

Agenda

Lucas City Council Regular Meeting

December 4, 2014, 6:00 PM

City Hall - 665 Country Club Road – Lucas, Texas – 75002-7651

Notice is hereby given that a City of Lucas Regular City Council Meeting will be held on Thursday, December 4, 2014 at 6:00 pm at the 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

City Council Training

City Council training presented by the City Attorney Joe Gorfida

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.

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.

2. Discussion and update regarding the drought contingency plan, conservation efforts and watering restrictions as it pertains to the City of Lucas.
[Councilmember Debbie Fisher and Public Works Director Stanton Foerster, PE]

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.

3. Consider the minutes from the November 20, 2014 City Council meeting. **[Administrative Assistant Jennifer Faircloth]**

Public Hearings

- No public hearings are scheduled for this meeting.

Regular Agenda

4. Consider public feedback received on a possible street project, determine the date and time for the next public meeting, discuss the parameters of the project and associated funding strategies, and discuss the overall timeline of a possible street project. **[Mayor Rebecca Mark]**
5. Discuss revising the City's Code of Ordinances by adopting a comprehensive solicitation ordinance to include; definitions, prohibiting solicitation in a right of way, solicitation and handbill distribution on private property, solicitation of other sources, permitting, permitting requirements, and permitting fees. **[Development Services Director Joe Hilbourn]**
6. Discuss revising the City's Code of Ordinances by updating Chapter 6, Health and Sanitation. Give staff direction on which codes (if any) the City Council would like to see adopted, or any additions that should be incorporated into our city code. **[Development Services Director Joe Hilbourn]**
7. Consider Ordinance No. 2014-12-00803 Amending Chapter 1, Article 1.09, Parks and Recreation of the City of Lucas Code of Ordinances regarding Parks and Open Space Board's members and duties and further defining conduct that is prohibited in city parks. **[City Manager Joni Clarke]**
8. Consider cancelling the January 1, 2015 City Council Regular Meeting.
9. Consider the Texas Emergency Services Retirement Act (TESRA), and the Lucas Fire Department Volunteer Pension Board's recommendation to cease further contributions to TESRA and to offer City of Lucas Volunteer Firefighters a 457(e) Length of Service Award Program (LOSAP).

Executive Session

The City Council may convene in a closed Executive Session pursuant to Chapter 551, Subchapter D of the Texas Government Code.

10. As authorized by Section 551.072 of the Texas Government Code, to discuss the purchase, exchange, lease and value of real property owned by the City.

Reconvene into Regular Session

11. Take any action as necessary as a result of the Executive Session.
12. Adjournment.

Certification

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 by 5:00 p.m. on Wednesday, November 26, 2014.

Jennifer Faircloth, TRMC
Administrative Assistant

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 Jennifer Faircloth at 972-727-8999 or by email at jfaircloth@lucastexas.us at least 48 hours prior to the meeting.

LUCAS CITY COUNCIL

Meeting Date December 4, 2014

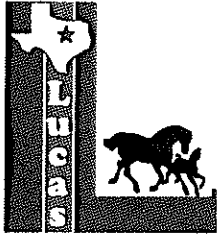
AGENDA ITEM:

- Call to Order
- Roll Call

	Present	Absent
Mayor Rebecca Mark	<input type="checkbox"/>	<input type="checkbox"/>
Seat 1 CM Wayne Millsap	<input type="checkbox"/>	<input type="checkbox"/>
Seat 2 CM Jim Olk	<input type="checkbox"/>	<input type="checkbox"/>
Seat 3 CM Steve Duke	<input type="checkbox"/>	<input type="checkbox"/>
Seat 4 CM Philip Lawrence	<input type="checkbox"/>	<input type="checkbox"/>
Seat 5 CM Debbie Fisher	<input type="checkbox"/>	<input type="checkbox"/>
Seat 6 MPT Kathleen Peele	<input type="checkbox"/>	<input type="checkbox"/>
- Determination of Quorum
- Reminder to silence cell phones
- Pledge of Allegiance

Informational Purposes

- | | |
|---|--------------------------|
| City Manager Joni Clarke | <input type="checkbox"/> |
| City Secretary | <input type="checkbox"/> |
| Public Works Director Stanton Foerster | <input type="checkbox"/> |
| Finance Director Liz Exum | <input type="checkbox"/> |
| HR Director Cheryl Meehan | <input type="checkbox"/> |
| Fire Chief Jim Kitchens | <input type="checkbox"/> |
| Development Services Director Joe Hilbourn | <input type="checkbox"/> |
| City Attorney Joe Gorfida, Jr. | <input type="checkbox"/> |
| Administrative Assistant Jennifer Faircloth | <input type="checkbox"/> |



**City of Lucas
City Council Regular Meeting
December 4, 2014**

Name & Title of Requestor: Administrative Assistant Jennifer Faircloth

Agenda Item:

Citizen's Input.

Background Information:

N/A

Attachments/Supporting Documentation:

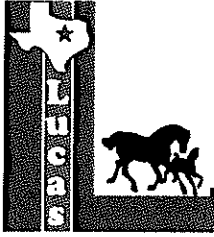
N/A

Budget/Financial Impact:

N/A

Recommendation:

N/A



**City of Lucas
City Council Regular Meeting
December 4, 2014**

Name & Title of Requestor: Mayor Rebecca Mark

Agenda Item:

Items of Community Interest:

2. Discussion and update regarding the drought contingency plan, conservation efforts and watering restrictions as it pertains to the City of Lucas. [Councilmember Debbie Fisher and Public Works Director Stanton Foerster, PE]

Background Information:

N/A

Attachments/Supporting Documentation:

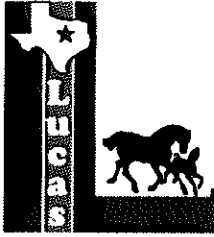
N/A

Budget/Financial Impact:

N/A

Recommendation:

N/A



**City of Lucas
City Council Regular Meeting
December 4, 2014**

Name & Title of Requestor: Administrative Assistant Jennifer Faircloth

Agenda Item:

Consent and approve:

3. The minutes from the November 20, 2014 City Council meeting.
[Administrative Assistant Jennifer Faircloth]

Background Information:

N/A

Attachments/Supporting Documentation:

1. Minutes from the November 20, 2014 City Council meetings.

Budget/Financial Impact:

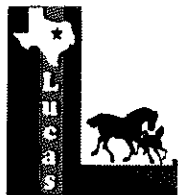
N/A

Recommendation:

Recommend approval.

Motion:

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



**City Council Meeting
November 20, 2014, 7:00 PM
City Hall - 665 Country Club Road**

Minutes

Call to Order

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

Present:

Mayor Rebecca Mark

Councilmember Wayne Millsap

Councilmember Steve Duke

Councilmember Debbie Fisher

Mayor Pro Tem Kathleen Peele

Councilmember Jim Olk

Councilmember Philip Lawrence

Staff:

City Manager Joni Clarke

Public Works Dir. Stanton Foerster

Development Svc. Dir. Joe Hilbourn

Admin Assistant Jennifer Faircloth

Fire Chief Jim Kitchens

It was determined that a quorum was present.

Everyone was reminded to turn off or silence cell phones.

Councilmember Debbie Fisher led everyone in saying the Pledge of Allegiance.

Citizens' Input

1) Citizens' Input.

There was no one present who wished to speak during Citizens' Input.

Community Interest

2) Presentation by Chief Jim Kitchens regarding MDA fundraising efforts by the Lucas Fire Department to assist with summer camp. **[Fire Chief Jim Kitchens]**

On behalf of the Lucas Fire Department Chief Jim Kitchens came forward to present a check in the amount of \$4006.05 to the MDA Foundation.

- 3) Discussion and update regarding the drought contingency plan, conservation efforts and watering restrictions as it pertains to the City of Lucas. **[Councilmember Debbie Fisher and Public Works Director Stanton Foerster]**

Councilmember Debbi Fisher provided Council an update from the NTMDW Board of Directors meeting attended today. We are currently on a seasonal watering schedule. Lake Lavon which is our primary source of water is a half foot lower than it was this time last year. Further reports Lake Chapman is too low and is no longer pumping water due to the low water levels. NTMWD was getting a significant amount of water from Dallas through Lake Ray Hubbard. Unless the lake levels rise this will not be an options going forward. Rain is of the essence and everyone that uses NTMWD needs to understand this is a critical issue.

Mayor Rebecca Mark reminded all in attendance that City Hall will be closed next Thursday and Friday for the Thanksgiving holiday.

Consent Agenda

The Consent Agenda was presented for consideration and action.

- 4) The minutes from the November 6, 2014 City Council meeting.
- 5) Consider Ordinance No. 2014-11-00798 of the City of Lucas, Texas, amending the Code of Ordinances by amending Chapter 3 titled "Building Regulations" by amending Article 3.04 titled "Building Code" by adopting the 2009 edition of the International Building Code with amendments; by amending Article 3.05 titled "Mechanical Code" by adopting the 2009 edition of the International Mechanical Code with amendments; by amending Article 3.06 titled "Plumbing" by amending Division 2 titled "Plumbing Code" by adopting the 2009 edition of the International Plumbing code with amendments; by amending Article 3.07 titled "Electricity" by amending Division 3 titled "Electrical Code" by adopting the 2011 National Electrical Code with amendments; by amending Article 3.08 titled "Residential Code" by adopting the 2009 edition of the

International Residential Code with amendments, save and except Sections R 324.1 through R 324.2 of the International Residential Code which remain unchanged to require Residential Fire Sprinklers; by amending Article 3.09 titled "Energy Conservation Code" by adopting the 2009 edition of the International Energy Conservation Code; by amending Article 3.10 titled "Fuel Gas Code" by adopting the 2009 edition of the International Fuel Gas Code with amendments. **[Development Services Director Joe Hilbourn]**

- 6) Consider Ordinance No. 2014-11-00799 of the City of Lucas, Texas, to adopt the 2009 Edition of the International Fire Code with amendments. **[Development Services Director Joe Hilbourn]**
- 7) Consider the resignation of Cathey Bonczar from the Board of Adjustments. **[Administrative Assistant Jennifer Faircloth]**

MOTION: Mayor Pro Tem Kathleen Peele made a Motion to approve the Consent Agenda as presented. Councilmember Jim Olk seconded the Motion. Motion carried. Vote: 7-0.

Regular Agenda

- 8) Consider a Collector Street Project Presentation to include the following:
 - a. Introduction by City Manager Joni Clarke;
 - b. Project Scope by Public Work Directors Stanton Foerster, PE;
 - c. Design Features & Cost Projection by Louis Frisbie, P.E., Metropolitan Infrastructure, PLLC.
 - d. Financial Analysis by Mark M. McLiney, Senior Vice President, Southwest Securities; and
 - e. Receive citizen comments and public input regarding streets.

Discussion by City Council regarding the condition of streets and causes for street failure, design elements, funding strategies and provide guidance to staff regarding a potential street project, the parameters of the project, prioritization of specified streets and to provide feedback on establishing a timeline.

Presentation by Public Works Director Stanton Foerster, PE, City Manager Joni Clarke, Louis Frisbie, P.E, Metropolitan Infrastructure, PLLC and Mark M. McLiney, Senior Vice President, Southwest Securities.

