



AGENDA
City of Lucas
City Council Meeting
March 19, 2020
7:00 PM
City Hall – Council Chambers
665 Country Club Road – Lucas, Texas

Notice is hereby given that a meeting of the Lucas City Council will be held on Thursday, March 19, 2020 at 7:00 pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002-7651 at which time the following agenda will be discussed. As authorized by Section 551.071 of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

Call to Order

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

Citizen Input

The Citizen 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 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 but may refer items to City Staff for research and possible inclusion on a future agenda.

1. Citizen Input (Mayor Jim Olk)

Community Interest

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

2. Items of Community Interest. (Mayor Jim Olk)
 - A. Presentation of Proclamation to Cornerstone Ranch for Developmental Disabilities Month.

Consent Agenda

All items listed under the consent agenda are considered routine and are recommended 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. Consent Agenda:
 - A. Approval of the minutes of the March 5, 2020 City Council meeting. (City Secretary Stacy Henderson)

- B. Approval of Proclamation declaring March 25, 2020 Medal of Honor Day. (Mayor Jim Olk)

Public Hearing Agenda

4. Public hearing to consider the voluntary annexation requested by Preston Walhood on behalf of McCreary Donihoo Partners LTD for the Estates of Stinson Highlands consisting of approximately 30.6018 acres of land more or less located in the John Gray Survey, Abstract 349, otherwise located at the southwest corner of Stinson Road and Highland Drive. (Development Services Director Joe Hilbourn)
- A. Presentation by Development Services Director Joe Hilbourn
B. Conduct public hearing

Regular Agenda

5. Consider adopting Ordinance 2020-03-00906 for a voluntary annexation request by Preston Walhood on behalf of McCreary Donihoo Partners LTD for the Estates of Stinson Highlands currently in the City's extraterritorial jurisdiction consisting of approximately 30.6018 acres of land more or less located in the John Gray Survey, Abstract 349, otherwise located at the southwest corner of Stinson Road and Highland Drive. (Development Services Director Joe Hilbourn)
6. Discuss and provide direction to staff regarding an update to the City's Code of Ordinances removing regulations for permitting chain link fences. (Mayor Pro Tem Kathleen Peele)
7. Discuss the recent Texas Emergency Services Retirement System (TESRS) Board meeting and proposed rule changes that would allow the City of Lucas to exit the TESRS pension plan. (Lucas Volunteer Firefighter Pension Board Chairman Larry Bowman, Councilmember Wayne Millsap)

Executive Session Agenda

Pursuant to 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 regarding any item on the agenda at any time during the meeting. This meeting is closed to the public as provided in the Texas Government Code.

8. Executive Session:


The City Council will convene into Executive Session pursuant to Texas Government Code: Section 551.071(2) to consult with legal counsel on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Government Code; wholesale water rates imposed by North Texas Municipal Water District paid by Lucas as a customer city.

9. Reconvene from Executive Session and take any action necessary as a result of the Executive Session.
10. Adjournment.

Certification

I do 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 and on the City's website at www.lucastexas.us on or before 5:00 p.m. on

March 13, 2020.


Stacy Henderson, City Secretary

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



City of Lucas

City Council Agenda Request

March 19, 2020

Item No. 01

Requester: Mayor Jim Olk

Agenda Item Request

Citizen Input

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas

Council Agenda Request

March 19, 2020

Requester: Mayor Jim Olk

Agenda Item Request

2. Items of Community Interest.
 - A. Presentation of Proclamation to Cornerstone Ranch for Developmental Disabilities Month.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



Proclamation

Developmental Disabilities Month

WHEREAS, there are over 15,000 people with developmental disabilities in Collin County that include people with Down Syndrome, Autism, Cerebral Palsy, and other special needs; and

WHEREAS, at least 112 people of this special population live in Lucas; and

WHEREAS, these citizens are valued members of our community who represent our family, neighbors, classmates, and coworkers who make significant contributions to our City; and

WHEREAS, Lucas has committed their support and services to help them live productive lives understanding that it is vital that we join with these individuals and the nonprofits that serve them; and

WHEREAS, we recognize Cornerstone Ranch is a local nonprofit that joins Lucas in this endeavor as they empower adults with disabilities to live the abundant lives they were created for, realizing their God-given potential and celebrating their inspiring lives;

NOW THEREFORE, I, Jim Olk, Mayor of the City of Lucas, Texas, celebrate citizens with special needs and the organizations that support them by proclaiming the month of March 2020 as

DEVELOPMENTAL DISABILITIES AWARENESS MONTH

and encourage our citizens to recognize, honor and support the efforts of individuals with developmental disabilities in Lucas and beyond, along with their families and the organizations who support them as they strive to live self-determined and fulfilling lives.

PROCLAIMED this day 19th day of March 2020.

A handwritten signature in blue ink, appearing to read "Jim Olk".

Jim Olk, Mayor

A handwritten signature in blue ink, appearing to read "Stacy Henderson".

Stacy Henderson, City Secretary



City of Lucas Council Agenda Request March 19, 2020

Requester: City Secretary Stacy Henderson

Agenda Item Request

3. Consent Agenda:
 - A. Approval of the minutes of the March 5, 2020 City Council meeting.
 - B. Approval of Proclamation declaring March 25, 2020 Medal of Honor Day.

Background Information

NA

Attachments/Supporting Documentation

1. Minutes of the March 5, 2020 City Council meeting
2. Proclamation for Medal of Honor Day

Budget/Financial Impact

NA

Recommendation

City Staff recommends approval of the Consent Agenda.

Motion

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



**City of Lucas
City Council Meeting
March 5, 2020
7:00 P.M.**

City Hall - 665 Country Club Road – Lucas Texas

MINUTES

Call to Order

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

City Councilmembers Present:

Mayor Jim Olk
Councilmember Wayne Millsap
Councilmember Tim Baney
Councilmember Steve Duke
Councilmember Philip Lawrence
Councilmember Debbie Fisher

City Staff Present:

City Manager Joni Clarke
City Secretary Stacy Henderson
Development Services Director Joe Hilbourn
City Engineer Stanton Foerster
Finance Director Liz Exum

City Councilmember Absent:

Mayor Pro Tem Kathleen Peele

Mayor Olk determined that a quorum was present. Everyone was reminded to silence their cell phones and the Pledge of Allegiance was recited.

Citizen Input

1. Citizen Input.

Dennis Scully, 914 Highland Drive expressed his concern with the amount of time it took to complete the road project on Stinson Road, noting that there were weeks at a time where no work was being done. Mr. Scully asked if penalties would be assessed for work not completed timely.

Mayor Olk asked that Mr. Scully speak with the City Engineer to discuss the matter further since this was an item not on the agenda that could be discussed.

Community Interest

2. Items of Community Interest.

Mayor Olk noted the following upcoming events:

- The City's cleanup, electronic recycling, and paper shredding event would be held Saturday, April 4 from 8 am to 12 pm.
- The City would be hosting Movie in the Park on Friday, April 17 at 7pm.
- The first farmers market for 2020 will be held on April 25 from 8 am to 12 pm at the Community Park.

Councilmember Fisher noted that April 1 was Census Day and explained that questionnaires received could be filled out online.

Consent Agenda

3. Consent Agenda:

- A) Approval of the minutes of the February 20, 2020 City Council meeting.
- B) Consider amending the Fiscal Year 19/20 budget to reallocate funds totaling \$5,182,213.74 for capital improvements and operating costs previously approved in Fiscal Year 18/19.
- C) Approval of the City of Lucas Investment Report for quarter ending December 31, 2019.
- D) Approval of Resolution R 2020-03-00498 accepting the voluntary annexation petition submitted by McCreary Donihoo Partners LTD for the Estates of Stinson Highlands annexing a territory currently in the City's extraterritorial jurisdiction consisting of approximately 30.6018 acres of land more or less located in the John Gray Survey, Abstract 349 located at the southwest corner of Stinson Road and Highland Drive.
- E) Approval of Resolution R 2020-03-00499 accepting the termination to abandon a license agreement with Justine and Angela Himmelreich to use a Right of Way dedicated to the City by the Lucas Creek Estates Plat for use as a driveway for 2515 Orr Road.

MOTION: A motion was made by Councilmember Fisher, seconded by Councilmember Lawrence to approve the Consent Agenda as presented. The motion passed unanimously by a 6 to 0 vote.

Regular Agenda

- 4. Consider a request by the Forest Creek Estates Architectural Control Committee to:**
- A) leave the two Forest Creek Estates subdivision signs currently located on City right-of-way at the intersection of Blondy Jhune Road and Mary Lee Lane; and**
 - B) to replace the existing Forest Creek Park sign and fund half the cost of the new park signage.**

Development Services Director Joe Hilbourn stated that the City Council asked the Parks Board to review this item as the new sign proposal was located within a City Park,. After discussions with a member of the Forest Creek Architectural Control Committee, the Parks Board recommended replacing the existing sign at Forest Creek Park with a stone monument sign stating "Forest Creek Park" as a compromise that would benefit both the neighborhood and the park.

Mr. Hilbourn stated that the Forest Creek Park Architectural Control Committee has committed to providing \$1,700 towards the Forest Creek Park sign.

Forest Creek Architectural Control Committee Member Andre Guillemaud informed the Council that the Forest Creek Subdivision would like to build a neighborhood sign in the park at the entrance of the subdivision. The compromise discussed with the Parks Board included improving the existing Forest Creek park sign that the City was planning on replacing. Mr. Guillemaud explained that the other two signs on Mary Lee and Blondy Jhune could remain as there was no other place to move the signage. Mr. Guillemaud stated that the Architectural Control Committee has committed \$1,700 towards a four foot by six-foot stone monument sign with a concrete placard.

Michael Dunn, 1625 Tokalaun, representing the Tokalaun Homeowners Association, spoke in opposition to Agenda Item 4a relating to leaving the two Forest Creek Estates subdivision signs currently located on City right-of-way near Blondy Jhune Road and Mary Lee Lane. Mr. Dunn further explained that he was in favor of the updating the existing Forest Creek Park signage, but the existing signs on Mary Lee were in disrepair and located near the entrance of the Tokalaun subdivision.

Mr. Guillemaud stated that the Forest Creek Subdivision would like the signs on Mary Lee and Blondy Jhune to remain as they cannot construct signs at the entrance of their subdivision as its all private property. Mr. Guillemaud stated that they approached several homeowners about dedicating an easement and having the signs moved to that location, but there was no interest. Mr. Guillemaud stated that maintenance of the signs along Mary Lee and Blondy Jhune would be completed by volunteers within the Forest Creek subdivision.

MOTION: A motion was made by Councilmember Baney, seconded by Councilmember Millsap to approve replacing the existing Forest Creek Park signage and fund half the cost plus/minus of the \$3,500 cost estimate to replace the sign. The motion passed unanimously by a 6 to 0 vote.

Councilmember Fisher noted that property where one of the subdivision signs was located was sold to the school district and has been in its current location before the Tokalaun subdivision was constructed. Councilmember Fisher stated that she was in opposition of having the signs removed.

Mr. Dunn stated that the original property owner, Mr. Billingsly, sold the property to the school district, however, there was a deed restriction that deeded it back to residents and the property is controlled by the Tokalaun Homeowners Association. Mr. Dunn stated that he would be in favor of the sign being moved to the northwest corner.

