



## AGENDA

**City of Lucas  
City Council Regular Meeting  
July 2, 2015  
7:00 PM**

**City Hall – Council Chambers  
665 Country Club Road – Lucas, Texas**

Notice is hereby given that a City of Lucas Regular City Council Meeting will be held on Thursday, July 2, 2015 at 7:00 pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas, 75002-7651 at which time the following agenda will be discussed. As authorized by Section 551.071 of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

### **Call to Order**

- Roll Call
- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

### **Citizens' Input**

The Citizens' Input portion of the agenda is an opportunity for the public to address the City Council on any subject. By completing a "Request to Speak" form and submitting it to the City Secretary, citizens have an opportunity to speak at the City Council meeting. However, in accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decisions at this time but may refer items to City Staff for research and possible inclusion on a future agenda.

1. Citizens' Input [**Mayor Jim Olk**]

### **Community Interest**

Pursuant to Section 551.0415 of the Texas Government Code, the City Council may report on the following items 1) expression of thanks, congratulations or condolences; 2) information about holiday schedules; 3) recognition of individuals; 4) reminders about upcoming City Council events; 5) information about community events; and 6) announcements involving imminent threat to public health and safety.

No Community Interest items are scheduled for this meeting.

### **Consent Agenda**

All items listed under the consent agenda are considered routine and are recommend to the City Council for a single vote approval. If discussion is desired, an item may be removed from the consent agenda for a separate vote.

2. Consider approval of the minutes of the June 18, 2015 City Council meeting. **[City Secretary Stacy Henderson]**
3. Consider approving Resolution R-2015-07-00437 authorizing the City Manager to enter into a one year Communication Facilities License Agreement with JAB Broadband D/B/A Skybeam Texas. **[Public Works Director Stanton Foerster]**
4. Consider the request by Todd Wintters on behalf of Cleve Adamson Custom Homes for preliminary plat approval for a subdivision of land called Tokalaun Equestrian Addition Tract Two being 18.507 acres, to a proposed 8 lot subdivision on a tract of land situated in the John W. Kerby Survey ABS Number 506, more commonly known as the school site on Blondie Jhune. **[Development Services Director Joe Hilbourn]**

### **Public Hearings**

No public hearings are scheduled for this meeting.

### **Regular Agenda**

5. Provide an update on the Blondy Jhune Bridge Projects. **[Public Works Director Stanton Foerster]**
6. Consider creating an ordinance preventing parking along Estates Parkway. **[Public Works Director Stanton Foerster]**
7. Consider an appointment to the Board of Adjustment to fill a vacant position. **[City Secretary Stacy Henderson]**

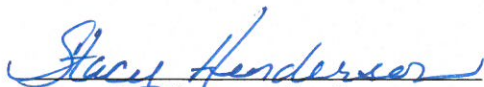
### **Executive Session**

The City Council may convene in a closed Executive Session pursuant to Chapter 551.074 of the Texas Government Code, Personnel Matters.

8. Deliberate the appointment of an officer to the Board of Adjustment.
9. Reconvene into Regular Session and take any action necessary as a result of the closed Executive Session.
10. Adjournment.

<b>Certification</b>
----------------------

I hereby certify that the above notice was posted in accordance with the Texas Open Meetings Act on the bulletin board at Lucas City Hall, 665 Country Club Road, Lucas, TX 75002-7651 and on the City's website at [www.lucastexas.us](http://www.lucastexas.us) on or before 5:00 p.m. on Friday, June 26, 2015.

  
Stacy Henderson, City Secretary

*In compliance with the American with Disabilities Act, the City of Lucas will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services should be directed to Stacy Henderson at 972.912.1211 or by email at [shenderson@lucastexas.us](mailto:shenderson@lucastexas.us) at least 48 hours prior to the meeting.*



# City of Lucas Council Agenda Request July 2, 2015

Item No. 01

**Requester:** City Secretary Stacy Henderson

**Agenda Item:**

1. Citizen Input

**Background Information:**

NA

**Attachments/Supporting Documentation:**

NA

**Budget/Financial Impact:**

NA

**Recommendation:**

NA

**Motion:**

NA





# City of Lucas Council Agenda Request July 2, 2015

Item No. 02-03-04

**Requester:** City Secretary Stacy Henderson

## **Agenda Item:**

### **Consent Agenda:**

2. Consider approval of the minutes of the June 18, 2015 City Council meeting.
3. Consider approving Resolution R-2015-07-00437 authorizing the City Manager to enter into a one year Communication Facilities License Agreement with JAB Broadband D/B/A Skybeam Texas.
4. Consider the request by Todd Wintters on behalf of Cleve Adamson Custom Homes for preliminary plat approval for a subdivision of land called Tokalaun Equestrian Addition Tract Two being 18.507 acres, to a proposed 8 lot subdivision on a tract of land situated in the John W. Kerby Survey ABS Number 506, more commonly known as the school site on Blondie Jhune.

## **Background Information:**

### Agenda Item No. 3:

In May 2012, the City entered into a licensing agreement allowing Jab Broadband D/B/A Skybeam Texas and formerly Rhino Communications, the use of the three city water towers for antenna locations. The agreement expired on May 31, 2015. Jab Broadband will have antennas on the McGarity, Winningkoff, and Public Works Water Towers, paying rental fees of \$400 per month, per facility, totaling \$1,200 per month, and \$14,400 over the duration of the contract.

### Agenda Item No. 4:

The preliminary plat is the second half of Tokalaun Park and Estuary comprised of 8 lots and is currently zoned R-2. The average lot size is over two acres with the largest lot being 2.749 acres in size. The cul-de-sac is less than 600' long, and has less than ten lots. The preliminary plat was approved by the Planning and Zoning Commission on June 11, 2015 by unanimous vote.

## **Attachments/Supporting Documentation:**

1. Minutes of the June 18, 2015 City Council meeting.
2. Resolution R-2015-07-0437 - Jab Broadband contract.
3. Preliminary Plat – Tokalaun Equestrian Addition



# City of Lucas Council Agenda Request July 2, 2015

Item No. 02-03-04

**Requester:** City Secretary Stacy Henderson

**Budget/Financial Impact:**

Agenda Item No. 4:

Total revenue of \$14,400 annually.

**Recommendation:**

Staff recommends approval of the Consent Agenda.

**Motion:**

I make a motion to approve/deny the Consent Agenda as presented.



**City of Lucas  
City Council Meeting  
June 18, 2015  
7:00 PM**

**City Hall – 665 Country Club Road – Lucas, Texas**

<b>Call to Order</b>
----------------------

Mayor Olk called the meeting to order at 7:00p.m.

**Council Members Present:**

Mayor Jim Olk  
Mayor Pro Tem Kathleen Peele  
Councilmember Debbie Fisher  
Councilmember Tim Baney  
Councilmember Steve Duke  
Councilmember Philip Lawrence

**Council Member Absent:**

Councilmember Wayne Millsap

**Staff:**

City Attorney Whitt Wyatt  
City Manager Joni Clarke  
Human Resources Manager Cheryl Meehan  
Development Services Director Joe Hilbourn  
Fire Chief Jim Kitchens  
Public Works Director Stanton Foerster  
Intern Reese Jackson  
Special Projects Coordinator Cathey Bonczar (sitting in for City Secretary Stacy Henderson)

It was determined that a quorum was present.  
Everyone was reminded to turn off or silence cell phones.  
Councilmember Fisher led the Pledge of Allegiance.

