



**NOTICE OF WORKSHOP
OF THE
GOVERNING BODY OF
COPPERAS COVE, TEXAS**

*An agenda information packet is available for
public inspection in the Copperas Cove Public Library, City Hall and on the
City's Web Page www.ci.copperas-cove.tx.us*

Notice is hereby given that a **Workshop** of the City of Copperas Cove, Texas will be held on the **2nd day of February 2010**, at **6:00 p.m.**, in the City Hall Council Chambers at 507 South Main Street, Copperas Cove, Texas 76522 at which time the following subjects will be discussed:

A. CALL TO ORDER

B. ROLL CALL

C. WORKSHOP ITEMS

1. Presentation and discussion on Chapter 16.5 of the Code of Ordinances (Sign Ordinance). **Mike Baker, Fire Chief**
2. Provide direction to the City Manager on item C-1 above. **Andrea M. Gardner, City Manager.**

D. ADJOURNMENT

City Hall is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the City Secretary at (254) 547-4221, (254) 547-6063 TTY, or FAX (254) 547-5116 for information or assistance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Governing Body of the City of Copperas Cove was posted at _____, **January 29, 2010** on the glass front door of City Hall, a place convenient and readily accessible to the general public at all times.

Jane Lees, TRMC, CMC, City Secretary



**NOTICE OF MEETING
OF THE
GOVERNING BODY OF
COPPERAS COVE, TEXAS**

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on the City's Web Page, www.ci.copperas-cove.tx.us*

Notice is hereby given that a **Regular Council Meeting** of the City of Copperas Cove, Texas, will be held on the **2nd day of February 2010** at **7:00 p.m.** in the City Hall Council Chambers at 507 South Main Street, Copperas Cove, Texas 76522, at which time the following subjects will be discussed:

A. CALL TO ORDER

B. INVOCATION AND PLEDGE OF ALLEGIANCE

C. ROLL CALL

D. ANNOUNCEMENTS

E. PUBLIC RECOGNITION

1. Employee Service Awards. **Andrea M. Gardner, City Manager**

- Linda Acevedo, Accounting Technician – 5 years
- Daniel Joost, Distribution Pump Maintenance Supervisor – 15 years
- Jon Pilgrim, Fleet Maintenance Supervisor – 20 years

F. CITIZENS FORUM – At this time, citizens will be allowed to speak for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

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

1. Consideration and action on approving the minutes from the regular council meeting on January 19, 2010. **Stefanie Brown, Deputy City Secretary**
2. Consideration and action on authorizing the City Manager to enter into an agreement with T.F. Harper and Associates for the renovation of existing

pool at South Park Pool Facility. **Ken Wilson, Director of Community Services**

3. Consideration and action on authorizing the Mayor to execute a letter of support for the Copperas Cove Brookview Village Apartments, L.P., an affiliate of the MacDonald Companies, regarding an application submission to the Texas Department of Housing and Community Affairs (TDHCA) for Housing Tax Credits. **Andrea M. Gardner, City Manager**
4. Consideration and action on accepting a grant and authorizing the Mayor and City Manager to execute the grant amendment from the Central Texas Council of Governments, Homeland Security Grant Program. **Mike Baker, Fire Chief**
5. Consideration and action on an ordinance amending the City of Copperas Cove's Code of Ordinances, Chapter 2, Article V, Section 2-124(a) of the City of Copperas Cove. **Wanda Bunting, Director of Financial Services**

H. PUBLIC HEARINGS/ACTION

1. Public Hearing and action on the proposed amendments to the City's Home Rule Charter presented by the Charter Review Committee. **Charles E. Zech, City Attorney**

I. ACTION ITEMS

1. Discussion and possible action on approval of a resolution supporting the redesignation of U.S. 190 to Business 190 by the Texas Department of Transportation. **Andrea M. Gardner, City Manager**
2. Consideration and action on an ordinance amending the City's Flood Damage Prevention Ordinance. **Wesley Wright, P.E., City Engineer**
3. Consideration and action on adopting an ordinance granting to Atmos Energy Corporation, its successors and assigns, a franchise to construct, maintain and operate pipelines and equipment in the City of Copperas Cove, Coryell County, Texas. **Andrea M. Gardner, City Manager**
4. Consideration and action on a resolution calling and establishing procedures for a General Election on May 8, 2010 in Copperas Cove, Texas. **Jane Lees, TRMC, CMC, City Secretary**
5. Consideration and action on amending the Copperas Cove Economic Development Corporation Bylaws. **Charlie Youngs, City Council Place 2**

J. REPORTS FROM OUTSIDE ENTITIES, ADVISORY COMMITTEES AND BOARDS – None.

K. ITEMS FOR FUTURE AGENDAS

L. EXECUTIVE SESSION

M. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION

N. ADJOURNMENT

The City Council reserves the right to adjourn into Executive Session at any time regarding any issue on this agenda for which it is legally permissible.

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Jane Lees, TRMC, CMC, City Secretary



**The City of Copperas
Cove Presents the
Employee Service
Award Recipients for
February 2010**

Linda Acevedo-Finance Dept. Accounting Technician



5 Years of Service
DOH 2/14/2005

Linda Acevedo-Finance Dept. Accounting Technician



5 Years of Service
DOH 2/14/2005

Daniel Joost-Water Dept. Water Pump Maint. Supervisor



15 Years of Service
DOH 2/14/95

Daniel Joost-Water Dept. Water Pump Maint. Supervisor



15 Years of Service
DOH 2/14/95

Jon Pilgrim-Fleet Maintenance Dept. Fleet Maintenance Supervisor



20 Years of Service
DOH 2/19/90

Jon Pilgrim-Fleet Maintenance Dept. Fleet Maintenance Supervisor



20 Years of Service
DOH 2/19/90



**The City of Copperas Cove
Congratulates you all on
these celebratory milestones
and wishes you many more
years of career success.**

**CITY OF COPPERAS COVE
CITY COUNCIL REGULAR MEETING MINUTES
January 19, 2010 – 7:00 P.M.**

A. CALL TO ORDER

Mayor John Hull called the regular meeting of the City Council of the City of Copperas Cove Texas to order at 7:00 p.m.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

Rev. Richard Barrett, of Saint Martin's Episcopal Church, gave the Invocation and Mayor Hull led the Pledge of Allegiance.

C. ROLL CALL

John Hull
Cheryl L. Meredith
Charlie D. Youngs
Chuck Downard
Danny Palmer
Bill L. Stephens
Willie C. Goode
Frank Seffrood

ALSO PRESENT

Andrea M. Gardner, City Manager
Charles E. Zech, City Attorney
Stefanie Brown, Deputy City Secretary

D. ANNOUNCEMENTS

Council Member Seffrood asked citizens to remember the people suffering in Haiti in their thoughts and prayers. .

Council Member Stephens reminded citizens that February 1, 2010 is the deadline to register to vote in the 2010 Primary Election.

Council Member Downard said that the USO on Fort Hood can use some volunteer help to assist with the high volume of incoming and outgoing flights of soldiers. If a citizen would like to volunteer there is an orientation on Saturday, January 23, 2010. Call 768-2771 for more information.

City Manager Gardner announced that the Cen-Tex Sustainable Communities Partnership Conference will be held at the Killeen Civic Center and Conference Center starting January 27, 2010 from Noon to 4:00 p.m., along with a mixer from 4:00 to 6:00 p.m. The speaker will be Mayor Bob Dixon from Greensburg, Kansas.

Ms. Gardner also reminded the citizens that Kraft Bag Collection will be picked up twice a month starting February 1, 2010.

Mayor Hull reminded citizens that the football banquet is at the Civic Center tomorrow night at 6:00 p.m.

E. PUBLIC RECOGNITION

1. Welcome to Members of Boy Scout Troop 258. **John Hull, Mayor**

John Hull, Mayor, welcomed the Members of Boy Scout Troop 258. Boy Scout Troop 258 is working on their Citizenship in the Community Badge. Welcome bags from the City were presented to each Scout.

2. Proclamation: Crime Stoppers' Month – January 2010. **John Hull, Mayor**

Mayor Hull presented the proclamation to Lt. Danny Austin of the Police Department. Mr. Albert Castillo of the Crime Stoppers' organization introduced the board members and thanked Lt. Austin for their partnership.

F. CITIZENS' FORUM At this time, citizens will be allowed to speak for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

Ms. Tonya Anderson, a Copperas Cove High School teacher, introduced her student Shaquille Wolfe. Mr. Wolfe is a member of the Family, Community, and Career Leaders of America (FCCLA). Mr. Wolfe entered a competition scheduled for February 19-20, 2010 and is required to present his material in a public forum in preparation for the FCCLA Conference in Plano, Texas. Mr. Wolfe presented his speech on spreading knowledge and understanding of a cushion in life, specifically in financial matters, to the Council.

G. CONSENT ITEMS

1. Consideration and action on approving the minutes from the workshop council meeting on January 5, 2010. **Jane Lees, City Secretary**

2. Consideration and action on approving the minutes from the regular council meeting on January 5, 2010. **Jane Lees, City Secretary**

3. Consideration and action on a resolution accepting the quarterly investment report as presented for the quarter ending September 30, 2009 per the Investment Policy. **Wanda Bunting, Director of Financial Services**

The resolution caption is as follows:

RESOLUTION NO. 2010-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS APPROVING THE INVESTMENT REPORT FOR QUARTER ENDED SEPTEMBER 30, 2009.

4. Consideration and action to approve the CCEDC invoice from Great American Insurance Companies for an insurance policy for the digital sign. **Dan Yancey, Chair, CCEDC Board of Directors**

Council Member Downard made a motion to approve items G-1, G-2, G-3, and G-4 as presented. Council Member Palmer seconded the motion, and with a unanimous vote, motion carried.

H. PUBLIC HEARINGS/ACTION – None.

I. ACTION ITEMS

1. Consideration and action on authorizing the City Manager to execute an agreement with Coryell County for Fire Protection Services for a designated unincorporated area in southern Coryell County. **Mike Baker, Fire Chief**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-1.

Council Member Stephens made a motion to authorize the City Manager to execute an agreement with Coryell County for Fire Protection Services. Council Member Goode seconded the motion, and with a unanimous vote, motion carried.

2. Consideration and action on a resolution authorizing the City Manager to execute an Advance Funding Agreement with TxDOT for voluntary utility relocation for the Southeast Bypass (Reliever Route) project and release funds to TxDOT no earlier than forty five (45) days prior to the date set for receipt of the construction bids. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-2.

Council Member Meredith made a motion to approve Resolution No. 2010-06, authorizing the City Manager to execute the agreement. Council Member Palmer seconded the motion, and with a unanimous vote, motion carried.

The resolution caption is as follows:

RESOLUTION NO. 2010-06

A RESOLUTION TO AUTHORIZE THE CITY MANAGER OF THE CITY OF COPPERAS COVE TO EXECUTE AN AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION TO CONTRIBUTE FUNDS FOR THE VOLUNTARY UTILITY RELOCATION OF WATER AND WASTEWATER LINES AT US 190 FROM LAMPASAS COUNTY LINE TO EAST OF THE COPPERAS COVE CITY LIMITS FOR THE PROPOSED SOUTHEAST BYPASS PROJECT.

3. Consideration and action on re-appointment of members to the Keep Copperas Cove Beautiful Commission. **Silvia Rhoads, Executive Director, Keep Copperas Cove Beautiful**

Silvia Rhoads, Executive Director of Keep Copperas Cove Beautiful, gave an overview of agenda item I-3.

Council Member Meredith made a motion to re-appoint Annabelle Smith, Gary Lehmkuhler and Robert Schumacher to the Keep Copperas Cove Beautiful Commission for a two year term. Council Member Stephens seconded the motion, and with a unanimous vote, motion carried.

4. Discussion and possible action on the proposed amendments to the City's Home Rule Charter made by the Charter Review Committee. **Jack Widup, Chairman, Charter Review Committee/Charles E. Zech, City Attorney**

Jack Widup, Chairman of the Charter Review Committee and Charles E. Zech, City Attorney, gave an overview of agenda item I-4.

Council Member Stephens made a motion to postpone the item until February 2, 2010 and to have a January 26, 2010 public hearing. Council Member Goode seconded the motion.

After discussion, Council Member Stephens withdrew his main motion and made a motion to set a public hearing and action for the February 2, 2010 council meeting. Council Member Goode seconded the motion and with a unanimous vote, motion carried.

5. Consideration and action on an ordinance updating the City Code of Ordinances for school zones. **Wesley Wright, P.E., City Engineer**

Wesley Wright, City Engineer, gave an overview of agenda item I-5.

Council Member Downard made a motion to approve Ordinance No. 2010-04 as presented. Council Member Meredith seconded the motion, and with a unanimous vote, motion carried.

The ordinance caption is as follows:

ORDINANCE NO. 2010-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS MODIFYING SECTION 18-17 IN ITS ENTIRETY; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS AMENDMENT; PROVIDING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE.

6. Consideration and action on a resolution, accepting the Office of Rural Community Affairs 2010 TxCDP Grant No. 729171, awarded for the purpose of water system improvements. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-6.

Council Member Meredith made a motion to approve Resolution No. 2010-04 as presented. Council Member Palmer seconded the motion, and with a unanimous vote, motion carried.

The resolution caption is as follows:

RESOLUTION NO. 2010-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, ACCEPTING THE AWARD OF A GRANT IN THE AMOUNT OF \$250,000 FROM THE OFFICE OF RURAL COMMUNITY AFFAIRS FOR THE CITY'S WATER SYSTEM IMPROVEMENTS PROJECT.

7. Consideration and action on a resolution, authorizing signatories in connection with the Office of Rural Community Affairs TxCDBG Grant No. 729171, awarded for the purpose of water system improvements. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-7.

Council Member Downard made a motion to approve Resolution No. 2010-05 as presented. Council Member Goode seconded the motion, and with a unanimous vote, motion carried.

The resolution caption is as follows:

RESOLUTION NO. 2010-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, DESIGNATING REPRESENTATIVES TO EXECUTE VOUCHERS AND CERTAIN REQUESTS FOR ADVANCE OR REIMBURSEMENT AND CONTRACT AMENDMENTS OR BUDGET MODIFICATIONS DURING THE IMPLEMENTATION OF THE 2010 TEXAS COMMUNITY DEVELOPMENT PROGRAM FUNDED WATER LINE SYSTEM IMPROVEMENTS.

8. Discussion and possible action on removal of the Council Liaison to the Copperas Cove Economic Development Corporation (EDC). **Willie C. Goode, Council Member Place 6**

Willie C. Goode, Council Member Place 6, gave an overview of agenda item I-8.

Council Member Goode made a motion to remove Ray Don Clayton as the Council Liaison to the Copperas Cove Economic Development Corporation (EDC). Council Member Stephens seconded the motion, and with a unanimous vote, motion carried.

9. Consideration and action on appointment of a Council Member to the Liaison position with the Economic Development Corporation (EDC). **John Hull, Mayor**

John Hull, Mayor, gave an overview of agenda item I-9.

Council Member Downard made a motion to appoint Danny Palmer as the Council Liaison to the Copperas Cove Economic Development Corporation (EDC) and to leave the alternate position vacant. Council Member Stephens seconded the motion, and with a unanimous vote, motion carried.

10. Consideration and action on nominating an individual for the annual Golden Deeds award through the Exchange Club of Copperas Cove. **Danny Palmer, Council Member Place 4**

Danny Palmer, Council Member Place 4, gave an overview of agenda item I-10.

Council Member Palmer made a motion to nominate Judge Bill Price for the Golden Deeds award with the Exchange Club. Council Member Downard seconded the motion.

After discussion, Council Member Palmer withdrew his motion and Council Member Downard withdrew his second. No action was taken.

11. Consideration and action authorizing the City Manager to release payment to TxDOT for the acquisition of right-of-way and adjustment of utilities for the FM 2657 widening project. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-11.

Council Member Goode made a motion to authorize the City Manager to release payment to TxDOT for the acquisition of the right-of-way and adjustment of utilities for the FM 2657 widening project. Council Member Seffrood seconded the motion, and with a unanimous vote, motion carried.

12. Consideration and action on a resolution expressing intent to finance expenditures to be incurred for the East End Infrastructure Project (Northeast Sewer Line). **Wanda Bunting, Director of Financial Services**

Wanda Bunting, Director of Financial Services, gave an overview of agenda item I-12.

Council Member Downard made a motion to approve Resolution No. 2010-02 as presented. Council Member Meredith seconded the motion, and with a unanimous vote, motion carried.

The resolution caption is as follows:

RESOLUTION NO. 2010-02

A RESOLUTION OF THE CITY OF COPPERAS COVE, TEXAS, EXPRESSING INTENT TO FINANCE EXPENDITURES TO BE INCURRED FOR THE EAST END INFRASTRUCTURE PROJECT (NORTHEAST SEWER LINE).

13. Consideration and action on an ordinance amending Chapter 16.5 of the City's Code of Ordinances. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-13.

Council Member Downard made a motion to approve Ordinance No. 2010-05 as presented. Council Member Palmer seconded the motion and a roll call vote was taken as follows:

Cheryl L. Meredith	Aye
Charlie D. Youngs	Nay

Chuck Downard Aye
Danny Palmer Aye
Bill L. Stephens Aye
Willie C. Goode Aye
Frank Seffrood Aye

Motion carried, six to one.

The ordinance caption is as follows:

ORDINANCE NO. 2010-05

AN ORDINANCE OF THE CITY OF COPPERAS COVE, TEXAS, AMENDING CHAPTER 16.5 OF THE CITY'S CODE OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

14. Consideration and action on authorizing the City Manager to execute an Interlocal Agreement with the Copperas Cove Economic Development Corporation (CCEDC) for the temporary funding of the Northeast Sewer Line (Eastside Infrastructure) project. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-14.

Council Member Goode made a motion to authorize the City Manager to execute an agreement. Council Member Palmer seconded the motion, and with a unanimous vote, motion carried.

15. Consideration and action on authorizing the City Manager to execute a contract with Lupe Rubio Construction, Inc., Kingsland, Texas for construction of Phase I, Northeast Sewer Line Project. **Robert M. McKinnon, Public Works Director**

Robert M. McKinnon, Public Works Director, gave an overview of agenda item I-15.

Council Member Palmer made a motion to authorize the City Manager to execute a contract with Lupe Rubio Construction, Inc. contingent upon the City and the EDC entering into an Interlocal Agreement for the Temporary Funding of the Northeast Sewer Line Project. Council Member Downard seconded the motion, and with a unanimous vote, motion carried.

J. REPORTS FROM OUTSIDE ENTITIES, ADVISORY COMMITTEES AND BOARDS – None.

1. CCEDC digital sign update. Dan Yancey, Chair, CCEDC Board of Directors

Dan Yancey, Chairman of the CCEDC Board of Directors, gave an update on the CCEDC digital sign to the Council.

2. Chamber of Commerce 4th Quarter Report for 2009. Marty Smith, President, Copperas Cove Chamber of Commerce

Marty Smith, President of the Copperas Cove Chamber of Commerce, gave the Chamber of Commerce 4th Quarter Report for 2009.

K. ITEMS FOR FUTURE AGENDAS

Council Member Youngs requested that an item be placed on the next agenda to revisit EDC Bylaws on placing a ceiling for the capital improvement budget expenditures.

Council Member Downard requested that an item be placed on an agenda in February to discuss and receive an update on the EDC Master Concept Plan.

Council Member Stephens requested a presentation from Animal Control in reference to adopting out the animals to rescue groups.

L. EXECUTIVE SESSION – None.

M. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION

N. ADJOURNMENT

There being no further business, Mayor Hull adjourned the meeting at 8:33 p.m.

John Hull, Mayor

ATTEST:

Stefanie Brown, Deputy City Secretary

City of Copperas Cove City Council Agenda Item Report

February 2, 2009

Agenda Item No. G-2

Contact – Ken Wilson, Director of Community Services, 547-4242

kwilson@ci.copperas-cove.tx.us

SUBJECT: Consideration and action on authorizing the City Manager to enter into an agreement with T.F. Harper and Associates for the renovation of existing pool at South Park Pool Facility.

1. BACKGROUND/HISTORY

In the spring of 2009, the Texas Department of Health established new guidelines for main drain covers at pool facilities. During the installation of these new drain covers several cracks were found in the plaster of the pool. It was further identified that water had penetrated the plaster and had formed water pockets between the plaster and the pool foundation. Basic repairs were made to the pool for the 2009 swim season. Thus, the Parks and Recreation Department identified a need for improving the pool surfacing at the South Park Pool facility. The pool resurfacing was addressed in the City Capital Improvement Plan along with the construction of a splash pad at the facility.

2. FINDINGS/CURRENT ACTIVITY

Staff has received three quotes; all three vendors are members of the Buy Board. TF Harper and Associates provides the best value and lowest quote for the South Park renovation and splash pad construction. The project will consist of resurfacing the existing pool and adding a spray pad at the facility.

3. FINANCIAL IMPACT

The Renovation will be purchased utilizing the 2009 Tax Note issuance from account number 66-4190-7500-9040. The total cost will be \$205,440

4. ACTION OPTIONS/RECOMMENDATION

City staff recommends City Council authorize the City Manager to enter into an agreement with T.F. Harper and Associates for the renovation at South Park pool in the amount of \$205,440.



BUYBOARD QUOTE

103 Red Bird Lane
 Austin, Texas 78745
 e-mail: playground@tfharper.com

800-976-0107 Phone
 512-440-0707 Phone
 512-440-0736 Fax

Contract #269-07
 FOR PURCHASE THRU BUYBOARD
 PLEASE FAX YOUR PURCHASE
 ORDER & SIGNED QUOTE TO
 BUYBOARD & TF HARPER TO
 INSURE COMPLIANCE AND
 RECEIPT OF YOUR ORDER

DATE: December 1st, 2009
 QUOTE #: 120109-4M

TO: Copperas Cove South Pool
 Attn: Ken Wilson
 Address: 1206 W Avenue B
 Copperas Cove, Texas 76522
 Phone: 254-547-9247
 Fax:
 Email: kwilson@ci.copperas-cove.tx.us

Flow Through System
Revised January 22nd, 2010

QTY	DESCRIPTION OF EQUIPMENT	UNIT PRICE	TOTAL COST
1	Vortex #7384.0000R01 - Fumbling Five (SW,PC)		\$12,260.00
1	Vortex #304.0000R04 - Water Tunnel N 1 (EM)		\$3,490.00
3	Vortex #201.2000R03 - Spray Cannon (SW, PC)	\$5,730.00	\$17,190.00
1	Vortex #8061.4000R01 - Team Spray N 2 (EM)		\$5,250.00
1	Vortex #7020.0000R02 - Foaming Geyser N 1 (EM)		\$2,430.00
1	Vortex #7582.2008R01 - Waterbug No 3 (SW,PC)		\$5,960.00
1	Vortex #7580.2008R01 - Waterbug No 1 (SW,PC)		\$5,160.00
1	Vortex #611.2008R01 - Bollard Activator No 3 (SW,PC)		\$3,100.00
1	Vortex #518.0000R01 - Spray Loops (EM, PC)		\$11,950.00
1	Vortex #17.000R01 - Controller Command Center for Flow Through System		\$20,380.00
2	Vortex #1000.0001R03 - Deck Drain 12" x 12" w/ Strainer Basket	\$910.00	\$1,820.00
1	Custom Canopies 15' x 24' Shade 4 Post, 10' Eave Height, Delivered Surface Mount		\$2,440.00
	Less Buyboard Discount		(\$4,572.00)
1	Freight on Above Equipment		\$2,500.00
1	Normal Installation on Above Equipment		\$46,268.00
3500	S.F. Concrete 5" Thick 3000 PSI Concrete #4 Rebar at 12" OC Both Ways 1' x 2' Perimeter Beams and Cross Beams w/ 2 #4's Top Middle and Bottom & #3 Stirrups on 3' Centers, and #4 Corner Bars at each Corner		\$32,550.00
1,612	S.F. Cool Deck No Slip Staining Installed over Concrete in Spray Zone 3 Standard Color Design		\$12,896.00
1	Site Work to Include Demo of Appox 35' x 100' Concrete Including Excavation of 8" of Kiddie Pool, and Breaking up Remaining Concrete In Kiddie Pool		\$7,484.00
1	Replastering of Existing Pool Approx 258 L.F.		\$16,884.00
TOTAL			\$205,440.00

Continued on Next Page

BUYBOARD QUOTE

THIS QUOTE IS VALID FOR 30 DAYS FROM ABOVE DATE LISTED

T.F. HARPER & ASSOCIATES L.P. IS NOT RESPONSIBLE FOR FOR ANY UNDERGROUND UTILITIES IN AREA TO BE EXCAVATED

**NOT INCLUDED: Sales Tax, Permits (if required), Local Engineer-Sealed Drawings/Calculations, Site Work in Excess of Normal Installation
(example: site prep - excavation/infill, french drains, excess rock removal)**

Any installation charges quoted are based upon a soil work site (not rocky) that is freely accessible by truck, no fencing, tree/landscaping or utility obstacles, etc.), and level (+/- 1-2% max slope). Any site work not expressly described is excluded. Landscape timbers are not warranted. All underground utilities must be located and clearly marked before any work can begin. Installation of all products (equipment, borders, ground cover, amenities) are as quoted and approved by acceptance of quote/drawings. The installer is not responsible for any damages or re-work resulting from after-hours events or activities during the work in progress period. The customer is responsible for maintaining the integrity of completed installation work until components have seated and/or cured (concrete footings, etc.)

