

Table of Contents

Agenda	2
No. 2 - Research Valley Partnership Semi-Annual Performance Briefing	
No. 2 - Coversheet revised	5
No. 3 - Noise Ordinance	
No. 3 - Coversheet revised	6
Memorandum	7
Old ordinance with noted modifications	9
Draft ordinance	16
No. 4 - Convention Center Update	
No. 4 - Coversheet revised	22
No. 5 - Review of Rental Registration Program - 1st anniversary Review	
No. 5 - Coversheet revised	23
Current Ordinance Language	24
No. 6 - College Station Bike Loop Project Phase II Alignment	
No. 6 - Coversheet revised	25
Location Map	26



Mayor
Ben White
Mayor Pro Tem
Dave Ruesink
City Manager
Glenn Brown

Councilmembers
John Crompton
James Massey
Dennis Maloney
Katy-Marie Lyles
Lawrence Stewart

Agenda
College Station City Council
Workshop Meeting
Thursday, March 25, 2010 3:00 p.m.
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

1. Presentation, possible action, and discussion on items listed on the consent agenda.
2. Presentation, possible action, and discussion regarding the performance, progress and future plans of the Research Valley Partnership (RVP).
3. Presentation, possible action, and discussion regarding modifications to Chapter 7 Health & Sanitation, Section 1 through 3 of the City of College Station Code of Ordinances as it relates to noise and nuisance.
4. Presentation, possible action, and discussion regarding an update on the convention center project.
5. Presentation, possible action, and discussion regarding the City of College Station rental registration program.
6. Presentation, possible action, and discussion concerning the Bike Loop Phase II project alignment.
7. Council Calendar
 - March 26 Grand Opening - TTI State Headquarters & Research Building, 2:00 p.m.
 - March 26 The Boutique Experience Unveiled - The LaSalle Hotel by Magnolia Hotels. 4:00 p.m.
 - March 29 2010 Citizens University with City Council in Council Chambers, 5:30 p.m.
 - March 30 Youth Advisory Council Town Hall Mtg, A&M Consol High School - Lecture Hall 4:40 p.m.
 - March 31 BVSWMA Inc. Board Meeting at COB Municipal Building - Room 305, 11:30 a.m.
 - April 1 Inner Circle Luncheon and Tour at Annenberg Presidential Conference Center, 11:30 a.m.
 - April 1 Planning & Zoning Meeting in Council Chambers, 6:00 p.m.
 - April 2 City Offices Closed – HOLIDAY
 - April 3 Citizens University Graduation Tour and Lunch at Veteran’s Park, 8:30 a.m.
 - April 6 Better Business Bureau - Torch Awards of Marketplace Ethics Luncheon, Miramont Country Club, 11:30 a.m.
 - April 8 Council Workshop/Regular Meeting at 3:00 p.m. & 7:00 p.m.
8. Presentation, possible action, and discussion on future agenda items: A Council Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the

City Council Workshop Meeting

Thursday, March 25, 2010

recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

9. Discussion, review and possible action regarding the following meetings: Arts Council of the Brazos Valley, Audit Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Wide Area Communications Task Force, Cemetery Committee, Code Review Committee, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Committee, Metropolitan Planning Organization, National League of Cities, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Sister City Association, TAMU Student Senate, Research Valley Partnership, Regional Transportation Committee for Council of Governments, Texas Municipal League, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments, BVSWM, Signature Event Task Force, (Notice of Agendas posted on City Hall bulletin board).

10. Executive Session will immediately follow the workshop meeting in the Administrative Conference Room.

Consultation with Attorney {Gov't Code Section 551.071}; possible action. The City Council may seek advice from its attorney regarding a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. Litigation is an ongoing process and questions may arise as to a litigation tactic or settlement offer, which needs to be discussed with the City Council. Upon occasion the City Council may need information from its attorney as to the status of a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. City of Bryan's application with TCEQ for water & sewer permits in Westside/Highway 60 area, near Brushy Water Supply Corporation to decertify City of College and certify City of Bryan
- b. Discussion of Legal Issues Regarding: Wellborn Incorporation Request
- c. Water CCN / 2002 Annexation / Wellborn Water Supply Corporation
- d. Sewer CCN permit requests for Brushy & Wellborn Services Areas
- e. Water CCN permit requests for Brushy & Wellborn Services Areas
- f. Legal aspects of Water Well, permits and possible purchase of or lease of water well sites
- g. TMPA v. PUC (College Station filed Intervention)
- h. City of Bryan suit filed against College Station, Legal issues and advise on Brazos Valley Solid Waste Management Agency contract, on proposed methane gas contract
- i. Update on legal proceedings for Grimes County Landfill site and contracts for development of Grimes County site
- j. Weingarten Realty Investors v. College Station, Ron Silvia, David Ruesink, Lynn McIlhaney, and Ben White
- k. Chavers et al v. Tyrone Morrows, Michael Ikner, City of Bryan, City of College Station, et al
- l. Rogers Sheridan v. Barbara Schob & Greg Abbott
- m. Clancey v. College Station, Glenn Brown, and Kathy Merrill
- n. Verizon v. City of College Station
- o. Legal Aspects of Brazos Valley Convention & Visitors Bureau Articles of Incorporation and Bylaws
- p. Contemplate Litigation, Legal remedies available to abate weeds, rubbish, brush and other unsanitary matter from a lot in the College Hills residential area.

City Council Workshop Meeting
Thursday, March 25, 2010

Economic Incentive Negotiations {Gov't Code Section 551.087}; possible action The City Council may deliberate on commercial or financial information that the City Council has received from a business prospect that the City Council seeks to have locate, stay or expand in or near the city with which the City Council in conducting economic development negotiations may deliberate on an offer of financial or other incentives for a business prospect. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Possible prospective project for generating additional sales tax, community pride.