MOTION: A motion was made by Councilmember Duke, seconded by Councilmember Lawrence to allow the Forest Creek subdivision sign to remain located on the northeast corner of Mary Lee and Blondy Jhune, and to remove the Forest Creek subdivision sign located on the northwest corner of Mary Lee and Blondy Jhune, and direct the City Engineer to have the sign on the northwest corner removed as part of the Blondy Jhune road project. The motion passed by a 5 to 1 vote with Councilmember Fisher voting in opposition.

5. Consider the acceptance and approval of the City of Lucas Comprehensive Annual Financial Report (CAFR) for Fiscal Year 2018-2019 presented by Brooks Watson & Co.

Mike Brooks, Brooks Watson & Company presented the City's 2019 annual financial report. Mr. Brooks reviewed the audit process, planning, field work, and conclusions with the Council.

Mr. Brooks stated that as part of the independent auditors report, the City received a clean unmodified audit opinion, which was the highest financial statement that can be received. Mr. Brooks discussed the City's revenues, expenses, increase in fund balance and ending fund balance.

Councilmember Millsap complemented the Finance team on the outstanding work they do and the awards they receive each year.

MOTION: A motion was made by Councilmember Millsap, seconded by Councilmember Duke to approve the City of Lucas Comprehensive Annual Financial Report for fiscal year 18/19. The motion passed unanimously by a 6 to 0 vote.

- 6. Consider authorizing the City Manager to amend the scope of the professional services agreement between Birkhoff, Hendricks & Carter and the City of Lucas dated April 1, 2019, for the drainage analysis of the Reid Branch Tributary 1, which includes the Lemontree Country Estates and Kingswood Estates neighborhoods including flow maps and findings associated with neighborhood site visits in the amount not to exceed \$9,585.00 from the FY 19-20 budget account Professional Fees 11-6209-309 using General Fund Reserves.**

Mayor Olk discussed with the Council some of the items included in the amended scope of services pertaining to determining the capacity of the Lynn Lane culvert towards Kingswood and if the flow was exceeding capacity, as well as reviewing drainage from the Claremont Springs area and the possibility of redirecting the flow towards Country Club along Estates Parkway.

Jim Iannucci, 9 Kingswood spoke in favor of the amended scope of service and support of the study.

MOTION: A motion was made by Councilmember Baney, seconded by Councilmember Lawrence to authorize the City Manager to amend the scope of the professional services agreement for drainage analysis between Birkhoff, Hendricks, and Carter and the City of Lucas dated April 1, 2019 in the amount not to exceed \$9,585 from FY 19/20 budget account Professional Fees using general fund reserves. The motion passed unanimously by a 6 to 0 vote.

- 7. Consider reallocating funds in the amount of \$270,000 in account 11-8210-420 associated with the purchase of a Gradall, to fund the purchase a Skid Steer in the amount of \$97,983 and a Crack Pro Road Sealing Machine in the amount of \$62,578.**

Development Services Director Joe Hilbourn explained that purchase of Gradall equipment and a staff person to operate such equipment was approved in the 19/20 budget. However, staff has been unable to hire personnel to operate the equipment and has been able to retain a contractor that would perform the culvert maintenance activities. Staff no longer feels the purchase of the Gradall equipment is warranted and was proposing to reallocate funds towards a bobcat with a 4-in-1 bucket and angle blade for grading swales, and existing staff would operate the equipment. Mr. Hilbourn stated that staff was also proposing to reallocate funds toward a Crack Road Sealing Machine, to supplement existing road maintenance.

Councilmember Lawrence asked if the Gradall equipment may be needed in the future.

Mr. Hilbourn state that contractors are able to complete the work, and the City has been unsuccessful in finding someone to operate this type of equipment.

Thomas Schwab, 36 Woodmoor stated that he was not opposed to the request, but wanted to know if the City would consider using concrete on heavily traveled roadways such as West Lucas Road, to keep from deteriorating each time it rains and due to high traffic volumes.

Mayor Olk stated that the City was working with Collin County regarding the replacement of West Lucas Road. In regard to crack sealing, the City determines whether repairs should be made before replacement of a road is considered, and concrete versus asphalt was also considered as part of the replacement process.

MOTION: A motion was made by Councilmember Millsap, seconded by Councilmember Baney to approve reallocating funds associated with the purchase of a Gradall D 152 to fund the purchase of a Skid Steer in the amount of \$97,983 and a Crack Seal Pro Road Sealing machine in the amount of \$62,578. The motion passed unanimously by a 6 to 0 vote.

8. Discuss and provide direction to staff on proposed updates to the City of Lucas Trails Master Plan by adding a trail along the east side of Winningkoff Road which would connect to East Winningkoff Road and to the trail proposed along East Lucas Road and discuss any other proposed revisions to the Plan.

Development Services Director Joe Hilbourn gave a presentation explaining that a Town Hall meeting held on June 7, 2015, residents expressed a desire for walking/riding trails throughout the City that connected with other trails. During recent discussions of the Winningkoff Road project, it was suggested to add a trail on the east side of Winningkoff Road to create trail connectivity. Citizens have also expressed a desire for walking and biking trails as well, and Staff has spent considerable time acquiring easements for trails and applying for grants. Mr. Hilbourn asked if trail connectivity was something staff should be moving forward with or was a new citizen survey need.

Chris Churchill, 1125 Brockdale, stated that she was not opposed to adding trails, but asked that the trails be safe for horses, ensure they were multi-seasonal that could draining appropriately during the rainy season, leave as many trees as possible when constructing the trails, and install guard rails in areas that contained a blind spot. Ms. Churchill stated that there were bar ditches on the east side of road along Winningkoff and asked that they be constructed in a way to ensure the water drains.

Tricia Millsap, 318 McMillan, stated she was in favor of a trail along Winningkoff Road that would accommodate equestrians and walkers, as traffic on Winningkoff Road has increased and makes it unsafe.

Kim Nopper, 980 Winningkoff, stated that she was opposed to a trail on Winningkoff Road, financially it was not a good decision and a poor use of funds. Ms. Nopper stated that funds would be better spent on items such as roadway improvements or drainage.

Tom Redman, 1930 Mary Lee Lane, stated that he was opposed to the trail, as the City had not obtained costs related to construction, and more information was needed before he could support the addition of a trail.

Michael King, 1200 Bloom Street, stated that he was in support of trail as traffic along Winningkoff had increased and residents need a place to walk or run.

Chris Reynolds, 1370 Beverly Circle, explained that she was opposed to the trail, as it would go through an easement near the back yard and did not want the general public that close to her property.

Mayor Olk read emails from the following individuals into the record:

Brian Dale, opposed to trails on Winningkoff
Derek Doss, opposed to trails on Winningkoff
Brenda Rizos, opposed to trails on Winningkoff
Sally Ballis, opposed to trails on Winningkoff
Maureen Miller, opposed to trails on Winningkoff

Councilmember Baney suggested the City send out a survey to determine if there is still a desire for additional trails and to have connectivity with the existing trail system.

Councilmember Fisher stated that a survey was needed as well as public meetings. The survey should include questions related to park area and if a larger community park was needed. Councilmember Fisher expressed her concerns with placing trails through existing right of way and creating a concern about privacy, and suggested there may be more of an opportunity to install trails when new developments were constructed.

Councilmember Millsap explained that the trail on Winningkoff would be for residents in the area, and he was in favor of conducting a survey to gain residents perspective.

Councilmember Lawrence stated that he was not a proponent of adding trails unless the residents in the neighborhood were also in favor.

Mayor Olk directed staff to bring back survey questions as an agenda item for consideration and the Council can discuss how they would like to proceed.

- 9. Discuss and consider 1) an update on the Customer City Coalition activities relating to the North Texas Municipal Water District; 2) next steps with the Coalition; and (3) authorizing the Mayor to write the Public Utility Commission (PUC) expressing the City of Lucas' position on the rate case submitted by the Cities of Garland, Mesquite, Plano and Richardson and authorizing expenditures up to \$50,000 for potential legal fees regarding the rate case.**

Mayor Olk gave an update regarding the Customer City Coalition with the NTMWD. He stated that the NTMWD consisted of member cities and customer cities. The cities of Garland, Mesquite, Plano and Richardson are member cities, and Lucas is a customer city. The member cities started the NTMWD to have a central location to get water and used their taxable value as backing for bonds. As a customer city, Lucas buys water from NTMWD and customer cities pay more than member cities. NTMWD has a take or pay methodology contract where water rates are established for customer cities and the customer city is required to pay for that amount of water regardless of conservation efforts or if the water will be used. The City of Lucas has historically paid for more water than what has been used. NTMWD customer cities have joined together to form a Coalition to become better informed regarding the rate case filed with the Public Utility Commission by the

member cities. The Public Utility Commission has remanded the case back to the Administrative Court for a rate case study of the NTMWD.

Councilmember Millsap discussed the NTMWD take or pay structure and the amount of water the City must buy as part of the pay structure. He noted that the City has lost \$2.2 million of undeliverable water that was not used over the last 10 years. Councilmember Millsap discussed the lack of transparency by the NTMWD regarding how rate studies are conducted, and the price increase to the City over the last ten years was equivalent to a 228 percent increase.

Councilmember Fisher gave a presentation discussing water usage under the NTMWD take or pay structure noting that the City's annual required contract purchase was 628,590,000 gallons over the last 10 years, with undeliverable gallons consisting of an average of 118,194,100 per year. Councilmember Fisher added that water costs paid averaged over the last ten years, including the NTMWD rebate were \$1.2 million. Councilmember Fisher noted that using the NTMWD methodology, the monthly undelivered cost per meter averaged \$6.71.

The City Council was in agreement to write a letter to the Public Utility Commission regarding the City of Lucas's support for the position asserted by the Cities of Garland, Mesquite, Plano and Richardson and request the Public Utility Commission to initiate the cost-of-service hearings. The City Council further identified the following concerns:

- Wholesale water rate methodology for member cities and customer cities
- Basis and support for rate differential charged to customer cities
- Take or pay contract methodology, appropriateness of structure and possible alternatives
- Budget oversight relating to the operation of the NTMWD and financial transparency
- Basis and qualifications to be classified as member city
- Representation for customer cities

MOTION: A motion was made by Councilmember Lawrence, seconded by Councilmember Millsap to participate as a member of the Coalition and authorize expenditures up to \$50,000 for legal fees regarding the rate case. The motion passed unanimously by a 6 to 0 vote.

Executive Session

10. Executive Session.

An Executive Session was not held at this meeting.

11. Reconvene from Executive Session.

An Executive Session was not held at this meeting.

Adjournment

12. Adjournment.

MOTION: A motion was made by Councilmember Millsap, seconded by Councilmember Lawrence to adjourn the meeting at 9:21 pm. The motion passed unanimously by a 6 to 0 vote.

APPROVED:

ATTEST:

Mayor Jim Olk

Stacy Henderson, City Secretary



Proclamation

Medal of Honor Day

March 25, 2020

WHEREAS, the Medal of Honor is the highest award for valor in combat awarded across all branches of the United States military, and

WHEREAS, President Abraham Lincoln signed legislation from Congress creating the Medal of Honor in 1861 with the first medal being awarded in 1863, and

WHEREAS, approximately thirty-five hundred individuals, eighty-six of whom are laid to rest in the great state of Texas, have received this highest honor, and

WHEREAS, our country has celebrated National Medal of Honor Day on March 25 since the holiday was first created by congress in 1990 and signed into law by President George H.W. Bush, and

WHEREAS, Texans are deeply patriotic and have a strong history of supporting the men and women of the Armed Forces, and

WHEREAS, the National Medal of Honor Museum Foundation has selected Texas as the official home for the National Medal of Honor Museum, and

NOW THEREFORE, I, Jim Olk, Mayor of the City of Lucas, Texas, declare March 25, 2020 as Medal of Honor Day as a time for all our citizens to remember those past and honor those living recipients of the Medal of Honor.