DELIVERY & INSTALLATION: 12 to 15 weeks after receipt of order

Payment Terms: 50% due with signed quote (\$102,720.00); Balance due upon completion of work and receipt of order

Accepted by: _____

Date: _____ **P.O. #:** _____ **(if applicable)**

Thank you for giving us the opportunity to quote this equipment.
Mike Fishbaugh, Sales Representative



Copperas Cove South Pool
Ken Wilson
1206 W Avenue B, Copperas Cove TX 9247

December 1st, 2009
QUOTE #120109-4M

ROCK CLAUSE

IN THE EVENT THAT SITE SOIL OR ROCK CONDITIONS ARE SUCH TO PREVENT NORMAL INSTALLATION TIME AND PROCEDURES, THE OWNER/CUSTOMER WILL BE RESPONSIBLE FOR ADDITIONAL EQUIPMENT AND LABOR EXPENSES IN THE AMOUNT OF FOUR HUNDRED AND FIFTY AND NO/100 DOLLARS (\$450.00) PER DAY IN ORDER TO ACCOMPLISH THE INSTALLATION.

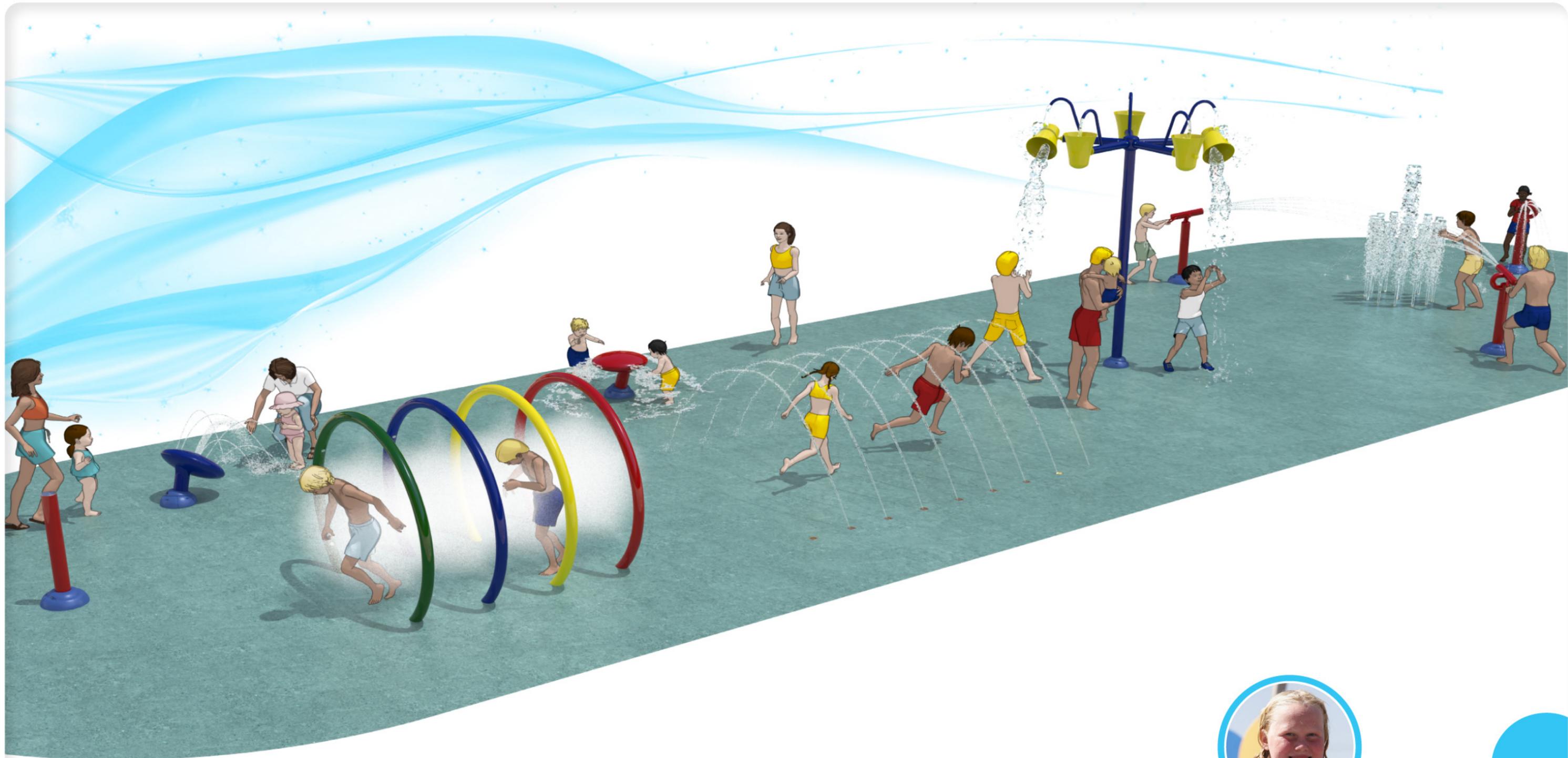
UNDERGROUND UTILITY CLAUSE

NEITHER T. F. HARPER & ASSOCIATES, ITS EMPLOYEES OR ITS SUB-CONTRACTORS ARE RESPONSIBLE FOR ANY DAMAGE DONE TO ANY TYPE OF UNDERGROUND UTILITIES ON THE SITE CHOSEN BY THE PROPERTY OWNER/MANAGER TO INSTALL THE EQUIPMENT UNLESS THE OWNER/MANAGER HAS THESE LINES ACCURATELY STAKED PRIOR TO INSTALLATION COMMENCEMENT. WITHOUT PROPER AND ACCURATE STAKING OF THESE UNDERGROUND LINES, ANY COSTS INCURRED TO REPAIR DAMAGED LINES OR TO RENDER MEDICAL TREATMENT IN THE EVENT OF INJURY TO A T. F. HARPER & ASSOCIATES EMPLOYEE OR SUB-CONTRACTOR DUE TO CONTACT WITH UNMARKED UNDERGROUND LINES, SHALL BE THE SOLE RESPONSIBILITY OF THE PROPERTY OWNER/MANAGER. T.F. HARPER & ASSOCIATES, ITS EMPLOYEES OR SUB-CONTRACTORS CANNOT PROCEED WITH ANY JOB WHERE UNDERGROUND LINES ARE THOUGHT TO BE PRESENT WITHOUT ACCURATE MARKINGS.

THE TERMS OF THIS PROPOSAL ARE UNDERSTOOD AND AGREED UPON BY THE UNDERSIGNED. THE UNDERSIGNED, AS THE OWNER OR REPRESENTATIVE OF THE OWNER, SWEARS TO BE AUTHORIZED TO SIGN THIS LEGAL AND BINDING AGREEMENT, THEREFORE ACCEPTING LEGAL RESPONSIBILITY AND LIABILITY FOR THE FULFILLMENT OF THE ABOVE TERMS.

Accepted By: _____

Date: _____



COPPERAS COVE SOUTH, TX, view 01

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COPPERAS COVE SOUTH, TX, view 02

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 **VORTEX**
Splashpad®

PO Box 1160
 Cedar Crest, NM 87008-1160
 Phone: (505) 281-0151
 Fax: (505) 281-0155
 Toll Free (800) 457-5444
 Email: michelle@exerplay.com
 Visit www.exerplay.com

QUOTATION

DATE	NUMBER
1/18/2010	MM011809-1

NAME / ADDRESS		PURCHASE ORDER TO BE ISSUED TO		
Copperas Cove South Park Pool Renovation Attn: Ken Wilson Ph: 254-542-2716 Email: kwilson@ci.copperas-cove.tx.us		ExerPlay, Inc PO Box 1160 Cedar Crest, NM 87008-1160 Please fax a copy to ExerPlay at 505-281-0155		
SHIPPED VIA	TERMS	REP	FOB	EST. SHIP DATE
Common Carrier	Progress ...	GDN	Common Carrie	6 - 8 Weeks ARO
ITEM	DESCRIPTION	QTY	COST	TOTAL
	South Park Pool Renovations Copperas Cove, TX			
	WATERPLAY			
WP A02-013	Activator, SS, Play Pal Add On.	1	1,499.00	1,499.00
WP C02-034	Ground Spray, Spray Tunnel	1	2,970.00	2,970.00
WP C02-035	Spiral, SS 5"	1	12,931.00	12,931.00
WP C02-054-N	Cap-tivator, SS	1	5,632.00	5,632.00
WP C02-100	Ground Spray, Gusher	1	712.00	712.00
WP C02-131	Carronade, SS Base, AL Top.	2	4,877.00	9,754.00
WP C02-136-N	Tuney TUBE, SS, Non-Interactive	1	3,730.00	3,730.00
WP C02-164	Activator, SS, Power Post 2.0	1	2,513.00	2,513.00
WP C02-257	Ground Spray, Tulip	2	476.00	952.00
WP C02-304	Toddler Squeaky Clean Brush Head, SS	1	4,580.00	4,580.00
WP C02-544	Spiral Soaker-5, SS	1	9,659.00	9,659.00
WP C06-BG010	Cabinet, 10 Valve, Below Ground Utility.	1	15,683.00	15,683.00
WP C07-001	Ground Spray, Lily Pad w/graphics plate.	6	665.00	3,990.00
WP DRA-00008	Drain, 12", 6" Outlet, Sandstone.	6	271.00	1,626.00
WP ECP-10	WaterWise E-10 Controller	1	4,925.00	4,925.00
WP C01-110	Spraypark Safety Sign, AL, 47"x36", with posts.		2,024.00	2,024.00
	Sub-Total			83,180.00
DISC - BUY BOARD	Buy Board Discount		-5.00%	-4,159.00
Freight	Freight/Shipping Charges, UPS, Anchor Hardware & Footing Templates		88.00	88.00
Freight	Freight/Shipping Charges		2,541.00	2,541.00
	SHADE SYSTEMS			
Shade Systems	Rectangular Shade Structures, R1425, 14' x 25' x 10' Entry	1	4,896.00	4,896.00
DISC - BUY BOARD	Buy Board Discount		-5.00%	-244.80
Freight	Freight/Shipping Charges		415.00	415.00
Maintenance	Annual Maintenance Agreement		0.00	0.00
IF YOU ARE TAX-EXEMPT, PLEASE PROVIDE A TAX-EXEMPT CERTIFICATE ADDRESSED TO TEXAS BUY BOARD.				
<i>Michelle McKean</i>		Page 1	TOTAL	

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DATE	NUMBER
1/18/2010	MM011809-1

NAME / ADDRESS		PURCHASE ORDER TO BE ISSUED TO		
Copperas Cove South Park Pool Renovation Attn: Ken Wilson Ph: 254-542-2716 Email: kwilson@ci.copperas-cove.tx.us		ExerPlay, Inc PO Box 1160 Cedar Crest, NM 87008-1160 Please fax a copy to ExerPlay at 505-281-0155		
SHIPPED VIA	TERMS	REP	FOB	EST. SHIP DATE
Common Carrier	Progress ...	GDN	Common Carrie	6 - 8 Weeks ARO
ITEM	DESCRIPTION	QTY	COST	TOTAL
Repair/Replace	Plaster Pool (75' x 45') with one set of stairs.		17,250.00	17,250.00
Repair/Replace	Remove plaster to the gunite		6,500.00	6,500.00
Repair/Replace	Replace main drain (if necessary due to code requirements)		938.00	938.00
Removal	Removal of 3500 SqFt of Concrete (up to 6" thickness, if more than 6" thickness to be removed, additional costs will be necessary) Demo of Kiddie Pool and backfill Removal of 45' Chain link from around kiddie pool		15,288.00	15,288.00
Concrete	Concrete pad at kiddie pool location, 150 SqFt		1,313.00	1,313.00
Install	Installation of 15' x 24' Shade Structure		2,438.00	2,438.00
Install	Installation of WaterPlay equipment. Includes electrical and plumbing work within splashpad area from pad to cabinet. Concrete for splashpad (1612 SqFt, and outer area (1888 SqFt). (Recommended specs for concrete - 3000 psi, #4 rebar on 12" centers at a depth of 5"). If concrete for splashpad is other than specified herein, a stamped set of plans by an engineer provided by the customer will be required		113,447.00	113,447.00
Concrete	Colored Concrete, 1612 SqFt		4,030.00	4,030.00
Notes WP3	It is the responsibility of the owner to locate ALL underground utilities in the area of installation and ensure that the area is clearly marked. Utilities locations includes but is not limited to power, water, gas, sewer, telephone, irrigation and cable TV. Owner to bring all utilities within the recommended area		0.00	0.00
IF YOU ARE TAX-EXEMPT, PLEASE PROVIDE A TAX-EXEMPT CERTIFICATE ADDRESSED TO TEXAS BUY BOARD.				
Michelle McKean		Page 2	TOTAL	\$247,920.20

BUYBOARD BUDGET FIGURES



5721 Falling Water Drive
 Fort Collins, CO 80528
 e-mail: rflint@vortex-intl.com

970-266-8684 Phone

970-266-8684 Fax

TO: Copperas Cove South Pool
 Attn: Ken Wilson
 Address: 1206 W Avenue B
 Copperas Cove, Texas 76522
 Phone: 254-547-9247
 Email: kwilson@ci.copperas-cove.tx.us

FOR PURCHASE THRU BUYBOARD
 PLEASE FAX YOUR PURCHASE
 ORDER & SIGNED QUOTE TO
 BUYBOARD & VORTEX
 INSURE COMPLIANCE AND
 RECEIPT OF YOUR ORDER

DATE: January 5, 2010
 QUOTE #: 01052010

Flow Through SplashPad System - Installed

QTY	DESCRIPTION OF EQUIPMENT	UNIT PRICE	TOTAL COST
1	Vortex #7384.0000R01 - Fumbling Five (SW,PC)		\$12,260.00
1	Vortex #304.0000R04 - Water Tunnel N 1 (EM)		\$3,490.00
3	Vortex #201.2000R03 - Spray Cannon (SW, PC)	\$5,730.00	\$17,190.00
1	Vortex #8061.4000R01 - Team Spray N 2 (EM)		\$5,250.00
1	Vortex #7020.0000R02 - Foaming Geyser N 1 (EM)		\$2,430.00
1	Vortex #7582.2008R01 - Waterbug No 3 (SW,PC)		\$5,960.00
1	Vortex #7580.2008R01 - Waterbug No 1 (SW,PC)		\$5,160.00
1	Vortex #7581.2008R01 - Waterbug No 2 (SW,PC)		\$5,960.00
1	Vortex #7530.2000R02 - Aqua Dome N 2 (SW,PC)		\$3,520.00
1	Vortex #611.2008R01 - Bollard Activator No 3 (SW,PC)		\$3,100.00
1	Vortex #518.0000R01 - Spray Loops (EM, PC)		\$11,950.00
1	Vortex #17.000R01 - Controller Command Center for Flow Through System		\$20,380.00
2	Vortex #1000.0001R03 - Deck Drain 12" x 12" w/ Strainer Basket	\$910.00	\$1,820.00
1	Custom Canopies 15' x 24' Shade 4 Post, 10' Eave Height, Delivered Surface Mount		\$2,700.00
	Less Buyboard Discount		(\$5,168.00)
1	Freight on Above Equipment		\$2,500.00
1	Normal Installation on Above Equipment		\$59,899.00
3500	S.F. Concrete 5" Thick 3000 PSI Concrete #4 Rebar at 12" OC Both Ways 1' x 2' Perimeter Beams and Cross Beams w/ 2 #4's Top Middle and Bottom & #3 Stirrups on 3' Centers, and #4 Corner Bars at each Corner		\$35,673.00
1,612	S.F. Cool Deck No Slip Staining Installed over Concrete in Spray Zone 3 Standard Color Design		\$15,796.00
1	Site Work to Include Demo of Appox 35' x 100' Concrete Including Excavation of 8" of Kiddie Pool, and Breaking up Remaining Concrete In Kiddie Pool		\$8,900.00
1	Replastering of Existing Pool Approx 258 L.F.		\$18,999.00
TOTAL			\$237,769.00

PRICES ARE VALID THROUGH JANUARY 31, 2010

**VORTEX AQUATIC STRUCTURES IS NOT RESPONSIBLE FOR FOR ANY UNDERGROUND UTILITIES
 IN AREA TO BE EXCAVATED**

BUYBOARD BUDGET FIGURES

NOT INCLUDED: Sales Tax, Permits (if required), Local Engineer-Sealed Drawings/Calculations, Site Work in Excess of Normal Installation

(example: site prep - excavation/infill, french drains, excess rock removal)

Any installation charges quoted are based upon a soil work site (not rocky) that is freely accessible by truck, no fencing, tree/landscaping or utility obstacles, etc.), and level (+/- 1-2% max slope). Any site work not expressly described is excluded. Landscape timbers are not warranted. All underground utilities must be located and clearly marked before any work can begin. Installation of all products (equipment, borders, ground cover, amenities) are as quoted and approved by acceptance of quote/drawings. The installer is not responsible for any damages or re-work resulting from after-hours events or activities during the work in progress period. The customer is responsible for maintaining the integrity of completed installation work until components have seated and/or cured (concrete footings, etc.)

DELIVERY & INSTALLATION: 12 to 15 weeks after receipt of order

Randy Flint
Western Regional Sales Manager
rflint@vortex-intl.com
(970)266-8684

City of Copperas Cove

City Council Agenda Item Report

February 2, 2010

Agenda Item No. G-3

Contact – Andrea M. Gardner, City Manager, 547-4221
agardner@ci.copperas-cove.tx.us

SUBJECT: Consideration and action on authorizing the Mayor to execute a letter of support for the Copperas Cove Brookview Village Apartments, L.P., an affiliate of the MacDonald Companies, regarding an application submission to the Texas Department of Housing and Community Affairs (TDHCA) for Housing Tax Credits.

1. BACKGROUND/HISTORY

On January 7, 2010, the City received the attached letter from Copperas Cove Brookview Village Apartments, L.P. An application is being submitted for Housing Tax Credits with the Texas Department of Housing and Community Affairs for the Brookview Village. The apartments are planned to be located in the 100 block of West Highway 190.

On January 26, 2010, the City received a letter from the Texas Department of Housing and Community Affairs indicating that the application for Brookview Village was received.

The community is proposed to consist of 96 units, of which 20% will be for tenants with approximate incomes less than 30% of the area's median income and the remaining 80% will be for tenants with approximate incomes less than 60% of the area's median income.

A letter of support is requested from the City regarding the planned community and the request for Housing Tax Credits. TDHCA utilizes a competitive process for scoring applications based on the quality of the product, amenities offered, local support and other factors.

2. FINDINGS/CURRENT ACTIVITY

A draft letter of support for the Mayor's signature is attached for the Council's review and consideration.

3. FINANCIAL IMPACT

N/A

4. ACTION OPTIONS/RECOMMENDATION

City staff recommends the City Council authorize the Mayor to execute a letter of support to the Copperas Cove Brookview Village Apartments, L.P. for the application submission to the Texas Department of Housing and Community Affairs for Housing Tax Credits.

DRAFT

February 2, 2010

Mr. G. Granger MacDonald
Copperas Cove Brookview Village Apartments, L.P.
2951 Fall Creek Road
Kerrville, TX 78028

Mr. MacDonald:

The City of Copperas Cove is in receipt of your letter dated January 6, 2010, giving the City information regarding your planned community called Copperas Cove Brookview Village Apartments.

The City is in full support of any effort to enable Copperas Cove to provide housing opportunities for everyone that lives here. We are always actively seeking new ways to help our community to grow and believe that your project is a great way to continue this effort.

There is a need for additional affordable rental housing in Copperas Cove. This 96-unit development would bring much needed apartments to our community. The City of Copperas Cove has long been a supporter of new housing development and strongly supports the application for Housing Tax Credits.

If we can be of further assistance, please don't hesitate to contact us.

Sincerely,

John Hull, Mayor

Copperas Cove Brookview Village Apartments, L.P.

received
1/7/10 Jlees

January 6, 2010

Via Certified Mail, Return Receipt

The Honorable John Hull
507 S. Main St.
Copperas Cove, TX 76522

Dear Mayor Hull:

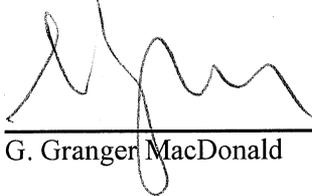
I am writing to you today to inform you that Copperas Cove Brookview Village Apartments, L.P., an affiliate of the MacDonald Companies, is submitting an application to the Texas Department of Housing and Community Affairs (TDHCA) for Housing Tax Credits to assist us in developing and constructing a 96-unit apartment community for working families, located at the 100 block of West Highway 190 in Copperas Cove.

As part of that process, we are required to provide you with the attached public notice document, which outlines some more details about our planned community. In addition to the required notice, I have also attached a small packet which gives more detail about the HTC program, and about the MacDonald Companies.

Additionally, I would respectfully request a few moments of your time, either by phone or in person, to address any questions you may have, and ask for your support of our application. Letters of support from community leaders such as you are crucial to ensuring the success of our application, and ultimately, our planned development. You can reach me by phone at (830) 257-5323, or by email at gmacdonald@macdonald-companies.com. An additional contact is Justin MacDonald at tjmacdonald@macdonald-companies.com.

I want to thank you in advance for your consideration and support of our planned community. I look forward to working with you to make our vision a reality.

Sincerely,



G. Granger MacDonald

NOTICE TO PUBLIC

Copperas Cove Brookview Village Apartments, L.P., is making an application for Housing Tax Credits with the Texas Department of Housing and Community Affairs for the Brookview Village, located in the 100 block of West Highway 190, Copperas Cove, Coryell County. This new construction is an apartment community comprised of approximately 96 units of which 20% will be for tenants with approximate incomes less than 30% of the area's median income and the remaining 80% will be for tenants with approximate incomes less than 60% of the area's median income. For a household of up to 6 persons the approximate income levels are:

Household Income Limits:

	<u>30% of AMI</u>	<u>60% of AMI</u>
1 Person	\$ 11,350	\$ 22,680
2 Person	12,950	25,920
3 Person	14,600	29,160
4 Person	16,200	32,400
5 Person	17,500	34,980
6 Person	18,800	37,560

The total restricted income percentage of the Development is 100%. The Development will serve family households. The number of units and proposed rents (less utility allowances) for the subject property's tax credit units are:

- 16 – 1 Bedroom Units for \$219
- 12 – 1 Bedroom Units for \$523
- 4 – 2 Bedroom Units for \$251
- 32 – 2 Bedroom Units for \$615
- 32 – 3 Bedroom Units for \$690

There will be a public hearing to receive public comment on the proposed development. Information regarding the date, time and location of that hearing will be disseminated at least 30 days prior to the hearing date.

If awarded, this development would be ready for occupancy by approximately January 2012. For more information on this notice, please contact Granger MacDonald or Justin MacDonald, Copperas Cove Brookview Village Apartments, L.P., 2951 Fall Creek Road, Kerrville, Texas 78028, phone (830) 257-5323. For information on the Housing Programs, see www.tdhca.state.tx.us.

