws	37
	14.09	Property Not Exempt from Special Assessments	37
	14.10	Amending the Charter	38
	14.11	Judicial Notice	38
	14.12	Gender of Wording	38
		Submission of Charter to Voters	39
		Charter Amendment Election – May 7, 2005	40

ARTICLE II
POWERS OF THE CITY
(Amended May 7, 2005)

Section 2.01 General Powers Adopted:

The City Council shall have the powers, functions, rights, privileges and immunities of every name and nature, that are now or hereafter may be granted to a Home Rule City by the Constitution and State law, together with all implied powers necessary to carry into execution all such powers granted.

Among such powers, the City Council shall have police powers, the power to adjust boundaries, to contract and to co-operate with the government of any state or any agency or subdivision thereof, or with the federal government or any agency thereof to accomplish any lawful purpose. The City may use a corporate seal; may acquire property within or without its corporate limits for any municipal purpose in fee simple, or in any lease interest or estate by purchase, gift, devise, lease, exchange, condemnation, and subject to the provisions of this Charter, may sell, lease mortgage, hold, manage, improve, exchange and control property as may now or hereafter be owned by it; may sue and be sued; may furnish municipal services, both within and without its corporate limits; may implead and be impleaded in all courts and places and in all matters whatever; may provide for the expenditure of public funds for a retirement system, group health, life and accident insurance coverage, and surety bonds for City employees or officers; may pass ordinances, resolutions, and enact such regulations as may be expedient for the maintenance of good government, order and peace of the City and the interest, welfare, health, morals, comfort, safety, security and convenience of the City for its inhabitants consistent with the provisions of this Charter.

The enumeration of particular powers of this Charter shall not be held or deemed exclusive, but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers. The City Council shall have and may exercise all powers of local self government and all powers which under the Constitution and State law would be competent for this Charter to specifically enumerate.

Section 2.02 Eminent Domain:

The City shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by the Constitution or State law. The power of eminent domain hereby conferred shall include the right of the City to take the fee title and easement interests in the lands so condemned and such power and authority shall include the right to condemn, for any municipal or public purpose. The City shall have the power through eminent domain proceedings to acquire any public utility operating with or without a franchise, and furnishing a public service to the citizens of Colleyville.

Section 2.03 Establishment and Control of Public Property:

The City of Colleyville shall have the power to lay out, establish, open, alter, widen, lower, raise, extend, grade, abandon, discontinue, abolish, close, care for, pave,

HOME RULE CHARTER

for the

CITY OF COLLEYVILLE, TEXAS

Preamble

We, the citizens of Colleyville, Texas, in order to establish a Home Rule municipal government, provide for the future progress of our City, and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter in accordance with State law and do hereby declare the residents of the City of Colleyville in Tarrant County, Texas, living within the legally established boundaries of said City, to be a political subdivision of said City, to be a political subdivision of the State of Texas, incorporated forever under the name and style of the "City of Colleyville" with such powers, rights, authorities, privileges, obligations and immunities as are herein provided.

ARTICLE I

FORM OF GOVERNMENT AND BOUNDARIES

Section 1.01 Form of Government:

The Municipal Government provided by this Charter shall be known as the "Council-Manager Government". Pursuant to its provisions, and subject only to the limitations imposed by the State Constitution, State law, and by this Charter, all powers of the City Council shall be vested in an elective City Council, hereinafter referred to as the "City Council". All powers of the City shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by Ordinance, Resolution, the State Constitution, or by State law.

Section 1.02 Boundaries of the City:

The Inhabitants of the City of Colleyville, Tarrant County, Texas, residing within its corporate limits, as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate, in perpetuity, under the name of the "City of Colleyville", which boundaries are more fully set out and described by metes and bounds. These are on file in the Office of City Secretary. (Amended May 7, 2005)

Section 1.03 Boundary Adjustment:

The City Council shall have the power by ordinance to fix the boundaries of the City and to provide for the alteration or the extension of said boundaries, pursuant to State law now or hereinafter enacted where the same is not inconsistent with State law.

supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate the use thereof; require the removal from streets, sidewalks, alleys, and other public property or places of all obstructions and encroachments of every nature or character upon any of said streets and sidewalks, and the power to regulate, control and/or prohibit the moving of any type of objects over, along, or upon, under or across streets, alleys, sidewalks, parks, squares, public places and bridges, of every kind and character in such places and at such time as public need shall dictate.

Section 2.04 Street Development and Improvements:

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets or ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting, and establishing building lines along the same by purchasing, condemning, and taking property therefore; by filling, grading, raising, lowering, paving, repaving and repairing in a permanent manner, the same, and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or parts thereof.

The cost of such development and improvement may be paid partly by assessments levied as a lien against the property abutting thereon and against the owners thereof, subject, however, to the limitations imposed by State law. Such assessments may be levied in any amounts and under any procedures not prohibited by State law, but such assessments may not be levied in excess of thirty-three and one-third percent (33 1/3%) of the costs of such improvements for property abutting one side of said street or public way, or sixty-six and two-thirds percent (66 2/3%) of the cost of such improvements for property abutting both sides of said street or way. In no case shall any property owner be assessed in excess of the cost of like improvements or repairs for a two (2) lane Collector Street as defined by City Ordinance.

Provided, however, that whenever the City undertakes developing, improving and paving of public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall not have the power and authority to assess property abutting the streets to be developed, improved, or paved, without the approval of sixty percent (60%) of the abutting property owners.

ARTICLE III THE GOVERNING BODY (Amended May 7, 2005)

Section 3.01 Number, Selection, Term:

The Legislature and Governing Body of the City shall consist of seven (7) members; six (6) City Council Persons elected by place number and a Mayor, all members to be elected from the City at large, and shall be known as the 'City Council of the City of Colleyville'.

The Mayor and City Council Persons shall be elected under the general provisions provided by Article IV of this Charter for three (3) year terms. The three (3) year terms shall be staggered so that the Mayor and City Council Persons from Place 1 and 2 shall be elected year one (1), City Council Persons from Places 3 and 4 shall be elected year two (2), and City Council Persons Place 5 and 6 shall be elected year three (3). The Mayor and each of the City Council Persons, unless sooner removed under the provisions of this Charter or State law, shall hold office until his successor is elected and duly sworn.

Positions for members of the City Council shall be for Mayor and Places 1 through 6. Commencing with the regular municipal City Council election of 2006, positions for Places 3 and 4 shall be elected for a term of two (2) years and City Council Persons for Places 5 and 6 shall be elected for a term of three (3) years. Commencing with the regular municipal election of 2007, positions for Mayor and City Council Persons for Places 1 and 2 shall be elected for a term of three (3) years. Commencing with the regular municipal election of 2008, City Council Persons for Places 3 and 4 shall be elected for a three (3) year term. Thereafter, the Mayor and each member of the City Council shall be elected for a three (3) year term.

Terms of office shall commence at the beginning of the first regular meeting of the City Council following the canvass of the election as provided by Article 4. (Amended May 7, 2005)

Section 3.02 Qualifications:

Each candidate for membership and each member of the City Council shall be and remain:

(A) A resident of the City of Colleyville and shall have been a resident for a period of not less than twelve (12) months immediately preceding their election or a resident of any territory not formerly within the corporate limits of the City but which is annexed under the provisions of this Charter for twelve (12) months preceding their election;

(B) A qualified voter of the State of Texas and the City of Colleyville;

(C) Not financially delinquent to the City.

If any member of the City Council fails to maintain the foregoing qualifications, or shall fail to maintain the seventy-five percent (75%) attendance record for all regularly scheduled meetings, as specified in Section 3.09 hereof, during each elected year, or shall be convicted of a felony or offense involving moral turpitude, the City Council shall declare a vacancy in the office of that member of the City Council at its next regular meeting and shall fill the vacancy as set forth in this Charter. (Amended April 7, 1984)

Section 3.03 City Council to be the Judge of Election Qualification:

The City Council shall be the judge of the election and qualification of its own members.

Section 3.04 Compensation:

The Mayor and City Council Persons shall not receive a salary, but shall be entitled to actual and necessary expenses incurred in the performance of their specific official duties of the office.

Section 3.05 Vacancies:

A single vacancy in the City Council shall be filled within thirty (30) days of the occurrence of the vacancy by a majority vote of the remaining members of the City Council by selection of a person qualified for the position as described in this Charter. This appointee shall serve until the position can be filled at the next regular or special City election as provided by law. However, if such vacancy occurs within one hundred twenty (120) days of a regular election, then no election shall be called to fill the vacancy, and the remaining City Council members shall appoint a qualified person to fill the vacancy until the regular election.

Notwithstanding the requirement in Section 3.09 that a quorum of the City Council consists of four (4) members, if at any time the membership of the City Council is reduced to less than four (4), the remaining members may by majority action appoint additional members to raise the membership to four (4). These appointees shall serve until the positions can be filled at the next regular or special City election.

Section 3.06 Mayor and Mayor Pro Tem:

The Mayor shall preside at all meetings of the City Council and shall vote on all issues. The Mayor, except as provided in 3.07, shall sign all contracts and conveyances made or entered into by the City, and all bonds issued under the provision of this Charter, and shall be the official representative of the City. The Mayor shall be recognized as the official agent of the City by the Court for the purpose of serving civil process. (Amended May 7, 2005)

Immediately following the final swearing in of all members elected in accordance with Section 4.02 of this Charter, the new City Council shall in its first regular meeting, elect from among its members a Mayor Pro Tem who shall serve for the term of one (1) year. (Amended April 7, 1984)

The Mayor Pro Tem shall, in the absence of the Mayor, preside at all meetings of the City Council and shall vote on all issues before the City Council. The Mayor Pro Tem shall perform all other duties of the Mayor during the absence or disability of the Mayor. (Amended April 7, 1984)

In time of danger or emergency, the Mayor may take command of the Police and govern the City by proclamation and maintain order and enforce all laws.

Section 3.07 Powers of the City Council:

All powers and authority granted to the City by the Constitution of the State of Texas shall be vested in the City Council, except as otherwise provided by State law or this Charter. The City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed upon the City by State law and this Charter.

In addition to the provisions set forth in Section 3.06, the City Council shall have the power to authorize the City Manager to sign a specific contract or expenditure; provided, however, the City Manager shall not be authorized to sign any bonds issued under any provisions of the Charter. (Amended May 7, 2005)

Section 3.08 Forfeiture of Elected Office:

(A) Except where authorized by State law, a Mayor or City Council Person shall:

- (1) Resign their current office at the time of filing for any publicly elected position if their term extends past the beginning of the position sought; (Amended May 7, 2005)
- (2) Not hold any compensated appointive City office or employment with the City during the term for which elected; and
- (3) Not hold any compensated appointive City Office or employment with the City until one (1) year after the expiration of the term for which elected.

(B) Appointments and/or removals of City employees. The members of the City Council shall in no way dictate the appointment or removal of any City administrative officer or employee whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in this Charter. (Amended May 7, 2005)

(C) Interference with Administration. Except for the purpose of inquiries and investigations by the direction of the City Council, unless provided otherwise in this Charter, the City Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its members shall give orders to any such officer or employee, either publicly or privately, except in a state of declared emergency.

(D) Admission of liability. Neither the City Council nor its members shall accept or admit liability or pay any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

Section 3.09 Meetings and Rules of Procedure:

(A) Meetings of City Council. City Council meetings shall be held at the City Hall or such place within the City of Colleyville that the City Council shall direct. The

City Council shall meet regularly at least twice (2) in every month at such times as a City Council may prescribe by rule. In the event of a lack of a quorum at a regularly scheduled meeting, the meeting shall be opened and the roll call taken, recorded and adjourned until the regular or called special meeting. Special meetings may be held on the call of the Mayor or four (4) members of the City Council at the place within the City of Colleyville designated in the public notice. All meetings shall be held and public notice thereof given as required by State law. (Amended May 7, 2005)

(B) Minutes and Rules. The City Council shall determine its own rules and order of business, and shall provide for keeping minutes of its proceedings and post copy on the City Bulletin Board until the next meeting. The minutes shall be a public record.

(C) Quorum and Voting. Four (4) voting members of the City Council shall constitute a quorum. Voting, except on procedural motions, shall be by roll call and the "ayes" and "nays" shall be recorded in the minutes. The Mayor and every City Council Person shall vote on all issues unless there is a declared and recorded statutory conflict of interest. If because of a statutory conflict of interest a member steps down and remains in the Chamber to return after the item is resolved, then a quorum will be considered in attendance even though only three (3) City Council Persons are left to vote. However, no action shall be approved with less than four (4) affirmative votes. If during the course of a meeting a quorum ceases to exist, the meeting shall be deemed adjourned and no further business shall be conducted. (Amended May 7, 2005)

Section 3.10 Investigation by the City Council:

The City Council, by majority vote, shall have authority to inquire into the conduct of any office, department, agency, City Council member, officer or employee of the City, and to make investigations as to municipal affairs, and for that purpose the City Council shall have the power to authorize the Mayor to subpoena witnesses, administer oaths, and compel production of books, documents, or other evidence. Failure to obey such subpoena or produce books, documents, or other tangible evidence as ordered under the provisions of this Section shall constitute cause for removal from office. (Amended May 7, 2005)

Section 3.11 Ordinances in General:

The City Council shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be it ordained by the City Council of the City of Colleyville." The City Attorney shall approve as to legality prior to final action by the City Council. Every ordinance enacted by the City Council shall be signed by the Mayor or Mayor Pro-Tem in the Mayor's absence, and shall be filed with and recorded by the City Secretary. All ordinances exclusive of emergency ordinances as defined by Section 3.12, shall be read in open meeting of the City Council at two (2) consecutive regular City Council meetings. The caption only of each proposed ordinance shall be read at the first and second reading, provided, that upon the request of any three (3) members of the City Council, the

ordinance shall be read in its entirety on either the first or second reading, and further provided, however, that neither metes and bounds descriptions nor national, state, industrial, or uniform codes or manuals shall be read. Tabled ordinances shall be read after being removed from the table. Each reading of a proposed or tabled ordinance shall be followed by a public hearing. No final vote of approval or disapproval shall be taken by the City Council until after the second reading and public hearing on each ordinance. The captions of all proposed ordinances shall be posted upon a bulletin board at City Hall established for the purpose of giving notice of City Council meetings not less than seventy-two (72) hours prior to the meeting at which such ordinances are read. (Amended November 7, 1995)

Section 3.12 Emergency Ordinances:

The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property, or the public peace. In particular such ordinances shall not levy taxes, grant or renew or extend a franchise, or attempt to regulate the rate charged by any public utility for its services. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of a majority of four (4) or more members the City Council shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances. Every emergency ordinance so adopted, shall automatically stand repealed as of the sixty-first (61) day following the day on which it became effective, but this shall not prevent re-enactment of the emergency ordinance or as an ordinance in general under Section 3.11. (Amended May 7, 2005)

Section 3.13 Resolutions:

Any official action of the City Council not authorized by ordinance shall be authorized by resolution. All resolutions shall be read in open meeting of the City Council and shall be followed by public hearing. (Amended April 7, 1984)

ARTICLE IV ELECTIONS

Section 4.01 Laws Governing City Elections:

All City elections shall be governed, except as otherwise provided by this Charter, by State law governing general and municipal elections, so far as State law may be applicable thereto. In the event there should be any failure of State law of Texas or this Charter to provide for some feature of the City elections, the City Council shall have the power to provide for or correct such deficiency. If the election is conducted fairly and in substantial compliance with State law, and the Charter and ordinances of the City, the election shall not be invalidated. (Amended May 7, 2005)

Section 4.02 General Elections:

The regular City elections shall be held annually on the first Saturday in May, unless specifically required to be held on another day pursuant to State law, at which time officers shall be elected to fill those offices as required by this Charter. The same shall be conducted and the results canvassed and announced in accordance with State law regulating all municipal elections and in accordance with the ordinances and resolutions adopted by the City Council for the conduct of elections. (Amended May 7, 2005)

Section 4.03 Special Elections:

The City Council may by ordinance or resolution call such Special Elections as are authorized by State law or by this Charter, fix the date and place of holding same, and provide all means for holding such Special Election.

Section 4.04 Publishing City Elections:

It is the responsibility of the City Council to inform the registered voters of the City as to the time, place, date and purpose of any forthcoming City election, and the City Council shall establish such rules and procedures, in addition to those required by State law, to adequately inform the qualified voters of the City.

Section 4.05 Run-Off Election:

In the event that no candidate for a designated office received a majority of all votes cast for that position in the regular or special election, a run off election shall be held as required by State law.

Section 4.06 Election by Majority:

The candidate for each position on the ballot who shall have received the majority of all votes cast for such position shall be declared elected.

Section 4.07 Public Disclosure:

At the time of filing of a candidate for a City office, the candidate shall deliver to the City Secretary a disclosure statement containing the following information:

(A) The location, size, and current use of all property owned within the city or within any contiguous city, or held in trust by the candidate, their spouse, and any dependent minor children, or any business entity in which the candidate has a financial interest. (Amended May 7, 2005)

(B) The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the candidate, their spouse or dependent minor children have received a fee, salary, or gift of a value exceeding one hundred dollars (\$100.00)

(C) The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the candidate, their spouse, or any dependent minor children own more that two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets. (Amended January 18, 1992)

Section 4.08 Oath of Office:

Every officer of the City, whether elected or appointed, shall, within thirty (30) days of his election or appointment, take and subscribe to the following applicable oath or affirmation to be filed and kept in the office of the City Secretary.

(A) For elected officers. "I _____, do solemnly swear (or affirm) that I will faithfully execute the duties of _____, of the City of Colleyville, State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and Laws of the United States of America and of this State and the Charter, Ordinances and Resolutions of this City. I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment, as a reward for the giving or withholding of a vote at the election at which I was elected. So help me God." (Amended May 7, 2005)

(B) For appointed officers. "I _____, do solemnly swear (or affirm) that I will faithfully execute the duties of _____, of the City of Colleyville, State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and Laws of the United States of America and of this State and the Charter, Ordinances and Resolutions of this City. I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So help me God. (Amended May 7, 2005)

ARTICLE V RECALL OF OFFICERS BY THE PEOPLE

Section 5.01 Scope of Recall:

All members of the City Council shall be subject to recall and removal from office by the qualified voters of the city. (Amended May 7, 2005)

Section 5.02 Petitions for Recall:

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be submitted, shall first be signed by the qualified voters of the City equal in number to at least thirty percent (30 %) of the number of votes cast in the last regular municipal election of the City, and in no event less than five hundred (500) such petitioners. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil, using their normal signature. In addition, each

signer shall print their name, street address of their residence in Colleyville, voter registration certification number and the day, month and year that their signature was affixed to the recall petition. (Amended May 7, 2005)

Section 5.03 Form of Recall Petition:

The recall petition mentioned above must be addressed to the City Council of the City of Colleyville, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and if there be more than one (1) ground, such as for incompetence, misconduct, or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which he is charged.

The signature shall be verified by oath in the following form:

STATE OF TEXAS

COUNTY OF TARRANT

_____, being first duly sworn, on oath deposes and says that I am one (1) of the signers of the above petition and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

SWORN AND SUBSCRIBED TO before me this ____ day of _____, 20 ____.

Notary Public in and for
The State of Texas

Section 5.04 Various Papers Constituting Petition:

Within ten (10) days from the filing of such petition, the City Secretary shall examine the same and from the list of qualified voters ascertain whether or not said petition is signed by the requisite number of qualified voters, and, if necessary, the City Council shall allow him extra help for that purpose, and he shall attach to said petition a certificate showing the result of such examination. If by the City Secretary's certificate the petition is shown to be insufficient, it may be amended within ten (10) days from the date of said certificate. The City Secretary shall, within ten (10) days after such amendment is filed, in case one (1) is filed with him, make a like examination of said amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing same without prejudice, however, to the filing of a new petition based upon new and different grounds, and not upon the same grounds. (Amended April 7, 1984)

Section 5.05 Presentation of Petition to the City Council:

Within fifteen (15) days after the date of filing of the papers constituting the recall petition, the person performing the duties of the City Secretary shall present such petition to the City Council of the City of Colleyville at a special meeting called for this purpose, or at the next regular meeting of the City Council. (Amended April 7, 1984)

Section 5.06 Public Hearing to be Held:

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held not less than ten (10) days nor more than twenty (20) days after receiving such request for a public hearing.

Section 5.07 Election to be Called:

If an officer whose removal is sought does not resign, the City Council shall order an election and fix a date for holding such recall election within thirty (30) days of the date of the petition; provided, however, if an election cannot be called within said thirty (30) day period, then the date of the election shall be the first date an election may be called under State law. (Amended January 18, 1992)

Section 5.08 Ballots in Recall Election:

Ballots used at recall elections shall conform to the following requirements:

(A) With respect to each person whose removal is sought, the question shall be submitted: "Shall (name of person) be removed from the office of (name of office) by recall?"

(B) Immediately below each such question there shall be printed the following words, one (1) above the other, in the order indicated:

_____ FOR the recall of (name of person).

_____ AGAINST the recall of (name of person).

Section 5.09 Result of Recall Election:

If the majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as specified in this Charter. If a majority of the votes cast at such election be for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as provided in Section 3.05 of this Charter.

Section 5.10 Recall, Restrictions Thereon:

No recall petition shall be filed against any officer of the City within six (6) months after his election, nor within six (6) months after an election for such officer's recall. Nothing herein shall prevent impeachment of an officer of the City nor removal for other causes as provided for herein.

Section 5.11 Failure of City Council to Call an Election:

In case all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge other duties imposed upon said City Council by the provisions of this Charter with reference to such recall, then the County Judge of Tarrant County, Texas, may discharge any such duties herein provided to be discharged by the City Secretary or by the City Council.

**ARTICLE VI
LEGISLATION BY THE PEOPLE, INITIATIVE
AND REFERENDUM**

Section 6.01 General Power:

The qualified voters of the City of Colleyville, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by the initiative and referendum.

Section 6.02 Initiative:

The people of the City of Colleyville reserve the power of direct legislation by initiative, and in exercise of such power may initiate legislation by submitting a petition addressed to the City Council, which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to at least forty percent (40%) of the number of votes cast at the last regular municipal election of the City, but in no event less than five hundred (500) such petitioners. Each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed as provided in Section 5.02 of this Charter, and shall be verified by oath in the manner and form provided by recall petitions in Section 5.03 of this Charter. The petition may consist of one (1) or more copies as permitted for recall petitions in Section 5.04 of this Charter. Such petition shall be filed with the person performing the duties of the City Secretary and must be certified as required by Section 5.04 of this Charter. At the next regular City Council meeting after the filing of such a petition, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the City Council. Upon presentation of the petition and draft of proposed ordinance or resolution, the City Council shall pass and adopt such ordinance or resolution as provided in Article III of this Charter, without alteration as to meaning or effect in the opinion of the person filing the petition, or call a special election, as provided by law, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election. (Amended April 7, 1984)

Section 6.03 Referendum:

Qualified voters of the City may require that any ordinance or resolution, with the exception of ordinances or resolutions authorizing the issuance of either tax bonds or revenue bonds, whether original or refunding, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within ninety (90) days after final passage of said ordinance or resolution, or within ninety (90) days after its publication. Said petition shall be addressed, prepared, signed, and verified as required for petitions initiating legislation as provided in Section 6.02 of this Charter, and shall be submitted to the person performing the duties of City Secretary. Immediately upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinance or resolution, and if it does not entirely repeal the same, shall submit it to popular vote as provided in Section 6.02 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereon.

Should the popular vote be to uphold the ordinance or resolution, no other referendum election may be held on the same and/or similar ordinance or resolution within six (6) months. But should the same and/or similar ordinance or resolution be passed by the City Council after invalidation by popular vote, a referendum petition may be filed again as outlined in Article VI of this Charter.

Section 6.04 Voluntary Submission of Legislation by the City Council:

The City Council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition, and may in its discretion call a special election as provided by State law for this purpose.

Section 6.05 Form of Ballots:

The ballots used when voting upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

"FOR THE ORDINANCE" and
"AGAINST THE ORDINANCE", or

"FOR THE RESOLUTION" and
"AGAINST THE RESOLUTION".

Section 6.06 Publication of Proposed and Referred Ordinance or Resolution:

The person performing the duties of City Secretary shall publish at least once in the official newspaper of the City, the notice of special referendum election and the preamble of proposed or referred ordinance or resolution, and shall give such other notices and do

such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

Section 6.07 Adoption of Ordinances or Resolutions by Referendum or Initiative:

If a majority of the qualified voters voting on a proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective. No signature of the Mayor shall be required. (Amended May 7, 2005)

Section 6.08 Inconsistent Ordinances or Resolutions:

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number votes shall prevail.

Section 6.09 Ordinances or Resolutions Passed by Popular Vote, Repeal or Amendment:

No ordinance or resolution which may have been passed by the City Council upon petition or as a result of a popular vote under the provisions of this article shall be repealed or amended for a period of five (5) years, unless there is included in such ordinance or resolution a clause which establishes a lesser period of time in which said ordinance or resolution shall not be repealed or amended, or unless said ordinance or resolution is repealed or amended upon referendum vote or by submission as provided in Section 6.02 of this Charter. (Amended April 7, 1979)

Section 6.10 Further Regulations by City Council:

The City Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article not inconsistent herewith.

Section 6.11 Franchise Ordinances:

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of this Charter pertaining to ordinances granting franchises. (Amended May 7, 2005)

Section 6.12 Compelling Submission:

In the event a court of competent jurisdiction renders a final, nonappealable judgment directing issuance of a writ of mandamus compelling the City Council to comply with the duties imposed upon it by Sections 6.02 or 6.03 of this Charter the City shall pay the reasonable attorney's fees incurred by the person or persons bringing the action to compel compliance with same. (Amended April 7, 1984)

ARTICLE VII
ADMINISTRATIVE ORGANIZATION

Section 7.01 City Manager:

(A) Appointment and Qualifications. The City Council by a vote of not less than four (4) members shall appoint the City Manager for an indefinite term and fix the Manager's compensation. The City Manager shall be appointed solely on the basis of executive and administrative qualifications. The City Manager need not be a resident of the City or State at the time of appointment. The City Manager may not reside outside the City while in office without the approval of the City Council. (Amended January 18, 1992)

(B) Removal. The City Manager may be removed from office by a vote of not less than four (4) members of the City Council. The Mayor shall be entitled to vote on the removal of the City Manager. (Amended January 18, 1992)

(C) Acting City Manager. By a letter filed with the City Secretary, the City Manager may designate a City officer or employee to exercise the powers and perform the duties of the City Manager during the City Manager's temporary absence or disability. The City Council may revoke the City Manager's designation and may appoint an officer or employee of the City to serve during the City Manager's absence or disability. (Amended January 18, 1992)

(D) Powers and Duties of the City Manager. The City Manager shall be the chief administrative officer of the City, responsible to the City Council for the administration of all City affairs placed in the City Manager's charge by or under this Charter. The City Manager shall:

- (1) Appoint, suspend or remove all City employees and appointed administrative officers in accordance with the provisions of State law, this Charter and the ordinances of the City. The City Manager may delegate to an administrative officer, subject to the City Manager's direction and supervision, the authority to exercise the power to appoint, suspend or remove employees working under the administrative officer;
- (2) Direct and supervise the administration of all departments, as otherwise provided by this Charter;
- (3) Attend all City Council meetings, and participate in the discussion to the extent required by the City Council;
- (4) Provide for the faithful execution and enforcement of all laws, this Charter, and acts of the City Council;
- (5) Prepare and submit the annual budget and capital program to the City Council;

- (6) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (7) Make such other reports as the City Council may require concerning the operations of the City departments, offices and agencies subject to the City Manager's direction and supervision;
- (8) Keep the City Council fully advised as to the financial condition and future needs of the City;
- (9) Make recommendations to the City Council concerning the affairs of the City;
- (10) Provide staff support services for the Mayor, City Council members, and appointed commissions, boards, and committees; and
- (11) Perform such other duties as are specified in this Charter or as may be required by the City Council. (Amended January 18, 1992)

Section 7.02 City Secretary:

The City Manager shall appoint a qualified individual to fill the position of City Secretary. The City Secretary shall not be appointed for a definite term, but may be removed from office by the City Manager. The City Secretary shall: (Amended May 7, 2005)

- (A) Give notice of and attend all official public meetings of the City Council;
- (B) Record the minutes and proceedings of all official public meetings of the City Council; provided, however, that only the title and caption of duly enacted ordinances shall be recorded in the minutes;
- (C) Act as custodian of all official records of the City Council;
- (D) Hold and maintain the Seal of the City and affix this Seal to all appropriate documents;
- (E) Authenticate by signature and Seal, and record in a book kept and indexed for the purpose, all ordinances and resolutions of the City; and
- (F) Perform such other duties as may be required by the City Manager, the City Council, this Charter, or by State law and not inconsistent with other provisions of this Charter.

Section 7.03 Department of Police:

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

(A) Chief of Police. The Chief of Police shall be the chief administrative officer of the Department of Police. He shall appoint and remove the employees of said department and shall perform such duties as may be required of him by the City Manager. The Chief of Police shall be appointed by the City Manager for an indefinite term. The Chief of Police shall be fully responsible to the City Manager for the administration of his Department, and for the carrying out and enforcement of the resolutions and ordinances of the City Council. He may be removed from office by said City Manager. (Amended May 7, 2005)

(B) Special Police and Reserve Police. No person, except as authorized by general law, by this Charter, or by the ordinances passed pursuant hereto, shall act as a special police officer or reserve police officer. No person holding an elective office may act as a reserve police officer. (Amended April 7, 1984)

Section 7.04 Fire Department:

There shall be established and maintained a Fire Department to provide means for protection against conflagrations and other disasters and to provide for the maintenance, support, and regulation of a Fire Department and for the guarding against fires.

(A) Fire Chief. The Fire Chief shall be the chief administrative officer of the Fire Department. He shall appoint and remove the employees of said department and shall perform such duties as may be required by the City Manager. The Fire Chief shall be appointed by the City Manager for an indefinite term. The Fire Chief shall be fully responsible to the City Manager for the administration of his department, and for the carrying out and enforcement of the resolutions and ordinances of the City Council. He may be removed from office by said City Manager. (Amended May 7, 2005)

(B) Volunteer Fire Department. Authority is hereby granted to maintain a Volunteer Fire Department. No person holding an elective office may serve as a volunteer fireman. (Amended April 7, 1984)

Section 7.05 Department of Public Works:

There shall be established and maintained a Department of Public Works to provide and maintain water and sewer services and such other duties as the City Council may direct.

The Director of Public Works shall be the chief administrative officer of the Department of Public Works. He shall appoint and remove the employees of said department and shall perform such duties as may be required of him by the City Manager. The Director of Public Works shall be appointed by the City Manager for an indefinite term. The Director of Public Works shall be fully responsible to the City Manager for the administration of his Department, and for the carrying out and enforcement of the resolutions and ordinances of the City Council. He may be removed from Office by said City Manager. (Amended May 7, 2005)

Section 7.06 Department of Finance:

There shall be a Department of Finance headed by the City Manager or his appointee. The City Manager may appoint a deputy director of finance who may be the City Collector of Taxes. (Amended May 7, 2005)

Section 7.07 Other Departments, Boards and Commissions:

The City Council may abolish or consolidate any office or department except those created by this Charter. The City Council may divide the administration of any such departments as it may deem advisable and may create new departments.

The City Council shall create, establish, or appoint, as may be required by State law, circumstances, or this Charter, those Boards, Commissions, and Committees which are deemed necessary to carry out the functions and obligations of the City. The City Council shall prescribe accountability and tenure of each Board, Commission, and Committee where such are not prescribed by State law or this Charter.

**ARTICLE VIII
LEGAL AND JUDICIAL SERVICES**

Section 8.01 Municipal Court:

There shall be established and maintained a court designated as a "Municipal Court in the City of Colleyville", for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by State law relative to municipal courts. All fines imposed by said court shall be paid into the City Treasury for the use and benefit of the City.

Section 8.02 Judge of the Municipal Court:

The Judge of the Municipal Court shall be appointed by the City Council to serve at the discretion of the City Council. He shall be an attorney licensed and practicing in the State of Texas, and shall receive such salary as may be fixed by the City Council. In case of the disability or absence of the Judge of the Municipal Court, the City Council shall appoint a qualified person to act in his place.

Section 8.03 Clerk of the Municipal Court:

There shall be a clerk of the Municipal Court to be appointed by the City Manager. The clerk of the court and deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court, and generally do and perform any and all acts as usual and necessary to be performed by the clerks of courts in issuing process of said courts and conducting the business thereof. (Amended May 7, 2005)

Section 8.04 City Attorney: (Amended May 7, 2005)

The City Council shall appoint a competent and duly licensed attorney practicing law in the State of Texas, who shall be the Attorney for the City (and may also be referred to as City Attorney). He shall receive for his services such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The City Council may contract with an attorney or with a firm of attorneys who may designate one (1) member of said firm, with City Council approval, to serve as City Attorney. The City Attorney, or such other attorneys selected by him with the approval of the City Council, may represent the City in litigation. The City Council shall have the right to retain special counsel at any time they may deem it appropriate and/or necessary.

The City Attorney shall be the legal advisor of, and attorney and counsel for, the City and all officers and departments thereof and attend all meetings as deemed necessary by the City Council.

The City Attorney shall review and concur or dissent upon all documents, contracts, and legal instruments in which the City may have an interest.

The City Attorney shall perform other duties prescribed by this Charter, ordinance, or as directed by the City Council.

ARTICLE IX
MUNICIPAL FINANCE

Section 9.01 Fiscal Year:

The fiscal year of the City shall begin on the first day of October and end the last day of September of each calendar year. Such fiscal year shall also constitute the Budget and Accounting Year.

Section 9.02 Annual Budget:

(A) Content. The budget shall provide a complete financial plan of all City funds and activities and, except as required by State law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require. A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues, with reason for such changes. It shall also summarize the City's debt position and include such other material as the City Manager deems advisable. The budget shall begin with a clear, general summary of its contents, shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. The proposed budget expenditures shall not exceed the total of estimated income. The budget shall be so arranged as to show comparative figures for actual and

estimated income and expenditures of the preceding fiscal year, compared to the estimate for the budgeted year. It shall include in separate sections:

- (1) An itemized estimate of the expense of conducting each department, division and office.
- (2) Reasons for proposed increases or decreases of such items of expenditure compared with the current fiscal year.
- (3) A separate schedule for each department, indicating tasks to be accomplished by the department during the year, and additional desirable tasks to be accomplished if possible.
- (4) A statement of the total probable income of the City from taxes for the period covered by the estimate.
- (5) Tax levies, rates, and collections for the preceding five (5) years.
- (6) An itemization of all anticipated revenue from sources other than the tax levy.
- (7) The amount required for interest on the City's debts, for sinking fund and for maturing serial bonds.
- (8) The total amount of outstanding City debt, with a schedule of maturities on bond issues.
- (9) Such other information as may be required by the City Council.
- (10) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each utility giving detailed income and expenditure information shall be attached as appendices to the budget.
- (11) A Capital Program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition, and shall include the following items:
 - a. A summary of proposed programs;
 - b. A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 - c. Cost estimates, method of financing and recommended time schedules for each such improvement; and
 - d. The estimated annual cost of operating and maintaining the

facilities to be constructed or acquired.

- e. A statement indicating the relationship to, and whether each such improvement is considered with the Master Plan. (Amended November 7, 1995)

(B) Submission: The City Manager shall submit to the City Council a proposed budget and accompanying message. The City Council shall review the proposed budget and revise as deemed appropriate prior to general circulation for public hearings. (Amended April 7, 1979)

(C) Public Notice and Hearing: The City Council shall post in the City Hall and publish in the official newspaper not more than fourteen (14) days prior to each public hearing on the budget a notice stating the time and place where copies of the message and budget are available for inspection by the public, and the time and place of each public hearing on the budget. The City Council may consider, holding public hearings and adopt the budget at regular meetings called by the City Council for that purpose, notwithstanding the provisions of Section 3.11 of this Charter requiring action at two (2) consecutive regular City Council meetings. (Amended April 7, 1979)

(D) Amendment before Adoption: After the public hearings, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.

(E) Adoption: The City Council shall adopt the budget by ordinance not later than the second regular City Council meeting in September of the current fiscal year. Adoption of the budget will require an affirmative vote of at least a majority of all of the members of the City Council. Adoption of the budget shall constitute appropriations of the amount specified therein as expenditures from the fund indicated, and shall constitute a levy of the property tax therein proposed. (Amended May 7, 2005)

(F) Failure: If the City Council fails to adopt the budget by the second regular City Council meeting in September of the current fiscal year, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis with all items in it pro-rated accordingly until such time as the City Council adopts a budget for the ensuing fiscal year. The levy of property tax normally approved as a part of the budget adoption will be set to equal the total current fiscal year receipts, unless the ensuing fiscal year budget is approved by the second regular City Council meeting in September of the current fiscal year. (Amended May 7, 2005)

Section 9.03 Public Records:

Copies of the approved budget, capital improvement program, and supporting papers shall be filed with the City Secretary and shall be public records available to the public upon request.

Section 9.04 Amendments after Adoption:

(A) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council may, by Ordinance, make supplemental appropriations to retire indebtedness or to fund emergency appropriations as described in Section 9.04 in this Charter. (Amended May 7, 2005)

(B) Emergency Appropriations. To meet a public emergency created by a natural disaster or man-made calamity affecting life, health, property, or the public peace, the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the City Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time.

(C) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial actions taken by him and his recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one (1) or more appropriations.

(D) Transfer of Appropriations. At any time during the fiscal year the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, division, or office and, upon written request by the City Manager, the City Council may by ordinance transfer part or all of any unencumbered appropriation balance from one (1) department, office or agency to another.

(E) Limitations. No appropriation for debt service may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof.

(F) Effective Date. The supplemental and emergency appropriations and reduction or transfer or appropriations authorized by this section may be made effective immediately upon adoption of the ordinance.

Section 9.05 Lapse of Appropriations:

Every appropriation, (except an appropriation for a capital expenditure), shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

Section 9.06 Administration of Budget:

(A) Payments and Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriations and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligations, and he shall also be liable to the City for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

(B) Financial Reports. The City Manager shall submit to the City Council at its second formal meeting each month the financial condition of the City by budget items, budget estimates versus accruals for the preceding month and for the fiscal year to date. Such records are to be made public by the City Council during open meeting. The financial records of the City will be maintained in accordance with accepted principles recommended by the American Institute of Certified Public Accountants and by the National Committee on Governmental Accounting. (Amended April 7, 1979)

(C) Independent Audit. At the close of each fiscal year, and at such times as it may be deemed necessary, the City Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. Upon completion of the audit, the results thereof in a summary form shall be placed on file in the City Secretary's office as a public record.

Section 9.07 Borrowing:

The City Council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.

(A) General Obligation Bonds. The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and State law, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the State law.

(B) Revenue Bonds. The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and State law, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from properties, or interest therein pledged, or the income therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with State law.

(C) Bonds Incontestable. All bonds of the City having been issued and sold and having been delivered to the purchaser thereof, shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding bonds previously issued shall and after said exchange, be incontestable.

(D) Borrowing in Anticipation of Property Tax. In any Budget year, the City Council may, by resolution, authorize the borrowing of money in anticipation of the collection of the property tax for the same year whether levied or to be levied. Notes may be issued for periods not exceeding one (1) year and must be retired by the end of the budget year in which issued.

(E) Use of Bond Funds. Any and all bond funds approved by a vote of the citizens of Colleyville will be expended only for the purposes stated in the bond issue.

(F) Certificates of Obligation. All certificates of obligation issued by the City shall be approved by ordinance and issued in accordance with State law.

Section 9.08 Purchasing:

The City Council may confer upon the City Manager general authority to contract for expenditures without further approval of the City Council for all budgeted items not exceeding limits set by the City Council or State law.

Section 9.09 Specified Reserve Fund:

Specified reserve funds may be created for specific purposes, and may be used only for such purposes.

ARTICLE X TAXATION

Section 10.01 Department of Taxation:

At the discretion of the City Council, there shall be established a Department of Taxation to assess and collect taxes, the head of which shall be the City Collector which office shall be filled by appointment by the City Manager for an indefinite term. The Collector shall give a surety bond for faithful performance of his duties, including compliance with all controlling provisions of the State law bearing upon the functions of his office, in a sum which shall be fixed by the City Council at not less than one hundred thousand dollars (\$100,000). (Amended May 7, 2005)

Section 10.02 Power to Tax:

The City Council of the City shall have the power, and is hereby authorized to levy, assess and collect, not to exceed the maximum limits set by the Constitution and State law, on each one hundred dollar (\$100.00) assessed valuation of all property having a situs within the corporate limits of the City and not exempt from taxation by the Constitution and State law.

Section 10.03 Limitation on Tax Rate:

The maximum tax rate shall not exceed one dollar and fifty cents (\$1.50) on the one hundred dollars (\$100.00) valuation of taxable property within the City. Any tax rate set per budget year shall not result in an ad valorem tax revenue increase greater than seven percent (7%) of the total ad valorem tax revenue collected in the preceding budget unless authorized by the voters of the City at a special election. (For the purpose of the preceding limitation, any additional ad valorem tax revenue generated or attributable to construction within a preceding budget year shall not be considered in determining whether the tax revenue increase is more than seven percent (7%) of the preceding budget year). (Amended April 7, 1984)

Section 10.04 Taxes - When Due and Payable:

All taxes due the City of Colleyville shall be payable at the office of the City Tax Collector and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October 1st. Taxes shall be paid on or before January 31st, and all such taxes not paid on or prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as authorized by State law. Failure to levy and assess taxes through omission in preparation of the approved tax roll shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipt for the years in question. (Amended May 7, 2005)

Section 10.05 Tax Liens:

The tax levied by the City is hereby declared to be a lien, charge, or encumbrance upon the property as of January 1st of any year, upon which the tax is due, which lien, charge

or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property is such as to give the State Courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this State or person whose residence is unknown, but as against non-residents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, and such lien may be foreclosed in any court having jurisdiction. Such lien shall be entitled to that priority as allowed by State law.

In addition to the lien herein provided, on the first day of January of any year the owner of real and personal property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City Assessment Rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property intended to be assessed, to prove the same, and to have its judgment foreclosing the tax lien and/or personal judgment against the owner for such taxes. (Amended May 7, 2005)

ARTICLE XI PLANNING AND ZONING, BOARD OF ADJUSTMENTS

Section 11.01 The Planning and Zoning Commission:

There shall be established a Planning and Zoning Commission, which shall consist of seven (7) citizens of the City of Colleyville. Members of said Commission shall be appointed by the City Council for a term of two (2) years and will serve at the will and pleasure of the City Council. Three (3) members of the Planning and Zoning Commission shall be appointed each odd numbered year and four (4) members shall be appointed each even numbered year. The Commission shall elect a chairman from its membership and shall meet in the City Hall not less than once each month. The chairman of the Commission shall be a voting member. Vacancies created by resignation, removal by vote of a majority of the City Council, or by any other reason shall be filled by the City Council for the remainder of the term. A majority of the members shall constitute a quorum; however, no action shall be approved with less than four (4) affirmative votes. Attendance requirements for members shall be the same as for members of the City Council. The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation. (Amended May 7, 2005)

Section 11.02 Powers and Duties:

The Planning and Zoning Commission shall:

- (A) Recommend a City Plan for the physical development of the City.
- (B) Recommend to the City Council, approval or disapproval of proposed changes in the Zoning Plan.

(C) Exercise control over the platting or subdividing of land within the corporate limits of the City and outside same corporate limits to the extent authorized by State law; provided, however, this grant of authority shall not limit the City Council's right to provide that the City Council shall have final approval of plats, as provided by State law (Amended April 4, 1981)

The Commission shall be responsible to and act as an advisory body to the City Council, and shall have and perform such additional duties as may be prescribed by ordinance.

Section 11.03 The Master Plan:

The Master Plan for the physical development of the City of Colleyville shall contain the Commission's recommendations for growth, development and beautification of the City. A copy of the Master Plan, or any part thereof, shall be forwarded to the City Council, which may adopt this plan in whole or in parts, and may adopt any amendment thereto after at least one (1) public hearing on the proposed action. The Commission shall act on such plan, or part thereof, and again forward it to the City Council for consideration.

All amendments to the Master Plan recommended by the Commission shall be submitted in the same manner as outlined above to the City Council for approval, and all other recommendations affecting the Master Plan shall be accompanied by a recommendation from Planning and Zoning Commission.

Section 11.04 Legal Effect of the Master Plan:

Upon adoption of the Master Plan by the City Council, no subdivision, street, park, or any public way, ground or space, public building or structure, or public utility, whether publicly or privately owned, which is in conflict with the Master Plan shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to the Commission and approved by the City Council. In case of Commission disapproval, they shall communicate their reasons to the City Council, which shall have the power to overrule such disapproval. The widening, narrowing, relocating, vacating, or change in the use of any street, alley, or public way, or ground, or sale of any public building or real property, shall be subject to similar submission and approval of the Planning and Zoning Commission and failure to approve may be similarly overruled by the City Council. (Amended May 7, 2005)

Section 11.05 Zoning Board of Adjustment:

There shall be a Zoning Board of Adjustment as specified by State law. Vacancies which are created by resignation, or for any other reason shall be filled by the City Council for the remainder of the term. (Amended May 7, 2005)

Section 11.06 Separation of Planning and Zoning Commissions:

The City Council may by ordinance, at such time as deemed in the best interest of the citizens of Colleyville, create a separate Commission to perform the duties of Planning. This Commission shall have the same structure as provided for the Zoning Commission in

Section 11.01, and will perform all duties listed in Section 11.01 through 11.05 of this Charter, for Planning only. The Zoning Commission will perform only the duties described in the same Sections for Zoning, and as advisory board to the Planning Commission.

ARTICLE XII FRANCHISES, PUBLIC UTILITIES AND OTHER USERS OF PUBLIC PROPERTY

Section 12.01 Powers of the City:

In addition to the City's power to buy, construct, lease, maintain, operate, and regulate public utilities and other users of public property, including, but not limited to users of the public rights-of-way, streets and utility easements, within or without the City Limits, and to manufacture, distribute and sell the commodities or products of such utility operations required and used by the public, the City shall have such further powers as may now or hereafter be granted under the Constitution and State law. Such powers to regulate the use of public property includes, but is not limited to, the right to require relocation of facilities in the public rights-of-way, streets and utility easements, within or without the City Limits, at the facility owners cost for any City public works project to the fullest extent allowed the City now and as may hereafter be permitted by the Constitution and State law. (Amended May 7, 2005)

Section 12.02 Power to Grant Franchise:

The City Council shall have the power by ordinance to grant, renew, and extend all franchises for all public utilities of every character and consents and agreements as to all other users of public property, including, but not limited to users of the public rights-of-way, streets and utility easements, operating within the City and, with consent of the franchise holder, to amend the same, provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than twenty (20) years from the date of the grant, renewal or extension. City Council action on all ordinances granting, renewing, extending or amending a public utility franchise shall comply with the applicable provisions set forth in Section 3.11 of this Charter. (Amended May 7, 2005)

Section 12.03 Grant Not to be Exclusive:

No grant or franchise to construct, maintain or operate a public utility and no renewal or extension of such grant or franchise shall be exclusive.

Section 12.04 Transfer of Franchise:

No public utility franchise shall be transferable except with the approval of the City Council as expressed by ordinance. The term "transferable", as used herein, shall not be construed in such manner as to prevent the franchise holder from pledging said franchise as security for a valid debt or mortgage. (Amended May 7, 2005)

Section 12.05 Right of Regulation:

All grants, renewals, extensions, or amendments of public utility franchises and consents and agreements as to all other users of public property, including, but not limited to users of the public rights-of-way, streets and utility easements, whether it be so provided in the ordinance or not, shall be subject to the right of the City: (Amended May 7, 2005)

- (A) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (B) To require an adequate extension of plant and service as is necessary to provide adequate service to the public, and maintenance of the plant and fixtures at the highest reasonable standard of efficiency.
- (C) To impose regulations to insure safe, efficient and continuous service to the public.
- (D) To require at any time such compensation and rental as may be permitted by State law.
- (E) To require the franchisee to restore at the franchisee's expense, all public or private property to a condition equally as good as or better than before disturbed by construction, repair or removal. The franchise holder in opening and refilling of all earth openings shall re-lay the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good or better as when disturbed.
- (F) To require every franchisee to furnish within a reasonable time to the City, without cost to the City, a general map, with updates outlining the location, character, size, length, and terminals of all facilities of such franchisee in, over, and under ground of property in the City and to provide detailed information on request.

Section 12.06 Extensions:

All extensions of service of public utilities and of all other users of public property, including, but not limited to users of the public rights-of-way, streets and utility easements, within the City limits shall become a part of the aggregate property of the public utility, shall operate as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 12.05 of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant. (Amended May 7, 2005)

Section 12.07 Regulation of Rates:

The City Council shall have full power after due notice and hearing to regulate by ordinance the rates, charges and fares of all public utility franchise holders providing gas, electric, water and sewer utility service within the City provided that no such ordinance shall be passed as an emergency measure. All such franchise holders who shall request an increase in rates, charges, or fares shall have, at the hearing of the City Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence the value of its investment properly allowable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service. If, upon such hearing, the City Council is not satisfied with the sufficiency of the evidence so furnished, it shall be entitled to call upon such public utility for the furnishing of additional evidence at a subsequent date to which said hearing may be adjourned. No public utility franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the City Council until such franchise holder has filed a motion for rehearing with the City Council for a specific date setting out each ground of its complaint against the rate, charge, or fare fixed by the City Council, and until the City Council shall have acted upon such motion. Such motion shall be deemed overruled unless acted upon by the City Council within a reasonable time, not to exceed sixty (60) days from the filing of such motion for rehearing; provided, that the City Council may by resolution extend such time for acting on said motion for rehearing from sixty (60) days to ninety (90) days. The City shall have the power to employ at the expense of the franchise holder, expert assistance and advise in determining a reasonable rate and equitable profit to the franchise holder.

Section 12.08 Public Service Corporations to File Annual Reports:

The City Council shall require all public service Corporations operating within the corporate limits of the City to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the City Council may deem pertinent for its use including reports on operations within the City in intelligently passing upon any questions that may arise between the City and said public service corporations; said reports to be filed with the City Secretary, and preserved for the use of the City Council. Such reports shall be reviewed annually by the City Council to determine the propriety of the rates being charged.

Any public service corporation, partnership, or proprietorship who shall for a thirty (30) day period willfully refuse or fail to report in the manner provided by this Charter shall forfeit and pay to the City the sum of one hundred dollars (\$100.00), per day for each and every day during which it shall continue in default; or, if any such enterprise shall file any report, knowing that the same does not truly report the facts about the matters mentioned therein, it shall forfeit and pay to the City the sum of one thousand dollars (\$1,000.00) for each such willfully false report and shall be liable for submittal of a corrected report within two (2) weeks from notification by the City of any errors under the same penalty provisions as the original report.

Section 12.09 Accounts of Municipally Owned Utilities:

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets, appropriately subdivided into different classes, all liabilities subdivided by classes, depreciation reserve, and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions and improvements and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other city or governmental department. The City Council shall annually cause to be made by a certified public accountant and shall publish a report showing the financial results of such City ownership and operation, giving the information specified in this Section and such other data as the City Council shall deem expedient.

Section 12.10 Sales of Municipal Services:

The City Council shall have the power and authority by ordinance:

(A) In or outside the limits of the City, to sell and distribute water; sell and provide sewer service; sell and provide garbage and trash collection disposition; and to sell and provide other municipal services, including but not limited to cable television services, telecommunications services, information services and other electronically transmitted services, whether transmitted by radio waves, light wave or impulses, by digital transmissions or otherwise, unless expressly prohibited by the State or Federal law. (Amended May 7, 2005)

(B) To establish specifications for materials and construction used within or beyond the limits of the City for such municipal services; inspect same and require such materials to be kept in good order and condition at all times; make such rules and regulations as shall be necessary and proper; and prescribe penalties for noncompliance with same.

Section 12.11 Franchise Records:

The City shall compile and maintain a public record of public utility franchises.

ARTICLE XIII TRANSITIONAL PROVISIONS

Section 13.01 Schedule:

(A) This Charter shall take effect immediately following adoption by the voters, and shall be fully operable within one (1) year after adoption, except as provided in paragraph C of this section.

(B) Upon adoption of this Charter, the present Mayor and members of the City Council filling elective offices shall continue to fill those offices for the terms to which they were elected. The City Council shall be elected as provided in Article 3 of this Charter. Persons, who on the date this Charter is adopted, are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the City Council or by other means provided for in this Charter or State law. (Amended May 7, 2005)

(C) Prior to the initial election of the City Council Person for Place 6, the following provisions shall apply: (Amended May 7, 2005)

- (1) The Mayor shall retain veto powers, and the process and procedures thereto as, permitted by the Charter dated December 7, 1995.
- (2) The Mayor shall vote only in case of a tie or to vote to remove the City Manager,
- (3) Special meetings of the City Council may be held on the call of the Mayor or three (3) members of the City Council,
- (4) No action shall be approved with less than three (3) affirmative votes of the City Council, and
- (5) Any two (2) members of the City Council may request an entire ordinance to be read at the first and second readings of an ordinance.

Section 13.02 Officers and Employees:

(A) Rights and Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(B) Personnel System. An employee holding a City position at the time this Charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system.

Section 13.03 Preservations of Contract Rights:

All rights, claims, actions, orders, contracts, franchises, and legal or administrative proceedings in existence at the time of the adoption of this Charter shall continue until consummation. All renewals or new rights, claims, actions, orders, contracts, franchises, and legal or administrative proceedings arising after the adoption of this Charter shall be conducted pursuant to the Charter.

Section 13.04 Franchises:

Within six (6) months after the effective date of the adoption of the original Charter, every public utility and every owner of a public utility franchise shall file with the City certified copies of all franchises owned or claimed, or under which such utility is operated in the City.

ARTICLE XIV GENERAL PROVISIONS

Section 14.01 Publicity of Records:

All record and accounts of every office, department, or agency of the City shall be open to inspection by any individual subject to public inspection as provided by State law .
(Amended May 7, 2005)

Section 14.02 Personal Financial Interest: (Amended May 7, 2005)

This section shall apply to all elected and appointed City officials, members of commissions, boards, committees and City employees.

(A) Misuse of Office. No person shall use his office, position or employment in an unlawful manner or in a manner calculated to obtain a financial benefit or a commercial benefit that would not be available to someone not holding such office or position

(B) Contracts. A person, who is subject to this section and has a direct interest in any proposed or existing contract, purchase, work, sale or service to or by the City, shall not participate in discussions thereon, render a decision thereon, or vote thereon.

(C) Discretionary Authority. No person shall make a decision or exercise their discretionary authority with regard to an entity in which he or she has a financial interest as prohibited by State law.

(D) No person shall grant, accept or solicit in the discharge of his official duties any favor or personal benefit, service or thing of value to any person or entity in violation of State law.

(E) Notice. Any person who shall have a conflict of interest under paragraph B above shall file a sworn statement describing in reasonable detail such conflict with the City Secretary no later than either the beginning of the meeting at which the matter will first be discussed or acted upon, or the time at which the potential conflict first becomes known to the person, whichever occurs first.

(F) Citizen Complaints. Any citizen of the City may file with the City Secretary a statement of suspected conflict of interest. Such statement of suspected conflict of interest shall be filed within fifteen (15) days of the decision, vote, or other event

giving rise to an asserted violation of paragraph C above, and shall describe the complained of conflict in reasonable detail. The City Council, or its designee, shall respond in writing to a timely filed statement of suspected conflict of interest, and the statement of suspected conflict of interest and response of the City Council shall be maintained in the public records of the City.

(G) Oath. Upon the election, appointment, or employment of any person by the City, they shall sign a statement acknowledging that they have read and are familiar with the provisions of this Section of the Charter, and all other sections of State law pertaining to the conflict of interest, and these statements shall be maintained as public record of the City.

(H) Removal from Office. Failure to comply with any of the provisions of this Section shall constitute malfeasance in office and upon a finding by a Court of competent jurisdiction of said violation, the person shall immediately forfeit their position or office and such position or office shall be deemed vacant.

(I) Contracts Voidable. Any violation of part C of this Section in the approval process of any contract shall make said contract voidable by the City.

(J) The City Council may adopt by ordinance, a code of ethics and conduct that is consistent with the provisions of this Charter.

Section 14.03 Nepotism:

No person related within the second degree by affinity, or within the third degree by consanguinity to any elected officer of the City, or to the City Manager, shall be appointed to any office, position or clerkship or other service to the City. This prohibition shall not apply; however, to any person who shall have been continuously employed by the City for a period of two (2) years prior to the election of the Mayor, City Council Person or appointment of the City Manager so related to him. This provision shall not apply to volunteer services to the City.

Section 14.04 Official Bond for City Employees:

The City Council shall require bonds of all municipal officers and employees who receive or disburse any funds of the City. The amount of such bonds shall be determined by the City Council and the cost thereof shall be paid by the City.

Section 14.05 Tort Liability:

Before the City shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, which does not constitute a taking or damaging of property under the Constitution of the State of Texas, the person injured, if living, or his representatives, if deceased, or the owner, his agent or attorney of the property damaged or destroyed shall give the City Manager or City Secretary notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within one hundred twenty (120) days after same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction occurred,

and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. No action at law for damages shall be brought against the City for such death, injury, damage or destruction prior to the expiration of sixty (60) days after the notice hereinbefore described has been filed with the City Manager or the City Secretary. (Amended November 7, 1995)

Section 14.06 Severability Clause:

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 14.07 Effect of Charter on Existing Laws:

All codes, ordinances, resolutions, rules and regulations in force on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by the City Council. All taxes, assessments, liens, encumbrances and demands, of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under State law in force at the time of the beginning of such proceedings or under State law after the adoption of this Charter. All rights of the City under existing franchises and contracts and all existing authority for the issuance of bonds, granted prior to adoption of this Charter, shall be preserved in full force and effect.

Section 14.08 Applicability of General Laws:

The Constitution of the State of Texas, State law applicable to Home-Rule Municipal Corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall in the order mentioned, be applicable to the City of Colleyville, but the City shall also have the power to exercise any and all powers conferred by State law upon any kind of city, town, or village, not contrary to the provisions of said home-rule status, Charter and ordinances, but the exercise of any such powers by the City of Colleyville shall be optional with it, and it shall not be required to conform to State law governing any other cities, town or villages unless and until by ordinance it adopts same.

Section 14.09 Property Not Exempt from Special Assessments:

No property of any kind, by whomsoever owned or held or by whatsoever Institution, Agency, political subdivision or organization, owned or held, whether in trust or by non-profit organization, or corporation, or by "foundation", or otherwise, (except property of the City of Colleyville, Texas, independent school districts, and other tax supported institutions), shall be exempt in any way from any of the Special Taxes, Charges, Levies and Assessments, authorized or permitted by this Charter, for Local Improvements for the public welfare.

Section 14.10 Amending the Charter:

Amendments to this Charter may be framed and submitted to the voters in the manner provided by State law, but in no event more frequently than once every two years.
(Amended April 7, 1979)

Section 14.11 Judicial Notice:

This Charter shall be deemed a Public Act and shall have the force and effect of a General Law, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all Courts and places.

Section 14.12 Gender of Wording:

The masculine gender of the wording used throughout this Charter shall always be interpreted to mean either sex.

SUBMISSION OF CHARTER TO VOTERS

The Charter Commission in preparing this Charter, finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Colleyville at an election to be held for that purpose on the 15th day of January, 1977. Not less than thirty (30) days prior to such an election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Colleyville as appears on the latest voters' registration list.

The present City Council of the City of Colleyville shall call such election in accordance with the provisions of the general laws of the State governing such elections, and the same shall be conducted and the returns made and results declared as provided by the laws of the State of Texas governing municipal elections. If a majority of the votes cast at such election shall be in favor of the adoption of such Charter, then an official order shall be entered upon the records of said City by the City Council of Colleyville declaring the same adopted, and the City Secretary shall record at length upon the records of the City, in a separate book to be kept in his office for such purpose, such Charter as adopted, and such Secretary shall furnish to the Mayor a copy of the Charter, which copy of the Charter shall be forwarded by the Mayor as soon as practical, to the Secretary of State under the seal of the City, together with a certificate showing the approval of the qualified voters of such Charter.

We, the undersigned members of the Charter Commission heretofore duly elected to prepare a Charter for the City of Colleyville, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter for the City of Colleyville, Texas, as unanimously adopted by the members thereof, and the undersigned do hereby recommend its submission to the qualified voters of said City as provided by law.

COMPLETED AND SUBSCRIBED TO on this the 11th day of November, 1976, at Colleyville, Texas.

BARBARA ANDREWS
TOMMY ELLISON
OPAL ETHRIDGE
H.L. GIBSON
WANDA JOHNSON

LEONARD LEAR
LOWELL LONNON
LOUIS MILLER
JAMES MOORE
JONI NEELY

FRANK RAWLS
D.B. SCROGGINS
MAX SUMMERS
LINDA THOMPSON
FRANK WHITMIRE

CHARTER COMMISSION, CITY OF COLLEYVILLE, TEXAS.

HOME RULE CHARTER

for the

CITY OF COLLEYVILLE, TEXAS

CHARTER AMENDMENT ELECTION MAY 7, 2005

COLLEYVILLE CITIZENS CITY CHARTER REVIEW COMMITTEE

James Moore
Ed Baker
Linda Bond

Steve Magee
Louis C. Miller
Richard Newton

Brad Rice
Mike Taylor
Frank Whitmire

**REPORT
OF THE
COLLEYVILLE CITIZENS' CHARTER
REVIEW COMMITTEE
JULY 28, 2016**

Respectfully submitted,

**Frank Carroll, Chair
Michael Muhm, Vice Chair
Claudia Bevill
Vince Hawkins
Rich Hendler
David Medlin
Shirley Schollmeyer
Nelson Thibodeaux
Steve Walters
Tim Weymouth**

TABLE OF CONTENTS

	<u>Page</u>
Table of Contents	i
I. Background	1
II. Items Covered By Appointing Resolution	2
III. Meetings of the Committee	2
IV. Committee Discussions and Rationales	4
V. Additional Recommendations of the Committee	7
VI. Conclusion	8

Appendices

App. A - Resolution R-16-4007

App. B - Agenda and Minutes of Committee Meeting of July 6, 2016

App. C - Agenda and Minutes of Committee Meeting of July 14, 2016

App. D - Proposed Amendment to Charter of City of Colleyville Section 3.01A -
Limitation on Terms

App. E - Proposed Amendment to Section 3.09(C) to Charter of City of Colleyville

App. F - Proposed Amendments to Sections 7.02, 7.03(A), 7.04(A), 7.05 and 7.06 to
Charter of City of Colleyville

App. G - Proposed Amendment to Article XIII to Charter of City of Colleyville

App. H - Proposed Amendment to Section 14.02 to Charter of City of Colleyville

App. I - *Corpus Christi People's Baptist Church v. Nueces County Appraisal Dist.*, 904
S.W.2d 621 (Tex. 1995)

App. J - *Tarrant County v. Ashmore*, 635 S.W.2d 417 (Tex. 1982)

App. K - Tex. Atty. Gen. Op. No. GA-0356 (2005)

App. L - Tex. Atty. Gen. Op. No. JM-1233 (1990)

App. M - Ordinance O-02-1322

App. N - Ordinance O-13-1896

**REPORT
OF THE
COLLEYVILLE CITIZENS' CHARTER
REVIEW COMMITTEE**

Honorable Richard Newton, Mayor and Members of the City Council

The following Report of the Colleyville Citizens' Charter Review Committee ("CRC" or "Committee") is respectfully submitted in accordance with Resolution R-16-4007¹ unanimously adopted by the Colleyville City Council on June 21, 2016.

In summary, this Report outlines the meetings of the CRC, summarizes the Committee's discussions and rationale for certain of its proposals and for additional matters considered, contains the proposed amendments to the Charter of the City of Colleyville ("Charter") as unanimously adopted by the Committee and makes additional recommendations for matters to be considered by the Mayor and the City Council.

On behalf of the entire Committee, we wish to thank Mayor Newton and the members of the City Council for the opportunity to serve on the Committee and to provide representative citizen input regarding the fundamental governing document for our City, the Charter.

The Committee also wishes to express its special thanks to Assistant City Manager Michael Holder for his assistance in facilitating the Committee's completion of its assigned tasks. The Committee would also like to express its thanks to City Manager Jennifer Fadden, Project Coordinator James Hubbard and City Secretary Amy Shelley for their assistance. Finally, the Committee expresses its thanks to Mayor Newton, Councilman Lindamood and Councilwoman Nakamura for taking time to attend the meetings of the Committee.

I. BACKGROUND

On July 21, 2016 the City Council of the City of Colleyville unanimously adopted Resolution R-16-4007 appointing a Colleyville Citizens' Charter Review Committee. The Resolution appointed ten Colleyville citizens as members.

Frank Carroll, Chair
Michael Mumm, Vice Chair
Claudia Bevill
Vince Hawkins
Rich Hendler
David Medlin
Shirley Schollmeyer
Nelson Thibodeaux
Steve Walters
Tim Weymouth

¹ A copy of Resolution R-16-4007 is included in the Appendix, App. A.

The Resolution also set a specific and very compressed timetable for the Committee to complete its assigned tasks directing that the Committee's recommendations should be finalized and presented to the City Council by July 29, 2016.

II. ITEMS COVERED BY APPOINTING RESOLUTION

The Resolution directed the Committee to consider amendments to Sections 3.01, 3.09(C), 7.02, 7.03(A), 7.04(A), 7.05, 7.06 and 14.02(K) of the Charter of the City of Colleyville. Although the sections proposed for review were considered and voted on by the Committee individually, the proposed revisions to various subsections of Section 7 of the Charter are substantially identical and are discussed in this Report as a single group.

In addition to the items specifically listed in the Resolution, the Committee determined that certain other sections of the Charter were in need of revision. Consequently, in addition to the sections listed in the Resolution, this Report proposes minor additional amendments to Sections 7.02 and 7.06, the deletion of Article XIII and amendments to Section 14.02(F). Although these sections were not specifically mentioned in the Resolution, the Resolution does not prohibit, and appears to contemplate, that the Committee may consider other possible revisions to the Charter. Section 5 of the Resolution provides that the Committee responsibilities "may include" the specific listed items, but by using the permissive term does not preclude other matters from being considered by the Committee.

Due to the compressed time frame, the Committee elected not to venture beyond the general scope of the Charter Sections included in the Resolution, with the exception of Article XIII. In that respect, the Committee's deliberations and this Report should not be construed as taking any position on whether the Charter should be subject to a more wide-ranging review or whether there exist other Charter sections which should be amended or repealed.

III. MEETINGS OF THE COMMITTEE

A. July 6, 2016 – First Meeting

Although the Committee had planned to conduct up to four meetings, if necessary, the Committee was able to complete its work in only two meetings.

The first meeting was held on July 6, 2016.² The first meeting was attended by 9 of the 10 Committee members and lasted approximately two hours.

The Chair of the Committee presented drafts of proposed amendments to all of the sections of the Charter identified in the Resolution. He then generally described the nature, content and impact of each of the draft amendments.

² A copy of the July 6, 2016 Agenda is included in the Appendix, App. B.

The Chair then advised that the purpose of this first meeting was to engage in a general discussion of the draft amendments, respond to questions regarding the drafts, and consider possible recommendations for any other sections of the Charter which any member of the Committee wished to have considered. To encourage discussion and the exchange of ideas, the Chair stated that this first meeting was to be an informal discussion session and that Robert's Rules of Order would not be applicable.

As reflected by the very detailed and precise minutes prepared by City Secretary Shelly,³ there was extensive discussion of the identified sections of the Charter as well as other sections thought worthy of consideration by Committee members.

In summary, the Committee suggested the following changes, additions, deletions or substitutions to the draft amendments:

1. Section 3.01(A) Limitations on Terms was to be revised to clarify the application of the 12 consecutive year limitation.
2. Section 7.02 City Secretary was to be modified to add the phrase "for an indefinite term."
3. Section 7.06 Department of Finance was to be modified to add the phrase "for an indefinite term."
4. A proposal was to be prepared which would repeal Article XIII Transitional Provisions.
5. Section 14.02(F) was to be added to the other proposed revisions to Section 14.02 to clarify the time frame in which a citizen could file a complaint regarding a violation of Section 14.02 Personal Financial Interest.

The Chair of the Committee was charged with revising the draft and submitting them to the Committee prior to the meeting scheduled for July 14, 2016. The revised draft of proposed amendments was submitted to the Committee members on July 11, 2016.

B. July 14, 2016 – Second Meeting

The Committee met for the second time on July 14, 2016.⁴ The Chair indicated that it was his intention to proceed to vote individually on each of the proposed amendments, and if possible, to complete all voting by the conclusion of the meeting. The Chair further advised that this meeting would be conducted in accordance with Robert's Rules of Order.

It should be noted that two members who had been present at the first meeting were unable to attend the second meeting. After being advised at the first meeting of the two

³ A copy of the July 6, 2016 Minutes is included in the Appendix, App. B.

⁴ A copy of the July 14, 2016 Agenda is included in the Appendix, App. C.

members' inability to attend, the Chair requested the Assistant City Manager to inquire of the City Attorney as to the ability of the two members to attend by telephone conference and vote either orally or by written proxy. The City Attorney advised the Assistant City Manager that a member must be in actual attendance to be able to cast a recorded vote.

Although the vote could not be officially counted, the Chair emailed all Committee members stating the foregoing and offering to present any comments an absent member might wish to make on the drafts and their unofficial vote both to the other Committee members and to the City Council. Unfortunately, neither absent member was able to participate in the manner suggested.

At the meeting and after discussion, a roll call vote was taken individually on each of the proposed amendments. All of the proposed amendments were adopted unanimously by the Committee, with no abstentions, as reflected by the minutes.⁵

IV. COMMITTEE DISCUSSIONS AND RATIONALES

The discussions of the Committee were virtually unanimous in agreeing on the rationales and need for the proposed amendments. The minutes of the meetings reflect the almost universal agreement on the exact amendments now being presented by the Committee to the Mayor and City Council. However, a summary of the Committee discussions and reasoning may be useful in understanding the unanimous result of the Committee's deliberations and votes.

A. Voting Procedures.

The amendment to Section 3.09(C) to clarify voting methods was adopted with little discussion. It was the opinion of the Committee that it should be made clear that "aye or nay" votes were not required on procedural notions and/or nominations to City boards, commissions or committees.

The Committee believes the amendment makes clear that the traditional practice of voting by name on each candidate is not prohibited by the Charter. Likewise the Committee was of the opinion that electronic voting should be authorized at such time as the City had that capability.

B. City Positions Created in the Charter, Council Approval.

The Resolution proposed to add the requirement that for the major City positions designated in the Charter (City Secretary, Chief of Police, Fire Chief, Director of Public Works and Head of the Department of Finance) the City Council must be presented with and approve the proposed employment of those persons.

The Committee discussed the fact that such required approval had been originally in the Charter and that it was unclear to the Committee as to why the approval requirements had been

⁵ A copy of the July 14, 2016 Minutes is included in the Appendix, App. C.

removed. Nevertheless, the Committee was of the opinion that for such public, powerful and important City positions the citizens' elected representatives should approve the initial hiring.⁶

C. Financial Disclosures.

The Resolution proposed to add a new Section (K) to Section 14.02 to be entitled Personal Financial Interest. The purpose of the addition was to require elected, appointed, or hired personnel, as well as candidates for election or appointment, to disclose financial interests that might be impacted or give rise to an appearance of conflict by virtue of the person's position with the City of Colleyville.⁷

The Committee was of the opinion that such financial disclosure requirements should apply to the Mayor and members of the City Council, Planning and Zoning Commission, Zoning Board of Adjustment and candidates for any of those positions. Also, the Committee was of the opinion that such disclosure requirements should include the department heads who would be appointed pursuant to the proposed amendments to Section 7 of the Charter and which would, if adopted, require City Council approval for appointment. Finally, the Committee was of the opinion that these disclosure requirements should apply to the City Manager and all of the City Manager's senior staff. Because job titles change it was thought appropriate not to further define "senior staff," but it was the Committee's intent to include, at a minimum, persons with the power to act in the City Manager's absence, the power to legally bind or commit the City to contracts, and those authorized to take official positions on behalf of the City.

Amendments to Section 14.02 beyond those suggested in the Resolution were also considered and adopted by the Committee. Those amendments will be discussed in a subsequent section of this Report.⁸

D. Term Limits.

The Resolution directed the Committee to consider an amendment to the Charter that would impose a two term limit on a person serving in the Office of Mayor or as a member of the City Council. The Committee was unanimous in its discussions and recommendations that term limits were needed and that a two term limit on service in the office of Mayor or as a member of City Council was an appropriate time period. The Committee also unanimously concurred in recommending a one full term interruption in continued service before a candidate was eligible to run again for the same office.

The Committee did consider three possibilities for implementing the proposed term limits. One possibility would be to implement the limitation immediately upon passage of the amendment. The impact of this would be that any sitting Mayor or City Council member who had already served more than two consecutive terms or 12 consecutive years in the combined

⁶ The minor additional amendments to Sections 7.02 and 7.06 are discussed, *infra*, at paragraph V of this Report.

⁷ Financial disclosures had previously been regulated by ordinance. Those ordinances, and the need for their possible revision or repeal, is discussed *infra* at paragraph V.

⁸ See *infra* at paragraph V.

office of Mayor and City Council would be deemed to have automatically resigned or had been automatically removed from office.

Members of the Committee inquired as to whether this could be done retroactively. The Chair advised that both the Texas Supreme Court and the Texas Attorney General had concluded that there was no legal barrier prohibiting the citizens, by charter amendment, from imposing term limits on sitting members of the City Council.⁹

The second alternative considered was to implement the proposed amendment at the next city election. Such would not require the removal or resignation of any sitting Mayor or City Council member but would apply to all sitting members making ineligible any person who had served two consecutive terms as Mayor or a City Council member, or more than 12 consecutive years in the combined office of Mayor and City Council.

The third alternative considered was to grant special dispensation to some or all persons currently sitting as Mayor or as a City Council member thereby exempting them from the impact of the amendment if adopted by the citizens of Colleyville.

Although several Committee members indicated a strong interest in applying the amendment retroactively to remove sitting members who had exceeded term limits, after discussion, it was unanimously agreed that such was not the best course for the City. First, it might impact the ability of the City Council to perform its scheduled duties until a replacement was appointed, if appropriate, for any term limited person, or a special election was held to fill the vacancy if required. The Committee also considered the cost of holding a special election and the need to conserve taxpayer funds.

The Committee also rejected, the vote being unanimous,¹⁰ the suggestion that any sitting member be given an exemption or special dispensation from the application of a Charter amendment adopted by the citizens of the City of Colleyville. It was the opinion of the Committee that there should be no special treatment given to any person and that the new charter provision should apply immediately to all office seekers at the next election.

The only rationale suggested for giving certain sitting members an exemption was that having experienced members would provide "an institutional memory." The Committee

⁹ Copies of the two Texas Supreme Court opinions and the two Texas Attorney General opinions are included in the Appendix, Apps I-L. Pertinent portions of the same have been highlighted. The Texas Supreme Court held in *Corpus Christi People's Baptist Church, Inc. v. Nueces County Appraisal Dist.*, 904 S.W. 2d 621, 626 (Texas 1995) that "unless vested rights are destroyed or impaired, a law is not invalid even though retroactive in operation." Further, the Texas Supreme Court held in *Tarrant County v. Ashmore*, 635 S.W. 2d 417, 422 that a public officer "has no vested right in the office held by him." Finally, the referenced Attorney General's opinions make clear that public officer positions may be changed "even though terms of some incumbent trustees will be shortened." Atty. Gen. Op. GA-0356 at p. 3. "If a city charter term limit provisions applies to service as a city officer prior to its adoption, it does not impair a vested right and therefore is not a 'retroactive law' prohibited by Article I, section 16 of the Texas Constitution." *Id.*

¹⁰ At the first meeting, one member of the Committee, who was unable to attend the second meeting, expressed the view that the amendment should not apply to sitting members.

concluded that because the terms of office are staggered and the City Manager and staff provide any necessary “institutional memory,” the amendment should apply in the next City election.

The Committee therefore determined that between the two poles of retroactive application and deferral for 6 years, the best, fairest and middle ground compromise would be to not immediately remove someone from office or give someone a six year pass on compliance. Rather it was the unanimous vote of the members of the Committee adopting the proposed amendment to apply it to all persons running in the next and all future city elections.¹¹

V. ADDITIONAL RECOMMENDATIONS OF THE COMMITTEE

The Committee, as permitted by the Resolution, also considered several other amendments not specifically identified in the Committee’s charge. Most of the amendments were of a housekeeping or clarification nature and were unanimously approved by the Committee.

A. Section 7.02 and 7.06.

These two sections did not contain the language “for an indefinite term” as contained in all of the other subsections of Section 7 being proposed for amendment to add the phrase “with the approval of City Council.” As a housekeeping matter and to insure consistency the Committee proposes that the phrase “for an indefinite term” be added to Sections 7.02 and 7.06 of the Charter.

B. Article XIII Transitional Provisions.

As another housekeeping matter the Committee proposes that Article XIII Transitional Provisions be repealed since Article XIII concerns matters occurring during the expired transition period in which the City converted from a 5 to 6 person City Council and the Mayor was authorized to vote only in limited circumstances.

C. Section 14.02.

In addition to adding subsection (K) discussed above, which was included in the Committee’s charge, the Committee also proposes to amend subsection 14.02(F) and add subsection 14.02(L). The amendment to subsection (F) adds language which gives a citizen more time to file a complaint regarding a violation of Section 14.02’s disclosure requirement. If a violation occurs by virtue of a vote or a decision (e.g. signing a contract) then the violation is objectively determinable by a citizen. However, if the violation is not objectively determinable because it is not public or is concealed, then a citizen has 15 days after he “knew or reasonably should have known of the violation” to file a complaint.

Finally, the Committee was of the opinion that the addition of subsection (L) makes clear that the disclosure requirements of new subsection (K) apply to the entirety of Section 14.02 and all of the matters covered therein.

¹¹ The complete text of the proposed amendment as adopted by the Committee is included in the Appendix, App. D.

D. Miscellaneous

Although not contained in the text of the proposed amendments, the Committee would also recommend the following two additional items for consideration by the Mayor and City Council.

1. Implementation of Section 14.02. The Committee would recommend that the City Manager be charged with the preparation of draft forms, to be approved by the City Council, which accomplish the initial, supplemental and annual disclosures required by new Section 14.02(K).
2. Review, Amendment or Repeal of Possibly Conflicting or Redundant City Ordinances. As noted in the discussion of the proposed amendments to Section 14.02, the City has previously regulated such matters by ordinance. In particular ordinances O-02-1322 and O-13-1896 regulate the same subject matter as proposed Section 14.02.¹² To the extent such ordinances conflict, overlap or are superfluous, the Committee recommends their repeal, in whole or in part.

VI. CONCLUSION

Absent further direction, this concludes the work of the CRC. On a point of personal privilege, I would like to thank my Vice Chair, Mike Muhm, and all of the members of the Committee for their diligence, preparation, contribution, preparation and service. It has been a pleasure working with all of you.

Respectfully Submitted,

7/28/2016
Date

Frank Carroll, Chair
for the Committee

c: Mayor Richard Newton
Assistant City Manager Michael Holder
Michael Muhm, Vice Chair
Claudia Bevill
Vince Hawkins
Rich Hendler
David Medlin
Shirley Schollmeyer
Nelson Thibodeaux
Steve Walters
Tim Weymouth

¹² The ordinances are included in the Appendix, Apps M-N.

APPENDIX

APP. A

RESOLUTION R-16-4007

RESOLUTION R-16-4007

**A RESOLUTION OF THE CITY OF COLLEYVILLE, TEXAS
ESTABLISHING A COLLEYVILLE CITIZENS CITY CHARTER REVIEW
COMMITTEE, APPOINTING MEMBERS, AND PROVIDING A DATE
FOR THE CHARTER REVIEW COMMITTEE TO SUBMIT A FINAL
REPORT**

WHEREAS, the City Council believes that positive changes can be possibly made to the Colleyville City Charter to enhance the document without significantly effecting the democratic principles of the Colleyville City Charter or the opportunities of citizens to become informed on City issues and make known to their elected representatives their concerns and comments; and

WHEREAS, the City Council understands the need to review the City Charter to clarify, add or subtract as necessary to ensure the powers, rights and duties of the City government adhere to its original concepts and structure as a "Council-Manager Government."

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

Sec. 1. THAT a Colleyville Citizens City Charter Review Committee is hereby established.

Sec. 2. THAT the following citizens are appointed to the Colleyville Citizens City Charter Review Committee:

Steve Waltens	Nelson Thibodeaux
Michael Muhm	David Medlin
Claudia Bevill	Tim Weymuth
Frank Carroll	Rich Hendler
Shirley Schollmeyer	Vince Hawkins

Sec. 3. THAT Frank Carroll is appointed as Chair, and Michael Muhm is appointed as Vice Chair.

Sec. 4. THAT the City Manager shall provide administrative support services to the Colleyville Citizens City Charter Review Committee.

Sec. 5. THAT the Colleyville Citizens Charter Review Committee's responsibilities may include:

- a. Section 3.01 Number, Selection, Term: should contain language which limits consecutive terms to two in the same office, and how or when this shall commence. Compare this amendment with those of area cities for benchmarking.
- b. Section 3.09C Quorum and Voting: should provide language which allows electronic voting for City Council meetings, and language that allows for nominations and appointments and voting by name.
- c. Section 14.02 Personal Financial Interest: should include an additional subsection to provide the following:
 - k. Financial Disclosure and Business Conflict of Interest Forms shall be provided by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file within two (2) business days following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures within five (5) days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:
 - i. The location, size, and current use of all property owned within the portion of Dallas, Denton, and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.