Mayor Rebecca Mark read into the record sections of emails received expressing citizens' concerns which includes to following: concerns about roundabouts being used due to the potential difficulties with the use of horse trailers that may be presented; received an offer of assistance and input into the planning process; possibility of pedestrian walkway on the bridge on Country Club Road; safety concerns on the Forest Grove Road; bridge improvements east bound on Country Club on Blondy Jhune to replace and extend the good pavement east bound on Blondy Jhune and several street signs that need to be replaced; safe passages for horse and riders brought up the possibility of dirt sidewalk type arrangements with fencing along the side of some of the roads as well as doing a better job trimming the trees and also adding "yield to equestrian signs"; request that we not widen some of these beautiful streets specifically Blondy Jhune and to please not remove the trees along these beautiful country roadways; the need for intersection improvements at East Lucas Road and Southview. Mayor Rebecca Mark commented that some of the emails received commented on roads that were not Lucas roads particularly, the last comment that is a TxDot road.

Adam Sussman, 940 N Winningkoff Road, came forward to receive clarification on if the roads would be widened? If so where and how much would you widen the roads? My main concern after the final cost is not to create an influx that would change the traffic dynamic on these roads.

Laurie Hillen, 180 W. Blondy Jhune Road, came forward to speak regarding the safety of Blonde Jhune Road with the blinding corners, and the ongoing maintenance this road needs, and trimming in the blind spots to prevent accidents as motorists round the corners.

Wayne Martin, 120 St. James Drive, came forward to ask on the schedule for priority roads -will this be road by road or sections by section? Have you thought about your plan ad how you are actually going to address this?

Carol Winston, 325 E. Blondy Jhune Road, came forward to ask the City Council keep the current look of the streets and does not wish for the widening for roads to be done. As a horse owner with a large trailer, we are concerned with the proposed use of roundabouts.

Peggy Rusterholtz, 215 W. Blondy Jhune Road, came forward to express her concerns on the widening of and the removal of trees along Blonde Jhune Road. Ms. Rusterholtz asked the City Council to bring this issue to a vote for all of the Lucas citizens.

Mike Hughes, 11 Whiterock Trail, came forward to let the City Council know he is support of the tax increase to fund the road repairs. Mr. Hughes asked the City Council to take the property owners who reside on the streets concerns and request into consideration before making a decision.

Doyle Tucker, 1095 W. Forest Grove Road, came forward to express his concerns of the traffic especially on West Forest Grove road it is not a very wide street. The last time this road was resurfaced shoulder drop off have formed. My main concern is the safety. Please take this into consideration.

John Young, 625 Blondy Jhune Road, came forward to ask the City Council what are the future plans for continuing asphalt on Blondy Jhune.

Maureen Miller, 317 McMillen Road, asked if the City Council would consider safe passage for the horses into this plan. I would ask that there be some yield signs for horses. Please help us keep our community great and safe for horses and the residents.

Tracy Mattern, 2 Choice Lane, came forward to speak against the inclusion of roundabouts. Ms. Mattern commented that she likes the idea of horse friendly sidewalks. Ms. Mattern would also like to see Estelle widened and the drop offs repairs.

Andy and Kim Nopper, 980 N. Winningkoff Road, came forward to say that they are open to all the suggestions made in the presentation. Ms. Nopper asked that most of the ascetics of the road be kept as much as possible. Mr. Nopper requested that the repairs be made while school is not in session.

Roger Stephens, 1177 Stinson Road, came forward to say spending money on the roads repairs is a need, but with the road repairs we should have a comprehensive plan in place to reduce the speed limits.

Tim Baney, 1865 Shady Lane, came forward to speak against widening the roads. However Mr. Baney did ask that we not use roundabouts in our roads. They do not fit the country feel and are not conducive to our lifestyle. Mr. Baney asked that City Council put the cost of repairs to a vote for the citizens.

Richie Wolfe, 28 Whitrock Trail, would like City Council to pay attention to the safety of our roads.

Tom Redman, 1930 Mary Lee Lane, asked if the life of the loan would outlast the repairs made to our roads. Mr. Redman is not in favor of spending money on the ascetics of the roads. Mr. Redman stated that he also is not in favor of the using the roundabouts, and would like to see this brought to a vote for the citizens.

David Burson 600 Meadow Lane, Allen, came forward to express his concerns with safety issues on the intersection of Rockridge and Estates Parkway.

Jim Stevens, 1175 Honeysuckle Lane, came forward to ask what other bond issues do we see coming forward in the next ten years? I do support the upcoming repairs, however I would like to see the roads last as long as the debt.

Rhonda Shasteen, 1450 Snider Lane, asked the City Council does the plan to fix the road on Snider Lane include any repairs to the water line. Ms. Shateen asked for consideration in terms of personal communication with the homeowners that would be directly affected by the scenario of widening the street.

Councilmember Debbie Fisher requested that staff put together an FAQ page for this project and make available on the City's website with permission from the Mayor Rebecca Mark.

Mayor Rebecca Mark asked City Manager Joni Clarke what is the next step that you are looking for City Council to take in order to move forward with this.

City Manager Joni Clarke would like to work on the time line, and has heard from several people that they are in favor going the General Obligation route. City Manager Joni Clarke would also like to take some time to answer the citizen's questions and set up a workshop to discuss this further.

Charlie Gain, 24 Brookhaven, asked the City Council before we do this bond do we have money in the budget to take care of some of the safety issues expressed tonight.

- 9) Discuss and consider 2014 Update of the Collin County Mobility Plan and how it relates to the City of Lucas Thoroughfare Plan. [**Mayor Pro Tem Kathleen Peele and Public Works Director Stanton Foerster**]

Public Works Director Stanton Foerster provided an update of the City Council Collin County Mobility Plan.

- 10) Presentation by Wendi Delgado regarding the methodology used to conduct a comprehensive market analysis and survey with discussion and direction from City Council regarding expectations and feedback on the process. [**City Manager Joni Clarke and HR Manager Cheryl Meehan**]

Presentation made by Wendi Delgado regarding the methodology used to conduct a comprehensive market analysis and survey

- 11) Adjournment.

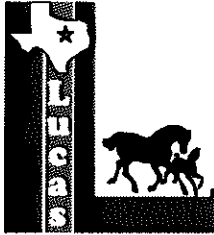
MOTION: Councilmember Wayne Millsap made a Motion to adjourn the meeting at 9:53 p.m. Councilmember Philip Lawrence seconded the Motion. Motion carried. Vote: 7-0.

These minutes were approved by a majority vote of the City Council on December 4, 2014.

Rebecca Mark
Mayor

ATTEST:

Jennifer Faircloth, TRMC
Administrative Assistant



City of Lucas City Council Agenda Request December 4, 2014

Name & Title of Requestor: Mayor Rebecca Mark

Agenda Item:

Consider public feedback received on a possible street project, determine the date and time for the next public meeting, discuss the parameters of the project and associated funding strategies, and discuss the overall timeline of a possible street project.

Background Information:

The City held a comprehensive presentation on a possible street project that focused on five collector streets (Blondy Jhune, Winningkoff, Snider, Forest Grove and Stinson). The City Council received feedback from the public regarding design characteristics, concerns regarding traffic impact on neighborhoods and preserving the natural beauty and quality of life for our citizens. City Staff is in the process of creating a question and answer document based on the public feedback received at the November 20, 2014 City Council meeting. Once completed, it will be posted to the City's website to assist our citizens in obtaining information on a possible street project. Financial Advisor Mark M. McLiney, Senior Vice President of Southwest Securities prepared a draft outline of specific milestones regarding a possible street project should the City Council decide to pursue the funding of a project through the issuance of General Obligation Bonds. Staff is seeking guidance from City Council to create specific milestones to facilitate additional public input and establish project parameters and to determine funding strategies.

Attachments/Supporting Documentation:

1. City Of Lucas, Texas Bond Election – Timetable Of Events – Saturday, May 9, 2015
2. City of Lucas Collector Street Segment Details with Overall Condition Rating
3. City of Lucas Collector Street Summary of Cost Estimates for Various Improvement Options

Budget/Financial Impact:

The budget impact is unknown at this time because the scope of the project has not been defined. The current fiscal year 14/15 budget has \$696,118 for road improvements and \$57,000 for the street assessment.

Recommendation:

None.

CITY OF LUCAS, TEXAS BOND ELECTION – TIMETABLE OF EVENTS – SATURDAY, MAY 9, 2015

**NOTE: ELECTION MUST BE CALLED NO EARLIER THAN MONDAY, FEBRUARY 9, 2015
AND NO LATER THAN FRIDAY, FEBRUARY 27, 2015.**

<u>Event</u>	<u>Time Required</u>	<u>Date</u>
City staff meeting with architects and financial advisor to determine scope of projects, financing amount, and consider report from advisory committee(s), if any	At least 9-12 weeks prior to calling the Election	City discretion
City officials contact School and County officials to discuss conducting elections at same polling locations and any applicable joint election issues needed to be agreed upon	At least 6-8 weeks prior to calling the Election	City discretion
City Council adopts Ordinance calling Election ¹	Not more than 90 days nor less than 71 days prior to Election ²	Thursday, February 19, 2015
Finalize Election Ordinance for Spanish translation	Immediately after calling the Election	Friday, February 20, 2015
Deliver Notice of Election to the County Clerk	No later than the 60 th day prior to Election ³	Wednesday, March 4, 2015
Mail information brochures (optional)	At least three weeks prior to Election	City discretion
Post Physical and Electronic Notice of Election (English and Spanish versions)	Not less than 21 days prior to Election ⁴	Wednesday, April 8, 2015
Publish First Notice of Election (English and Spanish)	First publication must occur not less than 14 days prior to Election ⁵	Wednesday, April 15, 2015
Hold First Civic Organization meeting (optional)	10-18 days prior to Election	City discretion
Publish Second Notice of Election (English and Spanish)	One week after first publication	Wednesday, April 22, 2015
Early Voting Begins	12 days prior to Election	Monday, April 27, 2015
Hold Second Civic Organization meeting (optional)	5-10 days prior to Election	City discretion
Early Voting Ends	4 days prior to Election	Tuesday, May 5, 2015
Conduct Election	Second Saturday of May	Saturday, May 9, 2015
Canvass Election Returns	Not later than 11 days after Election and not earlier than the later of: (1) the 3 rd day after Election; (2) the date the provisional ballots have been counted; or (3) the date that all timely cast overseas ballot have been counted ⁶	Tuesday, May 12, 2015 through Wednesday, May 20, 2015
End of Election contest period	30 days after canvassing	No later than Friday, June 19, 2015

¹ Effective November 1, 2003, city elections conducted pursuant to Chapter 1251, as amended, Texas Government Code ("Chapter 1251") must be held on one of two available uniform election dates; additionally, on years when general elections for state and county officers are held (even-numbered years), including primary and runoff elections, a prohibition exists on holding a bond election within 30 days before or after the general, primary or runoff elections.

² Because the Election is not being held on the date of the general election for state and county officers (November uniform election in even numbered years, which must be called no later than the 78th day before election day), the Election shall be called no later than the 71st day before election, making Friday, February 27, 2015 the last day to call the Election. Additionally, Chapter 1251 specifies that an election shall not be called earlier than 90 days prior to the planned election date. Accordingly, the earliest day on which the Election can be called is Monday, February 9, 2015 (the next business day after the 90th day prior to Election day, which is Sunday, February 8, 2015).

³ Notice must be delivered no later than Tuesday, March 10, 2015.