11. Action on executive session, or any workshop agenda item not completed or discussed in today's workshop meeting may be discussed in tonight's Regular Meeting if necessary.

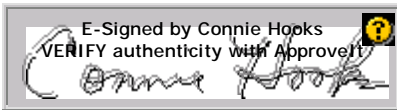
12. Adjourn.

APPROVED:

City Manager

Notice is hereby given that a Workshop Meeting of the City Council of the City of College Station, Texas will be held on the 25th day of March, 2010 at 3:00 pm in the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda

Posted this 22nd day of March, 2010 at 2:00 pm



City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov . The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on March 22, 2010 at 2:00 pm and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.

This public notice was removed from the official board at the College Station City Hall on the following date and time: _____ by _____.

Dated this _____ day of _____, 2010.

CITY OF COLLEGE STATION, TEXAS

By _____

Subscribed and sworn to before me on this the _____ day of _____,

Notary Public – Brazos County, Texas My commission expires: _____

This building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call (979) 764-3517 or (TDD) 1-800-735-2989. Agendas may be viewed on www.cstx.gov. Council meetings are broadcast live on Cable Access Channel 19.

**March 25, 2010
Workshop Agenda Item No. 2
Research Valley Partnership
Semi-Annual Performance Briefing**

To: Glenn Brown, City Manager

From: David Gwin, Director of Economic and Community Development

Agenda Caption: Presentation, possible action, and discussion regarding the performance, progress and future plans of the Research Valley Partnership (RVP).

Recommendation(s): N/A

Summary: Mr. Todd McDaniel, President and CEO, will provide a presentation on the performance, progress and future plans of the Research Valley Partnership (RVP).

City representation on the RVP Board of Directors is realized through the efforts and participation of the following appointments:

Mayor Ben White	-	Board Member
Mr. Lawrence Stewart, City Council	-	Board Member
Mr. Larry Hodges	-	Chairman of the Board
Mr. Glenn Brown, City of College Station	-	Ex-Officio

Budget & Financial Summary: In FY 2010, the City Council allocated \$600,000 in annual funding for the RVP. Of these funds, \$300,000 is for the general operations and maintenance of the RVP. \$250,000 is for the partnership between the RVP, City and the Texas A&M Institute for Pre-Clinical Studies. The remaining \$50,000 is for area marketing efforts. The City of College Station is an equal funding partner with the City of Bryan and Brazos County in providing general operating funds. However, only the cities of College Station and Bryan participate in equally funding the marketing effort.

Attachments: N/A

**March 25, 2010
Workshop Agenda Item No. 3
Noise Ordinance**

To: Glenn Brown, City Manager

From: Jeff Capps, Chief of Police

Agenda Caption: Presentation, possible action, and discussion regarding modifications to Chapter 7 Health & Sanitation, Sections 1 through 3 of the City of College Station Code of Ordinances as it relates to noise and nuisance.

Recommendation(s): None

Summary: This item is a follow up to Council initiated discussion and a previous workshop item on nuisance noise presented in February 2009.

Noise is a reoccurring issue in College Station. While great strides have been made to address loud party scenarios in a timely manner, there are other nuisance noise concerns that arise from time to time. During our review of the City's ordinance as it pertains to noise, it was determined that the ordinance was dated, conflicting and created prosecutorial difficulties. As such, the legal department has created a draft of the ordinance to address these issues.

Staff seeks Council direction on the draft ordinance.

Budget & Financial Summary: N/A

Attachments:

1. Memorandum from Senior Assistant City Attorney, Adam Falco
2. Old ordinance with noted modifications
3. Draft ordinance



CITY OF COLLEGE STATION
LEGAL DEPARTMENT

MEMORANDUM

TO: Chief Capps and Assistant Chief McCollum
FROM: Adam C. Falco, Senior Assistant City Attorney
DATE: March 9, 2010
RE: New City Ordinance on Noise and Nuisances – Chapter 7 §§1-3

The Legal Department has reviewed Chapter 7 Health and Sanitation §§ 1-3 and has made changes to it for a more efficient prosecution of noise and nuisance violations in the City. The main change is to the noise section of the ordinance. The City’s noise ordinance was drafted over 15 years ago and there are several problems with the old ordinance. The following reasons are why the ordinance will not make an effective prosecution of a noise violation and why a new ordinance was drafted.

The main problem with the old ordinance is it uses a great deal of language to express a simple offense. In §2 (B) “Prohibited Generally”, the ordinance describes “loud noise” with too many unnecessary descriptors. These descriptors for loud noise include: volume, level, duration and character. Evidence must be presented to prove each one of those descriptors for an offense. The new ordinance requires only proof of “unreasonable noise” and the plain meaning of the words are used for prosecution. A prosecution under the new ordinance will be more efficient because the use of “unreasonable noise” takes into consideration if the noise was at night or during the day or the time, place, and manner the noise is created by the use of unreasonable along with the decibel readings for noise.

The City’s old ordinance also limits the places that the loud noise can be heard. These limits include: driveways, occupied residential units, and schools and public buildings in use. These limitations would be another element of the offense to prove. The only limitations in the new ordinance are for construction and property maintenance between 7 A.M. and 10 P.M. and use of properly maintained air conditioners. Also, another issue with the old ordinance is in §2 (B) (2) and (3), the mental state “willfully” is omitted, showing inconsistencies, and in (B) (3) “clearly audible” is an added term to describe noise and this would be another element to prove.