What is the Housing Tax Credit (HTC) Program?

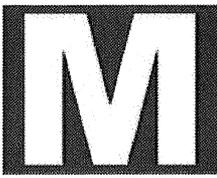
Contrary to what many people think, the HTC Program is *not* a subsidy program. Rather, the HTC program is the primary means of directing *private capital* towards the creation of affordable rental housing. The tax credits provide developers of low income rental housing with a benefit, which is usually sold to large corporations and used to offset a portion of their *federal* tax liability, in exchange for the production of affordable rental housing. The value associated with the tax credits allows residences in HTC developments to be leased to qualified families at rents that are often below market rates. The HTC program only addresses *Federal* taxes; *HTC developments pay the normal state and local property and sales taxes* unless they are specifically granted abatement by the local taxing jurisdiction.

Housing Tax Credits are awarded once a year by the Texas Department of Housing and Community Affairs. Since there are many more applicants than there are available tax credits, the TDHCA utilizes a competitive process in which all applicants are given a score based on the quality of their product, amenities offered, local support, and other factors. This process is very competitive, and only a fraction of those applying for HTC will actually receive an allocation.

A major difference between residents in subsidized housing, versus residents in an HTC community, is that HTC residents do pay their own rent, and are subject to income verification and credit checks to ensure that they can pay the rent. Additionally, prospective residents must submit to a criminal history check, and we have a zero-tolerance policy regarding crime in our apartment communities.

An additional requirement of the HTC program which benefits local residents comes in the form of units that are more accessible to the disabled. In addition to making all of our ground-floor units adaptable for people with disabilities, we also make a minimum of 5% of our units fully outfitted for those with mobility impairments (typically wheelchair-bound) and an additional 2% of our units are equipped for those with hearing or visual impairment. This is especially important in smaller communities where these resources often do not currently exist.

One concern that many people have is how their property values will be affected by new HTC developments near them. While many people fear that an HTC development will reduce their property values, several studies have shown that the opposite is actually true. In addition to this, a study by the National Association of Home Builders estimates that the average HTC development also generates around 150 jobs during its construction phase, which translates into a \$7.8 million injection into the local economy. The same study showed that an ongoing \$2.2 million is generated annually after the development is built and occupied.



MACDONALD COMPANIES

MULTI-FAMILY DEVELOPMENT • CONSTRUCTION • MANAGEMENT

Company Background and Profile

In 1990, G. Granger MacDonald organized G. G. MacDonald, Inc., and later on also formed MacDonald and Associates Inc., as a development and construction organization for investment properties, and simultaneously began conducting research on the unmet development needs in Texas' small- and medium-sized communities and how the Companies were best qualified to address those needs.

Research by MacDonald revealed that a large number of small or rural towns have a distinct shortage of affordable housing and commercial development, but most builders and developers are not interested in these smaller markets. However, he had previous experience in working in smaller communities, as well as metropolitan areas, and has been able to adapt The Companies' operations to work within the framework of those smaller towns and cities.

Granger MacDonald has had years of experience working with and serving on governmental commissions and boards. He has served on the Kerrville/Kerr County Airport Board, City of Austin Planning Commission, Chairman of the City of Austin Environmental Board, and President of the Upper Guadalupe River Authority.

For 30 years he has been actively involved in development of subdivisions, including the installation of streets and utilities, as well as the construction of single family, multifamily, and commercial units. This, combined with his banking experience, puts him in the position of being able to develop projects that meet the needs of many small Texas communities.

His involvement in numerous National Association of Home Builders committees such as the Rural Housing Council and Multifamily Council, along with State and Local Government Affairs committees has given Mr. MacDonald the opportunity to address a number of problems inherent to working outside of major metropolitan areas. He has served as a consultant on several distressed properties as well as assisting other for-profit and nonprofit companies in multifamily and renovation/rehabilitation projects.

As a third-generation developer and builder, Justin MacDonald, Executive Vice President, also brings a unique perspective to the companies as he focuses on managing day-to-day operations and regulatory compliance. He is also active in numerous organizations, having served as a past chairman of NAHB's Housing Credit Group, as well as president of the Hill Country Home Builders Association.

Justin also serves on the board of Hill Country Home Opportunity Council, a 501(c)(3) nonprofit organization committed to facilitating home ownership among low- and moderate-income citizens of Kerrville. He also is a member of the City of Kerrville Planning & Zoning Commission and Zoning Ordinance Input Committee, and previously served on the 2007-2008 Comprehensive Plan Update Committee.

Elton Woodrom, as Vice President of Construction for G.G. MacDonald Inc., adds depth to the Companies' construction activities through budget-conscious estimating and project management. While delivering housing at an affordable price requires substantial effort from the entire MacDonald Companies staff, the most crucial area is in construction. It is here that costs can be reduced most, while still producing a high-quality, functional product.

Additionally, while the MacDonald staff is much smaller than those of companies with comparable output, the highly motivated staff is able to accomplish projects in a more efficient manner than many companies with a more sizable staff. The MacDonald Companies believe that their small, but talented staff “armed” with technology resources and extensive knowledge and experience can provide an outstanding product even in times of fluctuating costs and increasing regulatory burdens.

Although most of the research and analysis is done in-house, they have assembled an outstanding group of professionals including attorneys, engineers, land planners, architects, surveyors, appraisers, environmentalists, and construction crews. All have excellent reputations and are well known in their communities and professions.

Most of these consultants have worked with the MacDonald Companies for several years, and include:

Engineers

- DAVCAR Engineering, Austin, TX
- D&E Structures, Dallas, TX
- Kadleck & Associates, Dallas, TX
- Power Systems, San Angelo, TX
- Richard O’Malley, P.E., Brenham, TX

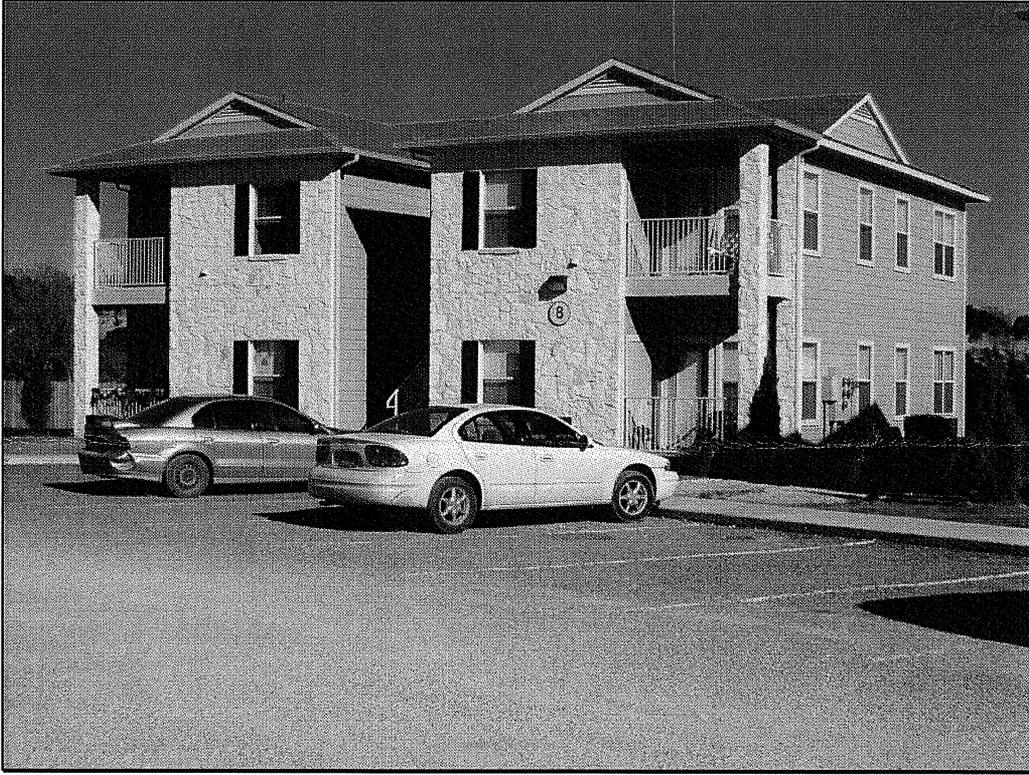
Planners, Architects, & Landscape Architects

- A. Ray Payne, Architect, Austin, TX
- Archon Corporation, Dallas, TX
- EnviroDesign, Dallas, TX
- Stephen K. Domigan, Landscape Architect (SKDLA Inc.), Austin, TX

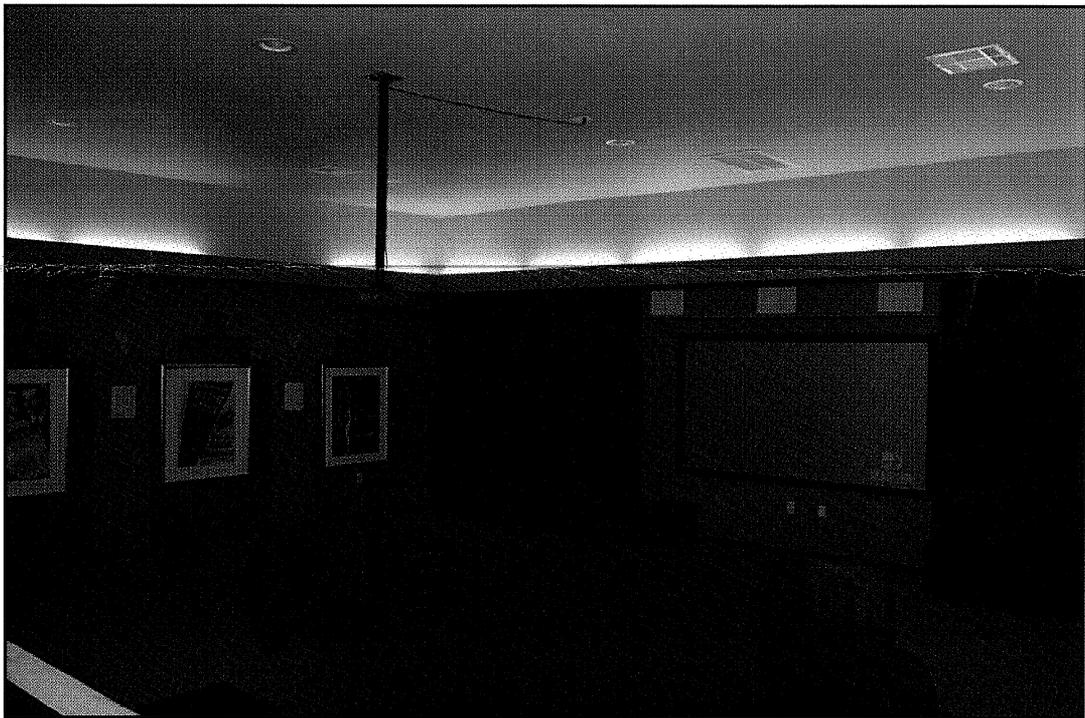
Other Consultants

- Alpha Testing (Environmental Services & Material Testing), Dallas/San Antonio, TX
- Orion Real Estate Services (Property Management), Houston, TX
- TriCo (Environmental Services/Construction Inspection), Kerrville, TX
- Winston Services (Construction Inspection), Fort Worth, TX
- JC Ventures (Resident Supportive Services), Kerrville, TX

Heritage Oaks Apartments Kerrville



Aventine Apartments Fort Worth



**Creekside I & II
Boerne**



**Brenham Oaks
Brenham**





Texas Department of Housing and Community Affairs
Multifamily Finance Division
Notification of Submission of Affordable Housing Applications

received
1/26/10
J. Lee

January 21, 2010

The John Hull
Mayor
City of Copperas Cove
P.O. Drawer 1449
Copperas Cove, TX 76522

Re: Notification of Affordable Rental Housing Application(s) Proposed in Your City

Dear Mayor Hull:

I am writing to provide you with information on one or more rental housing application(s) proposed in the community you represent that has been received by the Texas Department of Housing and Community Affairs (the Department) for the Competitive Housing Tax Credit Program. The Department received the application(s) on or before January 8, 2010. The Department's mission is to help Texans achieve a higher quality of life by building better communities. Through our rental production programs, the Department encourages the new construction or rehabilitation of high-quality multifamily housing, primarily through private developers. These developments benefit Texans in your city by providing qualified families with safe, affordable, quality housing.

This notification is made pursuant to §2306.1114, Texas Government Code, to ensure that you are fully informed of the activity in your city and so that the Department can gather your input on the proposed application(s). The Department greatly appreciates receiving your views concerning the need for affordable housing within your city and how the proposed development(s) addresses that need. A development summary for each application which may be in your city is included with this correspondence.

Written support or opposition letters received regarding specific applications will be summarized for the Department's Governing Board for their consideration when making a decision to award Competitive Housing Tax Credits to an application.

To solicit additional public comment, the Department will hold a series of public hearings in April 2010 on all Competitive Housing Tax Credit applications received. The Department's Governing Board is tentatively scheduled to make its preliminary decision concerning the proposed development(s) for the Competitive Housing Tax Credit Program at its June 2010 meeting and its final decision at its late July 2010 meeting. The Competitive Housing Tax Credit hearing schedule, announcements regarding further dates, board meeting dates, and other informational notices will be posted on our website at www.tdhca.state.tx.us.

Please mail any comments you may have to the Multifamily Finance Division, P.O. Box 13941, Austin, TX 78711-3491 or send them by facsimile to (512) 475-0764. If you have any questions or need additional information, please contact the Multifamily Division at (512) 475-3340.

Sincerely,

Robbye Meyer

Robbye Meyer
Director, Multifamily Finance

Relevant Development Information as Presented by the Applicant:

Project Number:

Development Name:

Development Address:

Development City: Development Zip: Region:

Regional Allocation: Target Population: Supportive Housing

Set Aside: Nonprofit USDA At-Risk

Construction Type: New Construction Rehabilitation Rehabilitation/Reconstruction Adaptive Reuse

Building/Unit Configuration: Credit/ Funding Request:

Maximum # of Floors: Elevator: Total Site Acreage:

Residential Buildings: # Non Residential Buildings: # Units per Acre:

Total Low Income Units: Total Market Rate Units: Total Units:

Average Rent 1 Bedroom Low Income: Average Rent 1 Bedroom Market Rate:

Average Rent 2 Bedroom Low Income: Average Rent 2 Bedroom Market Rate:

Average Rent 3 Bedroom Low Income: Average Rent 3 Bedroom Market Rate:

Average Rent 4 Bedroom Low Income: Average Rent 4 Bedroom Market Rate:

Applicant Information:

Owner Entity Name:

Owner Contact:

Owner Address:

Owner City: Owner State: Owner Zip:

Owner Phone: Extension:

Owner Fax: Owner Email:

Summary of Public Benefits:

Project Number:

- | | | | |
|--|--|--|--|
| <input checked="" type="checkbox"/> 100% masonry | <input checked="" type="checkbox"/> nine ft ceilings | <input type="checkbox"/> comm dining room | <input type="checkbox"/> gazebo w/ sitting |
| <input checked="" type="checkbox"/> ceiling fixtures | <input checked="" type="checkbox"/> R-15 walls/R-30 ceilings | <input checked="" type="checkbox"/> comm laundry room | <input type="checkbox"/> health screening room |
| <input checked="" type="checkbox"/> covered entries | <input type="checkbox"/> refrigerator w/ icemaker | <input type="checkbox"/> comm theater room | <input type="checkbox"/> horseshoe, putting green, shuffleboar |
| <input type="checkbox"/> covered parking | <input type="checkbox"/> self-cleaning oven | <input type="checkbox"/> controlled gate access | <input type="checkbox"/> hot tub/jacuzzi, spa |
| <input type="checkbox"/> covered patios | <input checked="" type="checkbox"/> 30yr architectural roofing | <input type="checkbox"/> covered pavilion | <input type="checkbox"/> library |
| <input checked="" type="checkbox"/> fire sprinklers | <input type="checkbox"/> 14 SEER HVAC | <input type="checkbox"/> enclosed porch | <input type="checkbox"/> secured entry |
| <input type="checkbox"/> >75% masonry | <input type="checkbox"/> storage room | <input type="checkbox"/> equip. business ctr | <input type="checkbox"/> senior activity room |
| <input type="checkbox"/> highspeed internet | <input type="checkbox"/> energy efficient materials | <input checked="" type="checkbox"/> full perimeter fencing | <input type="checkbox"/> service coordinator office |
| <input checked="" type="checkbox"/> laundry conn | <input type="checkbox"/> accessible walking path | <input type="checkbox"/> furn. childrens activity ctr | <input type="checkbox"/> sport court |
| <input type="checkbox"/> laundry equipment | <input type="checkbox"/> bbcue grills picnic tables | <input checked="" type="checkbox"/> furn. comm room | <input checked="" type="checkbox"/> swimming pool |
| <input type="checkbox"/> microwave ovens | <input type="checkbox"/> children's playscapes | <input checked="" type="checkbox"/> furn. fitness ctr | |

Green Building Amenities:

- | | | |
|--|--|--|
| <input type="checkbox"/> passive solar heating/cooling | <input type="checkbox"/> energy efficienc | <input type="checkbox"/> renewable materials |
| <input checked="" type="checkbox"/> water conserving feature | <input type="checkbox"/> thermally and draft efficient door | <input checked="" type="checkbox"/> healthy flooring |
| <input type="checkbox"/> solar water heaters | <input type="checkbox"/> photovoltaic panels for electricity | <input checked="" type="checkbox"/> irrigation and landscaping |
| <input checked="" type="checkbox"/> sub-metered utility meters | <input checked="" type="checkbox"/> EPA management practice | <input type="checkbox"/> construction waste managemen |
| <input checked="" type="checkbox"/> recycling service provided | <input type="checkbox"/> water permeable walkways | <input type="checkbox"/> healthy finish materials |

Tenant Support Services:

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> library center | <input type="checkbox"/> child care | <input type="checkbox"/> transportation | <input type="checkbox"/> GED preparation |
| <input type="checkbox"/> basic adult education | <input type="checkbox"/> legal assistance | <input type="checkbox"/> counseling services | <input type="checkbox"/> ESL class |
| <input type="checkbox"/> vocational training | <input checked="" type="checkbox"/> homebuyer education | <input checked="" type="checkbox"/> credit counseling | <input checked="" type="checkbox"/> organized team sports program |
| <input checked="" type="checkbox"/> financial planning classe | <input type="checkbox"/> health screening services | <input checked="" type="checkbox"/> health and nutritional courses | |
| <input type="checkbox"/> youth programs | <input checked="" type="checkbox"/> scholastic tutoring | <input checked="" type="checkbox"/> notary public service | |
| <input checked="" type="checkbox"/> Any other program described under Title IV-A of the Social Security Act (42 U.S.C. 601 et seq.) | | | |
| <input type="checkbox"/> Other If 'Other' please describe <input type="text"/> | | | |

City of Copperas Cove City Council Agenda Item Report

February 2, 2010

Agenda Item No. G-4

Contact – Mike Baker, Fire Chief, 547-2514

SUBJECT: Consideration and action on accepting a grant and authorizing the Mayor and City Manager to execute the grant amendment from the Central Texas Council of Governments, Homeland Security Grant Program.

1. BACKGROUND/HISTORY

The City of Copperas Cove has been awarded Homeland Security Grant allocations for the 2009 program in the amount of \$5,200 to purchase a Mobile Data Terminal (MDT) for emergency management use.

2. FINDINGS/CURRENT ACTIVITY

The Central Texas Council of Governments (CTCOG) grant administrator offered to increase the grant allocation by exchanging the 2009 grant funds for unspent 2007 grant funds. The exchange would increase the award amount to \$10,400 and allow the purchase of three (3) MDT's for the City's use. The grant would include the purchase of the computers, the purchase of the software and one year of mobile air time for remote internet access. The City Information Systems Department researched and approved the purchase of the equipment and software.

3. FINANCIAL IMPACT

There are no matching funds required for the reimbursable grant. The City would be reimbursed for the purchase of the 3 MDT's and associated equipment. After the first year, the City department or division assigned the MDT would be responsible for budgeting the airtime costs in the appropriate operating budgets.

4. ACTION OPTIONS/RECOMMENDATION

City staff recommends the City Council approve the acceptance of the grant and authorize the Mayor and City Manager to execute the grant amendment.



received
12/29/09 *jees*

December 22, 2009

The Honorable Mayor John Hull
Andrea Gardner, City Manager
City of Copperas Cove
507 South Main Street
Copperas Cove, Texas 76522

Dear Mayor Hull and Ms. Andrea Gardner:

In October 2009, the Central Texas Council of Governments (CTCOG) Executive Committee voted to use all State Homeland Security Program (SHSP) grant funds allocated to CTCOG for the 2009 fiscal year to meet state mandates for radio interoperability. This vote means that the request from the Copperas Cove Fire Department for approximately ten (10) Toughbooks (mobile laptop computers) would not be an allowable reimbursement.

CTCOG Homeland Security staff identified a way in which the purchase of Toughbooks can be an allowable reimbursement. Remaining SHSP grant funds allocated to CTCOG for the 2007 fiscal year are not subject to the 2009 Executive Committee vote and may be used for the reimbursement. CTCOG Homeland Security staff is agreeable to reimburse the City of Copperas Cove for \$10,405.74 from 2007 SHSP funds in exchange for an agreement by the City of Copperas Cove to forfeit their 2009 SHSP total allocation. CTCOG Homeland Security planners have been working in conjunction with Chief Mike Baker on this plan. Chief Baker can provide you with further details if required.

If you concur with this funding agreement, please sign, date, and return this letter to Mike Collins with CTCOG Homeland Security. Upon receipt of the signed original letter, CTCOG staff will authorize reimbursement and reclaim the 2009 SHSP allocation to the City of Copperas Cove. If you have questions please contact CTCOG staff.

Respectfully,

Handwritten signature of Annette Shepherd in cursive.

Annette Shepherd
Planning and Regional Services Director

Handwritten signature of Michael Collins in cursive.

Michael Collins
Emergency Preparedness Planner

cc: Chief Mike Baker, City of Copperas Cove Fire Department

Mayor John Hull, City of Copperas Cove Date Andrea Gardner, Copperas Cove City Manager Date

City of Copperas Cove

City Council Agenda Item Report

February 2, 2010

Agenda Item No. G-5

Contact – Wanda Bunting, Director of Financial Services, 547-4221
wbunting@ci.copperas-cove.tx.us

SUBJECT: Consideration and action on an ordinance amending the City of Copperas Cove's Code of Ordinances, Chapter 2, Article V, Section 2-124(a) of the City of Copperas Cove.

1. BACKGROUND/HISTORY

The Financial Procedures and Fiscal Policy was updated in September 2009, resulting from an inquiry by the City Council and follow-up with City staff and the City's Financial Advisors. The recommendation by City staff was to exclude all capital outlay expenditures and debt service payments from the ideal fund balance calculation since the payments are not considered an operating cost. City Council approved the recommendation on September 15, 2009 and approved the 2009-10 budget based on the updated policy.

2. FINDINGS/CURRENT ACTIVITY

In the process of updating the Adopted Budget and Plan of Municipal Services document, City staff discovered that the Financial Procedures and Fiscal Policy "track changes" version inadvertently omitted adding the intended language to the General Fund section, thus was not updated to the full extent that the recommendation was presented to City Council. The revised "track changes" version of section 2-124(a) of the policy is attached for consideration.

3. FINANCIAL IMPACT

None.

4. ACTION OPTIONS/RECOMMENDATION

City staff recommends City Council approve an Ordinance, amending the City of Copperas Cove's Code of Ordinances, Chapter 2, Article V, Section 2-124(a).

ORDINANCE NO. 2010-08

AN ORDINANCE OF THE CITY OF COPPERAS COVE, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE V, FINANCIAL PROCEDURES AND FISCAL POLICY, DIVISION 3, FUND BALANCES AND OPERATING PROCEDURES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Copperas Cove's Finance Department Staff, City Attorney, and City staff have studied and reviewed the current Financial Procedures and Fiscal Policy Ordinance; and

WHEREAS, the City of Copperas Cove's Finance Department Staff, City Attorney, and City Staff have proposed amendments to Chapter 2, Administration, Article V, Financial Procedures and Fiscal Policy, Division 3, Fund Balances and Operating Procedures Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:

SECTION 1.