⁴ Because the 21st day before the Election falls on a Saturday, the deadline extends to the next business day, making Monday, April 20, 2015 the last day to post notice of the Election. Section 1251.003(d) of Chapter 1251 requires that a substantial copy of the Ordinance calling the Election must be posted in three (3) public places within the City, in addition to being posted at the City Hall. In addition, Section 4.003, as amended, Texas Election Code requires that the Notice of Election also be posted at the following locations: (1) a prominent location at each polling place on Election Day and during early voting and (2) on the City's website for the 21 days leading up to Election Day.

⁵ Last day to publish the first notice of Election is Saturday, April 25, 2015. The *Allen American* is published each Thursday. Notice must be submitted by 3:00 p.m. the day before publication.

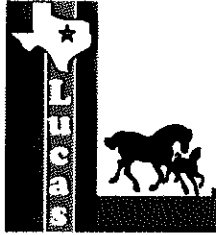
⁶ Applies only to May election date.

SEGMENT DETAILS WITH OVERALL CONDITION RATING

Segment I.D.	Roadway Segment	Segment From	Segment To	Overall Condition Rating
BJ-1	Blondy Jhune Rd	Country Club Rd	850 W Blondy Jhune Rd	B
BJ-2	Blondy Jhune Rd	850 W Blondy Jhune Rd	Blondy Jhune Trail	D
BJ-3	Blondy Jhune Rd	Blondy Jhune Trail	500' E of 251 Blondy Jhune Rd	D
BJ-4	Blondy Jhune Rd	500' E of 251 Blondy Jhune Rd	N Winningkoff Road	D
WR-1	N Winningkoff Road	E Lucas Road	500 N Winningkoff Rd	D
WR-2	N Winningkoff Road	500 N Winningkoff Rd	740 N Winningkoff Rd	B
WR-3	N Winningkoff Road	740 N Winningkoff Rd	1020 N Winningkoff Rd	D
WR-4	N Winningkoff Road	1020 N Winningkoff Rd	Snider Road	D
WR-5	N Winningkoff Road	Snider Road	Blondy Jhune Rd	D
WR-6	N Winningkoff Road	Blondy Jhune Rd	Or Road	D
SN-1	Snider Ln	E Lucas Road	2180 Snider Ln	D
SN-2	Snider Ln	2180 Snider Ln	Swearing Brown Ln	D
SN-3	Snider Ln	Swearing Brown Ln	1190 Snider Ln	D
SN-4	Snider Ln	1190 Snider Ln	Susan Circle	D
SN-5	Snider Ln	Susan Circle	N Winningkoff Road	C
FG-1	Forest Grove Road	Or Road	290 E Forest Grove Rd	C
FG-2	Forest Grove Road	290 E Forest Grove Rd	Stonegate Blvd	C
FG-3	Forest Grove Road	Stonegate Blvd	800 W Forest Grove Rd	D
FG-4	Forest Grove Road	800 W Forest Grove Rd	County Rd 321	C
FG-5	Forest Grove Road	County Rd 321	Starsted Manor Dr	B
FG-6	Forest Grove Road	Starsted Manor Dr	Country Club Road	B
ST-1	Stinson Road	Parker Rd	1745 Stinson Rd	D
ST-2	Stinson Road	1745 Stinson Rd	1190 Stinson Rd	D
ST-3	Stinson Road	1190 Stinson Rd	405 Stinson Rd	C
ST-4	Stinson Road	405 Stinson Rd	La Contera Dr	D
ST-5	Stinson Road	La Contera Dr	280 Stinson Rd	D
ST-6	Stinson Road	280 Stinson Rd	W Lucas Rd	C

Summary of Cost Estimates for Various Improvements Options

Roadway Segments	Scenario A (Mostly Reconstruction)		Scenario B (Mostly Rehabilitation)		Scenario C (Mostly Maintenance)		Scenario Z (Structures/Intersections)	
	Typ Cross Section	Amount	Typ Cross Section	Amount	Typ Cross Section	Amount	Type of Structure	Amount
BJ-1	4A	\$ 546,401.88	4A	\$ 546,401.88	3	\$ 413,706.07		
BJ-2	4A	\$ 431,236.28	4A	\$ 431,236.28	3	\$ 344,268.57	Bridge	\$ 125,000.00
BJ-3	4C	\$ 524,118.53	4A	\$ 435,826.48	3	\$ 337,029.43	Bridge	\$ 100,000.00
BJ-4	4A	\$ 781,013.88	4A	\$ 781,013.88	3	\$ 564,279.46		
WK-1	4A	\$ 426,450.84	3	\$ 323,387.11	2	\$ 121,606.67		
WK-2	4A	\$ 663,207.88	3	\$ 511,161.55	2	\$ 178,723.33		
WK-3	5	\$ 496,838.33	5	\$ 496,838.33	5	\$ 496,838.33		
WK-4	4A	\$ 727,125.48	3	\$ 542,782.71	2	\$ 188,140.00	Roundabout	\$ 350,000.00
WK-5	4A	\$ 495,325.36	3	\$ 392,422.64	2	\$ 141,726.67	Roundabout	\$ 350,000.00
WK-6	3	\$ 338,740.70	3	\$ 338,740.70	2	\$ 115,140.00	Roundabout	\$ 350,000.00
SN-1	4A	\$ 525,719.19	3	\$ 477,945.83	2	\$ 145,383.33		
SN-2	4A	\$ 566,661.04	3	\$ 514,058.74	2	\$ 153,576.67		
SN-3	4A	\$ 1,136,660.92	3	\$ 995,812.12	2	\$ 271,380.00		
SN-4	4A	\$ 659,447.37	3	\$ 609,700.73	2	\$ 176,763.33		
SN-5	4A	\$ 380,052.84	3	\$ 364,607.64	2	\$ 117,250.00		
FG-1	3	\$ 631,870.67	2	\$ 182,003.33	0			
FG-2	3	\$ 338,662.50	2	\$ 113,046.67	0			
FG-3	3	\$ 381,937.45	2	\$ 119,376.67	3	\$ 381,937.45		
FG-4	3	\$ 358,942.57	2	\$ 118,743.33	0			
FG-5	0		0		0			
FG-6	0		0		0			
ST-1	4A	\$ 495,285.12	3	\$ 461,409.52	2	\$ 144,896.67		
ST-2	4A	\$ 982,038.36	3	\$ 876,229.96	2	\$ 244,096.67	Culvert	\$ 50,000.00
ST-3	0		0		0			
ST-4	4B	\$ 246,489.60	3	\$ 194,917.44	2	\$ 76,933.33		
ST-5	4B	\$ 307,483.00	3	\$ 244,171.00	2	\$ 88,380.00		
ST-6	0		0		0			
Total		\$ 12,441,709.79		\$ 10,071,834.04		\$ 4,702,055.97		\$ 1,100,000.00



**City of Lucas
City Council Agenda Request
December 4, 2014**

Name & Title of Requestor: **Development Services Director Joe Hilbourn**

Agenda Item:

Discuss revising the City's Code of Ordinances by adopting a comprehensive solicitation ordinance to include; definitions, prohibiting solicitation in a right of way, solicitation and handbill distribution on private property, solicitation of other sources, permitting, permitting requirements, and permitting fees.

Current Ordinance in full: **Sec. 4.02.001 Peddling from motor vehicle**

(a) Definitions.

Motor vehicle. Any self-propelled land vehicle which can be used or has been adapted for the transporting or carrying of food, beverages or general merchandise to be sold or offered for sale to the public. In the context of this section, "motor vehicle" shall include any trailer or wagon which is towed or pulled from place to place for the purpose of selling or offering for sale any food, beverage or general merchandise to the general public.

(b) Prohibited locations. It shall be unlawful to sell or offer to sell any food or beverage for human consumption, or any general merchandise, to the public from any motor vehicle as defined herein while said motor vehicle is on any public street, road, easement or right-of-way

Background Information:

Solicitation has not been a large issue in the city in the past. Staff is concerned with the growing commercial businesses in the city that the frequency of solicitation type events will increase. In the past when staff has received a complaint about solicitation or a request for permit to allow solicitation/peddling we have interpreted the code section to include transporting solicitors to and around the city. Staff is concerned that at some point we are going to be called on this nebulous interpretation.

Attachments/Supporting Documentation:

1. Copy of the city of Allen Solicitation Ordinance.

Budget/Financial Impact:

Recommendation:

Approve as presented.

- **DIVISION 1. - GENERALLY**

- **Sec. 8-61. - Definitions.**

The following words and phrases, when used in this article, shall have the meanings ascribed to them by this section, except where the context indicates otherwise:

Charitable purpose means philanthropic, religious or other nonprofit objectives, including the benefit of poor, needy, sick, refugee or handicapped persons; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization, or the benefit of any educational institution. "Charitable purpose" shall not be construed to include any direct benefit to the individual making the **solicitation**, to include the benefit of any political group or political organization which is subject to financial disclosure under state or federal law.

Consumer means an individual who seeks or acquires real or personal property, services, money, or credit for personal, family or household purposes.

Consumer transaction means a sales transaction in which one (1) or more of the parties are a consumer.

Handbill means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature.

Handbill distributor means and includes any person engaging or engaged in the business for hire or gain of distributing handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

Handbill sponsor means and includes any person, firm or corporation who utilizes handbills as a medium of advertising or spreading a message.

*Home **solicitation*** means soliciting in person or by telephone call from house to house for the purposes of selling or attempting to sell goods, merchandise, wares, services or anything of value or to take or attempt to take orders for the future delivery of goods, merchandise, wares, or any personal property of any nature whatsoever, or to take or attempt to take orders for services to be furnished or performed in the future.

*Home **solicitation** transaction* means a consumer transaction for the purchase of goods, services, or realty, payable in installments or in cash, in which the merchant engages in a personal **solicitation** of the sale to the consumer at a residence, in person or by telephone, and the consumer's agreement or offer to purchase is given at the residence to the merchant in person or by telephone. A home **solicitation** transaction shall not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale; or a sale of realty in which transaction the purchaser is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

Individual means a natural person.

Itinerant vendor means any person who sets up and operates a temporary business on privately owned property, whether improved or unimproved, in the city, soliciting, selling, or taking orders for, or offering to sell or take orders for any goods or services. A temporary business is one that continues for forty-five (45)

days or less; and, exists whether **solicitation** is from a stand, vehicle, or freestanding. Any business that exists more than forty-five (45) days shall be deemed to be a permanent occupancy and is required to obtain a certificate of occupancy from the building inspection department.

Job placement activities means any request, offer, enticement, or action which announces the availability for, or of employment, or seeks to secure employment. "Job placement activities" shall be deemed complete when made whether or not an actual employment relationship is created.

Merchant means a party to a consumer transaction other than a consumer.

Person means an individual, corporation, trust, partnership, association or any other legal entity.

Political purpose means any form of communication relating to a political issue, a particular candidate to a position or nonpartisan office, or to a political party.

Public right-of-way means the traveled portion of a roadway, traffic medians and the area that is within ten (10) feet of the curb line. In absence of a curb line, the area within ten (10) feet of the shoulder of a road or highway.

Residence means any separate living unit occupied for residential purposes by one (1) or more persons, contained within any type of building or structure.

Residential street means a thoroughfare, collector or local street abutting residential property.