PROCLAIMED this day 19th day of March 2020.

Jim Olk, Mayor

Stacy Henderson, City Secretary



City of Lucas Council Agenda Request March 19, 2020

Requester: Development Services Director Joe Hilbourn

Agenda Item Request

Public hearing to consider the voluntary annexation requested by Preston Walhood on behalf of McCreary Donihoo Partners LTD for the Estates of Stinson Highlands consisting of approximately 30.6018 acres of land more or less located in the John Gray Survey, Abstract 349, otherwise located at the southwest corner of Stinson Road and Highland Drive.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing

Background Information

This property has an approved development agreement that gives consideration for annexation. The final plat was approved by the Planning and Zoning Commission on January 9, 2020. The annexation application was approved on March 5, 2020 by the City Council. The Estates of Stinson Highlands consists of 19 residential lots and two common area lots.

Annexation agreements now only require one public hearing. A separate action item for this annexation request has been placed on the regular agenda.

Attachments/Supporting Documentation

- 1. Public Notice
- 2. Meets and Bounds
- 3. Depiction

Budget/Financial Impact

NA

Recommendation

Staff recommends approval of the voluntary annexation.

Motion

This item is for discussion purposes only, no vote is required.



NOTICE OF PUBLIC HEARINGS TO CONSIDER ANNEXATION OF LAND

NOTICE IS HEREBY GIVEN, that the City Council of the City of Lucas, Texas (the "City"), will hold a public hearing regarding the voluntary annexation of the property hereinafter described. The public hearing will begin at 7:00 PM on the 19th day of March 2020. The public hearing will be held at the City of Lucas City Hall located at 665 Country Club Road, Lucas, Texas. The property to be considered for annexation is located in Collin County, Texas, and described as follows:

BEING A TRACT OF LAND SITUATED IN COLLIN COUNTY, TEXAS OUT OF THE JOHN GRAY SURVEY, ABSTRACT NO. 349 AND BEING ALL OF A 2 ACRE TRACT OF LAND AND ALL OF A 28 ACRE TRACT OF LAND CONVEYED TO LESLIE MCCREARY AND GLADYS MCCREARY ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 595, PAGE 197, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING ALL OF TRACT TWO AND TRACT THREE CONVEYED TO MCCREARY. FAMILY TRUST ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 4844, PAGE 2894, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A P.K. NAIL FOUND IN ASPHALT IN STINSON ROAD, AN UNDEDICATED RIGHT-OF-WAY, THE SOUTHEAST CORNER OF SAID 28 ACRE TRACT, THE NORTHEAST CORNER OF A 27.278' ACRE TRACT OF LAND CONVEYED TO JOHN A. YOUNG AND PATSY DEAN YOUNG ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 5167, PAGE 3453, DEED RECORDS, COLLIN COUNTY, TEXAS, AND THE SOUTHWEST CORNER OF A 29.185 ACRE TRACT OF LAND CONVEYED TO YOUNG DEAN HOMESTEAD, LTD. ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 5167, PAGE 3443, DEED RECORDS, COLLIN COUNTY, TEXAS;

THENCE, DEPARTING STINSON ROAD AND ALONG THE SOUTH LINE OF SAID 28 ACRE TRACT AND THE NORTH LINE OF SAID 27.278 ACRE TRACT, SOUTH 89 DEGREES, 34 MINUTES, 08 SECONDS WEST, A DISTANCE OF 1349.62 FEET TO A 5/8" IRON ROD SET WITH RED PLASTIC CAP STAMPED "R.P.L.S. 5199", THE SOUTHWEST CORNER OF SAID 28 ACRE TRACT, THE NORTHWEST CORNER OF SAID 27.278 ACRE TRACT, AND LYING IN THE MOST SOUTHERLY EAST LINE OF A 143.35 ACRE TRACT OF LAND CONVEYED TO SUE W. HODGDON ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 587, PAGE 38, DEED RECORDS, COLLIN COUNTY, TEXAS;

THENCE, ALONG THE WEST LINE OF SAID 2 ACRE TRACT AND SAID 28 ACRE TRACT, AND THE MOST SOUTHERLY EAST LINE OF SAID 143-35 ACRE TRACT, AS AFFECTED BY BOUNDARY LINE AGREEMENT RECORDED IN THE COUNTY CLERK'S FILE NO. 20060428000567740, DEED RECORDS, COLLIN COUNTY, TEXAS, NORTH 00 DEGREES, 03 MINUTES, 58 SECONDS EAST, A DISTANCE OF 989.29 FEET TO A 5/8" IRON ROD SET WITH PLASTIC CAP STAMPED "R.P.L.S. 5199", THE NORTHWEST CORNER OF SAID 2 ACRE TRACT, FROM WHICH A 3/8" IRON ROD FOUND BEARS SOUTH 89 DEGREES, 42 MINUTES, 44 SECONDS, WEST, A DISTANCE OF 7.68 FEET, A 1/2" IRON ROD FOUND WITH CAP STAMPED "R.P.L.S. 5439" BEARS NORTH 89 DEGREES, 42 MINUTES, 44 SECONDS, EAST, A DISTANCE OF 7.68 FEET;

THENCE, ALONG THE NORTH LINE OF SAID 2 ACRE TRACT, AND THE MOST EASTERLY SOUTH LINE OF SAID 143.35 ACRE TRACT, NORTH 89 DEGREES, 42 MINUTES, 44 SECONDS EAST, A DISTANCE OF 1349.95 FEET TO A P.K. NAIL SET IN STINSON ROAD, THE NORTHEAST CORNER OF SAID 2 ACRE TRACT, A SOUTHEASTERLY CORNER OF SAID 143.35 ACRE TRACT AND LYING IN

THE WESTERLY LINE OF A 26.027 ACRE TRACT OF LAND CONVEYED TO WARREN L NORRIS ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 5009, PAGE 699, DEED RECORDS, COLLIN COUNTY, TEXAS;

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If you have any questions regarding this annexation please contact Joe Hilbourn at jhilbourn@lucastexas.us.

EXHIBIT "A

BENG A TRACT OF LAND SITUATED IN COLLIN COUNTY, TEXAS OUT OF THE JOHN GRAY SURVEY, ABSTRACT NO. 349 AND BEING ALL OF A 2 ACRE TRACT OF LAND AND ALL OF A 28 ACRE TRACT OF LAND CONVEYED TO LESLIE MCCREARY AND GLADYS MCCREARY ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 595, PAGE 197, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING ALL OF TRACT TWO AND TRACT THREE CONVEYED TO MCCREARY. FAMILY TRUST ACCORDING TO THE DEED FILED FOR RECORD IN VOWME 4844, PAGE 2894, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A P.K. NAIL FOUND IN ASPHALT IN STINSON ROAD, AN UNDEDICATED RIGHT-OF-WAY, THE SOUTHEAST CORNER OF SAID 28 ACRE TRACT, THE NORTHEAST CORNER OF A 27.278'ACRE TRACT OF LAND CONVEYED TO JOHN A. YOUNG AND PATSY DEAN YOUNG ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 5167, PAGE 3453, DEED RECORDS, COLLIN COUNTY, TEXAS, AND THE SOUTHWEST CORNER OF A 29.185 ACRE TRACT OF LAND CONVEYED TO YOUNG DEAN HOMESTEAD, LTD. ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 5167, PAGE 3443, DEED RECORDS, COLLIN COUNTY, TEXAS;

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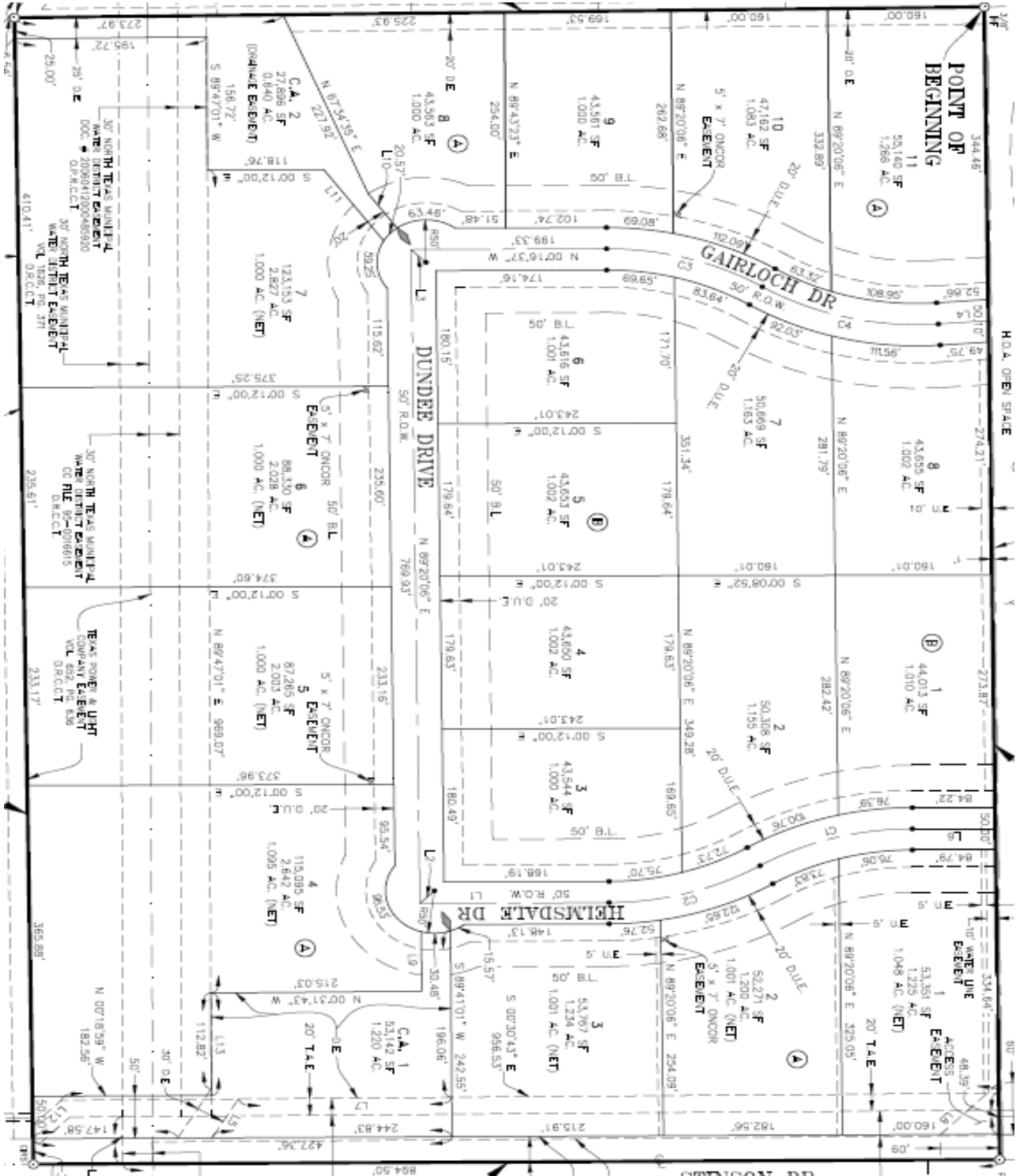
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Note: The Company -Is* prohibited from insuring the area or quantity Of the land described herein. Any statement In the above legal description of the area or quantity of land is not a representation that such area or quantity is correct, but is made only for informational and/or identification purposes and does not override Item 2 of Schedule B hereof.