LEGAL DEPARTMENT
P.O. BOX 9960 • 1101 TEXAS AVE S
COLLEGE STATION • TEXAS • 77842
OFFICE 979.764.3507 • FAX 979.764.3481

The old ordinance also contained two separate and different definitions of public nuisance – noise. In Chapter 7 §2 “Noise” (C) “Nuisances” is different from Chapter 7 §3 “Public Nuisance” (B) (2) “Nuisance Specifically Defined”. There should not be different language for the same offense. This creates notice problems and enforcement problems. In § 2(C) “Nuisances” there is language regarding motor vehicles that is also covered by the Penal Code §42.01 and by the Transportation Code §547.604 for motor vehicle muffler noise. This was corrected by eliminating the inconsistencies and just having one meaning of unreasonable noise.

The noise and nuisance sections of the old ordinance were combined in the new ordinance in §2, so in Chapter 7 there will not be a §3 of the new ordinance. Some other changes in the new ordinance were made to reflect state law and other minor changes to style and form. In §1(C) of Chapter 7 the notice requirements were modified to conform to Texas Health and Safety Code §342.006. The State law provides for a one year limit on notice and the old ordinance provided just a six month limit on notice for nuisance violations. The notice time pertains to the time, when after proper notice has been given, the City can abate a nuisance without giving a new notice. All the changes to Chapter 7 will make for a more efficient application and enforcement of the health and safety ordinances.

**CHAPTER 7
HEALTH & SANITATION**

SECTION 1: STAGNANT WATER, TRASH, GRASS, ETC.

A. **PROHIBITED CONDITIONS DESIGNATED - STAGNANT WATER**

It shall be unlawful for any person who owns or occupies any lot in the City to permit or allow holes or places where water may accumulate and become stagnant to be or to remain on such lot or to permit or allow the accumulation of stagnant water thereon or to permit the same to remain thereon.

B. **PROHIBITED CONDITIONS DESIGNATED - ACCUMULATION OF TRASH, CARRION, FILTH, ETC.**

It shall be unlawful for any person who owns or occupies any house, building, establishment, lot, or yard in the City to permit or allow any trash, rubbish, carrion, filth, or other impure or unwholesome matter to accumulate or remain thereon or therein.

C. **PROHIBITED CONDITIONS DESIGNATED - WEEDS AND OTHER UNSIGHTLY VEGETATION**

It shall be unlawful for any person owning, claiming, occupying, or having supervision or control of any real property within the City to permit weeds, brush, or any objectionable or unsightly vegetation to grow due to lack of vegetation management upon any such real property. It shall be the duty of such person to keep the area from the line of his property to the curb line adjacent to it free and clear of matter referred to above. Objectionable or unsightly vegetation includes all weeds and grasses that exceed twelve inches (12") in height.

Exempted from the provisions of this subsection are the following:

Comment [ACF1]: These sections were modified, but the substance did not change.

- (1) State highway rights-of-way.
- (2) Agricultural areas, agricultural meaning crop production and/or grazing.
- (3) Heavily wooded areas filled with uncultivated underbrush.
- (4) The cultivation of concentrated wildflowers from March 1 until June 15 of each year in areas where grasses and weeds do not exceed eighteen inches (18") in height.
- (5) Areas that are zoned A-0 or A-OR.

Notice. In the event that any person owning, claiming, occupying, or having supervision or control of any real property permits any condition to exist thereon in violation of this section, the City may notify the owner and occupant of such property of the failure to comply with this section and direct the owner and occupant to correct, remedy, or remove such condition within seven (7) days after such notice is received. Such notice shall be sent to the occupant at the post office address of the property and to the owner at the post office address as recorded with the Brazos County Appraisal District by United States Mail. If personal service cannot be obtained notice may be given by: publication at least once; by posting the notice on or near the front door of each building on the property to which the violation relates; or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

If the City mails a notice to the owner or occupant in accordance with this section and the

United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected and the notice is considered delivered.

The City in said notice of a violation may inform the owner and occupant by regular mail and posting notice on the property, or by personally delivering the notice, that if another violation of the same kind or nature that poses a danger to the public health and safety occurs within six (6) calendar months of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expenses against the property.

If a violation covered by a notice under this subsection occurs within the six (6) month period, and the City has not been informed in writing of an ownership change, then the City may take any action permitted under this section and assess its expenses as provided herein. If, however, the City is informed in writing of a change of ownership within the six (6) month period and a violation of this section occurs, the City shall notify the new property owner of the violation and take such other steps as are provided in this section.

Comment [ACF2]: This section was modified to conform to TX Health and Safety Code 342.006 because it deals with notice requirements.

D. **OBSTRUCTION OF VIEW OF TRAFFIC BY TREES, SHRUBS, ETC.**

Trees, shrubs, bushes, plants, grass, or weeds growing at or near intersections in such manner as to obstruct the view of approaching traffic from the right or left are hereby declared to be a nuisance, and the City Manager is hereby authorized to remove the same.

Comment [ACF3]: This section was modified, but the substance did not change

E. **CORRECTION OR REMOVAL OF CONDITION BY CITY**

If any person notified as provided in subsection C fails or refuses to correct, remedy, or remove the condition specified in such notice within seven (7) days after the date of notice by letter or within seven (7) days after the date of publication of notice in the newspaper, the posting of the notice on or near the front door of each building on the property to which the violation relates, or the posting of the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, the City may go upon the property and do such work or make such improvements as are necessary to correct, remedy, or remove such condition. The expense incurred pursuant to this subsection in correcting the condition of such property, and the cost of notification shall be paid by the City and charged to the owner of such property. In the event that the owner fails or refuses to pay such expense within thirty (30) days after the first (1st) day of the month following the one in which the work was done, the City shall file with the Brazos County Clerk a statement of the expenses incurred. Such statement shall state the name of the owner, if known, and a legal description of the property. From the date the statement is filed, the City shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%) from the date the City incurs the expense. For any such expense and interest, suit may be instituted and recovery and foreclosure had by the City. The statement of expense filed with the County Clerk or a certified copy thereof shall be prima facie proof of the amount expended in such work, all as more particularly specified in Chapter 342, Vernon's Annotated Texas Civil Statutes, which is hereby adopted.