Solicitation, *soliciting*, *solicited* or any other action form of the word solicit means the act of asking, bartering, or communicating in any other such manner, whether orally, by written and or printed material, hand signing or by any other method, direct or implied, by an individual or group of individuals for the purpose of, receiving or obtaining money, alms, gifts or items of value, real or intrinsic for said individual, person, or group of individuals, an organization, joint venture, joint stock company, partnership, club, company, corporation, business, trust, or any other organization or affiliate thereof.

Solicit funds or **solicitation of funds** shall mean any request for money, property, or anything of value, or the pledge of a future payment of money, or delivery of property, or anything of value; or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications. Expressly excluded from the meaning of "solicit funds" or "**solicitation of funds**" is any offer of membership in any organization. A **solicitation** of funds is complete when the **solicitation** is communicated to any person or individual then located within the corporate limits of the city.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2079-8-02, § 1, 8-13-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

• **Sec. 8-62. - Solicitation in public right-of-way.**

(a)

A person may solicit for a commercial **solicitation** or for a charitable purpose in or upon the public right-of-way, except those areas prohibited in this article, provided such person has obtained a permit or is a member of an organization that has obtained a permit.

(b)

Solicitation in the public right-of-way shall be conducted only during the hours of daylight, that is one-half (½) hour after sunrise and one-half (½) hour before sunset.

(c)

It shall be unlawful for a person younger than eighteen (18) years of age to solicit in the public right-of-way.

(d)

It shall be unlawful for a solicitor at any time to enter or remain in the traveled portion of the roadway unless the solicitor has been granted authorization pursuant to V.T.C.A., Transportation Code § 552.0071.

(e)

It shall be unlawful for a solicitor at any time to enter or remain in the traveled portion of the roadway of residential streets so that their presence impedes the flow of traffic.

(f)

It shall be unlawful for a person to solicit in the public right-of-way that is within one thousand (1,000) feet of any public or private elementary or secondary school between the hours of 7:30 a.m. and 4:30 p.m. on days when such school is in session. The measurement of the distance shall be from the nearest property line of the public or private elementary or secondary.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

• **Sec. 8-63. - ~~Solicitation~~ in specified public right-of-ways prohibited.**

(a)

It shall be unlawful for any person to solicit, or to distribute handbills, at any time, in the public rights-of-way, with or without a permit, within one thousand (1,000) feet of the following intersections:

(1)

Greenville Avenue at its intersection with:

a.

Stacy Road

b.

Exchange Parkway

c.

Jupiter Road

d.

Main Street

e.

Bethany Drive

f.

Chaparral Road

(2)

Stacy Road at its intersection with:

a.

US 75 (Central Expressway)

b.

SH 121

c.

Ridgeview Drive

d.

Watters Road

e.

- Chelsea Blvd.
- f. Allen Station Parkway
- g. Greenville Avenue
- h. Allen Heights Drive
- i. Angel Parkway

(3)

Exchange Parkway at its intersection with:

- a. US 75 (Central Expressway)
- b. SH 121
- c. Ridgeview Drive
- d. Twin Creeks Drive
- e. Alma Drive
- f. Bray Central Drive
- g. Watters Road
- h. Bossy Boots Drive
- i. Allen Station Parkway
- j. River Crest Blvd.
- k. Greenville Avenue
- l. Allen Heights Drive
- m. Angel Parkway

(4)

McDermott Drive at its intersection with:

- a. US 75 (Central Expressway)
- b. Custer Road
- c.

- Twin Creeks Drive
- d. Alma Drive
- e. Watters Road
- f. Allen Drive
- g. Cedar Drive

(5)

Bethany Drive at its intersection with:

- a. US 75 (Central Expressway)
- b. Alma Drive
- c. Watters Road
- d. Greenville Avenue
- e. Jupiter Road
- f. Heritage Parkway
- g. Allen Heights Drive
- h. Cheyenne Drive
- i. Angel Parkway

(6)

Main Street at its intersection with:

- a. Allen Drive
- b. Greenville Avenue
- c. Jupiter Road
- d. Allen Heights Drive
- e. Malone Drive
- f. Angel Parkway

(7)

Custer Road at its intersection with:

- a. Hedgcoxe Road
- b. McDermott Drive
- c. Ridgeview Drive
- d. SH 121

(8)

Alma Drive at its intersection with:

- a. Hedgcoxe Road
- b. Bethany Drive
- c. McDermott Drive
- d. Exchange Parkway
- e. Ridgeview Drive
- f. SH 121

(9)

Watters Road at its intersection with:

- a. Bethany Drive
- b. McDermott Drive
- c. Exchange Parkway
- d. Stacy Road
- e. Ridgeview Drive
- f. SH 121

(10)

Allen Heights Drive at its intersection with:

- a. Chaparral Drive
- b. Bethany Drive
- c.

- Main Street
 - d. Exchange Parkway
 - e. Stacy Road
 - (11) U.S. Highway 75 at its intersection with:
 - a. Bethany Drive
 - b. McDermott Drive
 - c. Exchange Parkway
 - d. Cabella Drive
 - e. Stacy Road
 - f. Ridgeview Drive
 - g. SH 121
 - (12) Chaparral Road at its intersection with:
 - a. Allen Heights
 - b. Jupiter Road
 - c. Greenville Avenue
 - (13) Angel Parkway at its intersection with:
 - a. Bethany Drive
 - b. Main Street
 - c. Exchange Parkway
 - d. Stacy Road
 - (14) Jupiter Road at its intersection with:
 - a. Chaparral Drive
 - b.

Bethany Drive

c.

Main Street

d.

Greenville Avenue

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

• **Sec. 8-64. - Solicitation and handbill distribution on private property.**

(a)

It shall be unlawful for any person to conduct home **solicitation** without first obtaining a permit as prescribed by this article.

(b)

It shall be unlawful for any person directly or through an agent to distribute or cause to be distributed, deposited or placed, thrown or scattered any handbill in or upon any premises within the corporate limits of the city, without first having a permit as prescribed by this article.

(c)

All **solicitation** on residential property, whether for a commercial or noncommercial purpose, including the distribution of handbills, shall occur only during the time that is one-half (½) hour after sunrise and one-half (½) hour before sunset, except when the solicitor is on the property by the express prior invitation of the owner or occupant of the property.

(d)

It shall be unlawful for any person, handbill distributor or handbill sponsor, to distribute or cause to be distributed, deposited, placed, thrown, scattered, or cast any handbill upon any residential premises except by handing or transmitting such handbill directly to the owner, occupant, or any other person then present in or upon such private premises, or by placing or depositing the same in a manner to secure and to prevent such handbill from being blown or drifting about such premises, except that mailboxes may not be used when prohibited by applicable federal or state law.

(e)

It shall be unlawful for any person to distribute or cause to be distributed, deposited, placed, thrown, scattered or cast any handbill upon any residential premises if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous place upon or near the main entrance to the residence, a weatherproof card, not less than three (3) inches by four (4) inches in size bearing the words "no trespassing," "no peddlers," "no advertisements," "no **solicitation**," "no handbills," or any similar notice indicating in any manner that the occupants of such premises do not desire to have any such handbills left upon such premises. The letters on such cards shall be not less than two-third (2/3) of an inch in height.

(f)

It shall be unlawful for any person to go upon any residential premises for the purpose of **solicitation** and ring the doorbell, or knock upon the door or create any sound for the purpose of attracting the attention of the occupants of the residence if there is placed on such premises a card described in subsection (e) above in a conspicuous place upon or near the main entrance of the residence, unless at the request of the owner or occupant of such premises.

(g)

No person, other than the occupant of the premises, shall remove, deface or render illegible a card placed by the owner or the occupant under subsections (e) and (f) above.

(h)

Any person who has gained entrance to a premises or an audience with the occupant, whether invited or not, shall immediately depart such premises when requested to leave by the occupant.

- (i) No person shall engage in or attempt to engage in any mobile vending operation involving food products unless such person has in such person's immediate possession a valid permit required under this article and health permit issued by the city.
- (j) No person shall engage in or attempt to engage in any mobile vending operation involving food products on any public street other than a residential street, or on any street which includes four (4) or more marked traffic lanes or within the limits of any city park.
- (k) Any person engaged in or who attempts to engage in mobile vending operations involving food products shall stop such person's motor vehicle only in immediate response to a direct request from a potential customer and for a period not to exceed fifteen (15) minutes.
- (l) All persons engaged in mobile vending operations involving food products shall comply with all traffic laws and parking regulations. Sales and deliveries of products shall not be made from any part of the vehicle away from the curb.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

• **Sec. 8-65. - Display of identification cards.**

- (a) The person(s) in charge of conducting the **solicitation** shall ensure that all solicitors involved in the **solicitation** shall possess on their persons a valid photo identification card prescribed by the city that that correctly identifies who the solicitor is, and for whom the solicitor is soliciting. A solicitor, while engaged in a **solicitation**, shall display the identification card prominently and in a conspicuous place on such person's clothing. It shall be unlawful for any solicitor, while engaged in a **solicitation**, to fail to display such identification card upon their clothing.
- (b) The city shall prescribe the form for photographic identification cards for persons engaged in **solicitation**.
- (c) The applicant for the permit required under this article shall at the time application is made provide, by a separate list, the names and addresses of all agents or employees for whom identification cards are to be issued. The applicant shall pay a fee for each identification card that is issued in an amount established by the city council by resolution, from time to time.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

Cross reference— Fee schedule, App. C.

• **Sec. 8-66. - Display of permit to solicit.**

The person(s) in charge of conducting the **solicitation** shall provide each solicitor with a copy of the permit issued by the city as prescribed by this article. It shall be unlawful for any solicitor to engage in **solicitation** without having a copy of the permit required by this article in such person's immediate possession. It shall be unlawful for any solicitor engaged in a **solicitation** to fail or refuse to show or display such copy of the permit upon the request of any person, or to display a permit issued in the name of another person.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

- **Sec. 8-67. - Solicitation for other purpose.**

It shall be unlawful for any person(s) to solicit in the city for a purpose other than that set out in the application upon which the permit was issued.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

- **Sec. 8-68. - Permit fee.**

It shall be unlawful for any person to solicit or distribute handbills within the city without first obtaining a written permit from the city police department. Every application shall be accompanied by a nonrefundable permit fee established by resolution of the city council, from time-to-time. A permit fee shall be charged for each person engaged in a **solicitation**.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

Cross reference— Fee schedule, App. C.

- **Sec. 8-69. - Permit application.**

(a)

A person who desires to solicit or distribute handbills within the city shall make written application on a form provided by the city to the city police department which shall contain at a minimum the following:

(1)

The full and legally recognized names and any associated aliases, logos, nicknames, and abbreviated names of the entity or person applying for the permit;

(2)

If the purpose of the **solicitation** is for the distribution of handbills, the name of the handbill distributor and handbill sponsor;

(3)

Whether the person applying is an individual, partnership, corporation or association, and:

a.

The business or residence address and telephone number of the applicant;

b.

If a partnership, the names of all partners and the principal business address and telephone number of each partner;

c.

If a corporation, the person applying shall state whether it is organized under the laws of this state or is a foreign corporation, and must include the mailing address, business address, telephone number, name of the individual in charge of such corporation, and, if a foreign corporation, the place of incorporation;

d.