**Exhibit B
Depiction
Estates of Stinson highlands**





City of Lucas

City Council Agenda Request

March 19, 2020

Item No. 05

Requester: Development Services Director Joe Hilbourn

Agenda Item Request

Consider adopting Ordinance 2020-03-00906 for a voluntary annexation request by Preston Walhood on behalf of McCreary Donihoo Partners LTD for the Estates of Stinson Highlands currently in the City's extraterritorial jurisdiction consisting of approximately 30.6018 acres of land more or less located in the John Gray Survey, Abstract 349, otherwise located at the southwest corner of Stinson Road and Highland Drive.

Background Information

This property has an approved development agreement that gives consideration for annexation. The final plat was approved by the Planning and Zoning Commission on January 9, 2020. The annexation application was approved on March 5, 2020 by the City Council. The Estates of Stinson Highlands consists of 19 residential lots and two common area lots.

Attachments/Supporting Documentation

1. Voluntary annexation application
2. Ordinance 2020-03-00906

Budget/Financial Impact

NA

Recommendation

City Staff recommends approval of the voluntary annexation.

Motion

I make a motion to approve/deny adopting Ordinance 2020-03-00906 for a voluntary annexation for the Estates of Stinson Highlands currently in the City's extraterritorial jurisdiction consisting of approximately 30.6018 acres of land more or less located in the John Gray Survey, Abstract 349, otherwise located at the southwest corner of Stinson Road and Highland Drive.

McCreary Donihoo Partners, Ltd

January 17, 2020

Mr. Joe Hilbourn
City of Lucas
665 Country Club Road
Lucas, Texas 75002-7651

RE: Request for Annexation – The Estates at Stinson Highlands
Per the Development Agreement between McCreary Donihoo Partners, Ltd (“the Owner”) and
City of Lucas (“the City”) for approximately 30.690 Acres at the Southwest Corner of Stinson
Road and Highland Drive, Collin County, Texas

Mr. Hilbourn,

Owner formally requests the City initiate a consent annexation public hearing for the above referenced
property, more specifically defined on Exhibit A.

Please contact me with any questions.

Sincerely,
McCREARY DONIHOO PARTNERS, LTD.,
a Texas limited partnership

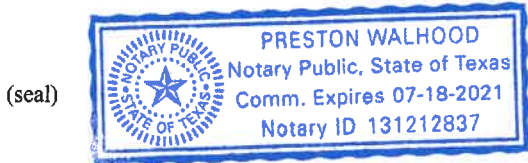
BY: Warner Land Advisors, L.P.,
a Texas limited partnership
Its: General Partner

BY: Warner Capital LLC
a Texas limited liability company
Its: General Partner

BY: Stephen L Sallman, Mgr.
Stephen L Sallman, Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on January 20, 2020, by Stephen L Sallman, Manager of Warner
Capital, LLC, a Texas limited liability company as general partner of Warner Land Advisors, LP., a Texas limited partnership as
the Manager of **McCreary Donihoo Partners, Ltd**, a Texas limited partnership on behalf of thereof and in the capacity herein
stated.



[Signature]
Notary Public, State of Texas



ORDINANCE 2020-03-00906
[ANNEXATION – ESTATES OF STINSON HIGHLANDS –
McCREARY DONIHOO PARTNERS LTD.]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS, ANNEXING THE HEREINAFTER DESCRIBED TERRITORY INTO THE CITY OF LUCAS, TEXAS, EXTENDING THE BOUNDARY LIMITS OF THE CITY SO AS TO INCLUDE A ±30.6018-ACRE TRACT OF LAND WITHIN THE CITY’S LIMITS, SAID HEREINAFTER DESCRIBED TERRITORY WITHIN THE CITY’S LIMITS, GRANTING TO ALL INHABITANTS AND OWNERS OF THE TERRITORY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS, AND BINDING THE INHABITANTS BY ALL THE ACTS, ORDINANCES AND REGULATIONS OF THE CITY; ADOPTING A SERVICE PLAN FOR THE DESCRIBED TERRITORY; PROVIDING A CONFLICTS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, this ordinance pertains to the hereinafter described territory consisting of a ±30.6018-acre tract of land situated in Collin County, Texas out of the John Gray Survey, Abstract No. 349 and being all of a 2-Acre Tract of Land and all of a 28-Acre Tract of Land conveyed to Leslie McCreary and Gladys McCreary according to the deed filed for record in Volume 595, Page 195, Deed Records, Collin County, Texas and Being all of Tract Two *and* Tract Three conveyed to McCreary Family Trust according to the *Deed* filed for record in Volume 4844, Page 2894, *Deed* Records, Collin County, Texas, and which is more particularly described and identified in Exhibit “A” and Exhibit “B”, attached hereto and made a part hereof for all purposes; and

WHEREAS, the City Council of the City of Lucas has been presented with a petition requesting annexation; and

WHEREAS, after the City Council of the City of Lucas provided the requisite notices in accordance with Chapter 43 of the Texas Local Government Code; and

WHEREAS, the City Council has adopted a service plan as required by Section 43.056 of the Texas Local Government Code for the territory, which is attached hereto as Exhibit “C”; and

WHEREAS, the territory to be annexed lies within the exclusive extra territorial jurisdiction of Lucas, Texas; and

WHEREAS, the requirements for annexation of this area are as stated in Chapter 43 of the Texas Local Government Code; and

WHEREAS, the City Council of the City of Lucas has concluded that said territory should be annexed to and made a part of the City of Lucas, Texas;

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

SECTION 1. That the territory consisting of a ±30.6018-acre tract of land, more or less, and more particularly described and identified in Exhibit “A” and Exhibit “B”, is situated within the exclusive extraterritorial jurisdiction of the City and adjacent and contiguous thereto, be and the same is hereby annexed to the City of Lucas, Texas.

SECTION 2. The boundary limits of the City of Lucas, Texas, shall be and are hereby extended to include said territory within the City limits and the territory described herein shall be and is hereby included within the territorial limits of the City, subject to all the acts, ordinances, resolutions and regulations of said City. The inhabitants of the property described herein and annexed hereby shall hereafter be entitled to all rights and privileges of other citizens of the City of Lucas, and shall be bound by the acts, ordinances, resolutions, and regulations of the City.

SECTION 3. That the service plan for the territory is approved by the City Council of the City of Lucas, which is attached hereto as Exhibit “C” and made a part hereof for all purposes, the same as if fully copied herein, be and the same is hereby adopted by the City of Lucas.

SECTION 4. That to the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City of Lucas governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 5. That all provisions of the ordinances of the City of Lucas, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 7. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

DULY PASSED AND APPROVED BY THE CITY COUNSEL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 19th DAY OF MARCH, 2020.

APPROVED:

Jim Olk, Mayor

APPROVED AS TO FORM:

ATTEST:

Joseph J. Gorfida, Jr., City Attorney
(03-11-2020:TM 114382)

Stacy Henderson, City Secretary

EXHIBIT "A"
Metes and Bounds
Estates of Stinson Highlands – McCreary Donihoo Partners, Ltd.

BENG A TRACT OF LAND SITUATED IN COLLIN COUNTY, TEXAS OUT OF THE JOHN GRAY SURVEY, ABSTRACT NO. 349 AND BEING ALL OF A 2 ACRE TRACT OF LAND AND ALL OF A 28 ACRE TRACT OF LAND CONVEYED TO LESLIE MCCREARY AND GLADYS MCCREARY ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 595, PAGE 197, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING ALL OF TRACT TWO AND TRACT THREE CONVEYED TO MCCREARY. FAMILY TRUST ACCORDING TO THE DEED FILED FOR RECORD IN VOLUME 4844, PAGE 2894, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

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First American Title Insurance Company
Texas Commitment T-7 (Rev. 6-27-02)



First American Title Insurance Company
Valid Only If Schedule A, 8, C, D and Cover are attached

EXHIBIT "B"

Depiction

Estates of Stinson Highlands – McCreary Donihoo Partners, Ltd.

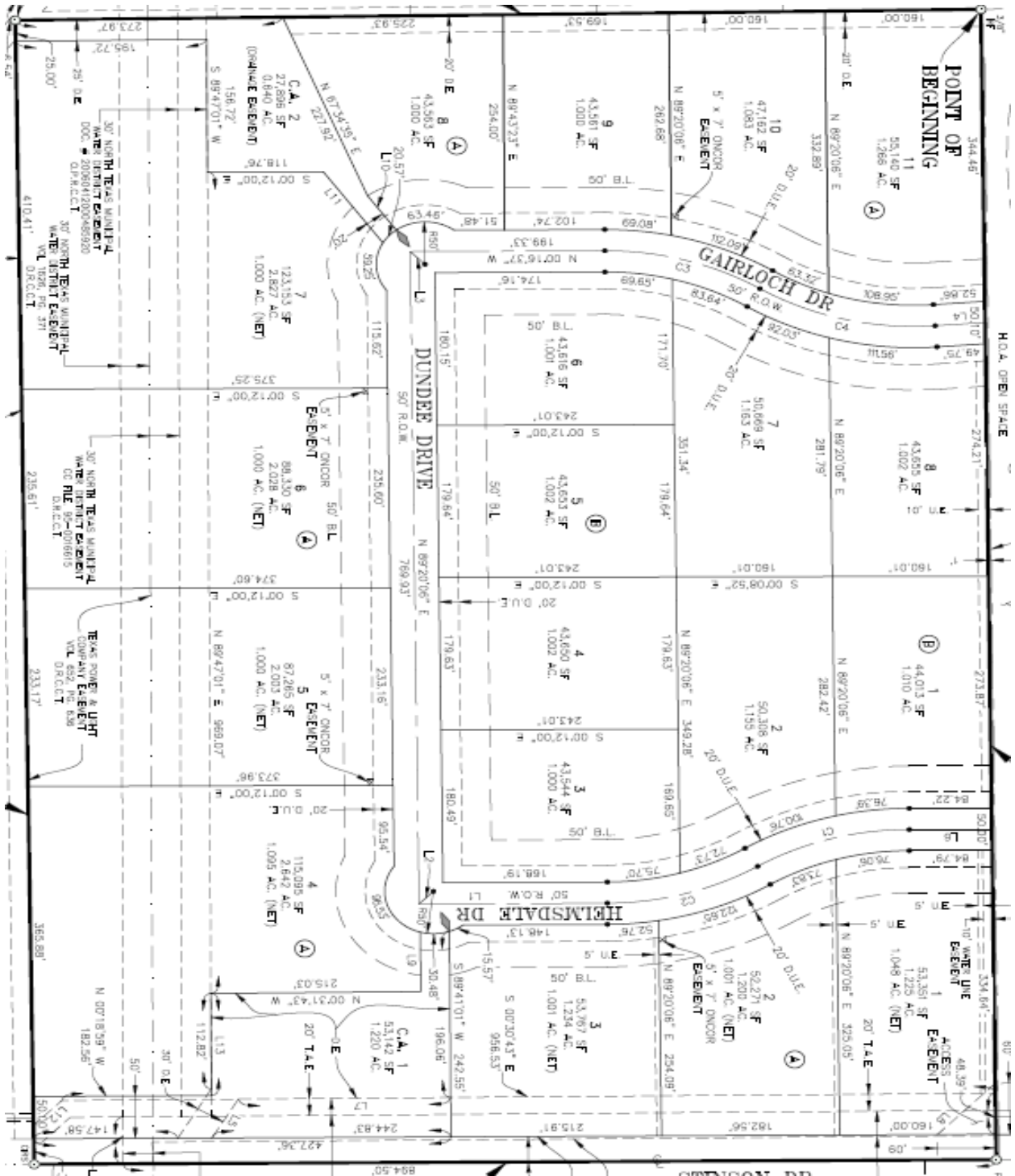


EXHIBIT “C”
Service Plan
±30.6018-Acre Annexed Tract (Cobb Property)

ANNEXATION SERVICE PLAN FOR THE CITY OF LUCAS, TEXAS

For the territory consisting of a ±30.6018-acre tract of land, more or less, and which is more particularly described and identified in Exhibit “A” and Exhibit “B” attached hereto.