- ii. The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor children have received a fee, salary, or gift of a value exceeding one hundred dollars(\$100.00).
 - iii. The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.
- d. Section 7.02 City Secretary: should provide an addition of "with the approval of City Council" to the following statement: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary."
- e. Section 7.03(A) Chief of Police: should provide an addition of "with the approval of City Council" to the following statement: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- f. Section 7.04(A) Fire Chief: should provide an addition of "with the approval of City Council" to the following statement: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- g. Section 7.05 Department of Public Works: should provide an addition of "with the approval of City Council" to the following statement: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

h. Section 7.06 Department of Finance: should provide an addition of "with the approval of City Council" to the following statement: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council.*"

Sec. 6. THAT the recommendations of the Colleyville Citizens Charter Review Committee shall be finalized and ready to be presented to the City Council by July 29, 2016.

Sec. 7. THAT this resolution shall take effect immediately upon passage.

AND IT IS SO RESOLVED.

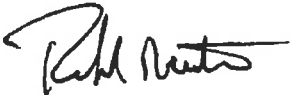
APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS
ON THIS THE 21ST DAY OF JUNE 2016.

Mayor Richard Newton	<u>Aye</u>	Mayor Pro Tem Chris Putnam	<u>Aye</u>
Place 1, Tammy Nakamura	<u>Aye</u>	Place 5, Nancy Coplen	<u>Aye</u>
Place 2, Bobby Lindamood	<u>Aye</u>	Place 6, Mike Taylor	<u>Aye</u>
Place 4, Jody Short	<u>Aye</u>		

ATTEST:


Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE


Richard Newton
Mayor

APP. B

AGENDA AND MINUTES OF COMMITTEE MEETING OF JULY 6, 2016



Charter Review Committee Agenda

City Hall
100 Main Street
Colleyville, Texas 76034
817.503.1000
www.colleyville.com

Wednesday, July 6, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

2. ROLL CALL

3. DISCUSSION

- 3a** Discussion of the Committee's resolution, charge, requests for information procedure, and timetable for completion
- 3b** Discussion of proposed meeting dates: July 14, July 21, and July 25, 2016
- 3c** Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; and Section 3.01 Number, Selection, Term

4. ADJOURNMENT

I hereby certify this agenda was posted on City Hall bulletin boards Friday, July 1, 2016 by 5:00 p.m.

Amy Shelley, TRMC
City Secretary

A quorum of the Colleyville City Council and/or any City board, commission, or committee may be in attendance at this meeting.

Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.



City of Colleyville Charter Review Committee MINUTES

City Hall
100 Main Street
Colleyville, TX 76034
817.503.1000
www.colleyville.com

Wednesday, July 6, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

The Charter Review Committee was called to order on July 6, 2016, at 6:02 p.m. by Chairman Frank Carroll.

2. ROLL CALL: Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Rich Hendler, David Medlin, Claudia Bevill, Tim Weymouth, Nelson Thibodeaux, Steve Waltens, and Vince Hawkins were present

Absent: Shirley Schollmeyer

Mayor Richard Newton, Councilmember Bobby Lindamood, City Manager Jennifer Fadden, Assistant City Manager/Director of Public Safety Mike Holder, SH26 Project Coordinator James Hubbard, and City Secretary Amy Shelley were also present

Mayor Newton welcomed everyone and expressed his appreciation for their service to this committee.

Councilmember Lindamood also welcomed everyone and expressed his appreciation for their service to this committee.

3. DISCUSSION

- 3a** Discussion of the Committee's resolution, charge, requests for information procedure, and timetable for completion
- 3b** Discussion of proposed meeting dates: July 14, July 21, and July 25, 2016
- 3c** Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; and Section 3.01 Number, Selection, Term

Discussion of Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions detailed as the following:

Chairman Carroll asked the Committee members if there are any concerns regarding the proposed amendments to the employee positions outlined in the Charter. Member Waltens asked Chairman Carroll if there is simply a ratification of an appointee. Chairman Carroll stated if the City Council does not approve of the city manager's applicant, the applicant would not be appointed to the position. Member Waltens stated it is a distribution of power, per se.

Member Hawkins asked how the appointments currently occur. Chairman Carroll replied the City Council does not currently approve appointments to these positions.

Member Medlin asked how the city manager is approved and how often. Vice Chairman Muhm replied currently the City Council hires the municipal judge, the city attorney, and the city manager.

Member Medlin asked how often this occurs. Chairman Carroll replied it would occur if the city manager resigns or was fired. He added it does not happen every year, only when an issue arises. Member Hendler added there is an annual review for the city manager.

Member Thibodeaux asked if the Charter outlines a chart of responsibility to the city manager's direct reports. Chairman Carroll replied the proposed amendment does not define senior staff specifically.

Vice Chairman Muhm stated he does not understand why others are not listed, such as the deputy city manager. Mayor Newton replied these particular amendments are to the positions currently outlined in the Charter.

Member Hawkins asked after appointments are made, who is the manager of these people. Chairman Carroll replied the city manager is the manager of those people.

Member Hawkins asked if the city manager has complete autonomy. Chairman Carroll replied with the autonomy that the city manager gives them.

Member Hawkins asked if the city manager can terminate them without having to come back to City Council. Chairman Carroll replied no, these positions would not have to be approved for termination through City Council.

Mayor Newton added the phrase, "*with approval of City Council*" used to be in the Charter; however, it was removed in 2005.

Member Weymouth asked who the Mayor was in 2005. Mayor Newton replied Joe Hocutt. Member Hendler added Bill Lindley was the city manager at that time too.

Vice Chairman Muhm asked Member Hendler if City Council ever approved those positions. Member Hendler replied he did not remember.

Vice Chairman Muhm asked Mayor Newton if he remembered. Mayor Newton replied it was when he was there.

Member Hendler replied it seems to be more transparent and adds to the value of an elected City Council. Member Weymouth and Thibodeaux concurred.

Vice Chairman Muhm asked if there is nothing to require this be conducted in an executive session, or out in a public forum. Chairman Carroll replied just that it takes place.

Vice Chairman Muhm stated for an *"indefinite term"* is absent on the city secretary and the finance positions, unlike the other positions. Chairman Carroll replied it can be added to make those consistent with the other positions.

Member Medlin asked what an *"indefinite term"* means. Vice Chairman Muhm replied there is no term, you are at the pleasure of.

Member Hawkins asked about the timing of the hiring, and if any delays would hinder the process, especially with a competitive market place, and losing a candidate. Chairman Carroll replied it could be placed on a regular City Council meeting agenda, or City Council calls a special meeting. Member Hendler stated there would be a timeframe noted with the employee's departure.

Member Medlin asked staff if this situation has ever occurred. City Manager Jennifer Fadden replied she would adopt this process into the hiring schedule. Member Waltens added a special meeting could be called if a situation came up.

Discussion of Section 3.09C Quorum and Voting detailed as the following:

Vice Chairman Muhm replied it is important for voting at the same time, rather by a show of hands, or electronically.

Member Medlin asked about the committee member voting, and if the person would still be voted on. Chairman Carroll replied yes.

Vice Chairman Muhm asked if this is just clean-up language. Chairman Carroll replied yes, clean-up provisions.

Discussion of Section 14.02 Personal Financial Interest detailed as the following:

Chairman Carroll stated section 14.02(k)(i) should just read, "...Tarrant, Denton, and Dallas counties", with the removal of "north of Interstate 30 and east of Interstate 35 W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W..."

Vice Chairman Muhm asked if this will effect currently seated City Councilmembers. Chairman Carroll replied yes.

Member Medlin stated he agrees with a timeframe for reporting, but more than five days may need to be given for flexibility. Vice Chairman Muhm replied there are currently five days to report. Chairman Carroll replied five days seems to be a reasonable timeframe, but maybe to clarify it as five "business" days.

Vice Chairman Muhm added he likes business days, but five does seem tight. Member Medlin stated he would hate for someone to get in trouble if they are on vacation. Vice Chairman Muhm added these are rare occurrences. Chairman Carroll added especially with email, five business days should allow ample time.

Vice Chairman Muhm asked if this would just include updating the financial disclosure form. Chairman Carroll replied he envisions there would be an additional form used to update the financial disclosures, and maybe note any change that occurs during that timeframe.

Member Hawkins asked if the updates would include any publicly traded stock. Chairman Carroll replied he believed so. Member Medlin replied two percent would have to be disclosed.

Member Hawkins stated it may be difficult to do within five business days, if someone is trading on their behalf, and he added he does not feel two percent is high enough, maybe five percent would be better. He stated someone could violate this and not even realize it. Chairman Carroll replied not having a problem with that, it is the investments in the limited partnerships that create the financial conflicts.

Vice Chairman Muhm stated he believed the disclosure would be if there is a contractual relationship with the City, which may be very few and far between to begin with. Chairman Carroll replied that could be correct, but he did not know.

Member Medlin asked what the punishment is if this is violated or not disclosed. Chairman Carroll replied consequences with employees with the City would be possible termination, and the consequences with appointed officials (P&Z) would be removal by the City Council, and the consequences with elected officials would

be removal for violation of the City Charter. Member Muhm added an ethics complaint can be filed with the Texas Ethics Commission.

Member Weymouth asked for an example of where you have a contract with the City where we could own stock in it. Vice Chairman Muhm replied a contracting company such as paving. Chairman Carroll added a landscaping firm, or real estate investing.

Member Hawkins asked about regional banking for the City, and if someone has stock in that bank. Chairman Carroll replied yes, they would have to disclose the information.

Member Waltens asked if the intent is to prevent people from being on committees and/or holding offices, while promoting legislation by which they would benefit personally or financially. Chairman Carroll replied yes.

Chairman Carroll added the adoption of these amendments to the Charter may require amendments to other ordinances.

Member Medlin added he does not believe a personal business footer should be marketed in a City email. Member Bevill stated she believed it is covered under Section 14.02A, especially if you are addressing them from the position you hold, the personal interest should be set aside.

Chairman Carroll replied he is not sure if it prohibits this, and it may be something members want to revise to provide further clarification.

Member Medlin asked where the \$100 disclosure limit came from. Chairman Carroll replied most are at a \$50 minimum disclosure.

Member Hawkins asked if this excludes sporting events. Vice Chairman Muhm replied most will exceed \$100. Chairman Carroll replied it would need to be disclosed.

Member Bevill asked about rounds of golf. Chairman Carroll replied if it exceeds \$100.

Member Medlin asked if the dollar amount needed to be increased. Member Waltens replied it goes back to the spirit, we want to know if they have a relationship with people who are benefiting from the City's taxpayers' dollars. He added it is not going to be a rampant thing, and in reality it is just healthy to have it all disclosed.

Member Hawkins asked about people trying to get approval through City Council or P&Z. Member Thibodeaux replied it states any proposed or existing. Member Waltens stated it is not in the financial disclosure language. Member Thibodeaux

added it exists in the Charter today. Chairman Carroll stated a provision could be added to Section 14.02k that would apply to any interested parties. Member Waltens and Medlin agreed.

Member Weymouth asked if it is realistic for a citizen to know within 15 days if something is wrong, as outlined in Section 14.02(F). Chairman Carroll added he would provide some clarification language for this, such as “knew or should have reasonably known.”

Discussion of Section 3.01 Number, Selection, Term detailed as the following:

Vice Chairman Muhm asked if a councilmember, in his second term, would have to resign after filing for Mayor. Chairman Carroll replied if someone resigns their position, even if only one day is served, it would still count as a full term served.

Member Medlin asked if the councilmember would have to resign if they are in their third year of their second term while they are running for Mayor. Chairman Carroll replied that is not addressed here, but no, they would not have to resign the way it is currently drafted. Mayor Newton replied the Charter currently states that they would have to resign from their current office. City Manager Jennifer Fadden added it is in Section 3.08.

Chairman Carroll asked Mayor Newton how much of the term would have to remain before a special election to fill the vacancy would occur. Mayor Newton replied it is something like 90 days within an election, or hold a special election. Member Medlin stated Section 3.05 is relevant to vacancies.

Chairman Carroll requested committee members to send him an email with any revisions necessary to the proposed section.

Member Waltens asked about being consistent with the words “terms” and “years.” Chairman Carroll replied there is no reason why we can’t be consistent with either throughout the Charter. He added the 12 years is relevant to years in any combined office.

Member Medlin asked if there is any interest in limiting total terms. Member Bevill replied she likes that, especially since other cities are doing it.

Member Thibodeaux asked Chairman Carroll about four terms or 12 consecutive years. Chairman Carroll replied 12 years is the maximum of consecutive years served, two terms as City Council, two terms as Mayor.

Member Waltens asked if this will be retroactive. Chairman Carroll replied it is not retroactive, because any member, who has met this provision, would immediately

be kicked off. He added this provision allows for it to become effective at the next election.

Member Hawkins stated he does not agree with making this effective immediately because of the loss of institutional knowledge. Member Medlin stated the previous institutional knowledge did not listen to the citizens. Member Thibodeaux added this has to be straight forward, and if the citizens are going to vote for it now it must be effective immediately. Member Hawkins stated being in favor of term limitations, and it depends on how we enact them. Vice Chairman Muhm agreed.

Member Bevill replied she does not have a problem with the way it is written, but there is provisional language sometimes used for the transitional situations. Chairman Carroll stated there is always a way to write it, but it is proposed to let everyone serve out the term they currently have, and it applies to all City Councilmembers.

Councilmember Lindamood stated Colleyville is enriched with so much talent, and people that want to run for office are already doing their homework to run for office. Member Hawkins agreed, and stated those people can run now. Councilmember Lindamood added there was some discouragement to run against someone who has been in office for so long.

Vice Chairman Muhm added there is a lot of bench strength in the community, and new ideas enhance that experience. He stated there has to be a mechanism to force change or it never happens.

Member Hawkins stated he is not disagreeing with term limitations, just the implementation of it. He stated effective immediately targets some current members, and phasing this in does not reduce its power.

Chairman Carroll stated it then becomes an issue about when to do it, or how much time to delay it.

Member Waltens asked about the benefit of delaying it now then saying upon the expiration of your term, you serve two terms, then you are ineligible. Member Hawkins replied it helps with the institutional knowledge of the business of Colleyville.

Member Bevill stated she believes the new people will dig in and work hard. She stated there is a lot to be said for experience, but that is not the be-all-end-all. She stated not sure that institutional knowledge is a valid concern, especially with so many bright and willing people in the community, and they will find out.

Member Waltens stated if we agree that term limits are a good idea, then why not implement them now versus later?

Member Thibodeaux stated the institutional knowledge is with the city manager. He stated his concern is that if it is not effective now, then the voters question when it becomes effective.

Member Hawkins asked about the ratification of this process. Chairman Carroll replied the next time the amendments will be voted on, one at a time, with somebody making a motion to approve it, and somebody will second it. If there are amendments, then those will need to be voted on as well. He added he will then put together a report for the committee to review, and then it will be presented to City Council for their review. He stated at that time, it will be placed on a City Council agenda for their approval, and then a resolution will be placed on another City Council agenda to call the special election.

Member Hawkins asked if the vote will be made by the majority. Chairman Carroll replied yes.

Member Hawkins asked about the next committee meeting. Chairman Carroll replied on July 14th, in this room.

Vice Chairman Muhm asked Chairman Carroll if a member is not present, can they vote by proxy. Chairman Carroll replied he did not know, but asked the city manager to ask the city attorney to see if the members can attend by telephone.

Member Hawkins stated he would prefer to email his vote in. Member Weymouth stated he would not be here either. Member Hawkins stated he would like some flexibility in voting, especially given the short timeframe.

Member Bevill asked about the inconsistencies in the Charter, Section 3.09A, page 8 and 13.01(C)3, page 34 – the calling of special meetings with three or four members; and same sections with three or four affirmative votes. Chairman Carroll stated when the City Council member number changed from six to seven members, these numbers were left to reflect that change. He added he would make an effort to clean those up. Assistant City Manager/Director of Public Safety Mike Holder stated this was to provide for the transition between six and seven members. Chairman Carroll replied Article XIII may need to be removed from the Charter, with a separate vote.

Member Thibodeaux asked about the four members calling a special meeting and if that violates the open meetings. Chairman Carroll replied he did not believe it violates the open meetings act.

4. ADJOURNMENT

There being no further business before the Committee, Member Thibodeaux moved to adjourn the meeting. Member Weymouth seconded. Chair Frank Carroll adjourned the meeting at 7:53 p.m.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 14TH DAY OF JULY 2016.

Minutes taken and prepared by:



Amy Shelley, TRMC
City Secretary

APP. C

AGENDA AND MINUTES OF COMMITTEE MEETING OF JULY 14, 2017



Charter Review Committee Agenda

City Hall
100 Main Street
Colleyville, Texas 76034
817.503.1000
www.colleyville.com

Thursday, July 14, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES
July 6, 2016

4. DISCUSSION

4a Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; Section 3.01 Number, Selection, Term

4b Discussion of additional amendments proposed by committee members

5. ADJOURNMENT

I hereby certify this agenda was posted on City Hall bulletin boards Friday, July 8, 2016 by 5:00 p.m.

Amy Shelley, TRMC
City Secretary

A quorum of the Colleyville City Council and/or any City board, commission, or committee may be in attendance at this meeting.

Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.



City of Colleyville Charter Review Committee MINUTES

City Hall
100 Main Street
Colleyville, TX 76034
817.503.1000
www.colleyville.com

**Thursday, July 14, 2016
6:00 p.m.**

**Executive Conference Room
Third Floor – City Hall**

1. CALL TO ORDER

The Charter Review Committee was called to order on July 14, 2016, at 6:04 p.m. by Chairman Frank Carroll.

2. ROLL CALL: Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux were present

Absent: Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

Councilmembers Tammy Nakamura and Bobby Lindamood, City Manager Jennifer Fadden, Assistant City Manager/Director of Public Safety Mike Holder, SH26 Project Coordinator James Hubbard, and City Secretary Amy Shelley were also present

3. APPROVAL OF MINUTES

July 6, 2016

Vice Chair Muhm made a motion to approve the meeting minutes as written. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

4. DISCUSSION

- 4a** Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; and Section 3.01 Number, Selection, Term

Chairman Carroll explained that each proposed amendment would be read, discussed, and then voted upon by the committee members. The details of the proposed amendment and voting results are listed below.

SECTION 3.09 (C) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 3.09 (C) Quorum and Voting of the Charter of the City of Colleyville is hereby amended as follows to add the italicized provisions:

(C) Quorum and Voting. Four (4) voting members of the City Council shall constitute a quorum. Voting, except on procedural motions, *and nominations to City Boards, Committees and Commissions* shall be by roll call and the "ayes" and nays" shall be recorded in the minutes. The mayor and every City Council Person shall vote on all issues unless there is a declared and recorded statutory conflict of interest. If because of a statutory conflict of interest a member steps down and remains in the Chamber to return after the item is resolved, then a quorum will be considered in attendance even though only three (3) City Council Persons are left to vote. However, no action shall be approved with less than four (4) affirmative votes. If during the course of a meeting a quorum ceases to exist, the meeting shall be deemed adjourned and no further business shall be conducted. *The roll call vote may be conducted electronically.*

Committee member Bevill made a motion to approve the Section 3.09 (C) as written. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.02 City Secretary is hereby amended as follows to add the italicized phrase:

Section 7.02 City Secretary: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary, *for an indefinite term.*"

Vice Chairman Muhm made a motion to approve the Section 7.02 as written. Committee member Hendler seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.03 (A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.03 (A) Chief of Police is hereby amended as follows to add the italicized phrase:

Section 7.03

(A) Chief of Police: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

Committee member Medlin made a motion to approve the Section 7.03 (A) as written. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.04 (A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.04 (A) Fire Chief is hereby amended as follows to add the italicized phrase:

Section 7.04

(A) Fire Chief: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

Vice Chairman Muhm made a motion to approve the Section 7.04(A) as written. Committee member Schollmeyer seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.05 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.05 Department of Public Works is hereby amended as follows to add the italicized phrase:

Section 7.05 Department of Public Works: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

Committee member Bevill made a motion to approve the Section 7.05 as written. Vice Chairman Muhm seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.06 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.06 Department of Finance is hereby amended as follows to add the italicized phrase:

Section 7.06 Department of Finance: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council*, for an indefinite term."

Committee member Medlin made a motion to approve the Section 7.06 as written. Committee member Schollmeyer seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

ARTICLE XIII OF THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended by making the following deletion:

Article XIII Transitional Provisions is hereby deleted in its entirety.

Vice Chairman Muhm made a motion to approve the deletion of Article XIII Transitional Provision as proposed. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

Committee member Steve Waltens arrived at 6:14 p.m., and was present and voting for the remainder of the meeting.

SECTION 14.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 14.02 (F) Citizen Complaints is hereby amended as follows to add the italicized language:

(F) Citizen Complaints. Any citizen of the City may file with the City Secretary a statement of suspected conflict of interest. Such statement of suspected conflict of interest shall be filed within fifteen (15) days of the decision *or vote, or if another* event giving rise to an asserted violation of paragraph C above, *within fifteen (15) days of when the citizen knew or reasonably should have known of the asserted violation*, and shall describe the complained of conflict in reasonable detail. The City Council, or its designee, shall respond in writing to a timely filed statement of suspected conflict of interest, and the statement of suspected conflict of interest and response of the City Council shall be maintained in the public records of the City.

Section 14.02 Personal Financial Interest is hereby further amended as follows to add Subsections (K) and (L):

(K) Financial Disclosure and Business Conflict of Interest Forms shall be provided by candidates for Mayor and City Council and by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file such forms within two (2) business days following the end of the candidate filing period, or if for appointment, within (2) business days following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members (including any staff member who is appointed with City Council approval) shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures annually and within five (5) business days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:

(i) The location, size, and current use of all property owned within the portion of Dallas, Denton and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.

(ii) The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor children have received a fee, salary, or gift of value exceeding one hundred dollars (\$100.00).

(iii) The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.

(L) The disclosure reporting obligations required by Section 14.02 (K) apply to all of the relationships listed in this Section 14.02.

Committee member Medlin asked Chairman Carroll if there is any concern of more complaints being filed. Chairman Carroll replied he did not believe so.

Committee member Bevill asked Chairman Carroll if these items will be separated on the ballot. Chairman Carroll replied he does not believe Section 14.02 will be separated, but he will leave that to the city attorney.

Committee member Schollmeyer asked Chairman Carroll if these items will be written on the ballot for voters to read. Chairman Carroll replied yes.

Vice Chairman Muhm asked Chairman Carroll if the parameters in Section 14.02 (K) (ii) includes the same area as it did originally in 2002. Chairman Carroll replied yes, that is his understanding.

Committee member Waltens made a motion to approve the Section 14.02 as written. Committee member Medlin seconded the motion.

The motion carried with the following vote:

Aye: 8 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, Nelson Thibodeaux, and Steve Waltens

Absent: 2 – Committee members Vince Hawkins and Tim Weymouth

Chairman Carroll stated if Section 14.02 is adopted, the ordinances which have adopted the financial disclosure requirements will need to be repealed or amended by the City Council, to eliminate any conflict with the Charter.

Vice Chairman Muhm stated the City Council will need to develop some type of form for this disclosure. Chairman Carroll replied yes, they would need to be approved by the City Council and he is going to suggest that as part of the report.

SECTION 3.01 OF THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended as follows by adding as new Section 3.01 (A):

SECTION 3.01 (A) Limitations on Terms

(A) No person shall serve as Mayor for more than two (2) consecutive elected terms, and no person shall serve as a Council Member for more than two (2) consecutive elected terms. Under no circumstances may any person ever serve for more than twelve (12) consecutive years in combination as a Council Member and Mayor. For purposes of this Section 3.01 (A) and computing the limitations on terms:

(1) A Mayor or Council Member, who vacates, for any reason, the office before the end of the term for which he was elected, shall be considered to have completed that term.

(2) An appointment or election to fulfill an unexpired Council Member term, or unexpired Mayor term if applicable, shall be computed as follows:

(i) if fifty percent (50%) or more of the term is remaining, it shall be included in the computation of term limits; or

(ii) if less than fifty percent (50%) of the term is remaining, it shall not be included in the computation of term limits.

Any Council Member or Mayor, who is ineligible to run for elected City office due to the limitations on terms as provided herein, shall remain ineligible to hold an elected City office for a period of one (1) full term following the expiration of the most recent term of City office for which he *or she* was elected with the exception of a Council Member seeking the office of Mayor or the Mayor seeking the office of a Council Member.

The term that each person as Mayor or as a Council Member is currently filling, and all terms consecutively served prior to that current term, shall be counted for purposes of determining whether two (2) consecutive terms have been served.

This amendment shall become effective immediately upon adoption at the next municipal election, shall apply to all persons currently occupying the Office of Mayor or Council Member, and shall apply to all municipal elections conducted after the date of adoption.

Vice Chairman Muhm asked Chairman Carroll if the one term is listed in another place/section in the Charter. Chairman Carroll replied it is included in the proposed Section 3.01 (A).

Committee member Medlin made a motion to approve the Section 3.01 (A) with the removal of "or she" as noted above in italics. Vice Chairman Muhm seconded the motion.

Committee member Thibodeaux stated there were three options the Committee could have taken relative to the implementation of the term limits: (1) to make retroactive, which meant anyone who fell within the term limits would have to resign; (2) delay it, but then the question becomes for how long; (3) make effective immediately, which affects all Councilmembers the same. He added the third option is what the Committee chose. Chairman Carroll agreed.

Committee member Waltens stated he believed it should have been retroactive, but he also believes in compromise. He asked Chairman Carroll if this is the compromise. Chairman Carroll replied yes. Committee member Medlin agreed.

Vice Chairman Muhm stated if it had been retroactive, it would cause a special election. Chairman Carroll added which is costly, and by doing this at the next election, it does not disrupt the functioning of the legislative body, but it implements the change at the next election.

Committee member Waltens stated term limits are necessary and he is opposed to it being retroactive because of the fiscal impacts to the City.

The motion carried with the following vote:

Aye: 8 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, Nelson Thibodeaux, and Steve Waltens

Absent: 2 – Committee members Vince Hawkins and Tim Weymouth

Committee member Hendler asked for clarification on the transitional provisions outlined in Article XIII. Chairman Carroll replied those transitional provisions were in place for the previous Charter amendments, and now are operating totally independent of that.

4b Discussion of additional amendments proposed by committee members

There was no discussion of this item.

Committee member Thibodeaux asked Chairman Carroll about the debate about if an elected official would have to resign his position to run for any state election. Chairman Carroll replied the Charter currently requires the elected official to resign the City position to run for any other office. Vice Chairman Muhm concurred, and stated it also applies if the elected official wishes to run for a different Council place.

Committee member Medlin stated he would like for Chairman Carroll's report to include the three options relative to term limits that the Committee had to choose from. Chairman Carroll agreed.

Vice Chairman Muhm asked Chairman Carroll about the Committee's role in submitting the report to City Council. Chairman Carroll replied he did not know, but he would visit with Mayor Newton, and he will advise the Committee members.

Councilmember Lindamood expressed his appreciation to the Committee members and their commitment to the Charter review.

5. ADJOURNMENT

There being no further business before the Committee, Vice Chairman Muhm moved to adjourn the meeting. Chairman Carroll seconded. Chairman Carroll adjourned the meeting at 6:35 p.m.

Minutes taken and prepared by:



Amy Shelley, TRMC
City Secretary

As the Charter Review Committee will not meet again for actual approval of these minutes, these minutes are considered the final action of the Charter Review Committee.



Frank Carroll
Charter Review Committee Chair

APP. D

**PROPOSED AMENDMENT TO CHARTER OF CITY OF COLLEYVILLE SECTION
3.01A - LIMITATION ON TERMS**

PROPOSED AMENDMENT

TO

THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended as follows by adding as new Section 3.01A:

SECTION 3.01A. Limitations on Terms

No person shall serve as Mayor for more than two (2) consecutive elected terms, and no person shall serve as a Council Member for more than two (2) consecutive elected terms. Under no circumstances may any person ever serve for more than twelve (12) consecutive years in combination as a Council Member and Mayor. For purposes of this Section 3.01A. and computing the limitations on terms:

- (1) a Mayor or Council Member, who vacates, for any reason, the office before the end of the term for which he was elected, shall be considered to have completed that term.
- (2) an appointment or election to fulfill an unexpired Council Member term, or unexpired Mayor term if applicable, shall be computed as follows:
 - (i) if fifty percent (50%) or more of the term is remaining, it shall be included in the computation of term limits; or
 - (ii) if less than fifty percent (50%) of the term is remaining, it shall not be included in the computation of term limits.

Any Council Member or Mayor, who is ineligible to run for elected City office due to the limitations on terms as provided herein, shall remain ineligible to hold an elected City office for a period of one (1) full term following the expiration of the most recent term of City office for which he was elected with the exception of a Council Member seeking the office of Mayor or the Mayor seeking the office of a Council Member.

The term that each person as Mayor or as a Council Member is currently filling, and all terms consecutively served prior to that current term, shall be counted for purposes of determining whether two (2) consecutive terms have been served.

This amendment shall become effective immediately upon adoption at the next municipal election, shall apply to all persons currently occupying the Office of Mayor or Council Member, and shall apply to all municipal elections conducted after the date of adoption.

APP. E

**PROPOSED AMENDMENT TO SECTION 3.09(C) TO
CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

SECTION 3.09(C) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 3.09(C) Quorum and Voting of the Charter of the City of Colleyville is hereby amended as follows to add the italicized provisions:

(C) Quorum and Voting. Four (4) voting members of the City Council shall constitute a quorum. Voting, except on procedural motions, *and nominations to City Boards, Committees and Commissions* shall be by roll call and the "ayes" and nays" shall be recorded in the minutes. The mayor and every City Council Person shall vote on all issues unless there is a declared and recorded statutory conflict of interest. If because of a statutory conflict of interest a member steps down and remains in the Chamber to return after the item is resolved, then a quorum will be considered in attendance even though only three (3) City Council Persons are left to vote. However, no action shall be approved with less than four (4) affirmative votes. If during the course of a meeting a quorum ceases to exist, the meeting shall be deemed adjourned and no further business shall be conducted. *The roll call vote may be conducted electronically.*

(Amended May 7, 2005)

APP. F

**PROPOSED AMENDMENTS TO SECTIONS 7.02, 7.03(A), 7.04(A), 7.05 AND 7.06
TO CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

SECTION 7.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.02 City Secretary is hereby amended as follows to add the italicized phrase:

- d. Section 7.02 City Secretary: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary, *for an indefinite term.*"

PROPOSED AMENDMENT

TO

SECTION 7.03(A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.03(A) Chief of Police is hereby amended as follows to add the italicized phrase:

- e. Section 7.03(A) Chief of Police: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

PROPOSED AMENDMENT

TO

SECTION 7.04(A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.04(A) Fire Chief is hereby amended as follows to add the italicized phrase:

- f. Section 7.04(A) Fire Chief: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

PROPOSED AMENDMENT

TO

SECTION 7.05 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.05 Department of Public Works is hereby amended as follows to add the italicized phrase:

- g. Section 7.05 Department of Public Works: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

PROPOSED AMENDMENT

TO

SECTION 7.06 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.06 Department of Finance is hereby amended as follows to add the italicized phrase:

- h. Section 7.06 Department of Finance: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council, for an indefinite term.*"

APP. G

**PROPOSED AMENDMENT TO ARTICLE XIII TO
CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

ARTICLE XIII OF THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended by making the following deletion:

Article XIII Transitional Provisions is hereby deleted in its entirety.

APP. H

**PROPOSED AMENDMENT TO SECTION 14.02 TO
CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

SECTION 14.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 14.02 (F) Citizen Complaints is hereby amended as follows to add the italicized language:

- (F) Citizen Complaints. Any citizen of the City may file with the City Secretary a statement of suspected conflict of interest. Such statement of suspected conflict of interest shall be filed within fifteen (15) days of the decision or vote, or *if another* event giving rise to an asserted violation of paragraph C above, *within fifteen (15) days of when the citizen knew or reasonably should have known of the asserted violation*, and shall describe the complained of conflict in reasonable detail. The City Council, or its designee, shall respond in writing to a timely filed statement of suspected conflict of interest, and the statement of suspected conflict of interest and response of the City Council shall be maintained in the public records of the City.

Section 14.02 Personal Financial Interest is hereby further amended as follows to add Subsections (K) and (L):

- (K) Financial Disclosure and Business Conflict of Interest Forms shall be provided by candidates for Mayor and City Council and by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file such forms within two (2) business days following the end of the candidate filing period, or if for appointment, within (2) business day following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members (including any staff member who is appointed with City Council approval) shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures annually and within five (5) business days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:
 - (i) The location, size, and current use of all property owned within the portion of Dallas, Denton and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.
 - (ii) The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor

children have received a fee, salary, or gift of a value exceeding one hundred dollars (\$100.00).

- (iii) The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.

- (L) The disclosure reporting obligations required by Section 14.02(K) apply to all of the relationships listed in this Section 14.02.

APP. I

***CORPUS CHRISTI PEOPLE'S BAPTIST CHURCH V.
NUECES COUNTY APPRAISAL DIST., 904 S.W.2D 621 (TEX. 1995)***

Page 621

904 S.W.2d 621
38 Tex. Sup. Ct. J. 643, 38 Tex. Sup. Ct.
J. 653
CORPUS CHRISTI PEOPLE'S BAPTIST
CHURCH, INC., Petitioner,
v.
NUECES COUNTY APPRAISAL
DISTRICT et al., Respondents.
No. D-4333.
Supreme Court of Texas.
Argued Oct. 20, 1994.
May 25, 1995.
Rehearing Overruled Sept. 14, 1995.

Page 622

Charlotte A. Cover, David C. Gibbs, Jr.,
Conneaut, OH, Clyde Jackson, Jr., Corpus
Christi, for petitioner.

Russell R. Graham, Kent M. Rider,
Gregory E. Perry, Dan Morales, Austin, for
respondents.

HECHT, Justice, delivered the opinion of
the Court, in which PHILLIPS, Chief Justice,
CORNYN, GAMMAGE and OWEN, JJ., join.

Persons in some categories exempt from
property taxes must ordinarily apply for an
exemption before May 1 of the year for which
taxes are imposed. TEX.TAX CODE § 11.43.
The Legislature has extended this deadline,
however, for certain exemptions, including
the religious organization exemption. Id. §
11.433. The case before us questions whether
this particular statutory provision, section
11.433, violates either of two provisions of the
Texas Constitution: article III, section 55,
which prohibits the Legislature from
extinguishing any person's obligation to the
State, and article I, section 16, which
prohibits retroactive laws. We hold it does
not.

I

Taxes are imposed upon real property
each year as of January 1. TEX.TAX CODE §
21.02. On that date a lien authorized by
article VIII, section 15 of the Texas
Constitution attaches to the property to
secure their payment. Id. § 32.01. The amount
of taxes assessed is not determined until later
in the year, however, when appraisals have
been completed and tax rates set. Id. §§ 26.01
& 26.05. Tax bills must be mailed by October
1 of the year for which taxes are assessed, or
as soon thereafter as practicable. Id. § 31.01.
Taxes are due upon receipt of the bill, and if
not paid by February 1 of the following year,
the taxing unit may sue to collect the tax and
foreclose its lien. Id. §§ 31.02 & 33.41.

Article VIII, section 2(a) of the Texas
Constitution authorizes the Legislature to
exempt the property of religious
organizations from taxation, and the
Legislature has exercised this authority. Id. §
11.20. To be entitled to the exemption,
however, a religious organization, like certain
others claiming tax exemptions, must apply to
the chief appraiser in the district where the
property

Page 623

is located before May 1 of the first year for
which the tax exemption is claimed. Id. §
11.43(a), (c) & (d). Application for the
exemption in subsequent years need not be
made unless the chief appraiser requires it.
Id. § 11.43(c).

An application for exemption was first
required of religious organizations in 1982,
after section 11.43 of what was then the new
Tax Code took effect. Act of May 26, 1979,
66th Leg., R.S., ch. 841, § 3(a), 1979
Tex.Gen.Laws 2217, 2313. Before 1980, under
the prior law, the procedure for claiming the
exemption was for a religious organization to
file with the taxing authority a sworn,
itemized list of exempt property. Act
approved May 14, 1931, 42nd Leg., R.S., ch.
124, § 1, 1931 Tex.Gen.Laws 211, 211-12

(formerly TEX.REV.CIV.STAT.ANN. art. 7150(1)). This statute was repealed, effective January 1, 1980, by the enactment of the new Tax Code. Act of May 26, 1979, 66th Leg., R.S., ch. 841, §§ 3(f) & 6(d), 1979 Tex.Gen.Laws 2217, 2315, 2330. The religious organization exemption under section 11.20 of the new Tax Code, which simply carried over from the prior law, became effective on January 1, 1980, along with other parts of the new Code. Act of May 26, 1979, 66th Leg., R.S., ch. 841, § 3(f), 1979 Tex.Gen.Laws 2217, 2315. As already noted, however, this was two years before the effective date of section 11.43, governing applications for exemption. Thus, in 1980 and 1981 a religious organization was not required to file a list of property, make application, or do anything else to claim the property tax exemption.

The requirement of an application and the deadline for filing that application appear to have caught religious organizations and other tax-exempt persons unaware, with the result that some lost their exemption because they did not timely apply for it. See HOUSE COMM. ON WAYS & MEANS, BILL ANALYSIS, Tex.H.B. 835, 73rd Leg., R.S. (1993) (explaining the reason for the twelve-year extension enacted in 1993, which also applies to the six-year extension enacted three years earlier.) In response, the Legislature in 1990 enacted section 11.433, effective September 6, 1990, which states:

§ 11.433. Late Application for Religious Organization Exemption

(a) The chief appraiser shall accept and approve or deny an application for an exemption under Section 11.20 [for religious organizations] after the filing deadline provided by Section 11.43 if the application is filed not later than December 31 of the sixth year after the year in which the taxes for which the exemption is claimed were imposed.

(b) The chief appraiser may not approve a late application for an exemption filed under this section if the taxes imposed on the property for the year for which the exemption is claimed are paid before the application is filed.

(c) If a late application is approved after approval of the appraisal records for the year for which the exemption is granted, the chief appraiser shall notify the collector for each taxing unit in which the property was taxable in the year for which the exemption is granted. The collector shall deduct from the organization's tax bill the amount of tax imposed on the property for that year if the tax has not been paid and any unpaid penalties and accrued interest relating to that tax. The collector may not refund taxes, penalties, or interest paid on the property for which an exemption is granted under this section.

(d) The chief appraiser may grant an exemption for property pursuant to an application filed under this section only if the property otherwise qualified for the exemption under the law in effect on January 1 of the tax year for which the exemption is claimed.

(e) An application may not be filed under this section after December 31, 1991.

Act of June 6, 1990, 71st Leg., 6th C.S., ch. 8, § 1, 1990 Tex.Gen.Laws 46. This is the provision at issue in this case. In 1993, the late application deadline was further extended when subsection (e) was amended to read as follows:

(e) Notwithstanding Subsection (a), the chief appraiser shall accept and approve or deny an application for an exemption under Section 11.20 after the filing deadline provided by Section 11.43 if the application

is filed not later than December 31 of the 12th year after the year in which the taxes for which the exemption is claimed were imposed and if the application is filed before January 1, 1995. This subsection expires January 1, 1996.

Act of May 30, 1993, 73rd Leg., R.S., ch. 971, § 1, 1993 Tex.Gen.Laws 4235. Section 11.433 does not extend the time for applying for an exemption if the taxes have already been paid, nor does it permit refunds.

Section 11.433 is similar to two other statutes enacted in 1991 permitting late applications for tax exemptions, although the permission granted by those two statutes has now expired. TEX.TAX CODE § 11.434 (six-year extension for school exemption until December 31, 1992); § 11.435 (two-year extension for charitable organization exemption until December 31, 1991); Act of May 27, 1991, 72nd Leg., R.S., ch. 836, §§ 6.3 & 6.4, 1991 Tex.Gen.Laws 2890, 2894-95. The Legislature has also extended the deadline for claiming a homestead exemption for a year after taxes are paid or become delinquent. TEX.TAX CODE § 11.431. Section 11.431, unlike sections 11.433-.435, appears to have been motivated by constitutional concerns. See Op.Tex. Att'y Gen. MW-259 (1980) ("A legislatively designated cutoff date for homestead exemption claims under article VIII, section 1-b of the Texas Constitution will not alone operate to deprive a taxpayer of an exemption ..."); see also Op.Tex. Att'y Gen. JM-221 (1984) (section 11.431 permits tax refunds when homestead application is filed late).

II

The Corpus Christi People's Baptist Church owns a tract of some 430 acres in Nueces County. A 24.33-acre piece of the tract has long been exempt from taxation and is not in dispute in this litigation. In 1990 the Church applied for and received an exemption for an additional 146.343 acres of

the tract. At about the same time, Nueces County sued the Church to collect taxes assessed on the 146.343 acres from 1984 through 1989 that were never paid. This appears to have been the first effort to collect those taxes. Shortly after that suit was filed, section 11.433 became effective, and about two months later the Church applied for an exemption for the 146.343 acres for the years 1984 through 1989. The Nueces County Appraisal District denied the application solely because it considered section 11.433 unconstitutional under article III, section 55 and article I, section 16 of the Texas Constitution. The Appraisal Review Board upheld the Appraisal District's decision.

The Church petitioned the district court for review. Nueces County's earlier-filed delinquent tax suit against the Church was consolidated with this action. The Attorney General intervened for the limited purpose of defending the constitutionality of section 11.433. The case was tried on stipulated facts. The Church abandoned its claim of exemption for the years 1984 and 1985, based upon the outcome of an unrelated lawsuit. The parties agreed that if, and only if, section 11.433 is constitutional, the Church is entitled to an exemption for the 146.343 acres for the years 1986-1989. The district court rendered judgment for the Church.

The court of appeals determined, as a threshold matter, that Nueces County, the Nueces County Appraisal District, and the Appraisal Review Board, which we refer to collectively as "the County", had standing to challenge the constitutionality of section 11.433. 860 S.W.2d 627, 630. The Church and the Attorney General do not challenge the County's standing in this Court, and given that the Church has standing and our disposition of the constitutional issues, we need not address that question. See Texas Ass'n of Business v. Texas Air Control Bd., 852 S.W.2d 440, 441 n. 1 (Tex.1993). The court of appeals held that section 11.433 violates article III, section 55 of the Texas

Constitution and did not reach the County's arguments based upon article I, section 16. 860 S.W.2d at 631. Because we disagree with the court of appeals, we consider both constitutional provisions.

III

Article III, section 55 of the Texas Constitution provides:

The Legislature shall have no power to release or extinguish, or to authorize the

Page 625

releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual, to this State or to any county or defined subdivision thereof, or other municipal corporation therein, except delinquent taxes which have been due for a period of at least ten years.

The County contends that once the process of levying taxes is completed for a given year and taxes become due, the amount assessed is an obligation to the taxing unit which section 11.433 cannot release or extinguish by extending the deadline for claiming an exemption.

The Church argues that delinquent taxes are not an "indebtedness, liability or obligation" within the meaning of section 55. We do not regard this argument as even plausible. For one thing, there would be no reason for section 55 to except taxes delinquent for ten years as it does if this section did not contemplate that taxes were an obligation within its purview. For another, it is simply too plain for argument that assessed taxes are an obligation owed to the taxing unit. We reached this unsurprising conclusion long ago. *Ollivier v. City of Houston*, 93 Tex. 201, 54 S.W. 943, 944 (1900).

Even though we believe taxes due are clearly an obligation to a taxing entity that cannot be forgiven under article III, section 55, we do not believe section 11.433 extends such forgiveness. Section 11.433 simply prescribes the time in which a tax exemption must be claimed. The County's argument that the Legislature is constitutionally forbidden to allow an exemption to be established after taxes have been assessed is too strict a reading of article III, section 55. As we noted above, the Legislature has prescribed various deadlines in the tax collection process: January 1 for imposition of taxes, July 25 for appraising property, September 1 for levying tax rates, October 1 for mailing tax bills, and February 1 for payment. The Legislature is likewise entitled to set a deadline for exemption applications. See *Sam Bassett Lumber Co. v. City of Houston*, 145 Tex. 492, 198 S.W.2d 879, 882 (1947). Just as the Legislature may make the religious organization exemption automatic, as it did in 1980 and 1981, it can extend the time for filing applications. See *Dickison v. Woodmen of the World Life Ins. Soc'y*, 280 S.W.2d 315, 317 (Tex.Civ.App.--San Antonio 1955, writ ref'd) (when the constitution permits, rather than prescribes, a particular exemption, the Legislature may ordinarily limit that exemption as it pleases).

Section 11.433 does not on its face extinguish any liabilities owed to a taxing authority. Indeed, if a religious organization does not apply for exemption within the extended period, the taxing unit is entitled to recover all delinquent taxes. Rather, the effect of section 11.433 is merely to delay the taxing authority from collecting taxes for a prescribed period of time until either the religious organization files for exempt status or fails to make late application. When an application is no longer allowed, the taxing unit is free to collect its taxes.

This tolling provision is similar to statutes of limitation, which we have held are permissible under article III, section 55. In

Sam Bassett Lumber Co., the City of Houston sought to obtain a personal judgment for delinquent property taxes. The defendant asserted limitations as a defense. The Court concluded that a ten-year statute of limitations did not violate article III, section 55 because limitation statutes do not release or extinguish a debt but merely affect the remedy when its enforcement is sought. 198 S.W.2d at 882 (citing Goldfrank, Frank & Co. v. Young, 64 Tex. 432, 434 (1885); Limestone County v. Robbins, 120 Tex. 341, 38 S.W.2d 580, 584 (1931); Central Nat'l Bank v. Latham, 22 S.W.2d 765, 768 (Tex.Civ.App.--Austin 1929, writ ref'd)).

We conclude that section 11.433 merely determines the procedures for claiming a religious organization exemption and does not release or extinguish tax obligations. Accordingly, we hold that section 11.433 does not violate article III, section 55 of the Texas Constitution.

IV

The County also asserts that section 11.433 is a retroactive law prohibited by article I, section 16 of the Texas Constitution, which states: "No bill of attainder, ex post

Page 626

facto law, retroactive law, or any law impairing the obligation of contracts, shall be made."

Unless vested rights are destroyed or impaired, a law is not invalid even though retroactive in operation. State v. Project Principle, Inc., 724 S.W.2d 387, 390 (Tex.1987). Section 11.433 may be said to have some retroactive effect in that it allows an exemption to be established after taxes are assessed. However, as we have already determined, section 11.433 does not extinguish any tax liability; it simply prescribes the timing for collection. A taxing unit has no vested right to taxes until the

exemption is determined. Section 11.433 does not retroactively confer an exemption; it extends the time for determining whether an exemption is warranted. Thus, section 11.433 is not a retroactive law in violation of article I, section 16.

Because we hold that section 11.433 does not violate either article III, section 55 or article I, section 16 of the Texas Constitution, we reverse the judgment of the court of appeals and affirm the judgment of the trial court.

ENOCH, Justice joined by GONZALEZ, HIGHTOWER and SPECTOR, Justices dissenting.

Section 11.433 seeks to retroactively attach exempt status to the property of religious organizations. It is available only to delinquent taxpayers. TEX.TAX CODE § 11.433(b). Continuing its beneficence to those who fail to pay their taxes, see Syntax, Inc. v. Hall, 899 S.W.2d 189 (Tex.1995) (delinquent taxpayer entitled to excess proceeds of resale by taxing unit despite lack of any interest in the property), the Court gives short shrift to the Texas Constitution and erroneously concludes that section 11.433 of the tax code violates neither article III, section 55 nor article I, section 16 of the Texas Constitution. Section 11.433 of the Tax Code violates the plain meaning of both provisions of the Texas Constitution. I respectfully dissent.

I.

Under article III, section 55 of the Texas Constitution, the only tax liabilities the Legislature has any power to forgive are delinquent taxes that have been due for at least ten years. TEX. CONST. art. III, § 55. Otherwise, the Legislature has "no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part," the tax liability of any corporation or

individual owed to the County. *Id.* The delinquent taxes at issue in this case are for tax years 1986-89 and thus not within the Legislature's power to forgive. By retroactively attaching exempt status to the Church's property, section 11.433 forgives the original tax liability for those years contrary to the plain terms of article III, section 55.

The Court concludes that section 11.433 does not extinguish or release any such obligation, but simply limits the County's remedy for collecting the taxes. 904 S.W.2d at 625. This limitation, the Court asserts, is akin to statutes of limitation which we have held do not violate article III, section 55. *Sam Bassett Lumber Co. v. City of Houston*, 145 Tex. 492, 198 S.W.2d 879, 882 (1947). Section 11.433 does not have a similar effect.

It is undisputed that, but for the late application, the Church's property is entitled to an exemption under section 11.20. TEX. TAX CODE § 11.20. An exemption under section 11.20 must be claimed by May 1 of the year for which the exemption is sought. *Id.* § 11.43(d). Once allowed, the section 11.20 exemption need not be claimed in subsequent years except in certain situations not relevant here. *Id.* § 11.43(c). The Church, although entitled to an exemption, did not claim the exemption for the years 1986-89 and the Church's property became subject to taxation. Taxes were levied and assessed and became due on receipt of the tax bill. *Id.* § 31.02(a). The taxes became delinquent when they were not paid by February 1 of the year following the year in which the taxes were imposed. *Id.* Section 11.433 does not simply limit the County's remedy by precluding the County from enforcing its remedy to collect the unpaid taxes for six years. This provision seeks to retroactively

Code violates article III, section 55 of the Texas Constitution.

II.

Unquestionably, section 11.433 is retroactive in operation by permitting retroactive attachment of exempt status to property for prior tax years. The retroactive effect of a statute, however, does not itself violate article I, section 16. A statute must also impinge on vested rights. *State v. Project Principle, Inc.*, 724 S.W.2d 387, 390 (Tex.1987). In this regard, our article I, section 16 has been interpreted by this Court as broader than the federal counterpart, article I, sections 9 and 10 of the United States Constitution. *Mellinger v. City of Houston*, 68 Tex. 37, 3 S.W. 249, 253 (1887).

The prohibition in the Texas Constitution is broader because unlike the Federal Constitution, article I, section 16 prohibits not only bills of attainder, ex post facto laws, and laws impairing the obligation of contracts, but also prohibits retroactive laws. *Id.* By prohibiting retroactive laws, our Constitution protects not only property rights, but any other rights that have vested prior to the passage of any law, which if retroactively applied, would take away those rights. *Id.*

In 1887, this Court wrote about those rights subject to protection under article I, section 16 as follows:

[I]t must necessarily be held that a right, in a legal sense, exists, when, in the consequence of the existence of given facts, the law declares that one person is entitled to enforce against another a given claim, or to resist the enforcement of a claim urged by another. Facts may exist out of which, in the course of time or under given circumstances, a right would become fixed or vested by operation of existing law, but until the state of facts which the law declares shall give a right comes into existence there cannot be in law a right; and for this reason it has been constantly held

Page 627

attach exempt status to property when taxes have already been levied and assessed and are delinquent. Section 11.433 of the Texas Tax

that, until the right becomes fixed or vested, it is lawful for the law-making power to declare that the given state of facts shall not fix it, and such laws have been constantly held not to be retroactive in the sense in which the term is used.

Mellinger, 3 S.W. at 253. Interpreting the rights protected under article I, section 16 in this manner, the Court struck down as retroactive a statute that eliminated a delinquent taxpayer's right to rely on limitations as a defense to a tax collection suit when limitations had run prior to enactment of the statute. *Id.* at 254-55.

Agreeing that section 11.433 has a retroactive effect, the Court concludes that section 11.433 nonetheless is constitutional because it does not impinge on any vested rights. 904 S.W.2d at 626. The retroactive extension of exempt status under section 11.433, however, extinguishes the existing tax liability owed to the County. The taxes, which are due on receipt of the tax bill and become delinquent if not paid by February 1 of the following year, represent a liability that has matured and for which the taxing unit may enforce collection. TEX.TAX CODE §§ 31.02(a), 33.41. That right to collect delinquent taxes cannot be taken away by the retroactive application of an exemption. Mellinger, 3 S.W. at 253.

Moreover, section 11.433 destroys the County's vested constitutional and statutory tax liens in the property. TEX. CONST. art. VIII, § 15; TEX.TAX CODE § 32.01. The Texas Property Tax Code provides that although a lien attaches as of January 1 of the year for which any taxes, penalties, or interest may become due, the tax lien may be foreclosed only after the taxes on the property become delinquent. TEX.TAX CODE §§ 32.01, 33.41. There can be no dispute that at the time section 11.433 was enacted in 1990, the County possessed constitutional and statutory tax liens that could be enforced and foreclosed to collect the delinquent taxes

owed for tax years 1986-89. With the late application and allowance of a retroactive exemption, section 11.433 destroys the County's valid, existing, and mature tax liens in violation of article I, section 16 of the Texas Constitution.

Because I would hold that section 11.433 violates both article III, section 55 and article I, section 16 of the Texas Constitution, I

Page 628

would affirm the judgment of the court of appeals. I dissent.

APP. J

***TARRANT COUNTY V. ASHMORE*, 635 S.W.2D 417 (TEX. 1982)**

Page 417

635 S.W.2d 417
TARRANT COUNTY et al., Petitioners,
v.
Bob ASHMORE et al., Respondents.
No. C-985.
Supreme Court of Texas.
June 23, 1982.
Rehearing Denied July 21, 1982.

Page 418

Tim Curry, Crim. Dist. Atty., Frederick M. Schattman, Asst. Dist. Atty., Fort Worth, for petitioners.

Farrar & Claunch, Jim Claunch and Roy Basham, Charles Dickens, Fort Worth, for respondents.

POPE, Justice.

Bob Ashmore and others, all Tarrant County justices of the peace and constables threatened with removal from office by the redrafting of precinct boundary lines, brought this action for damages and for declaratory and injunctive relief against the Tarrant County Commissioners Court. The claims asserted in the suit were based upon alleged violations of procedural due process, and upon the purported rights of duly elected officeholders to complete their full terms of office. In response to these claims, the commissioners argued that their actions were authorized by Tex.Rev.Civ.Stat.Ann. art. 2351 1/2, which then allowed commissioners courts to declare certain offices abolished or vacated when precinct lines were

Page 419

redrawn. ¹ The trial court held that, while article 2351 1/2(c) was a constitutional means of removing officers from their positions, the procedures used by the Tarrant County Commissioners to accomplish that purpose in the present case were inconsistent with the

officers' property rights and rights of due process. As a result, the court held, the officers were entitled to recover from the county the salaries and benefits they would have earned had they been allowed to remain in office for their full terms. The court of appeals affirmed the judgment of the trial court. 624 S.W.2d 740. We reverse the judgments of the courts below.

In the spring of 1980, the Commissioners Court of Tarrant County began the process of examining the justice and constable precincts in the county with a view toward complying with a federal district court redistricting order. See *Bagsby v. Moncrief*, No. CA-4-79-24k (N.D.Tex.1979). The last redistricting of Tarrant County had taken place in 1876, and a wide disparity between precinct populations existed. ² After receiving a proposed redistricting plan prepared by a demographic expert hired to study population trends in the county, the commissioners held five public hearings on consecutive nights in early August 1980 in order to solicit public comment. On August 25, the commissioners adopted the proposed plan, and concurrently ordered that all justice and constable precincts and each of the offices located therein be abolished effective January 1, 1981, so that the newly defined offices could be filled by appointment.

The present action was filed on December 16, 1980, by three justices of the peace and one constable seeking damages and injunctive and declaratory relief. Thereafter, on December 19, the trial court ordered the joinder of all other justices and constables in the county as involuntary plaintiffs. ³ Trial was held on December 30 and 31. While it was clear to the participants during trial that all justice and constable positions had been vacated, it was not certain at that time whether any incumbent or recently elected officer would be appointed to serve in any of the newly drawn precincts, since the commissioners court planned to make the appointments on the evening of December 31.

The trial court ruled on January 9, 1981, that article 2351 1/2 was constitutional, that the commissioners court had the power to redistrict and declare the offices of the justices and constables vacant, and that the vacancies could be filled by appointment. Notwithstanding the finding of validity of article 2351 1/2, however, the court held that the officers had property

Page 420

rights in their offices and were deprived of such property rights by the commissioners court without just compensation or regard for due process. As a result, the court held, the justices and constables were entitled to full salary and benefits, including any future cost of living increases afforded other county officials, for the remainder of their elected terms. ⁴

The court of appeals affirmed the judgment of the trial court. In so doing, the court agreed that the precinct officers had a property right in their offices and held that the redrafting of precinct boundaries must in all cases accord due process to the incumbents whose elective offices may be abolished. The court also held that, even if article 2351 1/2 was a valid and constitutional statute, it should not be construed as providing for the loss of a valuable property right-the right to complete an elected term of office-without just compensation. Recovery for lost salaries and benefits for the unexpired terms was therefore affirmed.

Taking of Property

We are aware that article I, section 17, of the Texas Constitution provides that "(n)o person's property shall be taken ... without adequate compensation" Additionally, the fifth amendment to the United States Constitution, made applicable to the states by way of the fourteenth amendment, concludes with the words: "nor shall private property be taken for public use, without compensation."

We agree that these provisions stand as a shield between the exercise of governmental power and the rights of all citizens to own and enjoy property. We do not agree with the court of appeals, however, that the public officers in the present case had a "property" interest in their positions such that vacating the offices prior to the end of their terms resulted in a constitutionally recognizable "taking" of property without compensation.

The nature of public office has long been a point of analysis and discussion in Texas. Early courts described the elected and appointed position as "the right, authority, and duty created and conferred by law by which, for a given period either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government to be exercised by him for the benefit of the public." *Kimbrough v. Barnett*, 93 Tex. 301, 310, 55 S.W. 120, 122 (1900), quoted in *Commissioners' Court of Limestone County v. Garrett*, 236 S.W. 970, 972 (Tex.Comm'n App.1922, judgment adopted). As the foregoing passage indicates, public offices began to be described properly by Texas courts not in terms of a "contract," "employment," "ownership," or "possession," but rather as a "trust," "duty," and "public benefit." In other words, stated briefly, public office came to be seen in Texas not as a right, but as a responsibility. In *State ex rel. Maxwell v. Crumbaugh*, 63 S.W. 925, 927 (Tex.Civ.App. San Antonio 1901, writ ref'd), for example, the court stated:

A public office is not "property," within the meaning of the constitutional provision that "no person shall be deprived of life, liberty or property without due process of law." It is a mere public agency, revocable according to the will and appointment of the people, as exercised in the constitution and the laws enacted in conformity therewith. *Moore v. Strickling* (W.Va.) (46 W.Va. 515), 33 S.E. 274, 50 L.R.A. 279. In the case cited the court in its opinion makes ... the following

quotation: "It is impossible to conceive how, under our form of government, a person can own or have a title to a governmental office. Offices are created for the administration of public affairs. When a person is inducted into an office he thereby becomes empowered to exercise its powers and perform its duties, not for his, but for the public, benefit. It would be a misnomer and a perversion of terms to say that an incumbent owned an office or had any title to it."

Page 421

It may be concluded, therefore, that a fundamental principle associated with our republican form of government is that every public officeholder remains in his position at the sufferance and for the benefit of the public, subject to removal from office by edict of the ballot box at the time of the next election, or before that time by any other constitutionally permissible means.

The decision in *State ex rel. Maxwell v. Crumbaugh*, supra, in declining to identify a public office as the "property" of the officeholder, is in line with the majority rule in other jurisdictions. See Annot., 172 A.L.R. 1366 (1948); 99 A.L.R. 336 (1935); 4 A.L.R. 205 (1919). In the early case of *Taylor v. Beckham*, 178 U.S. 548, 20 S.Ct. 890, 44 L.Ed. 1187 (1900), the United States Supreme Court was asked to settle a contest over the offices of governor and lieutenant governor of the State of Kentucky. The defendant officeholders in that suit, who were the losers of an election contest conducted in the state's general assembly, sought to retain their positions by asserting a property right to the office and the benefits attached thereto. The Supreme Court responded negatively to this contention by stating:

The view that public office is not property has been generally entertained in this country.

The decisions are numerous to the effect that public offices are mere agencies or trusts, and not property as such. Nor are the salary and emoluments property, secured by contract, but compensation for services actually rendered. Nor does the fact that a constitution may forbid the legislature from abolishing a public office or diminishing the salary thereof during the term of the incumbent change its character or make it property. True, the restrictions limit the power of the legislature to deal with the office, but even such restrictions may be removed by constitutional amendment. In short, generally speaking, the nature of the relation of a public officer to the public is inconsistent with either a property or a contract right.

Id. at 576-77, 20 S.Ct. at 900-901. The holding of the Court in *Taylor* was subsequently reaffirmed in the case of *Cave v. Missouri ex rel. Newell*, 246 U.S. 650, 38 S.Ct. 334, 62 L.Ed. 921 (1918) (per curiam), and again in *Snowden v. Hughes*, 321 U.S. 1, 7, 64 S.Ct. 397, 400, 88 L.Ed. 1090 (1944).

In *Edge v. Holcombe*, 135 Ga. 765, 70 S.E. 644 (1911), the Supreme Court of Georgia reiterated the majority position expressed by the United States Supreme Court:

We will only observe that a careful study of the cases discloses that in the early history of the English jurisprudence the right to hold office was regarded as a property right, and many decisions were made in recognition of this principle; but the American courts now uniformly hold that an office, relatively (sic) to the government, is a public trust, and not a property right. Where an office is created by the Legislature, the power which created it may fix its term and provide for the sooner determination thereof, and the officer takes the office with this limitation.

Similarly, in *Smith v. Thomson*, 219 Iowa 888, 258 N.W. 190, 193 (1934), the court stated:

(I)t must be conceded, as a general rule, that the relation between a public officer and the people is not in the nature of a contract, and that such office has in it no element of property. It is a public trust, created for the benefit of the state, and not for the benefit of the individual citizens thereof, and the prospective emoluments of a public office are not property in any sense.

The same rule has been repeated many times in many jurisdictions. See, e.g., *Cosby v. Moore*, 259 Ala. 41, 65 So.2d 178, 181 (1953); *Trimble v. People*, 19 Colo. 187, 34 P. 981 (1893); *Kirkpatrick v. King*, 228 Ind. 236, 91 N.E.2d 785, 788-89 (1950); *Lanza v. Wagner*, 11 N.Y.2d 317, 229 N.Y.S.2d 380, 183 N.E.2d 670, 673 (1962); *Simmons v. Elizabeth City*, 197 N.C. 404, 149 S.E. 375, 376 (1929); *Wright v. City of Florence*, 229 S.C. 419, 93 S.E.2d 215, 220 (1956).

Page 422

Our holding in this case should not be construed to mean that an officer, duly elected and inducted into his position for a definite term, has no financial or "property" interest that may be protected against interference by others not acting under statutory or constitutional authority. See *Walton v. Davis*, 188 Ga. 56, 2 S.E.2d 603, 604 (1939); *State ex rel. Ryan v. Norby*, 118 Mont. 283, 165 P.2d 302, 304 (1946). As stated in *Sutton v. Adams*, 180 Ga. 48, 178 S.E. 365, 375 (1934): "While an officer has no vested right in the office held by him, and thus cannot complain of an abolishment of such office, or of his removal or suspension, according to law, ... it does not follow that he has absolutely no financial or property interest which may be protected by a court of equity as against one who otherwise and by private means seeks to interfere with his possession and conduct of such office during his incumbency therein." See also *Carver v. Wheeler County*, 200 S.W. 537, 538 (Tex.Civ.App.-Amarillo 1918, no writ). Cf. *Taylor v. Nealon*, 132 Tex. 60, 120 S.W.2d

586 (1938) (election contest between rival candidates); *State ex rel. Jennett v. Owens*, 63 Tex. 261 (1885) (same). What we do hold is that the qualified interest held by a public officer is not "property" within the sense of constitutional guarantees against governmental takings of property without compensation. See *Myers v. Tunks*, 360 S.W.2d 518, 520 (Tex.1962). Absent a recognizable property interest, the officers have no claim for salaries for the unserved portion of their terms. See generally *Bennett v. City of Longview*, 268 S.W. 786 (Tex.Civ.App.-Texarkana 1925, writ ref'd n.r.e.); *State ex rel. Dowlen v. Rigsby*, 43 S.W. 271, (Tex.Civ.App.1897) writ ref'd per curiam, 91 Tex. 351, 43 S.W. 1101 (1897).

Procedural Due Process

The officeholders claim, and the court of appeals held, that salaries for unexpired terms should be recoverable in this case because the procedures employed to vacate the precinct positions did not conform with minimum requirements of due process. According to the court of appeals, procedural due process in such cases calls for notice in advance of hearing informing the incumbents of (1) the time, place, and location of each hearing; (2) the subject matter to be considered; (3) the possibility of termination of positions prior to expiration of terms; (4) the possibility that no incumbents would be reappointed to the new positions; (5) the possibility that present salaries would not be continued; and (6) the existence of the right to appear and defend rights and to show cause why the offices should not be terminated without compensation. 624 S.W.2d at 744. The court concluded upon review of the record that such due process requirements had not been met in the present case.

The requirements of procedural due process apply only to the threatened deprivation of liberty and property interests deserving the protection of the federal and

state constitutions. *Board of Regents v. Roth*, 408 U.S. 564, 569, 92 S.Ct. 2701, 2705, 33 L.Ed.2d 548 (1972). Therefore, any assessment of proper procedural safeguards necessarily begins with a consideration whether the particular interest at stake is a protectible interest. In the present case, we acknowledge that an officer's interest in his elected position, though not "property" in the conventional sense, is a recognizable interest for purposes of procedural due process analysis. See *Ridgway v. City of Fort Worth*, 243 S.W. 740, 745 (Tex.Civ.App.-Fort Worth 1922, writ dismissed); *Paris v. Cabiness*, 98 S.W. 925, 927 (Tex.Civ.App. 1906, no writ). See also *Howard v. Bell County Board of Education*, 247 Ky. 586, 57 S.W.2d 466, 467 (1933). This view is consistent with recent United States Supreme Court pronouncements that procedural due process protection extends well beyond traditional concepts of ownership and title to encompass anything to which a person may assert a legitimate claim of entitlement. *Board of Regents v. Roth*, supra 408 U.S. at 572, 577, 92 S.Ct. at 2706, 2709.

To say that an interest deserves due process protection does not define the

Page 423

amount of process that is due in a given instance. At a very basic level, deprivation of a protected interest requires notice and an opportunity to be heard.⁵ The type of notice and hearing required varies according to the facts of the situation. *Bell v. Burson*, 402 U.S. 535, 540, 91 S.Ct. 1586, 1589, 29 L.Ed.2d 90 (1971). It is incorrect to state that the full procedural protections afforded in a criminal trial proceeding are required every time there is a right to a hearing. *Cafeteria & Restaurant Workers Union v. McElroy*, 367 U.S. 886, 894, 81 S.Ct. 1743, 1748, 6 L.Ed.2d 1230 (1961); *Robison v. Wichita Falls & North Texas Community Action Corp.*, 507 F.2d 245, 252 (5th Cir. 1975).

In his treatise on administrative law, Professor Kenneth Davis attempted to clarify the confusion surrounding notice and hearing requirements by drawing a distinction between determinations of "adjudicative" and "legislative" facts. K. Davis, *Administrative Law Treatise* §§ 12:1-12:8 (2d ed. 1979). Under this dichotomy, the "adjudicative" facts, those that answer the questions "who did what, where, when, how, why, with what motive or intent," are the types of facts that usually demand a trial-type proceeding complete with full procedural safeguards—service of citation, compulsion and cross examination of witnesses, and reliance upon a disinterested trier of fact. Davis, supra at 12:3. "Legislative" facts, on the other hand, deal with matters of policy and administrative discretion, and affect individual parties to a dispute only to the extent that those parties are involved in the overall legislative scheme. *Id.* Determinations of such fact issues generally may be made without demands for an adversarial setting, *Bi-Metallic Investment Co. v. State Board of Equalization of Colorado*, 239 U.S. 441, 445, 36 S.Ct. 141, 142, 60 L.Ed. 372 (1915); *SEC v. Frank*, 388 F.2d 486, 491-92 (2d Cir. 1968); *Jackson County Public Water Supply District v. State Highway Commission*, 365 S.W.2d 553, 559 (Mo. 1963), although an opportunity for open and public debate in a speechmaking or public meeting-type hearing or in a notice and comment procedure is probably appropriate if not essential. *Londoner v. Denver*, 210 U.S. 373, 28 S.Ct. 708, 52 L.Ed. 1103 (1908); Davis, supra at § 12:5.

In applying these principles to the instant case, we note that commissioners courts in various counties of Texas are given authority to divide the counties into precincts and to revise those precincts "from time to time, for the convenience of the people." Tex. Const. art. V, § 18. Furthermore, as we noted previously, the commissioners had at the time of this suit statutory authority under article 2351 1/2 to abolish offices and declare vacancies incident to the redrafting of

boundary lines. Assuming the validity of article 2351 1/2, and given the constitutional provision, the Tarrant County Commissioners Court received a grant of power from the people of the state and from the legislature to perform the action here complained of. As such, the redistricting may be seen as the exercise of legislative or quasi-legislative power leading to the resolution of essentially political issues. We cannot conclude that the officers involved in this suit were wrongfully deprived of a trial-type adjudication of relevant facts, since there were no adjudicative facts to be determined.⁶

Page 424

Examination of the record in this case leads us to conclude that, given the circumstances of the case and the issues to be decided, the officeholders received as much protection as they were due. The court of appeals acknowledged in its opinion that the district attorney's office mailed letters to the officers informing them that the commissioners court had scheduled public meetings to consider redistricting the officers' precincts, and that notice of the meetings were also posted in compliance with the requirements of the Open Meetings Act, Tex.Rev.Civ.Stat.Ann. art. 6252-17 § 3A. In addition, the record reveals that the officers did, in fact, know about the hearings; that they knew what the hearings were for; that each officer attended at least one meeting, some accompanied by their attorneys; and that each officer was given the opportunity at the meetings to make comment and inquiry. There was considerable discussion, and at least one officer did exercise his right to speak. While we do not hold or imply that the officeholders whose positions were terminated had no rights to notice of the proceedings, or that the redistricting determinations could have been made in secret without invited comment from the public or the officers, we do hold that the attempts made to involve all interested parties in the legislative process in this case

were adequate. We therefore render judgment that the respondents take nothing.

1 Article 2351 1/2 then provided:

(c) When boundaries of justice of the peace precincts are changed, so that existing precincts are altered, new precincts are formed, or former precincts are abolished, if only one previously elected or appointed justice of the peace or constable resides within a precinct as so changed, he shall continue in office as justice or constable of that precinct for the remainder of the term to which he was elected or appointed. If more than one justice or constable resides within a precinct as so changed, or if none resides therein, the office shall become vacant and the vacancy shall be filled as other vacancies; provided, however, that in precincts having two justices, if two reside therein, both shall continue in office, and if more than two reside therein, both offices shall become vacant.

This portion of the statute was deleted by recent amendment. See 1981 Tex.Gen.Laws, ch. 280, § 1, at 748. Article 2351 1/2 now provides:

(b) When boundaries of commissioners or justice precincts are changed, the terms of office of the commissioners, justices of the peace, and constables then in office shall not be affected by such change, and each of them shall be entitled to serve for the remainder of the term to which he was elected even though the change in boundaries may have placed his residence outside of the precinct for which he was elected.

2 For example, the largest justice precinct in Tarrant County in 1977, precinct one, contained 402,730 persons; the smallest precinct, precinct eight, had a population of only 12,638.

3 Of the ten justices in Tarrant County, eight were in office at the time of suit, with terms

expiring December 31, 1982. Two justices had been elected in November 1980 but were not due to take office until January 1, 1981. All of the eight constables were to begin new terms on January 1, 1981.

issue arguably involved in the process was whether the redistricting plan was consistent with the "convenience of the people," although this question was itself essentially a matter of policy.

4 The judgment provided that any officeholder appointed to the same or similar position who declined to serve would waive his rights to recovery. The record does not reveal what dispossessed officers, if any, were reappointed by the commissioners court.

5 "Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 656, 94 L.Ed. 865 (1950).

6 A different situation would have existed, of course, and a more sophisticated adjudication procedure would have been required, had the commissioners sought to remove any of the officers for causes such as incompetence or malfeasance. In such cases, due process would accord the officer an opportunity to refute the charge in a trial-type hearing in order to protect his "good name, reputation, honor, or integrity." *Board of Regents v. Roth*, supra 408 U.S. at 573, 92 S.Ct. at 2707; *Cafeteria & Restaurant Workers Union v. McElroy*, supra 367 U.S. at 898, 81 S.Ct. at 1750; *Wieman v. Updegraff*, 344 U.S. 183, 190-91, 73 S.Ct. 215, 218-219, 97 L.Ed. 216 (1952). Additionally, the issues of incompetence and malfeasance would constitute adjudicative facts determinable only in an adversarial setting, and not in a legislative forum. *DAVIS*, supra at § 12:3-12:4. In the present case, there was no suggestion of removal of the officers for "cause"; rather, the discretionary action was taken pursuant to the statutory and constitutional authority. The only factual

APP. K

TEX.ATTY.GEN. OP. NO. GA-0356 (2005)



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

September 12, 2005

The Honorable Jeri Yenne Brazoria County Criminal District Attorney 111 East Locust Street Angleton, Texas 77515	Opinion No. GA-0356 Re: Retroactive application of municipal term limit provisions (<u>RQ-0327-GA</u>)
---	--

Dear Ms. Yenne:

On behalf of the Alvin City Attorney, you ask whether the term limit provisions of the Alvin City Charter apply to combined service as city council member and mayor.⁽¹⁾ You have submitted the Alvin City Attorney's letter on this matter.⁽²⁾

You received a letter from a citizen of Alvin asking about the application of the term limit provisions to the current mayor and forwarded it to the City Attorney for Alvin. *See* Request Letter, *supra* note 1, at 1. The Alvin City Attorney subsequently reviewed records of past city charter revisions and interviewed members of the 2001 Charter Review Commission and other city officials who attended Commission meetings. *See id.* at 2. She concluded that the city council "intended that the term limit of an individual running for the elected office of Mayor was separate and exclusive of any time served on the Council." Kacz Letter, *supra* note 2, at 2.

The Alvin City Attorney has forwarded the following questions to you, asking that you request an attorney general opinion addressing them:

1. Do term limits apply to combined terms of councilmember and mayoral service?
2. Are council District and At-Large positions considered separate offices for term limit considerations?
3. What is the retroactive application of the term limit provision? Does the 8 year term limit that became effective May 2002 upon adoption of the charter revisions apply to future service only?

Request Letter, *supra* note 1, at 2 (emphasis omitted). *See also* Kacz Letter, *supra* note 2, at 1. Your letter provides your analysis of and conclusions to these questions. *See* Request Letter, *supra* note 1, at 3-6.

This office does not construe city charters unless the charter provision raises a question of federal or state law. *See* Tex. Att'y Gen. Op. Nos. GA-0226 (2004) at 3, GA-0130 (2003) at 3, GA-0068 (2003) at 2 n.2, JC-0143 (1999) at 3, JM-805 (1987) at 1 n.1 (this office does not ordinarily construe city charters, in deference to municipal officials), H-1014 (1977) (applicability of city charter provisions to contract with county is to be determined by contracting parties). *See also* Tex. Att'y Gen. Op. Nos. GA-0110 (2003) (considering whether home-rule ordinance is consistent with state statute); GA-0068 (2003) (considering whether ethics ordinance proposed for adoption by home-rule city is consistent with federal and state law). This office has issued opinion request procedures stating that "[q]uestions involving cities, independent school districts, or others not specified in Sections 402.041-402.045 of the Government Code should be submitted by a statutorily authorized requestor only if they concern subject matter covered by the jurisdiction and duties of the office submitting the request." Attorney General of Texas, Opinion Request Procedures: How to Request an Opinion.⁽³⁾

Thus, we decline to answer the questions asking for an interpretation of city charter provisions. However, in connection with question three you raise a question of state law: whether term limits may be applied retroactively. Request Letter, *supra* note 1, at 4. We will address this question.

Article I, section 16 of the Texas Constitution provides that "[n]o bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made." *See* Tex. Const. art. I, § 16. This provision applies to charter provisions and ordinances adopted by cities. *See Coffee v. Castleberry*, 258 S.W. 889, 892 (Tex. Civ. App.-Amarillo 1924), *judgm't reformed on other grounds and aff'd*, 272 S.W. 767 (Tex. Comm. App. 1925). It prohibits retroactive laws only to the extent they "destroy or impair rights which had become vested." *See Subaru of Am. v. David McDavid Nissan, Inc.*, 84 S.W.3d 212, 220 (Tex. 2002); *Corpus Christi People's Baptist Church, Inc. v. Nueces County Appraisal Dist.*, 904 S.W.2d 621, 626 (Tex. 1995); *Merchant's Fast Motor Lines, Inc. v. R.R. Comm'n*, 573 S.W.2d 502, 504 (Tex. 1978); *Deacon v. City of Euless*, 405 S.W.2d 59, 62 (Tex. 1966); *McCain v. Yost*, 284 S.W.2d 898, 900 (Tex. 1955). Thus a law is not invalid even though retroactive in operation unless vested rights are destroyed or impaired. *Corpus Christi People's Baptist Church*, 904 S.W.2d at 626; Tex. Att'y Gen. Op. No. GA-0149 (2004) at 5-6.

The legislature may enact a statute shortening an incumbent officer's term and apply it to persons in office when the act becomes effective, as long as the Texas Constitution does not fix the term of office. *See Popham v. Patterson*, 51 S.W.2d 680, 683 (Tex. 1932). *See also* Tex. Const. art. IV, § 4 (establishing four-year term of office for governor); *id.* art. V, § 18 (establishing four-year term for justices of the peace and constable; providing that each justice and constable in office when precinct boundaries are changed shall serve out term). The Alvin City Charter sets the terms of office for the mayor and city council members. *See* Alvin, Tex., City Charter art. II, § 1 (2002) (attachment to Request Letter, Exhibit C).

A public officer has no vested right in the office he holds,⁽⁴⁾ and the legislature may reduce his term of service or abolish the office entirely. *See Tarrant County v. Ashmore*, 635 S.W.2d 417, 422 (Tex. 1982) (public officer's qualified interest in office is neither property nor a vested right); Tex. Att'y Gen. Op. Nos. JM-1233 (1990) at 3 (member of State Board of Pharmacy has no vested right to his position); JM-235 (1984) at 3 (school board may

establish single-member trustee districts pursuant to statute, even though terms of some incumbent trustees will be shortened); H-955 (1977) at 4 (absent legislative direction, state agency board that established chair's term of office by resolution may reduce term and apply change to present chair).

In Attorney General Opinion JM-1233, this office construed a term limit provision applicable to members of the Texas State Board of Pharmacy, determining that the term limit provision applied to service performed before the statute's effective date. *See* Tex. Att'y Gen. Op. No. JM-1233 (1990) at 2-3. It found that the statute was not retroactive, noting that "the legislature could have even reduced . . . [the board member's] present term of service or abolished the office entirely." *Id.* at 3 (citing Attorney General Opinions JM-235 (1984) and H-955 (1977)). *See also* Tex. Att'y Gen. Op. No. DM-493 (1998) at 3-4 (statute shortening term of incumbent does not violate constitutional provision against retroactive laws). If a city charter term limit provision applies to service as a city officer prior to its adoption, it does not impair a vested right and therefore is not a "retroactive law" prohibited by article I, section 16.

S U M M A R Y

An opinion of the Attorney General will not construe city charters unless the charter provision raises a question of state or federal law. If a city charter term limit provision applies to service as a city officer prior to its adoption, it does not impair a vested right and therefore is not a "retroactive law" prohibited by article I, section 16 of the Texas Constitution.

Very truly yours,



GREG ABBOTT
Attorney General of Texas

BARRY MCBEE
First Assistant Attorney General

NANCY S. FULLER
Chair, Opinion Committee

Susan L. Garrison
Assistant Attorney General, Opinion Committee

Footnotes

1. Letter from Honorable Jeri Yenne, Brazoria County Criminal District Attorney, to Honorable Greg Abbott, Texas Attorney General (Mar. 15, 2005) (on file with Opinion Committee, *also available at* <http://www.oag.state.tx.us>) [hereinafter Request Letter].

2. Letter from Bobbi J. Kacz, Alvin City Attorney, to Mr. Jim Wiginton, Chief-Civil Division, Brazoria County Attorney's Office (Feb. 21, 2005) (attachment to Request Letter, Exhibit A) [hereinafter Kacz Letter].

3. *Available at* http://www.oag.state.tx.us/opinopen/opin_request_proc.shtm.

4. A public officer may have a financial or property interest in his office that a court will protect against private interference, for example in an election contest. *See Tarrant County v. Ashmore*, 635 S.W.2d 417, 422 (Tex. 1982).

[Home](#) | [Opinions](#)

APP. L

TEX.ATTY.GEN. OP. NO. JM-1233 (1990)

1990 Tex. AG LEXIS 125

Office of the Attorney General of the State of Texas

Reporter

1990 Tex. AG LEXIS 125

Opinion No. JM-1233

October 15, 1990

Core Terms

full term, retroactive, reappoint, pharmacy, eligible

Syllabus

[*1]

Re: Application of a provision in article 4542a-1, V.T.C.S., the Texas Pharmacy Act, limiting the eligibility of board members to two terms (RQ-2129)

Request By: JIM MATTOX, Attorney General of Texas

Opinion

Mr. Fred S. Brinkley, Jr., R.Ph.
Executive Director/Secretary
Texas State Board of Pharmacy
8505 Cross Park Drive, Suite 110
Austin, Texas 78754-4594

You have requested our opinion regarding the eligibility of a member of the Texas State Board of Pharmacy to serve another term.

You explain that a particular individual was appointed to a full term on the Board of Pharmacy in 1973 and reappointed in 1979. In 1981, the legislature enacted the following provision as part of amendments to the Texas Pharmacy Act:

(c) A member of the board may not serve more than two consecutive full terms. The completion of the unexpired portion of a full term does not constitute a full term for purposes of this section.