If an association, the application shall state the association's principal business address and telephone number, if any, and shall state the names and principal business and residence addresses and telephone numbers of all members of the association unless in excess of ten

(10) members, in which event the application shall so state and the application must contain the name and principal business and residence addresses and telephone numbers of the officers, directors or trustees of the association. If the association is a part of a multi-state organization or association, the application shall state the mailing address and business address of its central office, in addition to the mailing address and business address of the local office.

- (4) The names, mailing address and telephone number of all individuals who will be in direct charge or control of the **solicitation**;
 - (5) The time period and dates during which the **solicitation** is to be made the date of the commencement of **solicitation** and its projected conclusion, and how often the applicant will solicit during the year;
 - (6) A description of the methods and means by which the **solicitation** is to be accomplished;
 - (7) The nature of merchandise to be sold or offered for sale, or the nature of the services to be furnished;
 - (8) Whether such applicant, upon any such order so obtained, will demand, accept or receive payment or deposit of money in advance of final delivery;
 - (9) A statement to the effect that if a permit is granted, such permit will not be used as or represented to be an endorsement by the city or any of its officers or employees;
 - (10) Name, address, telephone number and social security number of each adult who will be responsible for supervising any juvenile solicitor.
 - (11) Whether the applicant, or any person employed by the applicant to solicit, has ever been convicted of a felony or a misdemeanor involving moral turpitude.
- (b) The application must be signed by the applicant, if the person applying is an individual; if the applicant is a partnership, by the partner charged with disbursing funds solicited; if a corporation or an association, by the officer charged with disbursement of the funds solicited. The individual signing the application shall sign the application and acknowledge that such person has read the application and that all information contained therein is true and correct.
 - (c) The application information provided by applicant will be subject to verification by the police department.
 - (d) The application shall also contain satisfactory written proof of the individual's authority to represent the applicant.
 - (e) The application must include the applicant's taxpayer identification number and be accompanied by a copy of a valid state sales tax certificate, if applicable.
 - (f) The application shall be accompanied by the nonrefundable permit fee established by resolution of the city council from time to time. No permit shall be issued until such fee has been paid by the applicant.

(g)

It shall be unlawful for any person to file a false application with the city.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

Cross reference— Fee schedule, App. C.

• **Sec. 8-70. - Exemption from permit fee.**

A permit fee shall not be required of:

(a)

Duly authorized, nonprofit charitable organizations, that are registered as such with the Secretary of State for the State of Texas;

(b)

Ordinary commercial travelers who sell or exhibit for sale goods, wares or merchandise to persons selling and dealing in the same within the city;

(c)

Persons offering for sale agricultural products, meats, poultry, or other articles of food grown or produced by such persons; or

(d)

Individuals operating under a license granted by this state.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

Cross reference— Fee schedule, App. C.

• **Sec. 8-71. - Permit issuance, duration and form.**

(a)

A permit applied for under this article shall be issued by the city police department within ten (10) business days after a completed permit application is filed, unless it is determined that the applicant has provided false or incomplete information.

(b)

A permit applied for under this article shall be issued for the length of time requested, not to exceed ninety (90) days. Permits for handbill distribution and permits for mobile vending operations shall be issued for a period not to exceed thirty (30) days.

(c)

The city shall prescribe the form of the permit. Each such permit shall be printed in black except that the following shall be printed prominently thereon in red: "The issuance of this permit is not an endorsement by the City of Allen or any of its officers or employees." Each permit shall bear a permit number which is the same as the file containing the application filed by the same applicant.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

• **Sec. 8-72. - Denial or revocation of permit to solicit.**

A permit required under this article may be denied or revoked for any one (1) or more of the following:

(1)

- Applicant has provided false or misleading information in an application;
- (2) A permit holder is charged and subsequently convicted of theft or fraud, or a violation of any city, state, or federal law, in connection with a **solicitation** in the city;
- (3) A permit holder has made, or caused to be made, false statements or misrepresentations to any member of the public with regard to the **solicitation**;
- (4) Failure to comply with any provision of this article; or
- (5) A permit holder creates a traffic or safety hazard to themselves or others.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

• **Sec. 8-73. - Appeal from denial or revocation of permit to solicit.**

A person denied a permit or who has had a permit revoked, may appeal that action to the city manager, or designee, by submitting a letter to the city secretary within ten (10) business days of the complained action. A hearing on such appeal will then be scheduled within seven (7) business days after the receipt of the appeal, with the hearing to be held within fifteen (15) business days after receipt of the appeal. The city manager, or designee, shall render a decision on the appeal within three (3) business days after the date of the hearing. The decision of the city manager, or designee, shall be final.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

• **Sec. 8-74. - Supervision of child solicitors.**

It shall be unlawful for any person to use children seventeen (17) years of age or less for any type of **solicitation** or handbill distribution purposes unless said children are actively supervised by a person at least eighteen (18) years of age, who has been issued a permit under this article, or who is the agent of the permittee. In all cases the supervising person shall be within one hundred (100) yards of the child solicitor.

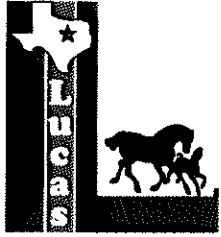
(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

• **Sec. 8-75. - Prohibition of job placement activities in unauthorized locations.**

- (a) No person shall engage in or attempt to engage in job placement activities in an unauthorized location. This section shall not apply to job placement activities concerning employment or business for the owner or tenants of the premises.
- (b) This section shall apply only to locations that has a notice posted in both English and Spanish in a conspicuous place at each entrance and exit to such location not less than eighteen (18) inches by twenty-four (24) inches in size with lettering not less than one (1) inch in height and not to exceed, in total area, six (6) square feet, substantially the following form:
It is unlawful to engage in job placement activities on these premises.

(Ord. No. 2049-5-02, § 1, 5-16-2002; Ord. No. 2938-8-10, § 1, 7-27-2010)

- **Secs. 8-76—8-95. - Reserved.**



**City of Lucas
City Council Agenda Request
December 4, 2014**

Name & Title of Requestor: Development Services Director Joe Hilbourn

Agenda Item:

Discuss revising the City's Code of Ordinances by updating Chapter 6, Health and Sanitation. Give staff direction on which codes (if any) the City Council would like to see adopted, or any additions that should be incorporated into our city code.

Background Information:

Health and sanitation of the City is a very important part of code compliance and one of the main reasons a Code Enforcement Officer is employed by the City. Over the past few years we have kept a list of reoccurring concerns that were not addressed by the City's Code of Ordinances like black water in a swimming pool, or rodent harborage, we really do not have a code section prohibiting this. When these items come up we use another code section that truly does not fit or prohibit the problem. Code enforcement is asking to update the City's Code of Ordinances to take care of some of these types of complaints.

Attachments/Supporting Documentation:

1. Breakdown of changes, and additions to Chapter 6 of the City Code of Ordinances.

Budget/Financial Impact:

Recommendation:

Approve as presented.

1. Grading and drainage

WAS:

Sec. 6.02.002 Prohibited acts

(a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property in the city, including any adjacent and contiguous rights-of-way or easements, to permit, allow, or dump any objectionable, unsightly, or unsanitary refuse, garbage, rubbish or junk, as defined herein, on any real property in the city, including any contiguous right-of-way or easement, or to permit or allow the accumulation of any objectionable, unsanitary, hazardous or unsightly refuse, garbage, rubbish or junk, as defined herein, on any real property in the city, including any adjacent and contiguous rights-of-way or easements. The unlawful acts described in this section are declared by the city to be a nuisance per se unless such refuse, garbage, rubbish or junk is deposited in a properly maintained landfill operated or licensed by the city.

PROPOSED:

Sec. 6.02.002 Prohibited acts

(a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property in the city, including any adjacent and contiguous rights-of-way or easements, to permit, allow, or dump any objectionable, unsightly, or unsanitary refuse, garbage, rubbish or junk, as defined herein, on any real property in the city, including any contiguous right-of-way or easement, to permit or allow the accumulation of any objectionable, unsanitary, hazardous or unsightly refuse, garbage, rubbish or junk, as defined herein, or to permit or allow the grade of the premises to promote erosion of soil or, except for approved retention areas and reservoirs, to allow the accumulation of stagnant water thereon, or within any structure located thereon on any real property in the city, including any adjacent and contiguous rights-of-way or easements. The unlawful acts described in this section are declared by the city to be a nuisance per se unless such refuse, garbage, rubbish or junk is deposited in a properly maintained landfill operated or licensed by the city, or in the case of drainage issues, unless the premises is graded and maintained to prevent soil erosion and accumulation of stagnant water.

PROPOSED NEW DEFINITIONS ADDED TO SEC. 6.02.001:

Approved. Approved by the code official.

Code Official. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

Easement. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

Public Way. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Operator. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

2. Dead Trees

WAS:

ARTICLE 6.03 HIGH GRASS AND WEEDS*

Sec. 6.03.001 Prohibited

It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city, to permit weeds or grass, save and except crops that are regularly cultivated, to grow to a greater height than twelve (12) inches upon any such real property within one hundred fifty (150) feet of any property line which abuts street rights-of-way, developed property or any buildings or other structures. (1995 Code, sec. 13-8)

Sec. 6.03.002 Duty to cut and remove

It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property to cut and remove all such grass or weeds as often as may be necessary to comply with section 6.03.001; provided that the removing and cutting of same at least once in every thirty (30) days shall be deemed in compliance with this article.

PROPOSED:

ARTICLE 6.03 HIGH GRASS, WEEDS, AND DEAD TREES*

Sec. 6.03.001 Prohibited

It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city, to permit weeds or grass, save and except crops that are regularly cultivated, to grow to a greater height than twelve (12) inches upon any such real property within one hundred fifty (150) feet of any property line which abuts street rights-of-way, developed property or any buildings or other structures, or the permit a dead tree upon any such real property within one hundred fifty (150) feet of any property line which abuts street rights-of-way, developed property or any buildings or other structures.

Sec. 6.03.002 Duty to cut and remove

It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property to cut and remove all such grass, weeds, or dead trees as often as may be necessary to comply with section 6.03.001; provided that the removing and cutting of same at least once in every thirty (30) days shall be deemed in compliance with this article. The dead tree(s) must be removed to a level not exceeding 72 inches of surrounding ground level.

Add a definition for "Dead Tree" as Section 6.03.001 and increment 6.03.00x section numbers by 1?

Dead Tree. Any tree that is diseased; or has a dead, diseased, or broken limb or a dead, diseased or broken trunk, or any tree that is totally or partially uprooted. Specify minimum height or trunk diameter? Specify distance to structure, public way?

3. Rodent harborage

PROPOSED NEW ARTICLE:

ARTICLE 6.06 RODENT HARBORAGE*

Sec. 6.06.001 Definitions

The following terms, as defined herein, shall control in the consideration and enforcement of this article:

Exterior Property. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Infestation. The presence, within or contiguous to, a structure or premises of rats, vermin or other pests.

Sec. 6.06.002 General

All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

Sec. 6.06.003 Notice

Sec. 6.06.004 Abatement

Sec. 6.06.005 Penalty

4. Swimming pools

WAS:

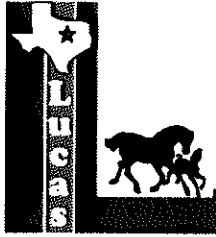
ARTICLE 6.02 DUMPING OR DEPOSITING GARBAGE, JUNK OR REFUSE†

PROPOSED:

ARTICLE 6.02 DUMPING OR DEPOSITING GARBAGE, JUNK OR REFUSE OR ALLOWING STAGNANT WATER†

PROPOSED NEW SUBSECTION 6.02.002 (c):

(c) It shall be unlawful for the owner of a property to allow stagnant water, either in a swimming pool or in a natural or artificial pond. Swimming pools shall be kept and maintained in a clean and sanitary condition.



**City of Lucas
Council Agenda Request
December 4, 2014**

Name & Title of Requestor: City Manager Joni Clarke

Agenda Item:

Consider Ordinance No. 2014-12-00803 Amending Chapter 1, Article 1.09, Parks and Recreation of the City of Lucas Code of Ordinances regarding Parks and Open Space Board's members and duties and further defining conduct that is prohibited in city parks.

Background Information:

Staff has been tasked with reviewing the Code of Ordinances and updating specific sections as required. The Parks and Open Space Board has provided feedback on Chapter 1, Article 1.09 as it relates to the duties of the Board. The additional duties that have been included include special events such as Founders Day and beatification working on an affiliate designation for Keep Lucas Beautiful. City Attorney Joe Gorfida has made recommendations to staff regarding city park regulations and the prohibition of specific conduct in city parks.

Attachments/Supporting Documentation:

1. Ordinance No. 2014-12-00803
2. City of Lucas Parks and Open Space Board Member List

Budget/Financial Impact:

N/A

Recommendation:

The members of the Parks and Open Space Board and city staff recommend approval of the revision to Chapter 1, Article 1.09 Parks and Recreation of the Code of Ordinances.

Motion:

I move to approve/deny Ordinance No. 2014-12-00803 amending Chapter 1, Article 1.09, Parks and Recreation of the City of Lucas Code of Ordinances

<input type="checkbox"/>	Annexation
<input type="checkbox"/>	Disannexation
<input checked="" type="checkbox"/>	Code of Ordinances
<input type="checkbox"/>	Other

ORDINANCE # 2014-12-00803
[AMENDING CODE OF ORDINANCE CHAPTER 1,
ARTICLE 1.09, PARKS AND RECREATION]

AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 1 TITLED “GENERAL PROVISIONS” BY AMENDING ARTICLE 1.09 TITLED “PARKS AND RECREATION” BY AMENDING DIVISION 2 TITLED “PARK AND OPEN SPACE BOARD” BY PROVIDING REVISED REGULATIONS FOR THE QUALIFICATIONS AND DUTIES FOR THE PARK AND OPEN SPACE BOARD MEMBERS; BY AMENDING DIVISION 3 TITLED “PARK RULES” BY AMENDING SECTION 1.09.062 TITLED “CONDUCT IN PARKS” BY PROVIDING ADDITIONAL REGULATIONS FOR CITY PARKS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED THAT THE CITY COUNCIL OF THE CITY OF LUCAS:

Section 1. That the Code of Ordinances of the City of Lucas, Texas be, and the same is, hereby amended by amending Chapter 1 titled “General Provisions”, by amending Article 1.09 titled “Parks and Recreation”, to read as follows:

“ARTICLE 1.09 PARKS AND RECREATION

Division 1. Generally

Secs. 1.09.001-1.09.030 Reserved

Division 2. Park and Open Space Board

Sec. 1.09.031 Established; composition; qualifications of members

There is hereby created and established the city parks and open space board. The board shall consist of five (5) regular voting members, including a chairperson, and two (2) alternate members. The board members shall be appointed by the city council for a term of two (2) years, and shall serve until their successor is appointed. The alternate board members may participate in the board discussions; however, the alternate board members shall only vote in the absence of a regular board

regular board member. Board members shall reside in the city for at least six (6) months preceding appointment day.

Sec. 1.09.032 Reserved

Sec. 1.09.033 Removal of members; filling of vacancies

The members of the park and open space board may be removed at any time by a majority vote of the city council with or without cause. Any vacancy in the board shall be filled by the city council for the unexpired term of the member whose place has become vacant.

Sec. 1.09.034 Meetings; quorum

The park and open space board shall hold at least one (1) quarterly meeting. Such meeting shall be held on a day of the month approved by the board. Special meetings may be called by the chairman, by the city manager, or, if requested, by at least four (4) board members. A simple majority of the board shall constitute a quorum. A vote of the simple majority of the quorum shall be required for any action taken by the board. Such meetings shall comply with the Texas Open Meetings Act.

Sec. 1.09.035 Officers

(a) Election. A chairman and vice-chairman shall be selected annually, preferably at the first regular meeting of the fiscal year.

(b) Duties of Officers.

(1) Chairman. It shall be the duty of the chairman to preside at all meetings of the board and to call special meetings.

(2) Vice-chairman. It shall be the duty of the vice-chairman to perform the duties of the chairman during any absence.

Sec. 1.09.036 Duties

(a) The board shall serve in an advisory capacity to the city council in all matters relating to the parks and open space of the city. The board shall also make recommendations to the city council on the implementation of beautification programs and projects to enhance the natural beauty of Lucas.

(b) The board shall review, study and make recommendations to the city manager or designee for priorities of projects or activities to be included in future parks, open space and beautification projects and programs. Board input and guidance on parks and open space should be incorporated into the parks and open space master plan which also includes the identification of the city's trail network and possible locations of trailheads. Such master plan shall be considered, revised and maintained with technical assistance and recommendations of the city

manager or designee. The parks and open space master plan shall be reviewed at least annually by the board.

(c) Based on the park and open space master plan and the identification of beautification projects by the board, a five-year capital improvement program should be developed for consideration by the city council and coordinated with the city manager or designee and the finance department.

(d) The board should review fees relating to the use of parks on an annual basis, making recommendations to the city manager or designee for consideration during the budget process. The board shall study budget proposals on an annual basis and recommend inclusion or exclusion of budget items to the city manager or designee.

(e) The board should review park rules and policies on an annual basis, making recommendations to the city manager or designee.

(f) The board should assist in educational and community outreach programs to help facilitate litter prevention, preservation of open space, encouragement of community advocacy relating to beautification and the establishment of partnerships to help with the overall aesthetic appeal of Lucas.

(g) The board should help ensure a high quality of life for Lucas residents by coordinating special events that provide a mechanism to create a sense of community spirit and enjoyment.

(h) The board may establish additional policies and guidelines upon approval by the city council.

(i) The board shall study and make recommendations to the city council on any other matters as requested by the city council.

Sec. 1.09.037 Attendance Policy

To ensure that the board has sufficient members present to transact business, board members and alternates shall maintain a record of at least 75% attendance at the official meetings of the board.

A review of each board member's attendance will be conducted at the time the member's reappointment. If at the time of reappointment, the attendance record of the member is below 75% for their last appointed term, the staff and Chair will review the attendance record with the board member and will then provide a written board attendance report to the City Council. Upon review of the written report, the City Council may ask to meet with the member concerning the ability to continue to meet the attendance requirements. The outcome of the review of the report and/or the interview with the member will be considered in the reappointment process.

Secs. 1.09.038–1.09.060 Reserved

Division 3. Park Rules

Sec. 1.09.061**Penalty**

Any person, firm or corporation violating any of the provisions of this division shall be deemed guilty of a misdemeanor, and upon conviction in the municipal court of the city shall be subject to a fine as provided in section 1.01.009 of this chapter for each offense.

Sec. 1.09.062**Conduct prohibited in parks**

As used in this division, “city park” or “park facility” shall mean any area in the city owned or used by the city, or by the city jointly with any other governmental or private entity, devoted to active or passive recreation, and includes but is not limited to athletic fields, recreation areas, community center property, and those areas designated as city parks. The following acts, omissions or conduct are prohibited within the limits of all city parks and no person, firm or corporation shall engage in, commit, cause, or suffer the following acts, omissions or conduct:

- (1) To enter or remain in any park facility between the hours of 11:00 p.m. and 5:00 a.m. unless different hours for the park facility have been designated. All soft surface trails shall be closed from dusk until dawn where on-site signage is posted, unless different hours have been posted;
- (2) To allow any pet or animal to run at large or fail to keep a pet or animal restrained by a leash, chain or cord not more than six (6) feet long;
- (3) To dump or litter in any park. All persons shall use receptacles provided for the deposit of refuse;
- (4) To tie or restrain an animal by attaching its leash to fencing, trees, benches, bleachers, pole or other park facility infrastructure;
- (5) To operate a motor vehicle within any city park in any area not designated as a roadway for vehicular traffic (for the purposes of this subsection, “motorized vehicle” means any vehicle or conveyance which is self-propelled) which would exclude electronic wheelchairs or electric scooters for the disabled;
- (6) To use or ride on a skateboard within a city park;
- (7) To possess, use, discharge or employ any firearm, BB gun, air gun, bow-and-arrow, or slingshot;
- (8) To sell, possess or consume any alcoholic beverage;
- (9) To erect, post, distribute, or place any advertising material, sign, circular, or handbill without the prior permission of the city;
- (10) To practice, conduct, or carry on any commercial activity, trade or business activity without the prior written permission of the city;

- (11) To cause, create or maintain any nuisance or engage in any conduct or activity that unreasonably disturbs persons of ordinary sensibilities;
- (12) To use any type of sound amplification devices which include but are not limited to loudspeakers, amplifiers or microphones without the written permission of the city;
- (13) To ascend, descend, operate, or launch any aircraft, including but not limited to hot air balloons, airplanes, paraplanes, ultralight aircrafts, helicopters, drones, remote/radio controlled devices and gliders;
- (14) To hit golf balls of any type in a park facility;
- (15) To camp overnight in or upon any park facility;
- (16) To enter onto a reserved facility or area, or a location where scheduled activities are occurring, during the period that the area or facility is reserved or during the scheduled activity and remain or return there after the person has been given notice to leave. Reserved facilities and areas, and scheduled activities, include but are not limited to: athletic fields and pavilions;
- (17) To make or kindle a fire except in public stoves, grills, fire pits, or designated areas provided for that purpose. Fires shall not be left unattended and must be extinguished prior to departure. The City Manager may prohibit all fires in public parks during those periods that he, in his sole discretion, determines that extreme dry weather, high winds or other conditions endanger public health and safety;
- (18) To use or consume any tobacco products within a park facility; or
- (19) To destroy, damage, deface or remove shrubbery, trees, soil, grass, turf or other vegetation, rock, minerals or any other personal or real property.”

Section 2. All ordinances of the City of Lucas in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances are not in conflict herewith shall remain in full force and effect.

Section 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Lucas Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Lucas Code of Ordinances, as amended hereby, which shall remain in full force and effect.

Section 4. An offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Lucas Code of Ordinances in effect when the offense was committed and the former law is continued in effect for this purpose.

Section 5. 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 City of Lucas Code of Ordinances, as amended, and upon conviction shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

Section 6. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LUCAS,
COLLIN COUNTY, TEXAS, ON THIS 4th DAY OF DECEMBER, 2014.**

APPROVED:

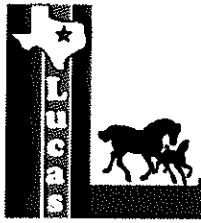
Rebecca Mark, Mayor

APPROVED AS TO FORM:

ATTEST:

Joseph J. Gorfida, Jr., City Attorney
(11-18-14/69190)

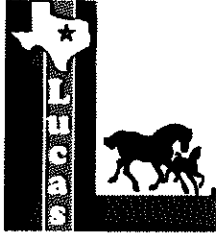
Joni Clarke, Interim City Secretary



City of Lucas
2014 – 2016

Parks & Open Space Board Members &
Keep Lucas Beautiful Board Members

<p>David Rhoads Chairman- term ending 10/31/2016 dlrhoads@lucastexas.us</p>	<p>Christopher Vanhorn Vice-Chairman- term ending 10/31/2016 cvanhorn@lucastexas.us</p>
<p>Brenda Rizos Member- term ending 10/31/2016 brizos@lucastexas.us</p>	<p>Lisa O'Leary Member- term ending 10/31/2015 loleary@lucastexas.us</p>
<p>Lacey Bradshaw Member- term ending 10/31/2015 lbradshaw@lucastexas.us</p>	<p>Jerry Straka Alternate Member -term ending 10/31/2015 jstraka@lucastexas.us</p>
<p>Kenneth Patterson Alternate Member- term ending 10/31/2015 kpatterson@lucastexas.us</p>	<p>Council Appointed Liaison -Steve Duke Seat 3, Councilmember- term ending 2015 sduke@lucastexas.us</p>



City of Lucas
City Council Regular Meeting
December 4, 2014

Name & Title of Requestor: Mayor Rebecca Mark

Agenda Item:

Consider cancelling the January 1, 2015, City Council Regular Meeting.

Background Information:

City Hall will be closed on January 1, 2015 in observance of New Year's Day.

Attachments/Supporting Documentation:

N/A

Budget/Financial Impact:

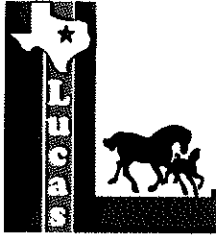
N/A

Recommendation:

N/A

Motion:

I make a Motion to cancel/continue with the January 1, 2015 City Council Regular Meeting.



City of Lucas Council Agenda Request December 4, 2014

Name & Title of Requestor: Councilmember, Seat 1 Wayne Millsap

Agenda Item:

Consider the Texas Emergency Services Retirement Act (TESRA), and the Lucas Fire Department Volunteer Pension Board's recommendation to cease further contributions to TESRA and to offer City of Lucas Volunteer Firefighters a 457(e) Length of Service Award Program (LOSAP).

Background Information:

At the last regular meeting of the TESRA Local Lucas Fire Department Volunteer Pension Board held on November 24, 2014, the Trustees concluded that the Texas Emergency Services Retirement Act (TESRA) was not a viable option and an alternative pension plan needed to be considered. The Board discussed the need to make this benefit a recruiting tool to attract and retain qualified volunteers to maintain adequate staffing levels for the Lucas Fire Department. The Board is ready to update the City Council on the proposed 457(e) Length of Service Award Program (LOSAP).

Attachments/Supporting Documentation:

1. Email from Chris P. Fasy, Financial Advisor from VALIC Financial Advisors, Inc., dated November 3, 2014
2. IRS Study on the use of the LOSAP for Fire Departments, including regulations and taxation defined for 457(e) programs
3. Excerpt from Volunteer Firefighter Retirement Study by Robert Painter, Fire Chief of Homer Alaska Volunteer Fire Department dated September 2001

Budget/Financial Impact:

The current fiscal year 14/15 budget has \$36,000 budgeted for volunteer firefighter pension contributions. The Board is working on how to transition the existing participants to the new plan. So the budget impact of implementing the proposed 457(e) Length of Service Award Program (LOSAP) will not be known until the plan has been fully defined.

Recommendation:

The TESRA Local Lucas Fire Department Volunteer Pension Board's has taken action to discontinue contributions to the Texas Emergency Services Retirement Act (TESRA) and recommends the creation of the City of Lucas Volunteer Firefighters 457(e) Length of Service Award Program (LOSAP).

Cheryl Meehan

From: Fasy, Christopher <Christopher.Fasy@valic.com>
Sent: Monday, November 03, 2014 11:20 AM
To: Cheryl Meehan
Subject: RE: 457B or other retirement options

The following response was head of Plan Implementation.
Please forward me any follow up questions.

Like Bill said, volunteer employees usually do not receive a paycheck. Retirement Plans are designed for payroll reduction.

- What are the legal requirements of the 457B? They must have a written plan document and adhere to all provisions associated with a Govt 457(b) plan under Internal Revenue Code including individual limitations. You might provide them a copy of our specimen document to review.
- Are there any other types of plans that can serve a government entity trying to provide a retirement savings program for our volunteers? We would like to give them the ability to add to this account if they so choose. Volunteers do not generally receive any wages so they would not be eligible for any retirement plan offered other employees. The only thing they could do is possible a LOSAP plan, (Length of Service Award Program) . They can look that up under Texas statutes.
- Would the status of "Volunteer Employee" have an effect on a retirement savings account?see above
- Is an employer allowed to put money into the plan on behalf of the individual? Currently we do not make deposits to the participant's accounts. The question is if we do want to deposit into participant's accounts, are we required to make a donation for everyone? If they are, can the City deposit different amounts based on their type of service. In a 457(b) plan, they could put employer money in for any or all employees, but it would be part of the annual \$17,500 limit and it could be different for each employee

Bill Rapp | Vice President
Consulting Services

Chris P. Fasy | Financial Advisor
Southwest Region - North Texas District
VALIC Financial Advisors, Inc.

2745 Dallas Parkway, Suite 480 | Plano, TX 75093
Cell: 817-881-5638 | Fax: 972-490-1773
christopher.fasy@valic.com
VALIC.com

From: Cheryl Meehan [mailto:Cmeehan@lucastexas.us]
Sent: Monday, November 03, 2014 10:30 AM
To: Fasy, Christopher
Subject: FW: 457B or other retirement options

Chris I haven't received a response from this e-mail yet. I need this information to present to the Volunteer Firefighter pension board as soon as possible. We meet on the 24th, but I will be out of town the week before so the agenda and packet have to be set by the 15th.

Part I

Section 457.—Deferred Compensation Plans of State and Local Governments and Tax Exempt Organizations

26 CFR : 1.457-2

Rev. Rul. 2003-47

ISSUES:

- (1) Is the plan described below a length of service award plan described in § 457(e)(11)(A)(ii) of the Internal Revenue Code?
- (2) When are benefits under the plan includible in gross income?
- (3) Are benefits paid under the plan wages for purposes of FICA taxes?

FACTS

Pursuant to State S law, the County C Fire Department has adopted a written plan (the “Plan”) to implement County C’s volunteer fire fighters’ and rescue squad workers’ service award program. County C and its fire department intend the Plan to be a length of service award plan described in § 457(e)(11)(A)(ii). The County C Fire Department is an agency or instrumentality of County C which is an eligible employer within the meaning of § 457(e)(1) and maintains the plan. The County C Fire Department employs both professional and volunteer fire fighters.

The Plan has been established for the benefit of long-term bona fide volunteers who perform fire fighting, prevention, and rescue squad services for the fire department, including related essential services, such as services performed by dispatchers, mechanics, ambulance drivers and certified instructors. The Plan provides length of service awards to participating volunteers in recognition of their volunteer services to the fire department.

The Plan provides that benefits are only provided to a volunteer who does not receive compensation from the department for performing fire fighting and prevention services, emergency medical and ambulance services, and related essential services, other than reimbursement for (or reasonable allowance for) reasonable expenses incurred in the performance of such services, or reasonable benefits (including length of service awards) and nominal fees for such services, customarily paid by the department in connection with the performance of such services by volunteers.

Under the Plan, a bookkeeping account is established for each participating volunteer and, when a participating volunteer satisfies the Plan's age and service requirements for distribution of benefits, the volunteer automatically receives the balance of the volunteer's account, payable in 60 monthly installments beginning on the tenth day of the first month following the month in which the requirements are satisfied. If a participating volunteer dies prior to satisfying the Plan's age and service requirements, the balance of the volunteer's account is paid to the volunteer's beneficiary in a single sum within 60 days after the date of the volunteer's death. If a participating volunteer dies after payments under the Plan have commenced, but before receiving all monthly installments under the Plan, the balance of the volunteer's account is paid to the volunteer's beneficiary for the remainder of the 60 monthly installments.

Under the Plan, County C and its fire department each periodically provide credits to the accounts of participating volunteers. Each account is also credited with deemed earnings in accordance with the Plan and State S law. The deemed earnings are based on an index that does

not exceed a rate of return on a predetermined actual investment or a reasonable rate of return, as defined under § 31.3121(v)(2)-1(d)(2)(i) of the regulations. The Plan provides that the combined amount credited to any account with respect to any participating volunteer, other than deemed earnings, cannot exceed \$3,000 for any year of service credit.

The Plan provides that all amounts credited to the bookkeeping accounts, and all deemed earnings attributable to such amounts, remain solely the property of County C and its fire department, and, until paid or made available to a participant or beneficiary, are subject to the claims of County C's and the fire department's general creditors. The Plan also provides that a participating volunteer (or beneficiary) has only an unsecured right to an award under the Plan. The rights of a participating volunteer (or beneficiary) to an award under the Plan cannot be assigned and are nontransferable. If a participating volunteer ceases to provide services to the fire department prior to satisfying the Plan's age and service requirements for distribution of benefits (other than by reason of the volunteer's death or disability), the volunteer's rights to an award under the Plan are forfeited and County C and its fire department cease to have any liability regarding the volunteer's account.

LAW AND ANALYSIS

Section 451(a) and § 1.451-1(a) provide that generally an item of gross income is includible in gross income for the taxable year in which it is actually or constructively received by a cash basis taxpayer. Section 1.451-2(a) provides that income is constructively received in the taxable year during which it is credited to the taxpayer's account, set apart, or otherwise made available so that the taxpayer may draw on it at any time. However, income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions.

Rev. Rul. 60-31, 1960-1 C.B. 174, holds that a mere promise by the service recipient to pay the service provider, not represented by notes or secured in any way, does not constitute

receipt of income within the meaning of the cash receipts and disbursements method of accounting. See also, Rev. Rul. 69-650, 1969-2 C.B. 106, and Rev. Rul. 69-649, 1969-2 C.B. 106.

Section 457 governs the taxation of deferred compensation plans of eligible employers. The term “eligible employer” is defined in § 457(e)(1) as a state, political subdivision of a state, and any agency or instrumentality of a state or political subdivision of a state, and any other organization (other than a governmental unit) exempt from tax under subtitle A of the Code. Deferred compensation plans maintained by eligible employers to which § 457 applies are either eligible plans or ineligible plans. An “eligible deferred compensation plan,” as defined in § 457(b), must, among other things, provide that the maximum amount which may be deferred under the plan for a taxable year will not exceed the lesser of the applicable dollar amount (\$12,000 in 2003) or 100 percent of the participant’s includible compensation. Section 457(a)(1) provides that compensation (and income attributable to such compensation) deferred under an eligible deferred compensation plan maintained by a political subdivision of a State is includible in a participant’s gross income in the taxable year in which the compensation (and income attributable to such compensation) is paid to the participant.

Section 457(f)(1)(A) provides that generally if a plan of an eligible employer providing for a deferral of compensation is not an eligible deferred compensation plan, compensation deferred under such plan is included in the participant’s gross income for the first taxable year in which there is no substantial risk of forfeiture of the rights to such compensation.