FOR SERVICES EFFECTIVE IMMEDIATELY AFTER DATE OF ANNEXATION

1. POLICE PROTECTION

The City of Lucas, Texas will provide police protection to the newly annexed tract at the same or similar level now being provided to other areas of the City of Lucas, Texas with similar topography, land use and population within the newly annexed area.

2. FIRE PROTECTION AND AMBULANCE SERVICE

The City of Lucas, Texas will provide fire protection to the newly annexed tract at the same or similar level of service now being provided to other areas of the City of Lucas, Texas, with similar topography, land use and population with the City. Ambulance service will be provided to the newly annexed tract at the same or similar level of service now being provided to other areas of the City of Lucas, Texas, with similar topography, land use and population with the City.

3. SOLID WASTE COLLECTION

The City of Lucas, Texas will provide residential solid waste collection to the newly annexed tract at the same or similar level now being provided to other areas of the City of Lucas, Texas with similar topography, land use and population within the newly annexed area.

4. WATER FACILITIES

Maintenance of any public water facilities in the area to be annexed that are not in the service area of another water utility will begin upon the effective date of the annexation using existing personnel and equipment.

5. MAINTENANCE OF ROADS AND STREETS

Any and all roads, streets or alleyways which have been dedicated to the City of Lucas, Texas, shall be maintained to the same degree and extent that other roads, streets and alleyways are maintained in areas with similar topography, land use and population density.

EXHIBIT “C”
Service Plan
±30.6018-Acre Annexed Tract (Cobb Property)

6. MAINTENANCE OF PARKS, PLAYGROUNDS AND SWIMMING POOLS

The City Council of the City of Lucas, Texas, is not aware of the existence of any parks, playgrounds or swimming pools now located in the area proposed for annexation. Any existing private parks, playgrounds, swimming pools and other recreational and community facilities within the annexation area will be unaffected by the annexation.

7. MAINTENANCE OF PUBLICLY OWNED FACILITY, BUILDING OR MUNICIPAL SERVICE

The City Council of the City of Lucas, Texas, is not aware of the existence of any publicly owned facility, building or other municipal service now located in the area proposed for annexation. In the event any such publicly owned facility, building or municipal service does exist and are public facilities, the City of Lucas, Texas, will maintain such areas to the same extent and degree that it maintains publicly owned facilities, buildings or municipal services of the City now incorporated in the City of Lucas, Texas.

CONSTRUCTION OF ANY CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND SOLID WASTE COLLECTION

The Council of the City of Lucas, Texas finds and determines it to be unnecessary to acquire or construct any capital improvement for the purposes of providing police protection, fire protection or solid waste collection. The City Council finds and determines that it has at the present time adequate facilities to provide the same type, kind and level of protection and service which is presently being administered to other areas already incorporated in the City of Lucas, Texas, with the same or similar topography, land use and population density.

2. WATER AND WASTE WATER FACILITIES

The City Council of the City of Lucas, Texas, finds and determines it to be unnecessary to construct any additional capital improvements for the purpose of providing water and waste water services. The City Council finds and determines that it has, at the present time, adequate facilities to provide the same type, kind and level of service which is presently being administered to other parts of Lucas, Texas, with the same topography, land use and population density.

EXHIBIT “C”
Service Plan
±30.6018-Acre Annexed Tract (Cobb Property)

3. ROADS AND STREETS

Maintenance of properly dedicated roads and streets will be consistent with the maintenance provided by the City to other roads and streets will be consistent with the maintenance provided by the City to other roads and streets in areas of similar topography, land use and sub-development of the annexed property, the developers will be required pursuant to the ordinances of the City of Lucas, Texas, to provide internal and peripheral streets and to construct those streets in accordance with the specifications required by the City of Lucas, Texas, for the properly dedicated street.

4. CAPITAL IMPROVEMENTS

Notwithstanding any other provision of this service plan, a landowner within the newly annexed area will not be required to fund capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 of the Local Government Code, unless otherwise agreed to by the landowner.

SPECIFIC FINDINGS

The City Council of the City of Lucas, Texas finds and determines that this proposed Service Plan will not provide any fewer services, and it will not provide a lower level of service in the area proposed to be annexed than were in existence in the proposed area at the time immediately preceding the annexation process.

Because of the differing characteristics of topography, land utilization and population density, the service levels which may ultimately be provided in the newly annexed area may differ somewhat from services provided in other areas of the City of Lucas, Texas. These differences are specifically dictated because of differing characteristics of the property and the City of Lucas, Texas will undertake to perform consistent with this contract so as to provide the newly annexed area with the same type, kind and quality of service presently enjoyed by the citizens of the City of Lucas, Texas who reside in areas of similar topography, land utilization and population.



City of Lucas Council Agenda Request March 19, 2020

Item No. 06

Requester: Mayor Pro Tem Kathleen Peele

Agenda Item Request

Discuss and provide direction to staff regarding an update to the City's Code of Ordinances removing regulations for permitting chain link fences.

Background Information

During a Board of Adjustments meeting on March 9, 2020 an applicant was requesting to use a no climb horse fence as a pool barrier. The applicant brought in examples of the product she was proposing, a no climb horse fence, and chain link fencing. The applicant felt they were very similar products and that a no climb fence was an adequate substitute to the chain link fence. During the discussion, Mayor Pro Tem Peele requested staff bring an item forward prohibiting chain link fencing in the City.

The last time the City reviewed fencing regulations was January 2015. At that time, the Planning and Zoning Commission had recommended not permitting chain link fencing, except for use as dog runs and similar uses. The City Council was not in favor of eliminating chain link fencing at that time.

Attachments/Supporting Documentation

1. Fence regulations

Budget/Financial Impact

NA

Recommendation

NA

Motion

This item is for discussion purposes only, no vote is required.

ARTICLE 3.19 FENCING REQUIREMENTS

Sec. 3.19.001 Applicability

This article shall apply to all fences that are erected in the city for the purpose of creating a barrier and used to prevent entry and/or to confine or to mark a boundary provided such fence is greater than sixty (60) feet in length and greater than thirty-six (36) inches in height.

Sec. 3.19.002 Residential, agricultural and estate districts

- (a) Height.
 - (1) Maximum height of 6 feet (6') for front yards.
 - (2) Maximum height of 8 feet (8') for side and rear yards.
- (b) Fencing located within the required front, side and rear yard setbacks shall be a minimum of 50% see through.
- (c) If property is used to pasture or control livestock, for farming or other similar agricultural uses, and such uses are permitted, the fencing requirements in section 3.19.003(b) are permitted.
- (d) Fencing located outside of the required, rear and side yard setbacks may be privacy-style.

Sec. 3.19.003 Prohibited fencing materials for agricultural; residential; and estate districts

- (a) Razor ribbon, plywood or other materials that are not normally used for fencing are prohibited.
- (b) Electrically charged fences are permitted but cannot be charged in such a manner as to be dangerous to humans.

Sec. 3.19.004 General fencing requirements

- (a) No fences are permitted to be constructed upon or caused to protrude over any city property, including easements, except by written approval of the city engineer, or right-of-way without prior written permission from the city council.
- (b) All fences must be maintained in good repair and appearance so as not to become a nuisance or hazard and shall not be out of vertical alignment greater than 20% measured from the top of the fence.
- (c) Any and all broken, loose, damaged, removed or missing portions of fencing must be replaced or repaired with comparable materials of a comparable color to the remaining portions of the fence.
- (d) Fences shall not obstruct proper visual clearance for vehicular traffic.

(e) Each fence must contain at least one gate not less than three feet (3') wide along the common path of travel for emergency ingress and egress.

(f) Any request for the construction of fence over eight feet (8') in height shall be considered for approved [approval] by the board of adjustments. The board of adjustment's decision shall not require a finding of a hardship and there shall be no application fee.

Sec. 3.19.005 Permit required

(a) A permit shall be required prior to the construction for all new fencing. A permit fee shall be set by ordinance and is contained in the master fee schedule.

(b) A permit shall not be required for fence repair.

(c) Any permit issued by the city does not allow for any construction of fencing in violation of any deed restrictions for the property.

Sec. 3.19.006 Commercial business district

All proposed fencing within the commercial business district shall be required to be approved as part of the landscape plan approval process.

Sec. 3.19.007 Light industrial district

All proposed fencing within the light industrial district shall be required to be approved as part of the landscape plan approval process.

Sec. 3.19.008 Self and mini-storage units

Fencing for self and mini-storage unit facilities shall require a minimum eight-foot (8') masonry screen wall on all sides with wrought iron gate(s) for ingress, egress and pedestrian gates.

Sec. 3.19.009 Penalty

Any person, firm or corporation violating any provision of this article shall be punishable by a fine in accordance with section 1.01.009 of this code.

(Ordinance 2015-01-00808 adopted 4/2/15)



City of Lucas

City Council Agenda Request

March 19, 2020

Requester: Larry Bowman, Lucas Volunteer Firefighter Pension Board Chairman
Councilmember Wayne Millsap

Agenda Item Request

Discuss the recent Texas Emergency Services Retirement System (TESRS) Board meeting and proposed rule changes that would allow the City of Lucas to exit the TESRS pension plan.

Background Information

1977: TESRS was created in 1977 by the state of Texas to provide a pension system for volunteer firefighters.

2001: The City of Lucas began participating in TESRS program.

2014/2015: The Lucas Pension Board determines the TESRS plan is not a viable recruiting tool to attract and retain qualified volunteers and will benefit few of the volunteers due to the vesting schedule. As the direction of the Board, City Staff searches for alternative retirement plans.

City Staff and the Board review a 457€ Length of Service Award Program (LOSAP) and determine it will provide a higher level of benefits at a comparable cost. The Pension Board meets with the Executive Director of TESRS to discuss terminating participation in the Plan and are told it could proceed.

April 2, 2015: The Lucas Pension Board proposes the LOSAP to the Lucas City Council. The Plan is approved and funded in the fiscal year 2015/2016 budget.

September 11, 2015: City and Pension Board notify TESRS the decision to terminate participation.

September 17, 2015: City is notified it cannot terminate participation in the TESRS plan.

May 23, 2018: The City/Pension Board submit a letter, in lieu of public testimony, to the TESRS Board of Trustees regarding the TESRS pension plan outlining issues with the Plan and providing recommendations.

June 26, 2018: TESRS Executive Director Kevin Deiters and members of the Board of Trustees meet to address the Lucas City Council and present a Pension System Strategic Planning program.

2019: During the 86th Legislature of the State of Texas, Representative Candy Noble introduces HB 2178 that includes language that would allow volunteer fire departments to opt out of TESRS. HB 2178 was not passed during the Legislative session.