Comment [ACF4]: This section is removed in its entirety because it is governed by state law in TX Health and Safety Code 342.006

(Ordinance No. 2592 of November 21, 2002)

SECTION 2: NOISE

Comment [ACF5]: The contents of Section 2 Noise should be deleted in its entirety and be renamed Section 2 "Unlawful Conduct Related to Health and Safety. See attached memo with explanation.

A. DEFINITIONS

- (1) dBA - means the abbreviation of the sound level in decibels determined by the A-weighting network of a sound-level meter or by calculation from octave band or one-third (1/3) octave band.
- (2) Decibel (dB) - means a unit of measure on a logarithmic scale, or the ratio of a

particular sound pressure squared to a standard reference pressure squared. For the purpose of this ordinance, twenty (20) micropascals shall be the standard reference pressure.

- (3) Motor vehicle - means any and all self-propelled vehicles as defined by the Texas Traffic Code, including all motor vehicles subject to identification under such code and all motor vehicles exempted under such code.
- (4) Noise - means the intensity, frequency, duration and character of sound, including sound and vibration of subaudible frequencies.
- (5) Noise level - means the maximum continuous sound level or repetitive peak level produced by a source or group of sources.
- (6) Sound amplifier - means any radio receiving set, microphone, musical instrument, phonograph, speaker(s) or other machine or device for the producing or reproducing of sound.
- (7) Sound level - means in decibels the weighted sound- pressure level measured by the use of a sound-level meter satisfying the requirements of ANSI S1.4, 1971, Specifications for Sound-Level Meters.
- (8) Sound-Pressure level - means in decibels twenty (20) times the logarithm to the base of ten (10) of the ratio of a sound pressure to the reference sound pressure of twenty (20) micropascals.

B. PROHIBITED GENERALLY

- (1) It shall be unlawful for any person to willfully make or cause or allow to be made or allow to be continued any "loud noise" which term shall mean any sound that because of its volume level, duration or character annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the City. Quieter standards shall prevail during the night-time hours of 10:00 p.m. to 7:00 a.m.

The term shall be limited to loud noise heard:

- (a) in any occupied residential unit which is not the source of the noise or upon the yard, or;
 - (b) in the driveway of such residential unit;
 - (c) in a school or public building or upon the ground thereof while in use, upon any parking lot open to members of the public as invitees or licensees, and in any event from a location not less than less than fifty feet (50) from the source of the noise measured in a straight line from the source.
- (2) No person in possession and present in any premises shall make or cause or allow to be made or allow to be continued any loud noise, including the loud noise that results from a gathering of people, which term shall mean any sound that because of its volume level, character or duration, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the City. Quieter standards shall prevail during the night-time hours of 10:00 p.m. to 7:00 a.m.

The term shall be limited to loud noise heard:

- (a) in any occupied residential unit which is not the source of the noise or upon the yard, or;
 - (b) in the driveway of such residential unit;
 - (c) in a school or public building or upon the ground thereof while in use, upon any parking lot open to members of the public as invitees or licensees, and in any event from a location not less than less than fifty feet (50) from the source of the noise measured in a straight line from the source.
- (3) No person shall make any loud noise or operate a sound amplifier so as to be clearly audible to any occupant of a neighboring property at any point on the boundary line separating the two (2) properties at a level higher than sixty-five (65) dBA during the day (from 7:00 a.m. to 10:00 p.m.) or fifty-five (55) dBA during the night (from 10:00 p.m. to 7:00 a.m.). If the properties are not contiguous, then the sound shall be measured from the source in a straight line.

C. NUISANCES

The following acts are declared to be public nuisances:

- (1) The using, operating or permitting to be played, used, or operated by any radio, amplifier, musical instrument, tape player, compact disc, compact tape or phonograph or other device for the producing or reproducing of sound in such manner as to cause loud noise. This definition of nuisance shall also include noise generated from a motor vehicle which is either standing or moving.
- (2) Yelling, shouting, whistling or singing or any prolonged sounds made by people at any time or place so as to create a loud noise between the hours of 10 p.m. and 7:00 a.m. of any day.

D. EXEMPTIONS

The term loud noise does not include noise or sound generated by the following:

- (1) Cries for emergency assistance and warning calls.
- (2) Radios, sirens, horns and bells on police, fire and other emergency response vehicles.
- (3) School athletic events in school facilities, provided that such activities have been authorized by the owner or agent of such facilities.
- (4) Fire alarms and burglar alarms prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.
- (5) Necessary construction or property maintenance, including the use of lawnmowers, during the hours of 7:00 a.m. to 10:00 p.m.
- (6) A permit is sought and obtained from the building Official, and the Building Official concludes that because of the construction operations involved, such as the placement of concrete or other construction work, requires work to begin before

Comment [ACF6]: This section is in the new ordinance because we do not want the use of lawn equipment to be illegal.

7:00 a.m. or end later than 10:00 p.m.

- (7) Construction work in public rights-of-way and/or easements by the City or the Texas Department of Transportation.

Comment [ACF7]: This section will be in the new ordinance to help with construction noise.

(Ordinance No. 2780 of January 27, 2005)

E. PARKS BOARD TO SET AMPHITHEATER NOISE LEVEL STANDARDS

- (1) The College Station Parks and Recreation Board after a public hearing may, from time to time, set the level of noise that may be generated or produced at the College Station Amphitheater. Such standards shall be provided to users of the amphitheater and shall be strictly adhered to by said users. Failure to adhere to the standards shall be a criminal offense under this chapter.
- (2) The College Station Parks and Recreation Board may after a public hearing at which the alleged violating user may present evidence ban said user who has violated the standards from future use of the amphitheater. The standard of review of the decision of the College Station Parks and Recreation Board shall be the substantial evidence rule.

Comment [ACF8]: This section will be in the new ordinance because of Wolf Pen Creek Amphitheater, but has been modified.

F. ENFORCEMENT

Any person aggrieved by loud noise or the operation of amplification device or similar equipment that produces loud noise in violation of this ordinance may complain to the College Station Police Department who shall enforce this ordinance. The police are also hereby authorized to enforce said sections without any such complaint. Nor shall the police be required to verify the decibel level by use of a sound level meter.

G. SEVERABILITY

It is the intent of the City Council that this Ordinance be construed to secure for the people freedom from unwanted loud noise as described herein without violating any of the rights secured by the Constitution to the people. In the event that any provision contained herein should ever be determined to be invalid for any reason, it is the intent of the City Council that the remaining provisions continue in effect to the extent that they can be enforced notwithstanding such determination and therefore the provisions of this ordinance are declared severable.

H. PENALTY PROVISION

- (1) The City is hereby authorized to seek court action to abate any noise nuisance in lieu of or in addition to any other enforcement remedies that may be available.
- (2) The general penalty provision of Chapter 1 of the College Station Code of Ordinances shall apply to violations of this ordinance.

(Ordinance No. 1996 of February 11, 1993)

SECTION 3: PUBLIC NUISANCES

Comment [ACF9]: Section 3 will be deleted in its entirety and be renumbered as Section 2 "Unlawful Conduct Related to Health and Safety."

A. DEFINITIONS

- (1) A public nuisance is a thing, act, occupation, or use of the property which shall annoy, injure, or endanger the safety, health, comfort, or repose of any considerable number of persons; shall offend the public decency; or shall in any way render any

considerable number of persons insecure in life or in use of property.

- (2) The term person shall mean and include any natural person, association of persons, partnership, corporation, agent or officer, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, administrators.

B NUISANCE SPECIFICALLY DEFINED

The following specific acts, places, conditions, and things are hereby declared to be nuisances within the corporate limits of the City or outside the limits of the City for a distance of five thousand feet (5,000):

- (1) Accumulations of manure or rubbish which are breeding places for flies, mosquitoes, or vermin.
- (2) All loud or unusual noises and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities.
- (3) All hanging signs, awnings, and other similar structures over the streets or sidewalks so situated or constructed as to endanger public safety.
- (4) Filthy, littered, or trash-covered cellars, house yards, factory yards, vacant areas in rear of stores, vacant lots, houses, buildings, or premises containing trash, litter, rags, accumulation of empty barrels, boxes, crates, packing cases, lumber or fire-wood not neatly piled, scrap iron, tin, and other metal not neatly piled, or anything whatsoever in which flies or rats may breed or multiply or which may be a fire danger.
- (5) Any unsightly building, pre-empted, or other structure, or any old, abandoned, or partially destroyed building or structure, or any building or structure commenced and left unfinished, or any abandoned well or excavation not properly protected and which may attract children and endanger them in the course of play.
- (6) All places used or maintained as junk yards, or dumping grounds, or for the wrecking or disassembling of automobiles, trucks, or machinery of any kind, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others.
- (7) The keeping of any lot or piece of ground on which there is located a pool or pond of unwholesome, impure, stagnated or offensive water.
- (8) Fireworks
 - (a) The possession, storage, use, manufacture, assembling, selling, handling, transporting, receiving, offering for sale, or having in one's possession with the intent to offer for sale, use, discharge, ignite, detonate, fire or otherwise set into action, any fireworks as that term is defined by Section 202 of the Fire Prevention Code.
 - (b) Exemptions. This section shall not apply to:
 - (i) the possession or use of signaling devices used by railroads, or others requiring the same, nor to signal flares or rockets for military or police use;

Comment [ACF10]: See attached memo for explanation.

Comment [ACF11]: The code of ordinances adopted the International Fire Code (2006 edition) in Chapter 6 of the code of ordinances. Fireworks are covered in Chapter 33 of the IFC in §3301.13. It needs to be here to cover nuisances 5000 feet outside the city limits.

- (ii) the supervised public displays of fireworks provided that a permit for such fireworks display has been obtained from the State Fire Marshall or his designated representative; and
- (iii) the transportation of Class C Common Fireworks, as defined in Article 5.43, Vernon's Annotated Texas Insurance Code, by motor vehicles which meet the Department of Transportation requirements for transporting Class C Common Fireworks. It shall further be lawful for bona fide fireworks dealers to transport Class C Common Fireworks.

(Ordinance No. 1988 of November 12, 1992)

- (9) Open storage of commodities and materials for sale, lease, inventory or private use shall not be permitted in residential areas. Such materials shall not be located between the front of the structure and the street. Such materials shall be screened by a solid fence and shall not be visible from a public right-of-way. Commodities are defined as, but not limited to: appliances, automotive parts, building materials, firewood, furniture (excluding patio and lawn furniture), and landscape materials. Firewood stored in rear or side yards, and A-0, A-OR, and A-OX zoning districts are exempt from the screening requirements

(Ordinance No. 2302 of February 12, 1998)

C. PENALTY

Any person who shall knowingly cause or create any public nuisance, or permit any public nuisance to be created or to be placed upon or to remain upon any premises occupied by him or them shall, upon conviction thereof, be punished by being subject to a fine as provided in Chapter 1, Section 5 of this Code of Ordinances, as amended from time to time.

D. ABATEMENT OF NUISANCES

Notwithstanding any penal provision herein, the City Attorney is authorized to file suit on behalf of the city for such injunctive relief as may be necessary to abate such nuisance whenever any nuisance as herein defined is found in any place within the City or in any area outside the city limits for a distance of five thousand feet (5,000).

Comment [ACF12]: Authority comes from LGC 217.042 and AG Opinion JC 0025.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 7, “HEALTH AND SANITATION”, OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 7, “Health and Sanitation”, of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A”**, attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-Five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2000.00). Each day any such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinances, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2010.

APPROVED:

ATTEST:

MAYOR

CITY SECRETARY

APPROVED:

CITY ATTORNEY

Exhibit A

That Chapter 7 “Health and Sanitation” is hereby amended by amending Sections 1 and 2 of the Code of Ordinances of the City of College, Station Texas and to delete Section 3 in its entirety and is to read as follows:

CHAPTER 7 HEALTH & SANITATION

SECTION 1: STAGNANT WATER, TRASH, WEEDS, & OTHER VEGETATION PROHIBITED

- (A) **Stagnant Water Prohibited:** It shall be unlawful for any person who owns or occupies any house, building, establishment, lot, or yard in the City to permit or allow holes, places, or containers where water may accumulate and become stagnant.
- (B) **Accumulation of Trash, Carrion, & Filth Prohibited:** It shall be unlawful for any person who owns or occupies any house, building, establishment, lot, or yard in the City to permit or allow any trash, rubbish, carrion, filth, or other impure or unwholesome matter to accumulate or remain thereon or therein.
- (C) **Weeds and Other Unsightly Vegetation Prohibited:** It shall be unlawful for any person owning, claiming, occupying, or having supervision or control of any real property within the City to permit weeds, brush, or any objectionable or unsightly vegetation to grow due to lack of vegetation management upon any such real property. It shall be the duty of such person to keep the area from the line of his property to the curb line adjacent to it free and clear of matter referred to above. Objectionable or unsightly vegetation includes all weeds and grasses that exceed twelve inches (12") in height.
- (1) **Exemptions:**
- (a) State highway rights-of-way.
 - (b) Agricultural areas, agricultural meaning crop production and/or grazing.
 - (c) Heavily wooded areas filled with uncultivated underbrush.
 - (d) The cultivation of concentrated wildflowers from March 1 until June 15 of each year in areas where grasses and weeds do not exceed eighteen inches (18") in height.
 - (e) Areas that are zoned A-O or A-OR.
- (D) **View of Traffic Obstructed by Trees, Shrubs, & Vegetation:** Trees, shrubs, bushes, plants, grass, weeds, or any other vegetation growing at or near intersections in such manner as to obstruct the view of approaching traffic from the right or left shall be unlawful, and the

City Manager is hereby authorized to remove the vegetation.

(E) Work or Improvements Done by the City and Notice Requirements:

- (1) If the owner of property in the City does not comply with an ordinance under this chapter within seven days of notice of a violation, the City may:

 - (a) do the work or make the improvements required; and
 - (b) pay for the work done or improvements made and charge the expenses to the owner of the property.
- (2) The notice must be given:

 - (a) personally to the owner in writing;
 - (b) by letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
 - (c) if personal service cannot be obtained:

 - (1) by publication at least once;
 - (2) by posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (3) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- (3) If the City mails a notice to a property owner in accordance with Subsection (2), and the United States Postal Service returns the notice as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered as delivered.
- (4) In a notice provided under this section, the City may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without notice may take any action permitted by Subsections (1) (a) and (b) and assess its expenses as provided by Texas Health and Safety Code §342.007.

- (F) The term “person” shall mean and include any natural person, business entity, or association of people in this Chapter.
- (G) A violation of this Chapter is also declared a nuisance and may be enforced 5000 feet outside the city limits.

SECTION 2: UNLAWFUL CONDUCT RELATED TO HEALTH AND SAFETY

- (A) **A person commits an offense if he:**
 - (1) uses property in a way that annoys, injures, or endangers the health, safety, comfort, or repose of any person,
 - (2) uses property in a way that accumulates manure or rubbish or debris,
 - (3) creates or allows any sign, awning, and other similar structure over the streets or sidewalks so situated or constructed as to endanger health, safety, comfort, or repose of any person,
 - (4) makes filthy, littered, or trash-covered cellars, house yards, factory yards, vacant areas in rear of stores, vacant lots, houses, buildings, or premises containing trash, litter, rags, accumulation of empty barrels, boxes, crates, packing cases, lumber or firewood not neatly piled, scrap iron, tin, and other metal not neatly piled, or anything whatsoever in which flies or rats may breed or multiply or which may be a fire danger,
 - (5) makes any unsightly building, pre-empted, or other structure, or any old, abandoned, or partially destroyed building or structure, or any building or structure commenced and left unfinished, or any abandoned well or excavation not properly protected and which may attract children and endanger them in the course of play,
 - (6) creates places used or maintained as junk yards, or dumping grounds, or for the wrecking or disassembling of automobiles, trucks, or machinery of any kind, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others,
 - (7) allows the keeping of any lot or piece of ground where a pool or pond is located that holds unwholesome, impure, stagnated, or offensive water,
 - (8) allows the open storage of commodities and materials for sale, lease, inventory or private use in areas zoned as residential. Such materials shall be screened

by a solid fence and shall not be visible from a public right-of-way. Commodities are defined as, but not limited to: appliances, automotive parts, building materials, firewood, furniture (excluding patio and lawn furniture), and landscape materials. Firewood stored in rear or side yards, and A – O and A – OR zoning districts are exempt from the screening requirements,

- (9) possesses, manufactures, stores, sells, handles, or uses fireworks,
- (a) **Exemption:** a supervised public display of fireworks provided that a permit for such fireworks display has been obtained from the State Fire Marshall or his designated representative.
- (10) allows or maintains an unreasonable noise:
- (a) **Day Time Noise**
- (1) during the hours of 7:00 A. M. to 10:00 P.M. that when measured from the property line of a residence located in residential zoned property exceeds 63 decibels and would disturb or annoy a person of ordinary sensibilities, or
- (2) during the hours of 7:00 A. M. to 10:00 P.M. that when measured from a contiguous interior wall of a residence that is a multiunit residence located in residential zoned property exceeds 55 decibels and would disturb or annoy a person of ordinary sensibilities.
- (b) **Night Time Noise**
- (1) during the hours of 10:01 P.M to. 6:59 A. M. that when measured from the property line of a residence located in residential zoned property exceeds 56 decibels and would disturb or annoy a person of ordinary sensibilities, or
- (2) during the hours of 10:01 P.M to. 6:59 A. M. that when measured from a contiguous interior wall of a residence that is a multiunit residence located in residential zoned property exceeds 50 decibels and would disturb or annoy a person of ordinary sensibilities.
- (c) **Exemptions**
- (1) Necessary construction or property maintenance, including the use of lawnmowers, during the hours of 7:00 A.M. to 10:00 P.M.,

**March 25, 2010
Workshop Agenda Item No. 4
Convention Center Update**

To: Glenn Brown, City Manager

From: David Gwin, Director of Economic and Community Development

Agenda Caption: Presentation, possible action, and discussion regarding an update on the convention center project.

Recommendation(s): N/A

Summary: In late 2009, the City Council directed staff to prepare a Request for Proposals (RFP) for professional services in order to help develop an updated market analysis and feasibility study for the proposed convention center project. To that end, staff has fully developed the formal request for the referenced study and is now prepared to release it.

Staff is fully committed to the realization of this project. However, given the current economic situation, staff seeks the Council's input as to the timing of this component of the project.

Budget & Financial Summary: N/A

Attachments: N/A

March 25, 2010
Workshop Agenda Item No. 5
Rental Registration 1st Anniversary Review

To: Glenn Brown, City Manager

From: Bob Cowell, AICP, Director Planning & Development Services

Agenda Caption: Presentation, possible action, and discussion regarding the City of College Station rental registration program

Recommendation: Staff recommends continuation of the Rental Registration program as it currently exists with the revision of removing the requirement that a local point of contact be provided. Further, staff recommends that Council provide direction to any further revisions or enhancements to the program.

Summary: In the winter of 2007 and the spring of 2008 staff worked with stakeholders representing various neighborhoods, TAMU students, TAMU Administration, property managers, and others to develop a comprehensive approach to developing and maintaining strong and sustainable neighborhoods. This effort culminated in a report entitled "Strong and Sustainable Neighborhoods: An Action Plan for Neighborhood Integrity". This report outlined four strategies to address the issues identified. Each of these strategies had a series of actions that would result in implementation of the plan.

In the spring of 2008 the City Council accepted the report and directed staff to proceed with its recommendations. One of the key actions identified in the report was the establishment of a rental registration program for all single family homes and duplexes used as rental property. On December 16th, 2008 the Council approved an amendment to the Code of Ordinances to enact a rental registration program with an effective date of March 1st, 2009. The rental registration program is intended to allow for quicker code enforcement capabilities and provide Fire and Police crews the ability to make quick contact with the property owner during an emergency response. The information currently collected in the registration process includes a mandatory local point of contact, owner information and the current number of tenants on the lease.

At a follow-up meeting in June of 2009 Council considered amendments to the Ordinance to respond to concerns raised by the owners of rental property but took no action other than to request that an update be provided upon the completion of the 1st year of the program.

To date 6,772 rental properties have registered (3,517 single family homes and 3,255 duplexes). There are another 216 properties currently in some stage of enforcement for failure to register. The purpose of this workshop item is to both update Council on the program and to discuss any revisions or enhancements for the program.

Budget & Financial Summary: Rental Registration is operated as a revenue-neutral operation meaning it is anticipated that the \$15 registration fee covers 100% of associated program costs (printing, notices, code enforcement, software, staff support, etc). To date, the registration fees have generated approximately \$101,000.

Attachments:

1. Existing Ordinance

SECTION 19: RENTAL REGISTRATION OF SINGLE FAMILY AND DUPLEX DWELLING UNITS”

A. DEFINITIONS

- (1) Rental Property: - Any single family or duplex dwelling unit that is not owner occupied, regardless if rent is charged.
- (2) Duplex Dwelling: - A residential structure providing complete, independent living facilities for two separate families, including permanent provisions for living, sleeping, cooking, eating and sanitation in each unit.
- (3) Single Family: - A residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, cooking, eating and sanitation.

B. REGULATIONS

- (1) Each owner and real estate manager of single family and duplex residential property that serves as rental property shall be required to annually register the property as well as upon any of the conditions listed below changing, with the City of College Planning and Development Services Department. The information required to register the property is as follows:
 - (a) Address of the rental property
 - (b) Owner and contact information for the owner.
 - (c) Type of property such as single family or duplex.
 - (d) Local contact person with contact information, in the case of an absentee owner. The local contact person cannot be someone who is listed on the lease. Local contact must reside within thirty (30) miles of the College Station City Hall.
 - (e) Names and contact information of all persons listed on the current lease shall be retained by the local contact person and shall be presented to the Administrator upon request.
 - (f) Other information as deemed necessary by the Administrator
- (2) A fee of Fifteen Dollars (\$15) shall be assessed at the time of registration.

**March 25, 2010
Workshop Agenda Item No. 6
College Station Bike Loop Project
Phase II Alignment**

To: Glenn Brown, City Manager

From: Chuck Gilman, Director of Capital Improvement Department

Agenda Caption: Presentation, possible action, and discussion concerning the Bike Loop Phase II project alignment.

Recommendation(s): Staff recommends Council approval of the alternative alignment.

Summary: Staff seeks Council direction about an alternate alignment for the Bike Loop Phase II project which extends into Bee Creek Park. Phase I of the Bike Loop project, which was completed October 5, 2009, included pedestrian improvements to the intersection of Longmire and FM 2818, bike lanes along Longmire, and a pedestrian bridge over Bee Creek. The Phase II improvements will connect the bridge on the north side of the creek to the portion of the College Station Bike Loop in Bee Creek Park.

Staff has considered the alignment submitted in the original grant application and the recently adopted Bicycle, Pedestrian and Greenways Master Plan. An adjustment to the alignment was developed that will provide additional benefits, reduce the impact on trees along Bee Creek and the Arboretum and still accomplish the original goals of the College Station Bike Loop project. Once this phase of the bike loop is complete, the City will have 24,000 linear feet, or over 4.5 continuous miles, of bicycle facilities for a direct route from Barron Road to George Bush Drive, enhancing multi-modal transportation within the City.

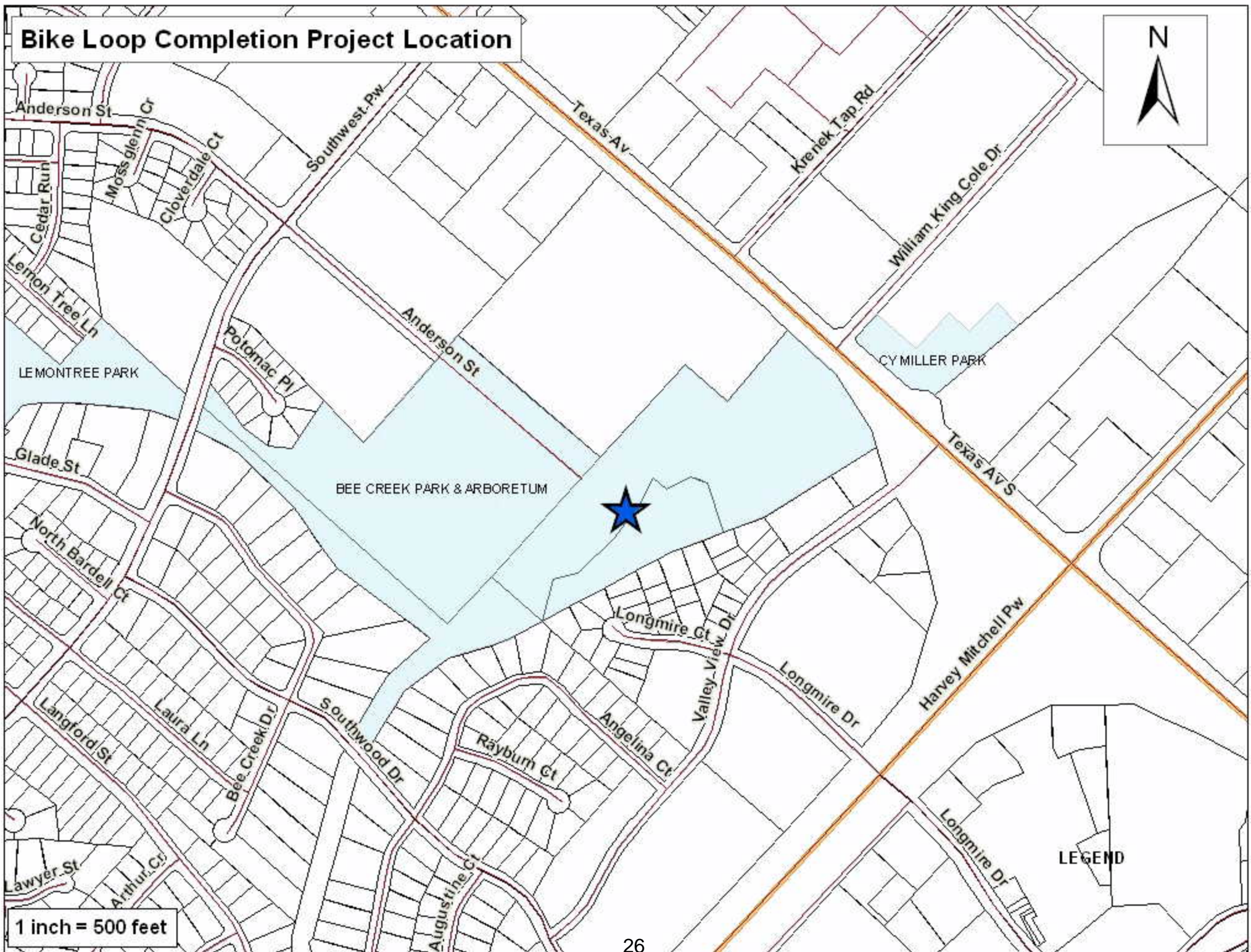
This phase of the project is funded in part by the federal grant administered by TxDOT through the Texas Statewide Transportation Enhancement Program to create a circular connection of bicycle facilities in College Station improving mobility and connecting the Texas A&M campus, retail centers, and several City parks and buildings. This project will spend the remaining grant balance and complete the College Station Bike Loop.

Budget & Financial Summary: The project budget is \$690,763 consisting of the 2005 Bike Loop project (ST-0530) in the amount of \$327,202, the Miscellaneous Bike Trails project (ST-9803) in the amount of \$169,000, and the Hike and Bike Trails project (ST-0521) in the amount of \$194,561. Funds in the amount of \$59,063 have been expended or committed to date from the Miscellaneous Bike Trails portion of the project budget, leaving a balance of \$631,700 for the project completion. The balance on the grant is \$279,000 and is included in the 2005 Bike Loop project budget.

Attachments:

- 1.) Project Map

Bike Loop Completion Project Location



1 inch = 500 feet