Section 457(e)(11)(A)(ii) provides that a plan paying solely length of service awards to bona fide volunteers or their beneficiaries on account of qualified services performed by such volunteers is treated as not providing for the deferral of compensation under § 457. Section 457(e)(11)(C) defines qualified services as fire fighting and prevention services, emergency medical services, and ambulance services.

Section 457(e)(11)(B) provides special rules applicable to a length of service award plan. Section 457(e)(11)(B)(i) defines a bona fide volunteer to include only persons whose only compensation received for performing qualified services are reimbursements for (or reasonable allowances for) reasonable expenses incurred in performing such services or reasonable benefits (including length of service awards) and nominal fees for such services, customarily paid by eligible employers in connection with the performance of such services by volunteers.

Section 457(e)(11)(B)(ii) provides that a length of service award plan may not provide for an aggregate amount of length of service awards exceeding \$3,000 accruing with respect to any year of service by any volunteer.

Section 3121(a)(5)(I) provides that any payment made to, or on behalf of, an employee or his or her beneficiary under a plan described in § 457(e)(11)(A)(ii) and maintained by an eligible employer, as defined in § 457(e)(1), is not treated as “wages” for purposes of Federal Insurance Contributions Act (FICA) taxes.

The Plan established by County C and its fire department satisfies the requirements of § 457(e)(11)(A)(ii). The Plan applies only to volunteers who provide qualified services, i.e., fire fighting and prevention services, emergency medical services, ambulance services, or other related essential services in compliance with § 457(e)(11)(C). The Plan also satisfies § 457(e)(11)(B)(i) by limiting eligible volunteers to persons who receive reimbursements, reasonable expenses, nominal fees, or reasonable benefits customarily paid by eligible employers in connection with the performance of qualified services by volunteers. Finally, the Plan satisfies § 457(e)(11)(B)(ii) by limiting the aggregate amount of awards for any year of service to \$3,000.

Since the Plan qualifies as a length of service award plan under § 457(e)(11)(A)(ii), neither § 457(a) nor § 457(f) apply to benefits under the Plan. Instead, amounts distributable under the Plan are includible in gross income under § 451 and the regulations thereunder, when paid or made available without substantial limitation or restriction.

In addition, since the Plan qualifies as a length of service award plan under § 457(e)(11)(A)(ii) maintained by an eligible employer (as defined in § 457(e)(1)), § 3121(a)(5)(I) provides that any payment made to, or on behalf of, a volunteer or his or her beneficiary under the Plan is not treated as “wages” for purposes of determining if FICA taxes apply to such payment.

HOLDINGS

(1) County C’s Plan is a length of service award plan described in § 457(e)(11)(A)(ii). The Plan, therefore, is not subject to § 457(a) or § 457(f).

(2) An award under the Plan is includible in a cash basis recipient’s gross income under § 451 and the regulations thereunder, in the taxable year when paid or made available without substantial limitation or restriction.

(3) Awards paid under the Plan are not wages for purposes of FICA taxes.

DRAFTING INFORMATION

The principal author of this revenue ruling is John Tolleris of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue ruling contact John Tolleris on (202) 622-6060 (not a toll-free call).

Volunteer Retention Issues -

LITERATURE REVIEW

Marinucci (1995) reported that only about 6% of the some 30,000-fire departments in the United States were full career or "paid" departments (*The Fire Chief's Handbook*, pp. 905 - 925). In Alaska, that percentage would be less than half that in the lower 48 states, as only a handful of fire departments manage without at least a volunteer component to supplement the paid ranks. John Buckman (1998), writing for *Fire Engineering*, reports that volunteer or combination departments are seeing an increase in run volumes of up to 50%, while having their ranks reduced by a volunteer pool that is, in some cases, 20% less than previous counts (July). This drain must be addressed in order to sustain the full volunteer or combination department.

Locally, the fire department has seen its membership roster shrink from about 45 emergency service members 10-years ago, to as low as 25 regular responders. These trends are due to many reasons: increased training requirements mandated by OSHA and NFPA standards, economic fluctuations that push/pull members into and out of the community, demands on discretionary time made by family or other personal interests as members age, and ultimately the simple loss of interest (Snook & Olsen, 1989).

As Bob Losyk (1997) writes in *Generation X: What They Think and What They Plan to Do*, one way in which to motivate "X'ers" is "... show them you care or appreciate them". He goes on to find that "X'ers" feel that there is a lack of job security and could perhaps view some type of longevity benefit as a commitment from the leadership in their welfare. (*Public Management*, December, pp. 4 - 7). While a volunteer may not be drawn to join an organization based on a benefit they may never stay around long enough to receive, a pension (even one that pays little) may assist in the long-term retention of volunteers. "Many departments initiate

LOSAP's [length of service award programs] to retain volunteers and reduce the cost to the department caused by high turnover, especially among members with over five years of experience" (Bush, Reade, Schaanman, Philip, & Thiel, Katherine, p. 84). The need to express appreciation for the contributions made by volunteers is effectively demonstrated in the preamble of the State of Nebraska's Volunteer Emergency Responders Recruitment and Retention Act (Nebraska Statutes, § 35-1302):

The Legislature recognizes that volunteer firefighters and rescue squad members have provided fire suppression and emergency response services to their local communities for over a century at only a fraction of the cost to the taxpayers which would have resulted from implementing a system of paid fire departments and rescue squad services. Many cities, villages, and rural areas could not afford the cost of maintaining their current level of emergency response services without the presence of a local pool of committed and dedicated volunteer firefighters and volunteer rescue squad personnel. It is necessary for the public health, safety, and welfare of the people in many Nebraska communities to encourage the recruitment and retention of such individuals as volunteer emergency responders.

The Legislature finds that the duties and responsibilities of the volunteer personnel in fire departments and rescue squads in the State of Nebraska have become increasingly complex and time-consuming, requiring an ever higher degree of dedication to cope with new challenges and technological change. The Legislature recognizes that volunteer fire departments and rescue squads must encourage a high level of training and professionalism among their volunteer personnel in order to respond to these increasingly complex and hazardous responsibilities.

The Legislature finds that Nebraska communities which rely on volunteers to provide fire protection and emergency response services are faced with numerous economic and demographic trends and conditions which make the recruitment and retention of qualified volunteers increasingly difficult and that, as a consequence, some volunteer departments are trying to cope with declining rosters of active volunteers.

The Legislature finds that the recruitment and retention of qualified men and women in emergency response capacities in volunteer fire departments is a matter of statewide as well as local concern and that it is appropriate for the state to assist local political subdivisions in achieving that goal. Further, the Legislature finds that the expenditure of local tax revenue for purposes of the Volunteer Emergency Responders Recruitment and Retention Act will significantly benefit the public health, safety, and welfare in participating cities, villages, counties, and fire protection districts and that such expenditures are for a public purpose.

Retirement Benefit as a Motivational Need:

While membership within an emergency service organization may meet several of the basic human needs as outlined by A. H. Maslow, (Belonging and social activity, esteem and status, and self-realization and fulfillment) volunteerism in and of itself did little to meet the lesser needs of safety and security defined as “needs that are concerned with personal safety and security of provisions – the need for self-preservation and the need to ensure future security”. When a benefit is added to the mix of incentives for volunteers, a method to ensure an income for the future, the fire service can better fulfill the basic needs of the volunteer. In fact, according to Maslow’s Hierarchy of Needs theory, a person cannot easily benefit from the “higher” needs readily available in the volunteer fire

service without first meeting the basic physiological needs as well as the safety and security needs of the individual volunteer (Carter, Harry R., & Rausch, Erwin. *Management in the Fire Service*, 2nd edition, pp. 53-54).

Pension/Retirement Plan Types:

A review of the literature regarding program types and formats revealed that a popular form of retirement plan is termed a Length of Service Award Program (LOSAP). One program, administered by the Volunteer Firemen's Insurance Services, Inc. (1995) states, "Organizations that have established LOSAP's find them to be an inexpensive and effective way to preserve the volunteer system" (*VFIS Length of Service Awards Program*, p. B 2). In Montgomery County, Maryland, volunteer firefighters and rescue personnel are covered under a LOSAP after electing to participate under Maryland statute. Regulation number 82-91 states, "the intent of the Length of Service Awards Program is to recognize the service which volunteer firefighters, rescuers, medical attendants, and administrative members provide to the citizens of Montgomery County" (August 15, 1992, p. 1).

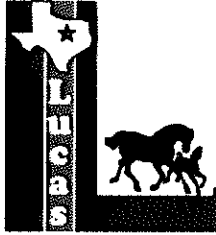
Other plans reviewed follow more traditional pension plans operated by the various states. For example the State of Oklahoma operates their pension program for volunteer firefighters through the same organization that oversees the retirement system for paid firefighters. Oklahoma Statute § 29-201 states, "The purpose of the Oklahoma Volunteer Firefighters Act, Sections 29-201 through 29-205 of this title, is to provide a uniform system of fire protection for the lives and property of the people of Oklahoma" (*Oklahoma Firefighters Pension and Retirement System, Pension Handbook*, 2000, p. 93).

Appendix A

		policies for property insurance within the state. 1% of this is distributed locally.	members of the fire department, paid or volunteer.	moving within state.	
SOUTH DAKOTA ^{1,2,4}	Yes. Deferred Compensation Program for Volunteer Firefighters. Local Option	Financed by the municipality and/or member.	Each municipality establishes requirements for participation.	Each municipality establishes requirements for participation.	Each municipality establishes requirements for participation.
TENNESSEE ^{1,2,3,4}	None				
TEXAS ^{2,3,5} <i>TESRA</i>	Yes, Volunteer Fire Fighters' Relief and Retirement Fund, Local Option	Member/participating department pays contribution of \$12 for each month of service. The State	Qualified service defined as being affiliated with a department that conducts at least	Age 55 or when the member completes 15-years of qualified service.	The monthly retirement is defined as being equal to six times the governing

Appendix A

		may pay into fund to keep it actuarially sound.	48-hours of drills each year, and who attends at least 40% of the drills and at least 25% of the departments emergencies in a calendar year.		body's average monthly contribution over the member's term of service.
UTAH ^{3,4}	None				
VERMONT ^{3,4}	None				
VIRGINIA ^{4,5}	Yes. Volunteer Firefighters' and Rescue Squad Workers' Pension Fund	State General Fund, and member contribution of \$30 per quarter.	Any volunteer rescue squad member or volunteer firefighter who is a member of a bona	Attained the age of 60 and who has served 20-years as an eligible volunteer. Member contribution, less	Lump sum payment of member and matching contributions, plus interest earned, or



**City of Lucas
City Council Meeting
December 4, 2014**

Name & Title of Requestor: City Council

Agenda Item:

As authorized by Section 551.072 of the Texas Government Code, to discuss the purchase, exchange, lease and value of real property owned by the City.

Background Information:

N/A

Attachments/Supporting Documentation:

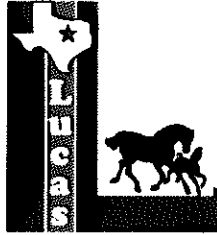
N/A

Budget/Financial Impact:

N/A

Recommendation:

N/A



**City of Lucas
City Council Meeting
December 4, 2014**

Name & Title of Requestor: City Council

Agenda Item:

Take any action as necessary as a result of the Executive Session.

Background Information:

N/A

Attachments/Supporting Documentation:

N/A

Budget/Financial Impact:

N/A

Recommendation:

N/A

Motion:

I make a Motion to....