City of Lucas

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HB 3247 is also introduced that provides changes to TESRS and includes language that would allow fire departments to opt out of TESRS. HB 3247 is passed by the 86th Legislature.

March 10, 2020: Larry Bowman, Chairman of the Lucas Volunteer Firefight Pension Board and Councilmember Wayne Millsap, Board member and Council Liaison, attend the TESRS Board meeting in Austin. The Board reviewed proposed changes to the Rules:

Chapter 302 - General Provisions Relating to the Texas Emergency Services Retirement System
Proposed Amendment of Rule §302.2 Benefit Distributions

Chapter 304 - Membership in the Texas Emergency Services Retirement System
Proposed New Rule §304.2 Revocation of Participation in the Pension System
Proposed New Rule §304.3 Determination of Accrued Benefit
Proposed New Rule §304.4 Employees of Participating Departments

Chapter 310 - Administration of the Texas Emergency Services Retirement System
Proposed Amendment of Rule §310.5 Local Board of Trustees
Proposed New Rule §310.13 Delegation of Local Board Duties to Executive Director
Proposed New Rule §310.14 Delegation of Duties Upon Discontinuance of Participation in the Pension System

The Board discussed and approved the publication of the Proposed Rules in the Texas Register for Public Comment for a minimum of 30 days.

Attachments/Supporting Documentation

1. Presentation by Jackson Walker – TESRS Review of Proposed Rules
2. Marked up version of Rules 302, 304 and 310 to include the proposed changes.
3. Rudd and Wisdom letter and example of calculation of revocation charge

Budget/Financial Impact

Estimate of \$50,000

Recommendation

NA

Motion

There is not motion for this item. It is for information and discussion purposes only.

Texas Emergency Services Retirement System

REVIEW OF PROPOSED RULES

Rule §304.2 – Departmental Revocation of Participation in the Pension System

- Statute was amended to allow a participating department to revoke its election to participate in the pension system.
- Revocation must be in a manner that maintains an actuarially sound pension system.

Rule §304.2 – Five Circumstances Trigger a Revocation of Participation

1. Department notifies the pension system of its intent to no longer participate
2. Department ceases to exist or perform emergency services
3. Department ceases to enroll eligible members or make required contributions
4. Department is no longer funded or maintained by political subdivision
5. All members of a department become ineligible to continue participating (i.e., all become paid employees of a non-governmental entity or covered by another pension system)

Rule §304.2 – Impact of revoking an election to participate in the pension system

- Notice Requirements
- Update membership roster and certify qualified service
- Full vesting of all affected members in their accrued benefit IRS Requirement
- Payment of outstanding contributions and the revocation charge

Rule §304.2 – Revocation Charge

- Equal to the department's allocated share of the TERS net pension liability
- Based on information reported in the 2 most recent audited reports of information required for disclosure by GASB No. 68
- Must be paid no later than 5 years from the date of revocation
- Interest will accrue at TERS' assumed rate of investment return after the 1st anniversary of the revocation

**See example from Rudd & Wisdom*

Rule §304.3 – Determination of Accrued Benefit

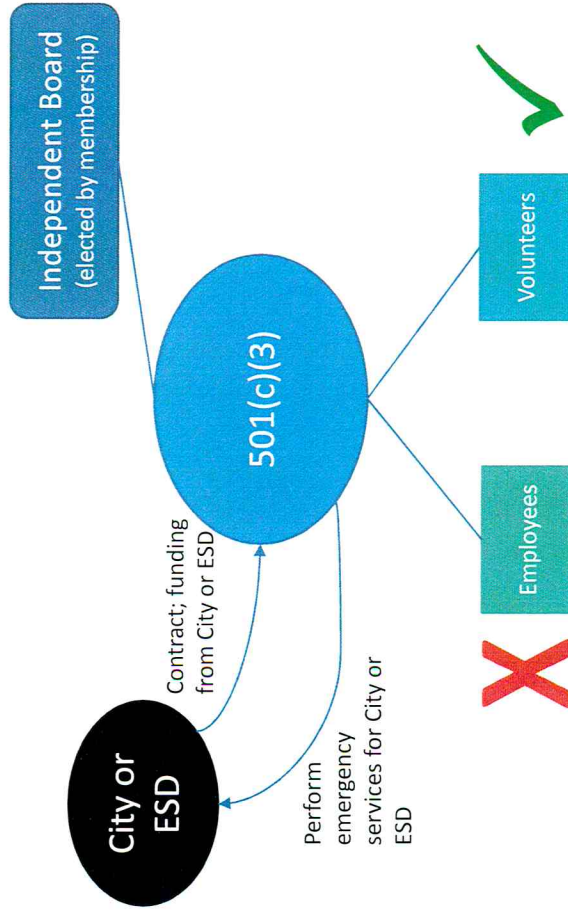
- Sets forth how to determine the accrued benefit to be vested upon revocation
- Based on years of service at the time of revocation and not increase to years required to vest
 - Examples:
 - 7 years of qualified service at revocation = 35% of full service retirement benefit
 - 12 years of qualified service at revocation = 70% of full service retirement benefit
 - Cost included in the “revocation charge”
- Fully vested members may retire when otherwise eligible (age 55)

Rule §304.4 – Employees of Participating Departments

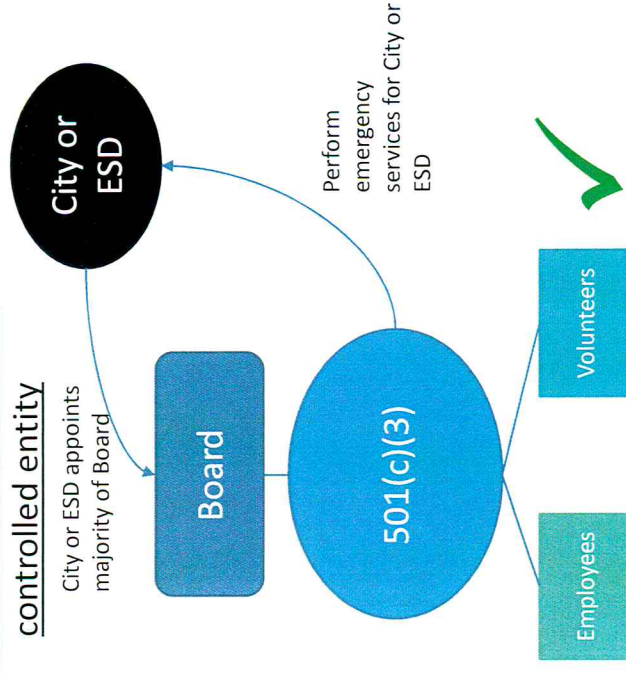
- Statute was amended to allow both volunteers and paid employees of a department to participate in TESRS.
- To ensure TESRS maintains its qualified status as a governmental pension plan, only employees of governmental or government-controlled entities may participate in TESRS.
- Departments in TESRS are structured in a variety of ways.

Rule §304.4 – Employees of Participating Departments

Example #1: Non-governmental or government-controlled entity

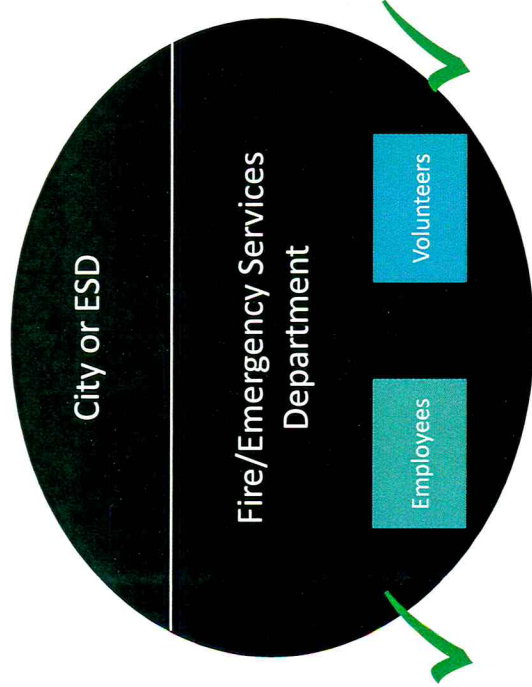


Example #2: Government-controlled entity

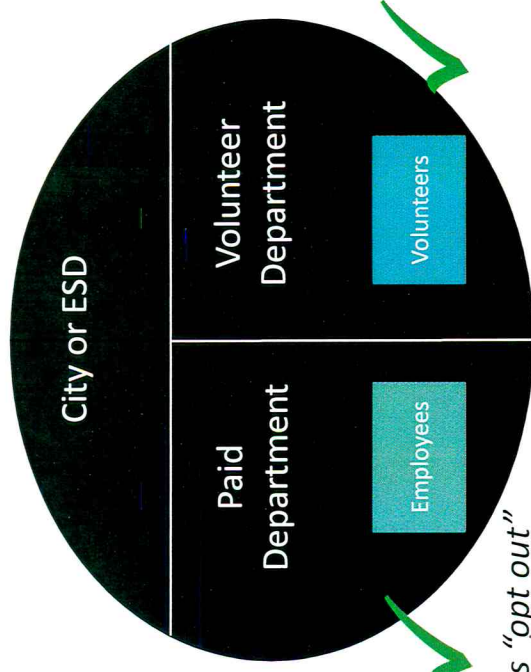


Rule §304.4 – Employees of Participating Departments

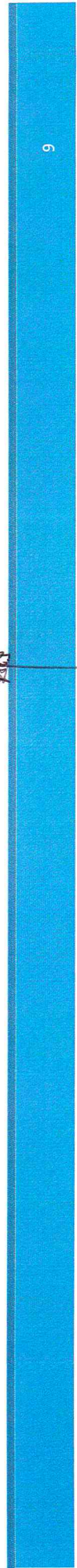
Example #3: Governmental Entity with Single Department



Example #4: Governmental Entity with Separate Paid/Volunteer Departments



*Unless "opt out"



Rule §304.4 – Employees of Participating Departments

Governmental entity or government-controlled entity may elect to treat its full-time paid employees as members of a separate department that “opts out” of TESRS (see *Example #4*)



- Must notify TESRS of the election to treat as separate departments
- Each department may make a separate election re: participation in TESRS
- One-time opportunity for existing departments to make this election
- Must maintain separate records for each department

Rule §304.4 – Employees of Participating Departments (cont'd)

A member cannot earn qualified service for service as an employee and volunteer for the same department unless each position has different roles and responsibilities that are clearly distinct from the roles and responsibilities of the other position.

Other Rule Changes

- Rule §302.2 – Benefit Distributions
 - Change made to comply with SECURE Act (federal legislation enacted in December 2019)
- Rule §310.5 – Local Board of Trustees
- Rule §310.13 – Delegation of Local Board Duties to Executive Director
 - §865.0121, Texas Government Code
- ⇒ Rule §310.14 – Delegation of Duties Upon Discontinuance of Participation in the Pension System
 - §864.010, Texas Government Code

TITLE 34 - PUBLIC FINANCE

PART 11 - TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

CHAPTER 302 - GENERAL PROVISIONS RELATING TO THE TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

RULE §302.2 Benefit Distributions

(a) In this section:

(1) "Code" means the Internal Revenue Code of 1986, as amended.

(2) "§401(a)(9) requirements" means the requirements under §401(a)(9) of the code and Treasury Regulations §1.401(a)(9)-1 through §1.401(a)(9)-9.