V.T.C.S. art. 4542a-1, § 10(c). The member in question was reappointed to the board in 1985. You suggest that he is eligible to be reappointed in 1991, because the 1981-85 period constitutes "completion of the unexpired portion of a full term," and the appointments in 1985 and 1991 should be construed [*2] as the beginning dates of his allotted full terms. You contend that to consider the member's prior service at the time the statute was amended in 1981 would constitute a retroactive application of the statute.

It is certainly the settled rule that "a statute is presumed to be prospective in its operation unless expressly made retrospective." Texas Dep't of Public Safety v. Sefcik, 751 S.W.2d 239, 240 (Tex. App. -- San Antonio 1988, no writ). Furthermore, "a law is retrospective if it 'changes the consequences of acts completed before its effective

William Carroll

date'." *Piper v. Perrin*, 560 F. Supp. 253, 255 (D.N.H. 1983). However, even a statute that is retroactively applied is not unlawful "solely because it upsets otherwise settled expectations." *Long Island Oil Products Co. v. Local 553 Pension Fund*, 775 F.2d 24, 27 (2d Cir. 1985).

In *Perry v. O'Farrell*, 212 P.2d 848 (Colo. 1949), a state constitutional amendment imposed a requirement that five additional points be added to the final scores of veterans who sat for state civil service examinations. A non-veteran who had taken the examination prior to the amendment brought suit, claiming that the addition of five points to [*3] the scores of veterans would amount to a retroactive application of the amendment. The court declared:

An act is not retroactive if it applies to persons who presently possess a continuing status even though a part or all of the requirements to constitute it were fulfilled prior to passage of the act or amendments thereto.

Id. at 852 (quoting *Albright v. Board of Trustees of Firemen's Pension Fund*, 82 P.2d 765, 771 (Colo. 1938)). Analogously, in the situation you present, most of the member's "requirements . . . were fulfilled prior to passage of the act." This fact alone does not mean that the statute is retroactive if his prior service is considered in determining his future eligibility.

Likewise, *Anders v. County Council for Richland County*, 325 S.E.2d 538 (S.C. 1985), considered the status of an individual who had been hired as a chief investigator for a solicitor under a statute which provided a means for challenging employment terminations by an elected official. Subsequently, a statute was enacted which declared that employees of a solicitor serve at his pleasure. The investigator brought suit, contending that application of the "termination at will" statute [*4] to his situation would give that law retroactive effect. The court concluded that this was not a case of retroactive application:

Public officers are created for the benefit of the commonwealth, incumbents have no contract or property rights in them, and, unless it be otherwise provided by the Constitution, they are subject entirely to legislative control. Hence, subject to the Constitution, the General Assembly may fix the term, provide for removal, abolish the office, reduce the term, and in every respect control the existence, powers, emoluments, and tenure of public officers.

Id. at 539 (citing *Wright v. City of Florence*, 93 S.E.2d 215, 220 (S.C. 1956)).

In Open Records Decision No. 358 (1983), it was argued that a change in the status of certain property tax information from "open" to "closed" applied only to information collected after the effective date of the statute. The opinion stated:

The Open Records Act vests no right in anyone to have previously-disclosable information remain disclosable notwithstanding an intervening determination by the legislature that it should be withheld from public inspection To be vested, a right must be something more [*5] than an expectation of the continuance of an existing law. It must have become an entitlement to the present or future enjoyment of property or the enforcement of a demand, or to a legal exemption from demands.

Id. at 3.

In the situation you pose, the member had no vested right to his position on the Pharmacy Board. As the South Carolina court noted, the legislature could have even reduced his present term of service or abolished the office entirely. See Attorney General Opinions JM-235 (1984); H-955 (1977).

Finally, we note that the legislature could have entirely excluded from the application of section 10(c) all members who were serving on the board at the time the statute was amended. This approach was used in Amendment 22 of the United States Constitution, which limited the term of office of the President of the United States to two terms, but specified that it did "not apply to any person holding the office of President when this article was proposed by the Congress." Article 4542a-1, however, contains no such grandfather clause.

We conclude that a member of the State Board of Pharmacy who was appointed in 1973, and reappointed in 1979 and 1985, is not eligible [*6] to be reappointed to the board under the terms of section 10(c) of *article 4542a-1, V.T.C.S.*, which limits membership on the board to two full terms.

SUMMARY

A member of the State Board of Pharmacy who was appointed in 1973, and reappointed in 1979 and 1985, is not eligible to be reappointed to the board under the terms of section 10(c) of article 4542a-1, V.T.C.S., which was enacted in 1981 and which limits membership on the board to two full terms.

Load Date: 2014-06-29

APP. M
ORDINANCE O-02-1322

ORDINANCE O-02-1322

AN ORDINANCE OF THE CITY OF COLLEYVILLE, TEXAS, REQUIRING THE FILING OF A FINANCIAL DISCLOSURE AND BUSINESS CONFLICTS OF INTEREST STATEMENT FOR ELECTED OFFICIALS, CANDIDATES, AND CERTAIN BOARDS AND COMMISSION MEMBERS, ESTABLISHING DEFINITIONS OF TERMS, PROMULGATING REPORTING FORMS, PROVIDING FOR FILING DATES, REPEALING A PRIOR RESOLUTION CONCERNING THE SUBJECT MATTER OF THE ORDINANCE, PROVIDING A PENALTY AND AUTHORIZING PUBLICATION.

WHEREAS, the citizens of the City of Colleyville are entitled to know certain information about candidates for public office, elected officials and members of the Planning and Zoning Commission and the Zoning Board of Adjustment that may influence their decisions or determine whether they can make unbiased decisions; and

WHEREAS, to insure citizen trust of elected and appointed officials of the City,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS, AS FOLLOWS:

Sec. 1. THAT the terms used in this ordinance shall have the following meaning:

- A. Account of Financial Activity. An "Account of Financial Activity" means and shall consist of:
- (i) A list of sources of occupational income during the reporting period, identified by the employer, the employer's address and position held, or if self-employed, by the nature of the occupation, the business address and position held of the individual, their spouse and those under the individual's financial control; and
 - (ii) Where an individual or those under the individual's financial control own real property or a beneficial interest in a business entity owning real property within the area crosshatched on Exhibit "A" to this ordinance during the reporting period, the account shall list the name in which legal title to the property is held, the nature of ownership interest, the name of the business entity in which a beneficial interest is held (if applicable), the lot, block, subdivision, city and county, or, if the real property is not part of a subdivision, the number of acres and tract, city and county in which the property is located. Further the account shall list each property identification number assigned by the

county appraisal district to the property and by the street address (if available). Further, the account shall list the names and addresses of other persons or business entities which own an interest in the real property. If a business entity is a limited partnership, the name and address of the general partner shall be included; and

(iii) The name, address and nature of business of any business entity in which the individual or those under the individual's control held or acquired a beneficial interest of 10% or more during the reporting period; and

(iv) The name and address of the person, business entity or other organization from which the individual or those under the individual's financial control during the reporting period received a gift of anything of value in excess of \$250.00 and a description of each gift, except (1) gifts received from an individual within the second degree of consanguinity or affinity as determined under sub-chapter B of Chapter 573 of the Government Code; (2) a political contribution that was reported as required by law; and (3) an expenditure required to be reported by a person required to be registered under Chapter 305 of the Government Code; and

(v) The name and address of any business entity, non-profit corporation, charitable association, business association or other type of organization in which the individual or those under the individual's financial control were an officer, director, or held another position during the reporting period and a description of the position held.

B. Bankruptcy. "Bankruptcy" means the filing of a petition, voluntary or involuntary, under Chapter 7, 11 or 13 of the Bankruptcy Code. (Title 11 of the United States Code).

C. Beneficial Interest. A "beneficial interest" means an ownership of either legal or equitable title and includes any ownership interest held in trust where the individual is either the trustee or the beneficiary of the trust. Where the ordinance refers to a beneficial interest of 10% or more of a business entity it is meant that the individual owns or is entitled to either a legal or equitable interest in 10% or more of the

outstanding stock, membership interest or other indicia of ownership of the business entity.

- D. Business Entity. A "business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized by law through which business or profit is conducted.
- E. Those Under The Individual's Financial Control. "Those under the individual's financial control" means the individual's spouse and dependent children's property or financial interest over which the individual had actual control or where the property was community property during the reporting period.
- F. Reporting Individuals. "Reporting Individuals" means each member of the City Council, including the Mayor, each candidate for membership in the City Council, including the Mayor, each member of the Planning and Zoning Commission and Zoning Board of Adjustment, who are appointed after the passage of this ordinance and each applicant for a position on the Planning and Zoning Commission or the Zoning Board of Adjustment.
- G. Reporting Period. The "reporting period" means the twelve (12) month period immediately preceding the date the Account of Financial Activity is due pursuant to the terms of this ordinance.
- H. Trust. A "trust" means a trust subject to Chapter 9 of the Texas Property Code that owns real property or a beneficial interest in a business entity owning real property within the area crosshatched on Exhibit "A" to this ordinance or where the trust owns a 10% or more beneficial interest in another business entity.

Sec. 2. THAT the Reporting Individuals shall file a report of their Account of Financial Activity for the applicable reporting period.

Sec. 3. THAT the Reporting Individuals shall file a report disclosing the filing of any bankruptcy petition by or against the individual, their spouse, a business entity in which the individual owned a beneficial interest of 10% or more, a business entity in which the individual was an officer or director of the business entity at the time of bankruptcy filing.

- Sec. 4. THAT the Reporting Individuals shall file a report disclosing the filing of any information which charges a misdemeanor involving moral turpitude, a felony indictment, conviction of a misdemeanor involving moral turpitude or conviction of a felony of the individual or of a business entity in which the individual had a 10% or more beneficial interest or where the individual was at the time of the filing or conviction an officer or director of the business entity. The report shall specify the name of the person or business entity charged, the nature of the offense, and if the information or indictment did not result in a conviction, the disposition of the information or the indictment.
- Sec. 5. THAT the disclosures required by Sections 2, 3 and 4 hereof shall be made on the Financial Disclosure and Business Conflict of Interest Forms which are attached hereto, shall be verified as provided therein and shall be filed with the City Secretary on the following dates:
- A. Candidates for membership in the City Council, including the Mayor, who are not currently sitting Council members, shall file within two (2) business days following the date upon which the filing for election for the position for which the individual seeks election is closed.
 - B. Sitting Council members, including the Mayor, shall file on or before twenty (20) days after the passage of this ordinance and on the first business day following January 15 and July 15 each year.
 - C. Applicants seeking appointment to the Planning and Zoning Commission or the Zoning Board of Adjustment shall file within two (2) business days following the end of the application period stated in the official City advertisement for application for the position.
 - D. Sitting members of the Planning and Zoning Commission and the Zoning Board of Adjustment, who are appointed after the passage of this ordinance, shall file on the first business day following January 15 and July 15 of each year.
- Sec. 6. THAT the Reporting Individuals shall have a duty to file supplemental disclosures upon the Financial Disclosure and Business Conflict of Interest Forms which are attached hereto within three (3) business days of an occurrence of any change in the information reflected in the Financial Disclosure and Business Conflict of Interest Forms previously filed by the individual or where said information becomes inaccurate or

incomplete after the reporting period but prior to the conduct of the election at which they seek office or prior to their appointment.

- Sec. 7. THAT the failure to file when due the Financial Disclosure and Business Conflict of Interest Forms, including any supplements required thereto, shall constitute a violation of this ordinance and shall be punishable by a fine not to exceed the sum of \$500.00. It shall be a defense to any prosecution of a violation of this ordinance that within three (3) business days of the due date of any Financial Disclosure and Business Conflict of Interest Form, including any supplements required thereto, the individual filed a Financial Disclosure and Business Conflict of Interest Form in conformity with the provisions of this ordinance.
- Sec. 8. THAT if any section, paragraph, clause or provision of this ordinance for any reason is to be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect the remaining portion of this ordinance and the ordinance shall be read as if such invalid or unenforceable provisions did not exist.
- Sec. 9. THAT upon passage hereof, Resolution R-01-1789 is repealed in its entirety.
- Sec. 10. THAT the City Secretary is hereby authorized and directed to cause publication of a description caption and penalty clause hereof as an alternative method of publication as provided by law.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 15th day of January 2002.

The second reading and public hearing being conducted on the 5th day of February 2002.

ATTEST:



Cynthia Singleton, TRMC
City Secretary

CITY OF COLLEYVILLE



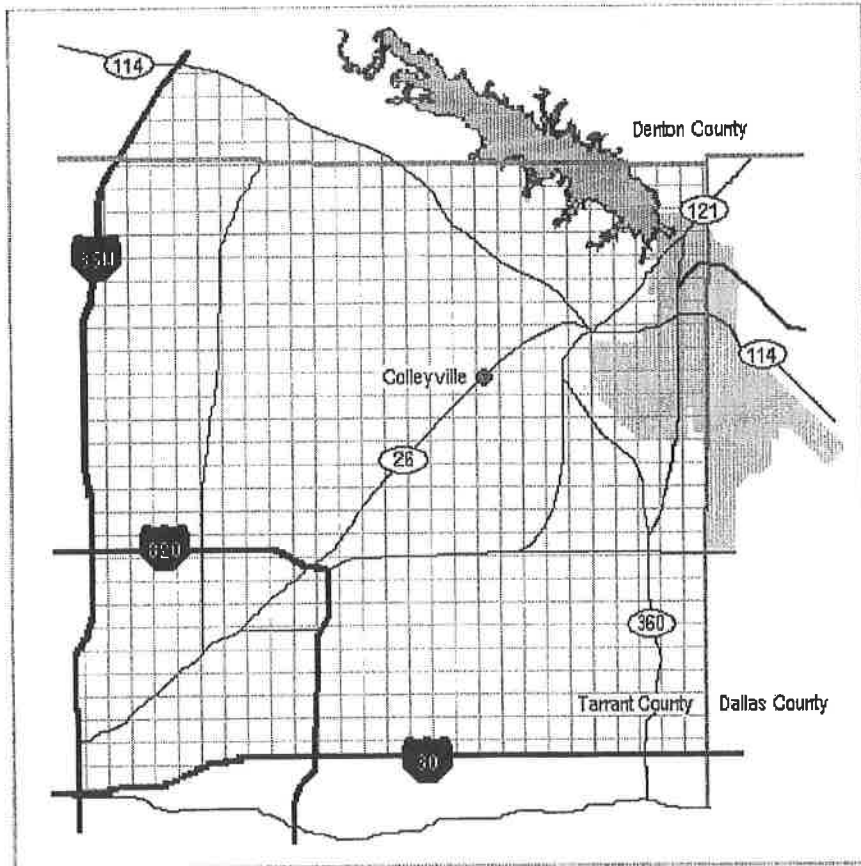
Donna Arp
Mayor

APPROVED AS TO FORM AND LEGALITY:



Ross T. Foster
City Attorney

ORDINANCE NO. 0-02-1322
Exhibit "A"



The crosshatched area is the portion of Tarrant County north of Interstate 30 and east of Interstate 35 W, and that portion of Denton County south of State Highway 114 and east of Interstate 35 W.

INFORMATION STATEMENT**Form 1**

Filed in accordance with Ordinance 02-1322

TOTAL NUMBER OF PAGES FILED:

OFFICE USE ONLY**1 NAME**

TITLE; FIRST, MI

NICK NAME; LAST, SUFFIX

Account Number

Date Received

2 ADDRESS

ADDRESS / CITY / STATE / ZIP

Receipt Number

Amount

**3 TELEPHONE
NUMBER**

AREA CODE

PHONE NUMBER; EXTENSION

()

Date Processed

Date Imaged

**4 REASON
FOR FILING
STATEMENT**☐ CANDIDATE _____ (INDICATE OFFICE)☐ ELECTED OFFICIAL _____ (INDICATE OFFICE)☐ ZONING BOARD OF ADJUSTMENT (APPLICANT OR APPOINTEE) _____☐ PLANNING AND ZONING COMMISSION (APPLICANT OR APPOINTEE) _____☐ TWO (2) BUSINESS DAYS FOLLOWING THE CLOSING OF FILING FOR ELECTIVE
OFFICE OR APPOINTMENT☐ CHANGES TO BE FILED JANUARY 15TH☐ CHANGES TO BE FILED JULY 15TH☐ SUPPLEMENTAL CHANGES

5 Provide information for spouse and dependent children whose financial activity the filer had actual control over during this filing period. In addition, the source of annual income of the spouse shall be provided, as subject to federal election reporting requirements for a spouse:

☐ SPOUSE _____☐ DEPENDENT CHILD 1 _____

2 _____

3 _____

6 ☐ NO CHANGE. I do by here verify that there has been no changes since the previous filing of the Financial Disclosure and Business Conflict of Interest Forms. PLEASE SEE FORM 8

In parts 1-4 disclose your financial activity during the 12 months proceeding the date of filing. In part 5 disclose not only your own financial activity, but also that of your spouse and/or dependent child or children, if you had actual control over that person's financial activity.

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

SOURCES OF OCCUPATIONAL INCOME**Form 2**

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on FORM 1.

¹ INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

INTERESTS IN REAL PROPERTY**Form 3**

Describe all beneficial interests in real property held or acquired by you, your spouse, or a dependent child during the calendar year within the area crosshatched on the map attached to Ordinance 02-1322.
For more information see INSTRUCTION GUIDE

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorem Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS ☐ NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME ☐ INDIVIDUAL ☐ BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorem Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS ☐ NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME ☐ INDIVIDUAL ☐ BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

Gifts**Form 4**

Identify any person or organization that has given a gift worth more than \$250 to you, or those under your financial control as defined in Ordinance 02-1322. Do not include: 1) expenditures required to be reported by a person required to be registered as a lobbyist under Government Code, Chapter 305, 2) political contributions reported as required by law, or 3) gifts given by a person related to the recipient within the second degree by consanguinity or affinity.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² DONOR	NAME AND ADDRESS
³ DESCRIPTION OF GIFT	
RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	
RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

BOARDS AND EXECUTIVE POSITIONS**Form 5**

This section is for information concerning executive positions and directorship held by you or those under your financial control. For more information see INSTRUCTION GUIDE

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 ORGANIZATION ☐ NON PROFIT ☐ CHARITABLE ASSOCIATION ☐ BUSINESS ASSOCIATION	ADDRESS
3 POSITION HELD	
POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
ORGANIZATION ☐ NON PROFIT ☐ CHARITABLE ASSOCIATION ☐ BUSINESS ASSOCIATION	ADDRESS
POSITION HELD	
POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
ORGANIZATION	
POSITION HELD	
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

BANKRUPTCIES**Form 6**

Individuals shall disclose any bankruptcy petition by or against the individual, their spouse, a business entity in which the individual owned a beneficial interest of 10% or more, or a business entity in which the individual was an officer or director of the business entity at the time of bankruptcy filing. For more information see INSTRUCTION GUIDE

1 TYPE OF BANKRUPTCY NAME _____	☐ PERSONAL ☐ BUSINESS ☐ N/A ☐ NONE
2 CHAPTER	☐ 7 ☐ 11 ☐ 13
3 IF CHAPTER 7 DID YOU RECEIVE A DISCHARGE	☐ YES ☐ NO
4 IF CHAPTER 11 OR 13 DID YOU COMPLETE A SUCCESSFUL REORGANIZATION	☐ YES ☐ NO

Misdemeanor Involving Moral Turpitude and Felonies

Individuals shall disclose any information which charges a misdemeanor involving moral turpitude, a felony indictment, conviction of a misdemeanor involving moral turpitude or conviction of a felony of the individual or of a business entity in which the individual had a 10% or more beneficial interest or where the individual was at the time of the filing or conviction an officer or director of the business entity.

1 NAME _____ Business or Entity Charged	☐ PERSONAL ☐ BUSINESS
2 TYPE OF INDICTMENT or INFORMATION	
3 NATURE OF OFFENSE	DESCRIPTION
4 DISPOSITION OF INDICTMENT or INFORMATION	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

**INTERESTS IN PARTNERSHIPS, JOINT VENTURES,
OR OTHER BUSINESS ASSOCIATIONS****Form 7**

Describe all interests in business entities held or acquired by you or those under your financial control as defined in Ordinance 02-1322. For an explanation of "beneficial interest" and other specific directions for completing this section, see INSTRUCTION GUIDE.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² DESCRIPTION	NAME AND ADDRESS
³ NATURE OF BUSINESS	
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

**PERSONAL FINANCIAL STATEMENT
AFFIDAVIT****Form 8**

The Ordinance 02-1322 requires that the disclosures in the Financial Disclosure and Business Conflict of Interest Forms be verified. The verification page must have the signatures of the Financial Disclosure and Business Conflict of Interest Forms, as well as the signature and seal of a notary public. Without proper verification, the statement is not considered filed. Falsification of information is subject to criminal prosecution under state penal code.

Before me, the undersigned authority, personally appeared _____
who, after being duly sworn upon their oath deposed and stated as follows:

"My name is _____ and I hereby submit for filing pursuant to
Ordinance No. 0-02-1322 of the City of Colleyville, the attached Financial Disclosure and Business Conflict
of Interest Forms. I have personal knowledge of all information contained in said forms and all information
contained in the forms is true and correct."

"Further, all of the information contained in the forms is complete. There is no information that has
been withheld or not disclosed which is responsive to or required to be disclosed by the forms."

Affiant

Sworn to and subscribed before me, this the _____ day of _____, 2002.

Notary Public, State of Texas

INITIAL HERE: _____

DATE: _____

APP. N
ORDINANCE O-13-1896

ORDINANCE O-13-1896

AMENDING ORDINANCE O-02-1322 FILING DATES OF A FINANCIAL DISCLOSURE AND BUSINESS CONFLICTS OF INTEREST FORM; PROVIDING FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council approved Ordinance O-02-1322 on February 5, 2002, to establish the filing of a Financial Disclosure and Business Conflicts of Interest Statement for elected officials, candidates, and certain boards and commission members; establish definitions of terms; promulgate reporting forms; and provide for filing dates; and

WHEREAS, the City Council deems it in the best interests of the public to make available certain information about candidates for public office, elected officials, and members of the Planning and Zoning Commission, and the Zoning Board of Adjustment that may influence their decisions, or determine whether they can make unbiased decisions; and

WHEREAS, the City Council wishes to ensure citizen trust of elected and appointed officials of the City; and

WHEREAS, the original disclosure ordinance is in need of an update to make compliance more practicable, while achieving the same basic goals; and

WHEREAS, all statutory and constitutional requirements for the passage of this ordinance have been adhered to, including but not limited to the Open Meetings Act; and

WHEREAS, the purposes of this ordinance are to promote the public health, safety, and general welfare of the citizens of the City of Colleyville.

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

Sec. 1. That all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

Sec. 2. THAT Ordinance O-02-1322 is hereby amended to include the following:

- (1) Section 5B shall read as follows: Sitting Councilmembers, including the Mayor, shall have a duty to file supplemental disclosures upon the Financial Disclosure and Business Conflict of Interest Forms, which are attached hereto, within five (5) days of an occurrence of any change in the information reflected in the Financial Disclosure and Business Conflict of Interest Forms previously filed by the individual.
- (2) Section 5D: shall read as follows: Sitting members of the Planning and Zoning Commission and the Zoning Board of Adjustment, shall have a duty to file supplemental disclosures upon the Financial Disclosure and Business Conflict of Interest Forms, which are attached hereto, within five (5) days of an occurrence of any change in the information reflected in the Financial Disclosure and Business Conflict of Interest Forms previously filed by the individual.
- (3) The boundary map has been revised to include the Colleyville City limits only, attached as Exhibit "A".
- (4) Section 6 is deleted entirely.
- (5) Section 7 shall read as follows: THAT the failure to file any change in the Financial Disclosure and Business Conflict of Interest Forms, including any supplements required thereto, shall constitute a violation of this ordinance and shall be punishable by a fine not to exceed the sum of \$500.00. It shall be a defense, to any prosecution of a violation of this ordinance, that within five (5) days of any change in the Financial Disclosure and Business Conflict of Interest Form, including any supplements required thereto, the individual filed a Financial Disclosure and Business

Conflict of Interest Form in conformity with the provisions of this ordinance.

- Sec. 3. THAT the Financial Disclosure and Business Conflict of Interest Forms which are attached hereto as Exhibit "B", shall be verified as provided therein, and shall be filed with the City Secretary on the aforementioned dates.
- Sec. 4. THAT if any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.
- Sec. 5. THAT in addition to and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.
- Sec. 6. THAT Ordinance O-02-1322 shall remain in full force and effect, except where amended by this ordinance.

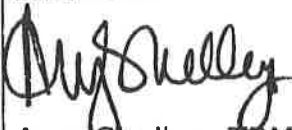
AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 5th day of November 2013.

The second reading and public hearing being conducted on the 19th day of November 2013.

PASSED AND APPROVED by the City Council of the City of Colleyville, Texas, on this the 19th day of November 2013.

ATTEST:



Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE



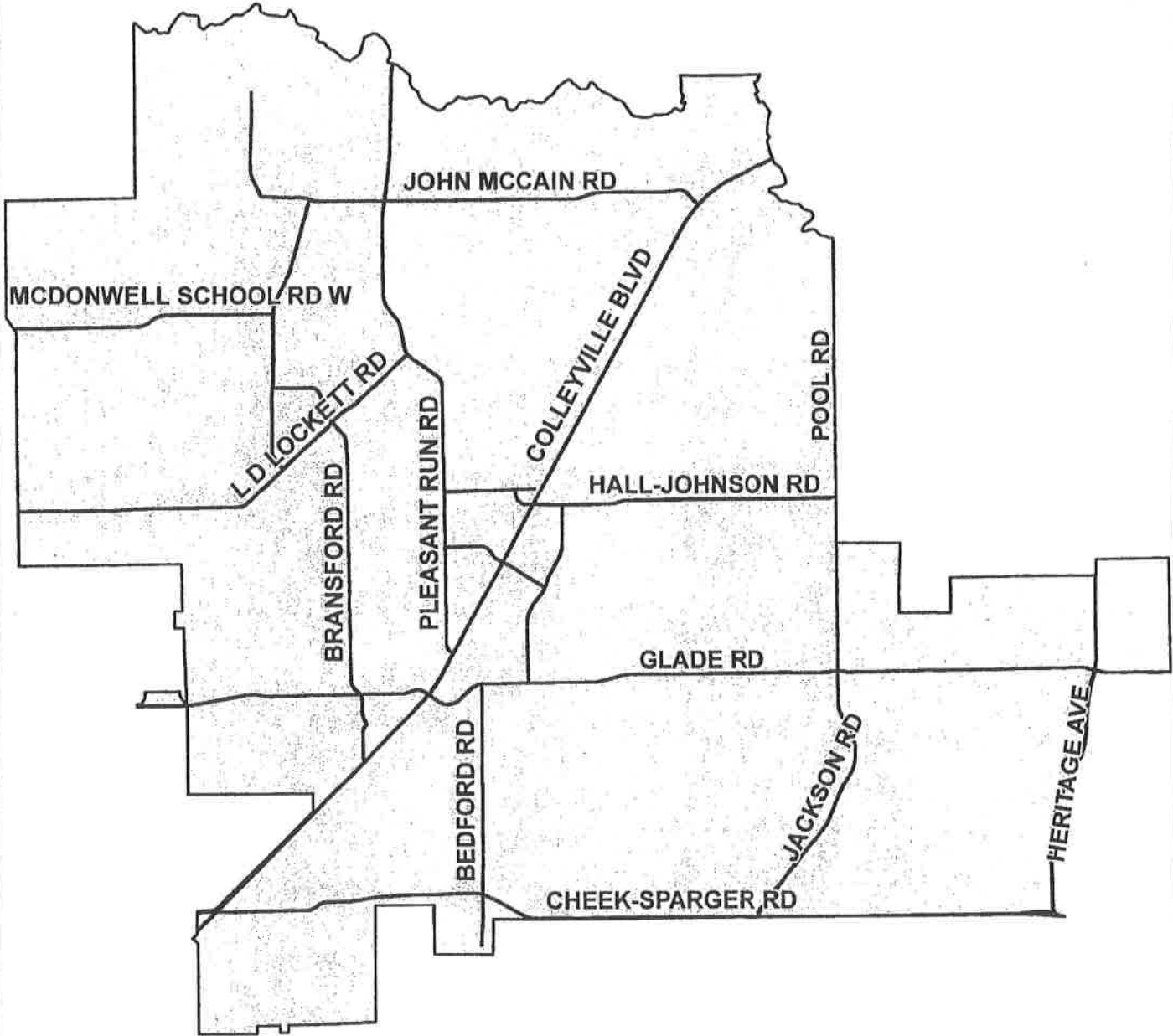
Mike Taylor
Mayor Pro Tem

APPROVED AS TO FORM AND LEGALITY:

MA G. R

Matthew C. G. Boyle
City Attorney

Exhibit "A"



1

Financial Disclosure and Business Conflict of Interest Forms

INITIAL HERE: _____ DATE: _____

SOURCES OF OCCUPATIONAL INCOME**Form 2**

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on FORM 1.

1 INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

INTERESTS IN REAL PROPERTY**Form 3**

Describe all beneficial interests in real property held or acquired by you, your spouse, or a dependent child during the calendar year

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorem Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS ☐ NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME ☐ INDIVIDUAL ☐ BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorem Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS ☐ NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME ☐ INDIVIDUAL ☐ BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

Gifts**Form 4**

Identify any person or organization that has given a gift worth more than \$250 to you, or those under your financial Control. Do not include: 1) expenditures required to be reported by a person required to be registered as a lobbyist under Government Code, Chapter 305, 2) political contributions reported as required by law, or 3) gifts given by a person related to the recipient within the second degree by consanguinity or affinity.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DONOR	NAME AND ADDRESS
3 DESCRIPTION OF GIFT	
RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	
RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

BOARDS AND EXECUTIVE POSITIONS**Form 5**

This section is for information concerning executive positions and directorship held by you or those under your financial control.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² ORGANIZATION ☐ NON PROFIT ☐ CHARITABLE ASSOCIATION ☐ BUSINESS ASSOCIATION	ADDRESS
³ POSITION HELD	
POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
ORGANIZATION ☐ NON PROFIT ☐ CHARITABLE ASSOCIATION ☐ BUSINESS ASSOCIATION	ADDRESS
POSITION HELD	
POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
ORGANIZATION	
POSITION HELD	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

BANKRUPTCIES**Form 6**

Individuals shall disclose any bankruptcy petition by or against the individual, their spouse, a business entity in which the individual owned a beneficial interest of 10% or more, or a business entity in which the individual was an officer or director of the business entity at the time of bankruptcy filing.

1 TYPE OF BANKRUPTCY NAME _____	☐ PERSONAL ☐ BUSINESS ☐ N/A ☐ NONE
2 CHAPTER	☐ 7 ☐ 11 ☐ 13
3 IF CHAPTER 7 DID YOU RECEIVE A DISCHARGE	☐ YES ☐ NO
4 IF CHAPTER 11 OR 13 DID YOU COMPLETE A SUCCESSFUL REORGANIZATION	☐ YES ☐ NO

Misdemeanor Involving Moral Turpitude and Felonies

Individuals shall disclose any information which charges a misdemeanor involving moral turpitude, a felony indictment, conviction of a misdemeanor involving moral turpitude or conviction of a felony of the individual or of a business entity in which the individual had a 10% or more beneficial interest or where the individual was at the time of the filing or conviction an officer or director of the business entity.

1 NAME _____ Business or Entity Charged	☐ PERSONAL ☐ BUSINESS
2 TYPE OF INDICTMENT or INFORMATION	
3 NATURE OF OFFENSE	DESCRIPTION
4 DISPOSITION OF INDICTMENT or INFORMATION	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

**INTERESTS IN PARTNERSHIPS, JOINT VENTURES,
OR OTHER BUSINESS ASSOCIATIONS****Form 7**

Describe all Interests in business entities held or acquired by you or those under your financial control.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² DESCRIPTION	NAME AND ADDRESS
³ NATURE OF BUSINESS	
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

**PERSONAL FINANCIAL STATEMENT
AFFIDAVIT****Form 8**

Financial Disclosure and Business Conflict of Interest Forms are required to be verified. The verification page must have the signatures of the Financial Disclosure and Business Conflict of Interest Forms, as well as the signature and seal of a notary public. Without proper verification the statement is not considered filed. Falsification of information is subject to criminal prosecution under state penal code.

Before me, the undersigned authority, personally appeared _____
who, after being duly sworn upon their oath deposed and stated as follows:

"My name is _____ and I hereby submit for filing
the attached Financial Disclosure and Business Conflict of Interest Forms. I have personal
knowledge of all information contained in said forms and all information contained in the
forms is true and correct."

"Further, all of the information contained in the forms is complete. There is no information
that has been withheld or not disclosed which is responsive to or required to be disclosed
by the forms."

Affiant

Sworn to and subscribed before me, this the _____ day of _____ 20____.

Notary Public, State of Texas

INITIAL HERE: _____

DATE: _____

RESOLUTION R-16-4018

**A RESOLUTION OF THE CITY OF COLLEYVILLE, TEXAS ACCEPTING
THE RECOMMENDATIONS OF THE COLLEYVILLE CITIZEN'S
CHARTER REVIEW COMMITTEE**

WHEREAS, the City Council appointed the Colleyville Citizen's Charter Review Committee on June 21, 2016, to review the City Charter for possible modifications; and

WHEREAS, the Committee met on July 6 and July 14, 2016, to review the City Charter in preparation of making recommendations to the City Council; and

WHEREAS, the Committee has recommended the changes to the City Council for acceptance.

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

Sec. 1. THAT the recommendations, dated July 28, 2016, attached as Exhibit A, are hereby accepted and will serve as a guide for considering calling an election for possible City Charter modifications.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ___ AYES, ___ NAYS, AND ___ ABSTENTIONS
ON THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor

Exhibit A

**REPORT
OF THE
COLLEYVILLE CITIZENS' CHARTER
REVIEW COMMITTEE
JULY 28, 2016**

Respectfully submitted,

**Frank Carroll, Chair
Michael Muhm, Vice Chair
Claudia Bevill
Vince Hawkins
Rich Hendler
David Medlin
Shirley Schollmeyer
Nelson Thibodeaux
Steve Walters
Tim Weymouth**

TABLE OF CONTENTS

	<u>Page</u>
Table of Contents	i
I. Background	1
II. Items Covered By Appointing Resolution	2
III. Meetings of the Committee	2
IV. Committee Discussions and Rationales	4
V. Additional Recommendations of the Committee	7
VI. Conclusion	8

Appendices

App. A - Resolution R-16-4007

App. B - Agenda and Minutes of Committee Meeting of July 6, 2016

App. C - Agenda and Minutes of Committee Meeting of July 14, 2016

App. D - Proposed Amendment to Charter of City of Colleyville Section 3.01A -
Limitation on Terms

App. E - Proposed Amendment to Section 3.09(C) to Charter of City of Colleyville

App. F - Proposed Amendments to Sections 7.02, 7.03(A), 7.04(A), 7.05 and 7.06 to
Charter of City of Colleyville

App. G - Proposed Amendment to Article XIII to Charter of City of Colleyville

App. H - Proposed Amendment to Section 14.02 to Charter of City of Colleyville

App. I - *Corpus Christi People's Baptist Church v. Nueces County Appraisal Dist.*, 904
S.W.2d 621 (Tex. 1995)

App. J - *Tarrant County v. Ashmore*, 635 S.W.2d 417 (Tex. 1982)

App. K - Tex. Atty. Gen. Op. No. GA-0356 (2005)

App. L - Tex. Atty. Gen. Op. No. JM-1233 (1990)

App. M - Ordinance O-02-1322

App. N - Ordinance O-13-1896

**REPORT
OF THE
COLLEYVILLE CITIZENS' CHARTER
REVIEW COMMITTEE**

Honorable Richard Newton, Mayor and Members of the City Council

The following Report of the Colleyville Citizens' Charter Review Committee ("CRC" or "Committee") is respectfully submitted in accordance with Resolution R-16-4007¹ unanimously adopted by the Colleyville City Council on June 21, 2016.

In summary, this Report outlines the meetings of the CRC, summarizes the Committee's discussions and rationale for certain of its proposals and for additional matters considered, contains the proposed amendments to the Charter of the City of Colleyville ("Charter") as unanimously adopted by the Committee and makes additional recommendations for matters to be considered by the Mayor and the City Council.

On behalf of the entire Committee, we wish to thank Mayor Newton and the members of the City Council for the opportunity to serve on the Committee and to provide representative citizen input regarding the fundamental governing document for our City, the Charter.

The Committee also wishes to express its special thanks to Assistant City Manager Michael Holder for his assistance in facilitating the Committee's completion of its assigned tasks. The Committee would also like to express its thanks to City Manager Jennifer Fadden, Project Coordinator James Hubbard and City Secretary Amy Shelley for their assistance. Finally, the Committee expresses its thanks to Mayor Newton, Councilman Lindamood and Councilwoman Nakamura for taking time to attend the meetings of the Committee.

I. BACKGROUND

On July 21, 2016 the City Council of the City of Colleyville unanimously adopted Resolution R-16-4007 appointing a Colleyville Citizens' Charter Review Committee. The Resolution appointed ten Colleyville citizens as members.

Frank Carroll, Chair
Michael Mumm, Vice Chair
Claudia Bevill
Vince Hawkins
Rich Hendler
David Medlin
Shirley Schollmeyer
Nelson Thibodeaux
Steve Walters
Tim Weymouth

¹ A copy of Resolution R-16-4007 is included in the Appendix, App. A.

The Resolution also set a specific and very compressed timetable for the Committee to complete its assigned tasks directing that the Committee's recommendations should be finalized and presented to the City Council by July 29, 2016.

II. ITEMS COVERED BY APPOINTING RESOLUTION

The Resolution directed the Committee to consider amendments to Sections 3.01, 3.09(C), 7.02, 7.03(A), 7.04(A), 7.05, 7.06 and 14.02(K) of the Charter of the City of Colleyville. Although the sections proposed for review were considered and voted on by the Committee individually, the proposed revisions to various subsections of Section 7 of the Charter are substantially identical and are discussed in this Report as a single group.

In addition to the items specifically listed in the Resolution, the Committee determined that certain other sections of the Charter were in need of revision. Consequently, in addition to the sections listed in the Resolution, this Report proposes minor additional amendments to Sections 7.02 and 7.06, the deletion of Article XIII and amendments to Section 14.02(F). Although these sections were not specifically mentioned in the Resolution, the Resolution does not prohibit, and appears to contemplate, that the Committee may consider other possible revisions to the Charter. Section 5 of the Resolution provides that the Committee responsibilities "may include" the specific listed items, but by using the permissive term does not preclude other matters from being considered by the Committee.

Due to the compressed time frame, the Committee elected not to venture beyond the general scope of the Charter Sections included in the Resolution, with the exception of Article XIII. In that respect, the Committee's deliberations and this Report should not be construed as taking any position on whether the Charter should be subject to a more wide-ranging review or whether there exist other Charter sections which should be amended or repealed.

III. MEETINGS OF THE COMMITTEE

A. July 6, 2016 – First Meeting

Although the Committee had planned to conduct up to four meetings, if necessary, the Committee was able to complete its work in only two meetings.

The first meeting was held on July 6, 2016.² The first meeting was attended by 9 of the 10 Committee members and lasted approximately two hours.

The Chair of the Committee presented drafts of proposed amendments to all of the sections of the Charter identified in the Resolution. He then generally described the nature, content and impact of each of the draft amendments.

² A copy of the July 6, 2016 Agenda is included in the Appendix, App. B.

The Chair then advised that the purpose of this first meeting was to engage in a general discussion of the draft amendments, respond to questions regarding the drafts, and consider possible recommendations for any other sections of the Charter which any member of the Committee wished to have considered. To encourage discussion and the exchange of ideas, the Chair stated that this first meeting was to be an informal discussion session and that Robert's Rules of Order would not be applicable.

As reflected by the very detailed and precise minutes prepared by City Secretary Shelly,³ there was extensive discussion of the identified sections of the Charter as well as other sections thought worthy of consideration by Committee members.

In summary, the Committee suggested the following changes, additions, deletions or substitutions to the draft amendments:

1. Section 3.01(A) Limitations on Terms was to be revised to clarify the application of the 12 consecutive year limitation.
2. Section 7.02 City Secretary was to be modified to add the phrase "for an indefinite term."
3. Section 7.06 Department of Finance was to be modified to add the phrase "for an indefinite term."
4. A proposal was to be prepared which would repeal Article XIII Transitional Provisions.
5. Section 14.02(F) was to be added to the other proposed revisions to Section 14.02 to clarify the time frame in which a citizen could file a complaint regarding a violation of Section 14.02 Personal Financial Interest.

The Chair of the Committee was charged with revising the draft and submitting them to the Committee prior to the meeting scheduled for July 14, 2016. The revised draft of proposed amendments was submitted to the Committee members on July 11, 2016.

B. July 14, 2016 – Second Meeting

The Committee met for the second time on July 14, 2016.⁴ The Chair indicated that it was his intention to proceed to vote individually on each of the proposed amendments, and if possible, to complete all voting by the conclusion of the meeting. The Chair further advised that this meeting would be conducted in accordance with Robert's Rules of Order.

It should be noted that two members who had been present at the first meeting were unable to attend the second meeting. After being advised at the first meeting of the two

³ A copy of the July 6, 2016 Minutes is included in the Appendix, App. B.

⁴ A copy of the July 14, 2016 Agenda is included in the Appendix, App. C.

members' inability to attend, the Chair requested the Assistant City Manager to inquire of the City Attorney as to the ability of the two members to attend by telephone conference and vote either orally or by written proxy. The City Attorney advised the Assistant City Manager that a member must be in actual attendance to be able to cast a recorded vote.

Although the vote could not be officially counted, the Chair emailed all Committee members stating the foregoing and offering to present any comments an absent member might wish to make on the drafts and their unofficial vote both to the other Committee members and to the City Council. Unfortunately, neither absent member was able to participate in the manner suggested.

At the meeting and after discussion, a roll call vote was taken individually on each of the proposed amendments. All of the proposed amendments were adopted unanimously by the Committee, with no abstentions, as reflected by the minutes.⁵

IV. COMMITTEE DISCUSSIONS AND RATIONALES

The discussions of the Committee were virtually unanimous in agreeing on the rationales and need for the proposed amendments. The minutes of the meetings reflect the almost universal agreement on the exact amendments now being presented by the Committee to the Mayor and City Council. However, a summary of the Committee discussions and reasoning may be useful in understanding the unanimous result of the Committee's deliberations and votes.

A. Voting Procedures.

The amendment to Section 3.09(C) to clarify voting methods was adopted with little discussion. It was the opinion of the Committee that it should be made clear that "aye or nay" votes were not required on procedural notions and/or nominations to City boards, commissions or committees.

The Committee believes the amendment makes clear that the traditional practice of voting by name on each candidate is not prohibited by the Charter. Likewise the Committee was of the opinion that electronic voting should be authorized at such time as the City had that capability.

B. City Positions Created in the Charter, Council Approval.

The Resolution proposed to add the requirement that for the major City positions designated in the Charter (City Secretary, Chief of Police, Fire Chief, Director of Public Works and Head of the Department of Finance) the City Council must be presented with and approve the proposed employment of those persons.

The Committee discussed the fact that such required approval had been originally in the Charter and that it was unclear to the Committee as to why the approval requirements had been

⁵ A copy of the July 14, 2016 Minutes is included in the Appendix, App. C.

removed. Nevertheless, the Committee was of the opinion that for such public, powerful and important City positions the citizens' elected representatives should approve the initial hiring.⁶

C. Financial Disclosures.

The Resolution proposed to add a new Section (K) to Section 14.02 to be entitled Personal Financial Interest. The purpose of the addition was to require elected, appointed, or hired personnel, as well as candidates for election or appointment, to disclose financial interests that might be impacted or give rise to an appearance of conflict by virtue of the person's position with the City of Colleyville.⁷

The Committee was of the opinion that such financial disclosure requirements should apply to the Mayor and members of the City Council, Planning and Zoning Commission, Zoning Board of Adjustment and candidates for any of those positions. Also, the Committee was of the opinion that such disclosure requirements should include the department heads who would be appointed pursuant to the proposed amendments to Section 7 of the Charter and which would, if adopted, require City Council approval for appointment. Finally, the Committee was of the opinion that these disclosure requirements should apply to the City Manager and all of the City Manager's senior staff. Because job titles change it was thought appropriate not to further define "senior staff," but it was the Committee's intent to include, at a minimum, persons with the power to act in the City Manager's absence, the power to legally bind or commit the City to contracts, and those authorized to take official positions on behalf of the City.

Amendments to Section 14.02 beyond those suggested in the Resolution were also considered and adopted by the Committee. Those amendments will be discussed in a subsequent section of this Report.⁸

D. Term Limits.

The Resolution directed the Committee to consider an amendment to the Charter that would impose a two term limit on a person serving in the Office of Mayor or as a member of the City Council. The Committee was unanimous in its discussions and recommendations that term limits were needed and that a two term limit on service in the office of Mayor or as a member of City Council was an appropriate time period. The Committee also unanimously concurred in recommending a one full term interruption in continued service before a candidate was eligible to run again for the same office.

The Committee did consider three possibilities for implementing the proposed term limits. One possibility would be to implement the limitation immediately upon passage of the amendment. The impact of this would be that any sitting Mayor or City Council member who had already served more than two consecutive terms or 12 consecutive years in the combined

⁶ The minor additional amendments to Sections 7.02 and 7.06 are discussed, *infra*, at paragraph V of this Report.

⁷ Financial disclosures had previously been regulated by ordinance. Those ordinances, and the need for their possible revision or repeal, is discussed *infra* at paragraph V.

⁸ See *infra* at paragraph V.

office of Mayor and City Council would be deemed to have automatically resigned or had been automatically removed from office.

Members of the Committee inquired as to whether this could be done retroactively. The Chair advised that both the Texas Supreme Court and the Texas Attorney General had concluded that there was no legal barrier prohibiting the citizens, by charter amendment, from imposing term limits on sitting members of the City Council.⁹

The second alternative considered was to implement the proposed amendment at the next city election. Such would not require the removal or resignation of any sitting Mayor or City Council member but would apply to all sitting members making ineligible any person who had served two consecutive terms as Mayor or a City Council member, or more than 12 consecutive years in the combined office of Mayor and City Council.

The third alternative considered was to grant special dispensation to some or all persons currently sitting as Mayor or as a City Council member thereby exempting them from the impact of the amendment if adopted by the citizens of Colleyville.

Although several Committee members indicated a strong interest in applying the amendment retroactively to remove sitting members who had exceeded term limits, after discussion, it was unanimously agreed that such was not the best course for the City. First, it might impact the ability of the City Council to perform its scheduled duties until a replacement was appointed, if appropriate, for any term limited person, or a special election was held to fill the vacancy if required. The Committee also considered the cost of holding a special election and the need to conserve taxpayer funds.

The Committee also rejected, the vote being unanimous,¹⁰ the suggestion that any sitting member be given an exemption or special dispensation from the application of a Charter amendment adopted by the citizens of the City of Colleyville. It was the opinion of the Committee that there should be no special treatment given to any person and that the new charter provision should apply immediately to all office seekers at the next election.

The only rationale suggested for giving certain sitting members an exemption was that having experienced members would provide "an institutional memory." The Committee

⁹ Copies of the two Texas Supreme Court opinions and the two Texas Attorney General opinions are included in the Appendix, Apps I-L. Pertinent portions of the same have been highlighted. The Texas Supreme Court held in *Corpus Christi People's Baptist Church, Inc. v. Nueces County Appraisal Dist.*, 904 S.W. 2d 621, 626 (Texas 1995) that "unless vested rights are destroyed or impaired, a law is not invalid even though retroactive in operation." Further, the Texas Supreme Court held in *Tarrant County v. Ashmore*, 635 S.W. 2d 417, 422 that a public officer "has no vested right in the office held by him." Finally, the referenced Attorney General's opinions make clear that public officer positions may be changed "even though terms of some incumbent trustees will be shortened." Atty. Gen. Op. GA-0356 at p. 3. "If a city charter term limit provisions applies to service as a city officer prior to its adoption, it does not impair a vested right and therefore is not a 'retroactive law' prohibited by Article I, section 16 of the Texas Constitution." *Id.*

¹⁰ At the first meeting, one member of the Committee, who was unable to attend the second meeting, expressed the view that the amendment should not apply to sitting members.

concluded that because the terms of office are staggered and the City Manager and staff provide any necessary “institutional memory,” the amendment should apply in the next City election.

The Committee therefore determined that between the two poles of retroactive application and deferral for 6 years, the best, fairest and middle ground compromise would be to not immediately remove someone from office or give someone a six year pass on compliance. Rather it was the unanimous vote of the members of the Committee adopting the proposed amendment to apply it to all persons running in the next and all future city elections.¹¹

V. ADDITIONAL RECOMMENDATIONS OF THE COMMITTEE

The Committee, as permitted by the Resolution, also considered several other amendments not specifically identified in the Committee’s charge. Most of the amendments were of a housekeeping or clarification nature and were unanimously approved by the Committee.

A. Section 7.02 and 7.06.

These two sections did not contain the language “for an indefinite term” as contained in all of the other subsections of Section 7 being proposed for amendment to add the phrase “with the approval of City Council.” As a housekeeping matter and to insure consistency the Committee proposes that the phrase “for an indefinite term” be added to Sections 7.02 and 7.06 of the Charter.

B. Article XIII Transitional Provisions.

As another housekeeping matter the Committee proposes that Article XIII Transitional Provisions be repealed since Article XIII concerns matters occurring during the expired transition period in which the City converted from a 5 to 6 person City Council and the Mayor was authorized to vote only in limited circumstances.

C. Section 14.02.

In addition to adding subsection (K) discussed above, which was included in the Committee’s charge, the Committee also proposes to amend subsection 14.02(F) and add subsection 14.02(L). The amendment to subsection (F) adds language which gives a citizen more time to file a complaint regarding a violation of Section 14.02’s disclosure requirement. If a violation occurs by virtue of a vote or a decision (e.g. signing a contract) then the violation is objectively determinable by a citizen. However, if the violation is not objectively determinable because it is not public or is concealed, then a citizen has 15 days after he “knew or reasonably should have known of the violation” to file a complaint.

Finally, the Committee was of the opinion that the addition of subsection (L) makes clear that the disclosure requirements of new subsection (K) apply to the entirety of Section 14.02 and all of the matters covered therein.

¹¹ The complete text of the proposed amendment as adopted by the Committee is included in the Appendix, App. D.

D. Miscellaneous

Although not contained in the text of the proposed amendments, the Committee would also recommend the following two additional items for consideration by the Mayor and City Council.

1. Implementation of Section 14.02. The Committee would recommend that the City Manager be charged with the preparation of draft forms, to be approved by the City Council, which accomplish the initial, supplemental and annual disclosures required by new Section 14.02(K).
2. Review, Amendment or Repeal of Possibly Conflicting or Redundant City Ordinances. As noted in the discussion of the proposed amendments to Section 14.02, the City has previously regulated such matters by ordinance. In particular ordinances O-02-1322 and O-13-1896 regulate the same subject matter as proposed Section 14.02.¹² To the extent such ordinances conflict, overlap or are superfluous, the Committee recommends their repeal, in whole or in part.

VI. CONCLUSION

Absent further direction, this concludes the work of the CRC. On a point of personal privilege, I would like to thank my Vice Chair, Mike Muhm, and all of the members of the Committee for their diligence, preparation, contribution, preparation and service. It has been a pleasure working with all of you.

Respectfully Submitted,

7/28/2016
Date

Frank Carroll, Chair
for the Committee

c: Mayor Richard Newton
Assistant City Manager Michael Holder
Michael Muhm, Vice Chair
Claudia Bevill
Vince Hawkins
Rich Hendler
David Medlin
Shirley Schollmeyer
Nelson Thibodeaux
Steve Walters
Tim Weymouth

¹² The ordinances are included in the Appendix, Apps M-N.

APPENDIX

APP. A

RESOLUTION R-16-4007

RESOLUTION R-16-4007

**A RESOLUTION OF THE CITY OF COLLEYVILLE, TEXAS
ESTABLISHING A COLLEYVILLE CITIZENS CITY CHARTER REVIEW
COMMITTEE, APPOINTING MEMBERS, AND PROVIDING A DATE
FOR THE CHARTER REVIEW COMMITTEE TO SUBMIT A FINAL
REPORT**

WHEREAS, the City Council believes that positive changes can be possibly made to the Colleyville City Charter to enhance the document without significantly effecting the democratic principles of the Colleyville City Charter or the opportunities of citizens to become informed on City issues and make known to their elected representatives their concerns and comments; and

WHEREAS, the City Council understands the need to review the City Charter to clarify, add or subtract as necessary to ensure the powers, rights and duties of the City government adhere to its original concepts and structure as a "Council-Manager Government."

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

Sec. 1. THAT a Colleyville Citizens City Charter Review Committee is hereby established.

Sec. 2. THAT the following citizens are appointed to the Colleyville Citizens City Charter Review Committee:

Steve Waltens	Nelson Thibodeaux
Michael Muhm	David Medlin
Claudia Bevill	Tim Weymuth
Frank Carroll	Rich Hendler
Shirley Schollmeyer	Vince Hawkins

Sec. 3. THAT Frank Carroll is appointed as Chair, and Michael Muhm is appointed as Vice Chair.

Sec. 4. THAT the City Manager shall provide administrative support services to the Colleyville Citizens City Charter Review Committee.

Sec. 5. THAT the Colleyville Citizens Charter Review Committee's responsibilities may include:

- a. Section 3.01 Number, Selection, Term: should contain language which limits consecutive terms to two in the same office, and how or when this shall commence. Compare this amendment with those of area cities for benchmarking.
- b. Section 3.09C Quorum and Voting: should provide language which allows electronic voting for City Council meetings, and language that allows for nominations and appointments and voting by name.
- c. Section 14.02 Personal Financial Interest: should include an additional subsection to provide the following:
 - k. Financial Disclosure and Business Conflict of Interest Forms shall be provided by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file within two (2) business days following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures within five (5) days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:
 - i. The location, size, and current use of all property owned within the portion of Dallas, Denton, and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.

- ii. The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor children have received a fee, salary, or gift of a value exceeding one hundred dollars(\$100.00).
 - iii. The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.
- d. Section 7.02 City Secretary: should provide an addition of "with the approval of City Council" to the following statement: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary."
- e. Section 7.03(A) Chief of Police: should provide an addition of "with the approval of City Council" to the following statement: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- f. Section 7.04(A) Fire Chief: should provide an addition of "with the approval of City Council" to the following statement: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- g. Section 7.05 Department of Public Works: should provide an addition of "with the approval of City Council" to the following statement: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

h. Section 7.06 Department of Finance: should provide an addition of "with the approval of City Council" to the following statement: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council.*"

Sec. 6. THAT the recommendations of the Colleyville Citizens Charter Review Committee shall be finalized and ready to be presented to the City Council by July 29, 2016.

Sec. 7. THAT this resolution shall take effect immediately upon passage.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS
ON THIS THE 21ST DAY OF JUNE 2016.

Mayor Richard Newton
Place 1, Tammy Nakamura
Place 2, Bobby Lindamood
Place 4, Jody Short

Aye
Aye
Aye
Aye

Mayor Pro Tem Chris Putnam
Place 5, Nancy Coplen
Place 6, Mike Taylor

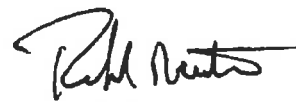
Aye
Aye
Aye

ATTEST:



Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE



Richard Newton
Mayor

APP. B

AGENDA AND MINUTES OF COMMITTEE MEETING OF JULY 6, 2016



Charter Review Committee Agenda

City Hall
100 Main Street
Colleyville, Texas 76034
817.503.1000
www.colleyville.com

Wednesday, July 6, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

2. ROLL CALL

3. DISCUSSION

- 3a** Discussion of the Committee's resolution, charge, requests for information procedure, and timetable for completion
- 3b** Discussion of proposed meeting dates: July 14, July 21, and July 25, 2016
- 3c** Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; and Section 3.01 Number, Selection, Term

4. ADJOURNMENT

I hereby certify this agenda was posted on City Hall bulletin boards Friday, July 1, 2016 by 5:00 p.m.

Amy Shelley, TRMC
City Secretary

A quorum of the Colleyville City Council and/or any City board, commission, or committee may be in attendance at this meeting.

Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.



City of Colleyville

Charter Review Committee

MINUTES

City Hall
100 Main Street
Colleyville, TX 76034
817.503.1000
www.colleyville.com

Wednesday, July 6, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

The Charter Review Committee was called to order on July 6, 2016, at 6:02 p.m. by Chairman Frank Carroll.

2. ROLL CALL: Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Rich Hendler, David Medlin, Claudia Bevill, Tim Weymouth, Nelson Thibodeaux, Steve Waltens, and Vince Hawkins were present

Absent: Shirley Schollmeyer

Mayor Richard Newton, Councilmember Bobby Lindamood, City Manager Jennifer Fadden, Assistant City Manager/Director of Public Safety Mike Holder, SH26 Project Coordinator James Hubbard, and City Secretary Amy Shelley were also present

Mayor Newton welcomed everyone and expressed his appreciation for their service to this committee.

Councilmember Lindamood also welcomed everyone and expressed his appreciation for their service to this committee.

3. DISCUSSION

- 3a** Discussion of the Committee's resolution, charge, requests for information procedure, and timetable for completion
- 3b** Discussion of proposed meeting dates: July 14, July 21, and July 25, 2016
- 3c** Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; and Section 3.01 Number, Selection, Term

Discussion of Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions detailed as the following:

Chairman Carroll asked the Committee members if there are any concerns regarding the proposed amendments to the employee positions outlined in the Charter. Member Waltens asked Chairman Carroll if there is simply a ratification of an appointee. Chairman Carroll stated if the City Council does not approve of the city manager's applicant, the applicant would not be appointed to the position. Member Waltens stated it is a distribution of power, per se.

Member Hawkins asked how the appointments currently occur. Chairman Carroll replied the City Council does not currently approve appointments to these positions.

Member Medlin asked how the city manager is approved and how often. Vice Chairman Muhm replied currently the City Council hires the municipal judge, the city attorney, and the city manager.

Member Medlin asked how often this occurs. Chairman Carroll replied it would occur if the city manager resigns or was fired. He added it does not happen every year, only when an issue arises. Member Hendler added there is an annual review for the city manager.

Member Thibodeaux asked if the Charter outlines a chart of responsibility to the city manager's direct reports. Chairman Carroll replied the proposed amendment does not define senior staff specifically.

Vice Chairman Muhm stated he does not understand why others are not listed, such as the deputy city manager. Mayor Newton replied these particular amendments are to the positions currently outlined in the Charter.

Member Hawkins asked after appointments are made, who is the manager of these people. Chairman Carroll replied the city manager is the manager of those people.

Member Hawkins asked if the city manager has complete autonomy. Chairman Carroll replied with the autonomy that the city manager gives them.

Member Hawkins asked if the city manager can terminate them without having to come back to City Council. Chairman Carroll replied no, these positions would not have to be approved for termination through City Council.

Mayor Newton added the phrase, "*with approval of City Council*" used to be in the Charter; however, it was removed in 2005.

Member Weymouth asked who the Mayor was in 2005. Mayor Newton replied Joe Hocutt. Member Hendler added Bill Lindley was the city manager at that time too.

Vice Chairman Muhm asked Member Hendler if City Council ever approved those positions. Member Hendler replied he did not remember.

Vice Chairman Muhm asked Mayor Newton if he remembered. Mayor Newton replied it was when he was there.

Member Hendler replied it seems to be more transparent and adds to the value of an elected City Council. Member Weymouth and Thibodeaux concurred.

Vice Chairman Muhm asked if there is nothing to require this be conducted in an executive session, or out in a public forum. Chairman Carroll replied just that it takes place.

Vice Chairman Muhm stated for an "*indefinite term*" is absent on the city secretary and the finance positions, unlike the other positions. Chairman Carroll replied it can be added to make those consistent with the other positions.

Member Medlin asked what an "*indefinite term*" means. Vice Chairman Muhm replied there is no term, you are at the pleasure of.

Member Hawkins asked about the timing of the hiring, and if any delays would hinder the process, especially with a competitive market place, and losing a candidate. Chairman Carroll replied it could be placed on a regular City Council meeting agenda, or City Council calls a special meeting. Member Hendler stated there would be a timeframe noted with the employee's departure.

Member Medlin asked staff if this situation has ever occurred. City Manager Jennifer Fadden replied she would adopt this process into the hiring schedule. Member Waltens added a special meeting could be called if a situation came up.

Discussion of Section 3.09C Quorum and Voting detailed as the following:

Vice Chairman Muhm replied it is important for voting at the same time, rather by a show of hands, or electronically.

Member Medlin asked about the committee member voting, and if the person would still be voted on. Chairman Carroll replied yes.

Vice Chairman Muhm asked if this is just clean-up language. Chairman Carroll replied yes, clean-up provisions.

Discussion of Section 14.02 Personal Financial Interest detailed as the following:

Chairman Carroll stated section 14.02(k)(i) should just read, "...Tarrant, Denton, and Dallas counties", with the removal of "north of Interstate 30 and east of Interstate 35 W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W..."

Vice Chairman Muhm asked if this will effect currently seated City Councilmembers. Chairman Carroll replied yes.

Member Medlin stated he agrees with a timeframe for reporting, but more than five days may need to be given for flexibility. Vice Chairman Muhm replied there are currently five days to report. Chairman Carroll replied five days seems to be a reasonable timeframe, but maybe to clarify it as five "business" days.

Vice Chairman Muhm added he likes business days, but five does seem tight. Member Medlin stated he would hate for someone to get in trouble if they are on vacation. Vice Chairman Muhm added these are rare occurrences. Chairman Carroll added especially with email, five business days should allow ample time.

Vice Chairman Muhm asked if this would just include updating the financial disclosure form. Chairman Carroll replied he envisions there would be an additional form used to update the financial disclosures, and maybe note any change that occurs during that timeframe.

Member Hawkins asked if the updates would include any publicly traded stock. Chairman Carroll replied he believed so. Member Medlin replied two percent would have to be disclosed.

Member Hawkins stated it may be difficult to do within five business days, if someone is trading on their behalf, and he added he does not feel two percent is high enough, maybe five percent would be better. He stated someone could violate this and not even realize it. Chairman Carroll replied not having a problem with that, it is the investments in the limited partnerships that create the financial conflicts.

Vice Chairman Muhm stated he believed the disclosure would be if there is a contractual relationship with the City, which may be very few and far between to begin with. Chairman Carroll replied that could be correct, but he did not know.

Member Medlin asked what the punishment is if this is violated or not disclosed. Chairman Carroll replied consequences with employees with the City would be possible termination, and the consequences with appointed officials (P&Z) would be removal by the City Council, and the consequences with elected officials would

be removal for violation of the City Charter. Member Muhm added an ethics complaint can be filed with the Texas Ethics Commission.

Member Weymouth asked for an example of where you have a contract with the City where we could own stock in it. Vice Chairman Muhm replied a contracting company such as paving. Chairman Carroll added a landscaping firm, or real estate investing.

Member Hawkins asked about regional banking for the City, and if someone has stock in that bank. Chairman Carroll replied yes, they would have to disclose the information.

Member Waltens asked if the intent is to prevent people from being on committees and/or holding offices, while promoting legislation by which they would benefit personally or financially. Chairman Carroll replied yes.

Chairman Carroll added the adoption of these amendments to the Charter may require amendments to other ordinances.

Member Medlin added he does not believe a personal business footer should be marketed in a City email. Member Bevill stated she believed it is covered under Section 14.02A, especially if you are addressing them from the position you hold, the personal interest should be set aside.

Chairman Carroll replied he is not sure if it prohibits this, and it may be something members want to revise to provide further clarification.

Member Medlin asked where the \$100 disclosure limit came from. Chairman Carroll replied most are at a \$50 minimum disclosure.

Member Hawkins asked if this excludes sporting events. Vice Chairman Muhm replied most will exceed \$100. Chairman Carroll replied it would need to be disclosed.

Member Bevill asked about rounds of golf. Chairman Carroll replied if it exceeds \$100.

Member Medlin asked if the dollar amount needed to be increased. Member Waltens replied it goes back to the spirit, we want to know if they have a relationship with people who are benefiting from the City's taxpayers' dollars. He added it is not going to be a rampant thing, and in reality it is just healthy to have it all disclosed.

Member Hawkins asked about people trying to get approval through City Council or P&Z. Member Thibodeaux replied it states any proposed or existing. Member Waltens stated it is not in the financial disclosure language. Member Thibodeaux

added it exists in the Charter today. Chairman Carroll stated a provision could be added to Section 14.02k that would apply to any interested parties. Member Waltens and Medlin agreed.

Member Weymouth asked if it is realistic for a citizen to know within 15 days if something is wrong, as outlined in Section 14.02(F). Chairman Carroll added he would provide some clarification language for this, such as “knew or should have reasonably known.”

Discussion of Section 3.01 Number, Selection, Term detailed as the following:

Vice Chairman Muhm asked if a councilmember, in his second term, would have to resign after filing for Mayor. Chairman Carroll replied if someone resigns their position, even if only one day is served, it would still count as a full term served.

Member Medlin asked if the councilmember would have to resign if they are in their third year of their second term while they are running for Mayor. Chairman Carroll replied that is not addressed here, but no, they would not have to resign the way it is currently drafted. Mayor Newton replied the Charter currently states that they would have to resign from their current office. City Manager Jennifer Fadden added it is in Section 3.08.

Chairman Carroll asked Mayor Newton how much of the term would have to remain before a special election to fill the vacancy would occur. Mayor Newton replied it is something like 90 days within an election, or hold a special election. Member Medlin stated Section 3.05 is relevant to vacancies.

Chairman Carroll requested committee members to send him an email with any revisions necessary to the proposed section.

Member Waltens asked about being consistent with the words “terms” and “years.” Chairman Carroll replied there is no reason why we can’t be consistent with either throughout the Charter. He added the 12 years is relevant to years in any combined office.

Member Medlin asked if there is any interest in limiting total terms. Member Bevill replied she likes that, especially since other cities are doing it.

Member Thibodeaux asked Chairman Carroll about four terms or 12 consecutive years. Chairman Carroll replied 12 years is the maximum of consecutive years served, two terms as City Council, two terms as Mayor.

Member Waltens asked if this will be retroactive. Chairman Carroll replied it is not retroactive, because any member, who has met this provision, would immediately

be kicked off. He added this provision allows for it to become effective at the next election.

Member Hawkins stated he does not agree with making this effective immediately because of the loss of institutional knowledge. Member Medlin stated the previous institutional knowledge did not listen to the citizens. Member Thibodeaux added this has to be straight forward, and if the citizens are going to vote for it now it must be effective immediately. Member Hawkins stated being in favor of term limitations, and it depends on how we enact them. Vice Chairman Muhm agreed.

Member Bevill replied she does not have a problem with the way it is written, but there is provisional language sometimes used for the transitional situations. Chairman Carroll stated there is always a way to write it, but it is proposed to let everyone serve out the term they currently have, and it applies to all City Councilmembers.

Councilmember Lindamood stated Colleyville is enriched with so much talent, and people that want to run for office are already doing their homework to run for office. Member Hawkins agreed, and stated those people can run now. Councilmember Lindamood added there was some discouragement to run against someone who has been in office for so long.

Vice Chairman Muhm added there is a lot of bench strength in the community, and new ideas enhance that experience. He stated there has to be a mechanism to force change or it never happens.

Member Hawkins stated he is not disagreeing with term limitations, just the implementation of it. He stated effective immediately targets some current members, and phasing this in does not reduce its power.

Chairman Carroll stated it then becomes an issue about when to do it, or how much time to delay it.

Member Waltens asked about the benefit of delaying it now then saying upon the expiration of your term, you serve two terms, then you are ineligible. Member Hawkins replied it helps with the institutional knowledge of the business of Colleyville.

Member Bevill stated she believes the new people will dig in and work hard. She stated there is a lot to be said for experience, but that is not the be-all-end-all. She stated not sure that institutional knowledge is a valid concern, especially with so many bright and willing people in the community, and they will find out.

Member Waltens stated if we agree that term limits are a good idea, then why not implement them now versus later?

Member Thibodeaux stated the institutional knowledge is with the city manager. He stated his concern is that if it is not effective now, then the voters question when it becomes effective.

Member Hawkins asked about the ratification of this process. Chairman Carroll replied the next time the amendments will be voted on, one at a time, with somebody making a motion to approve it, and somebody will second it. If there are amendments, then those will need to be voted on as well. He added he will then put together a report for the committee to review, and then it will be presented to City Council for their review. He stated at that time, it will be placed on a City Council agenda for their approval, and then a resolution will be placed on another City Council agenda to call the special election.

Member Hawkins asked if the vote will be made by the majority. Chairman Carroll replied yes.

Member Hawkins asked about the next committee meeting. Chairman Carroll replied on July 14th, in this room.

Vice Chairman Muhm asked Chairman Carroll if a member is not present, can they vote by proxy. Chairman Carroll replied he did not know, but asked the city manager to ask the city attorney to see if the members can attend by telephone.

Member Hawkins stated he would prefer to email his vote in. Member Weymouth stated he would not be here either. Member Hawkins stated he would like some flexibility in voting, especially given the short timeframe.

Member Bevill asked about the inconsistencies in the Charter, Section 3.09A, page 8 and 13.01(C)3, page 34 – the calling of special meetings with three or four members; and same sections with three or four affirmative votes. Chairman Carroll stated when the City Council member number changed from six to seven members, these numbers were left to reflect that change. He added he would make an effort to clean those up. Assistant City Manager/Director of Public Safety Mike Holder stated this was to provide for the transition between six and seven members. Chairman Carroll replied Article XIII may need to be removed from the Charter, with a separate vote.

Member Thibodeaux asked about the four members calling a special meeting and if that violates the open meetings. Chairman Carroll replied he did not believe it violates the open meetings act.

4. ADJOURNMENT

There being no further business before the Committee, Member Thibodeaux moved to adjourn the meeting. Member Weymouth seconded. Chair Frank Carroll adjourned the meeting at 7:53 p.m.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 14TH DAY OF JULY 2016.

Minutes taken and prepared by:



Amy Shelley, TRMC
City Secretary

APP. C

AGENDA AND MINUTES OF COMMITTEE MEETING OF JULY 14, 2017



Charter Review Committee Agenda

City Hall
100 Main Street
Colleyville, Texas 76034
817.503.1000
www.colleyville.com

Thursday, July 14, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES
July 6, 2016

4. DISCUSSION

4a Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; Section 3.01 Number, Selection, Term

4b Discussion of additional amendments proposed by committee members

5. ADJOURNMENT

I hereby certify this agenda was posted on City Hall bulletin boards Friday, July 8, 2016 by 5:00 p.m.

Amy Shelley, TRMC
City Secretary

A quorum of the Colleyville City Council and/or any City board, commission, or committee may be in attendance at this meeting.

Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.



City of Colleyville Charter Review Committee MINUTES

City Hall
100 Main Street
Colleyville, TX 76034
817.503.1000
www.colleyville.com

**Thursday, July 14, 2016
6:00 p.m.**

**Executive Conference Room
Third Floor – City Hall**

1. CALL TO ORDER

The Charter Review Committee was called to order on July 14, 2016, at 6:04 p.m. by Chairman Frank Carroll.

2. ROLL CALL: Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux were present

Absent: Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

Councilmembers Tammy Nakamura and Bobby Lindamood, City Manager Jennifer Fadden, Assistant City Manager/Director of Public Safety Mike Holder, SH26 Project Coordinator James Hubbard, and City Secretary Amy Shelley were also present

3. APPROVAL OF MINUTES

July 6, 2016

Vice Chair Muhm made a motion to approve the meeting minutes as written. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

4. DISCUSSION

- 4a** Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; and Section 3.01 Number, Selection, Term

Chairman Carroll explained that each proposed amendment would be read, discussed, and then voted upon by the committee members. The details of the proposed amendment and voting results are listed below.

SECTION 3.09 (C) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 3.09 (C) Quorum and Voting of the Charter of the City of Colleyville is hereby amended as follows to add the italicized provisions:

(C) Quorum and Voting. Four (4) voting members of the City Council shall constitute a quorum. Voting, except on procedural motions, *and nominations to City Boards, Committees and Commissions* shall be by roll call and the "ayes" and nays" shall be recorded in the minutes. The mayor and every City Council Person shall vote on all issues unless there is a declared and recorded statutory conflict of interest. If because of a statutory conflict of interest a member steps down and remains in the Chamber to return after the item is resolved, then a quorum will be considered in attendance even though only three (3) City Council Persons are left to vote. However, no action shall be approved with less than four (4) affirmative votes. If during the course of a meeting a quorum ceases to exist, the meeting shall be deemed adjourned and no further business shall be conducted. *The roll call vote may be conducted electronically.*

Committee member Bevill made a motion to approve the Section 3.09 (C) as written. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.02 City Secretary is hereby amended as follows to add the italicized phrase:

Section 7.02 City Secretary: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary, *for an indefinite term.*"

Vice Chairman Muhm made a motion to approve the Section 7.02 as written. Committee member Hendler seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.03 (A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.03 (A) Chief of Police is hereby amended as follows to add the italicized phrase:

Section 7.03

(A) Chief of Police: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

Committee member Medlin made a motion to approve the Section 7.03 (A) as written. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.04 (A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.04 (A) Fire Chief is hereby amended as follows to add the italicized phrase:

Section 7.04

(A) Fire Chief: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

Vice Chairman Muhm made a motion to approve the Section 7.04(A) as written. Committee member Schollmeyer seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.05 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.05 Department of Public Works is hereby amended as follows to add the italicized phrase:

Section 7.05 Department of Public Works: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

Committee member Bevill made a motion to approve the Section 7.05 as written. Vice Chairman Muhm seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.06 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.06 Department of Finance is hereby amended as follows to add the italicized phrase:

Section 7.06 Department of Finance: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council*, for an indefinite term."

Committee member Medlin made a motion to approve the Section 7.06 as written. Committee member Schollmeyer seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

ARTICLE XIII OF THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended by making the following deletion:

Article XIII Transitional Provisions is hereby deleted in its entirety.

Vice Chairman Muhm made a motion to approve the deletion of Article XIII Transitional Provision as proposed. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

Committee member Steve Waltens arrived at 6:14 p.m., and was present and voting for the remainder of the meeting.

SECTION 14.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 14.02 (F) Citizen Complaints is hereby amended as follows to add the italicized language:

(F) Citizen Complaints. Any citizen of the City may file with the City Secretary a statement of suspected conflict of interest. Such statement of suspected conflict of interest shall be filed within fifteen (15) days of the decision *or vote, or if another* event giving rise to an asserted violation of paragraph C above, *within fifteen (15) days of when the citizen knew or reasonably should have known of the asserted violation*, and shall describe the complained of conflict in reasonable detail. The City Council, or its designee, shall respond in writing to a timely filed statement of suspected conflict of interest, and the statement of suspected conflict of interest and response of the City Council shall be maintained in the public records of the City.

Section 14.02 Personal Financial Interest is hereby further amended as follows to add Subsections (K) and (L):

(K) Financial Disclosure and Business Conflict of Interest Forms shall be provided by candidates for Mayor and City Council and by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file such forms within two (2) business days following the end of the candidate filing period, or if for appointment, within (2) business days following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members (including any staff member who is appointed with City Council approval) shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures annually and within five (5) business days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:

(i) The location, size, and current use of all property owned within the portion of Dallas, Denton and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.

(ii) The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor children have received a fee, salary, or gift of value exceeding one hundred dollars (\$100.00).

(iii) The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.

(L) The disclosure reporting obligations required by Section 14.02 (K) apply to all of the relationships listed in this Section 14.02.

Committee member Medlin asked Chairman Carroll if there is any concern of more complaints being filed. Chairman Carroll replied he did not believe so.

Committee member Bevill asked Chairman Carroll if these items will be separated on the ballot. Chairman Carroll replied he does not believe Section 14.02 will be separated, but he will leave that to the city attorney.

Committee member Schollmeyer asked Chairman Carroll if these items will be written on the ballot for voters to read. Chairman Carroll replied yes.

Vice Chairman Muhm asked Chairman Carroll if the parameters in Section 14.02 (K) (ii) includes the same area as it did originally in 2002. Chairman Carroll replied yes, that is his understanding.

Committee member Waltens made a motion to approve the Section 14.02 as written. Committee member Medlin seconded the motion.

The motion carried with the following vote:

Aye: 8 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, Nelson Thibodeaux, and Steve Waltens

Absent: 2 – Committee members Vince Hawkins and Tim Weymouth

Chairman Carroll stated if Section 14.02 is adopted, the ordinances which have adopted the financial disclosure requirements will need to be repealed or amended by the City Council, to eliminate any conflict with the Charter.

Vice Chairman Muhm stated the City Council will need to develop some type of form for this disclosure. Chairman Carroll replied yes, they would need to be approved by the City Council and he is going to suggest that as part of the report.

SECTION 3.01 OF THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended as follows by adding as new Section 3.01 (A):

SECTION 3.01 (A) Limitations on Terms

(A) No person shall serve as Mayor for more than two (2) consecutive elected terms, and no person shall serve as a Council Member for more than two (2) consecutive elected terms. Under no circumstances may any person ever serve for more than twelve (12) consecutive years in combination as a Council Member and Mayor. For purposes of this Section 3.01 (A) and computing the limitations on terms:

(1) A Mayor or Council Member, who vacates, for any reason, the office before the end of the term for which he was elected, shall be considered to have completed that term.

(2) An appointment or election to fulfill an unexpired Council Member term, or unexpired Mayor term if applicable, shall be computed as follows:

(i) if fifty percent (50%) or more of the term is remaining, it shall be included in the computation of term limits; or

(ii) if less than fifty percent (50%) of the term is remaining, it shall not be included in the computation of term limits.

Any Council Member or Mayor, who is ineligible to run for elected City office due to the limitations on terms as provided herein, shall remain ineligible to hold an elected City office for a period of one (1) full term following the expiration of the most recent term of City office for which he *or she* was elected with the exception of a Council Member seeking the office of Mayor or the Mayor seeking the office of a Council Member.

The term that each person as Mayor or as a Council Member is currently filling, and all terms consecutively served prior to that current term, shall be counted for purposes of determining whether two (2) consecutive terms have been served.

This amendment shall become effective immediately upon adoption at the next municipal election, shall apply to all persons currently occupying the Office of Mayor or Council Member, and shall apply to all municipal elections conducted after the date of adoption.

Vice Chairman Muhm asked Chairman Carroll if the one term is listed in another place/section in the Charter. Chairman Carroll replied it is included in the proposed Section 3.01 (A).

Committee member Medlin made a motion to approve the Section 3.01 (A) with the removal of "or she" as noted above in italics. Vice Chairman Muhm seconded the motion.

Committee member Thibodeaux stated there were three options the Committee could have taken relative to the implementation of the term limits: (1) to make retroactive, which meant anyone who fell within the term limits would have to resign; (2) delay it, but then the question becomes for how long; (3) make effective immediately, which affects all Councilmembers the same. He added the third option is what the Committee chose. Chairman Carroll agreed.

Committee member Waltens stated he believed it should have been retroactive, but he also believes in compromise. He asked Chairman Carroll if this is the compromise. Chairman Carroll replied yes. Committee member Medlin agreed.

Vice Chairman Muhm stated if it had been retroactive, it would cause a special election. Chairman Carroll added which is costly, and by doing this at the next election, it does not disrupt the functioning of the legislative body, but it implements the change at the next election.

Committee member Waltens stated term limits are necessary and he is opposed to it being retroactive because of the fiscal impacts to the City.

The motion carried with the following vote:

Aye: 8 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, Nelson Thibodeaux, and Steve Waltens

Absent: 2 – Committee members Vince Hawkins and Tim Weymouth

Committee member Hendler asked for clarification on the transitional provisions outlined in Article XIII. Chairman Carroll replied those transitional provisions were in place for the previous Charter amendments, and now are operating totally independent of that.

4b Discussion of additional amendments proposed by committee members

There was no discussion of this item.

Committee member Thibodeaux asked Chairman Carroll about the debate about if an elected official would have to resign his position to run for any state election. Chairman Carroll replied the Charter currently requires the elected official to resign the City position to run for any other office. Vice Chairman Muhm concurred, and stated it also applies if the elected official wishes to run for a different Council place.

Committee member Medlin stated he would like for Chairman Carroll's report to include the three options relative to term limits that the Committee had to choose from. Chairman Carroll agreed.

Vice Chairman Muhm asked Chairman Carroll about the Committee's role in submitting the report to City Council. Chairman Carroll replied he did not know, but he would visit with Mayor Newton, and he will advise the Committee members.

Councilmember Lindamood expressed his appreciation to the Committee members and their commitment to the Charter review.

5. ADJOURNMENT

There being no further business before the Committee, Vice Chairman Muhm moved to adjourn the meeting. Chairman Carroll seconded. Chairman Carroll adjourned the meeting at 6:35 p.m.

Minutes taken and prepared by:



Amy Shelley, TRMC
City Secretary

As the Charter Review Committee will not meet again for actual approval of these minutes, these minutes are considered the final action of the Charter Review Committee.



Frank Carroll
Charter Review Committee Chair

APP. D

**PROPOSED AMENDMENT TO CHARTER OF CITY OF COLLEYVILLE SECTION
3.01A - LIMITATION ON TERMS**

PROPOSED AMENDMENT

TO

THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended as follows by adding as new Section 3.01A:

SECTION 3.01A. Limitations on Terms

No person shall serve as Mayor for more than two (2) consecutive elected terms, and no person shall serve as a Council Member for more than two (2) consecutive elected terms. Under no circumstances may any person ever serve for more than twelve (12) consecutive years in combination as a Council Member and Mayor. For purposes of this Section 3.01A. and computing the limitations on terms:

- (1) a Mayor or Council Member, who vacates, for any reason, the office before the end of the term for which he was elected, shall be considered to have completed that term.
- (2) an appointment or election to fulfill an unexpired Council Member term, or unexpired Mayor term if applicable, shall be computed as follows:
 - (i) if fifty percent (50%) or more of the term is remaining, it shall be included in the computation of term limits; or
 - (ii) if less than fifty percent (50%) of the term is remaining, it shall not be included in the computation of term limits.

Any Council Member or Mayor, who is ineligible to run for elected City office due to the limitations on terms as provided herein, shall remain ineligible to hold an elected City office for a period of one (1) full term following the expiration of the most recent term of City office for which he was elected with the exception of a Council Member seeking the office of Mayor or the Mayor seeking the office of a Council Member.

The term that each person as Mayor or as a Council Member is currently filling, and all terms consecutively served prior to that current term, shall be counted for purposes of determining whether two (2) consecutive terms have been served.

This amendment shall become effective immediately upon adoption at the next municipal election, shall apply to all persons currently occupying the Office of Mayor or Council Member, and shall apply to all municipal elections conducted after the date of adoption.

APP. E

**PROPOSED AMENDMENT TO SECTION 3.09(C) TO
CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

SECTION 3.09(C) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 3.09(C) Quorum and Voting of the Charter of the City of Colleyville is hereby amended as follows to add the italicized provisions:

(C) Quorum and Voting. Four (4) voting members of the City Council shall constitute a quorum. Voting, except on procedural motions, *and nominations to City Boards, Committees and Commissions* shall be by roll call and the "ayes" and nays" shall be recorded in the minutes. The mayor and every City Council Person shall vote on all issues unless there is a declared and recorded statutory conflict of interest. If because of a statutory conflict of interest a member steps down and remains in the Chamber to return after the item is resolved, then a quorum will be considered in attendance even though only three (3) City Council Persons are left to vote. However, no action shall be approved with less than four (4) affirmative votes. If during the course of a meeting a quorum ceases to exist, the meeting shall be deemed adjourned and no further business shall be conducted. *The roll call vote may be conducted electronically.*

(Amended May 7, 2005)

APP. F

**PROPOSED AMENDMENTS TO SECTIONS 7.02, 7.03(A), 7.04(A), 7.05 AND 7.06
TO CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

SECTION 7.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.02 City Secretary is hereby amended as follows to add the italicized phrase:

- d. Section 7.02 City Secretary: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary, *for an indefinite term.*"

PROPOSED AMENDMENT

TO

SECTION 7.03(A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.03(A) Chief of Police is hereby amended as follows to add the italicized phrase:

- e. Section 7.03(A) Chief of Police: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

PROPOSED AMENDMENT

TO

SECTION 7.04(A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.04(A) Fire Chief is hereby amended as follows to add the italicized phrase:

- f. Section 7.04(A) Fire Chief: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

PROPOSED AMENDMENT

TO

SECTION 7.05 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.05 Department of Public Works is hereby amended as follows to add the italicized phrase:

- g. Section 7.05 Department of Public Works: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

PROPOSED AMENDMENT

TO

SECTION 7.06 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.06 Department of Finance is hereby amended as follows to add the italicized phrase:

- h. Section 7.06 Department of Finance: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council, for an indefinite term.*"

APP. G

**PROPOSED AMENDMENT TO ARTICLE XIII TO
CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

ARTICLE XIII OF THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended by making the following deletion:

Article XIII Transitional Provisions is hereby deleted in its entirety.

APP. H

**PROPOSED AMENDMENT TO SECTION 14.02 TO
CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

SECTION 14.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 14.02 (F) Citizen Complaints is hereby amended as follows to add the italicized language:

- (F) Citizen Complaints. Any citizen of the City may file with the City Secretary a statement of suspected conflict of interest. Such statement of suspected conflict of interest shall be filed within fifteen (15) days of the decision or vote, or *if another* event giving rise to an asserted violation of paragraph C above, *within fifteen (15) days of when the citizen knew or reasonably should have known of the asserted violation*, and shall describe the complained of conflict in reasonable detail. The City Council, or its designee, shall respond in writing to a timely filed statement of suspected conflict of interest, and the statement of suspected conflict of interest and response of the City Council shall be maintained in the public records of the City.

Section 14.02 Personal Financial Interest is hereby further amended as follows to add Subsections (K) and (L):

- (K) Financial Disclosure and Business Conflict of Interest Forms shall be provided by candidates for Mayor and City Council and by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file such forms within two (2) business days following the end of the candidate filing period, or if for appointment, within (2) business day following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members (including any staff member who is appointed with City Council approval) shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures annually and within five (5) business days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:
 - (i) The location, size, and current use of all property owned within the portion of Dallas, Denton and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.
 - (ii) The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor

children have received a fee, salary, or gift of a value exceeding one hundred dollars (\$100.00).

- (iii) The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.

- (L) The disclosure reporting obligations required by Section 14.02(K) apply to all of the relationships listed in this Section 14.02.

APP. I

***CORPUS CHRISTI PEOPLE'S BAPTIST CHURCH V.
NUECES COUNTY APPRAISAL DIST., 904 S.W.2D 621 (TEX. 1995)***

Page 621

904 S.W.2d 621
38 Tex. Sup. Ct. J. 643, 38 Tex. Sup. Ct.
J. 653
CORPUS CHRISTI PEOPLE'S BAPTIST
CHURCH, INC., Petitioner,
v.
NUECES COUNTY APPRAISAL
DISTRICT et al., Respondents.
No. D-4333.
Supreme Court of Texas.
Argued Oct. 20, 1994.
May 25, 1995.
Rehearing Overruled Sept. 14, 1995.

Page 622

Charlotte A. Cover, David C. Gibbs, Jr.,
Conneaut, OH, Clyde Jackson, Jr., Corpus
Christi, for petitioner.

Russell R. Graham, Kent M. Rider,
Gregory E. Perry, Dan Morales, Austin, for
respondents.

HECHT, Justice, delivered the opinion of
the Court, in which PHILLIPS, Chief Justice,
CORNYN, GAMMAGE and OWEN, JJ., join.

Persons in some categories exempt from
property taxes must ordinarily apply for an
exemption before May 1 of the year for which
taxes are imposed. TEX.TAX CODE § 11.43.
The Legislature has extended this deadline,
however, for certain exemptions, including
the religious organization exemption. Id. §
11.433. The case before us questions whether
this particular statutory provision, section
11.433, violates either of two provisions of the
Texas Constitution: article III, section 55,
which prohibits the Legislature from
extinguishing any person's obligation to the
State, and article I, section 16, which
prohibits retroactive laws. We hold it does
not.

I

Taxes are imposed upon real property
each year as of January 1. TEX.TAX CODE §
21.02. On that date a lien authorized by
article VIII, section 15 of the Texas
Constitution attaches to the property to
secure their payment. Id. § 32.01. The amount
of taxes assessed is not determined until later
in the year, however, when appraisals have
been completed and tax rates set. Id. §§ 26.01
& 26.05. Tax bills must be mailed by October
1 of the year for which taxes are assessed, or
as soon thereafter as practicable. Id. § 31.01.
Taxes are due upon receipt of the bill, and if
not paid by February 1 of the following year,
the taxing unit may sue to collect the tax and
foreclose its lien. Id. §§ 31.02 & 33.41.

Article VIII, section 2(a) of the Texas
Constitution authorizes the Legislature to
exempt the property of religious
organizations from taxation, and the
Legislature has exercised this authority. Id. §
11.20. To be entitled to the exemption,
however, a religious organization, like certain
others claiming tax exemptions, must apply to
the chief appraiser in the district where the
property

Page 623

is located before May 1 of the first year for
which the tax exemption is claimed. Id. §
11.43(a), (c) & (d). Application for the
exemption in subsequent years need not be
made unless the chief appraiser requires it.
Id. § 11.43(c).

An application for exemption was first
required of religious organizations in 1982,
after section 11.43 of what was then the new
Tax Code took effect. Act of May 26, 1979,
66th Leg., R.S., ch. 841, § 3(a), 1979
Tex.Gen.Laws 2217, 2313. Before 1980, under
the prior law, the procedure for claiming the
exemption was for a religious organization to
file with the taxing authority a sworn,
itemized list of exempt property. Act
approved May 14, 1931, 42nd Leg., R.S., ch.
124, § 1, 1931 Tex.Gen.Laws 211, 211-12

(formerly TEX.REV.CIV.STAT.ANN. art. 7150(1)). This statute was repealed, effective January 1, 1980, by the enactment of the new Tax Code. Act of May 26, 1979, 66th Leg., R.S., ch. 841, §§ 3(f) & 6(d), 1979 Tex.Gen.Laws 2217, 2315, 2330. The religious organization exemption under section 11.20 of the new Tax Code, which simply carried over from the prior law, became effective on January 1, 1980, along with other parts of the new Code. Act of May 26, 1979, 66th Leg., R.S., ch. 841, § 3(f), 1979 Tex.Gen.Laws 2217, 2315. As already noted, however, this was two years before the effective date of section 11.43, governing applications for exemption. Thus, in 1980 and 1981 a religious organization was not required to file a list of property, make application, or do anything else to claim the property tax exemption.

The requirement of an application and the deadline for filing that application appear to have caught religious organizations and other tax-exempt persons unaware, with the result that some lost their exemption because they did not timely apply for it. See HOUSE COMM. ON WAYS & MEANS, BILL ANALYSIS, Tex.H.B. 835, 73rd Leg., R.S. (1993) (explaining the reason for the twelve-year extension enacted in 1993, which also applies to the six-year extension enacted three years earlier.) In response, the Legislature in 1990 enacted section 11.433, effective September 6, 1990, which states:

§ 11.433. Late Application for Religious Organization Exemption

(a) The chief appraiser shall accept and approve or deny an application for an exemption under Section 11.20 [for religious organizations] after the filing deadline provided by Section 11.43 if the application is filed not later than December 31 of the sixth year after the year in which the taxes for which the exemption is claimed were imposed.

(b) The chief appraiser may not approve a late application for an exemption filed under this section if the taxes imposed on the property for the year for which the exemption is claimed are paid before the application is filed.

(c) If a late application is approved after approval of the appraisal records for the year for which the exemption is granted, the chief appraiser shall notify the collector for each taxing unit in which the property was taxable in the year for which the exemption is granted. The collector shall deduct from the organization's tax bill the amount of tax imposed on the property for that year if the tax has not been paid and any unpaid penalties and accrued interest relating to that tax. The collector may not refund taxes, penalties, or interest paid on the property for which an exemption is granted under this section.

(d) The chief appraiser may grant an exemption for property pursuant to an application filed under this section only if the property otherwise qualified for the exemption under the law in effect on January 1 of the tax year for which the exemption is claimed.

(e) An application may not be filed under this section after December 31, 1991.

Act of June 6, 1990, 71st Leg., 6th C.S., ch. 8, § 1, 1990 Tex.Gen.Laws 46. This is the provision at issue in this case. In 1993, the late application deadline was further extended when subsection (e) was amended to read as follows:

(e) Notwithstanding Subsection (a), the chief appraiser shall accept and approve or deny an application for an exemption under Section 11.20 after the filing deadline provided by Section 11.43 if the application

is filed not later than December 31 of the 12th year after the year in which the taxes for which the exemption is claimed were imposed and if the application is filed before January 1, 1995. This subsection expires January 1, 1996.

Act of May 30, 1993, 73rd Leg., R.S., ch. 971, § 1, 1993 Tex.Gen.Laws 4235. Section 11.433 does not extend the time for applying for an exemption if the taxes have already been paid, nor does it permit refunds.

Section 11.433 is similar to two other statutes enacted in 1991 permitting late applications for tax exemptions, although the permission granted by those two statutes has now expired. TEX.TAX CODE § 11.434 (six-year extension for school exemption until December 31, 1992); § 11.435 (two-year extension for charitable organization exemption until December 31, 1991); Act of May 27, 1991, 72nd Leg., R.S., ch. 836, §§ 6.3 & 6.4, 1991 Tex.Gen.Laws 2890, 2894-95. The Legislature has also extended the deadline for claiming a homestead exemption for a year after taxes are paid or become delinquent. TEX.TAX CODE § 11.431. Section 11.431, unlike sections 11.433-.435, appears to have been motivated by constitutional concerns. See Op.Tex. Att'y Gen. MW-259 (1980) ("A legislatively designated cutoff date for homestead exemption claims under article VIII, section 1-b of the Texas Constitution will not alone operate to deprive a taxpayer of an exemption ..."); see also Op.Tex. Att'y Gen. JM-221 (1984) (section 11.431 permits tax refunds when homestead application is filed late).

II

The Corpus Christi People's Baptist Church owns a tract of some 430 acres in Nueces County. A 24.33-acre piece of the tract has long been exempt from taxation and is not in dispute in this litigation. In 1990 the Church applied for and received an exemption for an additional 146.343 acres of

the tract. At about the same time, Nueces County sued the Church to collect taxes assessed on the 146.343 acres from 1984 through 1989 that were never paid. This appears to have been the first effort to collect those taxes. Shortly after that suit was filed, section 11.433 became effective, and about two months later the Church applied for an exemption for the 146.343 acres for the years 1984 through 1989. The Nueces County Appraisal District denied the application solely because it considered section 11.433 unconstitutional under article III, section 55 and article I, section 16 of the Texas Constitution. The Appraisal Review Board upheld the Appraisal District's decision.

The Church petitioned the district court for review. Nueces County's earlier-filed delinquent tax suit against the Church was consolidated with this action. The Attorney General intervened for the limited purpose of defending the constitutionality of section 11.433. The case was tried on stipulated facts. The Church abandoned its claim of exemption for the years 1984 and 1985, based upon the outcome of an unrelated lawsuit. The parties agreed that if, and only if, section 11.433 is constitutional, the Church is entitled to an exemption for the 146.343 acres for the years 1986-1989. The district court rendered judgment for the Church.

The court of appeals determined, as a threshold matter, that Nueces County, the Nueces County Appraisal District, and the Appraisal Review Board, which we refer to collectively as "the County", had standing to challenge the constitutionality of section 11.433. 860 S.W.2d 627, 630. The Church and the Attorney General do not challenge the County's standing in this Court, and given that the Church has standing and our disposition of the constitutional issues, we need not address that question. See Texas Ass'n of Business v. Texas Air Control Bd., 852 S.W.2d 440, 441 n. 1 (Tex.1993). The court of appeals held that section 11.433 violates article III, section 55 of the Texas

Constitution and did not reach the County's arguments based upon article I, section 16. 860 S.W.2d at 631. Because we disagree with the court of appeals, we consider both constitutional provisions.

III

Article III, section 55 of the Texas Constitution provides:

The Legislature shall have no power to release or extinguish, or to authorize the

Page 625

releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual, to this State or to any county or defined subdivision thereof, or other municipal corporation therein, except delinquent taxes which have been due for a period of at least ten years.

The County contends that once the process of levying taxes is completed for a given year and taxes become due, the amount assessed is an obligation to the taxing unit which section 11.433 cannot release or extinguish by extending the deadline for claiming an exemption.

The Church argues that delinquent taxes are not an "indebtedness, liability or obligation" within the meaning of section 55. We do not regard this argument as even plausible. For one thing, there would be no reason for section 55 to except taxes delinquent for ten years as it does if this section did not contemplate that taxes were an obligation within its purview. For another, it is simply too plain for argument that assessed taxes are an obligation owed to the taxing unit. We reached this unsurprising conclusion long ago. *Ollivier v. City of Houston*, 93 Tex. 201, 54 S.W. 943, 944 (1900).

Even though we believe taxes due are clearly an obligation to a taxing entity that cannot be forgiven under article III, section 55, we do not believe section 11.433 extends such forgiveness. Section 11.433 simply prescribes the time in which a tax exemption must be claimed. The County's argument that the Legislature is constitutionally forbidden to allow an exemption to be established after taxes have been assessed is too strict a reading of article III, section 55. As we noted above, the Legislature has prescribed various deadlines in the tax collection process: January 1 for imposition of taxes, July 25 for appraising property, September 1 for levying tax rates, October 1 for mailing tax bills, and February 1 for payment. The Legislature is likewise entitled to set a deadline for exemption applications. See *Sam Bassett Lumber Co. v. City of Houston*, 145 Tex. 492, 198 S.W.2d 879, 882 (1947). Just as the Legislature may make the religious organization exemption automatic, as it did in 1980 and 1981, it can extend the time for filing applications. See *Dickison v. Woodmen of the World Life Ins. Soc'y*, 280 S.W.2d 315, 317 (Tex.Civ.App.--San Antonio 1955, writ ref'd) (when the constitution permits, rather than prescribes, a particular exemption, the Legislature may ordinarily limit that exemption as it pleases).

Section 11.433 does not on its face extinguish any liabilities owed to a taxing authority. Indeed, if a religious organization does not apply for exemption within the extended period, the taxing unit is entitled to recover all delinquent taxes. Rather, the effect of section 11.433 is merely to delay the taxing authority from collecting taxes for a prescribed period of time until either the religious organization files for exempt status or fails to make late application. When an application is no longer allowed, the taxing unit is free to collect its taxes.

This tolling provision is similar to statutes of limitation, which we have held are permissible under article III, section 55. In

Sam Bassett Lumber Co., the City of Houston sought to obtain a personal judgment for delinquent property taxes. The defendant asserted limitations as a defense. The Court concluded that a ten-year statute of limitations did not violate article III, section 55 because limitation statutes do not release or extinguish a debt but merely affect the remedy when its enforcement is sought. 198 S.W.2d at 882 (citing Goldfrank, Frank & Co. v. Young, 64 Tex. 432, 434 (1885); Limestone County v. Robbins, 120 Tex. 341, 38 S.W.2d 580, 584 (1931); Central Nat'l Bank v. Latham, 22 S.W.2d 765, 768 (Tex.Civ.App.--Austin 1929, writ ref'd)).

We conclude that section 11.433 merely determines the procedures for claiming a religious organization exemption and does not release or extinguish tax obligations. Accordingly, we hold that section 11.433 does not violate article III, section 55 of the Texas Constitution.

IV

The County also asserts that section 11.433 is a retroactive law prohibited by article I, section 16 of the Texas Constitution, which states: "No bill of attainder, ex post

Page 626

facto law, retroactive law, or any law impairing the obligation of contracts, shall be made."

Unless vested rights are destroyed or impaired, a law is not invalid even though retroactive in operation. State v. Project Principle, Inc., 724 S.W.2d 387, 390 (Tex.1987). Section 11.433 may be said to have some retroactive effect in that it allows an exemption to be established after taxes are assessed. However, as we have already determined, section 11.433 does not extinguish any tax liability; it simply prescribes the timing for collection. A taxing unit has no vested right to taxes until the

exemption is determined. Section 11.433 does not retroactively confer an exemption; it extends the time for determining whether an exemption is warranted. Thus, section 11.433 is not a retroactive law in violation of article I, section 16.

Because we hold that section 11.433 does not violate either article III, section 55 or article I, section 16 of the Texas Constitution, we reverse the judgment of the court of appeals and affirm the judgment of the trial court.

ENOCH, Justice joined by GONZALEZ, HIGHTOWER and SPECTOR, Justices dissenting.

Section 11.433 seeks to retroactively attach exempt status to the property of religious organizations. It is available only to delinquent taxpayers. TEX.TAX CODE § 11.433(b). Continuing its beneficence to those who fail to pay their taxes, see Syntax, Inc. v. Hall, 899 S.W.2d 189 (Tex.1995) (delinquent taxpayer entitled to excess proceeds of resale by taxing unit despite lack of any interest in the property), the Court gives short shrift to the Texas Constitution and erroneously concludes that section 11.433 of the tax code violates neither article III, section 55 nor article I, section 16 of the Texas Constitution. Section 11.433 of the Tax Code violates the plain meaning of both provisions of the Texas Constitution. I respectfully dissent.

I.

Under article III, section 55 of the Texas Constitution, the only tax liabilities the Legislature has any power to forgive are delinquent taxes that have been due for at least ten years. TEX. CONST. art. III, § 55. Otherwise, the Legislature has "no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part," the tax liability of any corporation or

individual owed to the County. *Id.* The delinquent taxes at issue in this case are for tax years 1986-89 and thus not within the Legislature's power to forgive. By retroactively attaching exempt status to the Church's property, section 11.433 forgives the original tax liability for those years contrary to the plain terms of article III, section 55.

The Court concludes that section 11.433 does not extinguish or release any such obligation, but simply limits the County's remedy for collecting the taxes. 904 S.W.2d at 625. This limitation, the Court asserts, is akin to statutes of limitation which we have held do not violate article III, section 55. *Sam Bassett Lumber Co. v. City of Houston*, 145 Tex. 492, 198 S.W.2d 879, 882 (1947). Section 11.433 does not have a similar effect.

It is undisputed that, but for the late application, the Church's property is entitled to an exemption under section 11.20. TEX. TAX CODE § 11.20. An exemption under section 11.20 must be claimed by May 1 of the year for which the exemption is sought. *Id.* § 11.43(d). Once allowed, the section 11.20 exemption need not be claimed in subsequent years except in certain situations not relevant here. *Id.* § 11.43(c). The Church, although entitled to an exemption, did not claim the exemption for the years 1986-89 and the Church's property became subject to taxation. Taxes were levied and assessed and became due on receipt of the tax bill. *Id.* § 31.02(a). The taxes became delinquent when they were not paid by February 1 of the year following the year in which the taxes were imposed. *Id.* Section 11.433 does not simply limit the County's remedy by precluding the County from enforcing its remedy to collect the unpaid taxes for six years. This provision seeks to retroactively

Code violates article III, section 55 of the Texas Constitution.

II.

Unquestionably, section 11.433 is retroactive in operation by permitting retroactive attachment of exempt status to property for prior tax years. The retroactive effect of a statute, however, does not itself violate article I, section 16. A statute must also impinge on vested rights. *State v. Project Principle, Inc.*, 724 S.W.2d 387, 390 (Tex.1987). In this regard, our article I, section 16 has been interpreted by this Court as broader than the federal counterpart, article I, sections 9 and 10 of the United States Constitution. *Mellinger v. City of Houston*, 68 Tex. 37, 3 S.W. 249, 253 (1887).

The prohibition in the Texas Constitution is broader because unlike the Federal Constitution, article I, section 16 prohibits not only bills of attainder, ex post facto laws, and laws impairing the obligation of contracts, but also prohibits retroactive laws. *Id.* By prohibiting retroactive laws, our Constitution protects not only property rights, but any other rights that have vested prior to the passage of any law, which if retroactively applied, would take away those rights. *Id.*

In 1887, this Court wrote about those rights subject to protection under article I, section 16 as follows:

[I]t must necessarily be held that a right, in a legal sense, exists, when, in the consequence of the existence of given facts, the law declares that one person is entitled to enforce against another a given claim, or to resist the enforcement of a claim urged by another. Facts may exist out of which, in the course of time or under given circumstances, a right would become fixed or vested by operation of existing law, but until the state of facts which the law declares shall give a right comes into existence there cannot be in law a right; and for this reason it has been constantly held

Page 627

attach exempt status to property when taxes have already been levied and assessed and are delinquent. Section 11.433 of the Texas Tax

that, until the right becomes fixed or vested, it is lawful for the law-making power to declare that the given state of facts shall not fix it, and such laws have been constantly held not to be retroactive in the sense in which the term is used.

Mellinger, 3 S.W. at 253. Interpreting the rights protected under article I, section 16 in this manner, the Court struck down as retroactive a statute that eliminated a delinquent taxpayer's right to rely on limitations as a defense to a tax collection suit when limitations had run prior to enactment of the statute. *Id.* at 254-55.

Agreeing that section 11.433 has a retroactive effect, the Court concludes that section 11.433 nonetheless is constitutional because it does not impinge on any vested rights. 904 S.W.2d at 626. The retroactive extension of exempt status under section 11.433, however, extinguishes the existing tax liability owed to the County. The taxes, which are due on receipt of the tax bill and become delinquent if not paid by February 1 of the following year, represent a liability that has matured and for which the taxing unit may enforce collection. TEX.TAX CODE §§ 31.02(a), 33.41. That right to collect delinquent taxes cannot be taken away by the retroactive application of an exemption. Mellinger, 3 S.W. at 253.

Moreover, section 11.433 destroys the County's vested constitutional and statutory tax liens in the property. TEX. CONST. art. VIII, § 15; TEX.TAX CODE § 32.01. The Texas Property Tax Code provides that although a lien attaches as of January 1 of the year for which any taxes, penalties, or interest may become due, the tax lien may be foreclosed only after the taxes on the property become delinquent. TEX.TAX CODE §§ 32.01, 33.41. There can be no dispute that at the time section 11.433 was enacted in 1990, the County possessed constitutional and statutory tax liens that could be enforced and foreclosed to collect the delinquent taxes

owed for tax years 1986-89. With the late application and allowance of a retroactive exemption, section 11.433 destroys the County's valid, existing, and mature tax liens in violation of article I, section 16 of the Texas Constitution.

Because I would hold that section 11.433 violates both article III, section 55 and article I, section 16 of the Texas Constitution, I

Page 628

would affirm the judgment of the court of appeals. I dissent.

APP. J

***TARRANT COUNTY V. ASHMORE*, 635 S.W.2D 417 (TEX. 1982)**

Page 417

635 S.W.2d 417
TARRANT COUNTY et al., Petitioners,
v.
Bob ASHMORE et al., Respondents.
No. C-985.
Supreme Court of Texas.
June 23, 1982.
Rehearing Denied July 21, 1982.

Page 418

Tim Curry, Crim. Dist. Atty., Frederick M. Schattman, Asst. Dist. Atty., Fort Worth, for petitioners.

Farrar & Claunch, Jim Claunch and Roy Basham, Charles Dickens, Fort Worth, for respondents.

POPE, Justice.

Bob Ashmore and others, all Tarrant County justices of the peace and constables threatened with removal from office by the redrafting of precinct boundary lines, brought this action for damages and for declaratory and injunctive relief against the Tarrant County Commissioners Court. The claims asserted in the suit were based upon alleged violations of procedural due process, and upon the purported rights of duly elected officeholders to complete their full terms of office. In response to these claims, the commissioners argued that their actions were authorized by Tex.Rev.Civ.Stat.Ann. art. 2351 1/2, which then allowed commissioners courts to declare certain offices abolished or vacated when precinct lines were

Page 419

redrawn. ¹ The trial court held that, while article 2351 1/2(c) was a constitutional means of removing officers from their positions, the procedures used by the Tarrant County Commissioners to accomplish that purpose in the present case were inconsistent with the

officers' property rights and rights of due process. As a result, the court held, the officers were entitled to recover from the county the salaries and benefits they would have earned had they been allowed to remain in office for their full terms. The court of appeals affirmed the judgment of the trial court. 624 S.W.2d 740. We reverse the judgments of the courts below.

In the spring of 1980, the Commissioners Court of Tarrant County began the process of examining the justice and constable precincts in the county with a view toward complying with a federal district court redistricting order. See *Bagsby v. Moncrief*, No. CA-4-79-24k (N.D.Tex.1979). The last redistricting of Tarrant County had taken place in 1876, and a wide disparity between precinct populations existed. ² After receiving a proposed redistricting plan prepared by a demographic expert hired to study population trends in the county, the commissioners held five public hearings on consecutive nights in early August 1980 in order to solicit public comment. On August 25, the commissioners adopted the proposed plan, and concurrently ordered that all justice and constable precincts and each of the offices located therein be abolished effective January 1, 1981, so that the newly defined offices could be filled by appointment.

The present action was filed on December 16, 1980, by three justices of the peace and one constable seeking damages and injunctive and declaratory relief. Thereafter, on December 19, the trial court ordered the joinder of all other justices and constables in the county as involuntary plaintiffs. ³ Trial was held on December 30 and 31. While it was clear to the participants during trial that all justice and constable positions had been vacated, it was not certain at that time whether any incumbent or recently elected officer would be appointed to serve in any of the newly drawn precincts, since the commissioners court planned to make the appointments on the evening of December 31.

The trial court ruled on January 9, 1981, that article 2351 1/2 was constitutional, that the commissioners court had the power to redistrict and declare the offices of the justices and constables vacant, and that the vacancies could be filled by appointment. Notwithstanding the finding of validity of article 2351 1/2, however, the court held that the officers had property

Page 420

rights in their offices and were deprived of such property rights by the commissioners court without just compensation or regard for due process. As a result, the court held, the justices and constables were entitled to full salary and benefits, including any future cost of living increases afforded other county officials, for the remainder of their elected terms. ⁴

The court of appeals affirmed the judgment of the trial court. In so doing, the court agreed that the precinct officers had a property right in their offices and held that the redrafting of precinct boundaries must in all cases accord due process to the incumbents whose elective offices may be abolished. The court also held that, even if article 2351 1/2 was a valid and constitutional statute, it should not be construed as providing for the loss of a valuable property right-the right to complete an elected term of office-without just compensation. Recovery for lost salaries and benefits for the unexpired terms was therefore affirmed.

Taking of Property

We are aware that article I, section 17, of the Texas Constitution provides that "(n)o person's property shall be taken ... without adequate compensation" Additionally, the fifth amendment to the United States Constitution, made applicable to the states by way of the fourteenth amendment, concludes with the words: "nor shall private property be taken for public use, without compensation."

We agree that these provisions stand as a shield between the exercise of governmental power and the rights of all citizens to own and enjoy property. We do not agree with the court of appeals, however, that the public officers in the present case had a "property" interest in their positions such that vacating the offices prior to the end of their terms resulted in a constitutionally recognizable "taking" of property without compensation.

The nature of public office has long been a point of analysis and discussion in Texas. Early courts described the elected and appointed position as "the right, authority, and duty created and conferred by law by which, for a given period either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government to be exercised by him for the benefit of the public." *Kimbrough v. Barnett*, 93 Tex. 301, 310, 55 S.W. 120, 122 (1900), quoted in *Commissioners' Court of Limestone County v. Garrett*, 236 S.W. 970, 972 (Tex.Comm'n App.1922, judgment adopted). As the foregoing passage indicates, public offices began to be described properly by Texas courts not in terms of a "contract," "employment," "ownership," or "possession," but rather as a "trust," "duty," and "public benefit." In other words, stated briefly, public office came to be seen in Texas not as a right, but as a responsibility. In *State ex rel. Maxwell v. Crumbaugh*, 63 S.W. 925, 927 (Tex.Civ.App. San Antonio 1901, writ ref'd), for example, the court stated:

A public office is not "property," within the meaning of the constitutional provision that "no person shall be deprived of life, liberty or property without due process of law." It is a mere public agency, revocable according to the will and appointment of the people, as exercised in the constitution and the laws enacted in conformity therewith. *Moore v. Strickling* (W.Va.) (46 W.Va. 515), 33 S.E. 274, 50 L.R.A. 279. In the case cited the court in its opinion makes ... the following

quotation: "It is impossible to conceive how, under our form of government, a person can own or have a title to a governmental office. Offices are created for the administration of public affairs. When a person is inducted into an office he thereby becomes empowered to exercise its powers and perform its duties, not for his, but for the public, benefit. It would be a misnomer and a perversion of terms to say that an incumbent owned an office or had any title to it."

Page 421

It may be concluded, therefore, that a fundamental principle associated with our republican form of government is that every public officeholder remains in his position at the sufferance and for the benefit of the public, subject to removal from office by edict of the ballot box at the time of the next election, or before that time by any other constitutionally permissible means.

The decision in *State ex rel. Maxwell v. Crumbaugh*, supra, in declining to identify a public office as the "property" of the officeholder, is in line with the majority rule in other jurisdictions. See Annot., 172 A.L.R. 1366 (1948); 99 A.L.R. 336 (1935); 4 A.L.R. 205 (1919). In the early case of *Taylor v. Beckham*, 178 U.S. 548, 20 S.Ct. 890, 44 L.Ed. 1187 (1900), the United States Supreme Court was asked to settle a contest over the offices of governor and lieutenant governor of the State of Kentucky. The defendant officeholders in that suit, who were the losers of an election contest conducted in the state's general assembly, sought to retain their positions by asserting a property right to the office and the benefits attached thereto. The Supreme Court responded negatively to this contention by stating:

The view that public office is not property has been generally entertained in this country.

The decisions are numerous to the effect that public offices are mere agencies or trusts, and not property as such. Nor are the salary and emoluments property, secured by contract, but compensation for services actually rendered. Nor does the fact that a constitution may forbid the legislature from abolishing a public office or diminishing the salary thereof during the term of the incumbent change its character or make it property. True, the restrictions limit the power of the legislature to deal with the office, but even such restrictions may be removed by constitutional amendment. In short, generally speaking, the nature of the relation of a public officer to the public is inconsistent with either a property or a contract right.

Id. at 576-77, 20 S.Ct. at 900-901. The holding of the Court in *Taylor* was subsequently reaffirmed in the case of *Cave v. Missouri ex rel. Newell*, 246 U.S. 650, 38 S.Ct. 334, 62 L.Ed. 921 (1918) (per curiam), and again in *Snowden v. Hughes*, 321 U.S. 1, 7, 64 S.Ct. 397, 400, 88 L.Ed. 1090 (1944).

In *Edge v. Holcombe*, 135 Ga. 765, 70 S.E. 644 (1911), the Supreme Court of Georgia reiterated the majority position expressed by the United States Supreme Court:

We will only observe that a careful study of the cases discloses that in the early history of the English jurisprudence the right to hold office was regarded as a property right, and many decisions were made in recognition of this principle; but the American courts now uniformly hold that an office, relatively (sic) to the government, is a public trust, and not a property right. Where an office is created by the Legislature, the power which created it may fix its term and provide for the sooner determination thereof, and the officer takes the office with this limitation.

Similarly, in *Smith v. Thomson*, 219 Iowa 888, 258 N.W. 190, 193 (1934), the court stated:

(I)t must be conceded, as a general rule, that the relation between a public officer and the people is not in the nature of a contract, and that such office has in it no element of property. It is a public trust, created for the benefit of the state, and not for the benefit of the individual citizens thereof, and the prospective emoluments of a public office are not property in any sense.

The same rule has been repeated many times in many jurisdictions. See, e.g., *Cosby v. Moore*, 259 Ala. 41, 65 So.2d 178, 181 (1953); *Trimble v. People*, 19 Colo. 187, 34 P. 981 (1893); *Kirkpatrick v. King*, 228 Ind. 236, 91 N.E.2d 785, 788-89 (1950); *Lanza v. Wagner*, 11 N.Y.2d 317, 229 N.Y.S.2d 380, 183 N.E.2d 670, 673 (1962); *Simmons v. Elizabeth City*, 197 N.C. 404, 149 S.E. 375, 376 (1929); *Wright v. City of Florence*, 229 S.C. 419, 93 S.E.2d 215, 220 (1956).

Page 422

Our holding in this case should not be construed to mean that an officer, duly elected and inducted into his position for a definite term, has no financial or "property" interest that may be protected against interference by others not acting under statutory or constitutional authority. See *Walton v. Davis*, 188 Ga. 56, 2 S.E.2d 603, 604 (1939); *State ex rel. Ryan v. Norby*, 118 Mont. 283, 165 P.2d 302, 304 (1946). As stated in *Sutton v. Adams*, 180 Ga. 48, 178 S.E. 365, 375 (1934): "While an officer has no vested right in the office held by him, and thus cannot complain of an abolishment of such office, or of his removal or suspension, according to law, ... it does not follow that he has absolutely no financial or property interest which may be protected by a court of equity as against one who otherwise and by private means seeks to interfere with his possession and conduct of such office during his incumbency therein." See also *Carver v. Wheeler County*, 200 S.W. 537, 538 (Tex.Civ.App.-Amarillo 1918, no writ). Cf. *Taylor v. Nealon*, 132 Tex. 60, 120 S.W.2d

586 (1938) (election contest between rival candidates); *State ex rel. Jennett v. Owens*, 63 Tex. 261 (1885) (same). What we do hold is that the qualified interest held by a public officer is not "property" within the sense of constitutional guarantees against governmental takings of property without compensation. See *Myers v. Tunks*, 360 S.W.2d 518, 520 (Tex.1962). Absent a recognizable property interest, the officers have no claim for salaries for the unserved portion of their terms. See generally *Bennett v. City of Longview*, 268 S.W. 786 (Tex.Civ.App.-Texarkana 1925, writ ref'd n.r.e.); *State ex rel. Dowlen v. Rigsby*, 43 S.W. 271, (Tex.Civ.App.1897) writ ref'd per curiam, 91 Tex. 351, 43 S.W. 1101 (1897).

Procedural Due Process

The officeholders claim, and the court of appeals held, that salaries for unexpired terms should be recoverable in this case because the procedures employed to vacate the precinct positions did not conform with minimum requirements of due process. According to the court of appeals, procedural due process in such cases calls for notice in advance of hearing informing the incumbents of (1) the time, place, and location of each hearing; (2) the subject matter to be considered; (3) the possibility of termination of positions prior to expiration of terms; (4) the possibility that no incumbents would be reappointed to the new positions; (5) the possibility that present salaries would not be continued; and (6) the existence of the right to appear and defend rights and to show cause why the offices should not be terminated without compensation. 624 S.W.2d at 744. The court concluded upon review of the record that such due process requirements had not been met in the present case.

The requirements of procedural due process apply only to the threatened deprivation of liberty and property interests deserving the protection of the federal and

state constitutions. *Board of Regents v. Roth*, 408 U.S. 564, 569, 92 S.Ct. 2701, 2705, 33 L.Ed.2d 548 (1972). Therefore, any assessment of proper procedural safeguards necessarily begins with a consideration whether the particular interest at stake is a protectible interest. In the present case, we acknowledge that an officer's interest in his elected position, though not "property" in the conventional sense, is a recognizable interest for purposes of procedural due process analysis. See *Ridgway v. City of Fort Worth*, 243 S.W. 740, 745 (Tex.Civ.App.-Fort Worth 1922, writ dismissed); *Paris v. Cabiness*, 98 S.W. 925, 927 (Tex.Civ.App. 1906, no writ). See also *Howard v. Bell County Board of Education*, 247 Ky. 586, 57 S.W.2d 466, 467 (1933). This view is consistent with recent United States Supreme Court pronouncements that procedural due process protection extends well beyond traditional concepts of ownership and title to encompass anything to which a person may assert a legitimate claim of entitlement. *Board of Regents v. Roth*, supra 408 U.S. at 572, 577, 92 S.Ct. at 2706, 2709.

To say that an interest deserves due process protection does not define the

Page 423

amount of process that is due in a given instance. At a very basic level, deprivation of a protected interest requires notice and an opportunity to be heard.⁵ The type of notice and hearing required varies according to the facts of the situation. *Bell v. Burson*, 402 U.S. 535, 540, 91 S.Ct. 1586, 1589, 29 L.Ed.2d 90 (1971). It is incorrect to state that the full procedural protections afforded in a criminal trial proceeding are required every time there is a right to a hearing. *Cafeteria & Restaurant Workers Union v. McElroy*, 367 U.S. 886, 894, 81 S.Ct. 1743, 1748, 6 L.Ed.2d 1230 (1961); *Robison v. Wichita Falls & North Texas Community Action Corp.*, 507 F.2d 245, 252 (5th Cir. 1975).

In his treatise on administrative law, Professor Kenneth Davis attempted to clarify the confusion surrounding notice and hearing requirements by drawing a distinction between determinations of "adjudicative" and "legislative" facts. K. Davis, *Administrative Law Treatise* §§ 12:1-12:8 (2d ed. 1979). Under this dichotomy, the "adjudicative" facts, those that answer the questions "who did what, where, when, how, why, with what motive or intent," are the types of facts that usually demand a trial-type proceeding complete with full procedural safeguards—service of citation, compulsion and cross examination of witnesses, and reliance upon a disinterested trier of fact. Davis, supra at 12:3. "Legislative" facts, on the other hand, deal with matters of policy and administrative discretion, and affect individual parties to a dispute only to the extent that those parties are involved in the overall legislative scheme. *Id.* Determinations of such fact issues generally may be made without demands for an adversarial setting, *Bi-Metallic Investment Co. v. State Board of Equalization of Colorado*, 239 U.S. 441, 445, 36 S.Ct. 141, 142, 60 L.Ed. 372 (1915); *SEC v. Frank*, 388 F.2d 486, 491-92 (2d Cir. 1968); *Jackson County Public Water Supply District v. State Highway Commission*, 365 S.W.2d 553, 559 (Mo. 1963), although an opportunity for open and public debate in a speechmaking or public meeting-type hearing or in a notice and comment procedure is probably appropriate if not essential. *Londoner v. Denver*, 210 U.S. 373, 28 S.Ct. 708, 52 L.Ed. 1103 (1908); Davis, supra at § 12:5.

In applying these principles to the instant case, we note that commissioners courts in various counties of Texas are given authority to divide the counties into precincts and to revise those precincts "from time to time, for the convenience of the people." Tex. Const. art. V, § 18. Furthermore, as we noted previously, the commissioners had at the time of this suit statutory authority under article 2351 1/2 to abolish offices and declare vacancies incident to the redrafting of

boundary lines. Assuming the validity of article 2351 1/2, and given the constitutional provision, the Tarrant County Commissioners Court received a grant of power from the people of the state and from the legislature to perform the action here complained of. As such, the redistricting may be seen as the exercise of legislative or quasi-legislative power leading to the resolution of essentially political issues. We cannot conclude that the officers involved in this suit were wrongfully deprived of a trial-type adjudication of relevant facts, since there were no adjudicative facts to be determined.⁶

Page 424

Examination of the record in this case leads us to conclude that, given the circumstances of the case and the issues to be decided, the officeholders received as much protection as they were due. The court of appeals acknowledged in its opinion that the district attorney's office mailed letters to the officers informing them that the commissioners court had scheduled public meetings to consider redistricting the officers' precincts, and that notice of the meetings were also posted in compliance with the requirements of the Open Meetings Act, Tex.Rev.Civ.Stat.Ann. art. 6252-17 § 3A. In addition, the record reveals that the officers did, in fact, know about the hearings; that they knew what the hearings were for; that each officer attended at least one meeting, some accompanied by their attorneys; and that each officer was given the opportunity at the meetings to make comment and inquiry. There was considerable discussion, and at least one officer did exercise his right to speak. While we do not hold or imply that the officeholders whose positions were terminated had no rights to notice of the proceedings, or that the redistricting determinations could have been made in secret without invited comment from the public or the officers, we do hold that the attempts made to involve all interested parties in the legislative process in this case

were adequate. We therefore render judgment that the respondents take nothing.

1 Article 2351 1/2 then provided:

(c) When boundaries of justice of the peace precincts are changed, so that existing precincts are altered, new precincts are formed, or former precincts are abolished, if only one previously elected or appointed justice of the peace or constable resides within a precinct as so changed, he shall continue in office as justice or constable of that precinct for the remainder of the term to which he was elected or appointed. If more than one justice or constable resides within a precinct as so changed, or if none resides therein, the office shall become vacant and the vacancy shall be filled as other vacancies; provided, however, that in precincts having two justices, if two reside therein, both shall continue in office, and if more than two reside therein, both offices shall become vacant.

This portion of the statute was deleted by recent amendment. See 1981 Tex.Gen.Laws, ch. 280, § 1, at 748. Article 2351 1/2 now provides:

(b) When boundaries of commissioners or justice precincts are changed, the terms of office of the commissioners, justices of the peace, and constables then in office shall not be affected by such change, and each of them shall be entitled to serve for the remainder of the term to which he was elected even though the change in boundaries may have placed his residence outside of the precinct for which he was elected.

2 For example, the largest justice precinct in Tarrant County in 1977, precinct one, contained 402,730 persons; the smallest precinct, precinct eight, had a population of only 12,638.

3 Of the ten justices in Tarrant County, eight were in office at the time of suit, with terms

expiring December 31, 1982. Two justices had been elected in November 1980 but were not due to take office until January 1, 1981. All of the eight constables were to begin new terms on January 1, 1981.

issue arguably involved in the process was whether the redistricting plan was consistent with the "convenience of the people," although this question was itself essentially a matter of policy.

4 The judgment provided that any officeholder appointed to the same or similar position who declined to serve would waive his rights to recovery. The record does not reveal what dispossessed officers, if any, were reappointed by the commissioners court.

5 "Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 656, 94 L.Ed. 865 (1950).

6 A different situation would have existed, of course, and a more sophisticated adjudication procedure would have been required, had the commissioners sought to remove any of the officers for causes such as incompetence or malfeasance. In such cases, due process would accord the officer an opportunity to refute the charge in a trial-type hearing in order to protect his "good name, reputation, honor, or integrity." *Board of Regents v. Roth*, supra 408 U.S. at 573, 92 S.Ct. at 2707; *Cafeteria & Restaurant Workers Union v. McElroy*, supra 367 U.S. at 898, 81 S.Ct. at 1750; *Wieman v. Updegraff*, 344 U.S. 183, 190-91, 73 S.Ct. 215, 218-219, 97 L.Ed. 216 (1952). Additionally, the issues of incompetence and malfeasance would constitute adjudicative facts determinable only in an adversarial setting, and not in a legislative forum. *DAVIS*, supra at § 12:3-12:4. In the present case, there was no suggestion of removal of the officers for "cause"; rather, the discretionary action was taken pursuant to the statutory and constitutional authority. The only factual

APP. K

TEX.ATTY.GEN. OP. NO. GA-0356 (2005)



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

September 12, 2005

The Honorable Jeri Yenne Brazoria County Criminal District Attorney 111 East Locust Street Angleton, Texas 77515	Opinion No. GA-0356 Re: Retroactive application of municipal term limit provisions (<u>RQ-0327-GA</u>)
---	--

Dear Ms. Yenne:

On behalf of the Alvin City Attorney, you ask whether the term limit provisions of the Alvin City Charter apply to combined service as city council member and mayor.⁽¹⁾ You have submitted the Alvin City Attorney's letter on this matter.⁽²⁾

You received a letter from a citizen of Alvin asking about the application of the term limit provisions to the current mayor and forwarded it to the City Attorney for Alvin. *See* Request Letter, *supra* note 1, at 1. The Alvin City Attorney subsequently reviewed records of past city charter revisions and interviewed members of the 2001 Charter Review Commission and other city officials who attended Commission meetings. *See id.* at 2. She concluded that the city council "intended that the term limit of an individual running for the elected office of Mayor was separate and exclusive of any time served on the Council." Kacz Letter, *supra* note 2, at 2.

The Alvin City Attorney has forwarded the following questions to you, asking that you request an attorney general opinion addressing them:

1. Do term limits apply to combined terms of councilmember and mayoral service?
2. Are council District and At-Large positions considered separate offices for term limit considerations?
3. What is the retroactive application of the term limit provision? Does the 8 year term limit that became effective May 2002 upon adoption of the charter revisions apply to future service only?

Request Letter, *supra* note 1, at 2 (emphasis omitted). *See also* Kacz Letter, *supra* note 2, at 1. Your letter provides your analysis of and conclusions to these questions. *See* Request Letter, *supra* note 1, at 3-6.

This office does not construe city charters unless the charter provision raises a question of federal or state law. *See* Tex. Att'y Gen. Op. Nos. GA-0226 (2004) at 3, GA-0130 (2003) at 3, GA-0068 (2003) at 2 n.2, JC-0143 (1999) at 3, JM-805 (1987) at 1 n.1 (this office does not ordinarily construe city charters, in deference to municipal officials), H-1014 (1977) (applicability of city charter provisions to contract with county is to be determined by contracting parties). *See also* Tex. Att'y Gen. Op. Nos. GA-0110 (2003) (considering whether home-rule ordinance is consistent with state statute); GA-0068 (2003) (considering whether ethics ordinance proposed for adoption by home-rule city is consistent with federal and state law). This office has issued opinion request procedures stating that "[q]uestions involving cities, independent school districts, or others not specified in Sections 402.041-402.045 of the Government Code should be submitted by a statutorily authorized requestor only if they concern subject matter covered by the jurisdiction and duties of the office submitting the request." Attorney General of Texas, Opinion Request Procedures: How to Request an Opinion.⁽³⁾

Thus, we decline to answer the questions asking for an interpretation of city charter provisions. However, in connection with question three you raise a question of state law: whether term limits may be applied retroactively. Request Letter, *supra* note 1, at 4. We will address this question.

Article I, section 16 of the Texas Constitution provides that "[n]o bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made." *See* Tex. Const. art. I, § 16. This provision applies to charter provisions and ordinances adopted by cities. *See Coffee v. Castleberry*, 258 S.W. 889, 892 (Tex. Civ. App.-Amarillo 1924), *judgm't reformed on other grounds and aff'd*, 272 S.W. 767 (Tex. Comm. App. 1925). It prohibits retroactive laws only to the extent they "destroy or impair rights which had become vested." *See Subaru of Am. v. David McDavid Nissan, Inc.*, 84 S.W.3d 212, 220 (Tex. 2002); *Corpus Christi People's Baptist Church, Inc. v. Nueces County Appraisal Dist.*, 904 S.W.2d 621, 626 (Tex. 1995); *Merchant's Fast Motor Lines, Inc. v. R.R. Comm'n*, 573 S.W.2d 502, 504 (Tex. 1978); *Deacon v. City of Euless*, 405 S.W.2d 59, 62 (Tex. 1966); *McCain v. Yost*, 284 S.W.2d 898, 900 (Tex. 1955). Thus a law is not invalid even though retroactive in operation unless vested rights are destroyed or impaired. *Corpus Christi People's Baptist Church*, 904 S.W.2d at 626; Tex. Att'y Gen. Op. No. GA-0149 (2004) at 5-6.

The legislature may enact a statute shortening an incumbent officer's term and apply it to persons in office when the act becomes effective, as long as the Texas Constitution does not fix the term of office. *See Popham v. Patterson*, 51 S.W.2d 680, 683 (Tex. 1932). *See also* Tex. Const. art. IV, § 4 (establishing four-year term of office for governor); *id.* art. V, § 18 (establishing four-year term for justices of the peace and constable; providing that each justice and constable in office when precinct boundaries are changed shall serve out term). The Alvin City Charter sets the terms of office for the mayor and city council members. *See* Alvin, Tex., City Charter art. II, § 1 (2002) (attachment to Request Letter, Exhibit C).

A public officer has no vested right in the office he holds,⁽⁴⁾ and the legislature may reduce his term of service or abolish the office entirely. *See Tarrant County v. Ashmore*, 635 S.W.2d 417, 422 (Tex. 1982) (public officer's qualified interest in office is neither property nor a vested right); Tex. Att'y Gen. Op. Nos. JM-1233 (1990) at 3 (member of State Board of Pharmacy has no vested right to his position); JM-235 (1984) at 3 (school board may

establish single-member trustee districts pursuant to statute, even though terms of some incumbent trustees will be shortened); H-955 (1977) at 4 (absent legislative direction, state agency board that established chair's term of office by resolution may reduce term and apply change to present chair).

In Attorney General Opinion JM-1233, this office construed a term limit provision applicable to members of the Texas State Board of Pharmacy, determining that the term limit provision applied to service performed before the statute's effective date. *See* Tex. Att'y Gen. Op. No. JM-1233 (1990) at 2-3. It found that the statute was not retroactive, noting that "the legislature could have even reduced . . . [the board member's] present term of service or abolished the office entirely." *Id.* at 3 (citing Attorney General Opinions JM-235 (1984) and H-955 (1977)). *See also* Tex. Att'y Gen. Op. No. DM-493 (1998) at 3-4 (statute shortening term of incumbent does not violate constitutional provision against retroactive laws). If a city charter term limit provision applies to service as a city officer prior to its adoption, it does not impair a vested right and therefore is not a "retroactive law" prohibited by article I, section 16.

S U M M A R Y

An opinion of the Attorney General will not construe city charters unless the charter provision raises a question of state or federal law. If a city charter term limit provision applies to service as a city officer prior to its adoption, it does not impair a vested right and therefore is not a "retroactive law" prohibited by article I, section 16 of the Texas Constitution.

Very truly yours,



GREG ABBOTT
Attorney General of Texas

BARRY MCBEE
First Assistant Attorney General

NANCY S. FULLER
Chair, Opinion Committee

Susan L. Garrison
Assistant Attorney General, Opinion Committee

Footnotes

1. Letter from Honorable Jeri Yenne, Brazoria County Criminal District Attorney, to Honorable Greg Abbott, Texas Attorney General (Mar. 15, 2005) (on file with Opinion Committee, *also available at* <http://www.oag.state.tx.us>) [hereinafter Request Letter].

2. Letter from Bobbi J. Kacz, Alvin City Attorney, to Mr. Jim Wiginton, Chief-Civil Division, Brazoria County Attorney's Office (Feb. 21, 2005) (attachment to Request Letter, Exhibit A) [hereinafter Kacz Letter].

3. *Available at* http://www.oag.state.tx.us/opinopen/opin_request_proc.shtm.

4. A public officer may have a financial or property interest in his office that a court will protect against private interference, for example in an election contest. *See Tarrant County v. Ashmore*, 635 S.W.2d 417, 422 (Tex. 1982).

[Home](#) | [Opinions](#)

APP. L

TEX.ATTY.GEN. OP. NO. JM-1233 (1990)

1990 Tex. AG LEXIS 125

Office of the Attorney General of the State of Texas

Reporter

1990 Tex. AG LEXIS 125

Opinion No. JM-1233

October 15, 1990

Core Terms

full term, retroactive, reappoint, pharmacy, eligible

Syllabus

[*1]

Re: Application of a provision in article 4542a-1, V.T.C.S., the Texas Pharmacy Act, limiting the eligibility of board members to two terms (RQ-2129)

Request By: JIM MATTOX, Attorney General of Texas

Opinion

Mr. Fred S. Brinkley, Jr., R.Ph.
Executive Director/Secretary
Texas State Board of Pharmacy
8505 Cross Park Drive, Suite 110
Austin, Texas 78754-4594

You have requested our opinion regarding the eligibility of a member of the Texas State Board of Pharmacy to serve another term.

You explain that a particular individual was appointed to a full term on the Board of Pharmacy in 1973 and reappointed in 1979. In 1981, the legislature enacted the following provision as part of amendments to the Texas Pharmacy Act:

(c) A member of the board may not serve more than two consecutive full terms. The completion of the unexpired portion of a full term does not constitute a full term for purposes of this section.

V.T.C.S. art. 4542a-1, § 10(c). The member in question was reappointed to the board in 1985. You suggest that he is eligible to be reappointed in 1991, because the 1981-85 period constitutes "completion of the unexpired portion of a full term," and the appointments in 1985 and 1991 should be construed [*2] as the beginning dates of his allotted full terms. You contend that to consider the member's prior service at the time the statute was amended in 1981 would constitute a retroactive application of the statute.

It is certainly the settled rule that "a statute is presumed to be prospective in its operation unless expressly made retrospective." Texas Dep't of Public Safety v. Sefcik, 751 S.W.2d 239, 240 (Tex. App. -- San Antonio 1988, no writ). Furthermore, "a law is retrospective if it 'changes the consequences of acts completed before its effective

William Carroll

date'." *Piper v. Perrin*, 560 F. Supp. 253, 255 (D.N.H. 1983). However, even a statute that is retroactively applied is not unlawful "solely because it upsets otherwise settled expectations." *Long Island Oil Products Co. v. Local 553 Pension Fund*, 775 F.2d 24, 27 (2d Cir. 1985).

In *Perry v. O'Farrell*, 212 P.2d 848 (Colo. 1949), a state constitutional amendment imposed a requirement that five additional points be added to the final scores of veterans who sat for state civil service examinations. A non-veteran who had taken the examination prior to the amendment brought suit, claiming that the addition of five points to [*3] the scores of veterans would amount to a retroactive application of the amendment. The court declared:

An act is not retroactive if it applies to persons who presently possess a continuing status even though a part or all of the requirements to constitute it were fulfilled prior to passage of the act or amendments thereto.

Id. at 852 (quoting *Albright v. Board of Trustees of Firemen's Pension Fund*, 82 P.2d 765, 771 (Colo. 1938)). Analogously, in the situation you present, most of the member's "requirements . . . were fulfilled prior to passage of the act." This fact alone does not mean that the statute is retroactive if his prior service is considered in determining his future eligibility.

Likewise, *Anders v. County Council for Richland County*, 325 S.E.2d 538 (S.C. 1985), considered the status of an individual who had been hired as a chief investigator for a solicitor under a statute which provided a means for challenging employment terminations by an elected official. Subsequently, a statute was enacted which declared that employees of a solicitor serve at his pleasure. The investigator brought suit, contending that application of the "termination at will" statute [*4] to his situation would give that law retroactive effect. The court concluded that this was not a case of retroactive application:

Public officers are created for the benefit of the commonwealth, incumbents have no contract or property rights in them, and, unless it be otherwise provided by the Constitution, they are subject entirely to legislative control. Hence, subject to the Constitution, the General Assembly may fix the term, provide for removal, abolish the office, reduce the term, and in every respect control the existence, powers, emoluments, and tenure of public officers.

Id. at 539 (citing *Wright v. City of Florence*, 93 S.E.2d 215, 220 (S.C. 1956)).

In Open Records Decision No. 358 (1983), it was argued that a change in the status of certain property tax information from "open" to "closed" applied only to information collected after the effective date of the statute. The opinion stated:

The Open Records Act vests no right in anyone to have previously-disclosable information remain disclosable notwithstanding an intervening determination by the legislature that it should be withheld from public inspection To be vested, a right must be something more [*5] than an expectation of the continuance of an existing law. It must have become an entitlement to the present or future enjoyment of property or the enforcement of a demand, or to a legal exemption from demands.

Id. at 3.

In the situation you pose, the member had no vested right to his position on the Pharmacy Board. As the South Carolina court noted, the legislature could have even reduced his present term of service or abolished the office entirely. See Attorney General Opinions JM-235 (1984); H-955 (1977).

Finally, we note that the legislature could have entirely excluded from the application of section 10(c) all members who were serving on the board at the time the statute was amended. This approach was used in Amendment 22 of the United States Constitution, which limited the term of office of the President of the United States to two terms, but specified that it did "not apply to any person holding the office of President when this article was proposed by the Congress." Article 4542a-1, however, contains no such grandfather clause.

We conclude that a member of the State Board of Pharmacy who was appointed in 1973, and reappointed in 1979 and 1985, is not eligible [*6] to be reappointed to the board under the terms of section 10(c) of *article 4542a-1, V.T.C.S.*, which limits membership on the board to two full terms.

SUMMARY

A member of the State Board of Pharmacy who was appointed in 1973, and reappointed in 1979 and 1985, is not eligible to be reappointed to the board under the terms of section 10(c) of article 4542a-1, V.T.C.S., which was enacted in 1981 and which limits membership on the board to two full terms.

Load Date: 2014-06-29

APP. M
ORDINANCE O-02-1322

ORDINANCE O-02-1322

AN ORDINANCE OF THE CITY OF COLLEYVILLE, TEXAS, REQUIRING THE FILING OF A FINANCIAL DISCLOSURE AND BUSINESS CONFLICTS OF INTEREST STATEMENT FOR ELECTED OFFICIALS, CANDIDATES, AND CERTAIN BOARDS AND COMMISSION MEMBERS, ESTABLISHING DEFINITIONS OF TERMS, PROMULGATING REPORTING FORMS, PROVIDING FOR FILING DATES, REPEALING A PRIOR RESOLUTION CONCERNING THE SUBJECT MATTER OF THE ORDINANCE, PROVIDING A PENALTY AND AUTHORIZING PUBLICATION.

WHEREAS, the citizens of the City of Colleyville are entitled to know certain information about candidates for public office, elected officials and members of the Planning and Zoning Commission and the Zoning Board of Adjustment that may influence their decisions or determine whether they can make unbiased decisions; and

WHEREAS, to insure citizen trust of elected and appointed officials of the City,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS, AS FOLLOWS:

Sec. 1. THAT the terms used in this ordinance shall have the following meaning:

- A. Account of Financial Activity. An "Account of Financial Activity" means and shall consist of:
- (i) A list of sources of occupational income during the reporting period, identified by the employer, the employer's address and position held, or if self-employed, by the nature of the occupation, the business address and position held of the individual, their spouse and those under the individual's financial control; and
 - (ii) Where an individual or those under the individual's financial control own real property or a beneficial interest in a business entity owning real property within the area crosshatched on Exhibit "A" to this ordinance during the reporting period, the account shall list the name in which legal title to the property is held, the nature of ownership interest, the name of the business entity in which a beneficial interest is held (if applicable), the lot, block, subdivision, city and county, or, if the real property is not part of a subdivision, the number of acres and tract, city and county in which the property is located. Further the account shall list each property identification number assigned by the

county appraisal district to the property and by the street address (if available). Further, the account shall list the names and addresses of other persons or business entities which own an interest in the real property. If a business entity is a limited partnership, the name and address of the general partner shall be included; and

- (iii) The name, address and nature of business of any business entity in which the individual or those under the individual's control held or acquired a beneficial interest of 10% or more during the reporting period; and
- (iv) The name and address of the person, business entity or other organization from which the individual or those under the individual's financial control during the reporting period received a gift of anything of value in excess of \$250.00 and a description of each gift, except (1) gifts received from an individual within the second degree of consanguinity or affinity as determined under sub-chapter B of Chapter 573 of the Government Code; (2) a political contribution that was reported as required by law; and (3) an expenditure required to be reported by a person required to be registered under Chapter 305 of the Government Code; and
- (v) The name and address of any business entity, non-profit corporation, charitable association, business association or other type of organization in which the individual or those under the individual's financial control were an officer, director, or held another position during the reporting period and a description of the position held.

- B. Bankruptcy. "Bankruptcy" means the filing of a petition, voluntary or involuntary, under Chapter 7, 11 or 13 of the Bankruptcy Code. (Title 11 of the United States Code).
- C. Beneficial Interest. A "beneficial interest" means an ownership of either legal or equitable title and includes any ownership interest held in trust where the individual is either the trustee or the beneficiary of the trust. Where the ordinance refers to a beneficial interest of 10% or more of a business entity it is meant that the individual owns or is entitled to either a legal or equitable interest in 10% or more of the

outstanding stock, membership interest or other indicia of ownership of the business entity.

- D. Business Entity. A "business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized by law through which business or profit is conducted.
- E. Those Under The Individual's Financial Control. "Those under the individual's financial control" means the individual's spouse and dependent children's property or financial interest over which the individual had actual control or where the property was community property during the reporting period.
- F. Reporting Individuals. "Reporting Individuals" means each member of the City Council, including the Mayor, each candidate for membership in the City Council, including the Mayor, each member of the Planning and Zoning Commission and Zoning Board of Adjustment, who are appointed after the passage of this ordinance and each applicant for a position on the Planning and Zoning Commission or the Zoning Board of Adjustment.
- G. Reporting Period. The "reporting period" means the twelve (12) month period immediately preceding the date the Account of Financial Activity is due pursuant to the terms of this ordinance.
- H. Trust. A "trust" means a trust subject to Chapter 9 of the Texas Property Code that owns real property or a beneficial interest in a business entity owning real property within the area crosshatched on Exhibit "A" to this ordinance or where the trust owns a 10% or more beneficial interest in another business entity.

Sec. 2. THAT the Reporting Individuals shall file a report of their Account of Financial Activity for the applicable reporting period.

Sec. 3. THAT the Reporting Individuals shall file a report disclosing the filing of any bankruptcy petition by or against the individual, their spouse, a business entity in which the individual owned a beneficial interest of 10% or more, a business entity in which the individual was an officer or director of the business entity at the time of bankruptcy filing.

- Sec. 4. THAT the Reporting Individuals shall file a report disclosing the filing of any information which charges a misdemeanor involving moral turpitude, a felony indictment, conviction of a misdemeanor involving moral turpitude or conviction of a felony of the individual or of a business entity in which the individual had a 10% or more beneficial interest or where the individual was at the time of the filing or conviction an officer or director of the business entity. The report shall specify the name of the person or business entity charged, the nature of the offense, and if the information or indictment did not result in a conviction, the disposition of the information or the indictment.
- Sec. 5. THAT the disclosures required by Sections 2, 3 and 4 hereof shall be made on the Financial Disclosure and Business Conflict of Interest Forms which are attached hereto, shall be verified as provided therein and shall be filed with the City Secretary on the following dates:
- A. Candidates for membership in the City Council, including the Mayor, who are not currently sitting Council members, shall file within two (2) business days following the date upon which the filing for election for the position for which the individual seeks election is closed.
 - B. Sitting Council members, including the Mayor, shall file on or before twenty (20) days after the passage of this ordinance and on the first business day following January 15 and July 15 each year.
 - C. Applicants seeking appointment to the Planning and Zoning Commission or the Zoning Board of Adjustment shall file within two (2) business days following the end of the application period stated in the official City advertisement for application for the position.
 - D. Sitting members of the Planning and Zoning Commission and the Zoning Board of Adjustment, who are appointed after the passage of this ordinance, shall file on the first business day following January 15 and July 15 of each year.
- Sec. 6. THAT the Reporting Individuals shall have a duty to file supplemental disclosures upon the Financial Disclosure and Business Conflict of Interest Forms which are attached hereto within three (3) business days of an occurrence of any change in the information reflected in the Financial Disclosure and Business Conflict of Interest Forms previously filed by the individual or where said information becomes inaccurate or

incomplete after the reporting period but prior to the conduct of the election at which they seek office or prior to their appointment.

- Sec. 7. THAT the failure to file when due the Financial Disclosure and Business Conflict of Interest Forms, including any supplements required thereto, shall constitute a violation of this ordinance and shall be punishable by a fine not to exceed the sum of \$500.00. It shall be a defense to any prosecution of a violation of this ordinance that within three (3) business days of the due date of any Financial Disclosure and Business Conflict of Interest Form, including any supplements required thereto, the individual filed a Financial Disclosure and Business Conflict of Interest Form in conformity with the provisions of this ordinance.
- Sec. 8. THAT if any section, paragraph, clause or provision of this ordinance for any reason is to be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect the remaining portion of this ordinance and the ordinance shall be read as if such invalid or unenforceable provisions did not exist.
- Sec. 9. THAT upon passage hereof, Resolution R-01-1789 is repealed in its entirety.
- Sec. 10. THAT the City Secretary is hereby authorized and directed to cause publication of a description caption and penalty clause hereof as an alternative method of publication as provided by law.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 15th day of January 2002.

The second reading and public hearing being conducted on the 5th day of February 2002.

ATTEST:



Cynthia Singleton, TRMC
City Secretary

CITY OF COLLEYVILLE



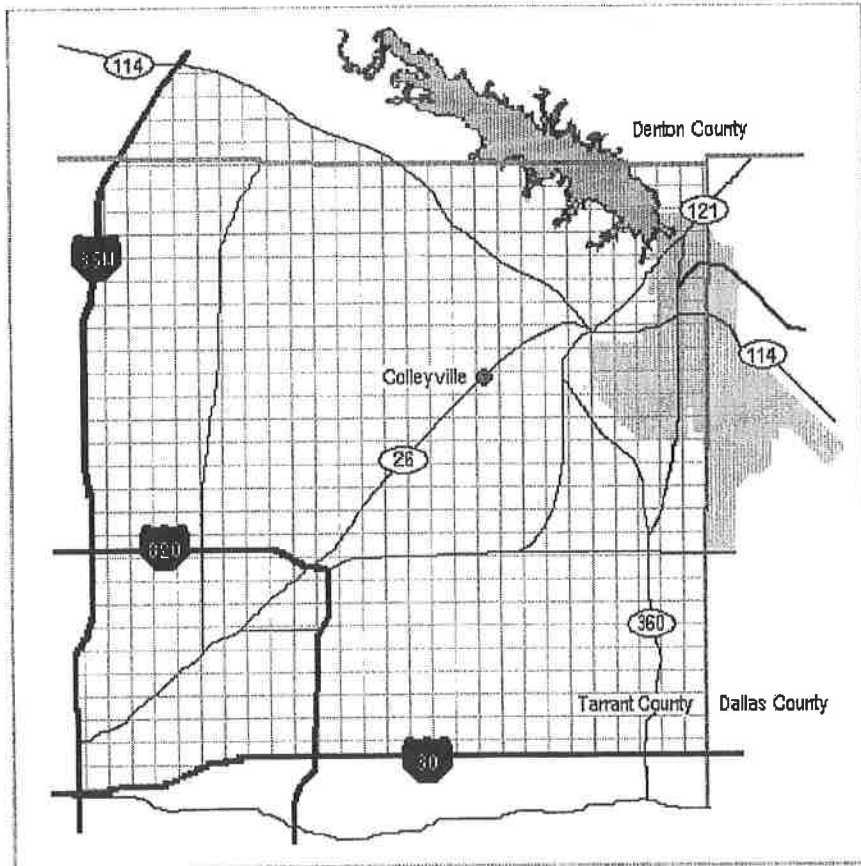
Donna Arp
Mayor

APPROVED AS TO FORM AND LEGALITY:



Ross T. Foster
City Attorney

ORDINANCE NO. 0-02-1322
Exhibit "A"



The crosshatched area is the portion of Tarrant County north of Interstate 30 and east of Interstate 35 W, and that portion of Denton County south of State Highway 114 and east of Interstate 35 W.

INFORMATION STATEMENT**Form 1**

Filed in accordance with Ordinance 02-1322

TOTAL NUMBER OF PAGES FILED:

OFFICE USE ONLY**1 NAME**

TITLE; FIRST, MI

NICK NAME; LAST, SUFFIX

Account Number

Date Received

2 ADDRESS

ADDRESS / CITY / STATE / ZIP

Receipt Number

Amount

**3 TELEPHONE
NUMBER**

AREA CODE

PHONE NUMBER; EXTENSION

()

Date Processed

Date Imaged

**4 REASON
FOR FILING
STATEMENT**☐ CANDIDATE _____ (INDICATE OFFICE)☐ ELECTED OFFICIAL _____ (INDICATE OFFICE)☐ ZONING BOARD OF ADJUSTMENT (APPLICANT OR APPOINTEE) _____☐ PLANNING AND ZONING COMMISSION (APPLICANT OR APPOINTEE) _____☐ TWO (2) BUSINESS DAYS FOLLOWING THE CLOSING OF FILING FOR ELECTIVE
OFFICE OR APPOINTMENT☐ CHANGES TO BE FILED JANUARY 15TH☐ CHANGES TO BE FILED JULY 15TH☐ SUPPLEMENTAL CHANGES

5 Provide information for spouse and dependent children whose financial activity the filer had actual control over during this filing period. In addition, the source of annual income of the spouse shall be provided, as subject to federal election reporting requirements for a spouse:

☐ SPOUSE _____☐ DEPENDENT CHILD 1 _____

2 _____

3 _____

6 ☐ NO CHANGE. I do by here verify that there has been no changes since the previous filing of the Financial Disclosure and Business Conflict of Interest Forms. PLEASE SEE FORM 8

In parts 1-4 disclose your financial activity during the 12 months proceeding the date of filing. In part 5 disclose not only your own financial activity, but also that of your spouse and/or dependent child or children, if you had actual control over that person's financial activity.

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

SOURCES OF OCCUPATIONAL INCOME**Form 2**

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on FORM 1.

¹ INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

INTERESTS IN REAL PROPERTY**Form 3**

Describe all beneficial interests in real property held or acquired by you, your spouse, or a dependent child during the calendar year within the area crosshatched on the map attached to Ordinance 02-1322.
For more information see INSTRUCTION GUIDE

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorem Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS ☐ NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME ☐ INDIVIDUAL ☐ BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorem Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS ☐ NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME ☐ INDIVIDUAL ☐ BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

Gifts**Form 4**

Identify any person or organization that has given a gift worth more than \$250 to you, or those under your financial control as defined in Ordinance 02-1322. Do not include: 1) expenditures required to be reported by a person required to be registered as a lobbyist under Government Code, Chapter 305, 2) political contributions reported as required by law, or 3) gifts given by a person related to the recipient within the second degree by consanguinity or affinity.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² DONOR	NAME AND ADDRESS
³ DESCRIPTION OF GIFT	
RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	
RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

BOARDS AND EXECUTIVE POSITIONS**Form 5**

This section is for information concerning executive positions and directorship held by you or those under your financial control. For more information see INSTRUCTION GUIDE

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 ORGANIZATION ☐ NON PROFIT ☐ CHARITABLE ASSOCIATION ☐ BUSINESS ASSOCIATION	ADDRESS
3 POSITION HELD	
POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
ORGANIZATION ☐ NON PROFIT ☐ CHARITABLE ASSOCIATION ☐ BUSINESS ASSOCIATION	ADDRESS
POSITION HELD	
POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
ORGANIZATION	
POSITION HELD	
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

BANKRUPTCIES**Form 6**

Individuals shall disclose any bankruptcy petition by or against the individual, their spouse, a business entity in which the individual owned a beneficial interest of 10% or more, or a business entity in which the individual was an officer or director of the business entity at the time of bankruptcy filing. For more information see INSTRUCTION GUIDE

1 TYPE OF BANKRUPTCY NAME _____	☐ PERSONAL ☐ BUSINESS ☐ N/A ☐ NONE
2 CHAPTER	☐ 7 ☐ 11 ☐ 13
3 IF CHAPTER 7 DID YOU RECEIVE A DISCHARGE	☐ YES ☐ NO
4 IF CHAPTER 11 OR 13 DID YOU COMPLETE A SUCCESSFUL REORGANIZATION	☐ YES ☐ NO

Misdemeanor Involving Moral Turpitude and Felonies

Individuals shall disclose any information which charges a misdemeanor involving moral turpitude, a felony indictment, conviction of a misdemeanor involving moral turpitude or conviction of a felony of the individual or of a business entity in which the individual had a 10% or more beneficial interest or where the individual was at the time of the filing or conviction an officer or director of the business entity.

1 NAME _____ Business or Entity Charged	☐ PERSONAL ☐ BUSINESS
2 TYPE OF INDICTMENT or INFORMATION	
3 NATURE OF OFFENSE	DESCRIPTION
4 DISPOSITION OF INDICTMENT or INFORMATION	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

**INTERESTS IN PARTNERSHIPS, JOINT VENTURES,
OR OTHER BUSINESS ASSOCIATIONS****Form 7**

Describe all interests in business entities held or acquired by you or those under your financial control as defined in Ordinance 02-1322. For an explanation of "beneficial interest" and other specific directions for completing this section, see INSTRUCTION GUIDE.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² DESCRIPTION	NAME AND ADDRESS
³ NATURE OF BUSINESS	
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

**PERSONAL FINANCIAL STATEMENT
AFFIDAVIT****Form 8**

The Ordinance 02-1322 requires that the disclosures in the Financial Disclosure and Business Conflict of Interest Forms be verified. The verification page must have the signatures of the Financial Disclosure and Business Conflict of Interest Forms, as well as the signature and seal of a notary public. Without proper verification, the statement is not considered filed. Falsification of information is subject to criminal prosecution under state penal code.

Before me, the undersigned authority, personally appeared _____
who, after being duly sworn upon their oath deposed and stated as follows:

"My name is _____ and I hereby submit for filing pursuant to
Ordinance No. 0-02-1322 of the City of Colleyville, the attached Financial Disclosure and Business Conflict
of Interest Forms. I have personal knowledge of all information contained in said forms and all information
contained in the forms is true and correct."

"Further, all of the information contained in the forms is complete. There is no information that has
been withheld or not disclosed which is responsive to or required to be disclosed by the forms."

Affiant

Sworn to and subscribed before me, this the _____ day of _____, 2002.

Notary Public, State of Texas

INITIAL HERE: _____

DATE: _____

APP. N
ORDINANCE O-13-1896

ORDINANCE O-13-1896

AMENDING ORDINANCE O-02-1322 FILING DATES OF A FINANCIAL DISCLOSURE AND BUSINESS CONFLICTS OF INTEREST FORM; PROVIDING FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council approved Ordinance O-02-1322 on February 5, 2002, to establish the filing of a Financial Disclosure and Business Conflicts of Interest Statement for elected officials, candidates, and certain boards and commission members; establish definitions of terms; promulgate reporting forms; and provide for filing dates; and

WHEREAS, the City Council deems it in the best interests of the public to make available certain information about candidates for public office, elected officials, and members of the Planning and Zoning Commission, and the Zoning Board of Adjustment that may influence their decisions, or determine whether they can make unbiased decisions; and

WHEREAS, the City Council wishes to ensure citizen trust of elected and appointed officials of the City; and

WHEREAS, the original disclosure ordinance is in need of an update to make compliance more practicable, while achieving the same basic goals; and

WHEREAS, all statutory and constitutional requirements for the passage of this ordinance have been adhered to, including but not limited to the Open Meetings Act; and

WHEREAS, the purposes of this ordinance are to promote the public health, safety, and general welfare of the citizens of the City of Colleyville.

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

Sec. 1. That all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

Sec. 2. THAT Ordinance O-02-1322 is hereby amended to include the following:

- (1) Section 5B shall read as follows: Sitting Councilmembers, including the Mayor, shall have a duty to file supplemental disclosures upon the Financial Disclosure and Business Conflict of Interest Forms, which are attached hereto, within five (5) days of an occurrence of any change in the information reflected in the Financial Disclosure and Business Conflict of Interest Forms previously filed by the individual.
- (2) Section 5D: shall read as follows: Sitting members of the Planning and Zoning Commission and the Zoning Board of Adjustment, shall have a duty to file supplemental disclosures upon the Financial Disclosure and Business Conflict of Interest Forms, which are attached hereto, within five (5) days of an occurrence of any change in the information reflected in the Financial Disclosure and Business Conflict of Interest Forms previously filed by the individual.
- (3) The boundary map has been revised to include the Colleyville City limits only, attached as Exhibit "A".
- (4) Section 6 is deleted entirely.
- (5) Section 7 shall read as follows: THAT the failure to file any change in the Financial Disclosure and Business Conflict of Interest Forms, including any supplements required thereto, shall constitute a violation of this ordinance and shall be punishable by a fine not to exceed the sum of \$500.00. It shall be a defense, to any prosecution of a violation of this ordinance, that within five (5) days of any change in the Financial Disclosure and Business Conflict of Interest Form, including any supplements required thereto, the individual filed a Financial Disclosure and Business

Conflict of Interest Form in conformity with the provisions of this ordinance.

- Sec. 3. THAT the Financial Disclosure and Business Conflict of Interest Forms which are attached hereto as Exhibit "B", shall be verified as provided therein, and shall be filed with the City Secretary on the aforementioned dates.
- Sec. 4. THAT if any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.
- Sec. 5. THAT in addition to and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.
- Sec. 6. THAT Ordinance O-02-1322 shall remain in full force and effect, except where amended by this ordinance.

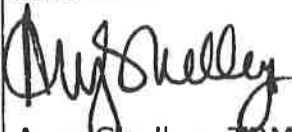
AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 5th day of November 2013.

The second reading and public hearing being conducted on the 19th day of November 2013.

PASSED AND APPROVED by the City Council of the City of Colleyville, Texas, on this the 19th day of November 2013.

ATTEST:



Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE



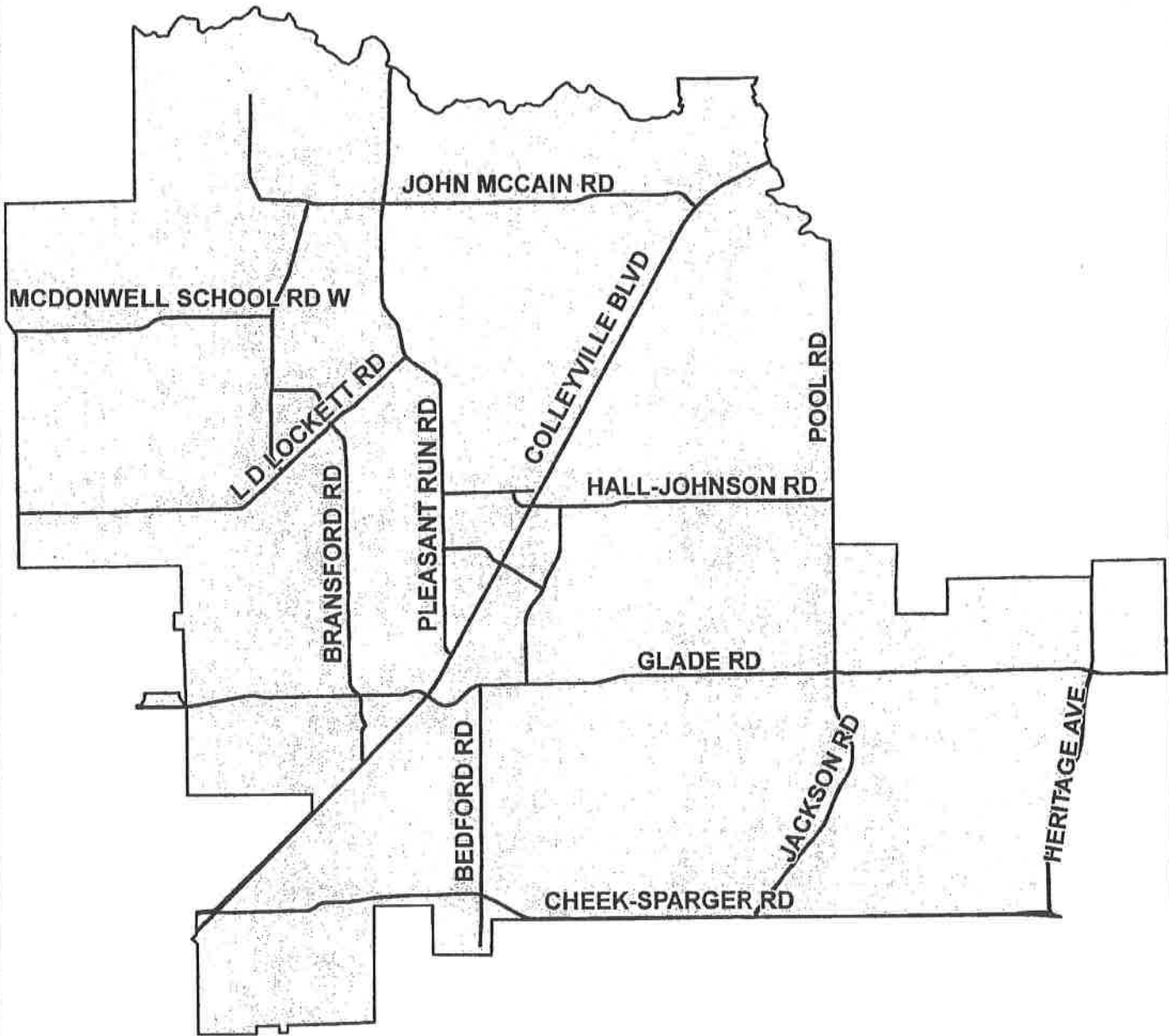
Mike Taylor
Mayor Pro Tem

APPROVED AS TO FORM AND LEGALITY:

MA G. R

Matthew C. G. Boyle
City Attorney

Exhibit "A"



1

Financial Disclosure and Business Conflict of Interest Forms

INITIAL HERE: _____ DATE: _____

SOURCES OF OCCUPATIONAL INCOME**Form 2**

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on FORM 1.

1 INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
EMPLOYMENT ☐ EMPLOYED BY ANOTHER ☐ SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

INTERESTS IN REAL PROPERTY**Form 3**

Describe all beneficial interests in real property held or acquired by you, your spouse, or a dependent child during the calendar year

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorem Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS ☐ NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME ☐ INDIVIDUAL ☐ BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorem Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS ☐ NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME ☐ INDIVIDUAL ☐ BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

Gifts**Form 4**

Identify any person or organization that has given a gift worth more than \$250 to you, or those under your financial Control. Do not include: 1) expenditures required to be reported by a person required to be registered as a lobbyist under Government Code, Chapter 305, 2) political contributions reported as required by law, or 3) gifts given by a person related to the recipient within the second degree by consanguinity or affinity.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
2 DONOR	NAME AND ADDRESS
3 DESCRIPTION OF GIFT	
RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	
RECIPIENT	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

BOARDS AND EXECUTIVE POSITIONS**Form 5**

This section is for information concerning executive positions and directorship held by you or those under your financial control.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² ORGANIZATION ☐ NON PROFIT ☐ CHARITABLE ASSOCIATION ☐ BUSINESS ASSOCIATION	ADDRESS
³ POSITION HELD	
POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
ORGANIZATION ☐ NON PROFIT ☐ CHARITABLE ASSOCIATION ☐ BUSINESS ASSOCIATION	ADDRESS
POSITION HELD	
POSITION HELD BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
ORGANIZATION	
POSITION HELD	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

BANKRUPTCIES**Form 6**

Individuals shall disclose any bankruptcy petition by or against the individual, their spouse, a business entity in which the individual owned a beneficial interest of 10% or more, or a business entity in which the individual was an officer or director of the business entity at the time of bankruptcy filing.

1 TYPE OF BANKRUPTCY NAME _____	☐ PERSONAL ☐ BUSINESS ☐ N/A ☐ NONE
2 CHAPTER	☐ 7 ☐ 11 ☐ 13
3 IF CHAPTER 7 DID YOU RECEIVE A DISCHARGE	☐ YES ☐ NO
4 IF CHAPTER 11 OR 13 DID YOU COMPLETE A SUCCESSFUL REORGANIZATION	☐ YES ☐ NO

Misdemeanor Involving Moral Turpitude and Felonies

Individuals shall disclose any information which charges a misdemeanor involving moral turpitude, a felony indictment, conviction of a misdemeanor involving moral turpitude or conviction of a felony of the individual or of a business entity in which the individual had a 10% or more beneficial interest or where the individual was at the time of the filing or conviction an officer or director of the business entity.

1 NAME _____ Business or Entity Charged	☐ PERSONAL ☐ BUSINESS
2 TYPE OF INDICTMENT or INFORMATION	
3 NATURE OF OFFENSE	DESCRIPTION
4 DISPOSITION OF INDICTMENT or INFORMATION	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

**INTERESTS IN PARTNERSHIPS, JOINT VENTURES,
OR OTHER BUSINESS ASSOCIATIONS****Form 7**

Describe all Interests in business entities held or acquired by you or those under your financial control.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
² DESCRIPTION	NAME AND ADDRESS
³ NATURE OF BUSINESS	
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
HELD OR ACQUIRED BY	☐ FILER ☐ SPOUSE ☐ DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

**PERSONAL FINANCIAL STATEMENT
AFFIDAVIT****Form 8**

Financial Disclosure and Business Conflict of Interest Forms are required to be verified. The verification page must have the signatures of the Financial Disclosure and Business Conflict of Interest Forms, as well as the signature and seal of a notary public. Without proper verification the statement is not considered filed. Falsification of information is subject to criminal prosecution under state penal code.

Before me, the undersigned authority, personally appeared _____
who, after being duly sworn upon their oath deposed and stated as follows:

"My name is _____ and I hereby submit for filing
the attached Financial Disclosure and Business Conflict of Interest Forms. I have personal
knowledge of all information contained in said forms and all information contained in the
forms is true and correct."

"Further, all of the information contained in the forms is complete. There is no information
that has been withheld or not disclosed which is responsive to or required to be disclosed
by the forms."

Affiant

Sworn to and subscribed before me, this the _____ day of _____ 20____.

Notary Public, State of Texas

INITIAL HERE: _____

DATE: _____



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 7b

Agenda Date 08/16/2016

Number Resolution R-16-4019

Type Resolution

Department City Secretary

Title

A resolution calling a special election for the purpose of submitting to the registered voters of the City of Colleyville the adoption or rejection of proposed amendments to the existing Colleyville City Charter

Strategy Map Connection

B4- Cultivate a culture of transparency and consistent communication

B3- Utilize partnerships to implement cost-effective service solutions

Explanation

Reading and Public Hearing

On June 21, 2016, City Council adopted Resolution R-16-4007, attached, which created the Colleyville Citizen's Charter Review Committee for the purpose of reviewing the City Charter for modifications. Ten citizens were appointed to serve on the Committee. Frank Carroll was named Chairman, and Michael Muhm was named Vice Chair.

City Council may approve Resolution R-16-4018, previous to this agenda item, accepting the Charter Review Committee recommendations as submitted on July 28, 2016, and reviewed on August 2, 2016 during a City Council worksession. The Charter Review Committee recommendations were used to draft this proposed resolution.

This item provides for the approval of Resolution R-16-4019, the election order calling a Special Election for the purpose of submitting to the registered voters of the City of Colleyville the adoption or rejection of proposed amendments to the Colleyville City Charter.

Financial Impact

Funding is available for a special election in the Strategic Initiatives Fund.

Recommendation

Approve

Attachments

1. Resolution R-16-4007
2. Resolution R-16-4019

RESOLUTION R-16-4007

A RESOLUTION OF THE CITY OF COLLEYVILLE, TEXAS ESTABLISHING A COLLEYVILLE CITIZENS CITY CHARTER REVIEW COMMITTEE, APPOINTING MEMBERS, AND PROVIDING A DATE FOR THE CHARTER REVIEW COMMITTEE TO SUBMIT A FINAL REPORT

WHEREAS, the City Council believes that positive changes can be possibly made to the Colleyville City Charter to enhance the document without significantly effecting the democratic principles of the Colleyville City Charter or the opportunities of citizens to become informed on City issues and make known to their elected representatives their concerns and comments; and

WHEREAS, the City Council understands the need to review the City Charter to clarify, add or subtract as necessary to ensure the powers, rights and duties of the City government adhere to its original concepts and structure as a "Council-Manager Government."

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

Sec. 1. THAT a Colleyville Citizens City Charter Review Committee is hereby established.

Sec. 2. THAT the following citizens are appointed to the Colleyville Citizens City Charter Review Committee:

Steve Waltens	Nelson Thibodeaux
Michael Muhm	David Medlin
Claudia Bevill	Tim Weymuth
Frank Carroll	Rich Hendler
Shirley Schollmeyer	Vince Hawkins

Sec. 3. THAT Frank Carroll is appointed as Chair, and Michael Muhm is appointed as Vice Chair.

Sec. 4. THAT the City Manager shall provide administrative support services to the Colleyville Citizens City Charter Review Committee.

Sec. 5. THAT the Colleyville Citizens Charter Review Committee's responsibilities may include:

- a. Section 3.01 Number, Selection, Term: should contain language which limits consecutive terms to two in the same office, and how or when this shall commence. Compare this amendment with those of area cities for benchmarking.
- b. Section 3.09C Quorum and Voting: should provide language which allows electronic voting for City Council meetings, and language that allows for nominations and appointments and voting by name.
- c. Section 14.02 Personal Financial Interest: should include an additional subsection to provide the following:
 - k. Financial Disclosure and Business Conflict of Interest Forms shall be provided by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file within two (2) business days following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures within five (5) days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:
 - i. The location, size, and current use of all property owned within the portion of Dallas, Denton, and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.

- ii. The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor children have received a fee, salary, or gift of a value exceeding one hundred dollars(\$100.00).
 - iii. The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.
- d. Section 7.02 City Secretary: should provide an addition of "with the approval of City Council" to the following statement: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary."
- e. Section 7.03(A) Chief of Police: should provide an addition of "with the approval of City Council" to the following statement: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- f. Section 7.04(A) Fire Chief: should provide an addition of "with the approval of City Council" to the following statement: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- g. Section 7.05 Department of Public Works: should provide an addition of "with the approval of City Council" to the following statement: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

h. Section 7.06 Department of Finance: should provide an addition of "with the approval of City Council" to the following statement: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council.*"

Sec. 6. THAT the recommendations of the Colleyville Citizens Charter Review Committee shall be finalized and ready to be presented to the City Council by July 29, 2016.

Sec. 7. THAT this resolution shall take effect immediately upon passage.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 21ST DAY OF JUNE 2016.

Mayor Richard Newton	<u>Aye</u>	Mayor Pro Tem Chris Putnam	<u>Aye</u>
Place 1, Tammy Nakamura	<u>Aye</u>	Place 5, Nancy Coplen	<u>Aye</u>
Place 2, Bobby Lindamood	<u>Aye</u>	Place 6, Mike Taylor	<u>Aye</u>
Place 4, Jody Short	<u>Aye</u>		

ATTEST:


Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE


Richard Newton
Mayor

RESOLUTION R-16-4019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS, CALLING A SPECIAL ELECTION FOR NOVEMBER 8, 2016, FOR THE PURPOSE OF SUBMITTING TO THE REGISTERED VOTERS OF THE CITY OF COLLEYVILLE THE ADOPTION OR REJECTION OF PROPOSED AMENDMENTS TO THE EXISTING CITY CHARTER; DESIGNATING THE OFFICIAL POLLING PLACES AND ADOPTING ELECTION OFFICIALS; PRESCRIBING THE FORM OF THE BALLOTS; PROVIDING FOR NOTICE OF THE ELECTION; AND PROVIDING GENERALLY FOR THE CONDUCT OF THE ELECTION

WHEREAS, the Colleyville City Council has determined that certain amendments and changes should be made to the Colleyville City Charter which was originally adopted by the citizens of Colleyville on January 15, 1977, and which was subsequently amended on May 7, 2005; and

WHEREAS, the Colleyville City Charter has not been amended within the two years preceding the proposed election date herein designated; and

WHEREAS, the Colleyville City Council now deems it proper to submit proposed amendments to the Colleyville City Charter to the registered voters of the City of Colleyville for adoption or rejection at a special election to be held on November 8, 2016.

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

- Sec. 1. THAT all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
- Sec. 2. THAT the following ballot propositions shall be submitted to the voters to amend the existing Charter of the City of Colleyville:

Proposition No. 1

Amend the Colleyville City Charter by adding Section 3.01A, Limitations on Terms to provide that no person shall serve as Mayor for more than two (2) consecutive elected terms, and no person shall serve as a Council Member for more than two (2) consecutive elected terms. Under no circumstances may any person ever serve for more than twelve (12) consecutive years in combination as a Council Member or Mayor. The amendment shall be

effective, at the next municipal election, shall apply to all persons currently occupying the Office of Mayor or Council Member, and shall apply to all municipal elections conducted after the date of adoption; provided however that this amendment will not cause a Council Members' current term to be terminated prior to the completion of their elected term.

_____ FOR
_____ AGAINST

Proposition No. 2

Amend Section 3.09(c) to allow for electronic voting by City Council and to provide that voting on nominations to City Boards, Committees, and Commissions do not require a roll call vote.

_____ FOR
_____ AGAINST

Proposition No. 3

Change Section 7.02 to provide that the appointment of the City Secretary will require the approval of the City Council, for an indefinite term.

_____ FOR
_____ AGAINST

Proposition No. 4

Change Section 7.03 to provide that the appointment of the Police Chief will require the approval of the City Council.

_____ FOR
_____ AGAINST

Proposition No. 5

Change Section 7.04(A) to provide that the appointment of the Fire Chief will require the approval of the City Council.

_____ FOR
_____ AGAINST

Proposition No. 6

Change Section 7.05 to provide that the appointment of the Director of Public Works will require the approval of the City Council.

_____ FOR
_____ AGAINST

Proposition No. 7

Section 7.06 which provides that there shall be a Department of Finance headed by the City Manager or his appointee by adding the words with the approval of the City Council, for an indefinite term.

_____ FOR
_____ AGAINST

Proposition No. 8

To eliminate and delete Article XIII which provided for transitional matters after the 2005 Charter amendments.

_____ FOR
_____ AGAINST

Proposition No. 9

To amend Section 14.02 "Personal Financial Interest" by adding the underlined words shown below:

(F) *Citizen Complaints.* Any citizen of the City may file with the City Secretary a statement of suspected conflict of interest. Such statement of suspected conflict of interest shall be filed within fifteen (15) days of the decision, or vote, or if another event giving rise to an asserted violation of paragraph C above, within fifteen (15) days of when the citizen knew or reasonably should have known of the asserted violation, and shall describe the complained of conflict in reasonable detail. The City Council, or its designee, shall respond in writing to a timely filed statement of suspected conflict of interest, and the statement of suspected conflict of

interest and response of the City Council shall be maintained in the public records of the City.

_____ FOR
_____ AGAINST

Proposition No. 10

To amend Section 14.02 "Personal Financial Interest" by adding subsection (K) as set forth below:

(K) Financial Disclosure and Business Conflict of Interest Forms shall be provided by candidates for Mayor and City Council and by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file such forms within two (2) business days following the end of the candidate filing period, or if for appointment, within two (2) business days following the end of the application period stated in the official City advertisement for application for the position. The City Manager and the City Manager's senior staff members (including any staff member who is appointed with City Council approval) shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures annually and within five (5) business days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:

- (i) The location, size, and current use of all property owned within the portion of Dallas, Denton and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.
- (ii) The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse, or dependent minor children have

received a fee, salary, or gift of value exceeding one hundred dollars (\$100.00).

- (iii) The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.

_____ FOR
_____ AGAINST

Proposition No. 11

To amend Section 14.02 "Personal Financial Interest" by adding subsection (L) as set forth below:

- (L) The disclosure reporting obligations required by Section 14.02(K) apply to all of the relationships listed in this Section 14.02

_____ FOR
_____ AGAINST

Sec. 3. THAT such election shall be held and conducted in the City of Colleyville, Texas, on Tuesday, November 8, 2016 by Tarrant County pursuant to a Joint Election Agreement and Contract for Election Services, with respect to such Special Election approved by the City Council of the City of Colleyville, Texas and the Tarrant County Elections Administrator.

Sec. 4. THAT the polling locations where registered voters shall cast ballots for this Special Election will be designated in accordance with the provisions of the Joint Election Agreement and Contract for Election Services with Tarrant County to include the polling locations as provided by Tarrant County and as posted in accordance with the Texas Election Code. Election officers for each polling place shall be appointed and compensated pursuant to the Joint Election Agreement and Contract for Election Services with Tarrant County for said

Sec. 6. THAT Early voting by personal appearance shall be conducted at the Main Early Voting Location: Tarrant County Election Center, 2700 Premier Street, Fort Worth, Texas 76111; Colleyville City Hall, 100 Main Street, Colleyville, Texas 76034; and at other early voting locations established by Tarrant County, pursuant to the Joint Election Agreement and Contract for Election Services with Tarrant County as provided and posted in accordance with the Texas Election Code. Early Voting by personal appearance shall commence on Monday, October 24, 2016, and continue through Friday, November 4, 2016, as provided by the Texas Election Code. The hours designated for Early Voting by personal appearance shall be as follows:

Sec. 7. THAT Frank Phillips, Tarrant County Elections Administrator, 2700 Premier Street, Fort Worth, Texas 76111 is hereby appointed as Early Voting Clerk. Applications for a ballot by mail must be received no later than the close of business on Friday, October 28, 2016, and shall be submitted by:

Mailing address: Early Voting Clerk
Tarrant County Elections
P.O. Box 961011
Fort Worth, Texas, 76161-0011

Express Courier Delivery: Early Voting Clerk
Tarrant County Elections
P.O. Box 961011
Fort Worth, Texas, 76161-3011

Fax: 817-831-6118

Email: votebymail@tarrantcounty.com

- Sec. 8. THAT the election shall be conducted according to the Texas Election Code and the Charter of the City of Colleyville.
- Sec. 9. THAT the notice of the election on the proposed Charter amendments shall be given by publication of the propositions on the same day of two successive weeks in a newspaper of general circulation published within the City of Colleyville, the date of the first publication to be not less than fourteen (14) days before the election date set herein. Such notice must include a substantial copy of the proposed amendments.
- Sec.10. THAT the Charter of the City of Colleyville, containing all proposed revisions, shall be kept in the office of the City Secretary of the City of Colleyville, and copies of it shall be made available to any person upon request free of charge. The notices required in Section 9 above shall state that the proposed text of the Charter of the City of Colleyville will be available to all interested persons in the office of the City Secretary of the City of Colleyville.
- Sec. 11. THAT should any section, provision, word, phrase, or clause of this resolution or the application thereof to any person, or circumstance be held to be invalid, unconstitutional or ineffective, the remainder of the resolution and the application of such provisions to the other persons or circumstances shall not be affected thereby.
- Sec. 12. THAT any non-substantive changes that need to be made for the ballot, in particular, removing underlining or bolding from the text as presented above is hereby approved.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON
THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 7c

Agenda Date 08/16/2016

Number Resolution R-16-4020

Type Resolution

Department City Manager

Title

Approval of a proposal to set the ad valorem tax rate for Fiscal Year 2017 at \$0.33913 per hundred dollars of valuation and schedule the two required public hearings on the tax rate for August 25, 2016 and September 6, 2016

Strategy Map Connection

F4- Adhere to the City's financial and budgetary policies

Explanation

Reading and Public Hearing

Chapter 26, Texas Property Tax Code, requires taxing units to comply with "Truth-in-Taxation" laws in setting tax rates and performing an effective tax rate calculation. The calculated Fiscal Year 2017 (FY 2017) effective tax rate is \$.329138/\$100. As the proposed rate of \$.33913/\$100 is higher than the effective tax rate, legislation requires that a city take several actions in order to be in compliance with Chapter 26 of the Texas Property Tax Code. The city must publish the attached "Notice of 2016 Tax Year Proposed Property Tax Rate for the City of Colleyville". This notice is scheduled to be published on Thursday, August 18, 2016 in the *Fort Worth Star-Telegram*. The city must also hold two public hearings on the tax rate, which are proposed for Thursday, August 25, 2016 at 5:30 p.m. and Tuesday, September 6, 2016 at 7:30 p.m., both at 100 Main Street, Colleyville, Texas. The public hearing on August 25, 2016 will be at a City Council Special Meeting; the public hearing on September 6, 2016 will be during the regular City Council meeting. The tax rate is scheduled for adoption at the September 20, 2016 regular City Council meeting.

In order that the citizens of Colleyville be informed of the proposed FY 2017 tax rate and the dates of the two public hearings on the tax rate, the attached resolution reflects the City Council's intention to adopt the tax rate of \$.33913 per hundred dollars of valuation, utilizing the July 25, 2016 certified tax roll as the basis for the proposed tax rate, as well as the public hearing dates. Formal City Council action stating the proposed FY 2017 tax rate is required in order to have the information necessary to publish the Notice of 2016 Tax Year Proposed Property Tax Rate for the City of Colleyville, as required by Section 140.010 of the Local Government Code.

The average residential value for FY 2016 was \$423,650, and the average residential value for FY 2017 is \$460,461. If the proposed tax rate is adopted, it will equate to an average annual property tax increase of \$53.79, or an adjustment of \$4.48

per month to support City services.

Financial Impact

Notice of intent to adopt a FY 2016 tax rate of \$.3559 per hundred dollars of valuation, as that is the tax rate upon which the FY 2016 ad valorem tax levy will be calculated.

Recommendation

Approve

Attachments

1. Notice of 2016 Tax Year Proposed Property Tax Rate for the City of Colleyville
2. Resolution R-16-4020

NOTICE OF 2016 TAX YEAR PROPOSED PROPERTY TAX RATE FOR CITY OF COLLEYVILLE

A tax rate of \$0.339130 per \$100 valuation has been proposed for adoption by the governing body of City of Colleyville. This rate exceeds the lower of the effective or rollback tax rate, and state law requires that two public hearings be held by the governing body before adopting the proposed tax rate.

The governing body of City of Colleyville proposes to use revenue attributable to the tax rate increase for the purpose of maintaining current programs and services.

PROPOSED TAX RATE	\$0.339130 per \$100
PRECEDING YEAR'S TAX RATE	\$0.355900 per \$100
EFFECTIVE TAX RATE	\$0.329138 per \$100
ROLLBACK TAX RATE	\$0.351431 per \$100

The effective tax rate is the total tax rate needed to raise the same amount of property tax revenue for City of Colleyville from the same properties in both the 2015 tax year and the 2016 tax year.

The rollback tax rate is the highest tax rate that City of Colleyville may adopt before voters are entitled to petition for an election to limit the rate that may be approved to the rollback rate.

YOUR TAXES OWED UNDER ANY OF THE ABOVE RATES CAN BE CALCULATED AS
FOLLOWS:

$$\text{property tax amount} = (\text{rate}) \times (\text{taxable value of your property}) / 100$$

For assistance or detailed information about tax calculations, please contact:

Colette Ballinger, RTA
City of Colleyville Tax Assessor-Collector
100 Main Street, Colleyville, TX 76034
817-481-1242
colette.ballinger@gcisd.net
www.colleyville.com

You are urged to attend and express your views at the following public hearings on the proposed tax rate:

First Hearing: August 25, 2016 at 5:30 PM at City Hall, 100 Main Street, Colleyville, TX 76034.

Second Hearing: September 6, 2016 at 7:30 PM at City Hall, 100 Main Street, Colleyville, TX 76034.

RESOLUTION R-16-4020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS PASSED PURSUANT TO SECTION 26.04 AND 26.05, OF THE PROPERTY TAX CODE OF THE STATE OF TEXAS, APPROVING A PROPOSAL OF THE INTENT TO SET PROPERTY TAX RATES AT THIRTY THREE THOUSAND AND NINE HUNDRED THIRTEEN HUNDRED-THOUSANDTHS CENTS (\$.33913) PER ONE HUNDRED DOLLARS VALUATION FOR FISCAL YEAR 2017; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Tax Assessor/Collector for the City of Colleyville, Texas (the "City"), has calculated the amount of the effective tax rate and the rollback tax rate pursuant to Section 26.04(c) of the Property Tax Code of the State of Texas (the "Property Tax Code"); and

WHEREAS, pursuant to Section 26.04(e) of the Property Tax Code, the said tax rates have been submitted to the City Council; and

WHEREAS, it appears necessary to adopt a tax rate of thirty three thousand and nine hundred thirteen hundred-thousandths cents (.33913) per one hundred dollars of valuation.

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

- Sec. 1. THAT the City Council does hereby, by the approval of this resolution, state its intention to adopt a tax rate for Fiscal Year 2017 of thirty three thousand and nine hundred thirteen hundred-thousandths cents (.33913) per one hundred dollars of valuation. The Fiscal Year 2017 tax rate will be adopted at the City Council meeting to be held on September 20, 2016.
- Sec. 2. THAT the 2016 tax roll as certified on July 25, 2016 by the Chief Appraiser of Tarrant Appraisal District is adopted and is the basis for the Fiscal Year 2017 proposed tax rate.
- Sec. 3. THAT pursuant to Section 26.05(d) of the Property Tax Code, the two public hearings on the tax rate will be held on August 25, 2016 at 5:30 p.m. and September 6, 2016 at 7:30 p.m. at 100 Main Street, Colleyville, Texas.
- Sec. 4. THAT this resolution shall take effect from and after the date of its passage.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON
THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 7d

Agenda Date 08/16/2016

Number Resolution R-16-4021

Type Resolution

Department Human Resources

Title

Approval of a resolution relating to the Texas Municipal Retirement System supporting additional flexibility or alternatives in regard to cost of living adjustments for retirees

Strategy Map Connection

B3- Utilize partnerships to implement cost-effective service solutions

B4- Cultivate a culture of transparency and consistent communication

F3- Forecast needs and plan for the future, balancing priorities with resources

L1- Attract, develop, and retain skilled employees who embrace our values

Explanation

Reading and Public Hearing

During the June 21, 2016 Pre Council meeting, staff was directed to bring forward a resolution relating to the Texas Municipal Retirement System (TMRS) retroactive provision for cost of living adjustments for retirees. The attached resolution requests that the State Legislature amend the affected provisions of the Texas Government Code to allow for greater flexibility in retiree pension increases and provide for a forgiveness provision for cities who stopped the regular repeating COLA payments without reference to a cost of living index.

Financial Impact

Financial impact to the City is determined by TMRS.

Recommendation

Approve

Attachments

1. Resolution R-16-4021

RESOLUTION R-16-4021

A RESOLUTION RELATING TO THE TEXAS MUNICIPAL RETIREMENT SYSTEM; SUPPORTING ADDITIONAL FLEXIBILITY OR ALTERNATIVES IN REGARD TO COST OF LIVING ADJUSTMENTS FOR RETIREES

WHEREAS, local governments are subject to increasing economic stresses as they struggle to provide important municipal services while balancing their budgets with increasingly less money; and

WHEREAS, cities wish to support the dedicated public employees and retirees who have worked many years to serve the citizens of these cities; and

WHEREAS, most Texas cities are members of the Texas Municipal Retirement System (TMRS); and

WHEREAS, current TMRS requirements provide that a City granting a cost of living adjustment (COLA) on a repeating basis must provide for that adjustment regularly, and that a City that opted out of such repeating COLAs is required to include all prior years in which the cost of living adjustment was not made before they can start a repeating COLA again (the "catch up" provision); and

WHEREAS, if a City was forced to cease the annual repeating COLA for economic reasons, the "catch-up" provisions are very difficult, if not impossible, to meet; and

WHEREAS, the Texas Municipal Retirement System has been better managed and funded than many other retirement systems and cities support the prudent fiscal management of the system; and

WHEREAS, cities also wish to maintain sound fiscal policies and the ability to provide an increase for retirees must be managed within the framework of sound fiscal policies; and

WHEREAS, several cities which were forced to stop the repeating COLA in recent years, including the City of Colleyville, desire to start the repeating COLA, but cannot do so under the required "catch-up" provisions; and

WHEREAS, many cities request that alternatives, which would benefit the cities, their employees, and their retirees, to the current system be made through the passage of legislation where needed,

including alternatives such as forgiveness provision for cities who stopped the regular repeating COLA payments prior to 2012, or the ability to make periodic percentage increases to retiree pension payments without reference to a cost of living index.

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

Sec. 1. THAT the Colleyville City Council requests that the State Legislature amend the affected provisions of the Texas Government Code to allow for greater flexibility in retiree pension increases and provide for a forgiveness provision for cities who stopped the regular repeating COLA payments without reference to a cost of living index.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 7e

Agenda Date 08/16/2016

Number Resolution R-16-4022

Type Resolution

Department City Secretary

Title

Appointing a City Councilmember to the Audit Committee

Strategy Map Connection

F1- Protect and preserve the City's top financial ratings

B4- Cultivate a culture of transparency and consistent communication

Explanation

Reading and Public Hearing

On June 17, 2003, by attached Resolution R-03-2174, City Council established an Audit Committee, whose purpose is to review a draft of the audit report and meet with the auditors, before the audit is presented to the full City Council. On July 1, 2003, by attached Resolution R-03-2185, the terms of the Councilmembers serving the Audit Committee were amended to be concurrent with their terms on City Council.

On June 6, 2016, by attached Resolution R-16-3997, Councilmember Tammy Nakamura was appointed to the Audit Committee to a term of August 2016. This resolution provides for City Council to fill the Audit Committee position held by Councilmember Tammy Nakamura, whose term expires August 2016.

Financial Impact

There is no financial impact to the City.

Recommendation

Approve

Attachments

1. Audit Committee roster
2. Resolution R-03-2174
3. Resolution R-03-2185
4. Resolution R-16-3997
5. Resolution R-16-4022

AUDIT COMMITTEE

Nancy Coplen

4803 Queensbury Way E.

Colleyville, TX 76034

H: 817.300.8351

ncoplen@colleyville.com

TERM: May 2015 - May 2018

Tammy Nakamura

2204 Collins Path

Colleyville, TX 76034

H: (214) 274.5990

tnakamura@colleyville.com

TERM: June 2016 - Aug 2016

Chris Putnam

204 White Drive

Colleyville, TX 76034

H: 972.839.2343

cputnam@colleyville.com

TERM: May 2014 - May 2017

RESOLUTION R-03-2174

A RESOLUTION ESTABLISHING AN AUDIT COMMITTEE AND APPOINTING MEMBERS TO THE COMMITTEE

WHEREAS, as the City Council is ultimately responsible for the stewardship of the City's funds and a annual audit is required by the charter, it would be an enhancement to the City's financial management to establish an Audit Committee; and

WHEREAS, this committee would be composed of councilmembers and their duties would be a part of the audit selection committee, review a draft of the audit and meet with the auditors before the audit is presented to the full City Council.

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

- Sec. 1. THAT an Audit Committee is established.
- Sec. 2. THAT the committee shall be composed of three members of the City Council and their terms shall run concurrently with their council terms.
- Sec. 3. THAT the initial term for each member shall be from June 17, 2003 to August 1, 2004.
- Sec. 4. THAT, thereafter, each member of the Board shall be appointed in August to serve one year.
- Sec. 5. THAT the following members of the City Council are appointed to the Audit Committee:

Elaine Dolan
Joe Hocutt
Jon Ayers

AND IT IS SO ORDERED.

PASSED BY A VOTE OF 5 AYES, 0 NAYS AND 0 ABSTENTIONS ON
THIS THE 17th DAY OF June 2003.

ATTEST:



Cynthia Singleton, TRMC
City Secretary

CITY OF COLLEYVILLE



Joe Hocutt
Mayor

RESOLUTION R-03-2185

**A RESOLUTION AMENDING RESOLUTION R-03-2174 ESTABLISHING TERMS
FOR THE AUDIT COMMITTEE**

WHEREAS, the City Council established an Audit Committee, which is ultimately responsible for the stewardship of the City's funds and an annual audit is required by the Charter; and

WHEREAS, this committee, composed of three Councilmembers, reviews a draft of the audit and meets with the auditors before the audit is presented to the full City Council.

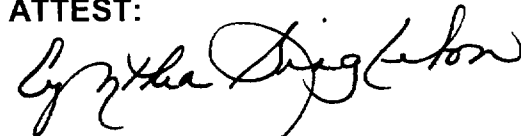
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS:

Sec. 1. THAT the terms of the Audit Committee, composed of three members of the City Council, shall run concurrently with their council terms.

AND IT IS SO ORDERED.

PASSED BY A VOTE OF 4 AYES, 0 NAYS AND 0 ABSTENTIONS ON
THIS THE 1st DAY OF July 2003.

ATTEST:



Cynthia Singleton, TRMC
City Secretary

CITY OF COLLEYVILLE:



Joe Hoeft
Mayor

RESOLUTION R-16-3997

A RESOLUTION APPOINTING A MEMBER TO THE AUDIT COMMITTEE

WHEREAS, one position on the Audit Committee is vacant due to the
expiring term of a Councilmember.

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

Sec. 1. THAT the City Council hereby appoints Councilmember
Tammy Nakamura to serve on the Audit Committee for a term
ending in August 2016.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON
THIS THE 7TH DAY OF JUNE 2016.

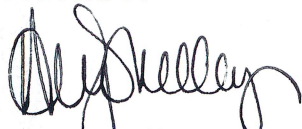
Mayor Richard Newton
Place 1, Tammy Nakamura
Place 2, Bobby Lindamood
Place 4, Jody Short

Aye
Aye
Aye
Aye

Mayor Pro Tem Chris Putnam
Place 5, Nancy Coplen
Place 6, Mike Taylor

Aye
Aye
Aye

ATTEST:



Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE



Richard Newton
Mayor

RESOLUTION R-16-4022

**A RESOLUTION APPOINTING A MEMBER TO THE
AUDIT COMMITTEE**

WHEREAS, one position on the Audit Committee expires August 2016.

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

Sec. 1. THAT the City Council hereby appoints Councilmember
_____ to serve on the Audit Committee for a term
expiring August 2017.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ___ AYES, ___ NAYS, AND ___ ABSTENTIONS ON
THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton _____
Place 1, Tammy Nakamura _____
Place 2, Bobby Lindamood _____
Place 4, Jody Short _____

Mayor Pro Tem Chris Putnam _____
Place 5, Nancy Coplen _____
Place 6, Mike Taylor _____

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 7f

Agenda Date 08/16/2016

Number Resolution R-16-4023

Type Resolution

Department City Secretary

Title

Approval to replace Resolution R-13-3645, adopting City Council Rules of Procedure

Strategy Map Connection

B4- Cultivate a culture of transparency and consistent communication

Explanation

Reading and Public Hearing

Section 3.09 of the City Charter states the City Council "shall determine its own rules and order of business." During the July 12, 2016 Pre Council meeting, City Council reviewed and discussed the City Council Rules of Procedure and determined an item would be placed on a future City Council agenda to consider the recommended revisions. Staff has included the changes in highlights and/or strikethroughs in the attached Proposed Rules of Procedure – August 2016, and as listed below.

Section II. General Rules, 2.11 Executive Session:

The italic portion of the following sentence was added to provide for how executive sessions are recorded: "For the opening and closing of an Executive Session, the Mayor shall do such at the location as noted on the official agenda notice posted in compliance with the Texas Open Meetings Act, *and all of this information must be included in the certified agenda. (Tex. Gov't Code 551.103)*

Section III. Types of Meetings, 3.1 Regular Meetings:

The executive meeting time was changed from 5:30 p.m. to 6:30 p.m.

Section III. Types of Meetings, 3.4 Worksession Meetings:

The following paragraph was removed: "The City Council may establish regular worksession meetings immediately prior to regular City Council meetings. In conjunction with the regularly scheduled City Council meeting, a Pre City Council worksession shall be held at 5:30 p.m. unless otherwise officially established by the City Council. The agenda for the Pre City Council meeting shall include, among other items: routine reports, information related to the regular agenda items and issues for which the City Manager seeks direction or clarification."

Section V. Agenda, 5.1 Preparation of Agenda, D:

The Pre Council item (a) has been removed; the start time of the executive session has been changed to 6:30 p.m.; and an addition of (i) Discussion of items not for action has been included.

Section V. Agenda, 5.1 Preparation of Agenda, E:

This section included a list revision, and "tabled or" with item h.

Section V. Agenda, 5.3 Oral Presentations by City Manager:

This section was removed. "Oral Presentations by City Manager. Matters requiring the City Council's attention or action which may have developed since the deadline for delivery of the agenda packets may, upon approval of the City Council, and after satisfying the requirements of the Texas Open Meetings Act, be presented orally by the City Manager, or designated staff."

Section V. Agenda, 5.4 Citizen Participation at Meetings:

This sentence has been revised to read: "A person who has not completed the Speakers Card *prior to the close of the public hearing* of the item on the agenda shall not be allowed to speak."

Section VI. Decorum and Debate, 6.1 Decorum and Debate, d:

This sentence has been revised to read: "A Councilmember's questions to speakers should be to specific individuals and the Mayor should explain to those individuals beforehand that they may come to the podium and answer if they choose to."

Section VI. Decorum and Debate, 6.1 Decorum and Debate, h:

This sentence has been revised to read: "If a Councilmember is transgressing the rules of the City Council, *through speech or otherwise*, the Mayor shall or any Councilmember may call him/her to order in which case he/she shall immediately be quiet unless permitted to explain.

Section VIII. Memorials, A:

The amount of flowers, plants, or memorials has been increased from \$50.00 to \$150.00.

In addition to these revisions, staff has included a cover sheet, table of contents, sections for the annual review or amendments, and a history of adoption and amendments. If additional revisions are made, staff will update the sections and table

of contents accordingly.

During the same Pre Council discussion, City Council reviewed the attached "Welcome to the City of Colleyville City Council Meeting" brochure and requested a date be included on the brochure. Staff has updated this brochure to include a revision date and will bring forward this brochure each time the City Council Rules of Procedure are reviewed. This ensures the brochure remains consistent with the Rules of Procedure.

Staff has attached an excerpt of the City Charter, Resolution R-13-3645, the current City Council Rules of Procedure, the Welcome brochure, the proposed Rules of Procedure, and proposed Resolution R-16-4023.

Financial Impact

There is no financial impact to the City.

Recommendation

Approve

Attachments

1. City Charter Excerpt
2. Resolution R-13-3645
3. City Council Rules of Procedure - Current
4. City Council Rules of Procedure - Proposed
5. Welcome to the City of Colleyville City Council Meeting brochure
6. Resolution R-16-4023

City Charter Excerpt

Section 3.09 Meetings and Rules of Procedure:

(A) Meetings of City Council. City Council meetings shall be held at the City Hall or such place within the City of Colleyville that the City Council shall direct. The City Council shall meet regularly at least twice (2) in every month at such times as a City Council may prescribe by rule. In the event of a lack of a quorum at a regularly scheduled meeting, the meeting shall be opened and the roll call taken, recorded and adjourned until the regular or called special meeting. Special meetings may be held on the call of the Mayor or four (4) members of the City Council at the place within the City of Colleyville designated in the public notice. All meetings shall be held and public notice thereof given as required by State law. (Amended May 7, 2005)

(B) Minutes and Rules. The City Council shall determine its own rules and order of business, and shall provide for keeping minutes of its proceedings and post copy on the City Bulletin Board until the next meeting. The minutes shall be a public record.

(C) Quorum and Voting. Four (4) voting members of the City Council shall constitute a quorum. Voting, except on procedural motions, shall be by roll call and the "ayes" and "nays" shall be recorded in the minutes. The Mayor and every City Council Person shall vote on all issues unless there is a declared and recorded statutory conflict of interest. If because of a statutory conflict of interest a member steps down and remains in the Chamber to return after the item is resolved, then a quorum will be considered in attendance even though only three (3) City Council Persons are left to vote. However, no action shall be approved with less than four (4) affirmative votes. If during the course of a meeting a quorum ceases to exist, the meeting shall be deemed adjourned and no further business shall be conducted. (Amended May 7, 2005)

RESOLUTION R-13-3645

A RESOLUTION AMENDING AND REPLACING RESOLUTION R-12-3520 ADOPTING RULES OF PROCEDURE AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Charter of the City of Colleyville authorizes the City Council to determine its own rules and order of business; and

WHEREAS, the City Council has been elected by the Public to represent all the citizens on their behalf; and

WHEREAS, orderly City Council meetings providing reasonable City Council and citizen input; foster good government and honor the democratic process; and

WHEREAS, unlimited discussion and input can project a perspective inconsistent with the majority will and beyond the right of the minority regarding matters of public policy.

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

SECTION I.

FINDINGS

- 1.1 THAT all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

PRIOR RESOLUTIONS

- 1.2 THAT by the passage of this Resolution, Resolution R-12-3520, is hereby amended in its entirety and as provided for herein.

AUTHORITY

- 1.3 THAT Section 3.09B of the Charter of the City of Colleyville provides that "the Council shall determine its own rules and order of business...". Further, Section 2.01 of such Charter provides that the "City Council shall have the powers, functions, rights, privileges and immunities of every name and nature, that are now or hereafter may be granted to a Home

Rule City by the Constitution and State law, together with all implied powers necessary to carry into execution all such powers granted". In order to provide the framework for the execution of these powers and authority, the Rules of Procedure set forth in the attached Exhibit "A" are hereby adopted, which exhibit is incorporated herein by reference, and shall be in effect upon their adoption by the City Council and until such times as they are amended or new rules adopted in the manner provided for by these rules.

SECTION II.

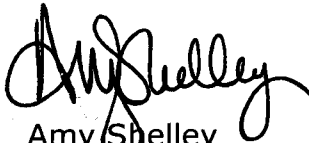
REPEAL

- 2.1 THAT this Resolution repeals previous Rules of Procedure and becomes effective after the meeting adopting Resolution R-13-3645.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 6 AYES, 0 NAYS, AND 0
ABSTENTIONS ON THIS THE 18TH DAY OF JUNE 2013.

ATTEST:


Amy Shelley
City Secretary

CITY OF COLLEYVILLE


David Kelly
Mayor

EXHIBIT "A"

CITY OF COLLEYVILLE CITY COUNCIL RULES OF PROCEDURE

SECTION I.

AUTHORITY

1.1 Section 3.09B of the Charter of the City of Colleyville provides that "the Council shall determine its own rules and order of business...". Further, Section 2.01 of the Charter provides that the City Council shall have the powers, functions, rights, privileges and immunities of every name and nature, that are now or hereafter, may be granted to a Home Rule City by the Constitution and State law, together with all implied powers necessary to carry into execution all such powers granted". In order to provide the framework for the execution of these powers and authority, the following set of rules shall be in effect upon their adoption by the City Council and until such times as they are amended or new rules adopted in the manner provided for by these rules.

SECTION II.

GENERAL RULES

2.1 Meetings to be Public. All meetings of the City Council shall be open to the public, with the exception of Executive Session.

2.2 City Council. For purposes of these rules, the collective membership of the Mayor and City Councilmembers shall be known as the City Council. Individually, each shall be referred to as Mayor, Mayor Pro Tem, or Councilmember.

2.3 Quorum. Four (4) voting members of the City Council shall constitute a quorum.

2.4 Minutes of Meetings. An account of all proceedings of the City Council shall be kept by the City Secretary and shall be entered in a book constituting the official record of the City Council. The Official City Council Minutes are action minutes and provide the action taken by the City Council and a summary of subjects discussed.

2.5 Questions to Contain One Subject. All questions submitted for a vote shall contain only one subject. If two or more points are involved, any Councilmember may require a division, if the question reasonably admits of a division. Division

shall be required only on the affirmative vote of three (3) Councilmembers. If no division is so requested and approved, or the questions do not reasonably admit of a division, the question shall be submitted as originally framed.

2.6 City Manager. The City Manager shall attend all City Council meetings unless expressly excused. The City Manager may make recommendations to the City Council and take part in all discussions of the City Council, but shall have no vote.

2.7 City Attorney. The City Attorney shall attend all regular meetings of the City Council unless expressly excused and, shall upon request give an opinion, either written or oral, on questions of law during the meeting. The City Attorney shall act as the City Council's Parliamentarian. The City Attorney shall give an opinion, either written or oral, on questions of law to the City Manager or designated representative, during the course of daily affairs of the City. The City Attorney may make recommendations to the City Council and take part in all discussions of the City Council, but shall have no vote. The City Attorney shall confer and discuss with a Councilmember or the Mayor regarding a question of law pertaining to the affairs of the City. In such event, the City Attorney shall advise the City Manager of the question posed and information provided. The City Manager shall forward the information to the full City Council as soon as reasonably practical.

2.8 City Secretary. The City Secretary shall attend all meetings of the City Council unless expressly excused, and shall keep the official minutes and perform such other duties as may be requested by the City Council.

2.9 Employees. Any employee of the City, when requested by the City Manager, shall attend any meeting of the City Council and, if requested to do so by the City Manager, such employee may present information relating to matters before the City Council. The City Manager will determine the staff spokesperson for providing information, for a particular agenda item, at the City Council meeting.

2.10 Suspension of Rules. Any provisions of these rules not governed by State law, the City Charter, or City Code may be temporarily suspended by a majority vote of all Councilmembers present and eligible to vote.

2.11 Executive Session. All matters discussed in Executive Session, as authorized by the Texas Open Meetings Act, may be deemed confidential and by law, participants authorized to attend Executive Sessions are not required to make public disclosure concerning the matters discussed in Executive Session. It shall be the policy of the City Council, that the Mayor, individual Councilmembers, the City Manager, City Attorney, City Secretary and others who are authorized to attend Executive Sessions shall not make selective disclosure of confidential matters, where the disclosure of the information has not been released to the

general public and/or where such disclosure provides an unfair advantage to the recipient or would be detrimental to the City and its citizens. For the opening and closing of an Executive Session, the Mayor shall do such at the location as noted on the official agenda notice posted in compliance with the Texas Open Meetings Act. For purposes of regular agenda meeting postings, the opening and closing of an Executive Session shall be done in the Executive Conference Room of City Hall.

SECTION III.

TYPES OF MEETINGS

3.1 Regular Meetings. The City Council shall meet in the City Hall on the first and third Tuesday of each month at 5:30 p.m. unless otherwise officially established by the City Council. The City Council shall take a vote at 12:00 a.m. on whether or not to continue a meeting for additional time if further items are on the agenda and have not been considered. The call for and conduct of all meetings of the City Council, both regular and special as provided in Section 3.2 hereof, shall be in accordance with State law.

3.2 Special Meetings. Special meetings may be held on the call of the Mayor or four (4) members of the City Council at the place within the City of Colleyville designated in the public notice. In accordance with State law, the notice to the public of an emergency meeting must be posted at least two hours before the meeting is scheduled to begin. An emergency meeting exists only if immediate action is required of a governmental body because of an "imminent threat to public health and safety" or a "reasonably unforeseeable situation".

3.3 Recessed Meetings. Any meeting of the City Council may be recessed to a later time provided that no recess shall be for a longer period than until the next regularly scheduled City Council meeting.

3.4 Worksession Meetings. Worksession meetings may be called by the Mayor, any three (3) Councilmembers or the City Manager for the purpose of discussing in depth, investigating or exploring matters of interest to the City, without formal action being taken thereon by the City Council. The time, place, and purpose of such worksession meeting shall be stated in a notice complying with the Texas Open Meetings Act. Such worksession meetings may be held in any appropriate location outside the City Hall upon concurrence by any three (3) Councilmembers or as determined by the City Manager. Such worksession meetings may include, but shall not be limited to, meetings with neighboring governmental bodies or agencies, meetings with one of the City's appointed boards, commissions or committees, meeting with civic organizations or a meeting for Councilmembers to research, evaluate, explore, investigate or discuss any matter of interest or

possible action affecting the City, subject to compliance with the provisions of the Texas Open Meetings Act.

The City Council may establish regular worksession meetings immediately prior to regular City Council meetings. In conjunction with the regularly scheduled City Council meeting, a Pre City Council worksession shall be held at 5:30 p.m. unless otherwise officially established by the City Council. The agenda for the Pre City Council meeting shall include, among other items: routine reports, information related to the regular agenda items and issues for which the City Manager seeks direction or clarification.

No official action shall be taken at any worksession meeting, unless a regular or special meeting is called as provided for in these Rules.

SECTION IV.

CONDUCT OF MEETINGS

4.1 Presiding Officer. The Mayor, if present, shall preside at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tem shall preside. In the absence of both Mayor and Mayor Pro Tem, the City Council shall elect a Councilmember to preside.

4.2 Call to Order. The meetings of the City Council shall be called to order by the Mayor, or in the Mayor's absence, by the Mayor Pro Tem. In the absence of both the Mayor and Mayor Pro Tem, the meeting shall be called to order by the City Secretary.

4.3 Preservation of Order. The Mayor shall preserve order and decorum, prevent clash of personalities or the impugning of Councilmembers' motives to occur and confine Councilmembers in debate to the question under discussion.

4.4 Points of Order. The Mayor shall determine all points of order, subject to the right of any Councilmember to appeal to the City Council. If any appeal is taken, the question shall be "Shall the decision of the Mayor be sustained?"

4.5 Questions to be Stated. The Mayor shall state all questions submitted for a vote and announce the result.

4.6 Substitution for Mayor. The Mayor may call the Mayor Pro Tem, or in the Mayor Pro Tem's absence, any other Councilmember to take the Mayor's place in the chair, such substitutions not to continue beyond adjournment.

4.7 Amendment to the Minutes. Amendments to the Minutes are made by a motion during the item to consider approval of the minutes. The Minutes are action minutes and provide the action taken by City Council and a summary of subjects discussed. If a Councilmember desires that certain information be included in the minutes, the Councilmember shall state prior to the information, "For the record". If it is a lengthy statement, a written copy shall be provided to the City Secretary.

4.8 Written Correspondence. A citizen's request in the reading of a statement into the public record as part of a City Council agenda item is at the sole discretion of any member or all of the governing body. The City Council is not obligated to provide for a reading of correspondence into the public record on behalf of an absent individual as part of a City Council public hearing. The City Council, any or all Councilmembers, may elect to provide for a reading of the correspondence, make reference indicating the general position of the correspondence, or pass over the correspondence. The correspondence is provided to City Council and is included in the City Council agenda packet.

SECTION V.

AGENDA

5.1 Preparation of Agenda.

- A. The order of business of each meeting shall be as contained in the City Council agenda prepared by the City Manager. The agenda shall be a listing by topic of subjects to be considered by the City Council, and, in the case of regular meetings, shall be delivered to the City Council not less than 72 hours proceeding the Tuesday evening meeting to which it pertains.
- B. Any member of the City Council desiring to present a subject for City Council consideration shall advise in writing to the City Manager of the fact not later than 4:30 p.m. on Wednesday preceding regular City Council meetings. Subject matter will be accompanied by a summary regarding the purpose for the inclusion of this subject on the agenda.
- C. Items Omitted from Agenda. Any item not appearing on the agenda shall not be taken up for discussion as a matter of City Council business during a regular meeting unless it is of an emergency nature and comes to the City's attention too late to appear on the agenda. Such special, urgent or emergency issues shall be posted in compliance with the Texas Open Meetings Act and the City Charter and may be added as a supplemental item to the regular agenda.

The regular agenda items shall be considered in the following order:

1. Pre Council - 5:30 p.m. - Executive Conference Room
2. Executive Session - 5:30 p.m. - Executive Conference Room
3. Call to Order - 7:30 p.m. - Council Chambers
4. Invocation
5. Pledge of Allegiance
6. Resolution or Ordinance taking action on Executive Session items
7. Announcements, Proclamations and Presentations
8. Consent Items
9. Public Hearings
10. Citizen Comments/Presentations regarding items not on the agenda
11. Reports of Boards, Commissions, and Committees
12. Resolution approving City Council action not otherwise approved
13. Adjournment

D. The general order of a Public Hearing shall be:

- a. Staff presentation
 - b. Open Public Hearing
 - c. Applicant introductory presentation - five minutes
 - d. Citizen comments - five minutes each (Large groups supporting the same position may be asked to select a representative to speak for the group)
 - e. Applicant
 - f. Close Public Hearing
 - g. City Council discussion and vote
 - h. In the alternative, the item may be continued to a future meeting of the City Council.
1. If the City Council wishes to consider additional public testimony, the public hearing shall be reopened and the public hearing and item shall be continued to a date certain.
 2. If the Public Hearing is not reopened and continued to a date certain, the City Council may only conduct an additional public hearing upon publication of notice in accordance with Chapter 211 of the Local Government Code.

E. The City Manager shall provide the City Council with a written analysis of and recommendation of items to be acted on by the City Council at its meetings. These communications shall be generally referred to as agenda packets. The agenda packets for all regular meetings shall be delivered to

the City Council by the Friday preceding the Tuesday regular meeting to which it pertains, unless an emergency condition makes it necessary to deliver the communication on a subsequent day.

- F. The City Secretary shall post notices of all City Council meetings in order to afford compliance with the Texas Open Meetings Act.

5.2 Consent Agenda. In preparing the agenda, the City Manager shall give consideration to the number and degree of complexity of items to be considered by the City Council for the purpose of conserving the City Council's time in meetings. Items which are anticipated to be routine and require little or no discussion by the City Council shall be listed under the agenda category styled "Consent Items". Prior to taking up the Consent Agenda, the Mayor shall determine if there are any items thereon which should be removed from the Consent Agenda for discussion. Any Councilmember may, upon request, remove any item from the Consent Agenda for discussion and separate action. Thereafter, all remaining Consent Agenda items may be acted upon by a single motion approving the Consent Agenda. Items removed from the Consent Agenda shall be considered on the ending Resolution, which is for action not otherwise approved.

5.3 Oral Presentations by City Manager. Matters requiring the City Council's attention or action which may have developed since the deadline for delivery of the agenda packets may, upon approval of the City Council, and after satisfying the requirements of the Texas Open Meetings Act, be presented orally by the City Manager, or designated staff.

5.4 Citizen Participation at Meetings.

- A. Presentations by citizens must be confined to the agenda item being considered and any questions will be directed to the Mayor. Citizens wishing to speak shall be allowed to speak, provided prior to the consideration of the item; said person completes and delivers to the City Secretary a Speaker's Card providing name, address and topic. A person who has not completed the Speaker's Card prior to discussion of the item on the agenda shall not be allowed to speak. Presentation by citizens shall be limited to a time period of not more than five (5) minutes with two (2) additional minutes to conclude, at the option of the Mayor or the consent of the City Council, for each speaker. Any time spent by the City Council will not be counted against the citizen's time allotment. No person shall speak more than the time limits provided herein on any subject. That privilege shall not be accorded unless there is an exception supported by a majority of those eligible to vote. The Mayor shall not be obligated to recognize a speaker for a second comment on a subject until all others have spoken and there is unused time available.

- B. Following a request by a Councilmember, the Mayor may request that the City Council suspend the rules to allow citizens to speak after the public hearing has been closed.
- C. To maintain decorum, the Mayor shall recognize persons who have completed Speaker's Cards indicating a desire to address the City Council.
- D. As a general rule, citizens may not participate in discussions of the City Council except when recognized by the Mayor and during citizen presentations, public hearings and as otherwise provided for in these Rules.
- E. Citizens may speak on items not on the agenda under the item "Citizen Comments/Presentations Regarding Items Not On The Agenda". The presentation time period is as listed herein Section 5.4 A.

SECTION VI.

DECORUM AND DEBATE

6.1 Decorum and Debate.

- A. These rules are intended to serve as a statement of intent as to how this City Council endeavors to conduct itself during City Council meetings. It is the intent of the City Council that all members shall act based on a consistent level of information, with the goal being to act fully informed on all matters. Accordingly, if and when a Councilmember obtains material relevant to a matter before the City Council which has not otherwise been disclosed to the City Council, such Councilmember shall promptly provide such material to the city manager for dissemination to the City Council. All such information will be disseminated and disclosed to the full City Council, prior to the case being presented.
- B. When a measure is presented for consideration to the City Council, the Mayor shall recognize the appropriate Councilmember to present the case, as needed. When two or more Councilmembers wish to speak, the presiding officer shall name the Councilmember who is to speak first. No member of the City Council shall interrupt another while speaking except to make a point of order or to make a point of personal privilege.
- C. The Mayor shall not be obligated to recognize any Councilmember for a second comment on the subject or amendment until every Councilmember wishing to speak has been allowed a first comment.

- D. Questions from speakers to the City Council with request for an immediate answer, except the applicants and persons representing applicants on platting or zoning cases, shall be prohibited. A Councilmember's questions to speakers should be to specific individuals and the Mayor should explain to those individuals beforehand that they may come to the podium and answer if they choose to; but, they cannot offer additional unsolicited input or engage in question and answer sessions with Councilmembers.
- E. Any Councilmember desiring to speak shall be recognized by the Mayor, and shall confine remarks to the subject under discussion or to be discussed. No Councilmember shall be allowed to speak more than once on any one subject until every Councilmember wishing to speak shall have spoken.
- F. No Councilmember shall be permitted to indulge in personalities, use language personally offensive, impugn motives of Councilmembers, charge deliberate misrepresentation, or use language tending to hold a member of the City Council, the public or City staff up to contempt.
- G. The Mayor shall not permit unrecognized speaker's comments or allow a member of the audience to indulge in personalities, use language tending to hold the City Council, the public or City staff up to contempt.
- H. If a Councilmember is speaking or otherwise transgressing the rules of the City Council, the Mayor shall or any Councilmember may call him/her to order in which case he/she shall immediately be quiet unless permitted to explain. The City Council shall, if appealed to, decide the case without debate. If the decision is in favor of the Councilmember called to order, he/she shall be at liberty to proceed, but not otherwise, and if the case occurs, he/she shall be liable to censure or such punishment as the City Council deems proper, consistent with City Ordinances, Resolutions and Charter.
- I. Any individual of the public who shall disrupt the City Council proceedings or disregard the Mayor shall first be warned of such offense and be requested that they refrain from disrupting the proceedings and/or disregarding the instructions of the Mayor. Any individual of the public failing to honor the first warning of the Mayor for order, shall receive a second and final warning prior to expulsion and/or citation for disturbing a public meeting pursuant to State law. When the Mayor fails to maintain order and decorum, the Councilmembers may compel the Mayor to enforce this provision following due parliamentary procedure, which affirms such compulsion by a majority vote of the City Council.

SECTION VII.

PROCEDURES FOR CITY COUNCIL APPOINTMENTS

7.1 Procedures for City Council Appointments. The following procedures are for making appointments to boards, committees and commissions established by ordinance or resolution. Appointments to ad hoc committees and task forces established by resolution should not necessarily be bound by the same procedures, but may be done in a manner appropriate to the situation as deemed proper by the City Council. The City Council shall set the quorum for a committee. The City Council shall vote whether the committee selection will be handled by the rules of procedures or by slate.

- A. Announce the position(s) to be filled. In the announcement, define the duties of the position(s), define the term of the position and request that applications be formally submitted to the City Council by a specific deadline. This announcement should be made at least 30 days prior to the deadline for submission of applications and should be placed in the local newspaper, posted at City Hall, on the website and placed in the *City e-news* (if timely).

Upon review of the Applications for Appointment, City Council will determine if interviews shall be conducted. If Council desires, interviews will be conducted prior to a City Council meeting, which may be subject to the Texas Open Meetings Act or be conducted in Executive Session. If no applications are received or fewer applications than open positions are received, the City Council may fill positions from the floor or request the City Secretary to advertise the open position(s). In the event of a vacancy other than an expiring term, the City Council may fill the position by a majority vote of the City Council without advertising. The appointee shall serve the unexpired term.

- B. The candidates will be selected to fill the open positions no later than the second City Council meeting after the deadline for application submission, in the following manner:
 - a. If more than one position is to be filled, consider the appointment for each position individually in the order selected by the Mayor, as follows:
 - b. The Mayor shall open the floor for nominations and if there are no nominations, the Mayor will call on each Councilmember for a nomination.
 - c. Councilmembers or the Mayor may decline to make a nomination if previous nominations are acceptable.
 - d. After each Councilmember has had an opportunity to make a nomination or defer to make a nomination, the Mayor will take a

vote on the slate of nominees by asking each Councilmember to state the name of the nominee that the Councilmember votes to appoint to the position under consideration.

- e. Return to Step b and repeat the process for the next position to be filled until all positions are filled.

SECTION VIII.

MEMORIALS

8.1 Memorials. The following procedures are for honoring deceased current or former City elected officials, sitting board, commission or committee members and community volunteers.

- A. Recognition of the death of a current or former City elected official. When the City is notified of the death of a current or former elected official, flowers or a plant will be sent to the memorial service, or a donation to an organization specified by the family (in an amount not to exceed \$50.00), and a sympathy card will be sent to the family. A Memorial Proclamation, honoring the official, will be sent to the memorial service or to the family. The City Manager's Office will coordinate the donation of a book, in which the official's name is inscribed on a bookplate inside of the book, to the Colleyville Public Library, in an amount not to exceed \$50.00. A letter from the Library Director will notify the family of the book donation.
- B. At the family's request and with City Manager approval, members of the Colleyville Police and Fire Department Honor Guard may attend the funeral of a current or former City elected official as representatives of the City.
- C. Recognition of the death of a sitting board, commission or committee member. When the City is notified of the death of a sitting board, commission or committee member, the City Manager's Office will forward a sympathy card to the family.
- D. Recognition of the death of community volunteers. Due to the significant number of community volunteers assisting a multitude of organizations across the City of Colleyville, it will not be the practice of the City to recognize these individuals in a formal capacity. During a City Council meeting, elected officials may, at their discretion, verbally recognize the efforts of these individuals and their service to Colleyville during the agenda item for Announcements, Proclamations and Presentations.

8.2 Recognition by lowering of the United States Flag. The City is not at liberty to proclaim the Flag of the United States be flown at half-staff in recognition of a City official. Per the United States Code, only the President of the United States or the State Governor can order the flag lowered to half-staff.

8.3 Use of City equipment and personnel. At no time will City equipment be used to carry the casket or participate in the funeral procession of a deceased, current or former City elected official, board, commission, committee member or community volunteer. Exceptions to this rule may include City equipment earmarked for use by community groups, such as the Citizen Fire Academy Alumni Association Rehab Team and the Citizen Police Academy Alumni Association Citizens on Patrol, where equipment use for a group member's funeral may be authorized by the Department Director.

**CITY OF COLLEYVILLE
CITY COUNCIL
RULES OF PROCEDURE**

SECTION I.

AUTHORITY

1.1 Section 3.09B of the Charter of the City of Colleyville provides that "the Council shall determine its own rules and order of business...". Further, Section 2.01 of the Charter provides that the City Council shall have the powers, functions, rights, privileges and immunities of every name and nature, that are now or hereafter, may be granted to a Home Rule City by the Constitution and State law, together with all implied powers necessary to carry into execution all such powers granted". In order to provide the framework for the execution of these powers and authority, the following set of rules shall be in effect upon their adoption by the City Council and until such times as they are amended or new rules adopted in the manner provided for by these rules.

SECTION II.

GENERAL RULES

2.1 Meetings to be Public. All meetings of the City Council shall be open to the public, with the exception of Executive Session.

2.2 City Council. For purposes of these rules, the collective membership of the Mayor and City Councilmembers shall be known as the City Council. Individually, each shall be referred to as Mayor, Mayor Pro Tem, or Councilmember.

2.3 Quorum. Four (4) voting members of the City Council shall constitute a quorum.

2.4 Minutes of Meetings. An account of all proceedings of the City Council shall be kept by the City Secretary and shall be entered in a book constituting the official record of the City Council. The Official City Council Minutes are action minutes and provide the action taken by the City Council and a summary of subjects discussed.

2.5 Questions to Contain One Subject. All questions submitted for a vote shall contain only one subject. If two or more points are involved, any Councilmember may require a division, if the question reasonably admits of a division. Division shall be required only on the affirmative vote of three (3) Councilmembers. If no division is so requested and approved, or the questions do not reasonably admit of a division, the question shall be submitted as originally framed.

2.6 City Manager. The City Manager shall attend all City Council meetings unless expressly excused. The City Manager may make recommendations to the City Council and take part in all discussions of the City Council, but shall have no vote.

2.7 City Attorney. The City Attorney shall attend all regular meetings of the City Council unless expressly excused and, shall upon request give an opinion, either written or oral, on questions of law during the meeting. The City Attorney shall act as the City Council's Parliamentarian. The City Attorney shall give an opinion, either written or oral, on questions of law to the City Manager or designated representative, during the course of daily affairs of the City. The City Attorney may make recommendations to the City Council and take part in all discussions of the City Council, but shall have no vote. The City Attorney shall confer and discuss with a Councilmember or the Mayor regarding a question of law pertaining to the affairs of the City. In such event, the City Attorney shall advise the City Manager of the question posed and information provided. The City Manager shall forward the information to the full City Council as soon as reasonably practical.

2.8 City Secretary. The City Secretary shall attend all meetings of the City Council unless expressly excused, and shall keep the official minutes and perform such other duties as may be requested by the City Council.

2.9 Employees. Any employee of the City, when requested by the City Manager, shall attend any meeting of the City Council and, if requested to do so by the City Manager, such employee may present information relating to matters before the City Council. The City Manager will determine the staff spokesperson for providing information, for a particular agenda item, at the City Council meeting.

2.10 Suspension of Rules. Any provisions of these rules not governed by State law, the City Charter, or City Code may be temporarily suspended by a majority vote of all Councilmembers present and eligible to vote.

2.11 Executive Session. All matters discussed in Executive Session, as authorized by the Texas Open Meetings Act, may be deemed confidential and by law, participants authorized to attend Executive Sessions are not required to make public disclosure concerning the matters discussed in Executive Session. It shall be the policy of the City Council, that the Mayor, individual Councilmembers, the City Manager, City Attorney, City Secretary and others who are authorized to attend Executive Sessions shall not make selective disclosure of confidential matters, where the disclosure of the information has not been released to the

general public and/or where such disclosure provides an unfair advantage to the recipient or would be detrimental to the City and its citizens. For the opening and closing of an Executive Session, the Mayor shall do such at the location as noted on the official agenda notice posted in compliance with the Texas Open Meetings Act. For purposes of regular agenda meeting postings, the opening and closing of an Executive Session shall be done in the Executive Conference Room of City Hall.

SECTION III.

TYPES OF MEETINGS

3.1 Regular Meetings. The City Council shall meet in the City Hall on the first and third Tuesday of each month at 5:30 p.m. unless otherwise officially established by the City Council. The City Council shall take a vote at 12:00 a.m. on whether or not to continue a meeting for additional time if further items are on the agenda and have not been considered. The call for and conduct of all meetings of the City Council, both regular and special as provided in Section 3.2 hereof, shall be in accordance with State law.

3.2 Special Meetings. Special meetings may be held on the call of the Mayor or four (4) members of the City Council at the place within the City of Colleyville designated in the public notice. In accordance with State law, the notice to the public of an emergency meeting must be posted at least two hours before the meeting is scheduled to begin. An emergency meeting exists only if immediate action is required of a governmental body because of an "imminent threat to public health and safety" or a "reasonably unforeseeable situation".

3.3 Recessed Meetings. Any meeting of the City Council may be recessed to a later time provided that no recess shall be for a longer period than until the next regularly scheduled City Council meeting.

3.4 Worksession Meetings. Worksession meetings may be called by the Mayor, any three (3) Councilmembers or the City Manager for the purpose of discussing in depth, investigating or exploring matters of interest to the City, without formal action being taken thereon by the City Council. The time, place, and purpose of such worksession meeting shall be stated in a notice complying with the Texas Open Meetings Act. Such worksession meetings may be held in any appropriate location outside the City Hall upon concurrence by any three (3) Councilmembers or as determined by the City Manager. Such worksession meetings may include, but shall not be limited to, meetings with neighboring governmental bodies or

agencies, meetings with one of the City's appointed boards, commissions or committees, meeting with civic organizations or a meeting for Councilmembers to research, evaluate, explore, investigate or discuss any matter of interest or possible action affecting the City, subject to compliance with the provisions of the Texas Open Meetings Act.

The City Council may establish regular worksession meetings immediately prior to regular City Council meetings. In conjunction with the regularly scheduled City Council meeting, a Pre City Council worksession shall be held at 5:30 p.m. unless otherwise officially established by the City Council. The agenda for the Pre City Council meeting shall include, among other items: routine reports, information related to the regular agenda items and issues for which the City Manager seeks direction or clarification.

No official action shall be taken at any worksession meeting, unless a regular or special meeting is called as provided for in these Rules.

SECTION IV.

CONDUCT OF MEETINGS

4.1 Presiding Officer. The Mayor, if present, shall preside at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tem shall preside. In the absence of both Mayor and Mayor Pro Tem, the City Council shall elect a Councilmember to preside.

4.2 Call to Order. The meetings of the City Council shall be called to order by the Mayor, or in the Mayor's absence, by the Mayor Pro Tem. In the absence of both the Mayor and Mayor Pro Tem, the meeting shall be called to order by the City Secretary.

4.3 Preservation of Order. The Mayor shall preserve order and decorum, prevent clash of personalities or the impugning of Councilmembers' motives to occur and confine Councilmembers in debate to the question under discussion.

4.4 Points of Order. The Mayor shall determine all points of order, subject to the right of any Councilmember to appeal to the City Council. If any appeal is taken, the question shall be "Shall the decision of the Mayor be sustained?"

4.5 Questions to be Stated. The Mayor shall state all questions submitted for a vote and announce the result.

4.6 Substitution for Mayor. The Mayor may call the Mayor Pro Tem, or in the Mayor Pro Tem's absence, any other Councilmember to take the Mayor's place in the chair, such substitutions not to continue beyond adjournment.

4.7 Amendment to the Minutes. Amendments to the Minutes are made by a motion during the item to consider approval of the minutes. The Minutes are action minutes and provide the action taken by City Council and a summary of subjects discussed. If a Councilmember desires that certain information be included in the minutes, the Councilmember shall state prior to the information, "For the record". If it is a lengthy statement, a written copy shall be provided to the City Secretary.

4.8 Written Correspondence. A citizen's request in the reading of a statement into the public record as part of a City Council agenda item is at the sole discretion of any member or all of the governing body. The City Council is not obligated to provide for a reading of correspondence into the public record on behalf of an absent individual as part of a City Council public hearing. The City Council, any or all Councilmembers, may elect to provide for a reading of the correspondence, make reference indicating the general position of the correspondence, or pass over the correspondence. The correspondence is provided to City Council and is included in the City Council agenda packet.

SECTION V.

AGENDA

5.1 Preparation of Agenda.

- A. The order of business of each meeting shall be as contained in the City Council agenda prepared by the City Manager. The agenda shall be a listing by topic of subjects to be considered by the City Council, and, in the case of regular meetings, shall be delivered to the City Council not less than 72 hours proceeding the Tuesday evening meeting to which it pertains.
- B. Any member of the City Council desiring to present a subject for City Council consideration shall advise in writing to the City Manager of the fact not later than 4:30 p.m. on Wednesday preceding regular City Council meetings.

Subject matter will be accompanied by a summary regarding the purpose for the inclusion of this subject on the agenda.

- C. Items Omitted from Agenda. Any item not appearing on the agenda shall not be taken up for discussion as a matter of City Council business during a regular meeting unless it is of an emergency nature and comes to the City's attention too late to appear on the agenda. Such special, urgent or emergency issues shall be posted in compliance with the Texas Open Meetings Act and the City Charter and may be added as a supplemental item to the regular agenda.

The regular agenda items shall be considered in the following order:

1. Pre Council - 5:30 p.m. - Executive Conference Room
2. Executive Session - 5:30 p.m. - Executive Conference Room
3. Call to Order - 7:30 p.m. - Council Chambers
4. Invocation
5. Pledge of Allegiance
6. Resolution or Ordinance taking action on Executive Session items
7. Announcements, Proclamations and Presentations
8. Consent Items
9. Public Hearings
10. Citizen Comments/Presentations regarding items not on the agenda
11. Reports of Boards, Commissions, and Committees
12. Resolution approving City Council action not otherwise approved
13. Adjournment

- D. The general order of a Public Hearing shall be:

- a. Staff presentation
- b. Open Public Hearing
- c. Applicant introductory presentation - five minutes
- d. Citizen comments - five minutes each (Large groups supporting the same position may be asked to select a representative to speak for the group)
- e. Applicant
- f. Close Public Hearing
- g. City Council discussion and vote
- h. In the alternative, the item may be continued to a future meeting of the City Council.

1. If the City Council wishes to consider additional public testimony, the public hearing shall be reopened and the public hearing and item shall be continued to a date certain.
 2. If the Public Hearing is not reopened and continued to a date certain, the City Council may only conduct an additional public hearing upon publication of notice in accordance with Chapter 211 of the Local Government Code.
- E. The City Manager shall provide the City Council with a written analysis of and recommendation of items to be acted on by the City Council at its meetings. These communications shall be generally referred to as agenda packets. The agenda packets for all regular meetings shall be delivered to the City Council by the Friday preceding the Tuesday regular meeting to which it pertains, unless an emergency condition makes it necessary to deliver the communication on a subsequent day.
- F. The City Secretary shall post notices of all City Council meetings in order to afford compliance with the Texas Open Meetings Act.

5.2 Consent Agenda. In preparing the agenda, the City Manager shall give consideration to the number and degree of complexity of items to be considered by the City Council for the purpose of conserving the City Council's time in meetings. Items which are anticipated to be routine and require little or no discussion by the City Council shall be listed under the agenda category styled "Consent Items". Prior to taking up the Consent Agenda, the Mayor shall determine if there are any items thereon which should be removed from the Consent Agenda for discussion. Any Councilmember may, upon request, remove any item from the Consent Agenda for discussion and separate action. Thereafter, all remaining Consent Agenda items may be acted upon by a single motion approving the Consent Agenda. Items removed from the Consent Agenda shall be considered on the ending Resolution, which is for action not otherwise approved.

5.3 Oral Presentations by City Manager. Matters requiring the City Council's attention or action which may have developed since the deadline for delivery of the agenda packets may, upon approval of the City Council, and after satisfying the requirements of the Texas Open Meetings Act, be presented orally by the City Manager, or designated staff.

5.4 Citizen Participation at Meetings.

- A. Presentations by citizens must be confined to the agenda item being considered and any questions will be directed to the Mayor. Citizens wishing to speak shall be allowed to speak, provided prior to the consideration of the item; said person completes and delivers to the City Secretary a Speaker's Card providing name, address and topic. A person who has not completed the Speaker's Card prior to discussion of the item on the agenda shall not be allowed to speak. Presentation by citizens shall be limited to a time period of not more than five (5) minutes with two (2) additional minutes to conclude, at the option of the Mayor or the consent of the City Council, for each speaker. Any time spent by the City Council will not be counted against the citizen's time allotment. No person shall speak more than the time limits provided herein on any subject. That privilege shall not be accorded unless there is an exception supported by a majority of those eligible to vote. The Mayor shall not be obligated to recognize a speaker for a second comment on a subject until all others have spoken and there is unused time available.
- B. Following a request by a Councilmember, the Mayor may request that the City Council suspend the rules to allow citizens to speak after the public hearing has been closed.
- C. To maintain decorum, the Mayor shall recognize persons who have completed Speaker's Cards indicating a desire to address the City Council.
- D. As a general rule, citizens may not participate in discussions of the City Council except when recognized by the Mayor and during citizen presentations, public hearings and as otherwise provided for in these Rules.
- E. Citizens may speak on items not on the agenda under the item "Citizen Comments/Presentations Regarding Items Not On The Agenda". The presentation time period is as listed herein Section 5.4 A.

SECTION VI.

DECORUM AND DEBATE

6.1 Decorum and Debate.

- A. These rules are intended to serve as a statement of intent as to how this City Council endeavors to conduct itself during City Council meetings. It is the intent of the City Council that all members shall act based on a consistent level of information, with the goal being to act fully informed on

all matters. Accordingly, if and when a Councilmember obtains material relevant to a matter before the City Council which has not otherwise been disclosed to the City Council, such Councilmember shall promptly provide such material to the city manager for dissemination to the City Council. All such information will be disseminated and disclosed to the full City Council, prior to the case being presented.

- B. When a measure is presented for consideration to the City Council, the Mayor shall recognize the appropriate Councilmember to present the case, as needed. When two or more Councilmembers wish to speak, the presiding officer shall name the Councilmember who is to speak first. No member of the City Council shall interrupt another while speaking except to make a point of order or to make a point of personal privilege.
- C. The Mayor shall not be obligated to recognize any Councilmember for a second comment on the subject or amendment until every Councilmember wishing to speak has been allowed a first comment.
- D. Questions from speakers to the City Council with request for an immediate answer, except the applicants and persons representing applicants on platting or zoning cases, shall be prohibited. A Councilmember's questions to speakers should be to specific individuals and the Mayor should explain to those individuals beforehand that they may come to the podium and answer if they choose to; but, they cannot offer additional unsolicited input or engage in question and answer sessions with Councilmembers.
- E. Any Councilmember desiring to speak shall be recognized by the Mayor, and shall confine remarks to the subject under discussion or to be discussed. No Councilmember shall be allowed to speak more than once on any one subject until every Councilmember wishing to speak shall have spoken.
- F. No Councilmember shall be permitted to indulge in personalities, use language personally offensive, impugn motives of Councilmembers, charge deliberate misrepresentation, or use language tending to hold a member of the City Council, the public or City staff up to contempt.
- G. The Mayor shall not permit unrecognized speaker's comments or allow a member of the audience to indulge in personalities, use language tending to hold the City Council, the public or City staff up to contempt.

- H. If a Councilmember is speaking or otherwise transgressing the rules of the City Council, the Mayor shall or any Councilmember may call him/her to order in which case he/she shall immediately be quiet unless permitted to explain. The City Council shall, if appealed to, decide the case without debate. If the decision is in favor of the Councilmember called to order, he/she shall be at liberty to proceed, but not otherwise, and if the case occurs, he/she shall be liable to censure or such punishment as the City Council deems proper, consistent with City Ordinances, Resolutions and Charter.
- I. Any individual of the public who shall disrupt the City Council proceedings or disregard the Mayor shall first be warned of such offense and be requested that they refrain from disrupting the proceedings and/or disregarding the instructions of the Mayor. Any individual of the public failing to honor the first warning of the Mayor for order, shall receive a second and final warning prior to expulsion and/or citation for disturbing a public meeting pursuant to State law. When the Mayor fails to maintain order and decorum, the Councilmembers may compel the Mayor to enforce this provision following due parliamentary procedure, which affirms such compulsion by a majority vote of the City Council.

SECTION VII.

PROCEDURES FOR CITY COUNCIL APPOINTMENTS

7.1 Procedures for City Council Appointments. The following procedures are for making appointments to boards, committees and commissions established by ordinance or resolution. Appointments to ad hoc committees and task forces established by resolution should not necessarily be bound by the same procedures, but may be done in a manner appropriate to the situation as deemed proper by the City Council. The City Council shall set the quorum for a committee. The City Council shall vote whether the committee selection will be handled by the rules of procedures or by slate.

- A. Announce the position(s) to be filled. In the announcement, define the duties of the position(s), define the term of the position and request that applications be formally submitted to the City Council by a specific deadline. This announcement should be made at least 30 days prior to the deadline for submission of applications and should be placed in the local newspaper, posted at City Hall, on the website and placed in the *City e-news* (if timely).

Upon review of the Applications for Appointment, City Council will determine if interviews shall be conducted. If Council desires, interviews will be conducted prior to a City Council meeting, which may be subject to the Texas Open Meetings Act or be conducted in Executive Session. If no applications are received or fewer applications than open positions are received, the City Council may fill positions from the floor or request the City Secretary to advertise the open position(s). In the event of a vacancy other than an expiring term, the City Council may fill the position by a majority vote of the City Council without advertising. The appointee shall serve the unexpired term.

- B. The candidates will be selected to fill the open positions no later than the second City Council meeting after the deadline for application submission, in the following manner:
 - a. If more than one position is to be filled, consider the appointment for each position individually in the order selected by the Mayor, as follows:
 - b. The Mayor shall open the floor for nominations and if there are no nominations, the Mayor will call on each Councilmember for a nomination.

- c. Councilmembers or the Mayor may decline to make a nomination if previous nominations are acceptable.
- d. After each Councilmember has had an opportunity to make a nomination or defer to make a nomination, the Mayor will take a vote on the slate of nominees by asking each Councilmember to state the name of the nominee that the Councilmember votes to appoint to the position under consideration.
- e. Return to Step b and repeat the process for the next position to be filled until all positions are filled.

SECTION VIII.

MEMORIALS

8.1 Memorials. The following procedures are for honoring deceased current or former City elected officials, sitting board, commission or committee members and community volunteers.

- A. Recognition of the death of a current or former City elected official. When the City is notified of the death of a current or former elected official, flowers or a plant will be sent to the memorial service, or a donation to an organization specified by the family (in an amount not to exceed \$50.00), and a sympathy card will be sent to the family. A Memorial Proclamation, honoring the official, will be sent to the memorial service or to the family. The City Manager's Office will coordinate the donation of a book, in which the official's name is inscribed on a bookplate inside of the book, to the Colleyville Public Library, in an amount not to exceed \$50.00. A letter from the Library Director will notify the family of the book donation.
- B. At the family's request and with City Manager approval, members of the Colleyville Police and Fire Department Honor Guard may attend the funeral of a current or former City elected official as representatives of the City.
- C. Recognition of the death of a sitting board, commission or committee member. When the City is notified of the death of a sitting board, commission or committee member, the City Manager's Office will forward a sympathy card to the family.
- D. Recognition of the death of community volunteers. Due to the significant number of community volunteers assisting a multitude of organizations

across the City of Colleyville, it will not be the practice of the City to recognize these individuals in a formal capacity. During a City Council meeting, elected officials may, at their discretion, verbally recognize the efforts of these individuals and their service to Colleyville during the agenda item for Announcements, Proclamations and Presentations.

8.2 Recognition by lowering of the United States Flag. The City is not at liberty to proclaim the Flag of the United States be flown at half-staff in recognition of a City official. Per the United States Code, only the President of the United States or the State Governor can order the flag lowered to half-staff.

8.3 Use of City equipment and personnel. At no time will City equipment be used to carry the casket or participate in the funeral procession of a deceased, current or former City elected official, board, commission, committee member or community volunteer. Exceptions to this rule may include City equipment earmarked for use by community groups, such as the Citizen Fire Academy Alumni Association Rehab Team and the Citizen Police Academy Alumni Association Citizens on Patrol, where equipment use for a group member's funeral may be authorized by the Department Director.

Proposed Rules of Procedure – August 2016



CITY COUNCIL

RULES OF PROCEDURE

TABLE OF CONTENTS

Section I – AUTHORITY

1.1 Charter.....	4
1.2 Annual Review.....	4
1.3 Amendments.....	4

Section II – GENERAL RULES

2.1 Meetings to be Public.....	4
2.2 City Council.....	4
2.3 Quorum.....	4
2.4 Minutes of Meetings.....	4
2.5 Questions to Contain One Subject.....	5
2.6 City Manager	5
2.7 City Attorney.....	5
2.8 City Secretary.....	5
2.9 Employees.....	5
2.10 Suspension of Rules.....	5
2.11 Executive Session.....	6

Section III – TYPES OF MEETINGS

3.1 Regular Meetings.....	6
3.2 Special Meetings.....	6
3.3 Recessed Meetings.....	6
3.4 Worksession Meetings.....	6-7

Section IV – CONDUCT OF MEETINGS

4.1 Presiding Officer.....	7
4.2 Call to Order.....	7
4.3 Preservation of Order.....	7
4.4 Points of Order.....	8
4.5 Questions to be Stated.....	8
4.6 Substitution for Mayor.....	8
4.7 Amendment to the Minutes.....	8
4.8 Written Correspondence.....	8

Section V - AGENDA

5.1 Preparation of Agenda.....	8
5.2 Consent Agenda.....	10
5.3 Oral Presentations by City Manager.....	10
5.3 Citizen Participation at Meetings.....	11

Section VI – DECORUM AND DEBATE

6.1 Decorum and Debate.....	12-13
-----------------------------	-------

Section VII – PROCEDURES FOR CITY COUNCIL APPOINTMENTS

7.1 Procedures for City Council Appointments.....	14-15
---	-------

Section VIII - MEMORIALS

8.1 Memorials.....	15
8.2 Recognition by lowering of the United States Flag	16
8.3 Use of City equipment and personnel	16

HISTORY OF ADOPTION AND AMENDMENTS.....17

SECTION I. AUTHORITY

- 1.1 Charter. Section 3.09B of the Charter of the City of Colleyville provides that "the Council shall determine its own rules and order of business..." Further, Section 2.01 of the Charter provides that the City Council shall have the powers, functions, rights, privileges and immunities of every name and nature, that are now or hereafter, may be granted to a Home Rule City by the Constitution and State law, together with all implied powers necessary to carry into execution all such powers granted." In order to provide the framework for the execution of these powers and authority, the following set of rules shall be in effect upon their adoption by the City Council, and until such times as they are amended or new rules adopted in the manner provided for by these rules.
- 1.2 Annual Review. Following the municipal elections each year, City Council may review these rules in accordance with the Charter. In the event no annual review occurs, the standing rules will continue in effect. This does not limit the City Council's right and ability to amend these rules at any other time during the year, in accordance with the Charter.
- 1.3 Amendments. These rules may be amended or new rules adopted by a majority vote of the members of the City Council present.

SECTION II. GENERAL RULES

- 2.1 Meetings to be Public. All meetings of the City Council shall be open to the public, with the exception of Executive Session.
- 2.2 City Council. For purposes of these rules, the collective membership of the Mayor and City Councilmembers shall be known as the City Council. Individually, each shall be referred to as Mayor, Mayor Pro Tem, or Councilmember.
- 2.3 Quorum. Four (4) voting members of the City Council shall constitute a quorum.
- 2.4 Minutes of Meetings. An account of all proceedings of the City Council shall be kept by the City Secretary and shall be entered in a book constituting the official record of the City Council. The Official City Council Minutes are action minutes and provide the action taken by the City Council and a summary of subjects discussed.

- 2.5 Questions to Contain One Subject. All questions submitted for a vote shall contain only one subject. If two or more points are involved, any Councilmember may require a division, if the question reasonably admits of a division. Division shall be required only on the affirmative vote of three (3) Councilmembers. If no division is so requested and approved, or the questions do not reasonably admit of a division, the question shall be submitted as originally framed.
- 2.6 City Manager. The City Manager shall attend all City Council meetings unless expressly excused. The City Manager may make recommendations to the City Council and take part in all discussions of the City Council, but shall have no vote.
- 2.7 City Attorney. The City Attorney shall attend all regular meetings of the City Council unless expressly excused and, shall upon request give an opinion, either written or oral, on questions of law during the meeting. The City Attorney shall act as the City Council's Parliamentarian. The City Attorney shall give an opinion, either written or oral, on questions of law to the City Manager or designated representative, during the course of daily affairs of the City. The City Attorney may make recommendations to the City Council and take part in all discussions of the City Council, but shall have no vote. The City Attorney shall confer and discuss with a Councilmember or the Mayor regarding a question of law pertaining to the affairs of the City. In such event, the City Attorney shall advise the City Manager of the question posed and information provided. The City Manager shall forward the information to the full City Council as soon as reasonably practical.
- 2.8 City Secretary. The City Secretary shall attend all meetings of the City Council unless expressly excused, and shall keep the official minutes and perform such other duties as may be requested by the City Council.
- 2.9 Employees. Any employee of the City, when requested by the City Manager, shall attend any meeting of the City Council and, if requested to do so by the City Manager, such employee may present information relating to matters before the City Council. The City Manager will determine the staff spokesperson for providing information, for a particular agenda item, at the City Council meeting.
- 2.10 Suspension of Rules. Any provisions of these rules not governed by State law, the City Charter, or City Code may be temporarily suspended by a majority vote of all Councilmembers present and eligible to vote.

2.11 Executive Session. All matters discussed in Executive Session, as authorized by the Texas Open Meetings Act, may be deemed confidential and by law, participants authorized to attend Executive Sessions are not required to make public disclosure concerning the matters discussed in Executive Session. It shall be the policy of the City Council, that the Mayor, individual Councilmembers, the City Manager, City Attorney, City Secretary and others who are authorized to attend Executive Sessions shall not make selective disclosure of confidential matters, where the disclosure of the information has not been released to the general public and/or where such disclosure provides an unfair advantage to the recipient or would be detrimental to the City and its citizens. For the opening and closing of an Executive Session, the Mayor shall do such at the location as noted on the official agenda notice posted in compliance with the Texas Open Meetings Act, and **all of this information must be included in the certified agenda. (Tex. Gov't Code §551.103)** For purposes of regular agenda meeting postings, the opening and closing of an Executive Session shall be done in the Executive Conference Room of City Hall.

SECTION III. TYPES OF MEETINGS

- 3.1 Regular Meetings. The City Council shall meet in the City Hall on the first and third Tuesday of each month at **6:30** p.m. unless otherwise officially established by the City Council. The City Council shall take a vote at 12:00 a.m. on whether or not to continue a meeting for additional time if further items are on the agenda and have not been considered. The call for and conduct of all meetings of the City Council, both regular and special as provided in Section 3.2 hereof, shall be in accordance with State law.
- 3.2 Special Meetings. Special meetings may be held on the call of the Mayor or four (4) members of the City Council at the place within the City of Colleyville designated in the public notice. In accordance with State law, the notice to the public of an emergency meeting must be posted at least two hours before the meeting is scheduled to begin. An emergency meeting exists only if immediate action is required of a governmental body because of an "imminent threat to public health and safety" or a "reasonably unforeseeable situation".
- 3.3 Recessed Meetings. Any meeting of the City Council may be recessed to a later time provided that no recess shall be for a longer period than until the next regularly scheduled City Council meeting.
- 3.4 Worksession Meetings. Worksession meetings may be called by the Mayor, any three (3) Councilmembers or the City Manager for the purpose of discussing in depth, investigating or exploring matters of interest to the City,

without formal action being taken thereon by the City Council. The time, place, and purpose of such worksession meeting shall be stated in a notice complying with the Texas Open Meetings Act. Such worksession meetings may be held in any appropriate location outside the City Hall upon concurrence by any three (3) Councilmembers or as determined by the City Manager. Such worksession meetings may include, but shall not be limited to, meetings with neighboring governmental bodies or agencies, meetings with one of the City's appointed boards, commissions or committees, meeting with civic organizations or a meeting for Councilmembers to research, evaluate, explore, investigate or discuss any matter of interest or possible action affecting the City, subject to compliance with the provisions of the Texas Open Meetings Act.

~~The City Council may establish regular worksession meetings immediately prior to regular City Council meetings. In conjunction with the regularly scheduled City Council meeting, a Pre City Council worksession shall be held at 5:30 p.m. unless otherwise officially established by the City Council. The agenda for the Pre City Council meeting shall include, among other items: routine reports, information related to the regular agenda items and issues for which the City Manager seeks direction or clarification.~~

No official action shall be taken at any worksession meeting, unless a regular or special meeting is called as provided for in these Rules.

SECTION IV. CONDUCT OF MEETINGS

- 4.1 Presiding Officer. The Mayor, if present, shall preside at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tem shall preside. In the absence of both Mayor and Mayor Pro Tem, the City Council shall elect a Councilmember to preside.
- 4.2 Call to Order. The meetings of the City Council shall be called to order by the Mayor, or in the Mayor's absence, by the Mayor Pro Tem. In the absence of both the Mayor and Mayor Pro Tem, the meeting shall be called to order by the City Secretary.
- 4.3 Preservation of Order. The Mayor shall preserve order and decorum, prevent clash of personalities or the impugning of Councilmembers' motives to occur and confine Councilmembers in debate to the question under discussion.

- 4.4 Points of Order. The Mayor shall determine all points of order, subject to the right of any Councilmember to appeal to the City Council. If any appeal is taken, the question shall be "Shall the decision of the Mayor be sustained?"
- 4.5 Questions to be Stated. The Mayor shall state all questions submitted for a vote and announce the result.
- 4.6 Substitution for Mayor. The Mayor may call the Mayor Pro Tem, or in the Mayor Pro Tem's absence, any other Councilmember to take the Mayor's place in the chair, such substitutions not to continue beyond adjournment.
- 4.7 Amendment to the Minutes. Amendments to the Minutes are made by a motion during the item to consider approval of the minutes. The Minutes are action minutes and provide the action taken by City Council and a summary of subjects discussed. If a Councilmember desires that certain information be included in the minutes, the Councilmember shall state prior to the information, "For the record". If it is a lengthy statement, a written copy shall be provided to the City Secretary.
- 4.8 Written Correspondence. A citizen's request in the reading of a statement into the public record as part of a City Council agenda item is at the sole discretion of any member or all of the governing body. The City Council is not obligated to provide for a reading of correspondence into the public record on behalf of an absent individual as part of a City Council public hearing. The City Council, any or all Councilmembers, may elect to provide for a reading of the correspondence, make reference indicating the general position of the correspondence, or pass over the correspondence. The correspondence is provided to City Council and is included in the City Council agenda packet.

SECTION V. AGENDA

5.1 Preparation of Agenda.

- A. The order of business of each meeting shall be as contained in the City Council agenda prepared by the City Manager. The agenda shall be a listing by topic of subjects to be considered by the City Council, and, in the case of regular meetings, shall be delivered to the City Council not less than 72 hours proceeding the Tuesday evening meeting to which it pertains.

- B. Any member of the City Council desiring to present a subject for City Council consideration shall advise in writing to the City Manager of the fact not later than 4:30 p.m. on Wednesday preceding regular City Council meetings. Subject matter will be accompanied by a summary regarding the purpose for the inclusion of this subject on the agenda.
- C. Items Omitted from Agenda. Any item not appearing on the agenda shall not be taken up for discussion as a matter of City Council business during a regular meeting unless it is of an emergency nature and comes to the City's attention too late to appear on the agenda. Such special, urgent or emergency issues shall be posted in compliance with the Texas Open Meetings Act and the City Charter and may be added as a supplemental item to the regular agenda.
- D. The regular agenda items shall be considered in the following order:
 - ~~a. Pre Council – 5:30 p.m. – Executive Conference Room~~
 - a. Executive Session – 6:30 p.m. - Executive Conference Room
 - b. Call to Order - 7:30 p.m. - Council Chambers
 - c. Invocation
 - d. Pledge of Allegiance
 - e. Resolution or Ordinance taking action on Executive Session items
 - f. Announcements, Proclamations and Presentations
 - g. Consent Items
 - h. Public Hearings
 - i. Discussion of items not for action
 - j. Citizen Comments/Presentations regarding items not on the agenda
 - k. Reports of Boards, Commissions, and Committees
 - l. Resolution approving City Council action not otherwise approved
 - m. Adjournment
- E. The general order of a Public Hearing shall be:
 - a. Staff presentation
 - b. Applicant introductory presentation – five minutes
 - c. City Council discussion
 - d. Open Public Hearing
 - e. Citizen comments - five minutes each (Large groups supporting the same position may be asked to select a representative to speak for the group)
 - f. Close public hearing

- g. City Council discussion and vote
- h. In the alternative, the item may be **tabled or** continued to a future meeting of the City Council.

- 1. If the City Council wishes to consider additional public testimony, the public hearing shall be reopened and the public hearing and item shall be continued to a date certain.
- 2. If the Public Hearing is not reopened and continued to a date certain, the City Council may only conduct an additional public hearing upon publication of notice in accordance with Chapter 211 of the Local Government Code.

F. The City Manager shall provide the City Council with a written analysis of and recommendation of items to be acted on by the City Council at its meetings. These communications shall be generally referred to as agenda packets. The agenda packets for all regular meetings shall be delivered to the City Council by the Friday preceding the Tuesday regular meeting to which it pertains, unless an emergency condition makes it necessary to deliver the communication on a subsequent day.

G. The City Secretary shall post notices of all City Council meetings in order to afford compliance with the Texas Open Meetings Act.

5.2 Consent Agenda. In preparing the agenda, the City Manager shall give consideration to the number and degree of complexity of items to be considered by the City Council for the purpose of conserving the City Council's time in meetings. Items which are anticipated to be routine and require little or no discussion by the City Council shall be listed under the agenda category styled "Consent Items". Prior to taking up the Consent Agenda, the Mayor shall determine if there are any items thereon which should be removed from the Consent Agenda for discussion. Any Councilmember may, upon request, remove any item from the Consent Agenda for discussion and separate action. Thereafter, all remaining Consent Agenda items may be acted upon by a single motion approving the Consent Agenda. Items removed from the Consent Agenda shall be considered on the ending Resolution, which is for action not otherwise approved.

~~5.3 Oral Presentations by City Manager. Matters requiring the City Council's attention or action which may have developed since the deadline for delivery of the agenda packets may, upon approval of the City Council, and after satisfying the requirements of the Texas Open Meetings Act, be presented orally by the City Manager, or designated staff.~~

5.3 Citizen Participation at Meetings.

- a. Presentations by citizens must be confined to the agenda item being considered and any questions will be directed to the Mayor. Citizens wishing to speak shall be allowed to speak, provided prior to the consideration of the item; said person completes and delivers to the City Secretary a Speaker's Card providing name, address and topic. A person who has not completed the Speaker's Card **prior to the close of the public hearing discussion** of the item on the agenda shall not be allowed to speak. Presentation by citizens shall be limited to a time period of not more than five (5) minutes with two (2) additional minutes to conclude, at the option of the Mayor or the consent of the City Council, for each speaker. Any time spent by the City Council will not be counted against the citizen's time allotment. No person shall speak more than the time limits provided herein on any subject. That privilege shall not be accorded unless there is an exception supported by a majority of those eligible to vote. The Mayor shall not be obligated to recognize a speaker for a second comment on a subject until all others have spoken and there is unused time available.
- b. Following a request by a Councilmember, the Mayor may request that the City Council suspend the rules to allow citizens to speak after the public hearing has been closed.
- c. To maintain decorum, the Mayor shall recognize persons who have completed a Speaker Card indicating a desire to address the City Council.
- d. As a general rule, citizens may not participate in discussions of the City Council except when recognized by the Mayor and during citizen presentations, public hearings and as otherwise provided for in these Rules.

- e. Citizens may speak on items not on the agenda under the item "Citizen Comments/Presentations Regarding Items Not On The Agenda". The presentation time period is as listed herein Section 5.4 A.

SECTION VI. DECORUM AND DEBATE

6.1 Decorum and Debate

- a. These rules are intended to serve as a statement of intent as to how this City Council endeavors to conduct itself during City Council meetings. It is the intent of the City Council that all members shall act based on a consistent level of information, with the goal being to act fully informed on all matters. Accordingly, if and when a Councilmember obtains material relevant to a matter before the City Council which has not otherwise been disclosed to the City Council, such Councilmember shall promptly provide such material to the city manager for dissemination to the City Council. All such information will be disseminated and disclosed to the full City Council, prior to the case being presented.
- b. When a measure is presented for consideration to the City Council, the Mayor shall recognize the appropriate Councilmember to present the case, as needed. When two or more Councilmembers wish to speak, the presiding officer shall name the Councilmember who is to speak first. No member of the City Council shall interrupt another while speaking except to make a point of order or to make a point of personal privilege.
- c. The Mayor shall not be obligated to recognize any Councilmember for a second comment on the subject or amendment until every Councilmember wishing to speak has been allowed a first comment.
- d. Questions from speakers to the City Council with request for an immediate answer, except the applicants and persons representing applicants on platting or zoning cases, shall be prohibited. A Councilmember's questions to speakers should be to specific individuals and the Mayor should explain to those individuals beforehand that they may come to the podium and answer if they choose to, ~~but, they cannot offer additional unsolicited input or engage in question and answer sessions with Councilmembers.~~

- e. Any Councilmember desiring to speak shall be recognized by the Mayor, and shall confine remarks to the subject under discussion or to be discussed. No Councilmember shall be allowed to speak more than once on any one subject until every Councilmember wishing to speak shall have spoken.
- f. No Councilmember shall be permitted to indulge in personalities, use language personally offensive, impugn motives of Councilmembers, charge deliberate misrepresentation, or use language tending to hold a member of the City Council, the public or City staff up to contempt.
- g. The Mayor shall not permit unrecognized speaker's comments or allow a member of the audience to indulge in personalities, use language tending to hold the City Council, the public or City staff up to contempt.
- h. If a Councilmember is ~~speaking or otherwise~~ transgressing the rules of the City Council, ~~through speech or otherwise~~, the Mayor shall or any Councilmember may call him/her to order in which case he/she shall immediately be quiet unless permitted to explain. The City Council shall, if appealed to, decide the case without debate. If the decision is in favor of the Councilmember called to order, he/she shall be at liberty to proceed, but not otherwise, and if the case occurs, he/she shall be liable to censure or such punishment as the City Council deems proper, consistent with City Ordinances, Resolutions and Charter.
- i. Any individual of the public who shall disrupt the City Council proceedings or disregard the Mayor shall first be warned of such offense and be requested that they refrain from disrupting the proceedings and/or disregarding the instructions of the Mayor. Any individual of the public failing to honor the first warning of the Mayor for order, shall receive a second and final warning prior to expulsion and/or citation for disturbing a public meeting pursuant to State law. When the Mayor fails to maintain order and decorum, the Councilmembers may compel the Mayor to enforce this provision following due parliamentary procedure, which affirms such compulsion by a majority vote of the City Council.

SECTION VII. PROCEDURES FOR CITY COUNCIL APPOINTMENTS

7.1 Procedures for City Council Appointments. The following procedures are for making appointments to boards, committees and commissions established by ordinance or resolution. Appointments to ad hoc committees and task forces established by resolution should not necessarily be bound by the same procedures, but may be done in a manner appropriate to the situation as deemed proper by the City Council. The City Council shall set the quorum for a committee. The City Council shall vote whether the committee selection will be handled by the rules of procedures or by slate.

- A. Announce the position(s) to be filled. In the announcement, define the duties of the position(s), define the term of the position and request that applications be formally submitted to the City Council by a specific deadline. This announcement should be made at least 30 days prior to the deadline for submission of applications and should be placed in the local newspaper, posted at City Hall, on the website and placed in the *City e-news* (if timely).

Upon review of the Applications for Appointment, City Council will determine if interviews shall be conducted. If Council desires, interviews will be conducted prior to a City Council meeting, which may be subject to the Texas Open Meetings Act or be conducted in Executive Session. If no applications are received or fewer applications than open positions are received, the City Council may fill positions from the floor or request the City Secretary to advertise the open position(s). In the event of a vacancy other than an expiring term, the City Council may fill the position by a majority vote of the City Council without advertising. The appointee shall serve the unexpired term.

- B. The candidates will be selected to fill the open positions no later than the second City Council meeting after the deadline for application submission, in the following manner:
 - a. If more than one position is to be filled, consider the appointment for each position individually in the order selected by the Mayor, as follows:
 - b. The Mayor shall open the floor for nominations and if there are no nominations, the Mayor will call on each Councilmember for a nomination.

- c. Councilmembers or the Mayor may decline to make a nomination if previous nominations are acceptable.
- d. After each Councilmember has had an opportunity to make a nomination or defer to make a nomination, the Mayor will take a vote on the slate of nominees by asking each Councilmember to state the name of the nominee that the Councilmember votes to appoint to the position under consideration.
- e. Return to Step b and repeat the process for the next position to be filled until all positions are filled.

SECTION VIII. MEMORIALS

- 8.1 Memorials. The following procedures are for honoring deceased current or former City elected officials, sitting board, commission or committee members and community volunteers.
- A. Recognition of the death of a current or former City elected official. When the City is notified of the death of a current or former elected official, flowers or a plant will be sent to the memorial service, or a donation to an organization specified by the family (in an amount not to exceed \$150.00), and a sympathy card will be sent to the family. A Memorial Proclamation, honoring the official, will be sent to the memorial service or to the family. The City Manager's Office will coordinate the donation of a book, in which the official's name is inscribed on a bookplate inside of the book, to the Colleyville Public Library, in an amount not to exceed \$50.00. A letter from the Library Director will notify the family of the book donation.
 - B. At the family's request and with City Manager approval, members of the Colleyville Police and Fire Department Honor Guard may attend the funeral of a current or former City elected official as representatives of the City.
 - C. Recognition of the death of a sitting board, commission or committee member. When the City is notified of the death of a sitting board, commission or committee member, the City Manager's Office will forward a sympathy card to the family.

D. Recognition of the death of community volunteers. Due to the significant number of community volunteers assisting a multitude of organizations across the City of Colleyville, it will not be the practice of the City to recognize these individuals in a formal capacity. During a City Council meeting, elected officials may, at their discretion, verbally recognize the efforts of these individuals and their service to Colleyville during the agenda item for Announcements, Proclamations and Presentations.

8.2 Recognition by lowering of the United States Flag. The City is not at liberty to proclaim the Flag of the United States be flown at half-staff in recognition of a City official. Per the United States Code, only the President of the United States or the State Governor can order the flag lowered to half-staff.

8.3 Use of City equipment and personnel. At no time will City equipment be used to carry the casket or participate in the funeral procession of a deceased, current or former City elected official, board, commission, committee member or community volunteer. Exceptions to this rule may include City equipment earmarked for use by community groups, such as the Citizen Fire Academy Alumni Association Rehab Team and the Citizen Police Academy Alumni Association Citizens on Patrol, where equipment use for a group member's funeral may be authorized by the Department Director.

History of Adoption and Amendments

Resolution Number	Adoption / Amendment Date	Subject
R-88-387	8/18/88	Adopted Rules of Procedure
R-90-610	7/3/90	Amended to adopt the procedure for appointing committees as established by ordinance
R-90-612	7/17/90	None noted
R-91-654	1/22/91	Amended regular meeting language; subjects for City Council consideration; preparation of agenda
R-94-999	4/19/94	Provided suspension of rules by $\frac{3}{4}$ majority
R-95-1122	6/6/95	Amended Councilmembers presenting subjects for City Council consideration
R-03-2268	6/5/03	Members presenting subjects for City Council consideration
R-05-2599	9/20/05	Citizen comments
R-06-2721	7/5/06	Regular agenda items; Pre Council and Executive Session posted meeting times; public hearing order; process for continuing public hearings; memorials
R-07-2859	7/17/07	Robert's Rules of Order removed
R-08-2980	6/17/08	Resolutions
R-09-3183	12/15/09	Types of meetings; agenda sections; preparation of agendas; memorials
R-11-3308	1/4/11	Memorials
R-12-3520	8/7/12	Types of meetings & special meetings
R-13-3645	6/18/13	Grammatical updates
R-16-4021	8/16/16	Executive session (certified agendas) and start time; removal of paragraphs relative to the establishment of worksessions; order of the regular agenda items; general order of public hearings; removal of oral presentations by city manager; addition of speaker card submittal prior to the close of the public hearing; removal of the offering of unsolicited input; addition of language to City Councilmembers transgressing the rules of procedure; & addition of \$100 for memorial donations

Addressing City Council

Citizens may address the City Council during any public hearing agenda item by completing a speaker card and presenting it to the City Secretary. There is time for the public to address the City Council on any subject. However, in accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decisions at this time since the topic is not a posted agenda item. Issues raised may be referred to City staff for research and possible future action.

Each citizen presentation will be limited to five minutes. Delegations or groups are asked to select one spokesperson for the group to speak for five minutes. When addressing City Council, the presentation should be thorough, concise, and complete. No additional information may be given following your presentation, unless specific questions are asked by Councilmembers.

The Mayor will recognize each citizen appearing before the City Council. After recognition, speakers should move to the podium, state their name and address for the public record. If the speaker is representing an organization or group, the group should be identified before the presentation. Presentations and discussions should be directed to the City Council and all questions to the Mayor.

During staff presentations and City Council deliberation, there will be no citizen participation, except to answer questions by City Council. These procedures shall remain flexible and in compliance with the City Charter.

Tips for making successful presentations to the City Council

- ❖ Short and to the point presentations are most effective.
- ❖ All public comments should be addressed through the Mayor.
- ❖ If your point has been expressed by previous speakers, you may wish to inform the Mayor that you choose not to speak as your position has already been articulated.
- ❖ Persons wishing to address the City Council on a specific public hearing item or an item not on the agenda under "Citizen Comments" must complete a "Speaker Card."
- ❖ Be courteous. Profanity, abusive language or general disruption will not be tolerated.

WEBCASTS AND BROADCAST SCHEDULE

Meeting webcasts are available at: www.colleyville.com/webcasts. Meetings are televised live on Verizon Cable Channel 16 and Time Warner Cable Channel 15 and rebroadcast at 6:00 p.m. Thursday and Sunday of the same week.

Date of Revision: May 31, 2016



WELCOME TO THE CITY OF COLLEYVILLE CITY COUNCIL MEETING

The Colleyville City Council welcomes all citizens to attend public meetings. Citizens wishing to address the City Council should become familiar with the procedures listed in this brochure. The City Council is interested in ideas and constructive comments provided by citizens.

The City of Colleyville operates under the laws of the State of Texas and within the framework of a Home Rule Charter adopted by the citizens in 1977 and amended twice. The City Council prepared this brochure to assist in understanding how local government functions, including conduct of the City Council meetings.

Please silence all communication devices during the City Council Meeting

**For more information,
please contact the**
Office of the City Secretary
100 Main Street
Colleyville, Texas 76034
817.503.1130
ashelley@colleyville.com or
cloven@colleyville.com

City Government

The Colleyville City Council is composed of seven members; six City Councilmembers elected by place number and a Mayor. All members are elected from the City at-large. Under the provisions of the City Charter, and subject only to the limitations imposed by State law, the City Council enacts local legislation, adopts the annual operating budget, and sets policy in the Council-Manager form of government. The City Manager carries out policy and administers the day-to-day operation of the City, while the Mayor is recognized as the head of the City government for all ceremonial purposes, and has the responsibility of presiding over all meetings of the City Council.

Guidelines for City Council Meetings

All City Council meetings are open to the public. Public notices of City Council meetings are posted 72 hours in advance of the meeting at City Hall, and on the City's web site. A meeting agenda is available at all meetings. The City Council, on occasion, will call a special meeting or a worksession, as necessary, and reserves the right to change the meeting place and date.

The Meeting Agenda

When an item on the posted agenda is considered by the City Council, staff presentations will be heard first followed by citizen presentations. The item will then go to the City Council for deliberation and action.

During staff presentations and City Council deliberation, there will be no citizen participation except to answer questions by Councilmembers. These procedures shall remain flexible and in compliance with the City Charter.

Pre Council Meeting

The City Council conducts a Pre Council

meeting to discuss and receive information regarding the agenda. Items that are not ready for a City Council vote, but which City Council desires to discuss, may also be placed on the Pre Council agenda. The Pre Council meeting begins at 5:30 p.m., on the first and third Tuesday of each month, prior to the Regular Meeting, in the Executive Conference Room on the third floor of City Hall.

Executive Session

Executive Sessions may be conducted immediately following the Pre Council meeting and prior to, or following, the Regular Meeting. Executive Sessions are closed meetings and are permitted for the discussion of the following items that legitimately fall within the exceptions as stated in the Texas Open Meetings Act. No action is taken during Executive Session.

- ❖ Consultation with the City Attorney to seek advice about pending or contemplated litigation, settlement offer, or other matter as permitted
- ❖ Deliberations regarding the purchase, lease, exchange or value of real property
- ❖ Deliberations regarding personnel matters
- ❖ Deliberations regarding economic development negotiations

Regular City Council Meeting

Regular City Council meetings are scheduled in the City Council Chamber at City Hall, 100 Main Street, at 7:30 p.m., on the first and third Tuesday of each month.

Consent Agenda Items

Consent Agenda items are routine in nature and deemed to require little or no deliberation by the City Council. To save time, these items are considered collectively.

Ordinances

All ordinances exclusive of emergency ordinances as defined by the City Charter, shall be read in an open meeting at two (2) consecutive regular City Council meetings. No final vote of approval or disapproval shall be taken by City Council until after the second reading and public hearing on each ordinance.

Resolutions

Any official action of the City Council not authorized by ordinance shall be authorized by resolution. All resolutions shall be read in an open meeting of the City Council and shall be followed by public hearing.

CITY COUNCIL MEETING PROTOCOL

While City Council is in session, we request the following protocol be followed:

- ❖ All persons shall remove hats and refrain from private conversations in the City Council Chambers. No handguns or other weapons are allowed to be carried openly.
- ❖ Citizens attending City Council meetings shall observe the same rules of propriety, decorum, and good conduct applicable to members of the City Council. Any person making personal, impertinent, and slanderous remarks, or who becomes boisterous while addressing the City Council or attending the City Council meeting, will be asked to leave City Hall by the Mayor.
- ❖ No placards, banners, or signs of any kind will be permitted in the City Council Chambers. However, exhibits, displays, and visual aids used in connection with the presentations to the City Council are permitted.

RESOLUTION R-16-4023

A RESOLUTION REPLACING RESOLUTION R-13-3645 ADOPTING RULES OF PROCEDURE AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Charter of the City of Colleyville authorizes the City Council to determine its own rules and order of business; and

WHEREAS, the City Council has been elected by the Public to represent all the citizens on their behalf; and

WHEREAS, orderly City Council meetings providing reasonable City Council and citizen input; foster good government and honor the democratic process; and

WHEREAS, unlimited discussion and input can project a perspective inconsistent with the majority will and beyond the right of the minority regarding matters of public policy.

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

SECTION I.

FINDINGS

1.1 THAT all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

PRIOR RESOLUTIONS

1.2 THAT by the passage of this Resolution, Resolution R-13-3645, is hereby replaced in its entirety and as provided for herein.

AUTHORITY

1.3 THAT Section 3.09B of the Charter of the City of Colleyville provides that "the Council shall determine its own rules and order of business...". Further, Section 2.01 of such Charter provides that the "City Council shall have the powers, functions, rights, privileges and immunities of every name and nature, that are now or hereafter may be granted to a Home

Rule City by the Constitution and State law, together with all implied powers necessary to carry into execution all such powers granted". In order to provide the framework for the execution of these powers and authority, the Rules of Procedure set forth in the attached Exhibit "A" are hereby adopted, which exhibit is incorporated herein by reference, and shall be in effect upon their adoption by the City Council and until such times as they are amended or new rules adopted in the manner provided for by these rules.

SECTION II.

REPEAL

- 2.1 THAT this Resolution repeals previous Rules of Procedure and becomes effective after the meeting adopting Resolution R-16-4023.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF _____ AYES, _____ NAYS, AND _____ ABSTENTIONS ON THIS THE 16TH DAY OF AUGUST 2016.

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor



CITY COUNCIL

RULES OF PROCEDURE

TABLE OF CONTENTS

Section I – AUTHORITY

1.1 Charter.....	4
1.2 Annual Review.....	4
1.3 Amendments.....	4

Section II – GENERAL RULES

2.1 Meetings to be Public.....	4
2.2 City Council.....	4
2.3 Quorum.....	4
2.4 Minutes of Meetings.....	4
2.5 Questions to Contain One Subject.....	5
2.6 City Manager	5
2.7 City Attorney.....	5
2.8 City Secretary.....	5
2.9 Employees.....	5
2.10 Suspension of Rules.....	5
2.11 Executive Session.....	6

Section III – TYPES OF MEETINGS

3.1 Regular Meetings.....	6
3.2 Special Meetings.....	6
3.3 Recessed Meetings.....	6
3.4 Worksession Meetings.....	6-7

Section IV – CONDUCT OF MEETINGS

4.1 Presiding Officer.....	7
4.2 Call to Order.....	7
4.3 Preservation of Order.....	7
4.4 Points of Order.....	7
4.5 Questions to be Stated.....	7
4.6 Substitution for Mayor.....	7
4.7 Amendment to the Minutes.....	8
4.8 Written Correspondence.....	8

Section V - AGENDA

5.1 Preparation of Agenda.....8

5.2 Consent Agenda.....10

5.3 Citizen Participation at Meetings.....10

Section VI – DECORUM AND DEBATE

6.1 Decorum and Debate.....11-13

Section VII – PROCEDURES FOR CITY COUNCIL APPOINTMENTS

7.1 Procedures for City Council Appointments.....13-14

Section VIII - MEMORIALS

8.1 Memorials.....14-15

8.2 Recognition by lowering of the United States Flag15

8.3 Use of City equipment and personnel15

HISTORY OF ADOPTION AND AMENDMENTS.....16

SECTION I. AUTHORITY

- 1.1 Charter. Section 3.09B of the Charter of the City of Colleyville provides that "the Council shall determine its own rules and order of business..." Further, Section 2.01 of the Charter provides that the City Council shall have the powers, functions, rights, privileges and immunities of every name and nature, that are now or hereafter, may be granted to a Home Rule City by the Constitution and State law, together with all implied powers necessary to carry into execution all such powers granted." In order to provide the framework for the execution of these powers and authority, the following set of rules shall be in effect upon their adoption by the City Council, and until such times as they are amended or new rules adopted in the manner provided for by these rules.
- 1.2 Annual Review. Following the municipal elections each year, City Council may review these rules in accordance with the Charter. In the event no annual review occurs, the standing rules will continue in effect. This does not limit the City Council's right and ability to amend these rules at any other time during the year, in accordance with the Charter.
- 1.3 Amendments. These rules may be amended or new rules adopted by a majority vote of the members of the City Council present.

SECTION II. GENERAL RULES

- 2.1 Meetings to be Public. All meetings of the City Council shall be open to the public, with the exception of Executive Session.
- 2.2 City Council. For purposes of these rules, the collective membership of the Mayor and City Councilmembers shall be known as the City Council. Individually, each shall be referred to as Mayor, Mayor Pro Tem, or Councilmember.
- 2.3 Quorum. Four (4) voting members of the City Council shall constitute a quorum.
- 2.4 Minutes of Meetings. An account of all proceedings of the City Council shall be kept by the City Secretary and shall be entered in a book constituting the official record of the City Council. The Official City Council Minutes are action minutes and provide the action taken by the City Council and a summary of subjects discussed.

- 2.5 Questions to Contain One Subject. All questions submitted for a vote shall contain only one subject. If two or more points are involved, any Councilmember may require a division, if the question reasonably admits of a division. Division shall be required only on the affirmative vote of three (3) Councilmembers. If no division is so requested and approved, or the questions do not reasonably admit of a division, the question shall be submitted as originally framed.
- 2.6 City Manager. The City Manager shall attend all City Council meetings unless expressly excused. The City Manager may make recommendations to the City Council and take part in all discussions of the City Council, but shall have no vote.
- 2.7 City Attorney. The City Attorney shall attend all regular meetings of the City Council unless expressly excused and, shall upon request give an opinion, either written or oral, on questions of law during the meeting. The City Attorney shall act as the City Council's Parliamentarian. The City Attorney shall give an opinion, either written or oral, on questions of law to the City Manager or designated representative, during the course of daily affairs of the City. The City Attorney may make recommendations to the City Council and take part in all discussions of the City Council, but shall have no vote. The City Attorney shall confer and discuss with a Councilmember or the Mayor regarding a question of law pertaining to the affairs of the City. In such event, the City Attorney shall advise the City Manager of the question posed and information provided. The City Manager shall forward the information to the full City Council as soon as reasonably practical.
- 2.8 City Secretary. The City Secretary shall attend all meetings of the City Council unless expressly excused, and shall keep the official minutes and perform such other duties as may be requested by the City Council.
- 2.9 Employees. Any employee of the City, when requested by the City Manager, shall attend any meeting of the City Council and, if requested to do so by the City Manager, such employee may present information relating to matters before the City Council. The City Manager will determine the staff spokesperson for providing information, for a particular agenda item, at the City Council meeting.
- 2.10 Suspension of Rules. Any provisions of these rules not governed by State law, the City Charter, or City Code may be temporarily suspended by a majority vote of all Councilmembers present and eligible to vote.

2.11 Executive Session. All matters discussed in Executive Session, as authorized by the Texas Open Meetings Act, may be deemed confidential and by law, participants authorized to attend Executive Sessions are not required to make public disclosure concerning the matters discussed in Executive Session. It shall be the policy of the City Council, that the Mayor, individual Councilmembers, the City Manager, City Attorney, City Secretary and others who are authorized to attend Executive Sessions shall not make selective disclosure of confidential matters, where the disclosure of the information has not been released to the general public and/or where such disclosure provides an unfair advantage to the recipient or would be detrimental to the City and its citizens. For the opening and closing of an Executive Session, the Mayor shall do such at the location as noted on the official agenda notice posted in compliance with the Texas Open Meetings Act, and all of this information must be included in the certified agenda. (Tex. Gov't Code §551.103) For purposes of regular agenda meeting postings, the opening and closing of an Executive Session shall be done in the Executive Conference Room of City Hall.

SECTION III. TYPES OF MEETINGS

- 3.1 Regular Meetings. The City Council shall meet in the City Hall on the first and third Tuesday of each month at 6:30 p.m. unless otherwise officially established by the City Council. The City Council shall take a vote at 12:00 a.m. on whether or not to continue a meeting for additional time if further items are on the agenda and have not been considered. The call for and conduct of all meetings of the City Council, both regular and special as provided in Section 3.2 hereof, shall be in accordance with State law.
- 3.2 Special Meetings. Special meetings may be held on the call of the Mayor or four (4) members of the City Council at the place within the City of Colleyville designated in the public notice. In accordance with State law, the notice to the public of an emergency meeting must be posted at least two hours before the meeting is scheduled to begin. An emergency meeting exists only if immediate action is required of a governmental body because of an "imminent threat to public health and safety" or a "reasonably unforeseeable situation".
- 3.3 Recessed Meetings. Any meeting of the City Council may be recessed to a later time provided that no recess shall be for a longer period than until the next regularly scheduled City Council meeting.
- 3.4 Worksession Meetings. Worksession meetings may be called by the Mayor, any three (3) Councilmembers or the City Manager for the purpose of discussing in depth, investigating or exploring matters of interest to the City,

without formal action being taken thereon by the City Council. The time, place, and purpose of such worksession meeting shall be stated in a notice complying with the Texas Open Meetings Act. Such worksession meetings may be held in any appropriate location outside the City Hall upon concurrence by any three (3) Councilmembers or as determined by the City Manager. Such worksession meetings may include, but shall not be limited to, meetings with neighboring governmental bodies or agencies, meetings with one of the City's appointed boards, commissions or committees, meeting with civic organizations or a meeting for Councilmembers to research, evaluate, explore, investigate or discuss any matter of interest or possible action affecting the City, subject to compliance with the provisions of the Texas Open Meetings Act.

No official action shall be taken at any worksession meeting, unless a regular or special meeting is called as provided for in these Rules.

SECTION IV. CONDUCT OF MEETINGS

- 4.1 Presiding Officer. The Mayor, if present, shall preside at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tem shall preside. In the absence of both Mayor and Mayor Pro Tem, the City Council shall elect a Councilmember to preside.
- 4.2 Call to Order. The meetings of the City Council shall be called to order by the Mayor, or in the Mayor's absence, by the Mayor Pro Tem. In the absence of both the Mayor and Mayor Pro Tem, the meeting shall be called to order by the City Secretary.
- 4.3 Preservation of Order. The Mayor shall preserve order and decorum, prevent clash of personalities or the impugning of Councilmembers' motives to occur and confine Councilmembers in debate to the question under discussion.
- 4.4 Points of Order. The Mayor shall determine all points of order, subject to the right of any Councilmember to appeal to the City Council. If any appeal is taken, the question shall be "Shall the decision of the Mayor be sustained?"
- 4.5 Questions to be Stated. The Mayor shall state all questions submitted for a vote and announce the result.
- 4.6 Substitution for Mayor. The Mayor may call the Mayor Pro Tem, or in the Mayor Pro Tem's absence, any other Councilmember to take the Mayor's place in the chair, such substitutions not to continue beyond adjournment.

- 4.7 Amendment to the Minutes. Amendments to the Minutes are made by a motion during the item to consider approval of the minutes. The Minutes are action minutes and provide the action taken by City Council and a summary of subjects discussed. If a Councilmember desires that certain information be included in the minutes, the Councilmember shall state prior to the information, "For the record". If it is a lengthy statement, a written copy shall be provided to the City Secretary.
- 4.8 Written Correspondence. A citizen's request in the reading of a statement into the public record as part of a City Council agenda item is at the sole discretion of any member or all of the governing body. The City Council is not obligated to provide for a reading of correspondence into the public record on behalf of an absent individual as part of a City Council public hearing. The City Council, any or all Councilmembers, may elect to provide for a reading of the correspondence, make reference indicating the general position of the correspondence, or pass over the correspondence. The correspondence is provided to City Council and is included in the City Council agenda packet.

SECTION V. AGENDA

5.1 Preparation of Agenda.

- A. The order of business of each meeting shall be as contained in the City Council agenda prepared by the City Manager. The agenda shall be a listing by topic of subjects to be considered by the City Council, and, in the case of regular meetings, shall be delivered to the City Council not less than 72 hours preceding the Tuesday evening meeting to which it pertains.
- B. Any member of the City Council desiring to present a subject for City Council consideration shall advise in writing to the City Manager of the fact not later than 4:30 p.m. on Wednesday preceding regular City Council meetings. Subject matter will be accompanied by a summary regarding the purpose for the inclusion of this subject on the agenda.
- C. **Items Omitted from Agenda.** Any item not appearing on the agenda shall not be taken up for discussion as a matter of City Council business during a regular meeting unless it is of an emergency nature and comes to the City's attention too late to appear on the agenda. Such special, urgent or emergency issues shall be posted in compliance with the Texas

Open Meetings Act and the City Charter and may be added as a supplemental item to the regular agenda.

D. The regular agenda items shall be considered in the following order:

- a. Executive Session – 6:30 p.m. - Executive Conference Room
- b. Call to Order - 7:30 p.m. - Council Chambers
- c. Invocation
- d. Pledge of Allegiance
- e. Resolution or Ordinance taking action on Executive Session items
- f. Announcements, Proclamations and Presentations
- g. Consent Items
- h. Public Hearings
- i. Discussion of items not for action
- j. Citizen Comments/Presentations regarding items not on the agenda
- k. Reports of Boards, Commissions, and Committees
- l. Resolution approving City Council action not otherwise approved
- m. Adjournment

E. The general order of a Public Hearing shall be:

- a. Staff presentation
- b. Applicant introductory presentation – five minutes
- c. City Council discussion
- d. Open Public Hearing
- e. Citizen comments - five minutes each (Large groups supporting the same position may be asked to select a representative to speak for the group)
- f. Close public hearing
- g. City Council discussion and vote
- h. In the alternative, the item may be tabled or continued to a future meeting of the City Council.
 1. If the City Council wishes to consider additional public testimony, the public hearing shall be reopened and the public hearing and item shall be continued to a date certain.
 2. If the Public Hearing is not reopened and continued to a date certain, the City Council may only conduct an additional public hearing upon publication of notice in accordance with Chapter 211 of the Local Government Code.

- F. The City Manager shall provide the City Council with a written analysis of and recommendation of items to be acted on by the City Council at its meetings. These communications shall be generally referred to as agenda packets. The agenda packets for all regular meetings shall be delivered to the City Council by the Friday preceding the Tuesday regular meeting to which it pertains, unless an emergency condition makes it necessary to deliver the communication on a subsequent day.
- G. The City Secretary shall post notices of all City Council meetings in order to afford compliance with the Texas Open Meetings Act.

5.2 Consent Agenda. In preparing the agenda, the City Manager shall give consideration to the number and degree of complexity of items to be considered by the City Council for the purpose of conserving the City Council's time in meetings. Items which are anticipated to be routine and require little or no discussion by the City Council shall be listed under the agenda category styled "Consent Items". Prior to taking up the Consent Agenda, the Mayor shall determine if there are any items thereon which should be removed from the Consent Agenda for discussion. Any Councilmember may, upon request, remove any item from the Consent Agenda for discussion and separate action. Thereafter, all remaining Consent Agenda items may be acted upon by a single motion approving the Consent Agenda. Items removed from the Consent Agenda shall be considered on the ending Resolution, which is for action not otherwise approved.

5.3 Citizen Participation at Meetings.

- a. Presentations by citizens must be confined to the agenda item being considered and any questions will be directed to the Mayor. Citizens wishing to speak shall be allowed to speak, provided prior to the consideration of the item; said person completes and delivers to the City Secretary a Speaker's Card providing name, address and topic. A person who has not completed the Speaker's Card prior to the close of the public hearing of the item on the agenda shall not be allowed to speak. Presentation by citizens shall be limited to a time period of not more than five (5) minutes with two (2) additional minutes to conclude, at the option of the Mayor or the consent of the City Council, for each speaker. Any time spent by the City Council will not be counted against the citizen's time allotment. No person shall speak more than the time limits provided herein on any subject. That privilege shall not be accorded unless there is an exception supported by a majority of those

eligible to vote. The Mayor shall not be obligated to recognize a speaker for a second comment on a subject until all others have spoken and there is unused time available.

- b. Following a request by a Councilmember, the Mayor may request that the City Council suspend the rules to allow citizens to speak after the public hearing has been closed.
- c. To maintain decorum, the Mayor shall recognize persons who have completed a Speaker Card indicating a desire to address the City Council.
- d. As a general rule, citizens may not participate in discussions of the City Council except when recognized by the Mayor and during citizen presentations, public hearings and as otherwise provided for in these Rules.
- e. Citizens may speak on items not on the agenda under the item "Citizen Comments/Presentations Regarding Items Not On The Agenda". The presentation time period is as listed herein Section 5.4 A.

SECTION VI. DECORUM AND DEBATE

6.1 Decorum and Debate

- a. These rules are intended to serve as a statement of intent as to how this City Council endeavors to conduct itself during City Council meetings. It is the intent of the City Council that all members shall act based on a consistent level of information, with the goal being to act fully informed on all matters. Accordingly, if and when a Councilmember obtains material relevant to a matter before the City Council which has not otherwise been disclosed to the City Council, such Councilmember shall promptly provide such material to the city manager for dissemination to the City Council. All such information will be disseminated and disclosed to the full City Council, prior to the case being presented.

- b. When a measure is presented for consideration to the City Council, the Mayor shall recognize the appropriate Councilmember to present the case, as needed. When two or more Councilmembers wish to speak, the presiding officer shall name the Councilmember who is to speak first. No member of the City Council shall interrupt another while speaking except to make a point of order or to make a point of personal privilege.
- c. The Mayor shall not be obligated to recognize any Councilmember for a second comment on the subject or amendment until every Councilmember wishing to speak has been allowed a first comment.
- d. Questions from speakers to the City Council with request for an immediate answer, except the applicants and persons representing applicants on platting or zoning cases, shall be prohibited. A Councilmember's questions to speakers should be to specific individuals and the Mayor should explain to those individuals beforehand that they may come to the podium and answer if they choose to.
- e. Any Councilmember desiring to speak shall be recognized by the Mayor, and shall confine remarks to the subject under discussion or to be discussed. No Councilmember shall be allowed to speak more than once on any one subject until every Councilmember wishing to speak shall have spoken.
- f. No Councilmember shall be permitted to indulge in personalities, use language personally offensive, impugn motives of Councilmembers, charge deliberate misrepresentation, or use language tending to hold a member of the City Council, the public or City staff up to contempt.
- g. The Mayor shall not permit unrecognized speaker's comments or allow a member of the audience to indulge in personalities, use language tending to hold the City Council, the public or City staff up to contempt.
- h. If a Councilmember is transgressing the rules of the City Council, through speech or otherwise, the Mayor shall or any Councilmember may call him/her to order in which case he/she shall immediately be quiet unless permitted to explain. The City Council shall, if appealed to, decide the case without debate. If the decision is in favor of the Councilmember called to order, he/she shall be at liberty to proceed, but not otherwise, and if the case occurs, he/she shall be liable to

censure or such punishment as the City Council deems proper, consistent with City Ordinances, Resolutions and Charter.

- i. Any individual of the public who shall disrupt the City Council proceedings or disregard the Mayor shall first be warned of such offense and be requested that they refrain from disrupting the proceedings and/or disregarding the instructions of the Mayor. Any individual of the public failing to honor the first warning of the Mayor for order, shall receive a second and final warning prior to expulsion and/or citation for disturbing a public meeting pursuant to State law. When the Mayor fails to maintain order and decorum, the Councilmembers may compel the Mayor to enforce this provision following due parliamentary procedure, which affirms such compulsion by a majority vote of the City Council.

SECTION VII. PROCEDURES FOR CITY COUNCIL APPOINTMENTS

7.1 Procedures for City Council Appointments. The following procedures are for making appointments to boards, committees and commissions established by ordinance or resolution. Appointments to ad hoc committees and task forces established by resolution should not necessarily be bound by the same procedures, but may be done in a manner appropriate to the situation as deemed proper by the City Council. The City Council shall set the quorum for a committee. The City Council shall vote whether the committee selection will be handled by the rules of procedures or by slate.

- A. Announce the position(s) to be filled. In the announcement, define the duties of the position(s), define the term of the position and request that applications be formally submitted to the City Council by a specific deadline. This announcement should be made at least 30 days prior to the deadline for submission of applications and should be placed in the local newspaper, posted at City Hall, on the website and placed in the *City e-news* (if timely).

Upon review of the Applications for Appointment, City Council will determine if interviews shall be conducted. If Council desires, interviews will be conducted prior to a City Council meeting, which may be subject to the Texas Open Meetings Act or be conducted in Executive Session. If no applications are received or fewer applications than open positions are received, the City Council may fill positions from the floor or request the City Secretary to advertise the open position(s). In the event of a vacancy other than an expiring term, the City Council may fill the

position by a majority vote of the City Council without advertising. The appointee shall serve the unexpired term.

- B. The candidates will be selected to fill the open positions no later than the second City Council meeting after the deadline for application submission, in the following manner:
 - a. If more than one position is to be filled, consider the appointment for each position individually in the order selected by the Mayor, as follows:
 - b. The Mayor shall open the floor for nominations and if there are no nominations, the Mayor will call on each Councilmember for a nomination.
 - c. Councilmembers or the Mayor may decline to make a nomination if previous nominations are acceptable.
 - d. After each Councilmember has had an opportunity to make a nomination or defer to make a nomination, the Mayor will take a vote on the slate of nominees by asking each Councilmember to state the name of the nominee that the Councilmember votes to appoint to the position under consideration.
 - e. Return to Step b and repeat the process for the next position to be filled until all positions are filled.

SECTION VIII. MEMORIALS

8.1 Memorials. The following procedures are for honoring deceased current or former City elected officials, sitting board, commission or committee members and community volunteers.

- A. Recognition of the death of a current or former City elected official. When the City is notified of the death of a current or former elected official, flowers or a plant will be sent to the memorial service, or a donation to an organization specified by the family (in an amount not to exceed \$150.00), and a sympathy card will be sent to the family. A Memorial Proclamation, honoring the official, will be sent to the memorial service or to the family. The City Manager's Office will coordinate the donation of a book, in which the official's name is

inscribed on a bookplate inside of the book, to the Colleyville Public Library, in an amount not to exceed \$50.00. A letter from the Library Director will notify the family of the book donation.

- B. At the family's request and with City Manager approval, members of the Colleyville Police and Fire Department Honor Guard may attend the funeral of a current or former City elected official as representatives of the City.
- C. Recognition of the death of a sitting board, commission or committee member. When the City is notified of the death of a sitting board, commission or committee member, the City Manager's Office will forward a sympathy card to the family.
- D. Recognition of the death of community volunteers. Due to the significant number of community volunteers assisting a multitude of organizations across the City of Colleyville, it will not be the practice of the City to recognize these individuals in a formal capacity. During a City Council meeting, elected officials may, at their discretion, verbally recognize the efforts of these individuals and their service to Colleyville during the agenda item for Announcements, Proclamations and Presentations.

8.2 Recognition by lowering of the United States Flag. The City is not at liberty to proclaim the Flag of the United States be flown at half-staff in recognition of a City official. Per the United States Code, only the President of the United States or the State Governor can order the flag lowered to half-staff.

8.3 Use of City equipment and personnel. At no time will City equipment be used to carry the casket or participate in the funeral procession of a deceased, current or former City elected official, board, commission, committee member or community volunteer. Exceptions to this rule may include City equipment earmarked for use by community groups, such as the Citizen Fire Academy Alumni Association Rehab Team and the Citizen Police Academy Alumni Association Citizens on Patrol, where equipment use for a group member's funeral may be authorized by the Department Director.

History of Adoption and Amendments

Resolution Number	Adoption / Amendment Date	Subject
R-88-387	8/18/88	Adopted Rules of Procedure
R-90-610	7/3/90	Amended to adopt the procedure for appointing committees as established by ordinance
R-90-612	7/17/90	None noted
R-91-654	1/22/91	Amended regular meeting language; subjects for City Council consideration; preparation of agenda
R-94-999	4/19/94	Provided suspension of rules by $\frac{3}{4}$ majority
R-95-1122	6/6/95	Amended Councilmembers presenting subjects for City Council consideration
R-03-2268	6/5/03	Members presenting subjects for City Council consideration
R-05-2599	9/20/05	Citizen comments
R-06-2721	7/5/06	Regular agenda items; Pre Council and Executive Session posted meeting times; public hearing order; process for continuing public hearings; memorials
R-07-2859	7/17/07	Robert's Rules of Order removed
R-08-2980	6/17/08	Resolutions
R-09-3183	12/15/09	Types of meetings; agenda sections; preparation of agendas; memorials
R-11-3308	1/4/11	Memorials
R-12-3520	8/7/12	Types of meetings & special meetings
R-13-3645	6/18/13	Grammatical updates
R-16-4021	8/16/16	Executive session (certified agendas) and start time; removal of paragraphs relative to the establishment of worksessions; order of the regular agenda items; general order of public hearings; removal of oral presentations by city manager; addition of speaker card submittal prior to the close of the public hearing; removal of the offering of unsolicited input; addition of language to City Councilmembers transgressing the rules of procedure; & addition of \$100 for memorial donations



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 7g

Agenda Date 08/16/2016

Number Resolution R-16-4024

Type Resolution

Department Public Works

Title

Approval of an amendment to an existing agreement between CTC, Inc. and the City of Colleyville to provide maintenance services on the active warning and advance pre-emption equipment installed at the Fort Worth and Western Railroad crossings at Bransford Road, Pleasant Run Road, and John McCain Road, and authorize the city manager to execute the amendment

Strategy Map Connection

F2- Invest to provide and maintain high quality public assets

Explanation

Reading and Public Hearing

In 2007, City staff submitted an application for federal grant funding to design and construct quiet zones along the Fort Worth and Western Railroad/Cotton Belt Line through Colleyville. In November 2008, the Federal Highway Administration (FHWA) approved the 2008 Statewide Transportation Improvement Program (STIP) and the Texas Transportation Commission passed Minute Order 111335, which provided \$1,463,000 for the design and construction of railroad quiet zones at Bransford Road, Pleasant Run Road, and John McCain Road in Colleyville. As part of the grant, a local match of \$359,000 was required.

On October 22, 2012, City Council adopted Resolution R-12-3519 (attached), that authorized an interlocal agreement with the Fort Worth Transportation Authority (the "T"), in which the "T" agreed to provide the local match and administer all contracts associated with the design and construction of the quiet zones.

On March 19, 2013, City Council approved Resolution R-13-3610 (attached), authorizing an engineering services agreement with CTC, Inc. in the amount of \$321,803.50, to design the supplemental safety measures required to create quiet zones in Colleyville.

On April 15, 2014, City Council approved Resolution R-14-3742 (attached), authorizing the approval of a Crossing Improvement Agreement (attached) between the Fort Worth and Western Railroad and the City of Colleyville to install and maintain quiet zone railroad crossings. This agreement establishes that:

"Once construction is complete, the City agrees to inspect and maintain the crossings at the City's sole expense. The City shall maintain the railroad's signal systems in compliance with Federal Railroad Administration (FRA) rules and regulations. The City shall furnish, maintain and file all signal systems documents as required by all regulatory authorities, including federal crossing inventory filings and the FRA Form 234 inventory and grade crossing warning system failure reports. The City's contractor shall be the current contractor maintaining the railroad's signal systems."

The Fort Worth and Western Railroad requires the City to maintain the devices as a condition of allowing the quiet zones to be installed and further requires that maintenance be performed by the railroad's maintenance contractor. The current railroad maintenance contractor is CTC, Inc. If the City fails to maintain the equipment as required by the established agreement, the City would be at risk of having the Quiet Zone designation being removed from this section of rail.

The original agreement was authorized by City Council on May 6, 2014 by Resolution R-14-3744 (attached). The original annual cost of the maintenance contract is \$51,000, broken out as follows:

Bransford Road	\$1,500 per month
Pleasant Run Road	\$1,500 per month
John McCain Road	\$1,250 per month

The original agreement was not put into effect until the Federal Railroad Administration certified that the improvements comply with the federal standards for quiet zones. The original agreement become effective on August 31, 2015 and it will expire after a period of one year, or August 31, 2016.

The original agreement provides for an annual renewal and the purpose of this proposed amendment is to extend the agreement for a period of one year starting September 1, 2016. The agreement allows for the pricing to be adjusted in an amount not to exceed the effective percentage change in the consumer price index for the previous 12 months. During the discussions with CTC, City staff requested that the rates be reevaluated, now that CTC has performed this service for a year, to ensure the rates are reflective of the actual work performed. The rates included in the proposed amendment have been revised and are proposed at a slightly lower amount than the original rate.

The proposed amendment includes an annual cost of the maintenance contract at \$49,800, broken out as follows:

Bransford Road	\$1,450 per month
Pleasant Run Road	\$1,450 per month

John McCain Road	\$1,250 per month
------------------	-------------------

City Staff recommends approval of the proposed amendment.

Financial Impact

Costs for this monthly services is included in the current operating budget for the remainder of FY 2016 and funding has been included in the proposed FY 2017 Public Works Operating Budget.

Recommendation

Approve

Attachments

1. Resolution R-12-3519
2. Resolution R-13-3610
3. Resolution R-14-3742
4. Resolution R-14-3744
5. Proposed Amendment
6. Original Agreement
7. Crossing Improvement Agreement
8. Resolution R-16-4024

RESOLUTION R-12-3519

**A RESOLUTION APPROVING CITY COUNCIL ACTION
UNDER CONSENT ITEMS AT THE REGULAR
CITY COUNCIL MEETING OF AUGUST 7, 2012**

WHEREAS, City Council has taken action on certain items on the agenda under Consent Items.

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

- Sec. 1. THAT the agenda decisions approved by City Council action under Consent Items as follows are hereby adopted:
- a. Approval of the minutes of the regular City Council meeting of July 17, 2012
 - b. Approval and adoption of the 2012 certified tax roll
 - c. Approval of a contract with Pattillo, Brown and Hill, L.L.P., for audit services for fiscal year ended September 30, 2012, in the amount of \$43,725
 - d. Approval of an interlocal agreement between the City of Grapevine and the City of Colleyville for the operation and maintenance of the southbound Heritage Avenue school zone flasher, south of Hall-Johnson Road
 - e. Approval of an interlocal agreement between the City of Keller, City of Southlake, and the City of Colleyville for the regionalization of the administration and operation of animal control services
 - f. Approval of an interlocal agreement between the City of Colleyville and the Fort Worth Transportation Authority (FWTA) for the design and construction of quad gates at three locations on the Cotton Belt Rail Corridor in Colleyville

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS AND 0
ABSTENTIONS ON THIS THE 7TH DAY OF AUGUST 2012.

ATTEST:



Cynthia Singleton, TRMC, CMC
City Secretary

CITY OF COLLEYVILLE



David Kelly
Mayor

RESOLUTION R-13-3610

**A RESOLUTION APPROVING CITY COUNCIL ACTION UNDER
CONSENT ITEMS AT THE REGULAR CITY COUNCIL MEETING OF
MARCH 19, 2013**

WHEREAS, City Council has taken action on certain items on the agenda under Consent Items.

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

- Sec. 1. THAT the agenda decisions approved by City Council action under Consent Items as follows are hereby adopted:
- a. Approval of the minutes of the regular City Council meeting of March 5, 2013
 - b. Approval of the minutes of the Joint City Council and Planning and Zoning Commission Worksession of March 7, 2013
 - c. Approval of an Engineering Services Agreement with CTC, Inc., in an amount not to exceed \$321,803.50, for the design of Supplemental Safety Measures (SSMs) for at grade crossings on the Cotton Belt Railway at Bransford Road, Pleasant Run Road, and John McCain Road, to allow the Federal Railroad Administration (FRA) to designate those locations as quiet zones, and authorize the city manager to execute the agreement

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0
ABSTENTIONS ON THIS THE 19TH DAY OF MARCH 2013.

ATTEST:



Amy Shelley
City Secretary

CITY OF COLLEYVILLE



David Kelly
Mayor

RESOLUTION R-14-3742

**A RESOLUTION APPROVING CITY COUNCIL ACTION
UNDER BUSINESS AT THE REGULAR
CITY COUNCIL MEETING OF
APRIL 15, 2014**

WHEREAS, City Council has taken action on certain items on the agenda under Business.

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

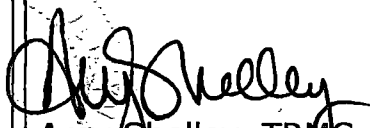
Sec. 1. THAT the agenda decisions approved by City Council action under Business this date and not otherwise adopted by Ordinance and/or separate Resolution as follows are hereby adopted:

- a. THAT a Crossing Improvement Agreement between the Fort Worth and Western Railroad and the City of Colleyville, to install and maintain quiet zone railroad crossings at Bransford Road, Pleasant Run Road, and John McCain Road, and authorize the city manager to execute the agreement is hereby approved.

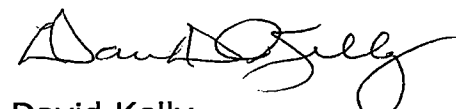
AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 15TH DAY OF APRIL 2014.

ATTEST:


Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE


David Kelly
Mayor

RESOLUTION R-14-3744

**A RESOLUTION APPROVING CITY COUNCIL ACTION UNDER
CONSENT ITEMS AT THE REGULAR CITY COUNCIL MEETING OF
MAY 6, 2014**

WHEREAS, City Council has taken action on certain items on the agenda under Consent Items.

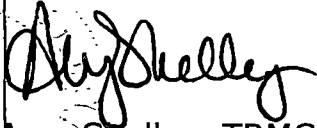
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF COLLEYVILLE, TEXAS:**

- Sec. 1. THAT the agenda decisions approved by City Council action under Consent Items as follows are hereby adopted:
- a. Approval of the minutes of the regular City Council meeting of April 15, 2014
 - b. Approval of the minutes of the City Council Worksession of April 16, 2014
 - c. Approval of a Facility Naming Policy
 - d. Approval of a change order to the engineering services agreement with CTC, Inc., for the design of railroad quiet zones at Bransford Road, Pleasant Run Road, and John McCain Road, and authorize the city manager to execute the agreement
 - e. Approval of a construction contract with Saber Development, for Colleyville Boulevard (SH26) Water and Sanitary Sewer Relocations – Phase 3, in an amount not to exceed \$3,269,859.75, and authorize the city manager to execute the contract
 - f. Approval of an agreement between CTC, Inc. and the City of Colleyville to provide maintenance services on the active warning and advance pre-emption equipment installed at the Fort Worth and Western Railroad crossings at Bransford Road, Pleasant Run Road, and John McCain Road, and authorize the city manager to execute the agreement
 - g. Approval of the use of Park Land Dedication Fund monies for the Pleasant Run Soccer Field improvements

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 6 AYES, 0 NAYS, AND 0 ABSTENTIONS
ON THIS THE 6TH DAY OF MAY 2014.

ATTEST:



Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE



David Kelly
Mayor

Amendment One to Maintenance Agreement for Railroad Crossings

This Amendment One ("Amendment") is made and entered into this 27th day of June, 2016 by and between **CTC Inc.**, a Nevada corporation, 9601 Camp Bowie West, Fort Worth, Texas 76116 (hereinafter referred to as "Contractor") and the **City of Colleyville, Texas** ("Colleyville").

Contractor and Colleyville desire to extend the current Maintenance Agreement for Railroad Crossings addressed in the original Maintenance Agreement for Railroad Crossings dated August 31, 2015. The current Agreement expires August 31, 2016 and this Amendment will extend that date to August 31, 2017.

In addition, the monthly compensation fees in Section 2.4 of the original Agreement will be amended as follows beginning September 1, 2016:

Branford Road Crossing	\$1,450 per month
Pleasant Run Crossing	\$1,450 per month
John McCain Road Crossing	<u>\$1,250</u> per month
	<u>\$4,150</u> per month

All other provisions will remain in force as per the original Agreement included as Attachment A.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

CTC, Inc.

By: _____

Kurt Anderson, Sr. Vice President

City of Colleyville

By: _____

MAINTENANCE AGREEMENT FOR RAILROAD CROSSINGS

This Maintenance Agreement ("Agreement"), effective as of the last date subscribed by a signatory, is made by and between the City of Colleyville ("City"), a Texas home-rule municipal corporation, having its principal office at 100 Main Street, Colleyville, Texas, and CTC, Inc. ("Contractor"), a licensed Texas corporation, having its principal office at 6100 Southwest Boulevard, Suite 500, Fort Worth, Texas, with reference to the following facts:

A. On April 17, 2014, the City entered into an agreement with the Fort Worth and Western Railroad Company ("Railroad") for the construction of grade crossing safety improvements necessary to establish "quiet zones" as that term is defined by the Federal Railroad Administration within the corporate limits of the "City" and the "City" agreed to install and maintain the crossings and related warning signal devices for the at grade crossings at Bransford Road, Pleasant Run Road and John McCain Road.

B. To fulfill its maintenance obligations under its agreement with the Railroad, the City seeks an independent contractor knowledgeable in the maintenance of warning signal and quiet zone devices.

1.

Services to be provided by Contractor

1.1 Contractor agrees to maintain the at-grade crossings at Bransford Road, Pleasant Run Road, and John McCain Road, including highway-rail grade crossing warning systems and quiet-zone equipment as follows:

Crossing signals - all testing, cleaning, painting, replacement of reflectors and lenses, signals, lamp replacement, bonding, primary battery replacement, storage battery maintenance, light alignment, bell maintenance, relay inspection and testing, cable inspection and testing, gate arm inspection, gate mechanism inspection, troubleshooting, ground test circuits, exit gate management system with integrated active vehicle detection, and quiet zone confirmation signals. All such work shall be performed in accordance with 49 CFR, Chapter II, Federal Railroad Administration (FRA).

1.2 Contractor further agrees to update, replace (including by reason of any cause, defect, obsolescence, or other events) and relocate (including by reason of track alignment changes, new track constructions, signal upgrades, or from any work implemented in the discretion of the Railroad, or resulting from Railroad's business needs or the requirements of an administrative agency) the RAILROAD'S signal systems for the Crossings in compliance with the Governing Regulations (present and future) and to otherwise, at all times, comply with the Governing Regulations (present and future) pertaining to or governing the Crossings and the Quiet Zones or the continuation thereof. The "Contractor" shall be compensated for any such work performed under this section in accordance with paragraph 2.1 of this agreement.

1.3 Contractor's maintenance services shall conform to all applicable federal, state and local standards, including the testing and inspection by contractor of all such grade-crossing warning devices at thirty-day intervals, and shall include all tests and inspections as required by 49 CFR Chapter II, part 234 G grade-crossing signal-system safety and Part 236, Rules, Standards and Instruction governing the installation, inspection, maintenance, and repair of signal and train control systems, devices, and appliances.

These requirements shall include tests on cables and relays. All cables and relays that fail to meet FRA standards will be repaired or replaced by contractor at city's expense as outlined in Section 2. of this agreement.

1.4 If any piece of equipment to be maintained by Contractor is damaged or destroyed, Contractor shall promptly repair such equipment. However, if the cost of such repair exceeds \$500, and if the condition of the crossing warning signal system presents an immediate danger to the traveling public, Contractor shall take the followings steps in order:

- A. Promptly initiate efforts to warn highway users and Railroad employees at the subject crossing as directed by 49 CFR Chapter II, part 234. Continue such efforts until appropriate repairs have been made and the crossing warning system is functioning properly.
- B. Notify City immediately.
- C. Make a reasonable attempt to thoroughly diagnose and repair equipment before replacement of costly signal system components.
- D. Upon receiving direction from City concerning cost to make repairs, make such repairs in a timely manner.
- E. Notify City and Railroad that crossing warning system is functioning properly.

1.5 During the term of this Agreement, Contractor shall prepare and file with the appropriate government agencies all documentation required by such agencies in connection with the Signal and Crossing Systems. All FRA required forms shall be kept at Contractor's office in Fort Worth, TX, with a copy of all reports forwarded to the City with the monthly invoices.

1.6 Contractor shall provide sufficient personnel and supplies in order for the services required pursuant to this Agreement to be performed 24 hours per day, 365 days per year. Contractor shall provide the City, the Railroad, and the Colleyville Police Department the telephone number and such other contact information as may be requested in order that communication with Contractor can be maintained 24 hours per day.

2.

Monthly Service Charges, Maintenance Materials and Supplies; Billing

2.1 Contractor shall furnish all maintenance materials and supplies consumed by Contractor in providing the maintenance services describe in the Agreement, whether such services are provided in response to damaged grade crossings, acts of God, or testing of cables and relays. Contractor shall provide the following materials with no mark-up: bonds, track connections, lenses, reflectors, signal bulbs, arrestors, fuses, and shear pins. All other consumable materials required by Contractor in rendering the maintenance services required hereunder will be billed at cost plus 10% handling charge.

In addition to the materials cost, if any, Contractor shall bill City for labor and shipping. All services, including materials, labor, and shipping shall be billed without tax.

2.2 Contractor shall submit invoices to City together with necessary supporting documents to substantiate the materials consumed and labor provided. City shall remit payment of invoices within 30 days from the date that the invoice is received.

2.3 Contractor shall send monthly billing statements, as formulated below, to the City on the 1st business day of each month for services provided during the previous month, commencing with

the 1st day of the first month following the the Notice to Proceed with this Agreement. The City shall pay such monthly bills in full within 30 days from the date the invoice and monthly FRA reports are received.

2.4 The monthly compensation fees for the services to be performed by Contractor shall be as follows:

Highway-Rail Grade Crossing Warning System Maintenance:

Bransford Road Crossing	\$1,500 per month
Pleasant Run Road Crossing	\$1,500 per month
John McCain Road Crossing	<u>\$1,250</u> per month
TOTAL/MONTH	\$4,250 per month

3.

Insurance Requirements

3.1 At its own expense and during the term of this Agreement, Contractor shall maintain the following insurance:

- (a) Workers' Compensation Insurance providing Statutory Benefits under the Workers' Compensation Act of the State of Texas and/or any other state or Federal Law of Laws applicable to the contractor's employees performing the work under this instrument, and Employer's Liability Insurance of not less than \$500,000 each accident, \$500,000 each employee for disease and \$500,000 limit for disease.
- (b) Comprehensive Automotive Liability Insurance providing limits to be not less than \$1,000,000 per occurrence for bodily injury and property damage and \$1,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.
- (c) Comprehensive General Liability Insurance providing limits to be not less than \$1,000,000 per occurrence for bodily injury and property damage and \$2,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.
- (d) Contractors' Protective Liability Insurance providing limits to be not less than \$2,000,000 per occurrence for bodily injury and property damage and \$2,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.
- (e) Railroad Protective Liability Insurance (which includes Bodily Injury, Property Damage and Physical Damage Insurance) or Excess Liability Umbrella Insurance without a railroad exclusion providing limits to be not less than \$2,000,000 per occurrence for bodily injury and property damage and \$6,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.

3.2 Contractor shall comply with the following additional insurance requirements:

- a. All policies required hereunder shall be written on an "occurrence basis."

- b. The City and the Railroad, their officers, employees and servants shall be endorsed as an additional insured on Contractor's insurance policies excepting employer's liability insurance coverage under Contractor's workers' compensation insurance policy.
- c. Certificates of insurance shall be delivered to the City of Colleyville, Public Works Department, 100 Main Street, Colleyville, TX 76034, before beginning any services required under this Agreement.
- d. Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
- e. Each insurance policy shall be endorsed to provide the City a minimum thirty days' notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten days' notice shall be acceptable in the event of non-payment of premium.
- f. Insurers must be authorized to do business in the State of Texas and have a current A.M. Best rating of A: VII or an equivalent measure of financial strength and solvency.
- g. Deductible limits, or self-funded retention limits, on each policy must not exceed \$10,000.00 per occurrence unless otherwise approved by the City.
- h. Other than worker's compensation insurance, and in lieu of traditional insurance, the City may consider alternative coverage or risk treatment measures through insurance pools or risk retention groups. The City must approve in writing any alternative coverage.
- i. All insurance policies required hereunder shall include a waiver of subrogation providing rights of recovery in favor of the City and the Railroad.
- i. City shall not be responsible for the direct payment of insurance premium costs for Contractor's insurance.
- j. Contractor's insurance policies shall each be endorsed to provide that such insurance is primary protection and any self-funded or commercial coverage maintained by City shall not be called upon to contribute to loss recovery.
- k. In the course of services being provided under this Agreement, Contractor shall report, in a timely manner, to City's officially designated contract administrator any known loss occurrence that could give rise to a liability claim or lawsuit or that could result in a property loss.
- l. Contractor's liability shall not be limited to the specified amounts of insurance required herein.
- m. Upon the City's request, Contractor shall provide complete copies of all insurance policies required by these contract documents.
- n. Subcontractors shall be deemed agents of Contractor and are subject to the terms hereof.

4.

Termination

4.1 This Agreement may be terminated by Contractor upon thirty-day written notice to the City for any of the following:

- (a) City's bankruptcy, insolvency, or assignment for the benefit of creditors;
- (b) City's failure to pay any amounts owed Contractor under the terms of this Agreement, and such default continues for fifteen days after the date the payment was due.

4.2 This Agreement may be terminated by the City upon thirty-days written notice to Contractor if Contractor fails to perform reasonably satisfactorily under the terms and conditions of this Agreement, and City has given Contractor written notice itemizing the defects or deficiencies of Contractor's performance and has given Contractor 45 days in which to cure the defects or deficiencies.

4.3 This Agreement may be terminated by the City for convenience and without cause upon ten (10) days written notice.

5. Indemnification

CONTRACTOR COVENANTS AND AGREES TO, AND BY THESE PRESENTS DOES HEREBY, FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS OR CLAIMS OF ANY CHARACTER, WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES (INCLUDING DEATH) SUSTAINED BY ANY PERSONS OR TO ANY PROPERTY, RESULTING FROM OR IN CONNECTION WITH THE CONSTRUCTION, DESIGN, PERFORMANCE OR COMPLETION OF ANY WORK TO BE PERFORMED BY SAID CONTRACTOR, ITS CONTRACTORS, SUBCONTRACTORS, OFFICERS, AGENTS OR EMPLOYEES, OR IN CONSEQUENCE OF ANY FAILURE TO PROPERLY SAFEGUARD THE WORK OR ON ACCOUNT OF ANY ACT, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF SAID CONTRACTOR, ITS CONTRACTORS, SUB-CONTRACTORS, OFFICERS, AGENTS OR EMPLOYEES.

It is understood that the foregoing is not intended to cover matters in which the City, its officers, employees or agents have been found to be negligent or grossly negligent or to have committed malfeasance.

6. Term

This Agreement shall remain in full force and effect for a period of one year from the effective date for the services to be rendered by Contractor hereunder. City and Contractor may, upon mutual written consent, extend the contract for additional one-year periods after the initial term until such time as the Contractor is no longer the Railroad's maintenance contractor or either party chooses not to renew the agreement. If either party so chooses, then a written notice of intent not to renew the Agreement must be provided no less than 90 days prior to termination of the Agreement.

This contract shall be for a period of one (1) year or 365 calendar days beginning on the date specified in the Notice to Proceed.

Contractor shall present a written request no later than ninety (90) days prior to the expiration of the contract indicating interest in extending the contract for an additional term. Contractor may request a price increase in the written request to renew at a rate not to exceed the effective percentage change in the consumer price index (CPI-U) for the previous twelve (12) months. At the City's discretion, the effective

change rate shall be based on either the local or national index average rate for all items.

If agreement cannot be reached or the City does not desire to extend the contract for an additional term, the contract will be terminated at the end of the current contract period.

7.

Miscellaneous

7.1 Drug Testing. Contractor shall comply with FRA's drug and alcohol testing program.

7.2 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns, personal representatives, and heirs. No party, however, may assign this Agreement, or any portion thereof, to any person without the prior written consent, not to be unreasonably withheld, of the other party.

7.3 Governing Law. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue shall lie exclusively in any court of competent jurisdiction located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division.

7.4 Notices. "Notice," except in Section 1.4, means a written notice required or permitted under this Agreement. For non-emergency notice, a notice shall be deemed given or sent when deposited, as certified mail or for overnight delivery, postage and fees prepaid, in the United States mails; when delivered to an overnight delivery carrier, charges prepaid or charged to the sender's account; when personally delivered to the recipient; when transmitted electronically and confirmed as having been successfully transmitted; or when delivered to the home or office of a recipient in the care of a person whom the sender has reason to believe will promptly communicate the notice to the recipient. Emergency notice may be given to the individuals listed below and such notice may be given by e-mail or facsimile with confirmation of delivery by return e-mail or telephone call.

If to Colleyville:
Mr. Bob Lowry
Public Works Department
100 Main Street
Colleyville, Texas 76034
blowry@colleyvillc.com
Telephone 817-503-1096
Facsimile 817-503-1099

If to Contractor:
Mr. Kurt Anderson CTC, Inc.
6100 Southwest Blvd., Suite 500
Fort Worth, Texas 76109
Telephone 817-886-8210
Facsimile 817-886-8225

7.5 Entire Agreement. This Agreement constitutes the entire agreement among the parties regarding the subject matter of this Agreement, and no previous statement, promise, agreement, inducement or representation, whether oral or written, shall be of any further force or effect unless expressly set forth herein. All parties acknowledge and agree that they have been advised of and had the opportunity to seek the advice of counsel of their own choosing regarding the terms of this Agreement and the advisability of executing it. All parties acknowledge and agree that they have each fully read and understood the terms of this Agreement. Should any part of this Agreement be held by a court of competent jurisdiction to be unenforceable or invalid, the remaining portions of this Agreement shall remain in full force and effect.

In witness hereof, the parties hereto have executed this Agreement.

CTC, INC.

By: Kurt Anderson
Kurt Anderson, VP/General Manager

Date: 8/31/15

CITY OF COLLEYVILLE

ATTEST: Amy Shelley
Amy Shelley, City Secretary

Date: 8/26/15

APPROVED: Jennifer Fadden
Jennifer Fadden, City Manager

Date: 8/21/15

APPROVED AS TO
FORM & LEGALITY: Matthew Boyle
Matthew Boyle, City Attorney

Date: 8/16/15

MAINTENANCE AGREEMENT FOR RAILROAD CROSSINGS

This Maintenance Agreement (Agreement"), effective as of the last date subscribed by a signatory, is made by and between the City of Colleyville ("City"), a Texas home-rule municipal corporation, having its principal office at 100 Main Street, Colleyville, Texas, and CTC, Inc. ("Contractor"), a licensed Texas corporation, having its principal office at 6100 Southwest Boulevard, Suite 500, Fort Worth, Texas, with reference to the following facts:

A. On April 17, 2014, the City entered into an agreement with the Fort Worth and Western Railroad Company ("Railroad") for the construction of grade crossing safety improvements necessary to establish "quiet zones" as that term is defined by the Federal Railroad Administration within the corporate limits of the "City" and the "City" agreed to install and maintain the crossings and related warning signal devices for the at grade crossings at Bransford Road, Pleasant Run Road and John McCain Road.

B. To fulfill its maintenance obligations under its agreement with the Railroad, the City seeks an independent contractor knowledgeable in the maintenance of warning signal and quiet zone devices.

1.

Services to be provided by Contractor

1.1 Contractor agrees to maintain the at-grade crossings at Bransford Road, Pleasant Run Road, and John McCain Road, including highway-rail grade crossing warning systems and quiet-zone equipment as follows:

Crossing signals - all testing, cleaning, painting, replacement of reflectors and lenses, signals, lamp replacement, bonding, primary battery replacement, storage battery maintenance, light alignment, bell maintenance, relay inspection and testing, cable inspection and testing, gate arm inspection, gate mechanism inspection, troubleshooting, ground test circuits, exit gate management system with integrated active vehicle detection, and quiet zone confirmation signals. All such work shall be performed in accordance with 49 CFR, Chapter II, Federal Railroad Administration (FRA).

1.2 Contractor further agrees to update, replace (including by reason of any cause, defect, obsolescence, or other events) and relocate (including by reason of track alignment changes, new track constructions, signal upgrades, or from any work implemented in the discretion of the Railroad, or resulting from Railroad's business needs or the requirements of an administrative agency) the RAILROAD'S signal systems for the Crossings in compliance with the Governing Regulations (present and future) and to otherwise, at all times, comply with the Governing Regulations (present and future) pertaining to or governing the Crossings and the Quiet Zones or the continuation thereof. The "Contractor" shall be compensated for any such work performed under this section in accordance with paragraph 2.1 of this agreement.

1.3 Contractor's maintenance services shall conform to all applicable federal, state and local standards, including the testing and inspection by contractor of all such grade-crossing warning devices at thirty-day intervals, and shall include all tests and inspections as required by 49 CFR Chapter II, part 234 G grade-crossing signal-system safety and Part 236, Rules, Standards and Instruction governing the installation, inspection, maintenance, and repair of signal and train control systems, devices, and appliances.

These requirements shall include tests on cables and relays. All cables and relays that fail to meet FRA standards will be repaired or replaced by contractor at city's expense as outlined in Section 2. of this agreement.

1.4 If any piece of equipment to be maintained by Contractor is damaged or destroyed, Contractor shall promptly repair such equipment. However, if the cost of such repair exceeds \$500, and if the condition of the crossing warning signal system presents an immediate danger to the traveling public, Contractor shall take the followings steps in order:

- A. Promptly initiate efforts to warn highway users and Railroad employees at the subject crossing as directed by 49 CFR Chapter II, part 234. Continue such efforts until appropriate repairs have been made and the crossing warning system is functioning properly.
- B. Notify City immediately.
- C. Make a reasonable attempt to thoroughly diagnose and repair equipment before replacement of costly signal system components.
- D. Upon receiving direction from City concerning cost to make repairs, make such repairs in a timely manner.
- E. Notify City and Railroad that crossing warning system is functioning properly.

1.5 During the term of this Agreement, Contractor shall prepare and file with the appropriate government agencies all documentation required by such agencies in connection with the Signal and Crossing Systems. All FRA required forms shall be kept at Contractor's office in Fort Worth, TX, with a copy of all reports forwarded to the City with the monthly invoices.

1.6 Contractor shall provide sufficient personnel and supplies in order for the services required pursuant to this Agreement to be performed 24 hours per day, 365 days per year. Contractor shall provide the City, the Railroad, and the Colleyville Police Department the telephone number and such other contact information as may be requested in order that communication with Contractor can be maintained 24 hours per day.

2.

Monthly Service Charges, Maintenance Materials and Supplies; Billing

2.1 Contractor shall furnish all maintenance materials and supplies consumed by Contractor in providing the maintenance services describe in the Agreement, whether such services are provided in response to damaged grade crossings, acts of God, or testing of cables and relays. Contractor shall provide the following materials with no mark-up: bonds, track connections, lenses, reflectors, signal bulbs, arrestors, fuses, and shear pins. All other consumable materials required by Contractor in rendering the maintenance services required hereunder will be billed at cost plus 10% handling charge.

In addition to the materials cost, if any, Contractor shall bill City for labor and shipping. All services, including materials, labor, and shipping shall be billed without tax.

2.2 Contractor shall submit invoices to City together with necessary supporting documents to substantiate the materials consumed and labor provided. City shall remit payment of invoices within 30 days from the date that the invoice is received.

2.3 Contractor shall send monthly billing statements, as formulated below, to the City on the 1st business day of each month for services provided during the previous month, commencing with

the 1st day of the first month following the the Notice to Proceed with this Agreement. The City shall pay such monthly bills in full within 30 days from the date the invoice and monthly FRA reports are received.

2.4 The monthly compensation fees for the services to be performed by Contractor shall be as follows:

Highway-Rail Grade Crossing Warning System Maintenance:

Bransford Road Crossing	\$1,500 per month
Pleasant Run Road Crossing	\$1,500 per month
John McCain Road Crossing	<u>\$1,250</u> per month
TOTAL/MONTH	\$4,250 per month

3.

Insurance Requirements

3.1 At its own expense and during the term of this Agreement, Contractor shall maintain the following insurance:

- (a) Workers' Compensation Insurance providing Statutory Benefits under the Workers' Compensation Act of the State of Texas and/or any other state or Federal Law of Laws applicable to the contractor's employees performing the work under this instrument, and Employer's Liability Insurance of not less than \$500,000 each accident, \$500,000 each employee for disease and \$500,000 limit for disease.
- (b) Comprehensive Automotive Liability Insurance providing limits to be not less than \$1,000,000 per occurrence for bodily injury and property damage and \$1,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.
- (c) Comprehensive General Liability Insurance providing limits to be not less than \$1,000,000 per occurrence for bodily injury and property damage and \$2,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.
- (d) Contractors' Protective Liability Insurance providing limits to be not less than \$2,000,000 per occurrence for bodily injury and property damage and \$2,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.
- (e) Railroad Protective Liability Insurance (which includes Bodily Injury, Property Damage and Physical Damage Insurance) or Excess Liability Umbrella Insurance without a railroad exclusion providing limits to be not less than \$2,000,000 per occurrence for bodily injury and property damage and \$6,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.

3.2 Contractor shall comply with the following additional insurance requirements:

- a. All policies required hereunder shall be written on an "occurrence basis."

- b. The City and the Railroad, their officers, employees and servants shall be endorsed as an additional insured on Contractor's insurance policies excepting employer's liability insurance coverage under Contractor's workers' compensation insurance policy.
- c. Certificates of insurance shall be delivered to the City of Colleyville, Public Works Department, 100 Main Street, Colleyville, TX 76034, before beginning any services required under this Agreement.
- d. Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
- e. Each insurance policy shall be endorsed to provide the City a minimum thirty days' notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten days' notice shall be acceptable in the event of non-payment of premium.
- f. Insurers must be authorized to do business in the State of Texas and have a current A.M. Best rating of A: VII or an equivalent measure of financial strength and solvency.
- g. Deductible limits, or self-funded retention limits, on each policy must not exceed \$10,000.00 per occurrence unless otherwise approved by the City.
- h. Other than worker's compensation insurance, and in lieu of traditional insurance, the City may consider alternative coverage or risk treatment measures through insurance pools or risk retention groups. The City must approve in writing any alternative coverage.
- i. All insurance policies required hereunder shall include a waiver of subrogation providing rights of recovery in favor of the City and the Railroad.
- i. City shall not be responsible for the direct payment of insurance premium costs for Contractor's insurance.
- j. Contractor's insurance policies shall each be endorsed to provide that such insurance is primary protection and any self-funded or commercial coverage maintained by City shall not be called upon to contribute to loss recovery.
- k. In the course of services being provided under this Agreement, Contractor shall report, in a timely manner, to City's officially designated contract administrator any known loss occurrence that could give rise to a liability claim or lawsuit or that could result in a property loss.
- l. Contractor's liability shall not be limited to the specified amounts of insurance required herein.
- m. Upon the City's request, Contractor shall provide complete copies of all insurance policies required by these contract documents.
- n. Subcontractors shall be deemed agents of Contractor and are subject to the terms hereof.

4.
Termination

4.1 This Agreement may be terminated by Contractor upon thirty-day written notice to the City for any of the following:

- (a) City's bankruptcy, insolvency, or assignment for the benefit of creditors;
- (b) City's failure to pay any amounts owed Contractor under the terms of this Agreement, and such default continues for fifteen days after the date the payment was due.

4.2 This Agreement may be terminated by the City upon thirty-days written notice to Contractor if Contractor fails to perform reasonably satisfactorily under the terms and conditions of this Agreement, and City has given Contractor written notice itemizing the defects or deficiencies of Contractor's performance and has given Contractor 45 days in which to cure the defects or deficiencies.

4.3 This Agreement may be terminated by the City for convenience and without cause upon ten (10) days written notice.

5.

Indemnification

CONTRACTOR COVENANTS AND AGREES TO, AND BY THESE PRESENTS DOES HEREBY, FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS OR CLAIMS OF ANY CHARACTER, WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES (INCLUDING DEATH) SUSTAINED BY ANY PERSONS OR TO ANY PROPERTY, RESULTING FROM OR IN CONNECTION WITH THE CONSTRUCTION, DESIGN, PERFORMANCE OR COMPLETION OF ANY WORK TO BE PERFORMED BY SAID CONTRACTOR, ITS CONTRACTORS, SUBCONTRACTORS, OFFICERS, AGENTS OR EMPLOYEES, OR IN CONSEQUENCE OF ANY FAILURE TO PROPERLY SAFEGUARD THE WORK OR ON ACCOUNT OF ANY ACT, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF SAID CONTRACTOR, ITS CONTRACTORS, SUB-CONTRACTORS, OFFICERS, AGENTS OR EMPLOYEES.

It is understood that the foregoing is not intended to cover matters in which the City, its officers, employees or agents have been found to be negligent or grossly negligent or to have committed malfeasance.

6.

Term

This Agreement shall remain in full force and effect for a period of one year from the effective date for the services to be rendered by Contractor hereunder. City and Contractor may, upon mutual written consent, extend the contract for additional one-year periods after the initial term until such time as the Contractor is no longer the Railroad's maintenance contractor or either party chooses not to renew the agreement. If either party so chooses, then a written notice of intent not to renew the Agreement must be provided no less than 90 days prior to termination of the Agreement.

This contract shall be for a period of one (1) year or 365 calendar days beginning on the date specified in the Notice to Proceed.

Contractor shall present a written request no later than ninety (90) days prior to the expiration of the contract indicating interest in extending the contract for an additional term. Contractor may request a price increase in the written request to renew at a rate not to exceed the effective percentage change in the consumer price index (CPI-U) for the previous twelve (12) months. At the City's discretion, the effective

change rate shall be based on either the local or national index average rate for all items.

If agreement cannot be reached or the City does not desire to extend the contract for an additional term, the contract will be terminated at the end of the current contract period.

7.

Miscellaneous

7.1 Drug Testing. Contractor shall comply with FRA's drug and alcohol testing program.

7.2 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns, personal representatives, and heirs. No party, however, may assign this Agreement, or any portion thereof, to any person without the prior written consent, not to be unreasonably withheld, of the other party.

7.3 Governing Law. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue shall lie exclusively in any court of competent jurisdiction located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division.

7.4 Notices. "Notice," except in Section 1.4, means a written notice required or permitted under this Agreement. For non-emergency notice, a notice shall be deemed given or sent when deposited, as certified mail or for overnight delivery, postage and fees prepaid, in the United States mails; when delivered to an overnight delivery carrier, charges prepaid or charged to the sender's account; when personally delivered to the recipient; when transmitted electronically and confirmed as having been successfully transmitted; or when delivered to the home or office of a recipient in the care of a person whom the sender has reason to believe will promptly communicate the notice to the recipient. Emergency notice may be given to the individuals listed below and such notice may be given by e-mail or facsimile with confirmation of delivery by return e-mail or telephone call.

If to Colleyville:
Mr. Bob Lowry
Public Works Department
100 Main Street
Colleyville, Texas 76034
blowry@colleyville.com
Telephone 817-503-1096
Facsimile 817-503-1099

If to Contractor:
Mr. Kurt Anderson CTC, Inc.
6100 Southwest Blvd., Suite 500
Fort Worth, Texas 76109
Telephone 817-886-8210
Facsimile 817-886-8225

7.5 Entire Agreement. This Agreement constitutes the entire agreement among the parties regarding the subject matter of this Agreement, and no previous statement, promise, agreement, inducement or representation, whether oral or written, shall be of any further force or effect unless expressly set forth herein. All parties acknowledge and agree that they have been advised of and had the opportunity to seek the advice of counsel of their own choosing regarding the terms of this Agreement and the advisability of executing it. All parties acknowledge and agree that they have each fully read and understood the terms of this Agreement. Should any part of this Agreement be held by a court of competent jurisdiction to be unenforceable or invalid, the remaining portions of this Agreement shall remain in full force and effect.

In witness hereof, the parties hereto have executed this Agreement.

CTC, INC.

By: Kurt Anderson
Kurt Anderson, VP/General Manager

Date: 8/31/15

CITY OF COLLEYVILLE

ATTEST: Amy Shelley
Amy Shelley, City Secretary

Date: 8/26/15

APPROVED: Jennifer Fadden
Jennifer Fadden, City Manager

Date: 8/21/15

APPROVED AS TO
FORM & LEGALITY: Matthew Boyle
Matthew Boyle, City Attorney

Date: 8/24/15



CROSSING IMPROVEMENT AGREEMENT-QUIET ZONES

THIS AGREEMENT, made this 17th day of April, 2014, by and between the Fort Worth and Western Railroad ("RAILROAD") and the City of Colleyville, Texas ("CITY"), WITNESSETH,

RECITALS:

The CITY has requested that the RAILROAD allow the CITY to improve the existing at grade crossings within the corporate limits of the CITY at Bransford Road (DOT No. 789729L, MP 18.70), Pleasant Run Road (DOT No. 789730F, MP 19.10) and John McCain Rd. (DOT No. 789733B, MP 20.50), which shall hereinafter be referred to as the "Crossings", which are being constructed and installed, at least in part, in furtherance of the City's creation or use of quiet zones at each of the Crossings (each a "Quiet Zone" and together the "Quiet Zones") in accordance with 49 CFR Part 222 and in accordance with all other applicable federal, state and local laws, regulations, standards and ordinances, including but not limited to those of the Federal Railroad Administration ("FRA") and the City (together, the "Governing Regulations"), to which the RAILROAD is agreeable, but solely upon the terms and conditions hereinafter set forth.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and of the promises set forth in this agreement, and the attached "EXHIBITS", the parties agree as follows:

1. The RAILROAD shall, subject to the reimbursement provided for in this agreement, furnish all labor, materials, equipment and supervision for the crossing upgrades as specified in Exhibit A, including upgrading certain portions of the active warning equipment, crossing surfaces, the addition of advanced traffic pre-emption, and the re-drawing of the crossing plan set, in order that the subject crossings shall be eligible as a Quiet Zone.
2. The RAILROAD shall allow the CITY to make improvements as detailed in Exhibit A to the publicly owned roadways, including but not limited to paving, drainage, pavement markings, and utility relocations. The CITY'S contractor will execute a right-of-entry agreement (and comply with all of its terms and conditions) with DART and Railroad prior to construction in the form specified in Exhibit C.
3. The CITY agrees to pay the actual cost of the improvements within 30 days of the date of the invoice of such improvements. The cost estimates for this work are located in Exhibit B. The CITY'S participation is limited to **\$1,069,892.70**. Any costs in excess of **\$1,069,892.70** will require additional CITY authorization before payment can be made.
4. Once construction is complete, the CITY agrees thereafter, at all times, to be responsible for and to inspect, and maintain the Crossings at the CITY'S sole cost and expense. In addition, the CITY shall, at its sole cost and expense, maintain, repair, update, replace (including by reason of any cause, defect, obsolescence, or other events) and relocate (including by reason of track alignment changes, new track constructions, signal upgrades, or from any work implemented in the discretion of the Railroad, or resulting from Railroad's business needs or the requirements of an administrative agency) the RAILROAD'S signal systems for the Crossings in compliance with the Governing Regulations (present and future) and to otherwise, at all times, comply with the Governing Regulations (present and future) pertaining to or governing the Crossings and the Quiet Zones or the continuation thereof. ... The CITY shall furnish, maintain and file all signal systems documents as required by all regulatory authorities and the Governing Regulations (present and future), including federal crossing inventory filings and the FRA Form 234 inventory and grade crossing warning system failure reports with respect to the Crossings and the Quiet Zones. The CITY'S contractor shall be the current contractor maintaining the RAILROAD'S signal systems.



5. The Railroad's rights and duties regarding the sounding of locomotive horns at the Crossings shall be as set out in 49 CFR Part 222, and by all other Governing Regulations. Nothing contained in this Agreement shall be construed to alter such rights and duties.

6. This Agreement shall be in force and effect until terminated by either party due to material breach of the other party or until it is otherwise terminated by law. The obligations and agreements of the Railroad hereunder are specifically subject to and conditioned upon the City's compliance with its obligations hereunder.

IN WITNESS THEREOF, the parties hereto have duly executed this Agreement as of the date and year first herein above written.

FORT WORTH AND WESTERN RAILROAD

By: _____

Steven P. George, President & CEO

Date: _____

CITY OF COLLEYVILLE

ATTEST: _____

Amy Shelley, City Secretary

Date: _____

APPROVED: _____

Jennifer Fadden, City Manager

Date: _____

APPROVED AS TO

FORM & LEGALITY: _____

Matthew Boyle, City Attorney

Date: _____

RESOLUTION R-16-4024

A RESOLUTION APPROVING AN AMENDMENT TO AN EXISTING AGREEMENT BETWEEN CTC, INC. AND THE CITY OF COLLEYVILLE PROVIDING FOR THE MAINTENANCE OF ACTIVE WARNING AND ADVANCE PRE-EMPTION EQUIPMENT AT THE FORT WORTH AND WESTERN RAILROAD CROSSINGS AT BRANDSFORD ROAD, PLEASANT RUN ROAD, AND JOHN MCCAIN ROAD

WHEREAS, the City of Colleyville entered into a maintenance agreement with CTC, Inc., to provide maintenance services on the active warning and advance pre-emption equipment installed at the Fort Worth and Western Railroad crossings at Bransford Road, Pleasant Run Road, and John McCain Road; and

WHEREAS, the City of Colleyville and CTC, Inc. desire to amend and extend the current Maintenance Agreement for Railroad Crossings addressed in the original Maintenance Agreement for Railroad Crossings dated August 31, 2015.

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

Sec. 1. THAT the city manager is hereby authorized to execute the Amendment One to Maintenance Agreement for Railroad Crossings, attached as Exhibit "A".

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ___ AYES, ___ NAYS, AND ___ ABSTENTIONS ON THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor

Amendment One to Maintenance Agreement for Railroad Crossings

This Amendment One ("Amendment") is made and entered into this 27th day of June, 2016 by and between **CTC Inc.**, a Nevada corporation, 9601 Camp Bowie West, Fort Worth, Texas 76116 (hereinafter referred to as "Contractor") and the **City of Colleyville, Texas** ("Colleyville").

Contractor and Colleyville desire to extend the current Maintenance Agreement for Railroad Crossings addressed in the original Maintenance Agreement for Railroad Crossings dated August 31, 2015. The current Agreement expires August 31, 2016 and this Amendment will extend that date to August 31, 2017.

In addition, the monthly compensation fees in Section 2.4 of the original Agreement will be amended as follows beginning September 1, 2016:

Branford Road Crossing	\$1,450 per month
Pleasant Run Crossing	\$1,450 per month
John McCain Road Crossing	<u>\$1,250</u> per month
	<u>\$4,150</u> per month

All other provisions will remain in force as per the original Agreement included as Attachment A.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

CTC, Inc.

By: _____

Kurt Anderson, Sr. Vice President

City of Colleyville

By: _____

MAINTENANCE AGREEMENT FOR RAILROAD CROSSINGS

This Maintenance Agreement ("Agreement"), effective as of the last date subscribed by a signatory, is made by and between the City of Colleyville ("City"), a Texas home-rule municipal corporation, having its principal office at 100 Main Street, Colleyville, Texas, and CTC, Inc. ("Contractor"), a licensed Texas corporation, having its principal office at 6100 Southwest Boulevard, Suite 500, Fort Worth, Texas, with reference to the following facts:

A. On April 17, 2014, the City entered into an agreement with the Fort Worth and Western Railroad Company ("Railroad") for the construction of grade crossing safety improvements necessary to establish "quiet zones" as that term is defined by the Federal Railroad Administration within the corporate limits of the "City" and the "City" agreed to install and maintain the crossings and related warning signal devices for the at grade crossings at Bransford Road, Pleasant Run Road and John McCain Road.

B. To fulfill its maintenance obligations under its agreement with the Railroad, the City seeks an independent contractor knowledgeable in the maintenance of warning signal and quiet zone devices.

1.

Services to be provided by Contractor

1.1 Contractor agrees to maintain the at-grade crossings at Bransford Road, Pleasant Run Road, and John McCain Road, including highway-rail grade crossing warning systems and quiet-zone equipment as follows:

Crossing signals - all testing, cleaning, painting, replacement of reflectors and lenses, signals, lamp replacement, bonding, primary battery replacement, storage battery maintenance, light alignment, bell maintenance, relay inspection and testing, cable inspection and testing, gate arm inspection, gate mechanism inspection, troubleshooting, ground test circuits, exit gate management system with integrated active vehicle detection, and quiet zone confirmation signals. All such work shall be performed in accordance with 49 CFR, Chapter II, Federal Railroad Administration (FRA).

1.2 Contractor further agrees to update, replace (including by reason of any cause, defect, obsolescence, or other events) and relocate (including by reason of track alignment changes, new track constructions, signal upgrades, or from any work implemented in the discretion of the Railroad, or resulting from Railroad's business needs or the requirements of an administrative agency) the RAILROAD'S signal systems for the Crossings in compliance with the Governing Regulations (present and future) and to otherwise, at all times, comply with the Governing Regulations (present and future) pertaining to or governing the Crossings and the Quiet Zones or the continuation thereof. The "Contractor" shall be compensated for any such work performed under this section in accordance with paragraph 2.1 of this agreement.

1.3 Contractor's maintenance services shall conform to all applicable federal, state and local standards, including the testing and inspection by contractor of all such grade-crossing warning devices at thirty-day intervals, and shall include all tests and inspections as required by 49 CFR Chapter II, part 234 G grade-crossing signal-system safety and Part 236, Rules, Standards and Instruction governing the installation, inspection, maintenance, and repair of signal and train control systems, devices, and appliances.

These requirements shall include tests on cables and relays. All cables and relays that fail to meet FRA standards will be repaired or replaced by contractor at city's expense as outlined in Section 2. of this agreement.

1.4 If any piece of equipment to be maintained by Contractor is damaged or destroyed, Contractor shall promptly repair such equipment. However, if the cost of such repair exceeds \$500, and if the condition of the crossing warning signal system presents an immediate danger to the traveling public, Contractor shall take the followings steps in order:

- A. Promptly initiate efforts to warn highway users and Railroad employees at the subject crossing as directed by 49 CFR Chapter II, part 234. Continue such efforts until appropriate repairs have been made and the crossing warning system is functioning properly.
- B. Notify City immediately.
- C. Make a reasonable attempt to thoroughly diagnose and repair equipment before replacement of costly signal system components.
- D. Upon receiving direction from City concerning cost to make repairs, make such repairs in a timely manner.
- E. Notify City and Railroad that crossing warning system is functioning properly.

1.5 During the term of this Agreement, Contractor shall prepare and file with the appropriate government agencies all documentation required by such agencies in connection with the Signal and Crossing Systems. All FRA required forms shall be kept at Contractor's office in Fort Worth, TX, with a copy of all reports forwarded to the City with the monthly invoices.

1.6 Contractor shall provide sufficient personnel and supplies in order for the services required pursuant to this Agreement to be performed 24 hours per day, 365 days per year. Contractor shall provide the City, the Railroad, and the Colleyville Police Department the telephone number and such other contact information as may be requested in order that communication with Contractor can be maintained 24 hours per day.

2.

Monthly Service Charges, Maintenance Materials and Supplies; Billing

2.1 Contractor shall furnish all maintenance materials and supplies consumed by Contractor in providing the maintenance services describe in the Agreement, whether such services are provided in response to damaged grade crossings, acts of God, or testing of cables and relays. Contractor shall provide the following materials with no mark-up: bonds, track connections, lenses, reflectors, signal bulbs, arrestors, fuses, and shear pins. All other consumable materials required by Contractor in rendering the maintenance services required hereunder will be billed at cost plus 10% handling charge.

In addition to the materials cost, if any, Contractor shall bill City for labor and shipping. All services, including materials, labor, and shipping shall be billed without tax.

2.2 Contractor shall submit invoices to City together with necessary supporting documents to substantiate the materials consumed and labor provided. City shall remit payment of invoices within 30 days from the date that the invoice is received.

2.3 Contractor shall send monthly billing statements, as formulated below, to the City on the 1st business day of each month for services provided during the previous month, commencing with

the 1st day of the first month following the the Notice to Proceed with this Agreement. The City shall pay such monthly bills in full within 30 days from the date the invoice and monthly FRA reports are received.

2.4 The monthly compensation fees for the services to be performed by Contractor shall be as follows:

Highway-Rail Grade Crossing Warning System Maintenance:

Bransford Road Crossing	\$1,500 per month
Pleasant Run Road Crossing	\$1,500 per month
John McCain Road Crossing	<u>\$1,250</u> per month
TOTAL/MONTH	\$4,250 per month

3.

Insurance Requirements

3.1 At its own expense and during the term of this Agreement, Contractor shall maintain the following insurance:

- (a) Workers' Compensation Insurance providing Statutory Benefits under the Workers' Compensation Act of the State of Texas and/or any other state or Federal Law of Laws applicable to the contractor's employees performing the work under this instrument, and Employer's Liability Insurance of not less than \$500,000 each accident, \$500,000 each employee for disease and \$500,000 limit for disease.
- (b) Comprehensive Automotive Liability Insurance providing limits to be not less than \$1,000,000 per occurrence for bodily injury and property damage and \$1,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.
- (c) Comprehensive General Liability Insurance providing limits to be not less than \$1,000,000 per occurrence for bodily injury and property damage and \$2,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.
- (d) Contractors' Protective Liability Insurance providing limits to be not less than \$2,000,000 per occurrence for bodily injury and property damage and \$2,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.
- (e) Railroad Protective Liability Insurance (which includes Bodily Injury, Property Damage and Physical Damage Insurance) or Excess Liability Umbrella Insurance without a railroad exclusion providing limits to be not less than \$2,000,000 per occurrence for bodily injury and property damage and \$6,000,000 in the aggregate for all occurrences. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractor(s) to cover their operations.

3.2 Contractor shall comply with the following additional insurance requirements:

- a. All policies required hereunder shall be written on an "occurrence basis."

- b. The City and the Railroad, their officers, employees and servants shall be endorsed as an additional insured on Contractor's insurance policies excepting employer's liability insurance coverage under Contractor's workers' compensation insurance policy.
- c. Certificates of insurance shall be delivered to the City of Colleyville, Public Works Department, 100 Main Street, Colleyville, TX 76034, before beginning any services required under this Agreement.
- d. Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
- e. Each insurance policy shall be endorsed to provide the City a minimum thirty days' notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten days' notice shall be acceptable in the event of non-payment of premium.
- f. Insurers must be authorized to do business in the State of Texas and have a current A.M. Best rating of A: VII or an equivalent measure of financial strength and solvency.
- g. Deductible limits, or self-funded retention limits, on each policy must not exceed \$10,000.00 per occurrence unless otherwise approved by the City.
- h. Other than worker's compensation insurance, and in lieu of traditional insurance, the City may consider alternative coverage or risk treatment measures through insurance pools or risk retention groups. The City must approve in writing any alternative coverage.
- i. All insurance policies required hereunder shall include a waiver of subrogation providing rights of recovery in favor of the City and the Railroad.
- i. City shall not be responsible for the direct payment of insurance premium costs for Contractor's insurance.
- j. Contractor's insurance policies shall each be endorsed to provide that such insurance is primary protection and any self-funded or commercial coverage maintained by City shall not be called upon to contribute to loss recovery.
- k. In the course of services being provided under this Agreement, Contractor shall report, in a timely manner, to City's officially designated contract administrator any known loss occurrence that could give rise to a liability claim or lawsuit or that could result in a property loss.
- l. Contractor's liability shall not be limited to the specified amounts of insurance required herein.
- m. Upon the City's request, Contractor shall provide complete copies of all insurance policies required by these contract documents.
- n. Subcontractors shall be deemed agents of Contractor and are subject to the terms hereof.

4.

Termination

4.1 This Agreement may be terminated by Contractor upon thirty-day written notice to the City for any of the following:

- (a) City's bankruptcy, insolvency, or assignment for the benefit of creditors;
- (b) City's failure to pay any amounts owed Contractor under the terms of this Agreement, and such default continues for fifteen days after the date the payment was due.

4.2 This Agreement may be terminated by the City upon thirty-days written notice to Contractor if Contractor fails to perform reasonably satisfactorily under the terms and conditions of this Agreement, and City has given Contractor written notice itemizing the defects or deficiencies of Contractor's performance and has given Contractor 45 days in which to cure the defects or deficiencies.

4.3 This Agreement may be terminated by the City for convenience and without cause upon ten (10) days written notice.

5. Indemnification

CONTRACTOR COVENANTS AND AGREES TO, AND BY THESE PRESENTS DOES HEREBY, FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS OR CLAIMS OF ANY CHARACTER, WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES (INCLUDING DEATH) SUSTAINED BY ANY PERSONS OR TO ANY PROPERTY, RESULTING FROM OR IN CONNECTION WITH THE CONSTRUCTION, DESIGN, PERFORMANCE OR COMPLETION OF ANY WORK TO BE PERFORMED BY SAID CONTRACTOR, ITS CONTRACTORS, SUBCONTRACTORS, OFFICERS, AGENTS OR EMPLOYEES, OR IN CONSEQUENCE OF ANY FAILURE TO PROPERLY SAFEGUARD THE WORK OR ON ACCOUNT OF ANY ACT, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF SAID CONTRACTOR, ITS CONTRACTORS, SUB-CONTRACTORS, OFFICERS, AGENTS OR EMPLOYEES.

It is understood that the foregoing is not intended to cover matters in which the City, its officers, employees or agents have been found to be negligent or grossly negligent or to have committed malfeasance.

6. Term

This Agreement shall remain in full force and effect for a period of one year from the effective date for the services to be rendered by Contractor hereunder. City and Contractor may, upon mutual written consent, extend the contract for additional one-year periods after the initial term until such time as the Contractor is no longer the Railroad's maintenance contractor or either party chooses not to renew the agreement. If either party so chooses, then a written notice of intent not to renew the Agreement must be provided no less than 90 days prior to termination of the Agreement.

This contract shall be for a period of one (1) year or 365 calendar days beginning on the date specified in the Notice to Proceed.

Contractor shall present a written request no later than ninety (90) days prior to the expiration of the contract indicating interest in extending the contract for an additional term. Contractor may request a price increase in the written request to renew at a rate not to exceed the effective percentage change in the consumer price index (CPI-U) for the previous twelve (12) months. At the City's discretion, the effective

change rate shall be based on either the local or national index average rate for all items.

If agreement cannot be reached or the City does not desire to extend the contract for an additional term, the contract will be terminated at the end of the current contract period.

7.

Miscellaneous

7.1 Drug Testing. Contractor shall comply with FRA's drug and alcohol testing program.

7.2 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns, personal representatives, and heirs. No party, however, may assign this Agreement, or any portion thereof, to any person without the prior written consent, not to be unreasonably withheld, of the other party.

7.3 Governing Law. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue shall lie exclusively in any court of competent jurisdiction located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division.

7.4 Notices. "Notice," except in Section 1.4, means a written notice required or permitted under this Agreement. For non-emergency notice, a notice shall be deemed given or sent when deposited, as certified mail or for overnight delivery, postage and fees prepaid, in the United States mails; when delivered to an overnight delivery carrier, charges prepaid or charged to the sender's account; when personally delivered to the recipient; when transmitted electronically and confirmed as having been successfully transmitted; or when delivered to the home or office of a recipient in the care of a person whom the sender has reason to believe will promptly communicate the notice to the recipient. Emergency notice may be given to the individuals listed below and such notice may be given by e-mail or facsimile with confirmation of delivery by return e-mail or telephone call.

If to Colleyville:
Mr. Bob Lowry
Public Works Department
100 Main Street
Colleyville, Texas 76034
blowry@colleyvillc.com
Telephone 817-503-1096
Facsimile 817-503-1099

If to Contractor:
Mr. Kurt Anderson CTC, Inc.
6100 Southwest Blvd., Suite 500
Fort Worth, Texas 76109
Telephone 817-886-8210
Facsimile 817-886-8225

7.5 Entire Agreement. This Agreement constitutes the entire agreement among the parties regarding the subject matter of this Agreement, and no previous statement, promise, agreement, inducement or representation, whether oral or written, shall be of any further force or effect unless expressly set forth herein. All parties acknowledge and agree that they have been advised of and had the opportunity to seek the advice of counsel of their own choosing regarding the terms of this Agreement and the advisability of executing it. All parties acknowledge and agree that they have each fully read and understood the terms of this Agreement. Should any part of this Agreement be held by a court of competent jurisdiction to be unenforceable or invalid, the remaining portions of this Agreement shall remain in full force and effect.

In witness hereof, the parties hereto have executed this Agreement.

CTC, INC.

By: Kurt Anderson
Kurt Anderson, VP/General Manager

Date: 8/31/15

CITY OF COLLEYVILLE

ATTEST: Amy Shelley
Amy Shelley, City Secretary

Date: 8/26/15

APPROVED: Jennifer Fadden
Jennifer Fadden, City Manager

Date: 8/21/15

APPROVED AS TO
FORM & LEGALITY: Matthew Boyle
Matthew Boyle, City Attorney

Date: 8/16/15



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 7h

Agenda Date 08/16/2016

Number Resolution R-16-4025

Type Resolution

Department Community Development

Title

Consideration of an appeal to the provisions of Section 5.9 (Minimum Tree Preservation Requirements) of the Land Development Code on Lot 4, Block 2, and Lot 3, Block 1, of the St. Andrews Addition, located at 6004 and 5812 St. Andrews Court, Case GC16-006

Strategy Map Connection

There is no strategy map connection for this item.

Explanation

Reading and Public Hearing

Dustin Austin of Our Country Homes, the applicant, is appealing the applicability of the provisions of Section 5.9 (Minimum Tree Preservation Requirements) of the Land Development Code. The applicant submitted a waiver request to the Planning and Zoning Commission which was denied on August 8, 2016. The applicant contends that the requirements of Section 5.9 are not applicable due to the unique circumstances within the St. Andrews Estates subdivision.

Existing Conditions/Background: The subject properties are zoned R-20 Single Family Residential District and are platted lots of the St. Andrews Estates Addition. The subject properties are generally located north of L.D. Lockett Road and east of Precinct Line Road. Both residential lots are currently undeveloped.

There are two home builders referenced in the following briefing: M. Christopher Homes (Builder #1) and Our Country Homes (Builder #2). It is important to note that Builder #1 is not a party in this appeal request. However, actions taken by Builder #1 have impacted the overall development and are relevant to the request.

In January 2015, the entire St. Andrews Estates subdivision fell out of compliance with Chapter 5 (Tree Preservation) of the Land Development Code due to violations by Builder #1 within the subdivision. Based on these violations, no trees may be removed within the subdivision, which effects both builders. The appeal up for consideration has been submitted by Builder #2 in order to proceed with the development of the subject properties.

Appeal Request: The applicant, is appealing the applicability of the provisions of Section 5.9 (Minimum Tree Preservation Requirements) of the Land Development Code. The applicant contends that the requirements of Section 5.9 are not applicable

to the two lots they are developing due to previous violations by Builder #1 which have caused the entire subdivision to fall out of compliance.

Ordinance: Section 5.14 (Appeals) of the Land Development Code states:

"Any appeal to the provisions of this chapter and/or any appeal to a decision of the Administrative Official relative to the provisions of this chapter shall be heard by the City Council."

Section 5.9(B) of the Land Development Code states:

"Minimum Existing Tree Preservation Requirements: When any new construction occurs, there shall be a minimum number of trees protected on the property. For new residential subdivisions, the entire boundary of the subdivision shall be considered as one property for the purpose of this section."

Builder #2 has submitted two building permits (5812 and 6004 St. Andrews Court) to construct single family homes. The current building site plans submitted by Builder #2 identify 8 additional trees being removed, or four percent (4%) of the required preservation. The list below details the trees proposed for removal.

5812: removal of 4 trees (30 caliper inches)

- (1) 9-inch cedar elm
- (3) 7-inch cedar elms

6004: removal of 4 trees (57 caliper inches)

- (2) 14-inch post oaks
- (1) 6-inch cedar elm
- (1) 23-inch post oak

Preservation: Tree preservation will be reduced to 27% (4% change from current conditions)

Mitigation: Builder #2 will be responsible for 23 caliper inches after applying exemptions for tree types and location

Staff requested alternate site plans for each lot in an effort to preserve the trees as originally approved. Builder #2 has indicated that alternate site plans are not preferable to the future home owners.

Builder #2's request constitutes a four percent (4%) variance to tree preservation requirements for the subdivision. Builder #2 has followed the approved tree preservation plans and/or the City approval process and has committed no violations. Furthermore, Builder #2 is proposing to meet their portion of the mitigation requirements should the appeal be approved.

Analysis: The analysis portion to follow will include a synopsis of the events leading up to the reduction of the overall tree canopy coverage for the development which did not include actions by Builder #2.

The Land Development Code regulates tree preservation for residential subdivisions by

utilizing the entire boundary of the subdivision and giving a credit/value (tree canopy area) to each tree based on the diameter of the trunk. Section 5.9 provides a table which is utilized to determine the percentage of tree canopy coverage to be preserved.

Percentage of existing protected canopy tree coverage (LAND AREA COVERAGE)	Minimum percentage of the existing protected canopy tree coverage to be preserved
0% – 20%	70%
20.1 – 40%	60%
40.1% - 60%	50%
60.1% - 80%	40%
80.1% - 100%	30%

St. Andrews Estates had a 20.6% canopy cover and was therefore required to preserve 60% of the existing tree canopy.

The planning and approval of a tree preservation plan, as well as tree protection, during public improvements is generally the responsibility of the original applicant. In this case the original applicant (developer - JFD St Andrews, LTD) met all of the tree preservation requirements and all additional obligations at the time of acceptance by the City. Following acceptance, the developer sold the subdivision to Builder #1 and no longer owned property within the subdivision. Builder #1 followed suit and sold half of the lots (7) to Builder #2.

In January 2015, Builder #1 proceeded to remove trees without a permit on one lot within the subdivision (6001 St. Andrews Court). Staff at this time followed the appropriate procedures in the Land Development Code and required Builder #1 to mitigate per Section 5.13-Penalties and Violations. Builder #1 has addressed the mitigation requirements for that violation. Following that violation, the overall tree preservation had fallen to 55% (60% required).

In February 2016, City staff discovered a second violation by Builder #1 at 6001 St. Andrews Court. Additional trees were removed without a permit. In response, staff failed the final inspection for the property and subsequently issued a citation to Builder #1. To date, Builder #1 has not mitigated for this violation.

The violations committed by Builder #1 caused the entire subdivision to fall below the required protected tree canopy coverage percentage. The data below illustrates the original preservation requirements, and the current status of the entire subdivision.

- Original Preservation Requirement = 60%
- Original Preservation Provided = 63%
- Current Preservation = 31%

As previously discussed, Chapter 5 of the Land Development Code regulates tree preservation requirements for the entire subdivision. When a subdivision falls out of compliance staff cannot administratively allow additional trees to be removed.

It should be noted that the subdivision had a three percent (3%) surplus prior to the violations. Builder #2 is requesting to remove four percent (4%), so a waiver would

still be required to remove the trees as proposed.

Although the current conditions within the boundaries of the subdivision do not meet the requirements of the Land Development Code, the provisions established for violations have been applied to each illegal action. Staff continues to work with Builder #1 to obtain the required mitigation. Builder #2 continues to follow the appropriate approval processes and procedures to ensure compliance with City requirements.

Due to the previous violations and the non-compliant status of the subdivision, Builder #2 (the applicant) is not permitted to remove any trees without approval of a waiver from the Planning and Zoning Commission. However, the Planning and Zoning Commission denied the waiver request at the August 8, 2016 meeting. This has presented a challenge for Builder #2 as they begin the building process on two lots.

Following the denial, Builder #2 asserted that the non-compliant status of the subdivision should not negatively affect their ability to develop on two lots since they were not parties in the violations. They have since appealed the applicability of the provisions of Section 5.9.

Financial Impact

There is no financial impact to the City.

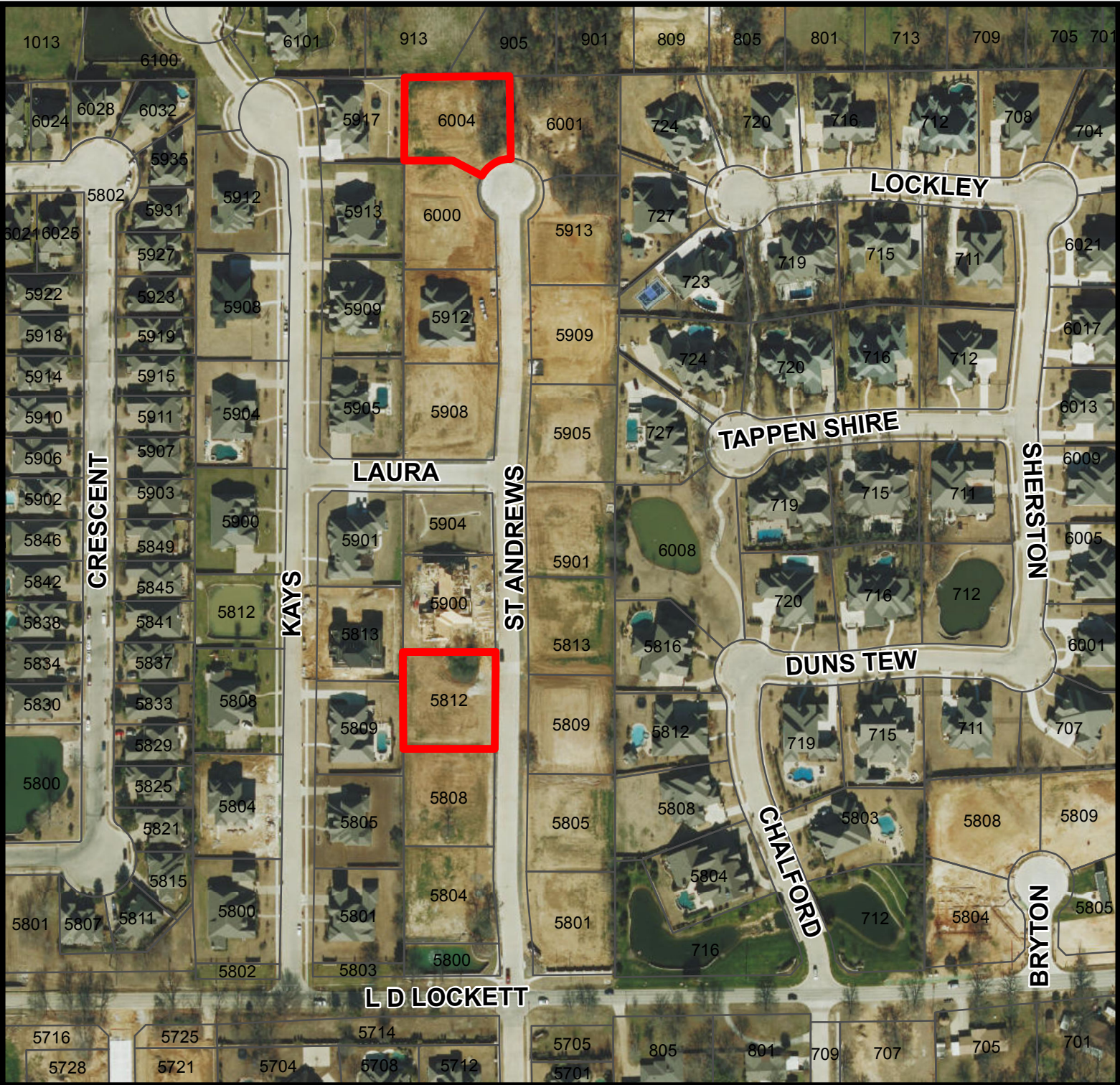
Recommendation

Denial

Attachments

1. Aerial Map
2. Zoning Map
3. Future Land Map Use
4. Appeal Request
5. Statement of Planning Objectives
6. 5812 St Andrews Site and Tree Mitigation Plan
7. 6004 St Andrews Site and Tree Mitigation Plan
8. St. Andrews Subdivision Tree Preservation Plan
9. Resolution R-16-4025

AERIAL MAP

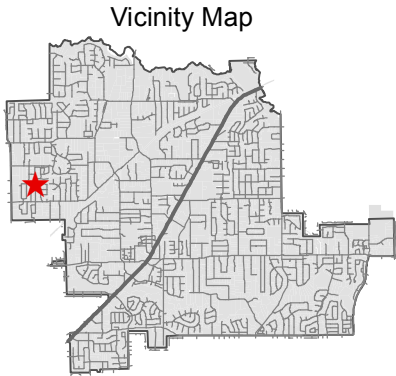


5812 AND 6004 ST. ANDREWS COURT

Legend
 Subject Properties

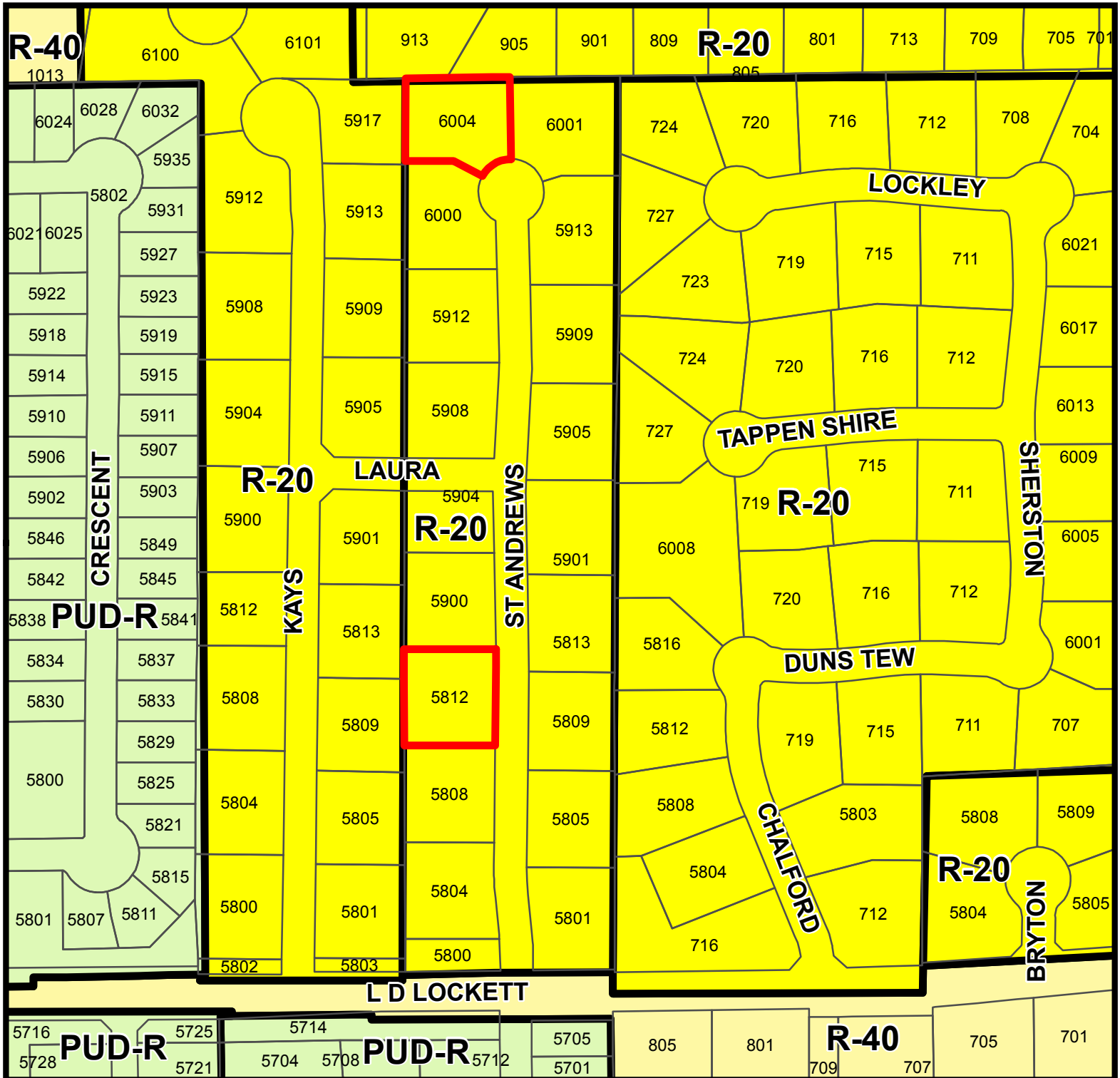


1 inch = 208 feet



DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of Colleyville. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of Colleyville, its officials or employees for any discrepancies, errors, or variances which may exist.

ZONING MAP



5812 AND 6004 ST. ANDREWS COURT

Legend

Subject Properties



1 inch = 208 feet

Vicinity Map



DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of Colleyville. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of Colleyville, its officials or employees for any discrepancies, errors, or variances which may exist.

DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of Colleyville. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of Colleyville, its officials or employees for any discrepancies, errors, or variances which may exist.

Appeal Request

Shane Pace

From: Dustin Austin
Sent: Friday, August 12, 2016 9:28 AM
To: Shane Pace
Subject: Appeal Request

Shane,

Please let this email serve as our official request that we are requesting an appeal provision of section 5.9B of your ordinance regarding 5812 & 6004 St Andrews Ct. Colleyville. If additional details are needed please feel free to reach out to us.

Thank you,

Our Country Homes
700 W Harwood Dr
Hurst, TX 76054

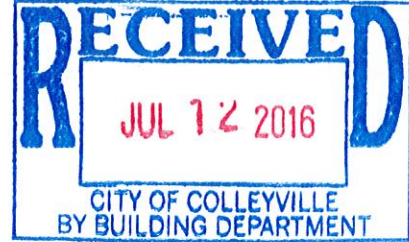
Dustin Austin
817-281-3388

www.ourcountryhomes.com

Statement of Planning Objectives



City of Colleyville
The Colleyville Development Review Committee
Statement of Planning Objectives



To whom it may concern:

Our Country Homes has been contracted to build two houses in the St. Andrews neighborhood of Colleyville; 5812 St. Andrews Court and 6004 St. Andrews Court.

5812 St. Andrews Court- we are requesting to remove 3 trees.

6004 St. Andrews Court- we are requesting to remove 4 trees.

Statement of Planning Objectives:

We are requesting a waiver so that we can proceed with new home construction: *wavier from minimum tree preservation in order to remove additional trees that are still remaining*; ordinance provision Section 5.9 of the Land Development Code. These trees would need to be removed in order to proceed with construction. Please see attached statement for this request which explains hardships and practical difficulties.

Sincerely,

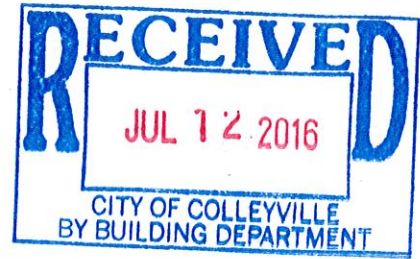
A handwritten signature in blue ink that reads "Jessica Mack".

Jessica Mack
Starts Coordinator
jmack@ourcountryhomes.com

Statement of Planning Objectives



City of Colleyville
The Colleyville Development Review Committee



Addressing General Comments:

1. Our Country Homes is the owner of 5812 St. Andrews Court. George and Trudy Casteleiro are currently under contract with Our Country Homes and upon completion of the home, they will be the owners. Jeffrey & Vicki Sanders are the owners of 6004 St. Andrews Court as of 4/7/2016.

2. Providing hardships or practical difficulties:

5812 St. Andrews Court: if layout of house was switched to the alternative layout suggested, the garage would be visible when entering the neighborhood which could be considered unsightly and uninviting.

6004 St. Andrews Court: if layout of house was switched to the alternative layout suggested, the location of the drainage and utility easements would compromise usable backyard space, as well as future planned swimming pool.

TREE LIST

[illegible]

PRELIMINARY PLANS

6/28/16

DATE: _____

PURCHASER / OWNER: _____

PURCHASER / OWNER: _____

SALES CONSULTANT: _____

CONSTRUCTION SUPERINTENDENT: _____

TREE MITIGATION PLAN

NORTH

SCALE: 1"= 20'-0"

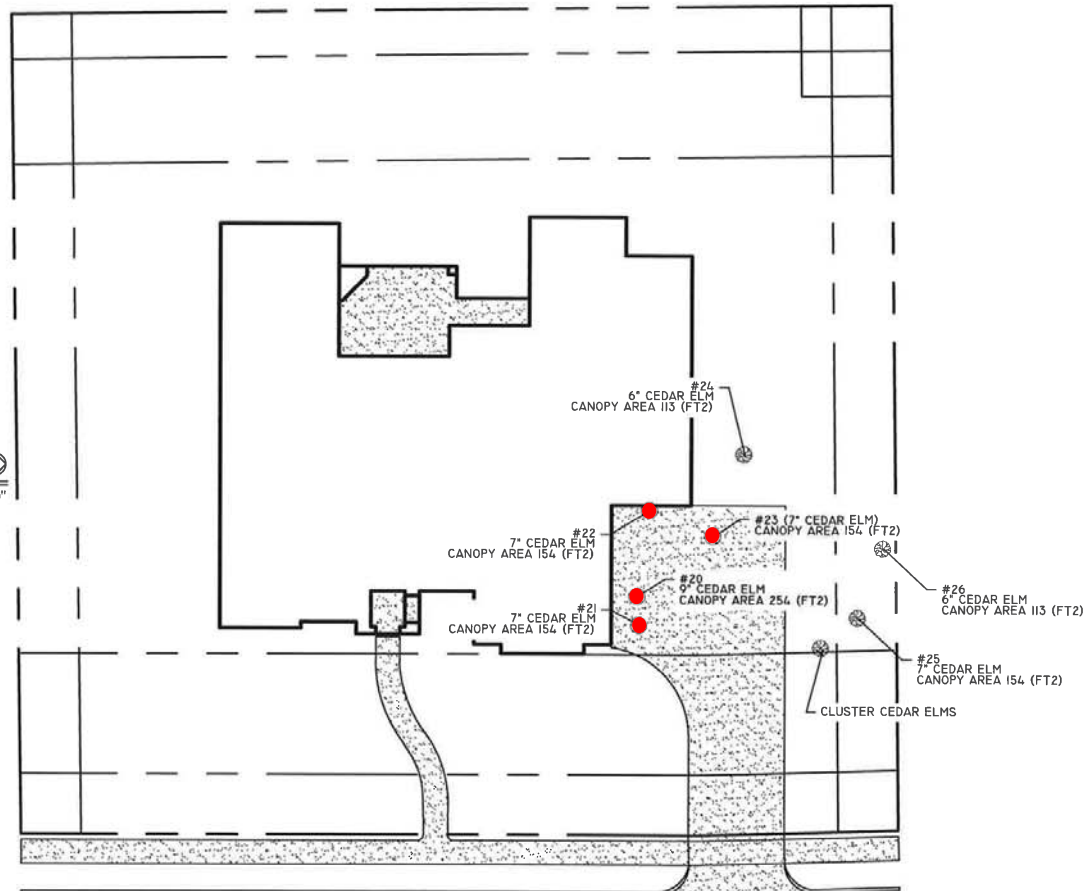
EXISTING TREE 

EXISTING TREE
TO BE REMOVED

NOTES:

-A MINIMUM OF THREE 4-INCH CALIPER TREES
WILL BE PLANTED PRIOR TO FINAL INSPECTION
PER THE APPROVED TREE MITIGATION PLANS
FOR THE OVERALL SUBDIVISION OF SAINT
ANDREWS ESTATES

-ALL UTILITIES AND IRRIGATION WILL BE
ROUTED OUTSIDE THE CRITICAL ROOT ZONE
OF PRESERVED TREES.



5812 ST. ANDREWS COURT

GOLD SERIES

CASTELEIRO RESIDENCE
5812 ST. ANDREWS COURT
LOT 3, BLOCK 1
ST. ANDREWS ESTATES
COLLEYVILLE, TEXAS

OUR COUNTRY HOMES
700 W. HARWOOD ROAD # G2

817-281-3388 www.ourcountryhomes.com
HURST, TX. 76054



Date:
5-25-16
Designer:
BFM

SHEET
S-2

COPYRIGHT 2016, ALL RIGHTS RESERVED.
THESE PLANS MAY NOT BE DUPLICATED WITHOUT THE EXPRESSED WRITTEN
CONSENT OF DUSTIN AUSTIN ENTERPRISES INC., DBA "OUR COUNTRY HOMES"

6004 St Andrews Site and Tree Mitigation Plan

TREE LIST											
TREE LOCATION	TREE #	COMMON NAME / SPECIES	DBH (IN)	CANOPY AREA (FT ²)	PRESERVATION STATUS	SETBACK TREE	EXCLUSIONS EXEMPT	TREE MITIGATION	PENALTY/VIOLATION	COMMENTS	
6004	74	POST OAK	15	707	PRES						
6004	75	POST OAK	9	254	PRES						
6004	78	POST OAK	13	531	PRES						
6004	79	POST OAK	12	452	PRES						
6004	81	POST OAK	13	531	REM			PLANT		NO PERMIT; ORIGINALLY DESIGNATED TO PRESERVE	
6004	87	POST OAK	15	707	PRES						
6004	92	POST OAK	23	1662	PRES						
6004	104	POST OAK	13	531	REM		RSE	PLANT		NO PERMIT; ORIGINALLY DESIGNATED TO PRESERVE	
6004	109	CEDAR ELM	6	113	PRES		RSE				
6004	122	POST OAK	18	1018	REM						
6004	123	POST OAK	14	616	PRES		RSE				
6004	129	HONEY LOCUST	5	79	REM		NON-P				
6004	134	POST OAK	14	616	PRES		RSE				
ROW	58	POST OAK	11	380	REM		ROW				
ROW	70	POST OAK	14	616	REM						

TREE MITIGATION PLAN



SCALE: 1"= 20'-0"

- EXISTING TREE
- EXISTING TREE TO BE REMOVED
- REMOVED TREES

NOTES:

-A MINIMUM OF THREE 4-INCH CALIPER TREES WILL BE PLANTED PRIOR TO FINAL INSPECTION PER THE APPROVED TREE MITIGATION PLANS FOR THE OVERALL SUBDIVISION OF SAINT ANDREWS ESTATES. ADDITIONAL MITIGATION OF 42 CALIPER INCHES WILL BE PLANTED FOR THE REMAINING TREES REMOVED OUTSIDE THE RESIDENTIAL SETBACK ENVELOPE.

-ALL UTILITIES AND IRRIGATION WILL BE ROUTED OUTSIDE THE CRITICAL ROOT ZONE OF PRESERVED TREES.

FINAL PLANS
6/28/16

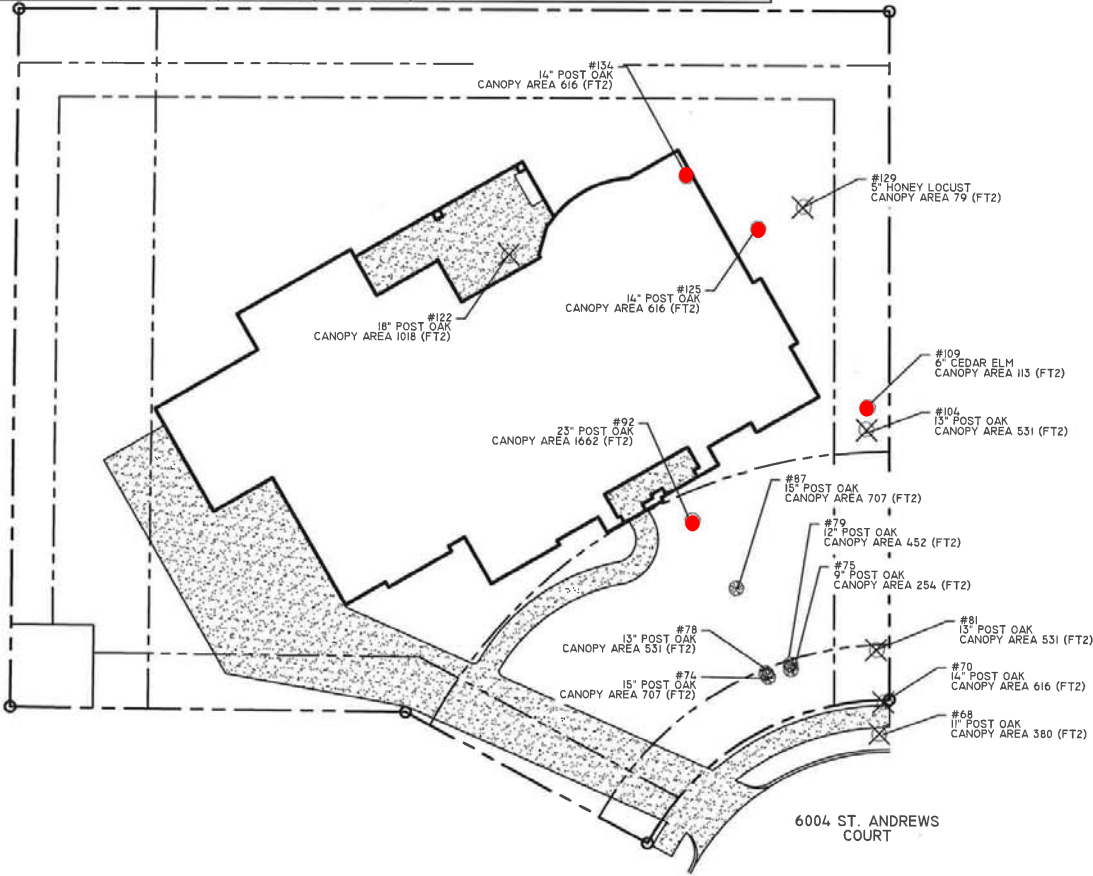
DATE: _____

PURCHASER / OWNER: _____

PURCHASER / OWNER: _____

SALES CONSULTANT: _____

CONSTRUCTION SUPERINTENDENT: _____



COPYRIGHT 2016. ALL RIGHTS RESERVED.
THESE PLANS MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN
CONSENT OF DUSTIN ANDERSON ENTERPRISES INC. OR OUR COUNTRY HOMES

PLATINUM SERIES

OUR COUNTRY HOMES
700 W. HAWKWOOD ROAD # G2
HURST, TX. 76054
817-281-3388 www.ourcountryhomes.com

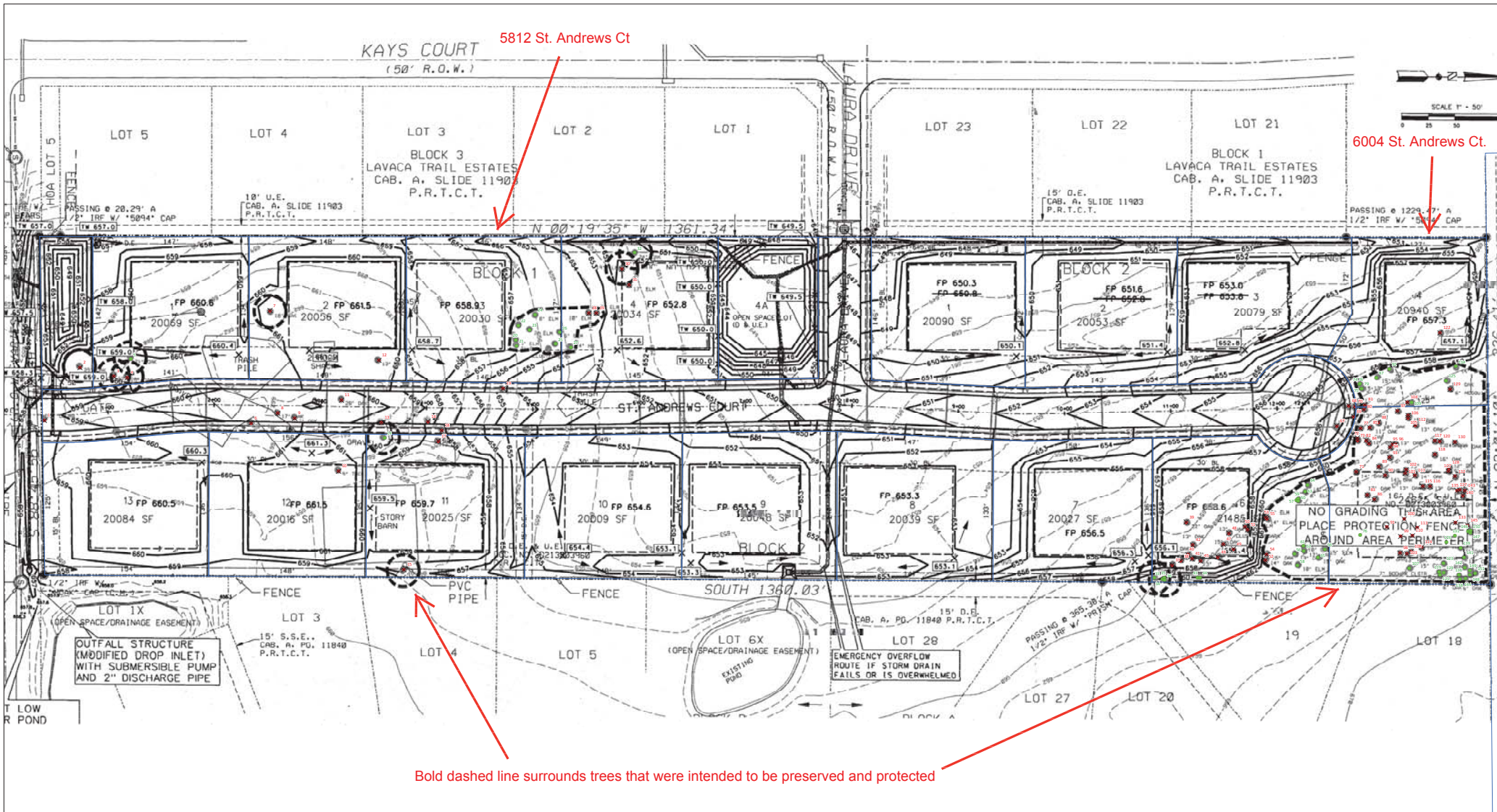


Date:
3-15-16
Designer:
BFM

SHEET
SITE

SANDERS RESIDENCE
6004 ST. ANDREWS COURT
LOT 4, BLOCK 2
ST. ANDREWS ESTATES
COLLEYVILLE, TEXAS

St. Andrews Subdivision Tree Preservation Plan



- ✕ Removed or Unprotected Tree
- Preserved Tree

1 inch equals 40 feet
0 40 80 160 Feet



Prepared by: Caleb Tandy, ISA Certified Arborist (TX-3710A)
Urban Forester, City of Colleyville

Date: 5/24/2016

St. Andrews Subdivision Tree Preservation Plan



✕ Removed or Unprotected Tree
● Preserved Tree

1 inch equals 40 feet
0 40 80 160
Feet



Prepared by: Caleb Tandy, ISA Certified Arborist (TX-3710A)
Urban Forester, City of Colleyville
Date: 5/24/2016

RESOLUTION R-16-4025

A RESOLUTION APPROVING AN APPEAL TO THE APPLICABILITY OF THE PROVISIONS OF SECTION 5.9 (MINIMUM TREE PRESERVATION REQUIREMENTS) OF THE LAND DEVELOPMENT CODE, AS TO 5812 AND 6004 ST. ANDREWS COURT

- WHEREAS,** Section 5.14 of the Land Development Code provides that any appeal to the provisions of this chapter shall be heard by the City Council; and
- WHEREAS,** Our County Homes has filed an appeal to the provisions of Section 5.9 (Minimum Tree Preservation) of the Land Development Code as applied to two homes at 5812 and 6004 St. Andrews Court; and
- WHEREAS,** Section 5.9(B) of the Land Development Code establishes tree preservation standards for new residential subdivisions, and establishes that the entire boundary of the subdivision shall be considered as one property for the purpose of this section; and
- WHEREAS,** based on Section 5.9(B) of the Land Development Code, St. Andrews Estates was required to preserve 60 percent of the existing tree canopy; and
- WHEREAS,** violations committed by another builder caused the entire subdivision to fall below the required protected tree canopy coverage percentage; and
- WHEREAS,** Our Country Homes asserts that the non-compliant status of the subdivision should not negatively affect their ability to develop on two lots since they were not parties in the violations; and
- WHEREAS,** Our County Homes has submitted two building permits (5812 and 6004 St. Andrews Court) to construct single family homes which identify eight (8) additional trees being removed, or four percent (4%) of the required preservation; and
- WHEREAS,** all statutory and constitutional requirements for the passage of this Resolution have been adhered to, including but not limited to, the Texas Open Meetings Act.

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

- Sec. 1. THAT all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
- Sec. 2. THAT the appeal to Section 5.9(B) as applied to 5812 and 6004 St. Andrews Court is hereby approved.

AND IT IS SO RESOLVED.

PASSED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON THIS THE 16th DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 9

Agenda Date 08/16/2016

Type Report

Department City Secretary

Title

Planning and Zoning Commission Meeting Minutes of July 11, 2016
Zoning Board of Adjustment Meeting Minutes of July 13, 2016

Attachments

1. July 11, 2016 - Planning and Zoning Commission Meeting Minutes
2. July 13, 2016 - Zoning Board of Adjustment Meeting Minutes



City of Colleyville Planning and Zoning Commission Minutes

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
www.colleyville.com

Monday, July 11, 2016

City Council Chambers

CALL MEETING TO ORDER

The Planning and Zoning Commission meeting of the City of Colleyville was called to order by the Chairman Byerly on July 11, 2016, at 7:00p.m.

Roll Call

Present: Commissioners, Carel Tornes, David Wheelwright, Jason Elms, Jim Gotcher, Jeff Byerly and David Phelps

Absent: Commissioner Don Davis

Staff Present: Shane Pace, Oscar Chavez, Cheryl Taylor, Rob McKeown, Caleb Tandy, Chris Fuller, Araceli Botello, and Matthew Butler (City Attorney)

1. APPROVAL OF MINUTES

Commissioner Phelps made a motion to approve the June 13, 2016 minutes as written. Commissioner Gotcher seconded.

The motion to approve the June 13, 2016 minutes as written carried by the following vote:

Aye: 6 –Tornes, Wheelwright, Elms, Gotcher, Phelps, and Byerly

2. CITIZEN COMMENTS/PRESENTATIONS REGARDING ITEMS NOT ON THE AGENDA

There were no citizen comments/presentations regarding items not on the agenda.

3. CONSENT AGENDA ITEMS

- 3a** Consideration of a replat on Lots 1 and 2, Block 1, of the Covenant Christian Academy Addition, located at 901 Cheek- Sparger Road, and Lot 5, Block 3, of the Southgate Addition, located at 3709 Wayne Drive, Case PC16-002

Commissioner Tornes made a motion to approve Case PC16-002. Commissioner Gotcher seconded.

The motion to approve carried by the following vote:

Aye: 6 – Tornes, Wheelwright, Elms, Gotcher, Phelps, and Byerly

4. PUBLIC HEARING AGENDA ITEMS

- 4a** Consideration of a waiver to certain provisions of Section 5.9 Minimum Tree Preservation Requirements of the Land Development Code on Lots 1-12, Block 1, and 2 Common Areas, of the Villas at Windsor Steele Addition, located at 5011, 5101, 5105, 5109, 5015, 5113, 5117, 5121, 5125, 5129, 5133, 5137, 5141, and 5145 Roberts Road, Case GC16-004

Shane Pace presented the case and briefed the Commission.

The public hearing was opened at 7:15 p.m.

The applicant, Todd Atwood, 4201 North State Highway 161, Irving Texas came forward and briefed the Commission.

Kathy Hadley, 204 North Timberline Drive, came forward and spoke in opposition to this case.

There being no others present wishing to speak, the public hearing was closed at 7:28 p.m.

Commissioner Phelps made a motion to approve Case GC16-004 with the following conditions: 1) All front yard and open space trees shall be of 6 inch caliper or greater; 2) One additional 3 inch caliper tree shall be planted in the rear yard of lots 1, 2, 3, 4, 6, 10, 11, and 12. Commissioner Gotcher seconded.

The motion to approve Case GC16-004 with the following conditions: 1) All front yard and open space trees shall be of 6 inch caliper or greater; 2) One additional 3 inch caliper tree shall be planted in the rear yard of lots 1, 2, 3, 4, 6, 10, 11, and 12, carried by the following vote:

Aye: 5 – Wheelwright, Elms, Gotcher, Phelps, and Byerly

Nay: 1 - Tornes

5. ADJOURNMENT

The meeting adjourned at 7:59 p.m.

The minutes were written and prepared by:



Araceli Botello

Planning Technician

The meeting minutes were approved on August 8, 2016 by a vote of 7-0.



City of Colleyville Zoning Board of Adjustment Minutes

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
www.colleyville.com

Wednesday, July 13, 2016

City Council Chambers

CALL TO ORDER

The Zoning Board of Adjustment meeting of the City of Colleyville was called to order by Board member McNosky on May 10, 2016 at 7:00 p.m.

Roll Call

Present: Board members Dee Kamerman, Raymond Allee, Wayne Maynard, Dee McNosky, Judson Orlando, and Richard Vallario

Absent: Jason Elms

Staff Present: Shane Pace, James Hubbard, Araceli Botello, and Matthew Boyle (City Attorney)

1. APPROVAL OF MINUTES

Board member Maynard made a motion to approve the May 10, 2016 minutes. Board member Kamerman seconded.

The motion to approve the May 10, 2016 minutes was carried by the following vote:

Aye: 5 – Kamerman, Allee, Maynard, McNosky, and Orlando

2. PUBLIC HEARING AGENDA ITEMS

2a Request for a variance to certain provisions of Section 3.26 (Fences, Free Standing Walls, and Screening Materials) of the Land Development Code on Lot 5, Block D, of the Old Grove Addition, located at 101 Stillwater Circle, Case VC16-005

Shane Pace presented the case and briefed the Board.

The public hearing was opened at 7:06 p.m.

Roy and Natalie Allen, the applicants, came forward and briefed the Board.

Board member Orlando questioned staff regarding the age of the development. Shane Pace replied the development is fairly new. He went on to explain that a review of the subdivision plat would be necessary to provide an exact date.

Board member Orlando questioned staff regarding the installation of fences on neighboring properties and the application of the Land Development Code on these properties. Shane Pace replied that a few of the fences on neighboring properties have been installed without a permit. He went on to explain that two fences in the general vicinity were approved through email by a previous staff member.

Discussion continued regarding the fencing on neighboring properties.

Board member Maynard questioned the applicants regarding the distance between the fence and the sidewalk, in relation to the property to the south. Mr. Allen replied that the location would be very similar. He went on to say there are trees he would like to preserve inside the fence.

Board member Kamerman questioned the applicants regarding moving the trees. Mr. Allen replied if the fence is placed outside of the trees, the trees will remain where they are. Board member Kamerman asked the applicants if the fence would be within 5 feet from the sidewalk. Mr. Allen replied the fence will be within 5 feet from the sidewalk.

Board member Maynard question the applicants regarding the height of the fence. Mr. Allen replied they would keep the same fence and same height.

Board member Allee questioned staff on the approval of various setbacks on neighboring properties over a period of time and the reason these fences have not been corrected. Shane Pace replied he is unable to speak to the approval process of the neighboring fences in the past. He went on to explain that the city will not initiate a request to relocate a non-conforming fence. He further explained the intent and spirit of the current regulations in the Land Development Code which require corner lots to be setback 15 feet.

There being no else wishing to speak the public hearing was closed at 7:18 p.m.

Board member Maynard made a motion that a hardship has not been presented.

In absence of a second motion, the motion died.

Board member Maynard made a motion to approve Case VC16-005. Board member McNosky seconded.

The motion to approve Case VC16-005, carried by the following vote:

Aye: 5 – Allee, Maynard, Orlando, Kamerman, and McNosky

3. ADJOURNMENT

The meeting adjourned at 7:22 p.m.

Minutes were written and prepared by:



Araceli Botello

Planning Technician

The meeting minutes were approved on August 9, 2016, by a vote of 5-0.



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number

Agenda Date 08/16/2016

Number 9

Type Report

Department Finance

Title

Monthly Financial Report - July 2016

Strategy Map Connection

F1- Protect and preserve the City's top financial ratings

F4- Adhere to the City's financial and budgetary policies

Explanation

General Fund

The percentage of the current year tax roll collected is slightly behind the percentage collected for July 2015. The budgeted projection of 99% has been exceeded.

For the month of July, sales tax is up 20.09% (\$50,947) from revenues reported for the same time period last year. Year to date General Fund sales tax is up 8.70% (\$191,159) when compared to the same time period last year. This is the ninth consecutive month of increased sales taxes and the highest July sales tax allocation ever received. The quarterly mixed beverage tax allocation came in at \$27,475 compared to \$27,157 last fiscal year. Year to date revenues exceed budgeted projections by 33%.

The annual franchise payment received from Atmos in March exceeded budgeted projections by 5.2%, however, due to warmer winter temperatures compared to last year, the annual amount received was 18.11% less than the amount received last fiscal year. The annual franchise payment received by Oncor in February exceeded budgeted projections by 3.31% and was slightly more than last year's annual payment. Tri-County Electric's annual franchise payment also exceeded the budgeted projection by 6.78%.

Twenty new residential building permits were issued in July, compared to 33 that were issued in July 2015. Revenues received for licenses and permits exceed current year projections by 52%. Although currently exceeding budgeted projections, fine revenue is down 13.5% when compared to the same time period last fiscal year. Citations have decreased in part related to a 40% drop in the number of registration violations due to the change in the State's vehicle registration law. Ambulance revenues exceed budget projections by over 25% and are ahead of last year's collections due to an increase in hospital transports. Colleyville Center revenues are ahead of budgeted projections by 18.5%. Cost recovery for the Center is currently 61%. Revenues related to engineering and construction inspection fees are down compared to

budgeted projections and last year due to a minimal number of new development projects so far this fiscal year.

The average amount expended by the General Fund departments at the end of July is 81.88% of the total appropriation versus 84.85%, which was projected to be spent.

Utility Fund

Year to date, water usage has increased as compared to the amount sold through July 2015. Rainfall totals for the past 4 months total 18.34 inches compared to 27.39 inches for the same time period last year. The average amount expended by the Utility Fund departments at the end of July was 59.59% of the total appropriation, versus 77.46%, which was projected to be spent.

Attachments

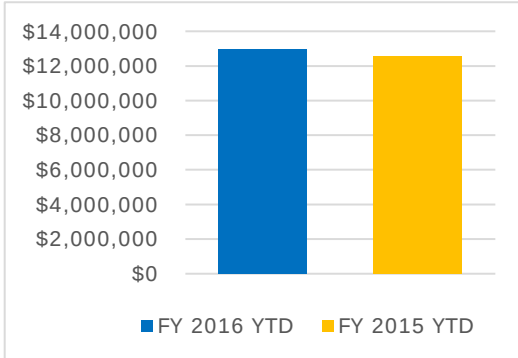
1. July 2016 Monthly Financial Report

Monthly Financial Report: July 2016

General Fund Revenues

Ad Valorem Taxes

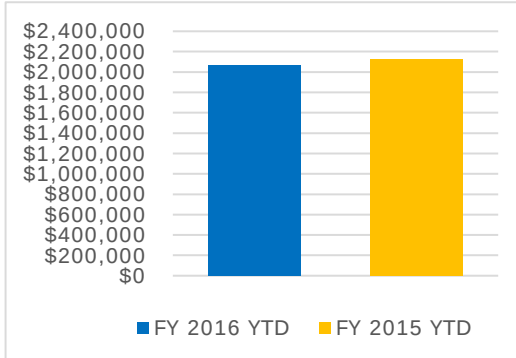
FY 2016 Budget: \$12,928,456



% Change FY/FY: 2.89%
 - Based on 2015 property values
 - Most collections in Dec., Jan., & Feb.