Mayor Olk announced that the order of the Agenda would be changing to begin with Agenda Item No. 2, Fire Department Promotion.

<b>Community Interest</b>
---------------------------

- 2. Fire Department Promotion Ceremony: Promotion of Lieutenant Lance Gant to Battalion Chief.**



Fire Chief Jim Kitchens conducted the Promotion Ceremony for Lieutenant Lance Gant to Battalion Chief.

## **Consent Agenda**

### **3. Consider approval of the minutes of the June 4, 2015 City Council meeting.**

**MOTION:** A motion was made by Mayor Pro Tem Peele, seconded by Councilmember Lawrence to approve the Consent Agenda as presented. The motion passed unanimously by a 6-0 vote.

Mayor Olk announced that they would now be returning to Agenda Item No. 1 on the Agenda, Citizen Input.

## **Citizens' Input**

### **1. Citizens' Input**

The following individuals came forward to speak:

Jerrell Fowler, 7 Orchard Road, said he had been a resident of the City of Lucas since 1994, and he along with his neighbors are in attendance to voice their concerns regarding the drainage issues in Lemon Tree Estates.

Susan Baumert, 38 Citrus Way, distributed a packet of information along with pictures to the City Council of the recent flooding and drainage issues in her neighborhood. She spoke of a study that was conducted in 2004 by the City regarding drainage issues. The work done at that time to re-ditch in the area did not address all the issues as the drainage continues to be a problem. Ms. Baumert discussed personal loss of her barn due to high water, and was aware of other property damage in the neighborhood. Ms. Baumert asked if the residents were allowed to re-ditch as the neighborhood was annexed in 1974.

Taylor Myers, 30 Citrus Way, said that the neighbors would like to foster teamwork with the city in an effort to resolve the drainage issues in their neighborhood, and would like the City to have a written plan of action in place in the next 30 days.

Sherry Grimes, 12 Orchard Road, said that drainage issues have been affecting the residents even during drought years, and asked that the City address the issues in her neighborhood.

Laura Hall, 11 Orchard Road, stated that drainage has been a long standing problem and continues to get worse.

Jim Harrington, 9 Orchard Road, stated that he has suffered significant financial damage and emotional stress and is looking for help from the City to fix the drainage problem in his neighborhood.



Also in attendance, but not wishing to speak, were the following residents:

- Dawn Bell – 4 Citrus Way
- Lyn Ables and Richard Ables – 10 Orchard Road
- Corey and Sandra Fowler – 7 Orchard Road
- David Bishop – 6 Orchard Road
- Craig Baumert – 38 Citrus Way
- Kril Cunningham – 31 Citrus Way
- Alan Grimes – 12 Orchard Road
- Belinda Harrington – 9 Orchard Road
- Forest Donoho – 3 Orchard Road
- Carrie Brazeal – 1 Citrus Way
- Roger Paquette – 25 Citrus Way

Mayor Olk announced that they would now be returning to the Regular Agenda beginning with Agenda Item No. 5

### **Regular Agenda**

**5. Discuss drainage/storm water run-off issue throughout the City of Lucas to determine if a modification is needed to existing policy.**

Mayor Olk thanked the citizens for their attendance at the meeting and their comments. City Council and Staff discussed the history of drainage in Lemon Tree Estates, and drainage in the city as a whole. It was discussed that there were no drainage easements in Lemon Tree Estates, and the plats were not clear regarding right-of-way or easements. The Council discussed addressing the drainage issues in one neighborhood could potentially produce issues in other neighborhoods. Discussion also took place regarding construction standards when Lemon Tree Estates was established were not as stringent as today's standards. The 2004 Drainage Study Report identified areas with repeat drainage issues.

Mayor Olk recommended that staff come back with the cost expectations for completing a study.

City Attorney Wyatt advised that it be reviewed city wide so as to not create potential problems in other areas.

Mayor Pro Tem Peele suggested staff include the FTE requirements to handle the work load.

4. **Consider authorizing the City Manager to approve the TML MultiState Intergovernmental Employee Benefits Pool Rerate Notice and Benefit Verification Form for Plan Year 15/16.**

Human Resources Manager Cheryl Meehan presented information regarding the new benefits package which included a 3% health care increase, and a 7% dental increase. Recommendations would be presented at the budget workshop to make the following changes to the policy: Eliminate short-term disability; offer long-term disability; allow employees to accrue up to 30 days of sick time, increase the life insurance offering, and eliminating the AFLAC program.

**MOTION:** A motion was made by Councilmember Fisher, seconded by Councilmember Baney to approve the TML MultiState Intergovernmental Employee Benefits Pool Prerate Notice and Benefit Verification Form for Plan Year 15/16 as presented. The motion passed unanimously by a 6-0 vote.

6. **Consider authorizing the Mayor to enter into a construction contract with A&M Construction & Utilities, Inc. for the construction of the Osage Lane water line in the amount not to exceed \$168,440, plus a 20% contingency amount of \$33,688 for a total of \$202,128 and authorize a line item transfer in the amount of \$83,588 from line item 21-8210-490-115 to 21-8210-490-111.**

Public Works Director Stanton Foerster said that the City annexed the Osage Lane neighborhood a several years ago and the easements have been acquired. Staff is now requesting to move forward with replacing the waterline.

**MOTION:** A motion was made by Mayor Pro Tem Peele, seconded by Councilmember Baney to authorize the Mayor to enter into a construction contract with A&M Construction & Utilities, Inc. for the construction of the Osage Lane water line in the amount not to exceed \$168,440, plus a 20% contingency amount of \$33,688 for a total of \$202,128 and authorize a line item transfer in the amount of \$83,588 from line item 21-8210-490-115 to 21-8210-490-111. The motion passed unanimously by a 6-0 vote.

7. A. **Consider the approval and acceptance of bids relating to the sale of obligations designated as “City of Lucas, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2015”; and approve Financial Advisor’s recommendation concerning this matter; and other matter in connection therewith.**
- B. **Consider the approval of Ordinance 2015-06-00815 authorizing the issuance of “City of Lucas, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2015”; providing for the payment of said certificates by the levy of an ad valorem tax upon all taxable property within the City and further securing said certificates by a lien on and pledge of the pledged revenues of the system; providing the terms and conditions of said certificates and resolving other matters incident and relating to the issuance, payment, security, sale and delivery of said certificates; including the approval and distribution of an official statement**

**pertaining thereto; authorizing the execution of a paying agent/registrar agreement and an official bid form; complying with the requirements of the letter of representatives previously executed with the depository trust company; authorizing the execution of any necessary engagement agreements with the City's Financial Advisors and/or bond counsel; and providing an effective date.**

Andrew Friedman of SAMCO Capital Markets, Inc addressed the Council discussing of the four bids received, Robert W. Baird was the best. Mr. Friedman discussed the packet given to the council, the \$2M bonds for street improvements, the structure of payments, due dates, interest costs, and the City's debt rating. Mr. Friedman recommended the City accept the bid from RW Baird.

**MOTION:** A motion was made by Councilmember Fisher, seconded by Mayor Pro Tem Peele to approve Ordinance 2015-06-00815. The motion passed unanimously by a 6-0 vote.

**8. Consider the appointment of a Council Liaison for the following Boards:**

- **Parks and Open Space Board**
- **Board of Adjustments**
- **Planning and Zoning Commission**
- **North Texas Municipal Water District**
- **North Texas Council of Governments**

Council Liaisons were assigned to the following Boards:

- Parks and Open Space Board – Councilmember Tim Baney
- Board of Adjustments - Mayor Pro Tem Kathleen Peele
- Planning and Zoning Commission – Mayor Jim Olk
- North Texas Municipal Water District – Councilmember Fisher
- North Texas Council of Governments – Councilmember Steve Duke

**MOTION:** A motion was made by Mayor Olk, seconded by Councilmember Lawrence to approve the appointments of Council Liaisons to the City's Boards and Commissions. The motion passed unanimously by a 6-0 vote.

**9. Consider updating the Rules of Order and Procedure for Agenda Preparation.**

There were no recommendations for changes to the Rules of Order and Procedure for agenda preparation.

**10. Consider appointing a subcommittee for nominations to the Service Tree Program.**

Mayor Pro Tem Peele, discussed the first annual Service Tree Award Program. Information will be provided in the monthly newsletter and forms will also be available at City Hall. A sub-committee is needed to evaluate the nominations. Councilmembers Fisher, Duke and Councilmember Millsap were appointed.

**MOTION:** A motion was made by Mayor Pro Tem Peel, seconded by Councilmember Lawrence to approve the appointment of Councilmembers Fisher, Duke, and Millsap as the Service Tree Program Sub-Committee. The motion passed unanimously by a 6-0 vote.

**11. Consider distributing the newsletter electronically and reduce the number of printed copies produced each month.**

City Manager Joni Clarke presented the potential cost savings of citizens being able to view the newsletter online. City Council expressed concerns over the logistics of managing the change in distribution practices and based on history, the Council believed that only a small percentage of residents would choose electronic distribution. Council preferred to continue mailing the monthly newsletter with no changes to the process at this time.

<b>Executive Session</b>
--------------------------

No Executive Session was scheduled for this meeting.

**12. Adjournment.**

**MOTION:** A motion was made by Councilmember Fisher, seconded by Councilmember Lawrence to adjourn the meeting at 8:57 p.m. The motion passed unanimously by a 6-0 vote.

APPROVED:

\_\_\_\_\_  
Jim Olk, Mayor

ATTEST:

\_\_\_\_\_  
Stacy Henderson, City Secretary



## **Resolution R-2015-07-00437**

**[Approving SKYBEAM Texas Communications Facilities License Agreement]**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS, APPROVING THE COMMUNICATIONS FACILITIES LICENSE AGREEMENT BETWEEN THE CITY AND JAB BROADBAND D/B/A SKYBEAM TEXAS; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City Council of the City of Lucas desires to lease space on the McGarity, Winningkoff, and Public Works Water Towers (the “Water Towers”) for the right to erect, maintain, and operate antennae facilities including without limitation utility lines, transmission lines, electronic equipment, connecting cables and supporting equipment and structures to provide effective communications signals (“Licensee Facilities”); and

**WHEREAS**, the City Council of the City of Lucas has been presented a Communications Facilities License Agreement (“Agreement”) between the City and SKYBEAM Texas for SKYBEAM Texas to lease space on the Water Towers for placement of its Licensee Facilities;

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

**SECTION 1.** The City Manager is hereby authorized to execute the Agreement, attached hereto as Exhibit “A,” with SKYBEAM Texas to lease space on the Water Towers for placement of its Licensee Facilities to be used in providing effective transmission and reception of communication signals.

**SECTION 2.** This Resolution shall take immediately upon its passage.

**DULY PASSED** by the City Council of the City of Lucas, Texas, on the 2nd day of July, 2015.

**ATTEST**

**APPROVED:**

---

Stacy Henderson, City Secretary

---

Jim Olk, Mayor

## **EXHIBIT "A"**

**STATE OF TEXAS**

### **COMMUNICATIONS FACILITIES LICENSE AGREEMENT**

**COUNTY OF COLLIN**

This Communications Facilities License Agreement ("Agreement") is made by and among the City of Lucas, Texas (the "City") and JAB BROADBAND d/b/a SKYBEAM Texas ("Licensee") (collectively, the "Parties"), acting by and through their duly authorized representatives.

#### **Article I Term**

The Term of this Agreement shall be one (1) year, commencing on the date this Agreement is signed by all parties (the "Commencement Date"), and terminating at Midnight on the last day of the twelfth full month following the Commencement Date.

#### **Article II Premises**

The City is the owner of parcels of land and three (3) Water Towers known as (1) the McGarity Tower located at 2295 McGarity Lane; (2) the Winningkoff Tower located on East Winningkoff Road, 1440 east of Winningkoff Road; and (3) the Public Works Tower located at 325 W. Lucas Road (all collectively referred to as "Water Towers" and individually referred to as "Facility") located in the City of Lucas, Collin County, State of Texas, (the Water Towers and Land are collectively, the "Property" or the "Premises"). The Property is more particularly described in Exhibits "A" through "C," which are attached hereto and incorporated herein. The City hereby leases to Lessee, and Lessee hereby leases from the City, space on the Water Towers and all access and utility easements, if any, (collectively, the "Premises").

#### **Article III Permitted Use**

The Premises may be used by Licensee only for permitted uses, which are (i) the transmission and reception of communications signals; (ii) the construction, alteration, maintenance, repair, replacement and relocation of related facilities, towers, antennas, equipment and buildings; and, (iii) activities related to any of the foregoing.

#### **Article IV Rent**

Upon the Commencement Date, Licensee shall pay to the City, as rent, Four Hundred Dollars (\$400.00), per month ("Rent") per Facility. Rent shall be payable on the first day of the

month, in advance, to the City, at the following address: City of Lucas, Attention: City Manager, 665 Country Club Lane, Lucas, Texas 75002.

## **Article V**

### **Improvements; Utilities; Access**

(a) Licensee has the right to erect, maintain and operate on the Premises antennae facilities, including without limitation utility lines, transmission lines, electronic equipment, connecting cables and supporting equipment and structures thereto ("Licensee Facilities"), which facilities are depicted in the schematic or diagrams shown on the attached Exhibit "D." All of Licensee's construction and installation work shall be performed at Licensee's sole cost and expense and in a good and workmanlike manner. Title to the Licensee Facilities shall be held by Licensee. All of Licensee Facilities shall remain Licensee's personal property and are not fixtures. Licensee has the right to remove all Licensee Facilities at its sole expense on or before the expiration or earlier termination of the Agreement; provided Licensee repairs any damage to the Premises caused by such removal. Licensee shall not damage, injure or impair any facilities or equipment on the Towers and Premises in the erection, installation, construction or maintenance of Licensee's Facilities and shall indemnify, hold harmless and defend the City from any and all loss, damage or injury caused in whole or in part by Licensee or its agents, representatives or employees in this regard.

(b) Licensee, Licensee's employees, agents and subcontractors shall have access to the Premises with prior notice to the City twenty-four (24) hours a day, seven (7) days a week. If the City is contacted by Licensee after normal business hours of the City, the Licensee shall reimburse the City for the actual cost of any the City's personnel necessary for Licensee's access.

(c) The City shall maintain existing access roadways from the nearest public roadway to the Premises in a manner sufficient to allow pedestrian and vehicular access at all times under normal weather conditions. The City shall be responsible for maintaining and repairing such roadway, at its sole expense, except for any damage caused by Licensee's use of such roadways.

(d) The City reserves the right to perform maintenance on the Water Towers, both structural and cosmetic (paint), at whatever intervals as may be required to assure the integrity and longevity of the Water Towers. If maintenance work is required, the City agrees to provide Licensee with reasonable notice of not less than ninety (90) days prior to commencing such work to allow Licensee to remove any and all of Licensee's antennas and equipment as may be necessary provided the City makes best efforts to provide Licensee with sufficient notification of the intended work and the opportunity, at Licensee's cost and expense, to temporarily relocate and continue to operate its antennas and equipment, or otherwise to secure the antennas or the communication facilities generally, to protect them from damage and allow Licensee to continue to operate. Licensee will be permitted to install any type of temporary facility necessary to keep its Communication Facility operational. Further, any maintenance will be conducted by the City as diligently and expeditiously as possible. However, subject to the above, the City will not be responsible for system outages of up to thirty (30) days resulting from the City's need for unusually extensive maintenance and any inability of the City to accommodate a relocation of Licensee's antennas to keep them operational.

(e) The City reserves the right to require Licensee to relocate its Facilities to another location on the Water Towers. Licensee shall complete the relocation of its Facilities within thirty (30) days after written notice from the City. The relocation shall be at Licensee's expense, unless the City's relocation requirement results from the City's desire to lease space on the Water Towers to non-governmental third-party users. In that case, the third-party user shall be obligated to reimburse Licensee the reasonable relocation costs of Licensee.

## **Article VI Interference**

(a) Licensee shall not interfere with the operation of (i) any radio equipment of the City presently situated on the Water Towers or the Property or (ii) equipment situated on the Water Towers or the Property by other operators of radio equipment at the Water Towers site which is employed in Permitted Uses, including water systems, and which are in existence on the Commencement Date of this Agreement ("Present Operators") ("Harmful Interference"). Licensee shall coordinate with the City and all Present Operators to insure that Licensee's frequencies and antenna locations will be compatible with those of the City and Present Operators.

(b) In addition, in the event the City desires to install new or additional radio communications equipment at the Water Towers site in the future, Licensee agrees to cooperate with the City in the remedying of any radio interference with said radio equipment, however, in no event shall Licensee be required to cease its activities or move its antennas or equipment on the Water Towers site or relocate the equipment shelter unless such interference is sufficient to disrupt police, fire, public works, any City communications or other emergency communications ("Emergency Interference").

(c) In the event there is Harmful Interference to said electronic equipment, Licensee will promptly take all steps necessary to identify the problem, and, if caused by Licensee's equipment, to take all reasonable steps to eliminate said Harmful Interference within ten (10) days after notice from the City or such other operator to Licensee advising of the Harmful Interference. If said Harmful Interference cannot be eliminated within thirty (30) days of notice thereof, Licensee agrees to suspend operations (transmissions) at the site while the Harmful Interference problems are studied and a means found to mitigate them. If said Harmful Interference cannot be eliminated, then Licensee shall, without penalty or further liability, terminate this Agreement upon immediate notice to the City and remove its equipment shelter and its Antenna Facilities, concrete pad, cables and any other Licensee owned equipment from the City's property.

(d) In the event there is Emergency Interference to said electronic equipment, Licensee shall immediately suspend operations (transmissions) at the Water Towers site and promptly take all steps necessary to identify the problem, and, if caused by Licensee's equipment, to take all such steps as are necessary to eliminate said Emergency Interference. If within sixty (60) days said Emergency Interference cannot be eliminated, then Licensee may, at



its sole election and without penalty or further liability, terminate this Agreement upon notice to the City and remove its equipment shelter and its Antenna Facilities from the Property.

(e) During the term of this Agreement and any extension thereof, the City shall from time to time lease additional space on the Water Towers site and on the Property and may grant to such licensees the same non-exclusive easements for access and utilities as are above granted to Licensee. Such licensees' intended use of the property leased to them may be similar or substantially the same as the above described use by Licensee. The City shall not be responsible to Licensee for the activities of any other such user as such may affect Licensee. However, the City shall cause all subsequent users of the Water Towers site to agree to a clause similar to this Article VII herein, promising to immediately eliminate interference if said user's equipment should interfere with that of Licensee, or any other user of the Water Towers site and providing that all then existing licensees and Present Operators on the Water Towers site and at the Premises are third-party beneficiaries of such agreement which may be enforced directly by Licensee and/or any other licensee or user. In the event any such interference does not cease promptly, the Parties acknowledge that continuing interference may cause irreparable injury to Licensee and, therefore, Licensee shall have the right, in addition to any other rights that it may have at law or in equity, to bring action against the interfering party to enjoin such interference. In the event Licensee and the interfering party fail to eliminate such interference, Licensee shall have the right to terminate this Agreement upon ten (10) days written notice to the City with no further obligation or liability between the City and Licensee.

(f) Licensee shall have the sole burden of, and be responsible for all costs associated with alleging and proving that another user, including city owned equipment of the Premises is causing significant interference, or for otherwise enforcing Licensee's rights under this Agreement. The City shall not be responsible for the costs associated with the resolution of any dispute between users of the Premises or enforcement of any of Licensee's rights under this Agreement.

## **Article VII Taxes**

Licensee shall be responsible for and pay any taxes directly attributable to the Licensee Facilities or Licensee's use of the Property.

## **Article VIII Condition of Site**

Licensee accepts the Premises as is, in its current condition, and the City makes no representations or warranties, and hereby disclaims any and all such representations or warranties, express or implied, of any kind or nature, with regard to the Facilities and the Premises. The City shall maintain the Premises in compliance with all applicable statutes, regulations and rules, and in a manner which will not interfere with Licensee's reasonable use of the site. Upon expiration, cancellation, or termination of this Agreement, the Licensee shall remove its equipment, antenna systems and structures from the Premises at Licensee's sole cost and expense. However, upon vacation of this site, Licensee shall surrender the Premises in substantially the same condition as received, except for ordinary wear and tear, as determined by the City. If, as determined by the

City, the Premises are not surrendered in satisfactory condition, the Licensee shall be liable to the City for an amount representing the actual cost to restore the Premises to substantially the same condition as received. In the event of Licensee's timely failure to remove its equipment, antenna systems, and structures, the City may do so at its expense and retain and sell any such equipment, antenna systems, and structures in compensation for any past due obligations. Licensee hereby grants and conveys a lien on all equipment, antenna systems and structures installed and used at the Premises for such purposes, enforceable without judicial intervention, perfected by written notice to Licensee to cure its default within ten (10) days of such notice. Any permanent improvements or fixtures installed on the Premises by Licensee shall become the property of the City upon the expiration of this Agreement.

### **Article IX Termination**

(a) This Agreement may be terminated without further liability on thirty (30) days prior written notice as follows:

- (i) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default, provided that the grace period for any monetary default is twenty (20) business days from receipt of notice;
- (ii) by the Licensee if it is unable to obtain or maintain any license, permit, or other governmental approval necessary for the construction and/or operation of Licensee's Facilities;
- (iii) by City if the City decides in its sole discretion and for any reason, to redevelop the Premises and/or discontinue use of the Water Towers;
- (iv) by City if it determines, in its sole discretion and for any reason, that the Water Towers are structurally unsound or otherwise not suitable for Licensee's use, including but not limited to consideration of age of the structure, damage or destruction of all or part of the Water Towers from any source, or factor relating to condition of the Water Towers;
- (v) by City if it determines in its sole discretion that continued use of the Water Towers by Licensee is in fact a threat to health, safety or welfare or violates applicable laws or ordinances; or
- (vi) by City at its sole discretion if Licensee loses its license to provide service for any reason, including, but not limited to, nonrenewal, expiration, or cancellation of its license.

(b) Notice of Licensee's termination pursuant to paragraph X(a) shall be given to City in writing by certified mail, return receipt requested, and shall be effective upon receipt of such notice. All rentals paid for the Lease of the Premises prior to said termination date shall be

retained by City. Upon such termination, the Agreement shall become null and void and the parties shall have no further obligations to each other, except that rental payments to the City shall continue as liquidated damages for the remainder of the term of this Agreement, not to exceed 150% of the annual rent for the year in which such termination occurs.

## **Article X Destruction or Condemnation**

If the Premises or Licensee Facilities are materially damaged, abandoned, removed, destroyed, condemned or transferred in lieu of condemnation, the City or Licensee may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to the other party no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If the City undertakes to rebuild the Water Towers, the City agrees to use its reasonable efforts to permit Licensee to place temporary transmission and reception facilities on the Property at no additional Rent until such time as Licensee is able to secure a replacement transmission location or the reconstruction of Licensee's Facilities is completed.

## **Article XI Insurance**

Licensee, at Licensee's sole cost and expense, shall procure and maintain on the Premises and on the Licensee Facilities, bodily injury and property damage insurance with a combined single limit of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of Licensee, its employees and agents arising out of or in connection with Licensee's use of the Premises, all as provided for herein. The City shall be named as an additional insured on Licensee's policy. Licensee shall provide to the City a certificate of insurance evidencing the coverage within thirty (30) days prior to the Commencement Date.

## **Article XII Warranty of Title and Quiet Enjoyment**

The City warrants that: (i) the City owns the Property in fee simple and has rights of access thereto and the Property is free and clear of all liens, encumbrances and restrictions; (ii) the City has full right to make and perform this Agreement; and (iii) the City covenants and agrees with Licensee that upon Licensee paying the Rent and observing and performing all the terms, covenants and conditions on Licensee's part to be observed and performed, Licensee may peacefully and quietly enjoy the Premises.

## **Article XIII Repairs**

Licensee shall not be required to make any repairs to the Premises or Property unless such repairs shall be necessitated by reason of the default or neglect of Licensee. Except as set forth in Article VI(a) above, upon expiration or termination hereof, Licensee shall restore the

Premises to the condition in which it existed upon execution hereof, reasonable wear and tear and loss by casualty or other causes beyond Licensee's control excepted.

#### **Article XIV Hazardous Substances**

Licensee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Land in violation of any law or regulation. City and Licensee agree to assume all duties, responsibilities and liabilities at their sole cost and expense for payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to

(i) each party's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or  
(ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property and activities conducted by the party thereon, unless the environmental conditions are caused by the other party. The provisions of this section will survive the expiration or termination of this Agreement.

#### **XV Liability and Indemnity**

(a) Licensee shall at all times comply with all laws and ordinances and all rules and regulations of municipal, state and federal government authorities relating to the installation, maintenance, height, location, use, operation, and removal of the equipment, antenna systems, and other alterations or improvements authorized herein, and shall fully indemnify the City against any loss, damage, cost, or expense which may be sustained or incurred by the City as a result of Licensee's installation, operation, or removal of said improvements, except where caused in whole or in part by the gross negligence or willful misconduct of the City, its agents, servants or employees.

(b) Licensee agrees and is bound to indemnify, defend, and hold the City whole and harmless against any and all claims for any loss or damages that may arise out of the use, maintenance, and occupancy of Licensee's Facilities and use of the Premises by Licensee, except where caused in whole or in part by the gross negligence or willful misconduct of the City, its agents, servants or employees.

(c) Licensee agrees that Licensee shall indemnify, defend, release, acquit, and hold free and harmless the City, its agents, representatives and employees from and against any and all claims, demands, causes of action, liabilities, losses, and damage, whether asserted by Licensee, its agents, representatives or employees, or any third party which in any ways relates to or arises from Licensee's Facilities or the installation or maintenance thereof, or from Licensee's entry onto and utilization of the Property, including but not limited to claims or causes of action alleging that loss, injury or damage were caused in whole or in part by the City's negligence.



**Article XVI**  
**Water Towers Marking and Lighting Requirements.**

The City acknowledges that it, and not Licensee, shall be responsible for compliance with all Water Towers marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC. Should Licensee be cited by either the FCC or FAA because the Water Towers are not in compliance due to Licensee's Facilities and, should Licensee fail to cure the conditions of noncompliance within the time frame allowed by the citing agency, City may terminate this Agreement.

**Article XVII**  
**Public Emergency**

The Parties understand and agree that the primary function of the Property is to serve as a water tower for the City and that the interests of Licensee are superseded by the public health, safety, and welfare of the citizens of the City of Lucas served by the Water Towers. In the event that the City of Lucas City Council or the City Manager declare a public emergency or there exists a threat to the Water Towers or potable water supply that would detrimentally impact public health, safety and welfare such that immediate action is necessary, Licensee shall immediately remove its improvements from the Leased Premises. In the event Licensee is not able to immediately respond, the City may remove Licensee's improvements without incurring liability for damages of any type. Costs of removal and reattachment of improvements shall be borne by Licensee.

**Article XVIII**  
**Miscellaneous**

18.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings written or oral agreements between the parties with respect to this subject matter.

18.2 Assignment/Subletting. Licensee may not assign nor sublet this Agreement in whole or in part without the prior written consent of City. In the event of an assignment or sublet by Licensee to which City has consented, the assignee shall agree in writing with City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

18.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

18.4 Governing Law. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

18.5 Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

18.6 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

18.7 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City,  
to: City of Lucas  
Attn: City Manager 665  
Country Club Road Lucas,  
Texas 75002 Facsimile:  
(972) 727-0091

With a copy to:  
Joe Gorfida Jr.  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
1800 Lincoln Plaza, 500 N. Akard  
Dallas, Texas 75201  
Facsimile: 214.965.0010

JAB BROADBAND d/b/a SKYBEAM Texas  
Attn: Kam Howard  
12552 S. 125 West Suite 201  
Draper, Utah 84020  
Facsimile: (801) 662-0390

18.8 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

18.9 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

18.10 Force Majeure. No Party will be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, acts of terrorism or any similar cause beyond the reasonable control of such party, provided that the non-performing party is without fault in causing such default or delay. The non-performing Party agrees to use commercially reasonable efforts to recommence performance as soon as possible.

18.11 Compliance with Federal, State & Local Laws. Licensee shall comply in performance of services under the terms of this Agreement with all applicable laws, ordinances and regulations, judicial decrees or administrative orders, ordinances, and codes of federal, state and local governments, including all applicable federal clauses.

**SIGNED AND AGREED** this 2nd day of July, 2015

**CITY OF LUCAS, TEXAS**

**By:** \_\_\_\_\_

**Joni Clarke, City Manager**

**ATTEST:**

**APPROVED AS TO FORM:**

**By:** \_\_\_\_\_

**Stacy Henderson, City Secretary**

**By:** \_\_\_\_\_

**Joe Gorfida, City Attorney**  
(XXX/XX-XX-XX/XXXXXX)

**EXHIBIT A**  
**McGarity Water Tower Legal Description**

EXHIBIT "A"

Being a 2.000 acre tract of land situated in the WILLIAM SNYDER SURVEY, ABSTRACT NO. 821, City of Lucas, Collin County, Texas and being part of a tract of land conveyed to G. Ward Paxton, by deed recorded in County Clerk File No. 94-0011304, of the Deed Records of Collin County, Texas (D.R.C.C.T.), and being more particularly described as follows:

COMMENCING at a 1/2" iron rod found at the northeast corner of said G. Ward Paxton tract, said iron rod also located in the south Right Of Way Line of F.M. Highway No. 2170;

THENCE S 00° 52'08" E, departing the said south Right Of Way Line of F.M. Highway No. 2170, and along the east line of said G. Ward Paxton tract and the west line of a tract of land conveyed to Robert Kubicek, by deed recorded in Volume 2441, Page 616, of the Deed Records of Collin County, Texas (D.R.C.C.T.), a distance of 606.60 feet to a 1/2" iron rod found for corner;

I HENCE S 00° 51'14" E, passing at a distance of 1699.07 feet a 1/2" iron rod set, in all a distance of 1994.27 feet to a 1/2" iron rod found for the southeast corner of the said G. Ward Paxton tract, said point also located in the north Right Of Way Line of McGarity Lane, and the POINT OF BEGINNING for the herein described 2.000 acre tract;

THENCE S 89° 34'11" W, along the north line of said McGarity Lane and the south line of said G. Ward Paxton tract, a distance of 296.25 feet, to a 1/2" iron rod set for corner,

THENCE N 00° 25'49" W, departing the north line of said McGarity Lane and the south line of said G. Ward Paxton tract, a distance of 295.16 feet, to a 1/2" iron rod set for corner;

THENCE N 89° 34'11" E, a distance of 294.07 feet, to a 1/2" iron rod set for corner, said point located in the east line of said G. Ward Paxton tract and the west line of a tract of land conveyed to Juliette Fowler Homes by deed recorded in Volume 816, Page 165, of the Deed Records of Cain County, Texas (D.R.C.C.T.);

THENCE S 00° 51'14" E, along the east line of said G. Ward Paxton tract and the west line of the said Juliette Fowler Homes tract, a distance of 295.17 feet, to the POINT OF BEGINNING and containing 2.000 acres, or 87,120 square feet of land more or less.



**EXHIBIT B**  
**Winningkoff Water Tower Legal Description**

Being a tract of land situated in the Calvin Boles Survey, Abstract No. 28, Collin County, Texas, and being part of a 224.497 acre tract conveyed to the North Texas Municipal Water District by deed recorded in Volume 1326, Page 253, of the deed records of Collin County, Texas, and being more particularly described as follows:

**Beginning** at a point for corner located North 89° 37' 10" West 1599.37 feet and North 0° 40' 50" West a distance of 285.00 feet to a point for corner;

**Thence South** 89° 37' 10" East a distance of 152.84 feet to a point for corner;

**Thence South** 0° 40' 50" East a distance of 285.00 feet to a point for corner located 35.00 feet from the south line of said 224.497 acre tract;

**Thence North** 89° 37' 10" West 35.00 feet from and parallel to said south line a distance of 152.84 feet to the point of beginning and containing 1.00 acres of land.

**EXHIBIT C**  
**Public Works Water Tower Legal Description**

SITUATED in Collin County, Texas, in the James Lovelady Survey, Abstract No. 538 and being a resurvey of a one acre tract reputed to have been conveyed by J. E. Stratton to Collin County by unrecorded deed less a strip about 30 feet wide off the north end of same conveyed to the State of Texas for Highway right-of-way:

**BEGINNING** at an iron stake by an old Bois d'arc corner post at the southeast corner of said 1.00 acre;

**THENCE North** 89° -38' West, with an established fence, 211.0 feet to an iron pipe driven in the base of a Bois d'arc tree at the southwest corner of said 1.00 acre;

**THENCE North** 0° -20' East 184.5 feet to a point in the south line of F. M. Highway 1378; from which an iron stake for reference bears South 5.0 feet;

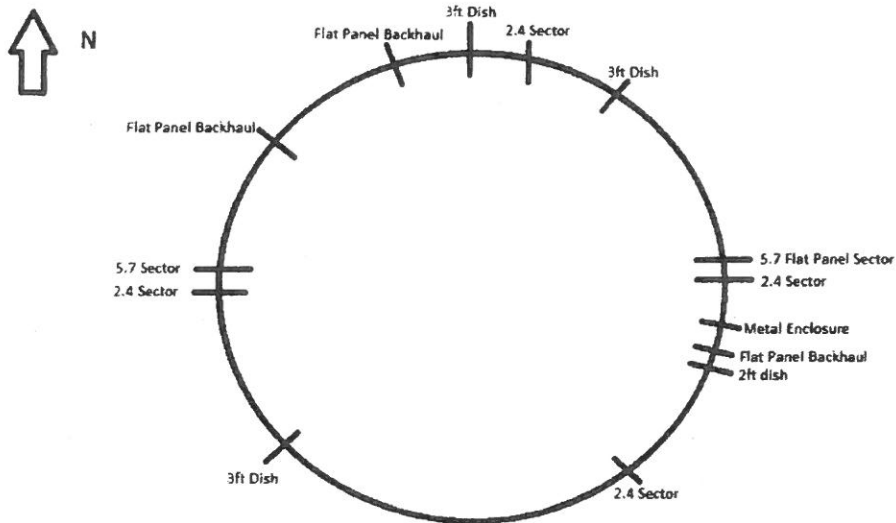
**THENCE South** 89° -14' East, with the Highway south line, 210.0 feet to an iron stake therein and in the East line of said 1.00 acre;

**THENCE South** 0° -39' East, with an established fence line, 183.0 feet to the place of **BEGINNING**:

**CONTAINING 0.89 acres**

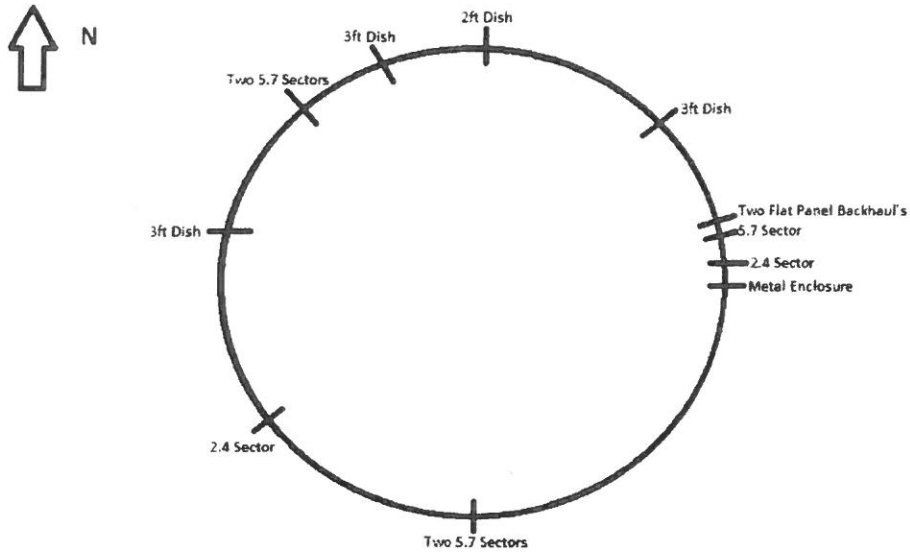
## EXHIBIT D License Facilities

Lucas McGarity 2295 McGarity Ln



**EXHIBIT D**  
**License Facilities**

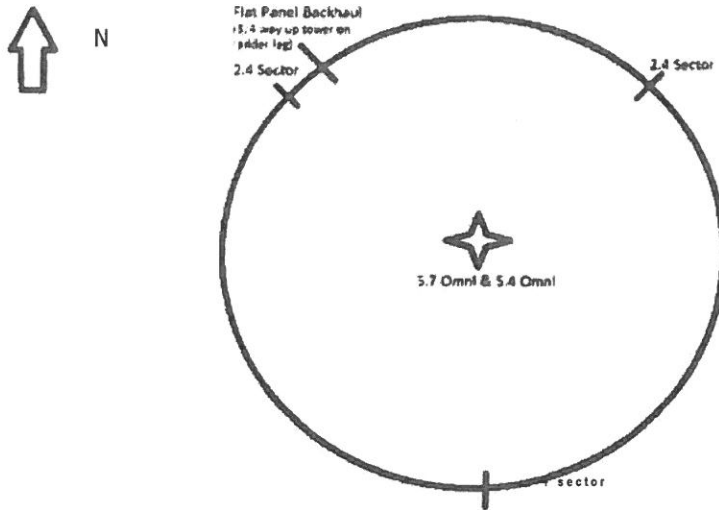
Lucas Winningkoff- 745 E Winningkoff Rd





**EXHIBIT D**  
**License Facilities**

Lucas Public Works- 325 W Lucas Rd







# City of Lucas Council Agenda Request July 2, 2015

Item No. 05

**Requester:** Public Works Director Stanton Foerster

**Agenda Item:**

Provide an update on the Blondy Jhune Bridge Projects.

**Background Information:**

In January 2015, the City Council directed staff to move forward with the safety enhancements for the two bridges on Blondy Jhune Road. The construction funding was secured in June.

Roadway surveys have been completed within the right-of-way which is generally defined by the fence rows. Some segments of the survey are still underway, because letters of permission are needed from 19 homeowners. This work is needed to start the detailed drainage and roadway designs.

The most important part of the bridge design stems from the survey work of the creek bed or channel up and downstream. This work is underway as well.

A preliminary alignment (schematic) following the existing centerline of Blondy Jhune Road has been developed by the consultant. Staff will begin schematic review during next few weeks.

**Attachments/Supporting Documentation:**

NA

**Budget/Financial Impact:**

NA

**Recommendation:**

NA

**Motion:**

NA



# City of Lucas Council Agenda Request July 2, 2015

Item No. 06

**Requester:** Public Works Director Stanton Foerster

**Agenda Item:**

Consider creating an ordinance preventing parking along Estates Parkway.

**Background Information:**

During football games and special events at Lovejoy High School, a shortage in available parking spaces at the school results in motorists parking along Estates Parkway. Parking on Estates Parkway causes traffic congestion and poses a safety risk to both pedestrians and motorists in the area.

**Attachments/Supporting Documentation:**

NA

**Budget/Financial Impact:**

NA

**Recommendation:**

NA

**Motion:**

NA





# City of Lucas Council Agenda Request July 2, 2015

Item No. 07

**Requester:** City Secretary Stacy Henderson

**Agenda Item:**

Consider an appointment to the Board of Adjustment to fill a vacant position.

**Background Information:**

The Board of Adjustment consists of four (4) regular members and two (2) alternate members. Currently there is a vacancy for an alternate member position.

A Board Application listing is attached outlining current applications on file and preferences associated with each application.

**Attachments/Supporting Documentation:**

1. Board Member List
2. Board Application listing.
2. Article 1.05 of the Code of Ordinances titled Boards, Commissions and Committees.

**Budget/Financial Impact:**

NA

**Recommendation:**

NA

**Motion:**

I make a motion to appoint \_\_\_\_\_ as an alternate member to the Board of Adjustment.



## City of Lucas 2014 - 2016 BOA Members

<b>Stuart Fink</b> – Chairman (2016)	<b>Randy Barnes</b> – Vice-Chairman (2016)
<b>Craig Williams</b> – Member (2015)	<b>Chris Bierman</b> – Member (2015)
<b>Vacant</b> - Alt Member (2016)	<b>Andrew Sisson</b> – Alt Member (2016)
<b>Kathleen Peele</b> – Mayor Pro Tem Council Liaison	

## Volunteer Board Application Listing

<b>Name</b>	<b>Board of Adjustment</b>	<b>Parks and Open Space Board</b>	<b>Planning and Zoning Commission</b>	<b>Application Received Date</b>	<b>Comments</b>
Rick Thompson	2	1	3	07/30/2014	
Larry Essary	3	2	1	07/30/2014	
Tracy Fossler	3	2		08/20/2014	1st choice was City Council
Janice Stebenne	3	2	1	09/15/2014	Did not show for interviews on 10/23/14
Amin Bata	2	3	1	08/27/2014	
David Kuo, M.D., PhD.	2	3	1	07/29/2014	
Page Schreck		2	1	07/28/2014	
John Dunaway			1	07/26/2014	
Robin Williams	2	3	1	08/17/2014	
Alan Grimes			1	07/28/2014	
Paul Rathgeb	1	3	2	06/09/2015	

**Sec. 1.02.033 Duties**

The duties of the fire chief shall be as prescribed by the city manager.

(Ordinance 2011-09-00686 adopted 9/1/11)

**ARTICLE 1.03 ADMINISTRATION\***

**Sec. 1.03.001 Official newspaper**

The city council hereby designates the Wyle News, a public newspaper in and for the city, as the official newspaper of the city, the same to continue as such until another is selected, and shall cause to be published therein all ordinances, notices and other matters required by law or by ordinance to be published. (Ordinance 2014-10-00795 adopted 10/16/14)

**ARTICLE 1.04 RESERVED†**

**ARTICLE 1.05 BOARDS, COMMISSIONS AND COMMITTEES\*\***

**Division 1. Generally**

**Sec. 1.05.001 Qualifications of members**

A person is eligible for appointment to a board or commission of the city if the person:

- (1) Has been a citizen of the city for six (6) continuous months prior to the date of appointment;
- (2) Has obtained the age of eighteen (18) years prior to the date of appointment;
- (3) Has never been convicted of and is not currently charged with a felony or a crime involving moral turpitude;
- (4) Is not delinquent on any ad valorem tax due the city.

(1995 Code, sec. 2-70)

---

\* **Editor's note**—Former Article 1.03, pertaining to the city council and deriving from sections 2-2, 2-4-2-6 of the 1995 Code, was repealed and deleted in its entirety by Ordinance 2011-09-00686 adopted by the city on September 1, 2011.

† **Editor's note**—Former Article 1.04, pertaining to city officers and deriving from sections 2-23, 2-25-2-26, 2-50-2-53 of the 1995 Code and Ordinance 1996-01-00323, sec. 1, adopted January 8, 1996, Ordinance 2004-07-00507.1, sec. 1, adopted July 6, 2004, Ordinance 2007-03-00587 adopted March 1, 2007, Ordinance 2007-11-00606, sec. 1, adopted November 1, 2007 and Ordinance 2011-01-00671 adopted January 20, 2011, was repealed and deleted in its entirety by Ordinance 2011-09-00686 adopted by the city on September 1, 2011.

\*\* **Cross references**—Park and open space board, sec. 1.09.031 et seq.; building code board of adjustments and appeals, art. 3.02; water system review board, sec. 13.02.061 et seq.



**Sec. 1.05.002 Disqualification; residency requirement**

After appointment to a board or commission, a person may become disqualified if any of the qualifications listed in section 1.05.001 are found to be untrue at the time of appointment. In addition, if any board or commission member subsequently moves his or her primary residence from the city, then a vacancy shall exist on the subject board or commission and a new member shall be appointed in the manner provided herein. (1995 Code, sec. 2-71)

**Sec. 1.05.003 Appointment of members**

(a) All members of any board, commission or corporation of the city shall be appointed by a majority of the city council. The members of any board, commission or corporation shall be appointed for staggered terms of two (2) years. The initial appointment of the members of boards, commissions or corporations by the council shall be in November of 2011. At the time of initial appointment, the council shall designate which members shall serve a two-year term and which members shall serve a one-year term; and, in November of each succeeding year thereafter, the council shall select replacements for those members whose terms have expired. Vacancies and unexpired terms shall be appointed by the council for the remainder of the term. No person related to the mayor or any member of the city council within the first degree by consanguinity or affinity shall be eligible to serve on any city board, commission, corporation or committee.

(b) Except as otherwise required by state law, a person appointed by the city council to any board, commission or corporation is not subject to term limits.

(Ordinance 2011-06-00682, sec. 1, adopted 6/2/11)

**Secs. 1.05.004–1.05.030 Reserved**

**Division 2. Planning and Zoning Commission\***

**Sec. 1.05.031 Established; jurisdiction**

There is hereby created and established the city planning and zoning commission for the territorial jurisdiction of the city and its extraterritorial jurisdiction. (1995 Code, sec. 2-40)

**Sec. 1.05.032 Composition; appointment and term of members**

The planning and zoning commission shall be composed of five (5) regular members and two (2) alternate members, each of whom shall be appointed in accordance with section 1.05.003 of this code. Alternate members shall serve in the absence of one or more regular members when requested to do so by the presiding officer of the planning and zoning commission. Each member of the planning and zoning commission shall continue in office until such time as a successor is appointed and duly qualified. (Ordinance 2011-06-00682, sec. 1, adopted 6/2/11)

---

\* **State law reference**—Authority of municipality to establish planning and zoning commission, V.T.C.A., Local Government Code, sec. 211.007.

**Cross references**—Subdivisions, ch. 10; zoning, ch. 14.

**Sec. 1.05.033      Qualifications of members**

The appointed members of the planning and zoning commission shall be resident citizens and qualified voters of the city. (1995 Code, sec. 2-42)

**Sec. 1.05.034      Filling of vacancies**

All vacancies on the planning and zoning commission shall be filled for the unexpired term in the same manner as provided for the original appointments. All expired terms shall be filled for terms as provided for the original appointments and in the same manner. (1995 Code, sec. 2-43)

**Sec. 1.05.035      Election of officers**

The members of the planning and zoning commission shall elect a chairman and vice-chairman from its membership. (1995 Code, sec. 2-44)

**Sec. 1.05.036      Powers and duties**

The planning and zoning commission shall have the power and it shall be its duty to make, and recommend for adoption, a master plan, as a whole or in parts, for the future development and redevelopment of the municipality and its environs, including its extraterritorial jurisdiction, and shall have power and it shall be its duty to prepare a comprehensive plan and ordinance for zoning the city and its extraterritorial jurisdiction in accordance with chapter 211 of the Texas Local Government Code and amendments thereto. The commission shall perform such other duties as may be prescribed by ordinances or state law. (1995 Code, sec. 2-45)

**Sec. 1.05.037      Rules, regulations and bylaws**

The planning and zoning commission shall have the power to make rules, regulations and bylaws for its own government, which shall conform as nearly as possible with those governing the city council, and the same shall be subject to approval by the council. Such bylaws shall include, among other items, provisions for:

- (1) Regular and special meetings open to the public.
- (2) Records of its proceedings, to be open for inspection by the public.
- (3) Reporting to the council and the public, from time to time and annually.
- (4) The holding of public hearings as required by law.

(1995 Code, sec. 2-46)

**Sec. 1.05.038      Removal of members**

Members of the planning and zoning commission may be removed by the city council at any time, with or without cause. (Ordinance 2004-11-00511, sec. 2, adopted 11/15/04)

## ARTICLE 1.06 CODE OF ETHICS\*

### Sec. 1.06.001 Purpose

It is hereby declared to be the policy of the city that the proper operation of democratic government requires that public officials be independent, impartial and responsible only to the people of the city; that no official shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of such person's duties in the public interest; that public office not be used for personal gain; and that the city council at all times shall be maintained as a nonpartisan body. To implement such a policy, the city council deems it advisable to enact a code of ethics for officials, as defined in this article, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who refuse to abide by its terms, the overriding interest being that such officials of the city shall at all times strive to avoid even the appearance of impropriety.

### Sec. 1.06.002 Title; applicability

This article shall be known as the code of ethics:

- (1) This code of ethics shall apply to all officials as defined in this article.
- (2) This code of ethics does not apply to employees, including those individuals employed on a full-time, part-time or internship basis (including those who may serve on a city board, committee or commission) nor to independent contractors of the city. The standards of conduct for employees are governed by the city's personnel policies and the city charter.
- (3) This code of ethics applies to members of all city boards, committees or commissions as defined in this article.
- (4) This code of ethics applies to the conduct or actions of public officials, as defined in this article which occurs in whole or in part after the date of adoption of this article.
- (5) This code of ethics applies to officials only while such persons hold such position or office.

### Sec. 1.06.003 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings respectively ascribed to them herein, except when the context clearly indicates a different meaning:

**Benefit.** Anything reasonably regarded as pecuniary or economic gain or pecuniary or economic advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

---

\* **State law references**—Conflicts of interest of officers, V.T.C.A., Local Government Code, ch. 171; public disclosure, V.T.C.A., Government Code, ch. 553.