(b) The annual benefit based on the service of a member may not exceed the amount permitted by the code and related regulations for the appropriate year, including, without limitation, §415(b) of the code. If the aggregated benefit otherwise payable under the pension system and any other defined benefit plan maintained by a political subdivision that has contributed to the fund on behalf of the member would otherwise exceed the benefits allowable under federal law, the reduction in benefits must first be applied to the extent possible from the other plan, and only after those reductions, from the fund.

(c) A retirement annuity or benefits to a qualified beneficiary under the pension system may not begin after the deadlines provided under the code and related regulations, including, without limitation, the deadlines provided by subsection (d) of this section.

(d) All distributions under the fund must at all times comply with and conform to the §401(a)(9) requirements, and any distribution required under the incidental death benefits requirements of §401(a) of the code will be treated as a distribution under the §401(a)(9) requirements. This subsection overrides any distribution options inconsistent with the §401(a)(9) requirements. The pension system shall develop procedures to ensure that distributions comply with the §401(a)(9) requirements, including the requirement that a member's entire interest under the pension system will be distributed, or begin to be distributed, to the member no later than April 1 of the year after the later of the year in which the member ceases performing qualified service for a participating department or with respect to a member who attains age 70-1/2 on or before December 31, 2019, the year in which the member attains age 70-1/2, or with respect to a member who attains age 70-1/2 after December 31, 2019, the year in which the member attains age 72.

(e) If the annual compensation of a member is ever taken into account for any purpose of the fund, that annual compensation may not exceed the limit in effect under §401(a)(17) of the code, as periodically adjusted in accordance with guidelines provided by the United States Secretary of the Treasury.

*Federal
Requirement*

TITLE 34 - PUBLIC FINANCE

PART 11 - TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

CHAPTER 304 – MEMBERSHIP IN THE TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

RULE §304.2 Departmental Revocation of Participation in the Pension System

- (a) For purposes of this section and §304.3 of this title:
 - (1) “Effective date of revocation” means the later of the date upon which the requirements listed in subsection (c) of this section are satisfied or the date upon which the revocation occurs.
 - (2) “Revocation” means the occurrence of one of the events listed in subsection (b) of this section.
- (b) A participating department will revoke, or be deemed to have revoked, its election to participate in the pension system as provided under §862.001(b), Texas Government Code, upon the occurrence of one of the following events: (i) a department notifies the pension system of its intent to no longer participate in the pension system, (ii) a department ceases to exist or ceases to perform emergency services, (iii) a department ceases to enroll its eligible members in the pension system or to make contributions to the pension system for eligible members as required under Chapter 865, Texas Government Code, (iv) the political subdivision associated with the department establishes a paid department and no longer funds or otherwise maintains the department, or (v) all members of a department become ineligible to continue participating in the pension system as paid employees pursuant to §304.4(c) of this title or because they are covered by another public retirement system in the state.
- (c) In connection with a revocation:
 - (1) the governing body of the department must provide written notice of its intent to no longer participate in the pension system or the circumstances causing the revocation to occur to the executive director, the governing body of the political subdivision associated with the department, and all current members of the department at least 120 days prior to the date the revocation will occur or, if such prior notice is not possible, as soon as practicable, provided that the notice period may be shortened or waived by the executive director in his or her sole discretion;
 - (2) the local board of the department must certify (i) that all individuals who have performed emergency services or support services (if applicable) for the department and were eligible to participate in the pension system during the 2 years prior to the date the revocation occurs have been properly enrolled in the pension system and (ii) the accuracy of the department's membership roster and the total amount of qualified service earned by each current and former member as of the date the revocation occurs;
 - (3) all affected members of the department as defined in §304.3(a) of this title will become fully vested in such affected member's accrued benefit as determined under §304.3 of this title as of the date the revocation occurs, regardless of the years of

qualified service or age of such affected member as of such date, and the affected member's accrued benefit shall be nonforfeitable as of such date; and

- (4) no later than 60 days after receipt of the notice required under subsection (c)(1) of this section or notice from the executive director under subsection (d) of this section, the governing body of the political subdivision associated with the department must pay, or enter into an agreement to pay in accordance with subsection (j) of this section:
 - (i) all required contributions for each month of service performed by members prior to the date the revocation occurs that have not been paid, including, without limitation, contributions for any months of service which have not yet been invoiced by the pension system and for members of the department who were not enrolled in the pension system but should have been during the 2 years prior to the date the revocation occurs; and
 - (ii) the revocation charge as determined under subsection (h) of this section in order to maintain an actuarially sound pension system as required by §862.001(b), Texas Government Code.
- (d) If the executive director becomes aware that one of the events listed in subsection (a) of this section has occurred and the governing body of a participating department has not provided notice of such event to the pension system as required under subsection (c)(1) of this section, the executive director will send written notice to the governing body of the participating department and the governing body of the political subdivision associated with the department as soon as administratively possible to inform them that a revocation of the department's election to participate in the pension system has occurred and to notify each party of its responsibilities under this §304.2. If the parties notify the executive director within 30 days of the date of the notice provided under this subsection (d) that the revocation was unintentional and provide evidence satisfactory to the executive director that the circumstances that caused the revocation have been cured, the revocation will be deemed to have not occurred.
- (e) The executive director will notify the state board of the occurrence of any revocation under this §304.2 at the next meeting of the state board following the effective date of the revocation.
- (f) As of the effective date of the revocation, (i) the revoking department will no longer be considered a participating department in the pension system, (ii) no additional members of the department may be enrolled in the pension system, (iii) no member of the department may accrue additional qualified service or benefits in connection with the performance of emergency services or support services for the department, and (iv) the governing body of the department and the governing body of the political subdivision associated with the department will have no further financial obligations to the pension system, except as provided under an agreement entered into under subsection (c)(4) above.
- (g) Within 90 days after the effective date of revocation, the executive director will send written notice to each current member, vested terminated member, and retiree of the

department by first class mail to the person's most recent address of record on file with the pension system. Such notice will explain how the person's benefits provided under the pension system are affected by the department's revocation, including, without limitation, the immediate vesting of the member's accrued benefit as determined under §304.3 of this title (if applicable), the amount of such accrued benefit, and information related to when and how the member may commence such accrued benefit.

- (h) In order to maintain an actuarially sound pension system as required under §862.001(b), Texas Government Code, the governing body of the political subdivision associated with the department that revokes its participation in the pension system will be charged an additional amount as determined by the pension system's actuary in accordance with generally accepted actuarial standards. Such revocation charge shall be an amount equal to the department's allocated share of the pension system's net pension liability.
- (i) For purposes of this §304.2, the department's allocated share of the pension system's net pension liability shall be equal to the greater of (1) or (2) where (1) equals the average of the department's contribution allocation percentage in the 2 most recent audited reports of information required for disclosure by GASB Statement No. 68 (GASB 68) and (2) equals the average of the department's contribution allocation percentage in the 2 most recent audited reports of information required for disclosure by GASB 68 adjusted for decreases, if any, in the department's contribution rate per month and for decreases, if any, in the number of active members in the 5 most recent plan years. The pension system's net pension liability used to determine the revocation charge under this §304.2 is the net pension liability of the pension system as reported in the most recent audited financial report of the pension system as that term is defined by GASB Statement No. 67.
- (j) The governing body of the political subdivision associated with the department may enter into a written agreement with the pension system to pay any unpaid contributions, the revocation charge determined under subsection (h) of this section, or both over a period of time not to exceed 5 years. Interest on such amount due will accrue at the assumed rate of investment return of the pension system at the time the agreement is entered into, except that interest will be waived if full payment of the amount is completed no later than the first (1st) anniversary of the effective date of revocation.
- (k) Neither the pension system nor the state board, nor any employee of the pension system, including, without limitation, the executive director, shall be liable to any person for any claim or loss of benefits resulting from the revocation of a department's participation in the pension system.
- (l) Notwithstanding anything to the contrary above, the state board may temporarily suspend the ability of any department to voluntarily revoke its election to participate in the pension system as described in subsection (b)(i) of this section if continuing to allow such revocations would have a negative impact on the administration or actuarial soundness of the pension system.

TITLE 34 - PUBLIC FINANCE

PART 11 - TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

CHAPTER 304 – MEMBERSHIP IN THE TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

RULE §304.3 Determination of Accrued Benefit

- (a) For purposes of §304.2 of this title and this §304.3, an “affected member” means each current member of a participating department who is listed on the department’s certified membership roster as required under §304.2(c)(2) of this title and who has not commenced a retirement benefit prior to the date a revocation occurs as determined under §304.2 of this title.
- (b) Each affected member will be fully vested in the affected member's accrued benefit in the pension system as of the date the revocation occurs, regardless of the years of qualified service or age of such affected member as of such date, as determined under subsection (c), (d), or (e) of this section, as applicable.
- (c) If the affected member has less than 10 years of qualified service with the pension system as of the date the revocation occurs, his or her accrued benefit will be equal to the product of (1) and (2) where:
 - (1) equals the product of the actual number of years of qualified service the affected member has earned with the pension system, including any partial years, multiplied by five percent (5%), and
 - (2) equals the full service retirement annuity determined under §308.2(f) of this title based on the department's average monthly Part One contributions as of such date.
- (d) If the affected member has at least 10 years but less than 15 years of qualified service with the pension system as of the date the revocation occurs, his or her accrued benefit will be equal to the product of (1) and (2) where:
 - (1) equals the sum of fifty percent (50%) plus the product of the actual number of years of qualified service, including any partial years, in excess of 10 years that the affected member has earned with the pension system multiplied by ten percent (10%), and
 - (2) equals the full service retirement annuity determined under §308.2(f) of this title based on the department's average monthly Part One contributions as of such date.
- (e) If the affected member has 15 years of qualified service or more with the pension system as of the date the revocation occurs, his or her accrued benefit will be equal to the full service retirement benefit determined under §308.2(f) of this title plus any supplemental benefit determined under §308.2(g) of this title based on the department's average monthly Part One contributions and the affected member's actual years of qualified service as of such date.
- (f) An affected member who vests in his or her accrued benefit under this §304.3 may commence such accrued benefit upon attaining age 55 by applying for a retirement benefit in accordance with Chapter 864, Texas Government Code.

- (g) Accrued benefits of vested terminated members and retirees of a department will not be affected by a department's revocation of its participation in the pension system under §304.2 of this title. A vested terminated member of such department may commence his or her accrued benefit upon attaining age 55 by applying for a retirement benefit in accordance with Chapter 864, Texas Government Code, and a retiree of such department will continue to receive the retirement benefit he or she was receiving as of the date of such revocation.

TITLE 34 - PUBLIC FINANCE

PART 11 - TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

CHAPTER 304 – MEMBERSHIP IN THE TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

RULE §304.4 Employees of Participating Departments

- (a) In this section, "Code" means the Internal Revenue Code of 1986, as amended.
- (b) Effective September 1, 2019, the 86th Texas Legislature adopted H.B. 3247 which amended §862.002, Texas Government Code, to allow the employees of a participating department to participate in the pension system. Pursuant to the authority granted to the state board under §861.006(a), Texas Government Code, and as contemplated by §302.7 of this title, the state board adopts this rule to ensure the participation of employees of participating departments, whether full-time or part-time, satisfies the plan qualification requirements under §401(a) of the Code and to maintain the status of the pension system as a governmental plan under §414(d) of the Code.
- (c) Notwithstanding §862.002, Texas Government Code, the employees of any department that does not constitute or is not part of a governmental entity or a government-controlled entity are not eligible to participate in the pension system, including, without limitation, a §501(c)(3) or other nonprofit corporation incorporated under state law that contracts with a governmental entity to provide fire protection and emergency response services for the general public or receives public funding for the performance of such services.
- (d) For purposes of this section, a participating department will constitute or will be considered to be a part of a governmental entity if the participating department is a department of a municipality, county, special-purpose district or authority or any other political subdivision of the state of Texas whose employees are considered employees of a governmental entity.
- (e) For purposes of this section, a participating department will constitute or will be considered to be a part of a government-controlled entity if a majority of the governing body of the department is composed of publicly elected or appointed officials of the state of Texas or individuals appointed by such elected or appointed officials, regardless of whether or not the department itself is a governmental entity.
- (f) Solely for purposes of participation in the pension system and, except as otherwise provided below, prior to the first date of participation in the pension system, if a governmental entity or government-controlled entity has both employees and volunteers who are performing emergency services or support services, the governing body of such entity may elect to treat its paid employees as members of a paid department that is separate from its volunteer department, and such paid department may make a separate election as to whether or not to participate in the pension system under §862.001(a-1), Texas Government Code. The governing body of such governmental entity or government-controlled entity must notify the executive director in writing of its election to treat its paid employees as members of a separate department prior to any election to participate in the pension system.