That the City of Copperas Cove's Code of Ordinances, Chapter 2, Administration, Article V, Financial Procedures and Fiscal Policy, Division 3, Fund Balances and Operating Procedures is hereby amended, and "Exhibit A" attached hereto is made a part of this ordinance and for all purposes reflects the changes to Chapter 2, Administration, Article V, Financial Procedures and Fiscal Policy, Division 3, Fund Balances and Operating Procedures, whether amended, added or deleted from the Code of Ordinances, is hereby adopted and incorporated herein as if fully set out.

SECTION 2.

That any ordinances or resolutions or part of ordinances or resolutions in conflict with the provisions of this Financial Procedures and Fiscal Policy Ordinance are hereby repealed to the extent of such conflict.

SECTION 3.

That should any section, clause, or provision of the Financial Procedures and Fiscal Policy Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance or any other ordinance of the City as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 4.

That these amendments shall go into effect upon passage.

PASSED, APPROVED AND ADOPTED this 2nd day of February 2010, at a regular meeting of the City Council of the City of Copperas Cove, Texas, which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code* §551.001, et.seq., at which meeting a quorum was present and voting.

John Hull, Mayor

ATTEST:

Jane Lees, City Secretary

APPROVED AS TO FORM:

Denton, Navarro, Rocha
& Bernal, P.C., City Attorney

DIVISION 3. FUND BALANCES AND OPERATING PROCEDURES*

***Editor's note:** Nonamendatory Ord. No. 1996-39, §§ 1--6, adopted Sept. 3, 1996 has been included herein as Div. 3, to Art. V, §§ 2-121--2-126, at the discretion of the editor.

Sec. 2-121. Title.

That this article shall be known as the Fund Balance Policy and Operating Reserves Fiscal Policy of the City of Copperas Cove, Texas, and its staff and employees according to the terms thereof and as the stated policy of the city, shall adhere to such a policy.

(Ord. No. 1996-39, § 1, 9-3-96; Ord. No. 2008-45, § 1(Exh. A), 11-3-08)

Sec. 2-122. Definitions.

For the purposes of this division, the following terms, phrases, words and their deviations shall have the meaning given herein. When not inconsistent with the context, words so used in the present tense include the future. Words in the masculine gender include the feminine. Words in the plural number include the singular, and words in the singular include the plural.

- (a) *Designated unreserved fund balance.* Net financial resources of a governmental fund that are spendable or available for appropriation, but which have been earmarked by the chief executive officer or the legislative body for some specific purpose.
- (b) *Fund.* A separate fiscal and accounting entity used by governments to segregate resources related to specific activities.
- (c) *Fund balance.* The difference between fund assets and fund liabilities in a governmental or trust fund.
- (d) *Fund type.* One of seven (7) categories into which all individual funds must be classified.
- (e) *Liquidity.* The ability to meet demands for payment on a timely basis.
- (f) *Reserved fund balance.* For governmental funds and expendable trust funds, the portion of fund balance that is not available for appropriation because it is either legally restricted (e.g., encumbrances) or not spendable (e.g., long-term receivables). For nonexpendable and pension trust funds, the portion of fund balance that is legally restricted.

(g) *Reserved retained earnings.* Generally, a portion of retained earnings reflecting the excess of restricted assets over related liabilities.

(h) *Retained earnings.* Net income and losses of all prior periods adjusted for transfers and amounts of depreciation charged to contributed capital.

(i) *Unreserved fund balance.* In a governmental or expendable trust fund, the balance of net financial resources that are spendable or available for appropriation. In a nonexpendable or pension trust fund, the portion of fund balance that is not legally restricted.

(Ord. No. 1996-39, § 2, 9-3-96; Ord. No. 2008-45, § 1(Exh. A), 11-3-08)

Sec. 2-123. Maintenance of adequate reserves in order to provide several important benefits to the city.

[The purposes of the fund balance policy and operating reserves fiscal policy shall include:]

- (1) Providing a measure of stability during economic cycles. Adequate reserves to help protect the city against significant tax increases or dramatic budget cuts during periods of low economic activity.
- (2) Interest income from the investment of the cash reserves to provide a significant source of revenue.
- (3) Adequate reserves to provide the foundation for a strong credit rating reducing the cost of long-term borrowing.

(Ord. No. 1996-39, § 3, 9-3-96; Ord. No. 2008-45, § 1(Exh. A), 11-3-08)

Sec. 2-124. Fiscal policy for maintaining adequate levels of reserves in the city's general fund, utility funds, and other funds per designation by city council.

(a) The general fund unencumbered fund balance should be at least twenty-five (25) percent of the general fund annual budget expenditures excluding expenditures planned for capital outlay purchases. This percentage is equivalent to three (3) months operating expenditures.

(b) The utility funds and other funds per city council designation should maintain an unencumbered fund balance (working capital) reserve of at least twenty-five (25) percent of the total annual budget expenditures excluding debt service payments and those expenditures planned for capital outlay purchases or the equivalent of three (3) months' operating expenditures.

(Ord. No. 1996-39, § 4, 9-3-96; Ord. No. 2008-45, § 1(Exh. A), 11-3-08)

Sec. 2-125. Obtaining the maximum reserves balances as established in section 2-124.

(a) The City of Copperas Cove shall designate the unencumbered fund balances in the following percentages per the stated funds until the maximum balances, as defined in section 2-124 have been obtained:

- (1) General Fund--No less than fifty (50) percent annually.
- (2) Utility Funds--No less than forty (40) percent annually.
- (3) Other Funds--No less than twenty (20) percent annually.

(b) Upon obtaining the section 2-124 fund balances, this section will not apply.

(Ord. No. 1996-39, § 5, 9-3-96; Ord. No. 2008-45, § 1(Exh. A), 11-3-08)

Sec. 2-126. No operating deficits.

Current expenditures will be paid with current revenues. Deferrals, short-term loans, or one-time sources will be avoided as budget balancing techniques. Reserves will be used only for emergencies or nonrecurring expenditures, except when balances can be reduced because their levels exceed guideline minimums.

(Ord. No. 1996-39, § 6, 9-3-96; Ord. No. 2008-45, § 1(Exh. A), 11-3-08)

Secs. 2-127--2-130. Reserved.

City of Copperas Cove

City Council Agenda Item Report

February 2, 2010

Agenda Item No. H-1

Contact – Charles E. Zech, City Attorney, 547-4221
jlees@ci.copperas-cove.tx.us

SUBJECT: Public Hearing and action on the proposed amendments to the City's Home Rule Charter presented by the Charter Review Committee.

1. BACKGROUND/HISTORY

The City of Copperas Cove City Charter was last amended at a General Election on May 10, 2008. The Texas Constitution, Article 11 – Municipal Corporations, Section 5 – Cities of more than 5,000 population; adoption or amendment of charters; taxes; debt restrictions, states the following:

Cities having more than five thousand (5,000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Furthermore, no city charter shall be altered, amended or repealed oftener than every two years.

On May 19, 2009, Mayor Hull recommended and the governing body appointed Council Members, Frank Seffrood and Cheryl Meredith, to serve on the committee upon creation. Furthermore, the Council also appointed Charles Zech, City Attorney, to serve as the legal consultant to the Charter Review Committee upon creation.

On July 21, 2009, City staff requested Council create a Charter Review Committee; however, the Council determined a workshop should be held to discuss the appointing process, committee process and timeline. Thus, during a Council Workshop held on August 11, 2009, the Council established a committee appointment process, a deadline for the Charter Review Committee to report to the governing body in early February 2010 and require the committee to conduct two public meetings on the proposed revisions. On August 25, 2009, the City Council appointed 13 citizens to serve as committee members. The Charter Amendment Committee met eight times and completed a thorough review of the charter. The proposed amendments are provided in the agenda packet for

Council review and were posted on the City's website on January 24, 2010 for citizen review.

2. FINDINGS/CURRENT ACTIVITY

The Council has the following discretion regarding the proposed amendments:

- The proposed amendments may be accepted in whole or part by the Council
- The Council may propose additional amendments to the City's Home Rule Charter

The following dates are critical to ensuring the election process is followed:

- The statutory last day to call an election is March 8, 2010
 - Special Election must be called on or before the March 2, 2010 Regular Meeting
- Deadline for submitting ballot information to the printer is March 12, 2010

On January 19, 2010, the City Council provided direction to City staff to include the proposed Home Rule Charter Amendments on the February 2, 2010 agenda as a public hearing and action item to allow citizens an opportunity to express views on the proposed amendments prior to Council action.

3. FINANCIAL IMPACT

Minimal impact will occur since the matter is planned for placement on the ballot for the City's General Election to be held May 8, 2010.

4. ACTION OPTIONS/RECOMMENDATION

City staff recommends City Council conduct a public hearing on the proposed Home Rule Charter amendments and take action deemed appropriate.

ARTICLE I. INCORPORATION: FORM OF GOVERNMENT: CORPORATE POWERS

Sec. 1.01. Incorporation.

The inhabitants of the City of Copperas Cove, within the corporate limits as now established or to be established in the future by law as directed by this charter, shall be a municipal body politic and corporate in continued growth under the name of the City of Copperas Cove.

Sec. 1.02. Form of government.

The municipal government provided by this charter shall be of the type known as the council-manager government. The municipal government provided by this Charter shall consist of a mayor and council members, elected by the people and responsible to the people, and a City manager, appointed by and responsible to the council for proper administration of the affairs of the City.

Sec. 1.03. Home rule.

(a) The City of Copperas Cove shall have the power of local self government to the fullest extent permitted by law. The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and the City's ordinances.

(b) All powers of the City shall be vested in the City council, except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

(c) The powers of the City under this charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted by the state or this charter.

Sec. 1.04. Change of boundaries.

(a) Annexation. The boundaries of the City of Copperas Cove may be enlarged and extended by the annexation of additional territory in any of the methods and in any manner and by any procedure that may now be provided by state law, or that may be hereafter provided by such law. Any territory annexed shall become a part of the City, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the City subject to federal, state and local laws and regulations.

(b) Disannexation. Whenever there exists within the corporate limits of the City of Copperas Cove any territory not suitable or necessary for City purposes, or for the purpose of effectuating common boundary line agreements between the City of Copperas Cove and adjoining cities, the City council may, by ordinance duly passed, disannex said territory as a part of the City; said ordinance shall accurately describe the territory sought to be eliminated from the City and shall contain a plat designating such territory so that the same can be definitely ascertained, and

when said ordinance has been duly passed the territory shall cease to be a part of said City, but said territory shall remain liable for its pro rata share of any debts incurred while said area was a part of the City, and the City shall continue to levy, assess and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the City as though the same had not been excluded from the boundaries of the City.

(c) Agreement. Upon mutual agreement between the City of Copperas Cove and any other adjacent municipality may, by ordinance duly passed, exchange territory with the other adjoining municipality for the purpose of effectuating a common boundary line agreement.

Sec. 1.05. Eminent domain.

The City shall have the full ~~right, power, and~~ authority to exercise the right of eminent domain for public use when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the State of Texas.

ARTICLE II. THE COUNCIL

Sec. 2.01. Composition and terms of office.

(a) *Composition.* The council shall be composed of a mayor and seven (7) council members. The mayor and all council members shall be elected from the City at large, and each council member shall occupy a position on the council, such positions being numbered one (1) through seven (7) consecutively. The mayor will not be designated as a numbered position on the ballot but shall be designated as "MAYOR."

(b) *Terms of office.* At the first general election held under this charter, and each three (3) years thereafter, the mayor and two (2) council members shall be elected, with the mayor filling the office of mayor and the two (2) council members filling the office of numbered positions one (1) and two (2). ~~The mayor will not be designated as a numbered position on the ballot but shall be designated as "MAYOR."~~ The following year, and each three (3) years thereafter, three (3) council members shall be elected, to fill the office of numbered positions three (3), four (4) and five (5). The following year, and each three (3) years thereafter, two (2) council members shall be elected to fill the office of numbered positions six (6) and seven (7). A council member, unless sooner removed from office under the provisions of this charter, shall serve for a term of three (3) years, and shall serve not more than two (2) terms in succession in the office to which elected. Sec. 2.07(c) also applies.

Sec. 2.02. Restrictions.

If any member of the City council desires to run for a different council office other than that which he/she holds, he/she must resign and vacate his/her present office at least sixty (60) days prior to the next election for the desired office. The resignation shall be effective on the date of such resignation. For the purposes of this provision there shall be only two (2) offices; the office of mayor and the office of numbered council member.

Sec. 2.03. Presiding officer: Mayor and mayor pro tempore.

(a) The mayor shall be elected in the manner provided by this charter to serve for a term of three (3) years and shall not serve more than two (2) terms in succession. The mayor shall preside at all meetings of the City council and shall be recognized as head of the City government for all ceremonial purposes, ~~by the governor for purposes of martial law, and shall serve as the emergency management director in times of an emergency as provided by state law, and by the governor for purposes of martial law,~~ but shall have no day-to-day administrative duties other than signatory duties where the mayor signs a variety of documents to give them official legal effect. The mayor shall vote at council meetings only ~~when his/her vote will affect the result of the voting in progress in the following manner: he/she shall vote to break a tie, and he/she shall vote when his/her vote will cause the number of votes required elsewhere in this charter to cause a valid or binding action of the council. The mayor shall have no veto power.~~

(b) At the City council's second regular meeting following each yearly regular election of council members, or runoff election if required, the council shall elect one of its members as mayor pro tem, for a period of one (1) year. The mayor pro tem shall act as mayor during the absence or disability of the mayor and, when so acting, shall have the same powers, duties, and restrictions as set forth for the office of mayor, ~~except that the he/she shall not lose their right to vote.~~

(c) In the event that both the mayor and mayor pro tem are absent from a council meeting, if there be a quorum as elsewhere stated in this charter, the council members present shall elect a chairperson who shall have the authority to conduct the meeting as if he/she were the mayor.

~~Sec. 2.04. Absenteeism.~~

~~Any member of the council requiring absence for two (2) regular consecutive meetings, will first obtain a leave of absence at a regularly scheduled meeting.~~

Sec. 2.0504. Qualifications.

A candidate for office must:

- (1) be a United States citizen.
- (2) be 18 years of age or older upon the commencement of the term to be filled at the election.
- (3) be a qualified voter in the City of Copperas Cove.
- (4) be domiciled within the corporate limits of Copperas Cove for at least one (1) year next preceding the day of the election at which they are a candidate.
- (5) not have been convicted of a felony for which he or she has not been pardoned or otherwise released from the resulting disabilities.
- (6) not have been determined by a final judgment of a court exercising probate jurisdiction to be:
(a) totally mentally incapacitated; or (b) partially mentally incapacitated without the right to vote, and

(7) ~~shall~~ not be disqualified by reason of any section of this charter or by state or federal law.

Sec. 2.05. Judge of Qualifications.

The City Council is the final judge of all elections and the qualifications of its members and of any other elected officials of the City.

Sec. 2.06. Compensation of council members and mayor.

The mayor shall receive \$50 and all other council members shall receive \$25 for each regular and specially called meeting attended. No council member shall receive any compensation for attendance at any workshop meeting, except for any workshop meeting that is conducted on a date separate from a regular or special called meeting. In addition, City council shall establish by ordinance methods of reimbursement for all actual and necessary expenses incurred by the mayor and council members in the performance of their duties.

Sec. 2.07. Vacancies, forfeitures, filling of vacancies.

(a) *Vacancies.*

The office of a council member or office of the mayor shall become vacant upon death, resignation, removal from office by recall, or forfeiture of his/her office.

(b) *Forfeiture.*

~~(1)~~1. A council member or the mayor shall forfeit his/her office if he/she:

(1) lacks at any time during the term of office any qualification for the office prescribed by this charter or by law,

(2) violates any express prohibition of this charter,

(3) is convicted of a misdemeanor involving moral turpitude, felony or is assessed a deferred adjudication or probation for a felony,

(4) fails to attend two (2) consecutive regular meetings unless caused by sickness or emergency, ~~without first having obtained a leave of absence from the council,~~ or

(5) moves his/her permanent residence outside the City limits.

~~(2)~~2. If a council member forfeits his/her office, and does not immediately resign, the council and mayor may conduct a hearing to determine if the office holder has forfeited and should vacate his/her office. The hearing shall be held within 30 days of the council, as a body, learning of the alleged forfeiture. The council may, by an affirmative vote of five (5) members, declare the office of said office holder to be forfeited and vacant. Disposition of the matter under this Charter is final and is res judicata. Further relief may be sought in a court of law. The office holder subject to the forfeiture shall not have a vote. The mayor shall vote unless he is the office holder subject to the forfeiture.

(c) *Filling of vacancies.*

Any City council member or mayoral vacancy will be filled by majority vote of qualified voters at a special election called for that purpose. The special election will be conducted in accordance with state and federal election laws. The term of office will be for the unexpired term of the office vacated. If the unexpired term is one (1) year or less, that council member may seek re-election for two (2) additional consecutive terms. If the unexpired term exceeds one (1) year that council member may succeed himself/herself only once. For the purposes of this section the period from one annual general election to the next annual general election shall be considered as one year or less regardless of the number of calendar days involved.

Sec. 2.08. Prohibitions.

(a) *Holding other office.* Except where authorized by law, no mayor or council member shall hold any other City office or City employment during his/her term as mayor or council member, and no former mayor or council member shall hold any compensated appointive City office or ~~city~~City employment until one (1) year after the expiration of his/her term as mayor or council member.

(b) Continuation of City Employment upon Candidacy. No employee of the city shall continue in such position after becoming a candidate for an elective office.

~~(c)~~ *Appointments and removals.* Neither the council nor any of its individual members, including the mayor, shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the City manager or any of his/her subordinates are empowered to appoint, however, the council may express its views and fully and freely discuss with the City manager anything pertaining to appointment and removal of such officers and employees.

~~(d)~~ *Interference with administration.* Neither the council nor its individual members, including the mayor, shall give any orders or direction, public or private, to any officer or employee who is subject to the direction and supervision of the City manager. Council members, including the mayor, shall not give orders or direction to the City secretary, City judge, City attorney or City manager unless acting as a council as a whole. This is not to preclude the council or its individual members, including the mayor, from conducting a dialog with City staff where the spirit and intent is not to interfere with the management and administration of the City. The mayor is not prohibited from performing administrative duties under a Declaration of Emergency Disaster per Section 2.13 or when performing administrative duties as the Emergency Management Director per Section 2.15

Sec. 2.09. Meetings of council.

The council shall hold at least two (2) regular meetings each month with the exception of December, which shall have a minimum of one (1) regular meeting, and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The council shall fix, by ordinance, the days, time and place of the regular meetings. All meetings shall be open to the public, except as otherwise provided by law. Special meetings of the council ~~shall be held at the call of the mayor or of four (4) or more council members~~may be held at any time during the year.

Sec. 2.10. Rules of procedure.

The council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at all regular and special council meetings in regard to any matter under consideration. The council shall provide for minutes being taken and recorded of all meetings, and such minutes shall be a public record. Voting, except on unanimous votes, shall be by roll call and the yeas, nays, and abstentions shall be recorded in the minutes. ~~FourFive_ (45) council members other than the mayor or the council member taking the mayor's place at the meeting,~~ shall constitute a quorum for the purpose of transaction of business. Unless otherwise required by law, actions of council shall be valid and binding upon the affirmative vote of the majority of those council members present and voting. ~~No action of the council shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the council.~~

Sec. 2.11. Investigative power of the council.

The council shall have the power to inquire into or investigate the official conduct of any department, agency, office, officer, employee, council members and mayor of the City and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, records or other evidence, and as it shall provide by ordinance, to punish and fix penalties for contempt for failure or refusal to obey any such subpoena or to produce any such books, papers, records, or other evidence, unless otherwise stated by state law.

Sec. 2.12. City secretary.

(a) The City council shall appoint to the office of City secretary a person to serve as City secretary at the discretion of the council. Any adjustments to the salary, the compensation package or employment status of the City secretary will be approved by the City council.

(b) The secretary shall be provided an office in the City Hall sufficient to maintain the records entrusted to his/her care and shall be entitled to a seat at the council table at all official meetings.

(c) The secretary shall give notices of its meetings, shall keep the journal of its proceedings, shall authenticate by signature and record in full in a book kept and indexed for that purpose, all ordinances and resolutions, and shall perform such other duties as the council may assign.

(d) The secretary shall recommend to the council rules and regulations to be adopted by ordinances to protect the safety and security of the municipal records.

(e) The secretary shall be responsible for all City elections.

The City secretary shall have such additional duties and authority not herein specified as shall be included for City secretaries in the Texas Civil or Penal Statutes presently existing or adopted in the future, except such duties and authority as may be expressly excluded by ordinance adopted by the City council consistent with the mandatory duties and authority prescribed either by state or federal law. The City council and the mayor shall evaluate the City secretary in accordance with the City's personnel policies manual, and each council member

and the mayor shall sign the evaluation. The City council shall also appoint an alternate City secretary to serve in the absence of the City secretary.

~~Sec. 2.13. Emergency Powers.~~

~~A state of emergency shall be deemed to exist when, as the consequences of a major calamity, activities of a war-like nature, riots, or insurrection, the normal procedures of the municipal government are inadequate for the protection of persons or property. A Declaration of Local Disaster may be declared by the vote of council, or by order of the mayor, or, in his absence or disability, the mayor pro tempore, if a meeting of the council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the municipal government for protection of persons or property. A Declaration of Local Disaster may not be continued or renewed for a period of more than seven (7) days except with the consent of council. An ordinance declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be promptly filed with the City Secretary. (As Amended 5-8-01)~~

~~Sec. 2.14. Emergency ordinances.~~

~~To meet a public emergency affecting life, health, property or the public peace, the council may adopt emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Sec. 2.14. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, or amended by a simple majority of the council members present. After adoption, emergency ordinances shall be published and printed as prescribed for other ordinances. They shall become effective upon adoption or at such later time as the ordinance may specify. Every emergency ordinance except one made pursuant to Sec. 2.14 shall automatically stand repealed as of the sixty first (61st) day following the date of adoption, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner prescribed in this section for adoption of emergency ordinances. (As Amended 5-8-01)~~

Issues for discussion

Deletion of the section

~~Sec. 2.15. Duties of the Mayor as Emergency Management Director and Powers of the Mayor during a Local State of Disaster.~~

~~The Mayor is designated as the Emergency Management Director for the City of Copperas Cove, and shall serve as the Governor's designated agent in administration and supervision of the Texas Disaster Act of 1975, and may exercise powers, on an appropriate local scale, granted the Governor therein. During a state of emergency the mayor, or, in his absence or disability, the mayor pro tempore shall be specifically empowered:~~

- ~~a. To place temporarily any city officers, employees, services, equipment or properties under the direction or control of any office or officers of the county, state, or federal governments, including the military services, and the duly constituted officers for the civil defense;~~
- ~~b. To enter upon cooperative agreements with the proper authorities of county, state or federal governments, or other municipalities, for mutual assistance within the area of an existing or threatened emergency;~~
- ~~c. To order the evacuation of persons from all or any part of the city and to close any buildings or areas within the city;~~
- ~~d. To re-establish the seat of the city's government at another place, provided that such place, if outside the city's territorial limits, shall be at the place nearest thereto which is suitable and practical.~~

Issues for discussion

Deletion of the section

~~Sec. 2.16. When emergency powers of mayor to terminate.~~

~~The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the Declaration of Local Disaster. The Declaration of Local Disaster shall terminate when so ordered by the Governor, mayor, or by the mayor pro tempore in the absence or disability of the mayor, or may be terminated by vote of a majority of the council.~~

Issues for discussion

Deletion of the section

ARTICLE III. ELECTIONS, INITIATIVE, REFERENDUM AND RECALL

Sec. 3.01. Municipal elections.

(a) *Schedule.* The general municipal election shall be held annually on the second Saturday in May or such other date as may be required by state or federal law. The runoff election date will be held in accordance with state election law. The city council shall be responsible to specify places for holding all elections.

(b) *Special elections.* The city council may order a special election for ordinances, bond issues, charter amendments, recall or other purposes deemed appropriate. Special elections must be held on a uniform election date in accordance with state election law.

~~(c) *Voter eligibility.* A certified list of voter registrants within the city, shall be requested by the city secretary from the county tax assessor-collector.~~

~~(d) *Conduct and regulation of elections.* All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this charter, and ordinances of the city, in the order named. Municipal elections shall be conducted by the election officials appointed or approved by the city council. Sample ballots for the specific election shall be posted in the voting place(s) for purpose of voter orientation.~~

~~(Ord. No. 1988-10, 4-5-88; As Amended 5-1-93; Ord. No. 2008-17, § 3, 5-10-08/5-20-08)~~

~~**State law references:** V.T.C.A. Election Code, Chap. 41, as amended, may be amended or may be disposed of in the future.~~

Sec. 3.02. Filing for office.

~~(a) *Eligibility to file.* Each candidate for an elective city office shall meet the qualifications listed in Section 2.05 and shall not file for more than one office or position number per election. No employee of the city shall continue in such position after becoming a candidate for an elective office.~~

~~(b) *How to get on ballot.* Any qualified person may have his or her name placed on the official ballot as a candidate for mayor or council member at any election held for the purpose of electing a mayor or council member by filing with the mayor or city secretary at least forty-five (45) days prior to the date of election before 5:00 p.m., a sworn application as provided in V.T.C.A. Election Code, 141.031 as amended, may be amended or disposed of in the future.~~

~~(As Amended 5-1-93; Ord. No. 2008-17, § 3, 5-10-08/5-20-08)~~

~~**Cross references:** Qualifications of mayor and council members § 2.05.~~

~~**State law references:** Election Dates and Hours for Voting, V.T.C.A. Election Code, Chap. 41; Application for Home-Rule City Office, V.T.C.A. Chap. 143 as amended, may be amended or disposed of in the future. Any qualified person may have his or her name placed on the official ballot as a candidate for mayor council member at any election held for the purpose of electing a mayor council member by filing with the mayor or city secretary at least forty-five (45) days prior to the date of election before 5:00 p.m., a sworn application as provided in Texas Election Code, 141.031 as amended, may be amended or disposed of in the future~~

Sec. 3.03. Official ballots.

(a) *Names on ballot.* The names of all candidates for office shall be printed on the official ballots without party designation or symbol. If two (2) or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.

(b) *Order of listing.* The order on the ballot of the names of the candidates shall be determined in accordance with Texas state law.

(c) *Early voting ballots.* Procedures for voting by early voting ballot shall be consistent with the current edition of Texas election laws.

(d) *Ballots for ordinances and charter amendments.* An ordinance or charter amendment, to be voted on by the city, shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement, approved by majority of the whole city council, describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below or to the left of such question shall appear, in the following order, the words "Yes" and "No" each with a square.

(e) *Write-in votes.* Procedures for write-in votes shall be consistent with current edition of Texas election laws.

Sec. 3.04. Elections.

(a) To be elected for the office of council member or mayor, the candidate must receive a majority vote of qualified voters who voted in the general election. If no candidate receives a majority vote, the two (2) candidates with the highest number of votes will participate in a runoff election.

(b) *Canvassing elections.* Returns of elections shall be accomplished according to state law.

(c) *Notification and taking office.* It shall be the duty of the city secretary to notify all persons elected. Those elected shall take office and enter upon their duties after

qualifying by taking and subscribing to their oath of office at the second regular city council meeting after the election.

Sec. 3.05. Oath of office.

Every officer of the city, whether elected or appointed, before entering upon the duties of office, shall take and subscribe to the appropriate oath or affirmation prescribed by the secretary of state of the State of Texas. The oath shall also contain a statement affirming that the officer will uphold and comply with the Charter of the City of Copperas Cove, Texas. Oaths of office ~~filled~~ shall be kept in the office of the city secretary.

Sec. 3.06. Power of initiative.

The voters of this city shall have the power to propose any ordinance, or reject the same at the polls. An initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city, equal in number to ~~at least twenty-five (25) two and one half percent (2.50%)~~ percent of ~~the number of those voting at the last regular municipal election of the city, or signed by five hundred (500)~~ qualified voters registered to vote at the last general City election., whichever is greater.

Sec. 3.07. Power of referendum.

The voters of this city shall have the power to repeal at the polls any ordinance enacted by the city council which is subject to the initiative process under this charter, except for bonds that have been legally awarded to a successful bidder or other legal obligations. The petition for referendum shall require the same number and qualification of signers as required by this charter for an initiative petition.

Sec. 3.08. Requirements of petition.

Any five (5) qualified voters may begin initiative or referendum proceedings by filing with the city secretary an affidavit stating they constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form, stating their names and addresses, and setting out in full the proposed initiative ordinance or the ordinance sought to be considered. Petitions shall contain, or have attached to them, the full texts of the ordinance proposed or sought to be considered. The signatures to the initiative or referendum need not all be appended to one paper, but each signer shall sign his/her name in ink, shall add his/her place of residence by street and number, shall include his/her date of birth or voter registration number, and shall state his/her county of residence. The circulators of each petition page shall make an affidavit that he/she, and he/she only, personally circulated that page of the petition, and that each signature is the genuine signature of the person as is written, and further, that no signatures shall have been placed there more than forty-five (45) days prior to the filing of such petition. Petitions shall be returned to the city secretary for filing within forty-five (45) days after filing of the affidavit of petitioners committee.

Sec. 3.09. Filing, examination and certification of petition.

Within twenty (20) business days after an initiative, referendum or recall petition is filed, the city secretary shall determine whether such petition is signed by a sufficient number of qualified voters and has proper affidavit(s). After completing examination of the petition, the city secretary shall certify the results to the city council at its next regular meeting. If such petition is insufficient, the city secretary shall set forth in a certificate the particulars in which it is insufficient, and an additional ten (10) days shall be allowed in which to file an amendment or supplement which will correct the deficiency. No petition, once amended, may be amended again.

Sec. 3.10. Effect of certification of referendum petition.

When a referendum petition or amended petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action shall be suspended if it shall have gone into effect, until and unless it is approved by the voters.

Sec. 3.11. Council consideration and submission to voters.

(a) When the council receives a petition for initiative which has been certified by the city secretary to be sufficient, the council shall either enact the proposed ordinance within thirty (30) days, or after certification the proposed ordinance shall be submitted to a vote of the qualified voters of the city at a regular or special election to be held at the first uniform election date in accordance with state election law.

(b) When the council receives a referendum petition certified by the city secretary to be sufficient, the council shall reconsider the referred ordinance within thirty (30) days; and if not repealed, it shall submit that ordinance to the qualified voters of the city at a regular or special election to be held at the first uniform election date in accordance with state election law.

Sec. 3.12. Ballot form and results of elections.

(a) The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" "Against the Ordinance." Any number of ordinances may be voted upon at the same election in accordance with the provisions of this charter. An ordinance submitted, and receiving an affirmative majority of the votes cast, shall then become effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a majority vote of the entire city council. ~~A referred ordinance which is not approved by a majority of the votes shall be deemed to be repealed.~~

(b) If conflicting ordinances are approved at the same election, the ordinance receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Sec. 3.13. Power to recall.

(a) *Power to recall.* The voters of the City of Copperas Cove shall have the power to recall any elected officer of this city for the reasons of Incompetency and official Misconduct and upon conviction of a crime of moral turpitude.

(1) Incompetency means gross ignorance of official duties; gross carelessness in the discharge of official duties; or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election.

(2) Official Misconduct means intentional unlawful behavior relating to official duties and includes intentional or corrupt failure, refusal, or neglect to perform a duty imposed on the officer by law.

(b) *Requirements of a recall petition.*

(1) A petition for recall shall specifically state the grounds alleged for the removal of the officer in plain and intelligible language and must cite the time and place of the occurrence of each act alleged as a ground for removal with as much certainty as the nature of the case permits.

(2) The petition shall be signed by qualified voters of the city equal in number ~~to fifty-one percent (51%)~~ two and one half percent (2.50%) of the number of ~~those voting at the last regular municipal election of the city, or signed by seven hundred fifty (750)~~ qualified voters registered to vote at the last general City election, whichever is greater. The petition shall be verified by the same number of signers, with the same qualifications, and in the same manner required in the charter for an initiative petition.

(c) *Ordering of an election.* If the petition is certified by the city secretary to be sufficient, the council shall order and hold, or cause to be held, on the next feasible date for such, an election as specified under state law, to determine whether such officer shall be recalled.

(d) *Limitation for removal.* An officer may not be removed for an act the officer committed before election to office.

Sec. 3.14. Results of recall election.

If the majority of the votes cast at a recall election shall be for the removal from office of the elected officer named on the petition and ballot, upon the canvas of said election, his/her office shall immediately be declared vacant and shall be filled as vacancies in

the city council are filled, as provided in this charter. An elected officer who has been so removed from office shall not be eligible to succeed himself/herself.

Sec. 3.15. Limitation on recall.

No petition shall be filed against an elected officer within 180 days after he/she has taken office. A recall election need not be ordered by the council if the term of office of the elected officer against whom a petition is filed is to expire within 180 days after the petition is filed with the city secretary. An elected officer previously the subject of a recall election, shall not be listed on a recall petition within 365 days of the previous recall election.

Section 3.16

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the council, request that a public hearing be held to permit him/her to present facts pertinent to the charges specified in the recall petition. In this event, the council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such requests for a public hearing.

Sec. 3.17. Ballots in recall election.

Ballots used at recall elections shall conform to the following requirements: (1) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of person) be removed from the office of (mayor) (council member) by recall?" (2) immediately below the question, there shall be printed the two (2) following propositions, one above the other, in the order indicated: "~~For the recall of (name of person).~~YES" "~~Against the recall of (name of person)~~NO".

Sec. 3.18. Failure of council to call a recall election.

When all the requirements of this charter shall have been met and the council shall fail or refuse to receive the recall petition, or order such recall election, or discharge other duties imposed upon the council by the provisions of the charter with reference to such recall, then it shall be the duty of the district judge of Coryell County, Texas, upon proper application being made, to order such election and to enforce the carrying into effect of the provisions of the article of the charter.

ARTICLE IV. ADMINISTRATIVE SERVICES

Sec. 4.01. City manager.

(a) *Appointment and qualifications.*

(1) The council shall appoint a city manager, who shall be the chief administrative and executive officer of the city. He/she shall be chosen solely on the basis of his/her executive and administrative training, experience and ability. He/she need not be a resident of the city when appointed; however, during his/her tenure of office he/she shall reside in the city.

(2) No mayor or council member shall receive such appointment during the term for which he/she shall have been elected or within one (1) year after the expiration of his/her term.

(b) *Term and salary.* The city manager shall serve at the discretion of the city council and shall receive such salary as may be fixed by the council.

(c) *Powers and duties.* The city manager shall be responsible to the council for the administration of all the affairs of the city. The powers and duties conferred upon the city manager shall include, but shall not be limited by the following:

(1) He/she shall see that all laws, provisions of this charter, and acts of the city council, subject to enforcement by him/her, or by officers subject to his/her direction and supervision, are faithfully executed.

(2) Appoint, suspend or remove any employee of the city, including department heads, not appointed by council.

(3) Attend all meetings of the council.

(4) Prepare the annual budget and submit it to the council and be responsible for its administration after its adoption.

(5) Prepare and submit to council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.

(6) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem necessary.

(7) Perform such other duties as may be prescribed by this charter or required of him/her by the council.

(8) Manage, as administrative head, all employees of the city. However, the city manager may not lower, change or alter in any manner the salary and/or the compensation package of personnel directly responsible to the city council.

(9) The city council, including the mayor, shall evaluate the city manager annually in accordance with the city's personnel policies manual, and each council member shall sign the evaluation.

Sec. 4.02. Acting city manager.

The city manager within sixty (60) days after taking office, shall designate by letter filed with the city secretary, a qualified administrative officer of the city to perform the duties of the city manager in his/her absence or disability. Such designation shall be approved by council.

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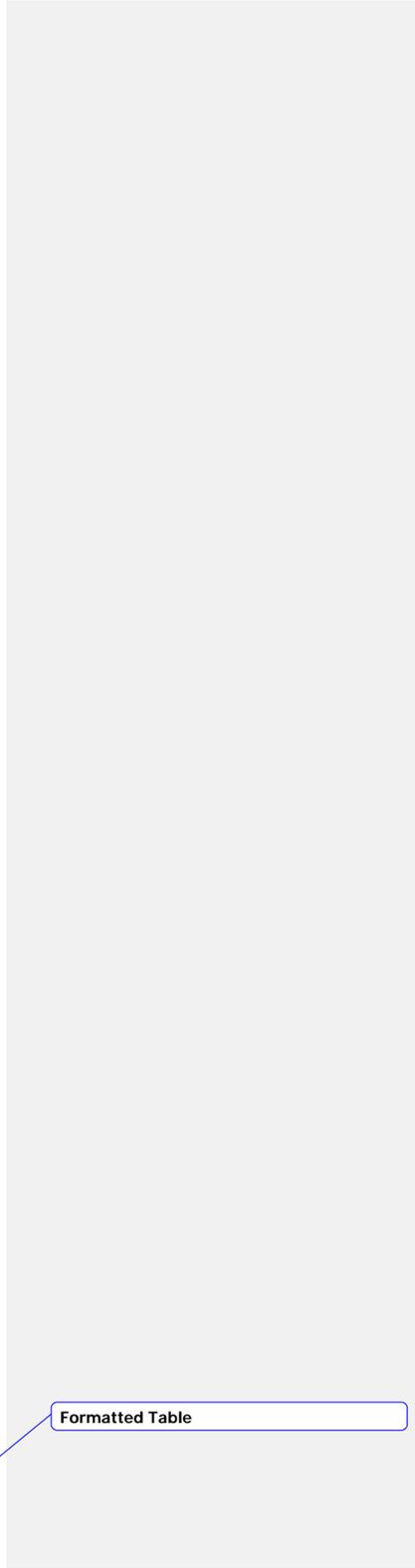
Sec. 4.03. Department heads.

The head of each department, except those specifically mentioned in this charter, shall be appointed by, responsible to, and removed by the city manager, and shall be directly responsible for the administration of his or her department. The city manager shall determine the salary of the head of each department under his or her supervision.

No department or office established by this charter shall be discontinued by the city council, and no duties of any such departments shall be transferred therefrom or added thereto.

Sec. 4.04. Participation of city manager and other department heads in meetings.

The city manager shall have the right to participate in the discussion of all matters coming before the council. Other department heads shall take part in all discussions of the council relating to their respective offices, departments or agencies, subject to the provisions of the Open Meetings Act.



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ARTICLE V. LEGAL DEPARTMENTS AND MUNICIPAL COURT

Sec. 5.01. City attorney.

The city council shall appoint a competent attorney, licensed by the State of Texas, who shall be its "city attorney". The city attorney shall serve at the discretion of the city council. The city attorney shall designate assistant(s) city attorney and submit the name(s) to the city council for concurrence, if the council appropriates sufficient funds for that position. The city attorney shall receive for his/her services such compensation as may be fixed by the council. The city attorney shall appear, in any court, on behalf of the city.

The city attorney shall represent the city in all litigation. He/she shall be the legal advisor, counsel for the city, and counsel for the departments of the city.

The city attorney shall review any and all ordinances considered suspect for change or deletion and cause said ordinance to be brought before the city council with his/her recommendations. The city council and the mayor shall evaluate the city attorney annually, and each council member and the mayor shall sign the evaluation.

Sec. 5.02. Municipal court.

There shall be a court for the trial of misdemeanor offenses known as the "Municipal Court of Copperas Cove, Texas," with such powers and duties as are given and prescribed by laws of the State of Texas and this charter.

The municipal court shall be presided over by a magistrate, who shall be known as "the judge of the municipal court."

The court shall be served by a clerk, to be known as the "municipal court clerk", who shall be a city employee.

All fines imposed by the municipal court, or by any court in cases appealed from judgments of the municipal court, shall be paid into the city treasury for the use and benefit of the city. ~~The municipal judge will review with the city attorney all ordinances that are suspected for or need review by the city council for updating or deletion as a city ordinance.~~

Sec. 5.03. Municipal judge.

There shall be a magistrate of the municipal court known as the "judge of the municipal court", appointed by the city council for a period of two years, or until resignation, or replacement by the city council for cause, whichever shall occur earlier. He/she shall receive such compensation as may be fixed by the city council.

The city council and the mayor shall evaluate the municipal judge annually, and each council member and the mayor shall sign the evaluation.

Further, the city council may appoint an associate municipal judge to serve in the absence of the municipal judge. The associate judge shall serve at the discretion of the city council, who shall fix his/her compensation.

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ARTICLE VI. THE BUDGET

Sec. 6.01. Fiscal year.

The fiscal year of the City of Copperas Cove shall begin the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

Sec. 6.02. Preparation and submission of proposed budget.

The city manager, between ninety (90) and sixty (60) days prior to the beginning of each fiscal year, shall submit to the city council a proposed budget, which shall provide a complete financial plan for the fiscal year and shall contain the following:

- (a) A budget message, explanatory of the budget, shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditures and revenue items, and shall explain any major changes in financial policy.
- (b) A consolidated statement of receipts and expenditures of all funds.
- (c) An analysis of property valuations.
- (d) An analysis of the tax rate.
- (e) Tax levies and tax collections by year for at least five (5) years or, if records for five (5) years are not available, for as many years as are available.
- (f) General fund resources in detail.
- (g) Summary of proposed expenditures by function, department, and activity.
- (h) Summary of proposed expenditures by character and subject.
- (i) Detailed estimates of expenditures shown separately for each activity to support the summaries numbers (g) and (h) above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and the rate of pay.
- (j) A revenue and expense statement for all types of bonds.
- (k) A description of all bond issues outstanding, showing rates of interest, date of issue, maturity date, amount and authorized amount issued, and amount outstanding.
- (l) A schedule of requirements for the principal and interest of each issue of bonds.
- (m) A special funds section.
- (n) The appropriation ordinance.
- (o) The tax levying ordinance.
- (p) A capital program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition and shall include the following items:
 - (1) A summary of proposed programs.
 - (2) A list of all capital improvements which are proposed to be undertaken during the next five (5) fiscal years, with appropriate supporting information as to the necessity for such improvements.
 - (3) Cost estimates, method of financing and recommended time schedules for each such improvement.

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

Sec. 6.03. Anticipated revenue compared with other years in budget.

The city manager shall, in the preparation of the budget, place in parallel columns opposite all items of revenue the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

Sec. 6.04. Proposed expenditures compared with other years.

The city manager, in the preparation of the budget, shall place in parallel columns opposite all items of expenditures, the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

Sec. 6.05. Proposed budget: a public record.

The proposed budget and all supporting schedules shall be filed with the city secretary when submitted to the council and shall be a public record for inspection by anyone.

~~**Sec. 6.06. Notice of public hearing on proposed budget.**~~

~~At the meeting of the council at which the proposed budget is submitted, the council shall fix the time and place of a public hearing on the budget and shall cause to be published in a local newspaper a notice of the hearing, setting forth the time and place thereof at least five (5) days before the date of hearing.~~

~~**Sec. 6.07. Public hearing on proposed budget.**~~

~~At the time and place set forth in the notice required by Section 6.06, the council shall hold a public hearing on the proposed budget submitted, and all interested persons shall be given an opportunity to be heard, for or against any item or the amount of any item therein contained.~~
Sec. 6.06. Public hearing amending or supplementing proposed budget.

After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the proposed budget, except items in proposed expenditures fixed by law. Before inserting any additional item or increasing any item of appropriation, it must cause to be published a notice setting forth the nature of the proposed changes and fixing a place and time, not less than five (5) days after publication, at which the council will hold a public hearing thereon.

After such further hearing, the council may insert the additional item or items and make the increase or increases to the amount in each case indicated by the published notice,

or to a lesser amount; but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such total proposed expenditures.

Sec. 6.07. Vote required for adoption.

The budget shall be adopted by a majority vote of the council.

Sec. 6.08. Date of final adoption.

The budget shall be finally adopted not later than the thirtieth (30th) of September. If the council fails to adopt the budget by the thirtieth (30th) day of September, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items in it pro-rated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. The levy of property tax will be set based on the State Law provisions governing property tax levy and the adoption requirements for said levy.

Sec. 6.09. Effective date and distribution of budget.

Upon final adoption, the budget shall be in effect for the ensuing fiscal year. A copy of the budget, as finally adopted, shall be filed with the city secretary, the county clerk of Coryell County, the county clerk of Lampasas County, and as required by state law. The final budget shall be printed, or otherwise reproduced, and a reasonable number of copies shall be made available for the use of all offices, departments and agencies, and for the use of interested persons and civic organizations and placed on file with the city secretary, municipal library, and on the city's website.

~~**Sec. 6.12. Budget establishes appropriations.**~~

~~From the effective date of the budget, all amounts stated therein as proposed expenditures shall be and become appropriated to all objects and purposes therein named.~~

~~**Sec. 6.13. Amount to be raised by property tax.**~~

~~From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city in the corresponding tax year.~~

Sec. 6.10. Contingent appropriations.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation, in an amount not more than fifteen (15) per centum of the total general fund expenditure, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the city manager and distributed by him/her after approval by the city council. A detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriations, the spending of which shall be charged to the departments or activities for which the appropriations were made.

~~**Sec. 6.15. Estimated expenditures shall not exceed estimated resources.**~~

~~The total estimated expenditures of the general fund and debit services fund shall not exceed the total estimated resources of each fund (projected income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.~~

Sec. 6.11. Amending the budget.

(a) *Program/budget action conference.* Within fifteen (15) days after the end of the second quarter of the fiscal year the council will hold a program/budget action conference with the city manager to determine the fiscal condition of the city at that time and to determine if the current budget for that fiscal year should be amended in any manner.

(b) *Budget amendments.*

(1) If, at any time, the council desires to amend the budget it will call for a public hearing and cause to be published, in local newspapers of general circulation in the city, at least five (5) days prior to such public hearing a description of the proposed amendments.

(2) After the public hearing mentioned above, the city council may adopt, modify and adopt, or decline to adopt the proposed amendments.

(3) In those cases where the council desires to move funds or make appropriations from reserve accounts, two (2) public hearings, held a minimum of five (5) days apart, must be held prior to such action being taken.

(4) In those cases where state law requires that a state of grave public necessity be declared prior to amending the budget, the actual fact of the grave public necessity may be established by an unanimous vote of the council or by the certification in writing by not less than one hundred fifty (150) resident qualified voters. If a grave public necessity is established as herein required, then the budget may be amended by customary council action.

(5) Transfers of appropriations authorized in Sec. 8.02 are budget actions that do not require the amendment procedures required elsewhere in this article.

ARTICLE VII. ISSUANCE AND SALE OF BONDS

Sec. 7.01. Power to borrow.

The City of Copperas Cove shall have the right and power to issue its general obligation bonds on the full faith and credit of the city, payable from ad valorem taxes not to exceed the maximum rate permitted by the Texas constitution, for the purpose of providing permanent public improvements or for any other public purpose. The city shall also have the right and power to issue its revenue bonds payable from the revenues of any municipally owned utility or utilities, and may secure such revenue bonds by a mortgage or deed of trust on the physical properties of such utility or utilities. The city shall also have the right and power to issue interest bearing time warrants pursuant to Article 2368a., Vernon's Annotated Civil Statutes as amended, may be amended or disposed of in the future and interest bearing certificates of obligation pursuant to Acquisition, Sale or Lease of Property, V.T.C.A., Local Government Code, Chap. 271, Subchapter C, as amended, may be amended or disposed of in the future.

Sec. 7.02. Issuance of bonds, time warrants, and certificates of obligation.

All bonds, warrants, and certificates of obligation of the City of Copperas Cove shall be issued pursuant to the procedures and requirements established by the Constitution and general laws of the State of Texas. All tax bond issues must be presented to the voters for referendum.

ARTICLE VIII. FINANCE ADMINISTRATION

Sec. 8.01. Director of finance.

(a) *Appointment.* The council may set up a department of finance, the head of which shall be the director of finance, who shall be appointed by the city manager.

(b) *Qualifications.* The director of finance shall have the proper knowledge of municipal accounting and sufficient experience in budgeting and financial control to properly perform the duties of the office.

(c) *Power and duties.* Under the direction of the city manager, the director of finance shall have charge of the administration of the financial affairs of the city, and to that end he/she shall have the authority and shall be required to:

(1) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations as established or changed by the city council are not exceeded.

(2) Maintain a general accounting system for the city government each of its offices, departments, and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as may be deemed expedient.

(3) Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city.

(4) Prepare, as of the end of each fiscal year, a complete financial statement and report.

(5) Collect license fees and other revenues of the city, or for whose collection the city is responsible, and receive all money receivable by the city from state or federal government, or from any court, or from any office, department or agency of this city.

(6) Have custody of all public funds belonging to or under the control of the city of any office, department or agency of the city government, and deposit all funds coming into his/her hands in such depository or depositories as may be designated by the city council, subject to the requirements of law in force at the time as to the furnishing of bond or the deposit of securities and the payment of interest on deposits. All such interests shall be the property of the city and shall be accounted for and credited to the proper account.

(7) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange.

(8) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government.

(9) Approve all proposed expenditures; provided that there is an unencumbered balance of appropriated and available funds.

(10) Supervise and be responsible for the sale or disposal of surplus or obsolete supplies, materials and equipment belonging to the city.

(d) *Acting*. In the absence of a director of finance, the city manager will serve in the capacity of director of finance.

Sec. 8.02. Transfers of appropriations.

The director of finance may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the city manager and within the last three (3) months of the fiscal year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

Sec. 8.03. Accounting supervision and control.

The city manager shall have power and shall be required to:

(a) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments or agencies of the city government.

(b) Examine and sign all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that monies have been appropriated and allotted and will be available when the obligations shall become due and payable.

(c) Audit and approve, before payment, all bills, invoices, payrolls, and other evidence of claims, demands or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges.

(d) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his/her office.

Sec. 8.04. Lapse of appropriations.

All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered. The finance director shall transfer such lapsed appropriations to the reserve account of the fund to which the lapsed appropriation belongs.

Sec. 8.05. Fees shall be paid to city.

All fees received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such times as required by the director of finance.

Sec. 8.06. Sale of city property.

Any sale, gift, or contract for the sale of any real property belonging to the City, either in form of land, real estate or other real properties, shall be in accordance with the Texas Constitution, Texas Local Government Code, Chapters 253 and 263, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, and all other applicable State law. Personal property shall be disposed of according to ordinance.

Sec. 8.07. Purchase procedure.

The Director of Finance shall have authority to make expenditures from one or more municipal funds without the approval of the City Council for all budgeted items up to that amount which, under State law, triggers the competitive procurement process. All contracts or purchases requiring expenditures from one or more municipal funds in the amount involving more than the dollar amount which, according to Section 252.021 of the Local Government Code, or any successor statute thereto triggers the competitive bidding process, shall be let in compliance with the procedures prescribed by Chapter 252 of the Local Government Code and the acts amendatory and supplementary thereto, now or hereafter enacted, for competitive sealed bidding or competitive sealed proposals.

Sec. 8.08. Contract for improvements.

Any city contract requiring an expenditure by, or imposing an obligation or liability on the city shall be made in accordance with the requirements of the Constitution and statutes of the State of Texas. These contracts shall include, but are not limited to, contracts for the construction of public works or the purchase of materials, equipment, supplies, or machinery. If changes in plans or specifications are necessary after the performance of the contract is begun or it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the changes shall be made in accordance with the requirements of the Constitution and statutes of the State of Texas. If contracts executed pursuant to Section 252 of the Local Government Code, require a change order involving a decrease or an increase equal to or less than the amount provided in Section 252.048(c) of the Texas Local Government Code and the acts amendatory thereof and supplementary thereto, the city manager may approve the change order.

Sec. 8.09. Disbursement of funds.

All checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the director of finance, or his/her deputy, and countersigned by the city manager. In the event the city manager is the director of finance, all checks signed by him/her shall be countersigned by the assistant director of finance.

Sec. 8.10. Accounting control of purchases.

All purchases made shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any seller unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

Sec. 8.11. Borrowing in anticipation of property taxes.

For the purpose of temporary borrowing, the city council shall have the power by ordinance to raise money on the credit of the city by the issuance of warrants and notes in anticipation of the collection of taxes and of special assessments.

Sec. 8.12. Sale of notes: report of sale.

All notes issued pursuant to this article may be sold at not less than face value and accrued interest at private sale by the director of finance without previous advertisement, but such sale shall be authorized by Council. Issuance of notes pursuant to this section is specifically exempt from the provisions of section 8.07.

Sec. 8.13. Surety bonds.

The directors of all administrative departments whose duties include the handling of monies and all employees whose duties include the handling of monies belonging to the City of Copperas Cove shall, before entering upon the duties of this office or employment, be bonded with a responsible surety company acceptable to the city council for such amount as the council may prescribe, the premium of which bond shall be paid by the city; and the city council may also require any such surety bond to be further conditioned that the principal thereon will faithfully perform and/or discharge the duties of his/her office, and if there are provisions of state law bearing upon the functions of his/her office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith.

ARTICLE IX. TAX ADMINISTRATION

Sec. 9.01. Power to tax.

The city shall have all the same powers of taxation granted by the constitution and the general laws of the State of Texas governing cities with a population in excess of five thousand (5,000) inhabitants and by virtue of this charter shall have the power to:

(a) Authorize the granting and issuance of licenses and direct the manner of issuing and registering the same and fix the fees therefor; but no license shall be issued for a longer period than one (1) year and shall not be assignable except by permission of the governing authority of the city; and may adopt such measures as may be deemed necessary to enforce the registration requirements;

(b) Assessing the penalty and interest rate and the method of determining the amount of collector's cost to be charged to delinquent tax accounts;

No irregularities in the time or manner of making or returning the city assessment rolls or the approval of such rolls shall invalidate any assessment.

ARTICLE X. FRANCHISES AND PUBLIC UTILITIES

Sec. 10.01. Powers of the city.

The city shall have the power to buy, construct, lease, maintain, operate and regulate public utilities and to manufacture, distribute and sell the output of such utility operations. In addition, the city shall have additional powers as granted by the constitution and the laws of the State of Texas. The city shall not provide any utility services outside the city limits except by a written contract with the prospective customer requesting such services.

Sec. 10.02. Power to grant franchise.

The council shall have the power, by ordinance, to grant, renew, extend and amend by mutual agreement, all franchises of all public utilities operating within the city. No franchise shall be granted, renewed or extended for an indeterminate period or for a term of more than twenty (20) years.

Sec. 10.03. Ordinance granting franchise.

Each ordinance granting, renewing, extending or amending a public utility franchise shall be read at a public hearing during two (2) separate regular meetings of the council and shall not be acted upon until the second and final reading. Within seven (7) days following the first reading the ordinance shall be published once, as allowed by law. The prospective franchise holder shall be responsible for the expense of publication. No ordinance shall take effect until thirty (30) days after passage.

Sec. 10.04. Grant not to be exclusive.

No grant to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

Sec. 10.05. Transfer of franchise.

No public utility franchise shall be transferable except by city ordinance. The term "transferable," as used in this article, shall not be interpreted in such a manner as to prevent the franchise holder from pledging the franchise as security for a valid debt or mortgage.

Sec. 10.06. Franchise value not to be allowed.

No value shall be assigned to any franchisee granted by the city in:

- (a) Fixing reasonable rates and charges for utility services within the city.
- (b) Determining the just compensation to be paid by the city for public utility property which it may acquire.

Sec. 10.07. Right of regulation.

Each grant, renewal, extension and amendment of public utility franchises shall be subjected to the right of the city, and the city shall have the power in accordance with state law:

- (a) To forfeit any franchise, by ordinance, at any time if the holder fails to comply with the terms of the franchise. This power shall be exercised only after notice and hearing, and the franchise holder has had an opportunity to correct the default.
- (b) To, require expansion, extension and maintenance of plants and facilities as necessary to provide adequate service to the public at the highest reasonable standard of efficiency.
- (c) To establish reasonable standards of service and quality of products and prevent discrimination in service or rates.
- (d) To impose regulations to insure safe, efficient and continuous service to the public. The franchise holder, in opening and refilling of all openings and in the disturbance of property, shall do all work necessary to complete restoration to a condition as good as when disturbed.
- (e) To examine and audit, at any time during regular businesses hours, the accounts and records of any public utility, providing such examination or audits is relevant to the city's right of regulation.
- (f) To require compensation and rental permitted by the laws of the State of Texas.
- (g) To require that each public utility maintain its accounts in accordance with the uniform systems of accounts prescribed by the National Association of Regulatory Commissioners, or the Federal Energy Regulatory Commission, or the Federal Communications Commission, or the Railroad Commission of Texas or their successor, as applicable. If the maintenance of accounts for any public utility is not prescribed by any federal or State of Texas agency, then the city shall prescribe the form of accounts.
- (h) To establish specifications for materials and construction for public utilities used within or beyond the limits of the city.
- (i) To prescribe penalties for noncompliance of this provision of the article or ordinances pertaining to franchises and public utilities.

Sec. 10.08. Regulation of rates.

The council shall have the power, after notice and hearing, to regulate by ordinance the rates, charges and fares of every public utility franchise holder to that which the council is permitted to regulate under state and federal law. However, no such ordinance shall be passed as an emergency measure. Every franchise holder requesting an increase in rates, charges or fares shall have, at the hearing called to consider such request, the burden of presenting clear, competent and convincing evidence to substantiate the increase. The council shall have the power to employ expert advice and assistance in determining rates, charges and fares and an equitable profit to the public utility and the franchise holders requesting the increase shall pay the cost of such expert advice and assistance.

Sec. 10.09. Submission of annual reports.

Each franchise holder of a public utility operating in the city shall submit a sworn annual report to the city manager. The report will include receipts from the operation of the public utility for the current year, amount of expenditures to include the amounts for betterments or improvements, the rates, charges or fares for services rendered to the public and any other information that the council may require. The content, submission and inclusive dates of the report will be established by ordinance. The council shall review these reports at least once annually to determine if rates, charges or fares are right and proper.

Sec. 10.10. Municipally owned utilities.

An account will be maintained by the city manager for each public utility owned or operated. Each account will show the true and complete financial results of the city ownership and operation including assets and liabilities by classes, depreciation reserve, other reserves and surplus, revenues, operating expenses, depreciation, interest payments, rental and disposition of annual income, capital cost of each city-owned utility, cost of and service rendered to any city department, and other information required by the council. Annually, a certified public accountant will prepare, and the council will cause to be published, a financial report for each public utility owned or operated by the city. Each report will contain the information specified in this section and such other information as required by the council. The council will establish, by ordinance, the submission and inclusive dates of each report.

Sec. 10.11. Records.

The city shall compile and maintain a public record of city-owned and operated public utilities, public utility franchises and related annual reports.

ARTICLE XI. GENERAL PROVISIONS

Sec. 11.01. Publicity of records.

All records of the city shall be open for inspection by any citizen or by any representative of a citizen's organization or the press during normal business hours subject only to the provisions and limitations of the Texas Public Information Act as now exists or hereafter amended.

Sec. 11.02. Conflict of interest.

Any member of the city council, any city office, any city employee or any city board or commission member who has a substantial financial interest, direct or indirect, in any firm, or by reason of ownership of stock in any corporation, or employment with any employer in any contract with the city or in the sale of any land, material, supplies or services to the city or to a contractor supplying the city shall make known that interest and shall refrain from voting upon or otherwise participating in his/her capacity as a city

council member, city officer or city employee in the making of such sale or the making or performance of such contract. Any city council member, city officer or city employee who willfully conceals such substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his/her office or position. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the city shall render the contract or sale voidable by the city manager or the city council.

Sec. 11.03. Gratuities.

Officers or employees of the City of Copperas Cove shall not accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying the grant of any franchise, privilege or easement from the city during the term of office of such officer or during such employment of such employee, except as may be authorized by law or ordinance; provided, however, that policemen and firemen in uniform or wearing their official badges may accept such free service where the same is permitted by ordinance. Any officer or employee of the city who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense and shall forthwith be removed from office.

Sec. 11.04. Equal employment opportunities.

All employment vacancies in the city shall be filled in a manner prescribed and based upon provisions of the Equal Employment Opportunity Act. Persons employed by the city shall not be related within the second degree of affinity, or within the third degree consanguinity, to any elected officer or the city manager. This provision shall not affect officers or employees who are already employed by the city at the time any elected official related within the named degree takes office. Further, this provision shall not affect officers or employees who obtain such degrees of affinity or consanguinity described above due to his/her marriage after they have become officers or employees of the City.

Sec. 11.05. Employee relations.

Nothing in this charter shall limit the City of Copperas Cove from terminating employment at will. The City of Copperas Cove is an at will employer. The employment relationship between the employee and the City can be terminated at any time and by either party. Therefore, nothing herein is intended, nor shall it be construed, to confer on or award to any employee of the City any property right in his or her employment with the City of Copperas Cove, Texas.

Sec. 11.06. Damage suits.

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within one hundred-twenty (120) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

~~Before the city shall be liable to damage claim or suit for personal injury, or damage to property, which does not constitute a taking or damaging of property under Article 1, section 17 of the constitution of Texas, the person who is injured or whose property is damaged, or someone in his behalf, shall give the city manager or the city secretary notice in writing, duly verified, within thirty (30) days after the occurring of the alleged injury or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage.~~

~~No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of sixty (60) days after the notice herein described has been filed with the city manager or the city secretary. After the expiration of the sixty (60) days aforementioned, the complainant may then have two (2) years in which to bring action of law.~~

~~In case of injuries resulting in death, before the city shall be liable in damages therefor, the person or persons claiming such damages shall, within thirty (30) days after the death of the injured persons, give notice as above required in case of personal injury.~~

Sec. 11.07. Power to settle claims.

The city council, and only the city council, shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, including suits by the city to recover delinquent taxes. ~~The city council may utilize the services of a negotiator so long as the negotiator works within the direction and guidelines set by the city council and the city council makes the final decision on the part of the city in any such negotiations. However, the foregoing notwithstanding, in any case where an insurance carrier with whom the city is insured assumes liability for the case, the insurance carrier may make the final settlement decision so long as the city is released from all liability, fiscal and other. Further, the city council may delegate final decision authority for delinquent tax settlements to retained counsel.~~

Sec. 11.08. Service of process against the city.

All legal process against the city shall be served upon the mayor or city secretary.

Sec. 11.09. City not required to give security or execute bond.

It shall not be necessary in any action, suit or proceeding in which the City of Copperas Cove is a party, for any bond, undertaking or security to be demanded, executed by or on behalf of said city in any of the state courts, but in all such actions, suits, appeals or proceedings, same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law, and said city shall be just as liable as if security of bond had been duly executed.

Sec. 11.10. Liens against city property.

No lien of any kind shall ever exist against any property, real or personal, owned by the city except that the same be created by this charter.

Sec. 11.11. Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Sec. 11.12. Power to remit penalties.

The city council shall have the right to remit in whole or in part any fine or penalty belonging to the city, which may be imposed under any ordinance or resolution passed in pursuance of this charter.

Sec. 11.13. Churches and school property not exempt from special assessments.

No property of any kind, church, school, or otherwise, in the City of Copperas Cove shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements unless the exemption is required by state law.

Sec. 11.14. Sale or lease of property other than public utilities or acquired by tax sale.

Any real property owned by the City of Copperas Cove may be sold or leased by the city council when in its judgment such sale or lease will be for the best interests of the city; provided, however, a sale or a lease for more than five (5) years shall never become effective until thirty (30) days after passage of the ordinance or resolution affecting same. If, during such thirty (30) day period, a referendum petition is presented to the city secretary which in all respects conforms to the referendum provisions of Article II of this charter, and same is found sufficient, then the secretary shall certify the sufficiency of same to the city council, and an election shall be called submitting the question of whether or not the sale or lease shall be consummated. Provided, further, however, the provisions of this section shall not apply to public utilities nor to property purchased by the city at tax sales.

Sec. 11.15. Effect of this charter on existing law.

All ordinances, resolutions, rules and regulations now in force under the city government of Copperas Cove, and not in conflict with the provisions of this charter, shall remain in force under this charter until altered, amended or repealed by the council after this charter takes effect; and all rights of the City of Copperas Cove under existing franchises and contracts are preserved in full force and effect to the City of Copperas Cove. Upon adoption of this charter, it shall constitute the charter of the City of Copperas Cove.

Sec. 11.16. Continuance of contracts and succession of rights.

All contracts entered into by the city or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this charter takes effect may be carried to completion in accordance with the provisions of such existing laws or ordinances. All suits, taxes, penalties, forfeitures and all other rights, claims and demands, which have accrued under the laws heretofore in force governing the City of Copperas Cove, shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the corporation hereby created, and shall not in any way be diminished, effected or prejudiced by the adoption and taking effect of this charter.

Sec. 11.17. Construction and separability clause.

The charter shall be liberally construed to carry out its intents and purposes. If any section or part of section of this charter shall be held invalid by a court of competent

jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. 11.18. Amending the charter.

Amendments to this charter may be framed and submitted to the qualified electors of the city by a charter commission in the manner provided by law for framing and submitting a new charter.

Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than two and one half percent (2.50%) of the number of qualified voters registered to vote at the last general City election~~twenty-five (25) per cent of the number of those who voted at the last regular municipal election, or signed by five hundred (500) qualified voters, whichever is greater.~~

When a charter amendment petition shall have been filed with the council in conformity with the provisions of this charter as to petitions for initiated ordinances, the council shall forth with provide by ordinance for submitting such proposed amendment to a vote of the qualified electors. Any ordinance for submitting a charter amendment to the qualified electors shall provide that such amendment be submitted at the next regular municipal election if one shall occur not less than thirty (30) days nor more than ninety (90) days after the passage of the ordinance; otherwise it shall provide for the submission of the amendment at a special election held on a uniform election date in accordance with state law.

Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. If a proposed amendment be approved by a majority of the qualified electors voting thereon, it shall become a part of the charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the qualified electors to vote on each amendment separately.

Sec. 11.19. Effective date and interim government.

This charter shall take effect from and after the date of its adoption, and the date of the special election held for the purpose of voting upon the acceptance or rejection of this charter shall be considered the date of adoption if said charter is accepted at such election. From and after the effective date of this charter and until the completion of the first election under this charter and the qualification of the mayor and council members thereby elected, the present qualified and acting mayor and the five (5) council members shall constitute the city council of the City of Copperas Cove and the city secretary shall remain in office and continue to conduct the same until said new council

is elected and qualified. During the interim period the present city council shall have and possess all of the powers provided by this charter.

Sec. 11.20. Submission of the charter to electors.

The charter commission in preparing this charter finds that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the charter commission directs that the said charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Copperas Cove at an election to be held on January 20, 1979. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, it shall become the charter of the City of Copperas Cove, and after the returns have been canvassed, the same shall be declared adopted.

Not less than thirty (30) days prior to such election the city council shall cause the city clerk to mail a copy of this charter to each qualified voter of the City of Copperas Cove.

An official copy of the charter shall be filed with the records of the city, and the mayor shall, as soon as practicable, certify to the secretary of state an authenticated copy under the seal of the city, showing the approval by the qualified voters of such charter.

Sec. 11.21. Rules of construction.

As used in this charter, a word importing the masculine gender only shall extend to, and be applied to, females as well as males. A word importing the singular number shall include the plural, and a word importing the plural number shall include the singular.

Sec. 11.22. Regulation of Alcohol.

The sale of liquor and beer is prohibited in all residential sections or areas of the City, as designated by any zoning ordinance or Comprehensive Plan of the City. The City Council may enact any and all other regulations regarding the sale, consumption, distribution, etc. of alcoholic beverages, as permitted by law.

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To: Mayor and Council Members, City of Copperas Cove; Andrea Gardner, City Manager City of Copperas Cove; Jane Lees, City Secretary City of Copperas Cove

From: Charles E. Zech, City Attorney's Office

Date: January 19, 2010

Re: Home Rule Charter Committee's Proposed Amendments to Charter

The Home Rule Charter Committee has finalized its review of the City's charter and has made some recommended changes. Many of the changes are simply "clean up", that is to make the charter consistent with state law, reduce redundancy and create a shorter more efficient charter. Other proposed changes are substantive in nature. The following is a summary of the Home Rule Charter Committee's proposed amendments to the City's Charter to be placed on the May ballot for consideration:

Article I

Sec. 1.03 This section has been reworded to clean up the language.
Sec. 1.05 This section has certain words deleted as redundant.

Article II

Sec. 2.01 This section incorporates language moved from another section for consistency.
Sec. 2.03a Changes in this section are for the purposes of deleting provisions of the charter already found in state law.
Sec. 2.03b Changes to this section are for the purposes giving the mayor pro tem or an officer taking the place of the mayor the right to vote when acting in the capacity of mayor.
Sec. 2.04 Deletion of the previous section 2.04 requiring a councilmember obtain a leave of absence prior to being absent for two (2) regular consecutive meetings.
Sec. 2.05 This section has been added to clarify that the city council is the final judge of the elections and the qualifications of its members.
Sec. 2.07 Deletes the provision allowing a city councilmember to obtaining a leave of absence from council for failing to attend two (2) consecutive regular city council meetings prior to forfeiture their office
Sec. 2.08b This language has been moved from another section for consistency.

- Sec. 2.10 This section has been amended to reduce the amount of council members necessary to make quorum from five to four. In addition, it has amended the requirement that an action of council be binding by a vote of four or more members of council to an affirmative vote of the majority of those council members present and voting.
- Sec. 2.12 A provision has been added making clear that the City Secretary is responsible for all city elections.

Sections 2.13, 2.14, 2.15, and 2.16 have been deleted, as redundant to requirements of state law.

Article III

- Sec. 3.01c Deleted as redundant of state law
- Sec. 3.02 Deleted sections 3.02 (a) and (b) as redundant of state law and restated the requirements to be consistent with state law.
- Sec. 3.06 Amended to require an initiative petition be signed by a number equal to two and one-half percent (2 ½ %) of the qualified voters registered to vote at the last general city election as opposed to 25% of those who voted at the last general city election or 500 whichever is greater.
- Sec. 3.12 Added subsection (b) to provide a provision whereby if there are conflicting ordinances approved at the same election the ordinances receiving the greatest number of affirmative votes shall prevail.

Deleted last sentence as unnecessary

- Sec. 3.13 This section has been revised to allow the recall of a councilmember for the same reasons as found in the Texas Local Government Code.
- The number of petitioners required to sign the petition for a recall in order for that recall be placed on the ballot has been changed to a number equal to 2 ½ % of the number of qualified voters registered to vote of the last general city election.
- Sec. 3.17 Reworded to clarify ballot wording.

Article IV No substantive changes.

Article V

- Sec. 5.02 Removed the provision that the municipal judge is required to review all ordinances.

Article VI Sections 6.06, 6.07, 6.12, 6.13 and 6.15 have been deleted, as duplicative of state law.

Article VII No substantive changes.

Article VIII

Sec. 8.02 Deleted legal reference.

Article IX No substantive changes.

Article X No substantive changes.

Article XI

Sec. 11.06 Has been deleted and has been replaced with language consistent with state law.

Sec. 11.18 In regard to the requirement for amending the charter, the number of petitioners required has been changed to 2 ½ % of the number of qualified voters registered to vote at the last general city election.

Sec. 11.19 Deleted as unnecessary.

Sec. 11.20 Deleted as unnecessary

Sec. 11.22 Added to allow the City to regulate alcohol in a residential area.

City of Copperas Cove

City Council Agenda Item Report

February 2, 2010

Agenda Item No. I-1

Contact – Andrea M. Gardner, City Manager, 547-4221
agardner@ci.copperas-cove.tx.us

SUBJECT: Discussion and possible action on approval of a resolution supporting the redesignation of U.S. 190 to Business 190 by the Texas Department of Transportation.

1. BACKGROUND/HISTORY

The Texas Department of Transportation (TxDOT) is nearly complete with the design for the Southeast Bypass (Reliever Route) project from U.S. Highway 190 to FM 2657.

As previously stated, the project remains the number one priority by the Killeen-Temple Metropolitan Planning Organization. Continual progress is being made by TxDOT to acquire the necessary right-of-way for the project and Council authorized the City Manager to execute an Advanced Funding Agreement for the relocation of City owned utilities on January 19, 2010.

2. FINDINGS/CURRENT ACTIVITY

On January 14, 2010, the TxDOT area engineer met with the City Manager to provide the City with an opportunity to consider agreeing to rename existing U. S. Highway 190 to Business 190 with the passage of a resolution. A resolution supporting the redesignation is not required in order to redesignate the roadway; however, TxDOT representatives wanted to provide the Council with an opportunity to take action on the matter (a map outlining the proposed change is attached). TxDOT also provided the counties impacted an opportunity to take action on a similar resolution. As such, on January 25, 2010, Lampasas County passed a resolution supporting the Southeast Bypass and the redesignation of U. S. Highway 190 .

Considering the number of businesses and/or residences that could potentially be impacted by such a change, the Council may consider setting a date(s) and time(s) for a public hearing(s).

A resolution supporting the redesignation is attached for possible action should the Council decide a public hearing(s) is not necessary.

3. FINANCIAL IMPACT

No financial impact on the City is anticipated.

4. ACTION OPTIONS/RECOMMENDATION

City staff recommends the City Council consider setting a date(s) and time(s) to conduct a public hearing(s) on the redesignation of U. S. Highway 190.

RESOLUTION NO. 2010-08

A RESOLUTION OF THE CITY OF COPPERAS COVE SUPPORTING THE SOUTHEAST BYPASS PROJECT (U.S. HIGHWAY 190 RELIEVER ROUTE) AND REDESIGNATION OF EXISTING U.S. 190 TO BUSINESS 190.

WHEREAS, the Southeast Bypass Project (this project) was originally proposed to be constructed as a four lane controlled access roadway from existing U.S. 190 west of FM 2657 eastward to U.S. 190 east of the Copperas Cove city limits; and

WHEREAS, the development of the Southeast Bypass will reduce congestion on U.S. 190 and improve mobility and safety through the area; and

WHEREAS, the Southeast Bypass project has received overwhelming local and regional support, which includes top military officials assigned to Fort Hood; and

WHEREAS, the Southeast Bypass project is ranked as the top priority by KTUTS, as well as, the City's Master Thoroughfare Plan and Comprehensive Plan; and

WHEREAS, the Southeast Bypass project has a major impact on future development in the City of Copperas Cove.

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

SECTION 1.

That the City of Copperas Cove supports the Southeast Bypass Project, as it will provide a critical link along the NHS and Truck Systems to provide for uninterrupted traffic flow.

SECTION 2.

That the City of Copperas Cove supports the redesignation of U.S. 190 to Business 190.

PASSED, APPROVED, AND ADOPTED on this 2nd day of February 2010, by a vote of _____ ayes and _____ nays, at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code*, §551.001, et. seq., at which meeting a quorum was present and voting.

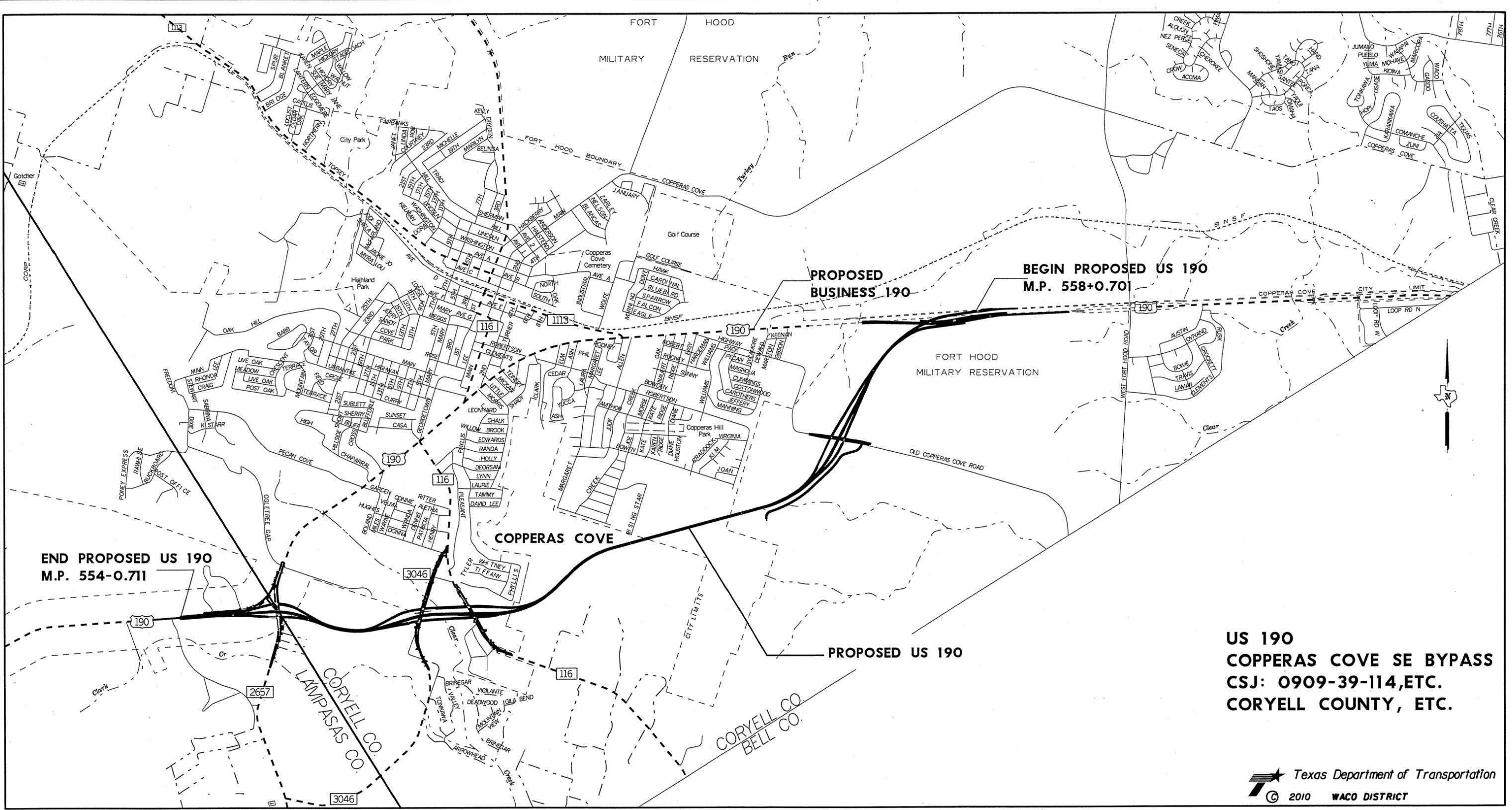
John Hull, Mayor

ATTEST:

Jane Lees, City Secretary

APPROVED AS TO FORM:

Denton, Navarro, Rocha
& Bernal, P.C., City Attorney



END PROPOSED US 190
M.P. 554-0.711

PROPOSED
BUSINESS 190

BEGIN PROPOSED US 190
M.P. 558+0.701

PROPOSED US 190

US 190
COPPERAS COVE SE BYPASS
CSJ: 0909-39-114, ETC.
CORYELL COUNTY, ETC.

 Texas Department of Transportation
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City of Copperas Cove City Council Agenda Item Report

February 2, 2010

Agenda Item No. I-2

Contact – Wesley Wright, P.E., City Engineer, 547-0751
wwright@ci.copperas-cove.tx.us

SUBJECT: Consideration and action on an ordinance amending the City's Flood Damage Prevention Ordinance.

1. BACKGROUND/HISTORY

On February 17, 2010, a new Flood Insurance Study (FIS) and new Flood Insurance Rate Maps (FIRM) will become effective for Coryell County.

2. FINDINGS/CURRENT ACTIVITY

Our current ordinance references a FIS & FIRM effective date of November 6, 1996. On February 17, 2010, the current ordinance will no longer be valid. In order to continue participation in FEMA's National Flood Insurance Program, the new date must be referenced in our ordinance.

3. FINANCIAL IMPACT

There is no direct financial impact to the City.

4. ACTION OPTIONS/RECOMMENDATION

City staff recommends the City Council approve an ordinance amending Section 4-96 of the City's Flood Damage Prevention Ordinance.

ORDINANCE NO. 2010-06

AN ORDINANCE OF THE CITY OF COPPERAS COVE, TEXAS, AMENDING SECTION 4-96 OF THE "FLOOD DAMAGE PREVENTION ORDINANCE"; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A PENALTY; PROVIDING A SAVING CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Flood Emergency Management Agency (FEMA) has completed a new Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for Coryell County;

WHEREAS, FEMA has required the city to update this Flood Damage Prevention Ordinance with new information in order to continue to participate in the National Flood Insurance Program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:

Section 1. Article III "Flood Damage Prevention Ordinance," Section 4-96 "Basis for establishing the areas of special flood hazard," shall be amended to read as follows:

Sec. 4-96. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering reports entitled, "The Flood Insurance Study (FIS) for Bell County, Texas and Incorporated Areas", dated September 26, 2008, with accompanying Flood Insurance Rate Maps (FIRM) dated September 26, 2008, "The Flood Insurance Study (FIS) for Coryell County, Texas and Incorporated Areas," dated February 17, 2010 with accompanying Flood Insurance Rate Maps (FIRM) dated February 17, 2010, "The Flood Insurance Study (FIS) for Lampasas County, Texas and Unincorporated Areas", dated January 2, 2010. "The Flood Insurance Rate Maps (FIRM) Index Panel entitled Lampasas County, Texas, Unincorporated Areas", dated January 2, 1991 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

Section 2. Be it further ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Copperas Cove, Texas.

Section 3. Be it further ordained that all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. Be it further ordained that if any provisions of this ordinance shall be held invalid or unconstitutional, the remainder of this ordinance shall continue in full force and

effect the same as if such invalid or unconstitutional provision had never been a part thereof.

Section 5. Be it further ordained that a violation of this ordinance shall be a misdemeanor and the penalty for violating this ordinance shall be a fine not to exceed \$2,000.00.

Section 6. It is hereby found and determined that the meeting at which this ordinance passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

Section 7. It is hereby found and declared by the City of Copperas Cove, that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy any flooding occurrence, it is necessary that this ordinance become effective on February 17, 2010.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, this 2nd day of February 2010 at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't. Code §551.001, et.seq.*, at which meeting a quorum was present and voting.

John Hull, Mayor

ATTEST:

Jane Lees, City Secretary

APPROVED AS TO FORM:

Denton, Navarro, Rocha
& Bernal, P.C., City Attorney

City of Copperas Cove

City Council Agenda Item Report

February 2, 2010

Agenda Item No. I-3

Contact – Andrea M. Gardner, City Manager, 547-4221
agardner@ci.copperas-cove.tx.us

SUBJECT: Consideration and action on adopting an ordinance granting to Atmos Energy Corporation, its successors and assigns, a franchise to construct, maintain and operate pipelines and equipment in the City of Copperas Cove, Coryell County, Texas.

1. BACKGROUND/HISTORY

According to the records on file with the City Secretary's office, the original franchise agreement was executed in 1954 with Lone Star Gas Company, its successors and assigns. Upon expiration of the original agreement, it was renewed as have other agreements through the years. The current franchise agreement was executed in October 1989 for a term of twenty years.

In October 2002, Ordinance 2002-15 was fully executed by both parties to the current agreement to increase the franchise fee from 3% to 4%. In April 2008, Ordinance 2008-13 was passed by the City Council and executed by both parties to the current agreement to increase the franchise fee from 4% to 5%.

2. FINDINGS/CURRENT ACTIVITY

On September 16, 2009, Atmos Energy requested the City review the existing franchise Agreement and began the renegotiation process. As a result, the City Manager and City Attorney reviewed the existing agreement and provided Atmos Energy with proposed revisions on October 7, 2009. As a follow up to the City's proposed revisions, a conference call was scheduled to allow verbal continuation of the renegotiations. Furthermore, both parties to the existing agreement agreed to continue operating within the provisions of the existing agreement while the renegotiations continued.

On January 21, 2009, all parties were satisfied with the attached newly renegotiated terms of the agreement with the exception of the agreement term ending date. City staff proposed a term ending date of 2019 and Atmos Energy requested a term ending date of 2024.

3. FINANCIAL IMPACT

The following items were renegotiated that could have an undeterminable financial impact to the City at present:

- Section 2B was changed by Atmos at the request of the City Attorney to remove the City's liability of fifty percent (50%) of the cost of the removal or relocation of Atmos Energy's facilities should it fail to provide sufficient written notice to Atmos Energy.
- Section 5A was changed by Atmos at the request of the City Attorney from annual payments to quarterly payments.
- Section 5B(4)(a) was changed by Atmos at the request of the City Attorney to include "such other service charges and charges as may, from time to time, be authorized in the rates and charges on file with the City" and "contributions in aid of construction".
- Section 5B was changed by Atmos at the request of the City Attorney to add 5B(4)(b) "revenues billed but not ultimately collected or received by Atmos".

4. ACTION OPTIONS/RECOMMENDATION

City staff recommends the City Council adopt an ordinance granting Atmos Energy Corporation, its successors and assigns, a franchise to construct, maintain and operate pipelines and equipment in the City of Copperas Cove, Coryell County, Texas with a specified term ending date.

ORDINANCE NO. 2010-07

AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF COPPERAS COVE, CORYELL COUNTY, TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID CITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; AND REPEALING ALL PREVIOUS GAS FRANCHISE ORDINANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:

SECTION 1. GRANT OF AUTHORITY:

The City of Copperas Cove, Texas, hereinafter called "City," hereby grants to Atmos Energy Corporation, Mid-Tex Division, hereinafter called "Atmos Energy," its successors and assigns, consent to use and occupy the present and future streets, alleys, highways, public utility easements, public ways and other public places ("Public Rights-of-Way"), for the purpose of laying, maintaining, constructing, protecting, operating, and replacing therein and thereon pipelines and all other appurtenant equipment (the "System") to deliver, transport, and distribute gas in, out of, and through City for persons, firms, and corporations, including all the general public, and to sell gas to persons, firms, and corporations, including all the general public, within the City corporate limits, as such limits may be amended from time to time during the term of this franchise, said consent being granted for a term ending December 31, 2024.

SECTION 2. CONSTRUCTION, MAINTENANCE, OPERATION & RELOCATION OF ATMOS ENERGY FACILITIES:

A. Atmos Energy shall lay, maintain, construct, operate, and replace its pipes, mains, laterals, and other equipment to minimize interference with traffic, place or cause to

be placed appropriate barriers to mark excavations or obstructions in accordance with applicable state and federal requirements, and restore to approximate original condition all Public Rights-of-Way that it may disturb. In the event the Company fails to restore the Public Rights-of-Way to as good a condition as before the commencement of the work and within a reasonable time, the City may restore or maintain same, after giving the Company thirty (30) days' written notice, provided however that if the Company is proceeding diligently to restore the property, the time for restoration shall be extended for such time as is necessary for the Company to complete the restoration. If the Company fails to restore the Public Rights-of-Way appropriately, the Company will receive a bill for the cost of the City repairing same. The Company shall, within thirty (30) days after receiving such bill, pay the reasonable cost for such service. In determining the location of the facilities of the City and other users of Public Right-of-Way within City, City shall minimize interference with the then existing System of Atmos Energy and shall require other users of Public Rights-of-Way to minimize interference with existing facilities of Atmos Energy. In the event of a conflict between the location of the proposed facilities of Atmos Energy and the location of the existing facilities of City or other users of Public Rights-of-Way within Public Rights-of-Way that cannot otherwise be resolved, City or an authorized agent of City shall resolve the conflict and determine the location of the respective facilities within the Public Rights-of-Way.

Atmos Energy or contractors working on behalf of Atmos Energy shall not be required to pay for street cutting, street excavation or other special permits related to excavations in Public Rights-of-Way in connection with Atmos Energy's operations in Public Rights-of-Way. City shall provide Atmos Energy with its annual capital improvements plan as well as any updates or changes as soon as the plan, update, or change becomes available. City shall notify Atmos Energy as soon as reasonably possible of any projects that will affect Atmos Energy's facilities located in the Public Rights-of-Way. When required to by City to remove or relocate its mains, laterals, and/or other facilities lying within Public Rights-of-Way, Atmos Energy shall do so as soon as practically possible with respect to the scope of the project. In no event

shall Atmos Energy be required to remove or relocate its facilities in less than thirty (30) days from the time notice is given to Atmos Energy by City.

- B. If City, in constructing, reconstructing, reconfiguring, maintaining, or repairing its sewers, drainage, water lines, streets, or utilities, should request that Atmos Energy remove or relocate its mains, laterals, and other facilities lying within Public Rights-of-Way, Atmos Energy shall do so at its own expense for facilities that are in conflict, unless such work is for the primary purpose of beautification or to accommodate a private developer. Facilities are deemed to be in conflict to the extent that the proposed City facilities are determined by Atmos Energy and the City to be inconsistent with gas distribution industry standard safe operating practices for existing facilities. Atmos Energy shall not be required to relocate facilities to a depth of greater than four (4) feet unless prior agreement is obtained from Atmos Energy.

Whenever the City is to be reimbursed by the state or federal government for a public improvement which includes the removal or relocation of facilities by the Company, the City shall notify the Company to submit cost and expense documentation at least thirty (30) days prior to submitting the application for cost reimbursement. Upon receipt of reimbursement from a federal or state agency, the City shall remit to the Company, within thirty (30) days of receipt, its portion related to the relocation or removal of its facilities.

If Atmos Energy is required by City to remove or relocate its mains, laterals, or other facilities lying within Public Rights-of-Way for any reason other than the construction or reconstruction, reconfiguration, maintaining, or repairing of sewers, drainage, water lines, streets or utilities by City, Atmos Energy shall be entitled to reimbursement from City or others of the cost and expense of such removal or relocation.

- C. When Atmos Energy is required to remove or relocate its mains, laterals or other facilities to accommodate construction by City without reimbursement from City,

Atmos Energy shall have the right to seek recovery of relocation costs as provided for in applicable state and/or federal law. Nothing herein shall be construed to prohibit, alter, or modify in any way the right of Atmos Energy to seek or recover a surcharge from customers for the cost of relocation pursuant to applicable state and/or federal law. City shall not oppose recovery of relocation costs when Company is required by City to perform relocation. City shall not require that Company document request for reimbursement as a pre-condition to recovery of such relocation costs.

- D. If City abandons any Public Rights-of-Way in which Atmos Energy has facilities, such abandonment shall be conditioned on Atmos Energy's right to maintain its use of the former Public Right-of-Way and on the obligation of the party to whom the Public Right-of-Way is abandoned to reimburse Atmos Energy for all removal or relocation expenses if Atmos Energy agrees to the removal or relocation of its facilities following abandonment of the Public Right-of-Way. If the party to whom the Public Right-of-Way is abandoned requests Atmos Energy to remove or relocate its facilities and Atmos Energy agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Right-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.
- E. All construction and work done by company, and the operation of its business, under and by virtue of this ordinance, shall be in conformance with the ordinances, rules and regulations now in force and that may hereafter be adopted by the City, relating to the use of its Public Rights-of-Way of the City. This franchise agreement shall in no way affect or impair the rights, obligations or remedies of the parties under the Texas Utilities Code, or other state or federal law. Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest or appeal any action or decision of the other party, including ordinances adopted by the City, that it

believes is contrary to any federal, state or local law or regulation. If requested by the City, Atmos Energy shall, on an annual basis, provide, reproducible copies of maps showing the location of all System facilities to the City Manager.

SECTION 3. INDEMNITY & INSURANCE:

In the event of injury to any person or damage to any property by reason of Atmos Energy's construction, operation, maintenance, or replacement of Atmos Energy's pipeline system within Public Rights-of-Way, Atmos Energy shall indemnify and keep harmless City from any and all liability in connection therewith, except to the extent such injury or damage is attributable to the fault of the City, including, without limitation, the City's negligent or intentional acts or omissions. Atmos Energy's insurance of its obligations and risks undertaken pursuant to this franchise may be in the form of self-insurance to the extent permitted by applicable law, under an Atmos Energy plan of self-insurance maintained in accordance with sound accounting and risk-management practices.

SECTION 4. NON-EXCLUSIVE FRANCHISE:

The rights, privileges, and franchises granted by this ordinance are not to be considered exclusive, and City hereby expressly reserves the right to grant, at any time, like privileges, rights, and franchises as it may see fit to any other person or corporation for the purpose of transporting, delivering, distributing, or selling gas to and for City and the inhabitants thereof.

SECTION 5. PAYMENTS TO CITY:

A. Atmos Energy, its successors and assigns, agrees to pay and City agrees to accept, on or before the 15th of February, May, August, and November of 2010, and on or before the same days of each succeeding year during the term of this franchise the last payment being made on the 15th day of November, 2024, a sum of money which shall be equivalent to five percent (5%) of the Gross Revenues, as defined in 5.B below, received by Atmos Energy during the preceding calendar quarter.

B. "Gross Revenues" shall mean:

- (1) all revenues received by Atmos Energy from the sale of gas to all classes of customers (excluding gas sold to another gas utility in the City for resale to its customers within City) within the City;
- (2) all revenues received by Atmos Energy from the transportation of gas through the System of Atmos Energy within the City to customers located within the City (excluding any gas transported to another gas utility in City for resale to its customers within City);
- (3) the value of gas transported by Atmos Energy for Transport Customers through the System of Atmos Energy within the City ("Third Party Sales")(excluding the value of any gas transported to another gas utility in City for resale to its customers within City), with the value of such gas to be established by utilizing Atmos Energy's monthly Weighted Average Cost of Gas charged to industrial customers in the Mid-Tex division, as reasonably near the time as the transportation service is performed; and
- (4) "Gross revenues" shall also include:
 - (a) other revenues derived from the following 'miscellaneous charges':
 - i. charges to connect, disconnect, or reconnect gas within the City;
 - ii. charges to handle returned checks from consumers within the City;
 - iii. such other service charges and charges as may, from time to time, be authorized in the rates and charges on file with the City;

and

iv. contributions in aid of construction” (“CIAC”); and

(b) revenues billed but not ultimately collected or received by Atmos

Energy.

(5) “Gross revenues” shall not include:

- (a) the revenue of any affiliate or subsidiary of Atmos Energy;
- (b) taxes or fees imposed by law on customers that Atmos Energy is obligated to collect or authorized to recover and which Atmos Energy passes on, in full, to the applicable governmental authority or authorities;
- (c) interest or investment income earned by Atmos Energy; and
- (d) monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within the City's right of way.

C. The initial payment for the rights and privileges herein provided shall be for the privilege period January 1 through March 31, 2010, and each succeeding payment shall be for the privilege period of the calendar quarter in which the payment is made.

(1) The franchise fee amounts based on “Contributions In Aid of Construction” (“CIAC”) shall be calculated on an annual calendar year basis, i.e. from January 1 through December 31 of each calendar year.

(2) The franchise fee amounts that are due based on CIAC shall be paid at least once annually on or before April 30 each year based on the total CIAC recorded during the preceding calendar year. The initial CIAC franchise fee amount will be paid on or before April 30, 2010 and will be based on the calendar year January 1 through December 31, 2009. The

final CIAC franchise fee amount will be paid on or before April 30, 2025 and will be based on the calendar year January 1 through December 31, 2024.

D. It is also expressly agreed that the aforesaid payments shall be in lieu of any and all other and additional occupation taxes, easement, franchise taxes or charges (whether levied as an ad valorem, special, or other character of tax or charge), municipal license, permit, and inspection fees, bonds, street taxes, and street or alley rentals or charges, and all other and additional municipal taxes, charges, levies, fees, and rentals of whatsoever kind and character that City may now impose or hereafter levy and collect from Atmos Energy or Atmos Energy's agents, excepting only the usual general or special ad valorem taxes that City is authorized to levy and impose upon real and personal property. If the City does not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of taxes, licenses, fees, street or alley rentals or charges, easement or franchise taxes or charges aforesaid, then City agrees that it will apply so much of said sums of money paid as may be necessary to satisfy Atmos Energy's obligations, if any, to pay any such taxes, licenses, charges, fees, rentals, easement or franchise taxes or charges aforesaid.

E. Effect of Other Municipal Franchise Ordinance Fees Accepted and Paid by Atmos Energy

If Atmos Energy should at any time after the effective date of this Ordinance agree to a new municipal franchise ordinance, or renew an existing municipal franchise ordinance, with another municipality in Atmos Energy's Mid-Tex Division, which municipal franchise ordinance determines the franchise fee owed to that municipality for the use of its public rights-of-way in a manner that, if applied to the City, would result in a franchise fee greater than the amount otherwise due City under this Ordinance, then the franchise fee to be paid by Atmos Energy to City pursuant to this Ordinance may, at the election of the City, be increased so that the amount due and to be paid is equal to the amount that would be due and payable to City were the franchise fee provisions of that other

franchise ordinance applied to City. The City acknowledges that the exercise of this right is conditioned upon the City's acceptance of all terms and conditions of the other municipal franchise *in toto*. The City may request waiver of certain terms and Company may grant, in its sole reasonable discretion, such waiver.

F. Atmos Energy Franchise Fee Recovery Tariff

- (1) Atmos Energy may file with the City a tariff or tariff amendment(s) to provide for the recovery of the franchise fees under this agreement.
- (2) City agrees that (i) as regulatory authority, it will adopt and approve the ordinance, rates or tariff which provide for 100% recovery of such franchise fees as part of Atmos Energy's rates; (ii) if the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of Atmos Energy's franchise fees is an issue, the City will take an affirmative position supporting 100% recovery of such franchise fees by Atmos Energy and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Atmos Energy.
- (3) City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Atmos Energy.

G. Lease of Facilities Within City's Rights-of-Way.

Atmos Energy shall have the right to lease, license or otherwise grant to a party other than Atmos Energy the use of its facilities within the City's public rights-of-way provided: (i) Atmos Energy first notifies the City of the name of the lessee, licensee or user; the type of service(s) intended to be provided through the facilities; and the name and telephone number of a contact person associated with such lessee, licensee or user and (ii) Atmos Energy makes the franchise fee payment due on the revenues from such lease pursuant to Section 5 of this Ordinance. This authority to

Lease Facilities within City's Rights-of-Way shall not affect any such lessee, licensee or user's obligation, if any, to pay franchise fees.

SECTION 6. ACCEPTANCE OF FRANCHISE:

In order to accept this franchise, Atmos Energy must file with the City Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by City. If such written acceptance of this franchise ordinance is not filed by Atmos Energy, the franchise ordinance shall be rendered null and void.

When this franchise ordinance becomes effective, all previous ordinances of City granting franchises for gas delivery purposes that were held by Atmos Energy shall be automatically canceled and annulled, and shall be of no further force and effect.

SECTION 7. TERMINATION:

(A) Right to Terminate

In addition to any rights set out elsewhere in this Franchise Ordinance, the City reserves the right to terminate the franchise and all rights and privileges pertaining thereto, in the event that the Company violates any material provision of the franchise.

(B) Procedures for Termination.

(1) The City may, at any time, terminate this franchise for a continuing material violation by the Company of any of the substantial terms hereof. In such event, the City shall give Company written notice, specifying all grounds on which termination or forfeiture is claimed, by registered mail, addressed and delivered to the Company at the address set forth in Section 13 hereof. The Company shall have sixty (60) days after the receipt of such notice within which to cease such violation and comply with the terms and provisions hereof. In the event Company fails to cease such violation or otherwise comply with the terms hereof, then Company's franchise is subject to termination under the following provisions. Provided, however, that, if the Company commences work or other efforts to cure such violations within thirty (30) days after receipt of written notice and shall thereafter prosecute such curative work with

reasonable diligence until such curative work is completed, then such violations shall cease to exist, and the franchise will not be terminated.

(2) Termination shall be declared only by written decision of the City Council after an appropriate public proceeding whereby the Company is afforded the full opportunity to be heard and to respond to any such notice of violation or failure to comply. The Company shall be provided at least fifteen (15) business day's prior written notice of any public hearing concerning the termination of the franchise. In addition, ten (10) days notice by one time publication shall be given of the date, time and place of any public hearing to interested members of the public, which notice shall be paid for by the Company.

(3) The City, after full public hearing, and upon finding material violation or failure to comply, may terminate the franchise or excuse the violation or failure to comply, upon a showing by the Company of mitigating circumstances or upon a showing of good cause of said violation or failure to comply as may be determined by the City Council

(4) Nothing herein stated shall preclude the Company from appealing the final decision of the City Council to a court or regulatory authority having jurisdiction. The effective date of such termination shall be either when the appeal is dismissed, withdrawn or when a court order upholding the termination becomes final and unappealable. Until the termination becomes effective the provisions of this franchise shall remain in effect for all purposes.

(5) Nothing herein stated shall prevent the City from seeking to compel compliance by suit in any court of competent jurisdiction if the Company fails to comply with the terms of this franchise after due notice and the providing of adequate time for Company to comply with said terms.

SECTION 8. DUTY TO SERVE:

The Company hereby agrees that it will not arbitrarily refuse to provide service to any residential or commercial customer that it is economically feasible for the Company to serve if the customer to be benefited will pay the cost thereof or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the Company's investment, after making the customary allowance for depreciation.

SECTION 9. RATES:

Company shall furnish reasonably adequate service to the public at reasonable rates and charges therefore, and Company shall maintain its System in good order and condition. Such rates shall be established in accordance with all applicable statues and ordinances. Company shall maintain on file with the City copies of its current tariffs, schedules or rates and charges and service rules and regulations applicable to the City. The rates and charges collected from its customers in the City shall be subject to revision and change in the manner provided by law.

SECTION 10. AUDIT:

Pursuant to the City's Charter the City Manager, or his/her designee, shall, upon (5) days written notice, have the right to examine and audit, at any time during regular business hours, the accounts and records of Company that relate to administration of this agreement.

11. PARAGRAPH HEADINGS. CONSTRUCTION:

The paragraph headings contained in this ordinance are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the preparation of this ordinance and this ordinance shall not be construed either more or less strongly against or for either party.

SECTION 12. COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES:

This franchise is granted subject to the laws of the United States of America and its regulatory agencies and commissions and the laws of the State of Texas, the Copperas Cove City Charter, as amended, and all other applicable ordinances of the City of Copperas Cove, not inconsistent herewith.

SECTION 13. NOTICES:

Any notices required or desired to be given from one party to the other party to this ordinance shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below, (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the united States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified, or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

CITY	COMPANY
City Manager	Manager
City of Copperas Cove	Atmos Energy Corporation
507 S. Main St.	1500 W. Loop 340
Copperas Cove, Texas 76522	Waco, Texas 76712

SECTION 14. EFFECTIVE DATE:

If Atmos Energy accepts this ordinance, it becomes effective as of January 1, 2010.

PASSED AND APPROVED on this the _____ day of _____, 2010.

ATTEST:

Jane, Lees, City Secretary

**John Hull, Mayor
City of Copperas Cove, Texas**

STATE OF TEXAS §
COUNTY OF CORYELL §
CITY OF COPPERAS COVE §

I, _____, City Secretary of the City of Copperas Cove, Coryell County, Texas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance passed by the City Council of the City of Copperas Cove, Texas, at a _____ session, held on the ____ day of _____, 2010, as it appears of record in the Minutes in Book _____, page _____.

WITNESS MY HAND AND SEAL OF SAID CITY, this the ____ day of _____, 2010.

City Secretary
City of Copperas Cove, Texas

City of Copperas Cove

City Council Agenda Item Report

February 2, 2010

Agenda Item No. I-4

Contact – Jane Lees, TRMC, CMC, City Secretary- 547-4221
jlees@ci.copperas-cove.tx.us

SUBJECT: Consideration and action on a resolution calling and establishing procedures for a General Election on May 8, 2010 in Copperas Cove, Texas.

1. BACKGROUND/HISTORY

The Copperas Cove City Charter, *Sec. 3.01 Municipal elections*, states the following: *(a) Schedule. The general municipal election shall be held annually on the second Saturday in May or such other date as may be required by state or federal law. The runoff election date will be held in accordance with state election law. The city council shall be responsible to specify places for holding all elections.*

The Charter also states in *Sec. 3.04 Elections*, the following: *(a) To be elected for the office of council member or mayor, the candidate must receive a majority vote of qualified voters who voted in the general election. If no candidate receives a majority vote, the two (2) candidates with the highest number of votes will participate in a runoff election.*

2. FINDINGS/CURRENT ACTIVITY

The Charter states the following regarding *Composition and terms of office, Sec. 2.01: (a) Composition. The council shall be composed of a mayor and seven (7) council members. The mayor and all council members shall be elected from the city at large, and each council member shall occupy a position on the council, such positions being numbered one (1) through seven (7) consecutively. (b) Terms of office. At the first general election held under this charter, and each three (3) years thereafter, the mayor and two (2) council (2) council members filling the office of numbered positions one (1) and two (2). The mayor will not be designated as a numbered position on the ballot but shall be designated as "MAYOR." The following year, and each three (3) years thereafter, three (3) council members shall be elected, to fill the office of numbered positions three (3), four (4) and five (5). The following year, and each three (3) years thereafter, two (2) council members shall be elected to fill the office of numbered positions six (6) and seven (7). A council member, unless sooner removed from office under the provisions of this charter, shall serve for a term of three (3) years, and*

shall serve not more than two (2) terms in succession in the office to which elected. Sec. 2.07(c) also applies.

The Charter of the City of Copperas Cove provides that on May 8, 2010, there shall be an election to consider the following Council Member Positions three (3), four (4), and five (5).

In addition, *Texas Education Code, Sec. 11.0581, Joint elections required*, states the following: (a) *An election for trustees of an independent school district shall be held on the same date as (1) the election for the members of the governing body of a municipality located in the school district.* The Code also states in *Sec. 11.0581* the following: (b) *Elections held on the same date as provided by Subsection (a) shall be held as a joint election under Chapter 271, Election Code*, and (c) *The voters of a joint election under this section shall be served by common polling places consistent with Section 271.003(b), Election Code.*

Chapter 271 of the Texas Election Code authorizes joint elections. A Joint Election Agreement has been drawn up between CCISD and the City and is included in Resolution No. 2010-07 as "Attachment A." For the convenience of voters, the City and CCISD ballot will be combined for the election. There will be three ballots available:

- Joint ballot: For voters who live within City limits in Coryell County
- City ballot: For voters who live within City limits in Lampasas County
- School ballot: For voters who live outside the City limits of Coryell County and in the Bell County portion of the School District

3. FINANCIAL IMPACT

If CCISD holds their election, the costs listed in Attachment A of the agenda item will be split 50/50 (CCISD to pay \$5,518 and the City to pay \$5,518). Additional costs to each entity that are not shared include election publication notices and miscellaneous election supplies. These costs for the City will be approximately \$800.

If CCISD is able to cancel their election, and no costs have been incurred, the City will be responsible for the total cost, approximately \$11,836.

If CCISD holds an election, most costs will be split 50-50 with the City.

4. ACTION OPTIONS/RECOMMENDATION

City staff recommends that the City Council adopt a Resolution, calling and establishing procedures for a General Election on May 8, 2010 in Copperas Cove, Texas.

RESOLUTION NO. 2010-07

A RESOLUTION CALLING AND ESTABLISHING PROCEDURES FOR A GENERAL ELECTION ON MAY 8, 2010 IN COPPERAS COVE, TEXAS.

WHEREAS, the laws of the State of Texas and the Charter of the City of Copperas Cove provide that on May 8, 2010, there shall be a General Election held to consider the following:

Council Member – Position 3
Council Member – Position 4
Council Member – Position 5; and

WHEREAS, if, in the election to a place on the council, no candidate receives a majority of all the votes cast in that race, a Runoff Election shall be conducted on June 19, 2010, between the two candidates for that office receiving the highest number of votes cast; and

WHEREAS, Texas Election Code, Sec. 271.002, authorizes joint elections ordered by the authorities of two or more political subdivisions if they are held on the same day within all or part of the same territory; and

WHEREAS, the laws of the State of Texas and the Charter of the City of Copperas Cove, further provide that the Election Code of the State of Texas is applicable to said election and in order to comply with said code, a Resolution and Order of Election, for the General Election should be passed establishing the procedure to be followed in said elections as outlined below.

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

Section 1. That all independent candidates at the election to be held on the second Saturday in May for the above-mentioned offices, file their application to become candidates with the City Secretary of the City at 507 South Main Street, Copperas Cove, Texas from February 6, 2010, through March 8, 2010, and that all said applications shall be on a form as prescribed by the Election Code of the State of Texas.

Section 2. The order in which the names of the candidates are to be printed on the ballot shall be determined by a drawing in City Hall Council Chambers on March 10, 2010 at 10:00 a.m.

Section 3. Only resident qualified voters of said City shall be eligible to vote. Said election will be held in Copperas Cove City Hall Council Chambers, 507 South Main Street, with Mary Howell as Presiding Election Judge and Rita Burgess as Alternate Presiding Election Judge. The clerks for the election will be appointed by the Presiding Election Judge in a number not to exceed six (6) clerks. The Presiding Election Judge will be paid the sum of \$10.00 per hour and the Alternate Presiding Election Judge and clerks will be paid \$8.00 per hour.

Section 4. The designated polling place shall, on Election Day, be open from 7:00 a.m. to 7:00 p.m.

Section 5. Mary Howell shall be appointed to serve as the Early Voting Ballot Board Presiding Officer and shall appoint two (2) clerks to assist her.

Section 6. Jane Lees, City Secretary, will conduct early voting. The City Secretary will appoint Deputy Early Voting Clerks to assist her. Early voting for the above designated election shall be held in Copperas Cove City Hall Council Chambers, 507 South Main Street.

Section 7. Early voting will be conducted on the following days and times:

April 26, 2010	7:00 a.m. – 7:00 p.m.
April 27, 2010	8:00 a.m. – 5:00 p.m.
April 28, 2010	7:00 a.m. – 7:00 p.m.
April 29, 2010	8:00 a.m. – 5:00 p.m.
April 30, 2010	8:00 a.m. – 5:00 p.m.
May 3, 2010	8:00 a.m. – 5:00 p.m.
May 4, 2010	8:00 a.m. – 5:00 p.m.

Section 8. Applications for ballot by mail shall be mailed to: Jane Lees, City Secretary, City of Copperas Cove, P.O. Drawer 1449, Copperas Cove, Texas 76522. The first day applications for voting by mail ballot may be accepted is March 9, 2010. The last day to receive applications from voters in person for a ballot to be voted by mail is April 23, 2010. The last day to receive applications by mail for a ballot to be voted by mail is April 30, 2010.

Section 9. All ballots shall be prepared in accordance with Texas Election Code. Paper ballots shall be used for early voting by mail and Paper Ballots and eSlate Direct Recording Electronic (DRE) Voting System shall be used for early voting by personal appearance and voting on Election Day, both of which are part of the eSlate DRE Voting System.

Section 10. All expenditures necessary for the conduct of the election, the purchase of materials and the employment of all election officials is hereby authorized and the City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 11. The City Secretary is further authorized and directed to conduct said election jointly, with the Copperas Cove Independent School District (CCISD), as long as their election is not canceled. The City Secretary will take all necessary actions to conduct the election jointly, to work with CCISD personnel, and to coordinate and sign a joint election agreement between CCISD and the City. The Joint Election Agreement is made a part of this resolution and is marked "Attachment A."

Section 12. Said elections shall be held in accordance with the Election Code and the State of Texas. Notice of said elections shall be given in accordance with the terms and provisions of the Election Code and the City Secretary is hereby instructed to have said notice posted and published in accordance with state law. A copy of this order shall also serve as a Writ of Election, which shall be delivered to the above-appointed Presiding Election Judge for said elections.

PASSED, APPROVED, AND ADOPTED on this 2nd day of February 2010, at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't. Code, §551.001, et.seq.* at which meeting a quorum was present and voting.

John Hull, Mayor

ATTEST:

Jane Lees, City Secretary

APPROVED AS TO FORM:

Denton, Navarro, Rocha
& Bernal, P.C., City Attorney

May 8, 2010
Joint Election Agreement
Between
City of Copperas Cove
&
Copperas Cove ISD

JOINT ELECTION AGREEMENT

BY THE TERMS OF THIS AGREEMENT made and entered into by and between the CITY OF COPPERAS COVE, hereinafter referred to as the "CITY," and the BOARD OF TRUSTEES OF THE COPPERAS COVE INDEPENDENT SCHOOL DISTRICT, hereinafter referred to as the "SCHOOL DISTRICT," pursuant to the authority in Section 271.002 of the Texas Election Code, agree to the following particulars in regard to coordination, supervision and running of the City and School District's May 8, 2010 Joint Election.

THIS AGREEMENT is entered into in consideration of the mutual covenants and promises hereinafter set out. **IT IS AGREED AS FOLLOWS:**

- 1. ORDER OF ELECTION.** The City and School District will be individually responsible for the order of election with their respective political subdivisions.
- 2. PRECLEARANCE.** The City will prepare and submit to the U.S. Department of Justice (DOJ) under the Federal Voting Rights Act of 1965, any required submissions on voting changes. The School District will supply the City with the order of election and any other necessary information for the submission. The School District will have the opportunity to review the preclearance request prior to submission to the DOJ.
- 3. LOCATION OF POLLING PLACES.** One polling place is designated for both Early Voting and Election Day. The location will be City Hall Council Chambers, 507 South Main Street, Copperas Cove, Texas 76522. The City will provide tables and chairs for use by the election officials and voters. If the City cancels their election, the School District has the option of using the same location as listed above for their election.
- 4. ALLOCATION OF ELECTION EXPENSES.** The School District agrees to pay the City election expenses as outlined in Attachment A of this Agreement. The City will submit an itemized invoice to the School District within 30 days after the election. In the event that the School District cancels their election, and, if no expenses have been incurred, all election expenses incurred for the City's election will be paid by the City.
- 5. APPOINTMENT AND TRAINING OF ELECTION OFFICERS.** The Election Judge, Alternate Election Judge and Election Clerks will be appointed by the City, with approval of the School District. Election officers will be trained by the City.
- 6. DESIGNATION OF EARLY VOTING CLERK.** The Early Voting Clerk shall be Jane Lees, City Secretary of the City of Copperas Cove, or her designee. Early Voting days and times are outlined in Attachment B of this document. In the event that the City

cancels their election, the School District is responsible for appointing their own Early Voting Clerk, election judges and clerks, and pays all expenses.

7. BALLOTS. Ballots will be combined for use on the eSlate and eScan electronic voting systems for the Early Voting period as well as Election Day. All requests for paper ballots by mail will be processed by the Early Voting Clerk. Requests for Applications for Ballot by Mail shall be addressed to: Jane Lees, Early Voting Clerk, City of Copperas Cove, P.O. Drawer 1449, Copperas Cove, TX 76522.

8. ELECTION PUBLICATIONS.

a. Each political subdivision is responsible for the publication and posting of election notices for their individual elections.

b. The City will publish the notice required for the testing of the automatic tabulating equipment.

9. DISPOSITION OF ELECTION RECORDS. The City shall keep all election records according the Section 66.058 of the Texas Election Code as follows:

a. Voted paper ballots will remain locked in Ballot Box No. 3 for 60 days after the date of the election.

b. On the 61st day after the election, the voted paper ballots will be transferred to another container until the total preservation period of 22 months has elapsed.

c. The School District may have access to the voted paper ballots at any time during the 22 months after the 60th day after the election.

d. The School district may have access to other election records at any time during the 22 month preservation period.

e. When the records are ready to be destroyed, the City will inform the School District prior to destruction.

10. GENERAL PROVISIONS.

a. The City shall procure and prepare the voting machines and provide election kits and supplies needed in the polling place.

b. The City shall procure all lists of registered voters required for use during the Early Voting period and on Election Day.

c. The Early Voting Ballot Board will count all Early Voting ballots (those cast by mail and those cast by personal appearance). The presiding judge of this Board shall be appointed by the City.

d. Election night reports will be available to the City and School District after the Central Counting Station has tabulated all results. The Central Counting Station is located in the Tax Assessor/Tax Collector's Office in Gatesville and will be supervised by Garry Paris. The City has contracted separately with Garry Paris for this service.

e. Provisional ballots will be tabulated after election night in accordance with State law.

f. The City shall prepare the unofficial canvass report and will provide a copy of the unofficial canvass to the School District as soon as possible after all returns have been tallied.

g. Each political subdivision is responsible for conducting their own final canvass of the election. All necessary paperwork for conducting the canvass will be supplied to the School District by the City.

h. The School District shall provide the City with the ballot layout and Spanish interpretation in an electronic format, as soon as possible, but no later than 5:00 p.m. on Tuesday, March 16, 2010.

i. The School District shall approve the ballot format and audio cards prior to the final printing.

j. The City shall provide a copy of this contract to the School district upon full execution.

WITNESS BY MY HAND THIS THE ____ DAY OF _____, 2010.

Jane Lees, CMC, City Secretary
For the City of Copperas Cove

WITNESS BY MY HAND THIS THE ____ DAY OF _____ 2010.

Jim Rudd, Director of Purchasing and General Services
For the Copperas Cove Independent School District

Cost Proposal Estimate for May 8, 2010 Joint Election

Publication for Logic and Accuracy Test	48.00
Technical support Early Voting and Election Day	
<ul style="list-style-type: none"> • Test MBB's, delivery, setup/teardown machines, pre-Define machines, conduct 3 Logic and Accuracy Tests, tally Early Vote, tally Election Day Vote and backup on CD 	4,921.00
<ul style="list-style-type: none"> • Technical support during Early Voting <ul style="list-style-type: none"> -- Five 8-hour days at \$120 per day -- Two 12-hour days at \$180 per day 	600.00 360.00
<ul style="list-style-type: none"> • Technical support during Election Day 	180.00
<ul style="list-style-type: none"> • Response fee for support after polls close on Election Day 	25.00
Programming from Hart InterCivic <u>per entity</u> :	
City of Copperas Cove	1,500.00
CCISD	1,500.00
Early Voting staff	1242.00
Election Day staff	660.00
Total	<u>\$11,036.00</u>

The total of \$11,036.00 is to be split between the City (\$5,518.00) and School District (\$5,518.00).

The amounts listed above are estimates only, based on previous elections costs. These amounts are subject to adjustment when the actual invoices are received.

Early Voting Days and Hours

Monday	April 26, 2010	7 a.m.-7 p.m.
Tuesday	April 27, 2010	8 a.m.-5 p.m.
Wednesday	April 28, 2010	7 a.m.-7 p.m.
Thursday	April 29, 2010	8 a.m.-5 p.m.
Friday	April 30, 2010	8 a.m.-5 p.m.
Monday	May 3, 2010	8 a.m.-5 p.m.
Tuesday	May 4, 2010	8 a.m.- 5p.m.

City of Copperas Cove

City Council Agenda Item Report

February 2, 2010

Agenda Item No. I-5

Contact – Charlie Youngs, City Council Place 2 – 547-4221
cyoungs@ci.copperas-cove.tx.us

SUBJECT: Consideration and action on amending the Copperas Cove Economic Development Corporation Bylaws.

1. BACKGROUND/HISTORY

On November 17, 2009, the City Council revised the Copperas Cove Economic Development Corporation Bylaws.

2. FINDINGS/CURRENT ACTIVITY

The item was properly requested by City Council Member Place 2 and received sufficient support from the Council to include on the agenda. The requested change is to Section 1.04 as follows:

Current language: “All expenditures made by the Corporation shall comply with the Code and all capital project fund expenses must be presented to the Unit for specific authority.”

Proposed language: “All expenses made by the Corporation shall comply with the Code and all capital project fund expenses exceeding \$15,000.00 made by the Corporation shall comply with the Code and must be presented to the Unit for specific authority.”

3. FINANCIAL IMPACT

No major financial impact will result from the proposed language change; however, the change will require less CCEDC and City staff agenda preparation time and eliminates delay of various capital project processes.

4. ACTION OPTIONS/RECOMMENDATION

Councilman Youngs recommends the City Council revise Section 1.04 of the CCEDC Bylaws adopted on November 17, 2009 as proposed.