Franchise Fees

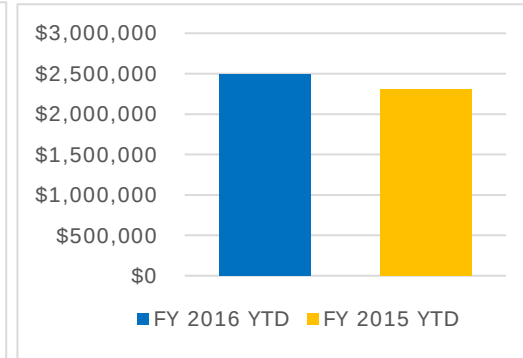
FY 2016 Budget: \$2,061,000



% Change FY/FY: -2.78%
 - Use of City ROW by utilities
 - Gas, Electricity, Telecom., Cable, Waste

Sales Taxes

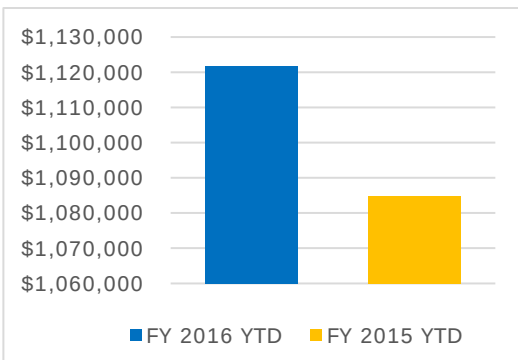
FY 2016 Budget: \$3,480,000



% Change FY/FY: 8.23%
 - Receipts are from sales 2 months prior
 - Sales tax revenues are Dec. - Nov.
 - Also includes mixed beverage tax

Licenses & Permits

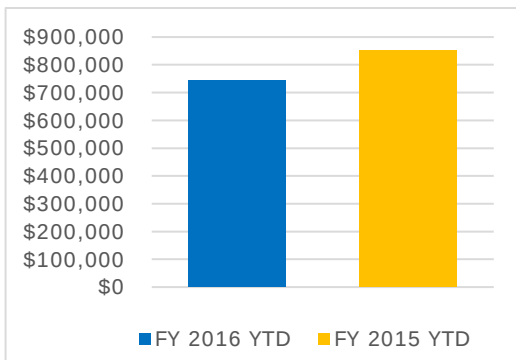
FY 2016 Budget: \$882,800



% Change FY/FY: 3.42%
 - Building, plumbing, mechanical, fence, electrical, sign, etc. permit fees

Fines

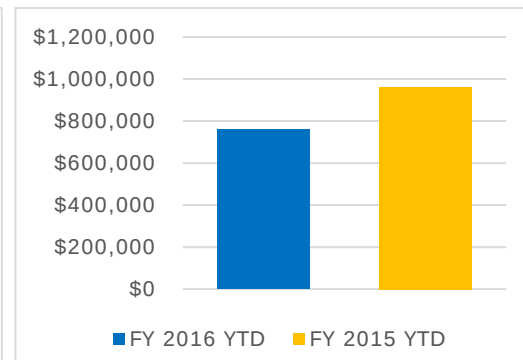
FY 2016 Budget: \$876,000



% Change FY/FY: -12.70%
 - Includes fines from citations, alarm fees, and library fines

Charges for Service

FY 2016 Budget: \$1,089,800

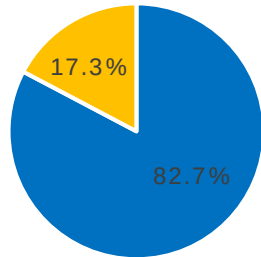


% Change FY/FY: -20.89%
 - Includes zoning, ambulance, parks/rec., engineering, & Colleyville Center charges

Monthly Financial Report: July 2016
General Fund Expenditures

Public Safety

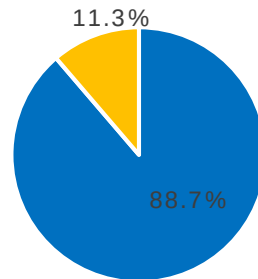
FY 2016 Budget: \$9,424,339
% Expended: 82.7%
% Remaining: 17.3%



■ % Expended: ■ % Remaining:

Infrastructure

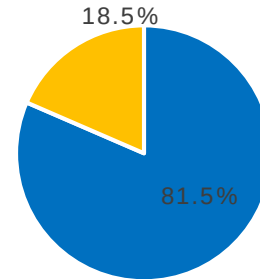
FY 2016 Budget: \$6,482,251
% Expended: 88.7%
% Remaining: 11.3%



■ % Expended: ■ % Remaining:

Development

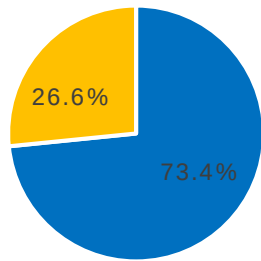
FY 2016 Budget: \$1,100,806
% Expended: 81.5%
% Remaining: 18.5%



■ % Expended: ■ % Remaining:

Operational Support

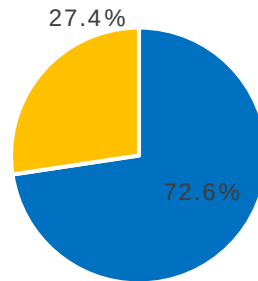
FY 2016 Budget: \$3,286,768
% Expended: 73.4%
% Remaining: 26.6%



■ % Expended: ■ % Remaining:

Community Assets & Programs

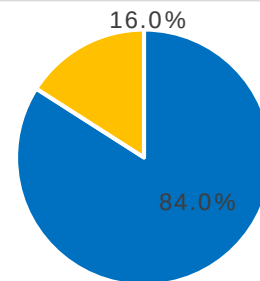
FY 2016 Budget: \$2,808,506
% Expended: 72.6%
% Remaining: 27.4%



■ % Expended: ■ % Remaining:

Technology

FY 2016 Budget: \$874,700
% Expended: 84.0%
% Remaining: 16.0%

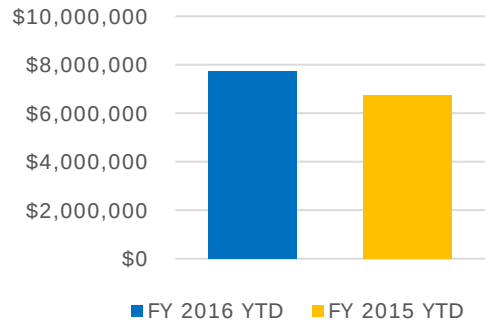


■ % Expended: ■ % Remaining:

Monthly Financial Report: July 2016

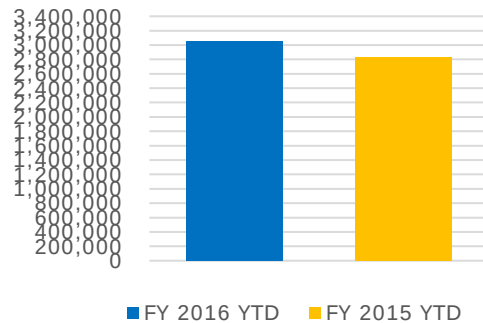
Utility Fund

Water Sales



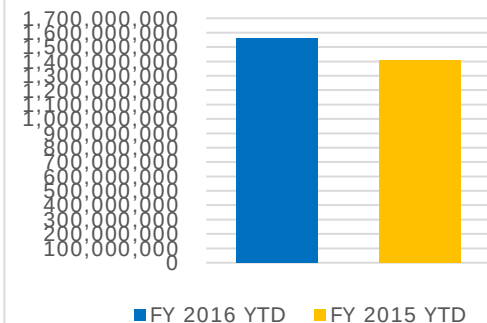
% Change FY/FY: 14.95%

Wastewater Sales



% Change FY/FY: 7.64%

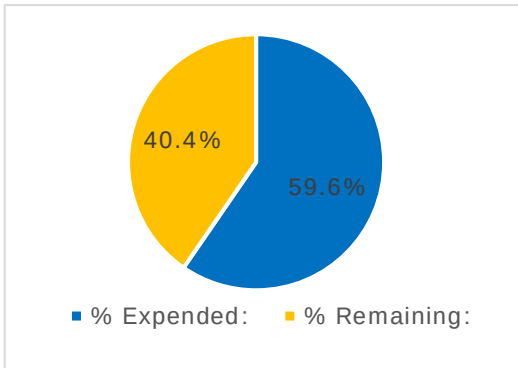
Gallons of Water Sold



% Change FY/FY: 10.75%

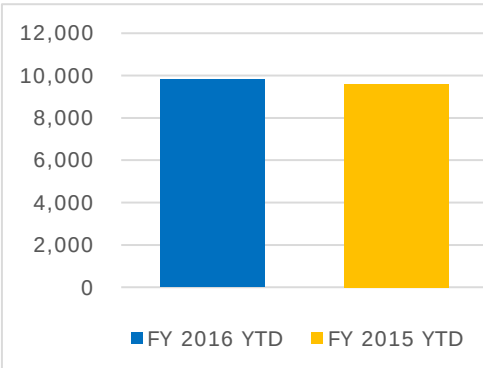
Utility Fund Expenditures

FY 2016 Budget: \$15,886,362
 % Expended: 59.6%
 % Remaining: 40.4%



Number of Water Customers

FY 2016 YTD: 9,806
 FY 2015 YTD: 9,614



% Change FY/FY: 2.00%

Notes

Rainfall totals (in inches):
 Oct 15-Jul 16 47.76
 Oct 14-Jul 15 41.85

MONTHLY FINANCIAL REPORT - JULY 2016

GENERAL FUND		RECEIVED	PROJECTED		RECEIVED	
	FY 2016	FY 2016 YTD	FY 2016 YTD	RECEIPT VS	FY 2015 YTD	PERCENT
REVENUE SOURCE	BUDGET	AS OF	AS OF	PROJECTED	AS OF	CHANGE OVER
		7/31/2016	7/31/2016	INCR (DECR)	7/31/2015	PRIOR YEAR
Current Taxes	\$12,823,456	\$12,880,809	\$12,823,456	0.45%	\$12,498,559	3.06%
Delinquent Taxes	50,000	20,010	23,619	-15.28%	23,619	-15.28%
Penalty & Interest	55,000	44,170	59,651	-25.95%	59,651	-25.95%
TOTAL AD VALOREM TAXES	\$12,928,456	\$12,944,989	\$12,906,726	0.30%	\$12,581,829	2.89%
Oncor Electric	\$875,000	\$903,933	\$875,000	3.31%	\$903,390	0.06%
Tri-County Electric	105,000	112,116	105,000	6.78%	126,855	-11.62%
Atmos Gas	350,000	368,202	350,000	5.20%	449,640	-18.11%
AT&T	70,000	50,497	52,500	-3.81%	54,012	-6.51%
Verizon/Others	65,000	40,078	54,167	-26.01%	62,916	-36.30%
Refuse/Recycling	146,000	137,459	121,666	12.98%	133,813	2.72%
Cable TV	450,000	451,506	337,500	33.78%	392,173	15.13%
TOTAL FRANCHISE TAXES	\$2,061,000	\$2,063,791	\$1,895,832	8.86%	\$2,122,799	-2.78%
Sales Tax	\$3,400,000	\$2,388,929	\$2,335,131	2.30%	\$2,197,770	8.70%
Mixed Beverage Tax	80,000	106,607	80,000	33.26%	107,977	-1.27%
TOTAL SALES TAX	\$3,480,000	\$2,495,536	\$2,415,131	3.33%	\$2,305,747	8.23%
Building	\$580,000	\$703,343	\$483,333	45.52%	\$723,845	-2.83%
Plumbing	48,000	63,107	40,000	57.77%	62,616	0.78%
Mechanical	29,000	54,607	24,167	125.96%	34,338	59.03%
Electrical	40,000	62,950	33,333	88.85%	51,674	21.82%
City License	35,000	51,849	29,167	77.77%	37,500	38.26%
Building Plan Review Fee	109,000	112,612	90,833	23.98%	126,172	-10.75%
New Business	3,500	5,611	2,917	92.38%	4,042	38.82%
Sign Permit	6,800	8,915	5,667	57.32%	7,670	16.23%
Fence Permit	9,500	16,550	7,917	109.05%	9,225	79.40%
Fire Permits	7,000	18,305	5,833	213.80%	11,575	58.14%
Irrigation Permit	15,000	23,912	12,500	91.29%	13,571	76.20%
Gas & Oil Well Permit Fee	0	75	0	100.00%	2,500	-97.00%
TOTAL LICENSES & PERMITS	\$882,800	\$1,121,836	\$735,667	52.49%	\$1,084,728	3.42%
Fines	\$800,000	\$678,352	\$666,667	1.75%	\$784,310	-13.51%
Alarm Fees	53,000	45,544	44,167	3.12%	48,033	-5.18%
Library Fines	23,000	20,422	19,167	6.55%	20,219	1.01%
TOTAL FINES	\$876,000	\$744,319	\$730,000	1.96%	\$852,562	-12.70%

MONTHLY FINANCIAL REPORT - JULY 2016

REVENUE SOURCE	FY 2016 BUDGET	RECEIVED AS OF 7/31/2016	PROJECTED AS OF 7/31/2016	RECEIPT VS PROJECTED INCR (DECR)	RECEIVED AS OF 7/31/2015	PERCENT CHANGE OVER PRIOR YEAR
Re-zoning	\$10,000	\$5,400	\$8,333	-35.20%	\$10,074	-46.39%
Plat Fee/Site Plan	8,200	6,483	6,833	-5.13%	8,773	-26.10%
Board of Adjustment	1,250	2,425	1,042	132.80%	1,750	38.57%
Sale of Material	100	413	83	396.18%	69	499.25%
Weed Mowing	6,500	11,036	5,417	103.73%	4,686	135.51%
Ambulance	300,000	314,274	250,000	25.71%	262,646	19.66%
Recreation Program	160,000	154,225	133,333	15.67%	128,287	20.22%
Non-Resident Fee Parks	37,000	43,800	37,000	18.38%	40,415	8.38%
Field Use Charge	21,500	21,510	21,500	0.05%	24,295	-11.46%
Engineering & Inspection	175,000	4,908	145,833	-96.63%	261,421	-98.12%
Material Testing	100,000	7,734	83,333	-90.72%	0	100.00%
Colleyville Center Rental	257,250	169,753	143,200	18.54%	199,370	-14.86%
Lot Drainage Insp Fee	13,000	19,375	10,833	78.85%	20,625	-6.06%
TOTAL CHARGES FOR SERVICE	\$1,089,800	\$761,336	\$846,742	-10.09%	\$962,409	-20.89%
SRO Officer Reimb	\$94,282	\$94,282	\$94,282	0.00%	\$94,282	0.00%
Keller Court	217,697	185,767	163,273	13.78%	173,557	7.04%
TOTAL INTERGOVERNMENTAL	\$311,979	\$280,049	\$257,555	0.00%	\$267,839	0.00%
Sale of Surplus Property	\$5,000	\$23,339	\$4,167	460.13%	\$3,798	514.58%
Interest Income	25,000	28,075	20,833	34.76%	28,744	-2.33%
Miscellaneous	55,000	88,597	45,833	93.30%	76,580	15.69%
Use of Available Cash	1,000,000	0	0	0.00%	0	0.00%
Antenna Lease	70,040	83,622	83,622	0.00%	63,362	31.97%
TOTAL MISCELLANEOUS	\$1,155,040	\$223,632	\$154,455	44.79%	\$172,483	29.65%
Transfers-In	\$1,233,417	\$0	\$0	0.00%	\$0	0.00%
TOTAL TRANSFERS	\$1,233,417	\$0	\$0	0.00%	\$0	0.00%
TOTAL GENERAL FUND REVENUES	\$24,018,492	\$20,635,487	\$19,942,107	3.48%	\$20,350,395	1.40%

MONTHLY FINANCIAL REPORT - JULY 2016

	FY 2016 BUDGET	THROUGH 7/31/2016	THROUGH 7/31/2015	TOTAL INCREASE (DECREASE)	PERCENT INCREASE (DECREASE)
% OF CURRENT TAX ROLL COLLECTED	99.0%	99.34%	99.36%	-0.02%	-0.02%
RESIDENTIAL BLDG PERMITS	125	145	162	(17)	-10.49%
COMMERCIAL BLDG PERMITS	5	7	8	(1)	-12.50%
CITATIONS ISSUED	11,500	7,395	8,972	(1,577)	-17.58%

GENERAL FUND EXPENSES

	FY 2016 BUDGET	EXPENDED THROUGH 7/31/2016	YEAR-TO-DATE PROJECTED EXPENDITURES	% OF BUDGET EXPENDED	BUDGET REMAINING
City Council	\$189,746	\$104,964	\$158,122	55.32%	\$84,782
City Manager	603,241	500,635	502,701	82.99%	102,606
City Secretary	215,281	172,478	179,401	80.12%	42,803
Finance	415,341	369,337	370,118	88.92%	46,004
Legal	200,000	165,524	169,167	82.76%	34,476
Engineering	574,462	481,382	483,718	83.80%	93,080
Economic Development	303,166	256,418	258,438	84.58%	46,748
Building Inspection	464,400	363,277	387,000	78.22%	101,123
Community Development	333,240	277,496	277,700	83.27%	55,744
Fire	4,440,164	3,735,747	3,736,137	84.14%	704,417
Police	4,592,988	3,775,211	3,827,490	82.20%	817,777
Parks	1,299,413	924,645	1,082,844	71.16%	374,768
Recreation	380,668	247,611	317,223	65.05%	133,057
Street Maintenance	4,694,578	4,274,235	4,282,148	91.05%	420,343
Library	737,263	590,281	614,386	80.06%	146,982
Communications	212,244	143,576	176,870	67.65%	68,668
Colleyville Center	391,162	277,193	325,968	70.86%	113,969
Human Resources	304,339	247,456	253,616	81.31%	56,883
Municipal Court	391,187	284,852	325,989	72.82%	106,335
Fleet Services	229,302	185,237	191,085	80.78%	44,065
Facility Services	531,909	358,277	443,258	67.36%	173,632
Information Services	874,700	735,181	735,917	84.05%	139,519
Non Departmental	953,559	708,606	794,633	74.31%	244,953
Capital Equipment Reserve	452,000	452,000	452,000	100.00%	0
Compensation Adjustment	193,017	0	0	0.00%	193,017
TOTAL EXPENSES	\$23,977,370	\$19,631,619	\$20,345,928	81.88%	\$4,345,751

MONTHLY FINANCIAL REPORT - JULY 2016

UTILITY FUND						
REVENUE SOURCE	FY 2016 BUDGET	RECEIVED AS OF 7/31/2016	PROJECTED AS OF 7/31/2016	RECEIPT VS PROJECTED INCR (DECR)	RECEIVED AS OF 7/31/2015	PERCENT CHANGE OVER PRIOR YEAR
Water Sales	\$11,467,441	\$7,745,712	\$7,138,654	8.50%	\$6,738,398	14.95%
Sewer Sales	4,050,786	3,050,081	3,375,655	-9.64%	2,833,645	7.64%
Sewer Installation	7,000	15,300	5,833	162.29%	16,200	-5.56%
Water Installation	21,000	46,830	17,500	167.60%	37,591	24.58%
Sewer Tie-on Charges	5,000	0	0	0.00%	0	0.00%
Engineering Charges	50,000	2,155	2,155	0.00%	106,614	-97.98%
Penalties	228,772	212,729	190,643	11.58%	148,556	43.20%
Miscellaneous	13,000	21,092	10,833	94.70%	17,745	18.86%
TOTAL OPERATING INCOME	\$15,842,999	\$11,093,899	\$10,741,274	3.28%	\$9,898,748	12.07%
Interest Income	\$20,300	\$40,662	16,917	140.36%	\$23,227	75.06%
Use of Available Cash	450,000	0	0	0.00%	0	0.00%
TOTAL NON-OPERATING INCOME	\$470,300	\$40,662	\$16,917	100.00%	\$23,227	75.06%
TOTAL INCOME	\$16,313,299	\$11,134,561	\$10,758,191	3.50%	\$9,921,975	12.22%

	THROUGH 7/31/2016	THROUGH 7/31/2015	TOTAL INCREASE (DECREASE)	PERCENT INCREASE (DECREASE)
GALLONS OF WATER SOLD	1,561,132,800	1,409,541,900	151,590,900	10.75%
NUMBER OF WATER CUSTOMERS	9,806	9,614	192	2.00%

UTILITY FUND EXPENSES					
	FY 2016 BUDGET	EXPENDED THROUGH 7/31/2016	YEAR-TO-DATE PROJECTED EXPENSES	% OF BUDGET EXPENDED	BUDGET REMAINING
Billing	\$382,103	\$308,202	\$318,419.17	80.66%	\$73,901
Operations	12,402,286	7,656,130	10,335,238	61.73%	4,746,156
Utility Support	1,176,062	885,480	980,052	75.29%	290,582
Non-Departmental	320,803	211,246	267,336	65.85%	109,557
Debt Service	365,325	360,963	360,963	98.81%	4,363
Compensation Adjustment	29,934	0	0	0.00%	29,934
Transfer to General Fund	1,209,849	44,286	44,286	3.66%	1,165,563
TOTAL EXPENSES	\$15,886,362	\$9,466,306	\$12,306,293	59.59%	\$6,420,056



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number

Agenda Date 08/16/2016

Number 9

Type Report

Department City Manager

Title

Quarterly Performance Management Report

Strategy Map Connection

B4- Cultivate a culture of transparency and consistent communication
B5- Use the Strategy Map to ensure that the focus stays on those programs and services identified as priorities by the community

Explanation

The purpose of this item is to report on performance of the programs and services identified in the City's strategy map and the general operations of the City through the use of performance measures. The performance measures presented are the scorecard by which key performance indicators are measured, and ultimately, how performance with respect to the four focus areas identified as the City Council's priorities is assessed.

In addition to performance measures, additional metrics called vital statistics are included in the report. Performance measures are measures of efficiency or effectiveness and represent outcomes that can be directly influenced by staff. Vital statistics represent data that is important to track for overall understanding of how a program is performing and for decision making, but is not necessarily a reflection of efficiency or effectiveness, and is not something that staff has significant control over. The presentation of both performance measures and vital statistics provides a well-rounded look at performance and trends in programs and services, while also furthering the City's efforts of accountability and transparency to those we serve.

The attached spreadsheet includes the first three quarters of actual data from FY 2016. For performance measures, the FY 2016 year-to-date (YTD) actual numbers are compared to the FY 2016 target that was established by the responsible department and are color coded as listed below. Vital statistics do not have a FY 2016 target and are therefore not color coded, as those metrics represent information that is important to track, but are not necessarily appropriate to set targets for.

Gray - Data not available at this time

Green - Performance expected to meet or exceeded the target

Yellow - Performance expected to be near the target, but not meet it

Red - Performance not expected to meet the target, or come close to meeting it

Dashboard reports are also included and offer a more visual presentation of highlighted performance measures and vital statistics. Each quarter, the dashboard reports will contain charts and graphs depicting various metrics from each program or service area.

All performance measures will be regularly evaluated to ensure they continue to appropriately measure the effectiveness of City services and will be updated as necessary. Staff will also continue to track and include vital statistics in performance management reports to provide the additional information that is necessary for informed decision making.

The performance management report also includes a current STAR (Status, Transparency, Accountability, & Results) report. This tool serves as a component of the City's Strategic Management System, to assist with prioritization and allocation of staff resources. Staff welcomes direction from the City Council on the prioritization of projects and initiatives.

Attachments

1. FY 2016 Q3 Performance Management Report
2. FY 2016 Q3 Dashboards
3. STAR Report

PUBLIC SAFETY

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 Target	FY 2016 YTD
Performance Measures	Percentage of code violations located proactively	Code Enforcement	Neighborhoods	56%	62%	69%	80%	69%	≥ 50%	68%
	Number of cases successfully resolved	Criminal Investigations	Core Service	N/A	N/A	N/A	614	728	≥ 400	212
	Percentage of UCR Part 1 Crimes cleared	Criminal Investigations	Core Service	47%	28%	20%	30%	31%	≥ 20%	15%
	Percentage of crime victims contacted by investigators within 3 days	Criminal Investigations	Core Service	92%	95%	92%	98%	100%	≥ 95%	100%
	Number of UCR Part 1 Crimes	Police Administration	Neighborhoods	201	199	175	160	141	≤ 180	127
	Average Priority 1 response time (call dispatch to arrival)	Police Patrol	Core Service	4:30	4:12	4:11	4:03	3:12	≤ 5:00	3:24
	Fire/Ambulance average response time	Fire and EMS Operations	Core Service	(Previously reported percentage of response times under 6 minutes)					≤ 6:00	4:36
	Percentage of plans reviewed within 48 hours	Fire Prevention / Investigations	Core Service	99%	97%	100%	100%	99%	≥ 98%	99%
	Percentage of fire investigations cleared within 30 days	Fire Prevention / Investigations	Core Service	100%	100%	100%	100%	100%	≥ 95%	100%
	Percentage of inspections performed within 48 hours of request	Fire Prevention / Investigations	Core Service	98%	97%	100%	100%	100%	≥ 95%	100%

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 YTD
Vital Statistics	Injury accidents per 1,000 population	Police Patrol	Core Service	1.5	2.2	0.75	0.7	0.7	0.75
	Number of self-initiated calls for service (proactive, community policing)	Police Patrol	Neighborhoods	18,396	40,324	54,231	50,897	43,781	27,473
	Total number of outstanding warrants in system since 1/1/03	Warrant Officer	Core Service	4,555	4,170	3,971	4,056	3,657	4,180
	Number of warrants served	Warrant Officer	Core Service	3,933	7,190	1,452	2,767	2,610	1,845
	Fire Related Responses	Fire Operations	Core Service	N/A	N/A	381	500	542	428
	Service Related Responses	Fire Operations	Core Service	N/A	N/A	357	127	152	145
	EMS Related Responses	EMS Operations	Core Service	N/A	N/A	829	950	959	776
	Ambulance billing revenue	EMS Operations	Sust. Gov't	\$307,000	\$322,000	\$323,672	\$399,312	\$354,239	\$297,484
	Percentage of billed services recovered	EMS Operations	Sust. Gov't	35%	30%	30%	32%	29%	31%
	Total number of volunteer hours from CFAAA and Rehab Team	Fire Administration	Core Service	N/A	N/A	900	418.5	672.5	400
	Community Fire Prevention Events	Fire Prevention / Operations	Core Service	N/A	N/A	N/A	116	125	77
	Average hours of training per employee	Fire Operations	Core Service	195	205	160.9	160.99	134.77	110.00

DEVELOPMENT

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 Target	FY 2016 YTD
Performance Measures	Percentage of residential plan reviews completed in five days or less	Building Inspection	Eco. Dev.	New Measure	New Measure	21%	41%	77%	≥ 75%	72%
	Percentage of commercial plan reviews completed in ten days or less	Building Inspection	Eco. Dev.	New Measure	New Measure	44%	55%	77%	≥ 75%	77%
	Percentage of inspections performed within 24 hours	Building Inspection	Core Service	96%	93%	97%	98%	99%	≥ 95%	98%
	Percent of online department survey respondents satisfied with overall service	Planning and Zoning/Building Inspection	Core Service	New Measure	New Measure	89%	98%	100%	= 100%	100%
	Average percentage occupancy of retail and office spaces	Economic Development	Eco. Dev.	87%/87%	88%/89%	90%/89%	90%/90%	94%/94%	≥ 90%/90%	96%/92%

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 YTD
Vital Statistics	Number of commercial remodel/add-alter permits	Economic Development	Eco. Dev.	79	65	75	112	52	28
	Value of commercial remodel/add-alter permits	Economic Development	Eco. Dev.	\$13,000,000	\$11,700,000	\$9,440,000	\$16,590,000	\$4,160,000	\$7,121,044
	Fees generated from commercial remodel/add-alter permits	Economic Development	Eco. Dev.	\$138,276	\$101,000	\$106,290	\$169,916	\$65,639	\$84,340
	Fees generated from new commercial building permits	Economic Development	Eco. Dev.	\$109,097	\$225,000	\$128,535	\$162,080	\$541,031	\$112,813
	Number of new commercial building permits	Economic Development	Eco. Dev.	7	8	6	7	12	9
	Value of new commercial building permits	Economic Development	Eco. Dev.	\$4,000,000	\$12,900,000	\$3,480,000	\$7,710,000	\$19,400,000	\$5,222,712
	General Fund Sales Tax Revenue	Economic Development	Eco. Dev.	\$2.64M	\$2.86M	\$3.07M	\$3.35M	\$3.46M	\$2.08M
	Number of Inspections Performed	Building Inspection	Eco. Dev.	6,829	8,780	6,832	4,621	7,194	7,320

LEISURE

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 Target	FY 2016 YTD
Performance Measures	Percentage of competitive athletic fields meeting departmental maintenance standards	Athletic Field Maintenance	Core Service	New Measure	New Measure	New Measure	80%	80%	≥ 85%	84%
	Percentage of park inspections meeting standards	Park Maintenance	Core Service	85%	85%	87%	80%	95%	≥ 85%	96%
	Percentage of library materials requests filled within 30 days	Library Services	Core Service	77%	83%	86%	96%	93%	≥ 80%	94%
	Percentage of library patrons who come to the library looking for items and find them	Library Services	Core Service	75%	82%	79%	80%	81%	≥ 80%	83%
	Children's program attendance	Library Services	Core Service	12,003	17,145	21,955	18,363	17,173	≥ 18,000	15,177
	Adult and teen program attendance	Library Services	Core Service	426	809	910	795	651	≥ 650	592
	Children's summer reading program participation	Library Services	Core Service	1,010	1,054	1,182	1,188	987	≥ 1,000	Annual Measure
	Adult and teen summer reading program participation	Library Services	Core Service	134	106	118	114	84	≥ 100	Annual Measure
	Library patron visits	Library Services	Core Service	104,276	104,268	123,211	134,314	133,076	≥ 120,000	83,586
	Reference questions answered	Library Services	Core Service	36,036	39,799	35,048	34,073	25,025	≥ 30,000	19,383
	Circulation of the library materials collection	Library Services	Core Service	235,238	244,613	250,737	234,667	228,160	≥ 235,000	162,085
	Percentage of offered classes/programs held	Recreation	Sust. Gov't	48%	60%	65%	71%	73%	≥ 60%	78%
	Number of participants	Senior Center	Core Service	1,384	1,500	1,751	3,734	3,767	≥ 1,500	3,361
	Percentage of resident membership visits	Senior Center	Sust. Gov't	54%	55%	58%	60%	59%	≥ 60%	52%
	Percentage of cost recovery	Colleyville Center	Sust. Gov't	78%	70%	66%	81%	75%	≥ 70%	61%
	Percentage of customer satisfaction ratings of "excellent"	Colleyville Center	Core Service	98%	98%	96.3%	96.4%	97.3%	≥ 94%	95%
	Number of events held	Colleyville Center	Sust. Gov't	410	420	386	412	452	≥ 420	303

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 YTD
Vital Statistics	Percentage of Colleyville households with at least one active library card holder	Library Services	Core Service	50%	55%	50%	50%	50%	50%
	Library materials collection size	Library Services	Core Service	62,997	65,740	69,736	74,525	77,664	79,312
	Number of staff hours dedicated to athletic field maintenance and game preparation	Athletic Field Maintenance	Core Service	N/A	4,725	4,884	3,697	4,032	2,873
	Number of youth sports participants	Athletic Field Maintenance	Core Service	4,774	4,750	4,063	4,315	4,434	4,302
	Percentage of non-resident youth sports participants	Athletic Field Maintenance	Sust. Gov't	51%	51%	49%	52%	52%	51%
	Percentage of revenue recovery	Athletic Field Maintenance	Core Service	N/A	N/A	12%	12%	20%	18%
	Number of classes/programs offered	Senior Center	Core Service	150	120	151	212	191	127
	Average membership visits per month	Senior Center	Core Service	560	500	534	544	827	999
	Number of Metroport Meals on Wheels participants	Senior Center	Core Service	New Measure	1,800	1,727	1,607	1,695	1,188
	Percentage of Meals on Wheels participants who are residents	Senior Center	Core Service	New Measure	50%	52%	49%	47%	43%
	Percentage of resident class participants	Recreation	Sust. Gov't	59%	60%	49%	42%	44%	41%
	Revenue generated from bookings	Colleyville Center	Sust. Gov't	\$245,749	\$240,000	\$246,797	\$230,793	\$226,901	\$152,936
	Percentage of events generating economic impact for local business	Colleyville Center	Eco. Dev.	57%	55%	57%	59%	59%	60%
	Percent of total events held: Colleyville residents	Colleyville Center	Sust. Gov't	N/A	N/A	9%	10%	11%	14%
	Percent of total events held: Non-residents	Colleyville Center	Sust. Gov't	N/A	N/A	41%	36%	30%	26%
	Percent of total events held: Non-profits	Colleyville Center	Sust. Gov't	N/A	N/A	44%	47%	50%	55%
	Percent of total events held: City departments	Colleyville Center	Sust. Gov't	N/A	N/A	6%	7%	9%	5%

PUBLIC WORKS

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 Target	FY 2016 YTD
Performance Measures	Percent of internal customers satisfied with facility environment	Building Services	Sust. Gov't	N/A	98%	89%	84%	86%	≥ 98%	Annual Measure
	Percentage of work orders responded to within one business day	Building Services	Sust. Gov't	98%	99%	78%	51%	83%	≥ 90%	85%
	Percent of scheduled lane miles of public streets swept	Stormwater Management	Core Service	New Measure	94%	98%	99%	99%	≥ 98%	92%
	Percent of storm drain inlets inspected	Drainage Maintenance	Core Service	New Measure	New Measure	New Measure	20%	51%	≥ 50%	Annual Measure
	Percentage of storm sewer lines inspected	Drainage Maintenance	Core Service	New Measure	New Measure	New Measure	<1%	<1%	≥ 20%	Annual Measure
	Meter reading accuracy	Utility Support	Core Service	99%	98%	99%	99%	98%	≥ 98%	99%
	Percentage of total waste water lines cleaned annually	Waste Water Collection	Core Service	63%	88%	93%	78%	91%	≥ 95%	Annual Measure
	Percentage of water valves exercised	Water Distribution	Core Service	New Measure	New Measure	New Measure	12%	0.05%	≥ 20%	Annual Measure
	Percentage of monthly water samples testing negative for coliform bacteria	Water Distribution	Core Service	99.98%	100%	99.36%	99%	98%	= 100%	100%
	Percent of street and traffic signs replaced	Street Maintenance	Neighborhoods	New Measure	8%	12%	15%	15%	≥ 10%	Annual Measure
	Percentage of pavement markings renewed	Street Maintenance	Neighborhoods	New Measure	New Measure	New Measure	20%	4%	≥ 20%	Annual Measure

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 YTD
Vital Statistics	Percentage of fleet time available	Fleet Maintenance	Sust. Gov't	New Measure	98%	98%	98%	98%	98%
	Ratio of scheduled maintenance to unscheduled repairs	Building Services	Sust. Gov't	80%	77%	68%	41%	68%	50%
	Number of infrastructure repairs needed within two- year maintenance bond period	Engineering Services	Core Service	1	0	0	0	0	0
	Value of newly-constructed public infrastructure in place	Engineering Services	Neighborhoods	New Measure	New Measure	New Measure	\$5.82M	\$17.3M	\$9.8 M
	Percentage of construction time with City staff present	Engineering Services	Neighborhoods	New Measure	New Measure	New Measure	18%	23%	29%
	Percentage of time preventative maintenance is completed on schedule	Fleet Maintenance	Sust. Gov't	New Measure	New Measure	New Measure	95%	96%	96%
	Water loss ratio	Water Distribution	Core Service	3.17%	4.50%	4.33%	4.34%	3.08%	Annual Measure

ADMINISTRATION

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 Target	FY 2016 YTD
Performance Measures	City-initiated news leads	Communications	Core Service	32	40	31	23	29	≥ 30	16
	Number of public information campaigns	Communications	Core Service	9	8	6	4	6	≥ 8	0
	Coverage in print, broadcast, online/associated media value	Communications	Core Service	\$92,998	\$130,000	\$82,650	\$94,976	\$114,000	≥ \$90,000	\$51,124
	Achieve GFOA's Distinguished Budget Award	City Manager's Office	Core Service	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Percentage of board, commission, and committee members that have completed Texas Open Meeting Act training	City Secretary	Sust. Gov't	< 50%	< 50%	< 50%	89%	91%	= 100%	94%

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 YTD
Vital Statistics	Tax rate per hundred dollars of valuation	City Council	Sust. Gov't	\$0.3559	\$0.3559	\$0.3559	\$0.3559	\$0.3559	\$0.3559
	Average pounds recycling per home/per collection	Solid Waste and Recycling	Core Service	9.2	12.2	11.5	11.9	10.73	12.55
	Number of household hazardous waste collections (at Fort Worth ECC and Clean Sweep event)	Solid Waste and Recycling	Core Service	486	524	572	553	658	611
	Visits to Colleyville.com	Communications	Core Service	235,217	260,000	300,605	318,759	317,793	247,931
	E-newsletter subscribers	Communications	Core Service	1,064	1,300	1,679	2,621	2,839	3,225
	Colleyville Businesses Participating on Marketing Support Program(s)	Communications	Eco. Dev.	New Measure	New Measure	New Measure	New Measure	New Measure	N/A
	Social Media Followers on City of Colleyville Government	Communications	Core Service	New Measure	New Measure	New Measure	New Measure	1,000	1,621
	Advertising Campaigns	Communications	Core Service	New Measure	New Measure	New Measure	2	1	1
	Number of public information requests	City Secretary	Core Service	147	196	217	260	283	251
	Number of citizen survey responses	City Manager's Office	Sust. Gov't	N/A	1,665	N/A	1,323	N/A	Annual Measure

FINANCE

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 Target	FY 2016 YTD
Performance Measures	Number of audit adjustments in period 13 closing	Finance	Sust. Gov't	20	14	12	10	24	≤ 12	Annual Measure
	Achieve GFOA's Certificate of Achievement for Excellence in Financial Reporting	Finance	Sust. Gov't	Yes	Yes	Yes	Yes	Yes	Yes	Annual Measure
	Percentage warrants issued within 10 day (formerly 8 day) period after due date or court date	Municipal Court	Core Service	New Measure	New Measure	New Measure	97%	99%	≥ 97%	99%
	Billing accuracy rate	Utility Billing	Core Service	99.0%	98.3%	99.0%	98.6%	99.8%	≥ 99.5%	99.9%

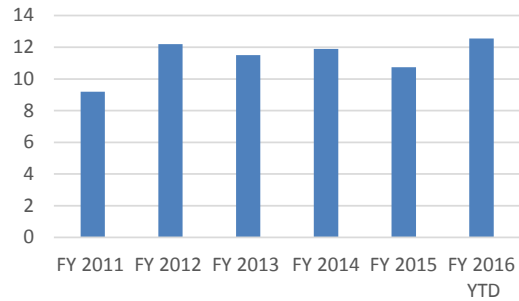
		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 YTD
Vital Statistics	Percent of ACH payments to total accounts payable	Finance	Sust. Gov't	New Measure	New Measure	New Measure	16%	26%	22%
	Number of citations filed per FTE	Municipal Court	Core Service	3,900	4,000	4,268	4,610	4,609	3,130
	Number of bench trials vs. jury trials set	Municipal Court	Core Service	New Measure	New Measure	New Measure	67 / 44	51 / 16	24 / 14
	Percentage of automatic draft customers/total customers	Utility Billing	Core Service	13%	15%	15%	19%	16%	18%
	Percentage of customers paying before cutoff	Utility Billing	Core Service	97%	97%	97%	97%	97%	97%
	Uncollectible accounts written off at year end (water & sewer)	Utility Billing	Core Service	N/A	\$34,628	\$30,500	\$26,080	\$27,178	Annual Measure

INTERNAL SERVICES

		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 Target	FY 2016 YTD
Performance Measures	Percentage turnover (per fiscal year)	Human Resources	Sust. Gov't	15%	12%	22%	15%	17%	≤ 15%	9%
	Percentage of annual performance evaluations completed on time	Human Resources	Sust. Gov't	New Measure	36%	25%	98%	73%	≥ 90%	99%
	Percentage of employees who participate in wellness program	Human Resources	Sust. Gov't	New Measure	80%	78%	86%	85%	≥ 80%	92%
	Workers' compensation experience modification factor (actual losses compared to expected losses)	Human Resources	Sust. Gov't	New Measure	New Measure	0.48	0.45	0.83	≤ 0.85	0.84
	Medical and pharmacy loss ratio (paid claims divided by premiums)	Human Resources	Sust. Gov't	New Measure	New Measure	66%	75.8%	87.4%	≤ 85%	92.3%
	Percentage of product requests completed on time	Graphical Information Services (GIS)	Sust. Gov't	98%	90%	82%	88%	93%	≥ 85%	87.9%
	Percentage of address responded to within 30 days	Graphical Information Services (GIS)	Sust. Gov't	100%	96%	64%	89%	100%	≥ 90%	100%
	Percentage of broadcast uptime	Network/Desktop Services	Sust. Gov't	98.65%	99.99%	99.82%	99.86%	99.88%	≥ 99%	99.98%
	Percentage of work orders completed on time	Network/Desktop Services	Sust. Gov't	86%	80%	87%	78%	87%	≥ 95%	91.9%
	Percentage of network data and telecommunications uptime	Network/Desktop Services	Sust. Gov't	99.84%	99.99%	99.83%	99.73%	99.80%	≥ 99%	100.0%
	Percentage of IT work plan projects completed on time	Network/Desktop Services	Sust. Gov't	80%	80%	100%	97%	94%	= 100%	100%
	Percentage of data backup success	Network/Desktop Services	Sust. Gov't	94%	95%	91%	91%	92%	= 100%	93.1%
Vital Statistics		Program	Focus Area	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016 YTD	
	Total number of equipment pieces maintained by department	Network/Desktop Services	Sust. Gov't	410	430	419	569	589	609	

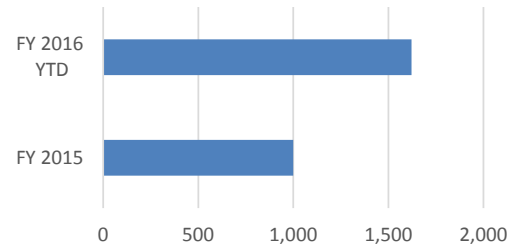
Solid Waste & Recycling

Average pounds recycling per home/per collection



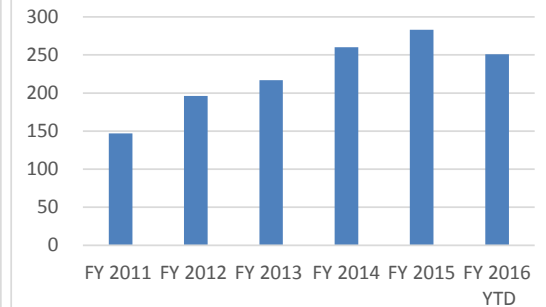
Communications

Social Media Followers on City of Colleyville Government



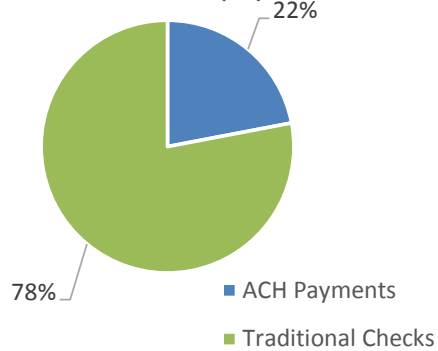
City Secretary

Number of public information requests



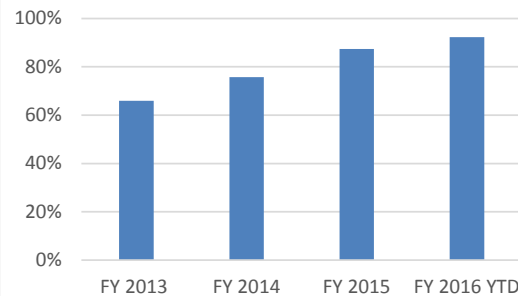
Finance

Percent of ACH payments to total accounts payable



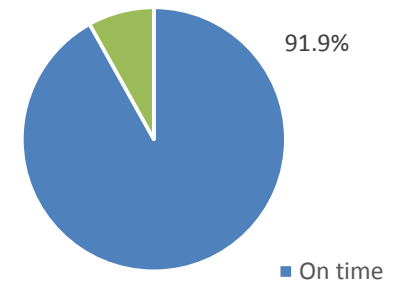
Human Resources

Medical and pharmacy loss ratio (paid claims divided by premiums)

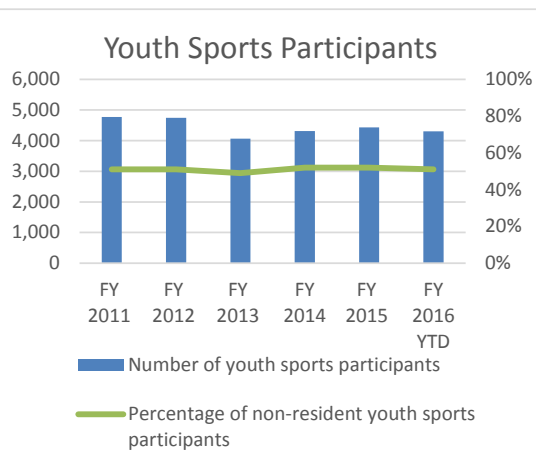


Technology

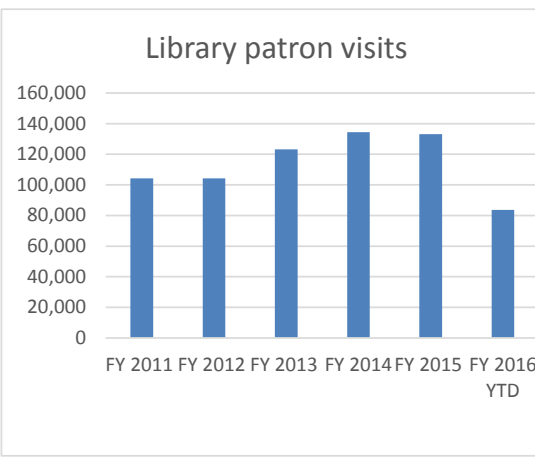
Percentage of work orders completed on time



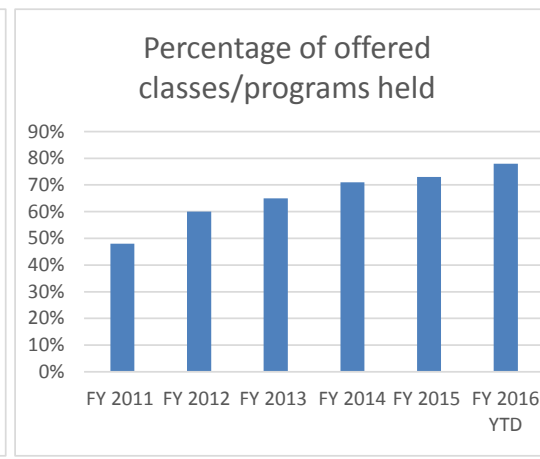
Parks



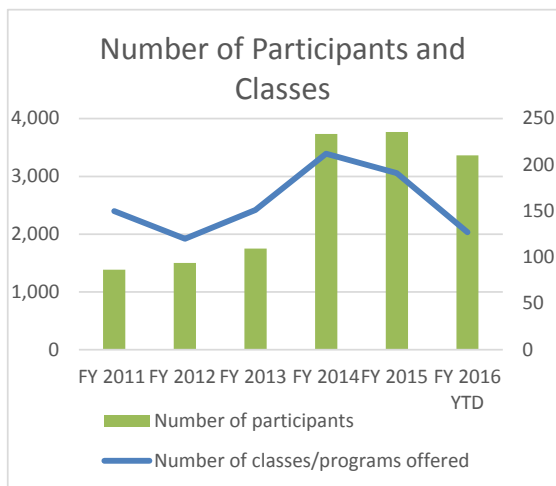
Library



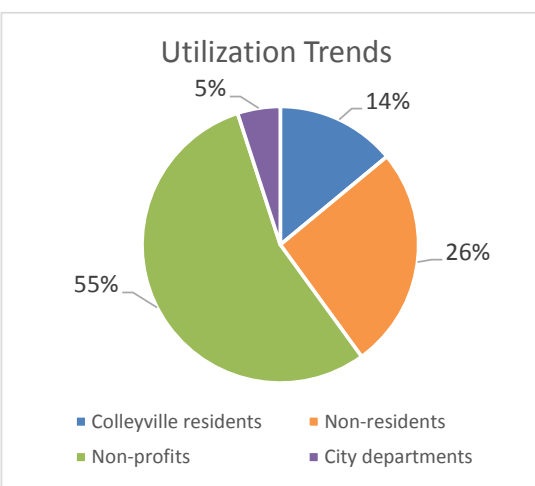
Recreation



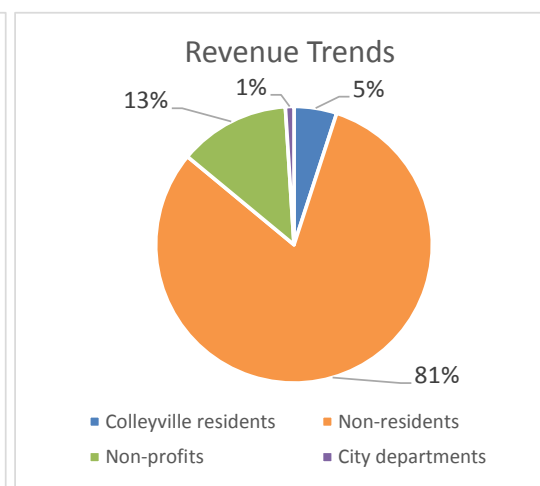
Senior Center



Colleyville Center

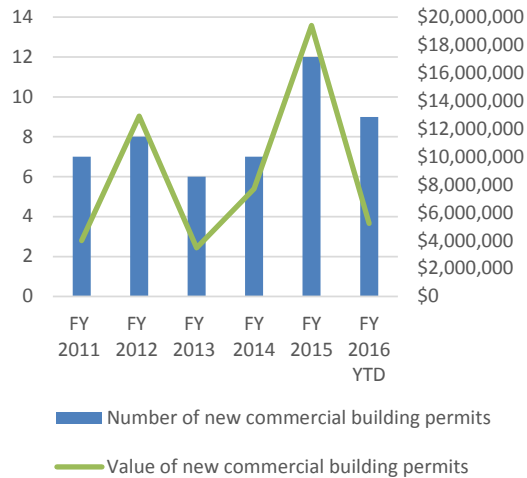


Colleyville Center

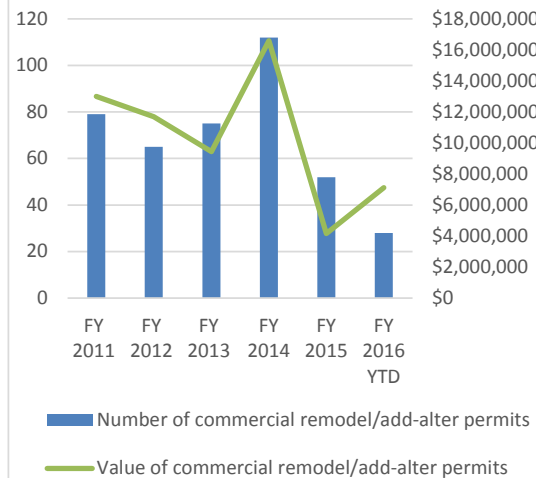


Dashboard: Development & Infrastructure FY 2016 Q3

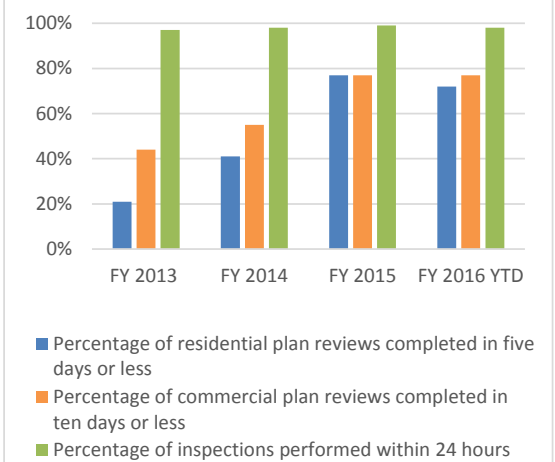
New Commercial Permits



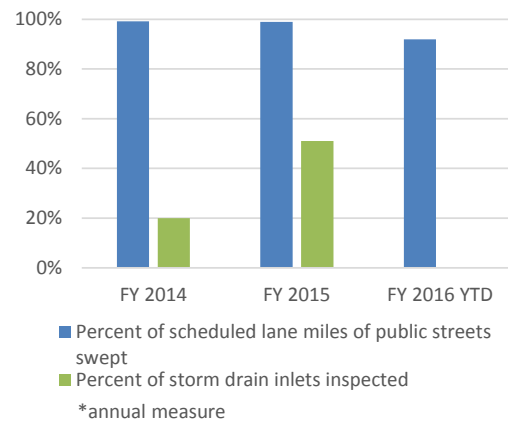
Commercial Remodel & Add/Alter Permits



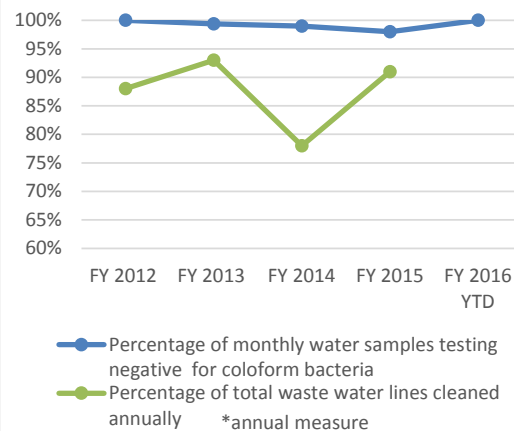
Plan Review & Inspections Timeliness



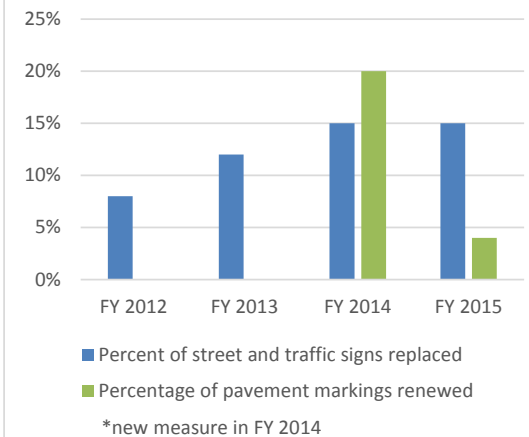
Stormwater & Drainage



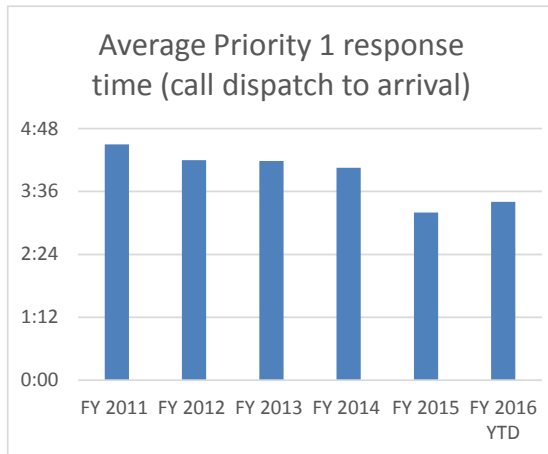
Water & Wastewater



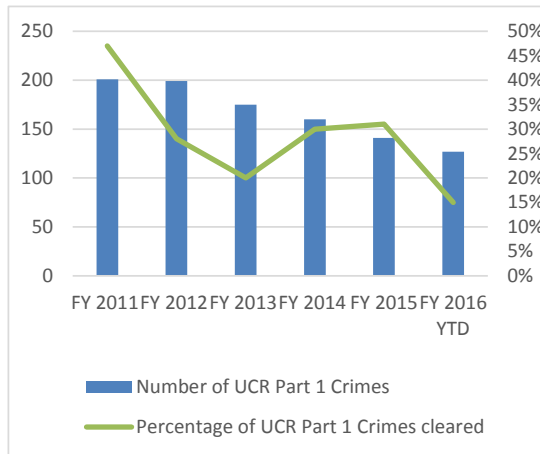
Street Maintenance



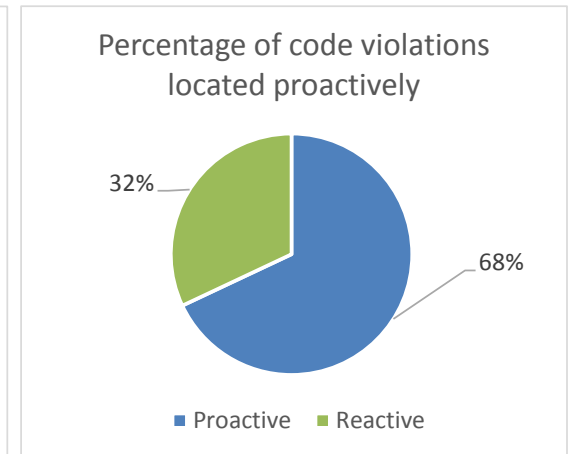
Police Response Time



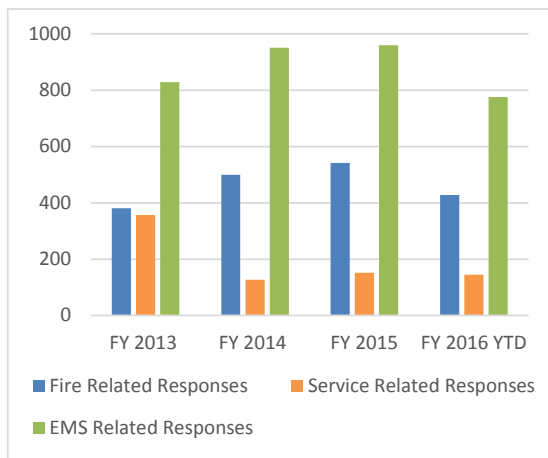
UCR Part 1 Crimes



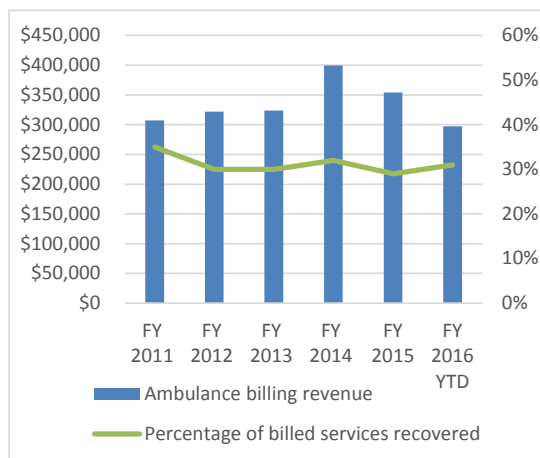
Code Enforcement



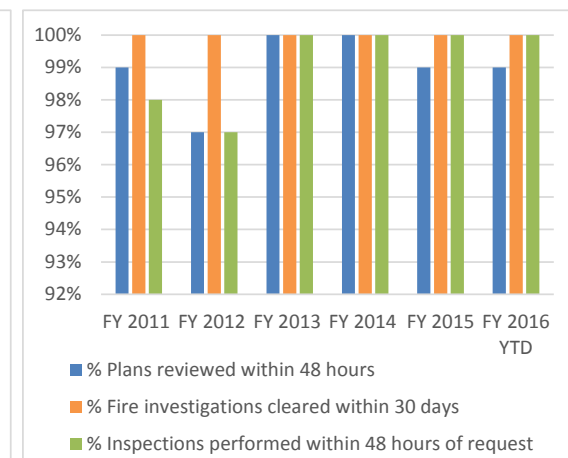
Fire & EMS Responses



Ambulance Billing



Fire Prevention / Investigation





STAR Report

Upcoming Council Worksession Topics

Council Date	Target	Responsible Dept / Program	Action Item
8/16/2016	Finance	Worksession (before CC):	Water Rate Study
8/23/2016	CMO	Worksession:	Budget
8/24/2016	Public Works	Worksession:	Glade Road
8/25/2016	Finance	Worksession:	Trinity River Authority
9/16/2016	Finance	Worksession (before CC):	Summation 360 Demo
9/20/2016	Communications	Worksession (before CC):	Website Demo/Communications update
TBD	Public Works	Worksession:	Discussion and update of the MS4 Program
TBD	CSO	Worksession:	Discussion of boards, commissions, and committees
TBD	PW/CMO	Worksession:	Discussion of private development streetlighting
TBD	Parks	Worksession:	Discussion of Parks Master Plan

STAR Report

Projects: Strategic Services

Status	Responsible Dept/Program	Action Item	Notes	Strategy Map Connection
In Progress	CMO	Hotel Occupancy Tax administration- research & set up	research underway	F4
In Progress	CMO	Time Warner franchise fee audit	received data from TW; negotiating settlement	F3
In Progress	CMO	Financial transparency platform for website	implementation underway with OpenGov	B4, CBO4
In Progress	CMO	2016 Citizen Survey	Preliminary edits prepared; Discussion with City Council on August 2; will be moved to January/February 2017	C2
In Progress	Communications	New Website	Front page and interior page design completed; page migration June/July; Project should be on track for September demo.	B1, B4, C2, CB04
In Progress	CSO	Digitizing Documents to Laserfiche (continuation of work)	Complete large format in FY 2016; complete scanning of the arrest files in PD	B1, B2,C2
In Progress	HR	Personnel Manual revision and training	City Attorney review underway	B4, L3, L1
In Progress	HR	Insurance Renewal for FY17	Contracts being executed; open enrollment Aug 17-19.	B2, B3, F3, L5
In Progress	HR	Training program for all employees	Currently implementing software	L1, L4, L5
In Progress	HR	Colleyville College / Leadership Development:determine the future of this program	Will follow after implementation of new training system	L1, L4, L5
In Progress	HR	Review automation of applicant tracking	Funding proposed in FY17 budget.	B1, B2, B3
In Progress	HR	Update employees on insurance for FY17	All employee meetings in July 2106; open enrollment Aug 17-19	F4, L5
In Progress	HR	NTX Coalition	Coalition looking at numbers; meeting to look at numbers scheduled week of Aug 22	B2, B3, F3, L5
In Progress	HR	Evaluate regionalization of medical insurance	Research underway; discussions with Keller and Southlake in Oct	B3
In Progress	Finance- Utility Billing	Design Build of online utility billing website	Council demo September; go live October 1	C2, B1
Planning	ISM	Internet Redundancy	Currently Quoting with vendors	B2
Planning	ISM	Courts AV Upgrade Phase 2	Discussion has started with vendor	B2, B1, C2
TBD	CSO	Update bylaws for SBA & Parks and Recreation Advisory Board	No set schedule yet	B4
TBD	Finance/HR	Employee Self Service Timekeeping and Leave Requests	No set schedule yet	B1
TBD	Finance	Set up, test & implement General Billing Module in Munis	Winter 2016	B1
TBD	Finance	Set up, test & implement Expense Report Module in Munis	Winter 2016	B1

TBD	HR	Review automation of open enrollment process	TBD	B1, B2, B3
TBD	ISM	Phone System Software Upgrade	In progress	B2
TBD- On Hold	CMO	Oncor franchise agreement update- currently expired	handled by City Attorney; may be impacted by litigation from other cities	F3
In Progress	ISM	Fiber Build Phase 1-3	Working with Grapevine & GCISD on ILA	B1, B3
COMPLETE	CMO	Energy Contract (TCAP) evaluation/renewal		B3, F3
COMPLETE	ISM	Replacement of Data Center Blade Chassis/Blades		B1, B2
COMPLETE	ISM	Phase 2 PD/EOC technology upgrade		B1, B2
COMPLETE	ISM	Additional Digital Signage - City Hall & Senior Center		B2
COMPLETE	CMO	Mayor for a Day Contest		C2
COMPLETE	Finance/HR	Review Employee Self Service for rollout to employees		B1
COMPLETE	HR	Revamp On-the-Spot Awards Program		B4, L1, L2
COMPLETE	HR	Establish procedures for new Affordable Care Act reporting		B2
COMPLETE	HR	Revamp Wellness Program		B1, B2, B3
COMPLETE	HR	Supervisor Training on Performance Evaluations		L3, L4
COMPLETE	HR	Employee ethics/harassment training		L1
COMPLETE	HR	Employee In-Service Day		L2, L3
COMPLETE	HR	Employee Health Fair		L2
COMPLETE	CMO	Water Usage PC item		B4
COMPLETE	CMO	Employee Engagement Survey & Follow Up		L2
COMPLETE	ISM	Off-site back-up Moved to Barracuda		B1, B3, B4
COMPLETE	CSO	Conversion of minutes to SuiteOne platform		B2
COMPLETE	Communications	Additional Contractual Support for Communications Activities		B4, CBO4
COMPLETE	Finance- Utility Billing	Receipt printer for new software		B1
COMPLETE	ISM	Digitizing Documents to Laserfiche (continuation of work)		B1, B2,C2
COMPLETE	Finance	Conversion of UB software to Munis		C2, B1
COMPLETE	CMO	FY 2016 business plans		B5, L3
COMPLETE	CMO	Update Employee Intranet		B1, B4, L2
COMPLETE	CMO	City Council candidate orientation		C2

COMPLETE	Finance	Audit finalized	F4, F1
COMPLETE	Finance	Bank Depository Bid	F4
COMPLETE	Municipal Court	Laptop and Monitor for Court Room (2nd clerk for payments)	B1
COMPLETE	Municipal Court	Scanner for Court Room (2nd clerk for payments)	B1
COMPLETE	ISM	Upgrade Desktop Support Technician to Management Analyst	L1
COMPLETE	ISM	Phase 1 Courts technology replacement and upgrade	B2,
COMPLETE	ISM	Laserfiche License upgrade (from 28 to 50 concurrent users)	B2,
COMPLETE	ISM	Increase Leased Fiber (4 months of increase for lines we will still lease)	B2,B3
COMPLETE	ISM	Venue Mapper for Colleyville Center	C2
COMPLETE	ISM	Additional Security Cameras at the Senior Center and City Hall	C5
COMPLETE	ISM	Laserfiche Integration Project: CRW	B1, B2,C2
COMPLETE	ISM	Laserfiche Integration Project: Crimes Software	B1, B2,C2
COMPLETE	ISM	Phase 2 City Hall AV Upgrades	B1, B2,C2
COMPLETE	ISM	Replacement GIS Licensing with Enterprise Licensing	B1,C2, L5
COMPLETE	ISM	Replacement of laptop computers	B2
COMPLETE	ISM	Replacement of ToughBook computers	B2
COMPLETE	ISM	Replacement of wireless system	B1, C2
COMPLETE	Utility Billing	Replacement of Hand Held Meter Devices	B1
COMPLETE	HR	Health Insurance Renewal	F4, L1
COMPLETE	HR	Compensation Market Study	F4, L1
COMPLETE	HR	Open Enrollment for FY2016	L1

STAR Report

Projects: Public Safety

Status	Responsible Dept / Program	Action Item	Notes	Strategy Map Connection
In Progress	Fire	Folding Doors for Fire Station 1	Included in the FY 2016 CIP	F2
In Progress	Police	City plan/policy on community run requests	Coordinating with multiple departments	C1, C2, C5, B2
COMPLETE	Police	Hire new officer 2015 (CCCPD funded)		L1, C5
COMPLETE	Fire	Intermedix Contract Renegotiation		C2, B1, B3
COMPLETE	Fire	Fire Apparatus Replacement Plan update		C5, C2, B2
COMPLETE	Police	Self Aid Trauma Kits		C5
COMPLETE	Fire	Adobe Web Events Software		B1
COMPLETE	Fire	Articulate Software		B1
COMPLETE	Fire	Update the Fire Code		C5
COMPLETE	Fire Operations	Hire 3 new firefighters		C5, L1
COMPLETE	Fire Operations	Collaborative Adaptive Sensing of the Atmosphere (CASA WX) Project		B3
COMPLETE	Police	Hire new officer (CCCPD funded) mid-year		C5, L1
COMPLETE	Police	AV equipment upgrade in the Interview Room		B1
COMPLETE	Police	Vehicle Replacement per schedule (CCCPD funded)		F2
COMPLETE	Police	Purchase pistols (CCCPD)		C5
COMPLETE	Police	Replacement of Radar Trailer (CCCPD)		F2
COMPLETE	Police	Hire Police Property Room Clerk		C5, L1
COMPLETE	Police	Four handheld radar units		B1
COMPLETE	Police	Increase PT Records Clerk to FT		C5
COMPLETE	Police	Texas Workforce Commission Annual Subscription for CID Investigations		C5
COMPLETE	Fire	Hire 3 New Firefighter/paramedics		C5, L1

STAR Report

Projects: Development & Infrastructure

Status	Responsible Dept./Program	Action Item	Notes	Strategy Map Connection
In Progress	Community Development	Comprehensive Plan Amendments	Density and transition amendments	C2, C5
In Progress	Community Development	Revise Land Development Code per Comp Plan Amendments	PUD criteria	
In Progress	Community Development	Adopt 2015 Energy Code	Ordinance with amendments. State deadline Sept. 1, 2016 for adoption. Also adopt 2015 Solar Energy Code	B1, C2
In Progress	Community Development	Update the Tree Preservation Ordinance	Administrative and substantive changes	C2
In Progress	Community Development, Police	Update Special Event Permits process and review	Application process for customers and internal review of Permits	C2
In Progress	Facility Services	Repairs and Improvements to the Bidault House	Project nearing completion	F2
In Progress	Facility Services	City Hall - Backup Power	Currently pursuing grant opportunity; grant application submitted	F2
In Progress	Facility Services	Justice Center - Roof Repair	Contract has been awarded; awaiting scheduling with the contractor	F2
In Progress	Public Works	Bedford Road Retaining Wall	Currently in the design phase; public meeting held April 12, 2016	F2
In Progress	Public Works	Glade Road Final Design Entire Corridor	Consultant is working on the design for phases 2, 3 and 4	C4, C5, F2
In Progress	Public Works	Glade Road Phase I: Bransford Road to Manning Drive	Consultant currently working on completing the final design; ROW acquisition initiated on May 3, 2016	C4, C5, F2
In Progress	Public Works	Emergency Asphalt (FY 2016)	Ongoing in FY 2016	F2
In Progress	Public Works	Construct SH26 Phase II and III	Project has been let; awaiting construction schedule from TxDOT	C4, C5, F2
In Progress	Public Works	Bedford Road (County project) - Rehabilitation	Construction by Tarrant County; northern portion completed Spring 2016, southern portion to be scheduled with Tarrant County in conjunction with retaining wall	C4, C5, F2
On Hold	Public Works	Drainage Fee Structure and Use (impervious area)	On hold pending Stormwater Master Plan Update	B2
Planned	Community Development	Review current restrictions on construction working hours in the City	Potential ordinance update	C5, C1
Planned	Community Development	Coordinate and revise TRAKiT functionality and implementation	iTRAKiT (for inspector iPads), eTRAKiT (for public searching and scheduling), and TRAKiT (for internal data)	B1, C2
Planned	Facility Services	City Hall Façade Lighting	Finalizing selection of lighting; project completion by September	C5, F2
Planned	Public Works	Install Backup Generator for Emergency Power at L.D. Lockett Pump Station	Scheduled to start by Fall 2016	F2

Planned	Public Works	Cheek-Sparger Road (Brown Trail to Bedford Road) - Rehabilitation	Revised project scope changed to rehabilitation only; to be scheduled by Fall 2016	C4, C5, F2
Planned	Public Works	John McCain (Pleasant Run Rd to Shepherds Glen) - Rehabilitation	Project scope increasing; project moving to FY 2017	C4, C5, F2
Planned	Public Works	Pleasant Run Design (Shelton to John McCain)	Design contract to Council by August 2016; construction in FY17	C4, C5, F2
Planned	Public Works	Water Project 7: Demolish Overland Trail Pump Station and Storage Tank	On Hold	F2
Planned	Public Works	Water Project 9: Miscellaneous Repairs to Elevated Storage Tanks	Currently soliciting quotes; to be completed by Fall 2016	F2
Planned	Public Works	WW Project 2: Rehabilitate Sewer Manholes Identified to be in Poor Condition	To be completed by Fall 2016	F2
Planned	Public Works	SCADA System Upgrade	Basic upgrade complete; evaluating future upgrades/improvements needed	F2
Planned	Public Works	Conduct required impact fee update	Fall 2016	F3, F4
TBD	Community Development	Review basic hotel/motel development regulations This will be included with the other special provisions contained in Chapter 3 of Land Development Code		C5
TBD	Community Development	Create contractor's registration ordinance	Provide the ability to revoke, suspend, reinstate contractor's who are not performing to city standards Several ZBA cases necessitate the review	
TBD	Community Development	Review Corner Lot Sideyard Setback Requirements		
TBD	Public Works	ADA Sidewalk Assessment	On Hold	C4
TBD	Public Works	Update of City's right-of-way maintenance ordinance	Staff currently evaluating processes; any necessary updates will be developed at a future date	F2
TBD	Public Works	Construct Roundabout at Bedford and Cheek-Sparger	Contingent upon the developer of Heritage Farms	C4, C5, F2
TBD	Public Works	Top 10 List Most Unsafe Roads or Intersections	Lee Engineering is doing pro bono	C5
TBD	Public Works	Public Works Service Center Design	Staff currently evaluating consultants	F2, F3, L1
TBD	Public Works	Review and update Land Development Code related to Public Works standards		B2, B4
TBD	Public Works	Stormwater Master Plan Update	Scheduling via Capital Improvement Program	F3
TBD	Public Works	Research creek/tributary maintenance options/requirements on private property (HOAs, etc.)	New project pending	C2, F3
COMPLETE	Community Development	Create hotel licensing process/agreement		C5
COMPLETE	Public Works	Westcoat - Rehabilitation		C4, C5, F2
COMPLETE	Building Maintenance	Construct Trophy Case in City Hall (Priority 2)		F2
COMPLETE	Building Maintenance	Replace Water Heaters at Justice Center (Priority 1)		F2

COMPLETE	Building Maintenance	Council Chamber Lighting for Council/staff name signage (Priority 1)	F2
COMPLETE	Building Maintenance	Replace City Hall Water Valve Actuators (Priority 1)	F2
COMPLETE	Building Maintenance	Fan Powered Box to heat CH Executive Conference Room (Priority 1)	F2
COMPLETE	Building Maintenance	City Hall/library fire alarm system	C5
COMPLETE	Building Maintenance	Justice Center fire alarm system	C5
COMPLETE	Building Maintenance	Implement contract for disposal of fluorescent light bulbs	B2
COMPLETE	Building Maintenance	Implement contract for maintenance of parking lot gates at Justice Center	B2
COMPLETE	Building Maintenance	City Hall/library emergency lighting	C5
COMPLETE	Building Maintenance	Justice Center VAV boxes	F2
COMPLETE	Building Maintenance	Redundant HVAC unit for the City Hall Data Center	F2
COMPLETE	Building Maintenance	Colleyville Center back doors	F2
COMPLETE	Building Maintenance	Colleyville Center equipment doors to electrical and irrigation rooms	F2
COMPLETE	Building Maintenance	Colleyville Center 6-ton HVAC rooftop unit	F2
COMPLETE	Building Maintenance	Redundant HVAC unit for the Justice Center Data Center	F2
COMPLETE	Building Maintenance	City Hall/library boiler pumps and motors	F2
COMPLETE	Building Maintenance	Seal exterior building openings at the Justice Center	F2
COMPLETE	Building Maintenance	Colleyville Center parking lot and fire lane striping	F2
COMPLETE	Community Development	Comprehensive Plan Update of the Master Plan	F3, B4
COMPLETE	Community Development	Hire Urban Forester	C2
COMPLETE	Community Development	Adoption of 2012 IBC and IFC- This will be an update of all building and fire codes to the 2012 (or higher) versions.	C5
COMPLETE	Community Development	Hire Plans Examiner	C2
COMPLETE	Community Development	GC14-015 Amendments to Chapter 5-Tree Preservation- Bring forward amendments to Chapter 5, particularly with regard to punitive actions	C1
COMPLETE	Economic Development	Hire new ED Coordinator	L1, C3
COMPLETE	Economic Development	2015 Year in Review	C3

COMPLETE	Fleet	Vermeer Hydro Excavator Replacement	B1, F2
COMPLETE	Fleet	Implement Vehicle and Equipment Replacement Schedule	F3
COMPLETE	Fleet	Vehicles and Equipment sent to auction	F4
COMPLETE	Public Works	Water Facility Renewal (Area 1 - Western Trails)	F2
COMPLETE	Public Works	Water Facility Renewal (Area 2 - Reagan Estates)	
COMPLETE	Public Works	Bandit Trail (County project) - Rehabilitation	C4, C5, F2
COMPLETE	Public Works	Lowrie Road and Reagan Road (County project) - Rehabilitation	C4, C5, F2
COMPLETE	Public Works	Water Project 4: Upsize and Replace Water Lines in Sunrise Terrace Subdivision	F2
COMPLETE	Public Works	Construct Cotton Belt Trail Phase 3	C4, C5, F2
COMPLETE	Public Works	Light Tower/Generator for Backup Power for Lift Stations	F2
COMPLETE	Public Works	Reconstruction of Pleasant Run from Veranda to Bogart	C4, C5, F2
COMPLETE	Public Works	FEMA Grant Study (Creek Modeling)	F3, B3
COMPLETE	Public Works	Real Time Water System Pressure Monitors	C2
COMPLETE	Public Works	Backflow inspections (restructuring and process changes)	B2
COMPLETE	Public Works	American Public Works Association Accreditation	B2
COMPLETE	Public Works	PC: Update on the SH26 Project	C4
COMPLETE	Public Works	Reconstruction of Kingston Estates	C4, C5, F2
COMPLETE	Public Works	Master Thoroughfare Plan Update Address the Heritage Avenue boundary change	C4
COMPLETE	Public Works	Construction SH26 Phase I Enhancements	C4, C5, F2
COMPLETE	Public Works	2015 Miscellaneous Concrete Repairs	C2, F2
COMPLETE	Public Works	Miscellaneous Major Asphalt Maintenance 2015	C4, C5, F2
COMPLETE	Public Works	Field Connectivity for Meter Services Worker	B1, C2
COMPLETE	Public Works	First reading of Ordinance to adopt new utility rate structure	F2, F3
COMPLETE	Public Works	Plan Review and Inspection Fee Update (to address testing costs)	B2

COMPLETE	Public Works	Utility Relocations along SH26	C4
COMPLETE	Public Works	Construction of the Jackson Cheek-Sparger Roundabout	C4, C5, F2
COMPLETE	Public Works	Update City Council on Access Midstream Pipeline alignment and right-of-way use fee	C5
COMPLETE	Public Works	Water/Wastewater Master Plan Continuation of Rate Discussion	F3
COMPLETE	Public Works	Clean and Seal Exterior Stone City Hall/Library	F2
COMPLETE	Public Works	Mosquito Program Presentation	C2, C5
COMPLETE	Public Works	Adopt Water/Wastewater Master Plan (Resolution)	C2, C5, F2, F3
COMPLETE	Public Works	Approve Engineering Services Agreement for redesign of SH26	C4, F2, F3
COMPLETE	Public Works	Temporary Repair of Whites Chapel Road Bridge	F2
COMPLETE	Public Works	Rehabilitate Lavaca Trail - 2014 County Project	C4, F2
COMPLETE	Public Works	Rehabilitate Jackson Road (2015 County Project)	C4, F2
COMPLETE	Public Works	Pavement Markings 2015	F2
COMPLETE	Public Works	Street Maintenance (one-time)	C4, F2
COMPLETE	Public Works	Purchase and implement Networkfleet GPS Monitoring	B1
COMPLETE	Public Works	Hire Construction Inspector (project-funded)	F2
COMPLETE	Public Works	Implement Flood System Maintenance Contract	C5
COMPLETE	Public Works	Implement Traffic Signal Maintenance Contract	B2
COMPLETE	Public Works	Guardrail Repair Program (use some of one-time street maintenance \$)	F2
COMPLETE	Public Works	Field Connectivity- purchase 3 tablets & aircards	B1
COMPLETE	Public Works- CIP	Pavement Markings	F2
COMPLETE	Public Works- CIP	Rehabilitate Streets in Jewel Estates Subdivision	F2, C4

STAR Report

Projects: Leisure Services

Status	Responsible Dept/Program	Action Item	Notes	Strategy Map Connection
In Progress	Colleyville Center	Update non-profit rental fee schedule	Discussion with City Council on July 19; ordinance will be brought forward in September	F3
In Progress	Parks	Master Plan Update	Parks to determine plan elements/scope and advertise RFP for Fall 2016 start	B2,F2, F3
In Progress	Parks	L.D. Lockett Park / Cotton Belt Trailhead Enhancement Project	Construction to begin late Summer 2016	C1, F2, F3
In Progress	Parks	Community Garden Analysis	Online survey completed. Presentation to the City Council on July 19, 2016. Pending community group interest in taking on leadership role.	C1, F3, B3
In Progress	Parks	Pleasant Run Practice Fields - renovation	In Progress- est. open September 2016	C1, F2, F3
In Progress	Parks	Sign Lighting for Entry Markers (convert from solar to hard-wired lighting)	Need to explore alternative options to hard wiring which requires the installation of additional power poles	F2
In Progress	Parks	Park Signage update- Woodbriar and Reagan Park	Waiting on quote for sign at L.D. Lockett Park; planning to use the same contractor for all three signs.	F2
On Hold	Colleyville Center	Site Master Plan	Input has been gathered from the Colleyville Center Advisory Committee and a Joint Worksession with the City Council has been held.	F3, C1
COMPLETE	Colleyville Center	Increased Internet Bandwidth		C2, B1
COMPLETE	Colleyville Center	Replacement Dishwasher		F2
COMPLETE	Library	Library Long-Range Plan 2016 - 2021		C1, C2, B2,F3
COMPLETE	Parks	Splash pad recirculation system		C1, B2, F2
COMPLETE	Parks	Flashing trail crossing signage along the Cotton Belt Trail		C4, F2
COMPLETE	Parks	Playground at Pleasant Run Park		C1, F2
COMPLETE	Parks	Cotton Belt Trail - Phase III		C1, C4, F2
COMPLETE	Parks	Pleasant Run Trail Construction (Bogart to Mission)		C4
COMPLETE	Recreation	Senior Center Repairs		C1, C5
COMPLETE	Colleyville Center	Fridge Merchandiser		C2
COMPLETE	Colleyville Center	Update Rental Agreement		C1, B2

COMPLETE	Colleyville Center	Dyson Hand Dryers	F2
COMPLETE	Colleyville Center	AV Upgrade	C1, B1
COMPLETE	Parks	City Park - Landscape and Amenities	C1
COMPLETE	Colleyville Center	Replacement of Catering Oven	C2, F2
COMPLETE	Library	Upgrade 0.5 FTE Administrative Secretary to 1.0 FTE	C2
COMPLETE	Parks	Shade Structure Replacement at City Park- Fields 1-3	C1
COMPLETE	Library & Recreation	Special Events Discussion	C1, C2
COMPLETE	Parks	Construct Cotton Belt II Spur @ Webb House	C4
COMPLETE	Athletic Field Maint.	Baseball/Softball field laser grading maintenance rotation	C1, F2
COMPLETE	Colleyville Center	Repairs to original sloped metal roof	F2
COMPLETE	Library	PT Technical Services Librarian Position (from 6 hr/wk position)	B2
COMPLETE	Parks	Pleasant Run Trail ROW (Bogart to Mission)	C4, C1
COMPLETE	Parks Maintenance	Railroad rights-of-way maintenance	C1
COMPLETE	Parks Maintenance	Tree falling and removal at Nature Center	C1

RESOLUTION R-16-4026

**A RESOLUTION APPROVING CITY COUNCIL ACTION
UNDER BUSINESS AT THE REGULAR CITY COUNCIL MEETING OF
AUGUST 16, 2016**

WHEREAS, City Council has taken action on certain items on the agenda under Business.

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

Sec. 1. THAT

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON
THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	_____	Mayor Pro Tem Chris Putnam	_____
Place 1, Tammy Nakamura	_____	Place 5, Nancy Coplen	_____
Place 2, Bobby Lindamood	_____	Place 6, Mike Taylor	_____
Place 4, Jody Short	_____		

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

Richard Newton
Mayor