- (g) Notwithstanding subsection (f) of this section above, the governing body of a participating department that constitutes or is part of a governmental entity or a government-controlled entity that has made an election to participate in the pension system under §862.001(a-1), Texas Government Code, before September 1, 2020 may elect to treat its paid employees as members of a separate paid department that will not participate in the pension system by notifying the executive director in writing of its election no later than December 31, 2020. Such paid department will not be considered to have elected to participate in the pension system and its paid employees will not be enrolled as members of the pension system unless a separate election is made by the governing body of the department on behalf of such paid department to participate in the pension system.
- (h) Any governmental entity or government-controlled entity that elects to separate its paid employees and volunteers into different departments for purposes of participation in the pension system under this §304.4 must maintain separate records for each department, including, without limitation, records related to the enrollment of its members and qualified service earned by each member in such department.
- (i) For purposes of determining a member’s eligibility to participate in the pension system, if a member performs emergency services or support services as both an employee and a volunteer for the same participating department, such member will not be eligible to earn qualified service for his or her service in both positions unless each position has different roles and responsibilities that are clearly distinct from the roles and responsibilities of the other position.

TITLE 34 PUBLIC FINANCE

PART 11 TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

CHAPTER 310 ADMINISTRATION OF THE TEXAS EMERGENCY SERVICES
RETIREMENT SYSTEM

RULE §310.5 Local Board of Trustees

- (a) A local board annually shall elect a chair, vice chair and secretary [~~for a given calendar year~~] no later than the last day of February of each[sueh] calendar year. The participating department head may not be elected to serve as the chair of the local board.
- (b) A meeting of a local board is subject to the Texas Open Meetings law (Chapter 551, Government Code).
- (c) Trustees of a local board serve staggered two-year terms that begin March 1st and end the last day of February of the second year. A vacancy on a local board is filled for the remainder of the unexpired term by the procedure by which the position was originally filled.

(1) Trustee Selected by Governing Body of Political Subdivision. The trustee selected by the governing body of the political subdivision serves on the local board to ensure the responsibilities of the local board and governing body are fulfilled, including but not limited to the submission of the local contributions to the pension system for each member performing emergency services or support services for the participating department for each month of service beginning on the date that the member enters the pension system.

- ~~X~~ i. In a municipality, the trustee selected may be the chief financial officer of the municipality or, if there is no officer denominated as chief financial officer, the person who performs the duties of chief financial officer or a person designated by the chief financial officer or by the person performing the duties of chief financial officer.
- ii. In an emergency services district, the trustee selected may be a member of the board of emergency services commissioners or the person who performs the duties of chief financial officer or a person designated by the chief financial officer or by the person performing the duties of chief financial officer.
- iii. In any other political subdivision, the trustee selected may be the chief financial officer or the person who performs the duties of chief financial officer or a person designated by the chief financial officer or by the person performing the duties of chief financial officer.



- (2) Trustees Representing a Participating Department. Three trustees who are active members of a participating department, who are members of the pension system, and who were each elect by a majority vote of the members of the participating department who are members of the pension system serve on the local board to ensure the responsibilities of the local board and participating department are fulfilled, including but not limited to the enrollment of eligible members in the pension system by the participating department head.

- (3) Trustees Representing a Political Subdivision or Unit of Government. Two trustees who reside within the political subdivision of which the participating department is a part are each chosen by a majority vote of the other four members of the local board to ensure the responsibilities of the local board are fulfilled.

TITLE 34 - PUBLIC FINANCE

PART 11 - TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

CHAPTER 310 – ADMINISTRATION OF THE TEXAS EMERGENCY SERVICES
RETIREMENT SYSTEM

RULE §310.13 Delegation of Local Board Duties to Executive Director

- (a) In the event the local board cannot be constituted under §865.012, Texas Government Code, for any reason, the participating department head of such participating department, with the written consent of the governing body of the political subdivision associated with the department, shall notify the executive director in writing no later than the last business day in February of the failure to constitute the local board and authorize the delegation of the local board's duties to the executive director under this §310.13.
- (b) In the event a local board fails to perform any of the duties required by the local board under state law for a period of 12 months or more, including, without limitation, the failure to hold at least 2 meetings during the prior calendar year, the failure to convene within a reasonable time to determine a member's right to a disability benefit, or the failure to verify the accuracy of the membership roster under §310.8 of this title, the executive director will send written notice to the local board chair, the participating department head, and the governing body of the political subdivision associated with such department of the local board's failure to perform its duties as soon as administratively practicable following such failure and will request that the local board take action to resolve such failure within a specified timeframe that is at least 90 days. If the local board fails to perform its duties within such specified timeframe, the local board will be deemed to have designated its duties to the executive director, and the executive director is authorized by the state board to perform the duties of the local board and to make any determinations required of the local board on and after such date.
- (c) An annual administrative penalty will be imposed on the governing body of the political subdivision associated with the department for each calendar year, or portion thereof, during which the executive director performs the duties of the local board as provided under this §310.13. The amount of such administrative penalty will be \$2,500 for the first calendar year and will increase by 5% for each subsequent calendar year.
- (d) The participating department head shall provide the executive director with any information that is requested by the executive director in order to carry out the duties delegated to the executive director under this §310.13, including, without limitation, any service records of members and retirees or any injury reports that may be related to a disability claim.
- (e) Once the duties of a local board have been delegated to the executive director under this §310.13, the executive director shall continue to act on behalf of the local board until such time as the participating department head or the governing body of the political subdivision associated with the department notifies the executive director in writing that a local board has been constituted and will perform the duties required of it under state law.
- (f) The executive director may waive an administrative penalty under this §310.13 if the executive director determines, after a written request for a waiver from a local board,

participating department head or governing body of the political subdivision, that the failure was beyond the control of the parties responsible for convening the local board and was not the result of neglect, indifference, or lack of diligence.

TITLE 34 - PUBLIC FINANCE

PART 11 - TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

CHAPTER 310 – ADMINISTRATION OF THE TEXAS EMERGENCY SERVICES
RETIREMENT SYSTEM

RULE §310.14 Delegation of Duties Upon Discontinuance of Participation in the Pension System

- (a) The governing body of a political subdivision associated with a former participating department may delegate the duties required by such governing body under §864.010, Texas Government Code, to the executive director by providing a written request to delegate such duties to the executive director.
- (b) In the event the governing body of the political subdivision associated with a participating department that discontinues its participation in the pension system or ceases to exist fails to perform the duties required by such governing body under §864.010, Texas Government Code, for a period of 12 months or more and does not otherwise elect to delegate its duties to the executive director pursuant to subsection (a) of this section, the governing body of the political subdivision will be deemed to have designated its duties to the executive director, and the executive director is authorized by the state board to perform the duties of such governing body.
- (c) A one-time administrative penalty of \$2,500 is imposed on the governing body of the political subdivision associated with the department that delegates its duties, or whose duties are delegated, in accordance with this §310.14.
- (d) The participating department head, if any, or the governing body of the political subdivision shall provide the executive director with any information that is requested by the executive director in order to carry out the duties delegated to the executive director under this §310.14, including, without limitation, copies of all membership records for members and retirees and the minutes of all local board meetings.

Rudd and Wisdom, Inc.

CONSULTING ACTUARIES

Mitchell L. Bilbe, F.S.A.
Evan L. Dial, F.S.A.
Philip S. Dial, F.S.A.
Charles V. Faerber, F.S.A., A.C.A.S.
Mark R. Fenlaw, F.S.A.
Brandon L. Fuller, F.S.A.
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Raymond W. Tilotta
Ronald W. Tobleman, F.S.A.
David G. Wilkes, F.S.A.

March 6, 2020

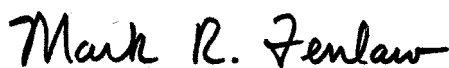
Via E-Mail: Kevin.Deiters@tesrs.texas.gov

Mr. Kevin Deiters, Executive Director
Texas Emergency Services Retirement System
Post Office Box 12577
Austin, Texas 78711-2577

Dear Mr. Deiters:

At your request, I have prepared the attached numerical example of how a proposed board rule for the Texas Emergency Services Retirement System (the System) would be applied. Please let me know if you have any questions. I am planning to be available at the March 10 board meeting to present the attached example.

Sincerely,



Mark R. Fenlaw, F.S.A.

MRF:nlg

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**Example of Board Rule on
Revocation Charge**

- A. The revocation charge for a department to revoke its election to participate in the System in order to leave the System actuarially sound is equal to (1) the department's share of the System's net pension liability as determined by the System's actuary plus (2) contributions that should have been made for anyone who was not enrolled in the System but should have been for the last two years as determined by the Executive Director.
- B. The department's share of the System's net pension liability in A(1) is the greater of (1) and (2) where (1) is the average of the department's contribution allocation percentage in the two most recent audited reports of information required for disclosure by GASB Statement No. 68 (GASB 68) and (2) is the average of the department's contribution allocation percentage in the two most recent audited reports of information required for disclosure by GASB 68 adjusted for decreases, if any, in the department's contribution rate per month and for decreases, if any, in the number of active members in the five most recent plan years.
- C. The System's net pension liability used to determine the revocation charge is the net pension liability in the most recent audited financial report of the System as that term is defined by GASB 67.
- D. Sample calculation for the Pasadena Fire Department

Plan Year Ending	Department Contributions	Contribution Allocation Percentage
8/31/2019	\$202,902	4.528%
8/31/2018	211,926	4.425
8/31/2017	199,188	4.118
8/31/2016	184,932	4.037

If the Pasadena Fire Department complied with the rules adopted by the board in 2020, then the revocation charge would be a percentage of the System's net pension liability as of August 31, 2019, \$28,345,563.

If there had been no decreases in the department's contribution rate and no decreases in the department's number of active members in the five most recent plan years, then the revocation charge would equal

$$[(4.528\% + 4.425\%)/2] \times \$28,345,563 = \$1,268,889$$



City of Lucas

City Council Agenda Request

March 19, 2020

Requester: Mayor Jim Olk

Agenda Item Request

Executive Session:

The City Council will convene into Executive Session pursuant to Texas Government Code: Section 551.071(2) to consult with legal counsel on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Government Code; wholesale water rates imposed by North Texas Municipal Water District paid by Lucas as a customer city.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas

City Council Agenda Request

March 19, 2020

Requester: Mayor Jim Olk

Agenda Item Request

Reconvene from Executive Session and take any action necessary as a result of the Executive Session.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA