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Mayor

Nancy Berry

Mayor Pro Tem

Dave Ruesink

City Manager

Glenn Brown

Councilmembers

John Crompton

Jess Fields

Dennis Maloney

Katy-Marie Lyles

Lawrence Stewart

Agenda

College Station City Council

Workshop Meeting

Monday, May 17, 2010 2:00 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 implementation of a proposed Parks and Recreation Department Enterprise Fund.
3. Presentation, possible action, and discussion regarding the Parks and Recreation Department FY 10 Budget Savings Presentation.
4. Presentation, possible action, and discussion regarding modifications to Chapter 10 Traffic Code, Section 6 B. (1 – 4) of the City of College Station Code of Ordinances as it relates to regulations for parking, standing, or storing of recreational vehicles, trailers or trucks in residential areas.
5. City Secretary Certification of review of Wellborn Petition to the City Council and discussion of Charter requirements.
6. Presentation, possible action, and discussion regarding a discussion of the City Council's expectations for annual Council retreat scheduled for this summer.
7. Council Calendar
 - May 18 Special Meeting - Public Hearing (CSISD Annexation) in Council Chambers, 6:00 p.m.
 - May 19 BVSWMA Inc. Board Meeting at COB Municipal Building - Room 305, 11:00 a.m.
 - May 19 2010 Exploring History Lunch Lecture Series at CS Conference Center, 11:30 a.m.
 - May 20 BioCorridor Project Joint Meeting with COB, COCS, Brazos County at TIPS Board Room 2006-2007 (800 Raymond Stotzer Parkway) at 3:00 p.m.
 - May 20 Planning & Zoning Meeting in Council Chambers at 6:00 p.m.
 - May 27 Council Workshop/Regular Meeting, 3:00 p.m. and 7:00 p.m.
 - May 28 Dedication & Open House - Texas 4-H Youth Development Foundation Headquarters at Texas 4-H Complex - 4180 SH 6 South at 2:00 p.m.
 - May 31 City Offices Closed - HOLIDAY

City Council Workshop Meeting

Monday, May 17, 2010

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 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, BVSWMA, 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:

Litigation

- 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 Station and certify City of Bryan
- b. 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
- c. Water CCN / 2002 Annexation / Wellborn Water Supply Corporation
- d. Weingarten Realty Investors v. College Station, Ron Silvia, David Ruesink, Lynn McIlhaney, and Ben White
- e. Chavers et al v. Tyrone Morrow, Michael Ikner, City of Bryan, City of College Station, et al
- f. Clancey v. College Station, Glenn Brown, and Kathy Merrill

Legal Advice

- a. Discussion of Legal Issues Regarding: Wellborn Incorporation Request
- b. Contemplated Litigation, Legal remedies available to abate weeds, rubbish, brush and other unsanitary matter from a lot in the College Hills residential area.
- c. Brief update on Open Meetings Act.

Personnel {Gov't Code Section 551.074}; possible action

City Council Workshop Meeting

Monday, May 17, 2010

The City Council may deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer. After executive session discussion, any final action or vote taken will be in public. The following public officer(s) may be discussed:

- a. City Secretary
- b. Mayor & Council Self Evaluation

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 17th day of May, 2010 at 2:00 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 14th day of May, 2010 at 1:00 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 May 14, 2010 at 1:00 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.

May 17, 2010
Workshop Agenda Item No. 2
Presentation, Possible Action and Discussion Regarding the
Implementation of a Proposed
Parks and Recreation Department Enterprise Fund

To: Glenn Brown, City Manager

From: David Schmitz, Assistant Director, Parks and Recreation

Agenda Caption: Presentation, possible action, and discussion regarding the implementation of a proposed Parks and Recreation Department Enterprise Fund.

Recommendation(s): Staff requests that the Council provide input and policy direction on the proposed next steps for the development and implementation of a proposed Parks and Recreation Department Enterprise Fund as requested by the Council at the November 23, 2009 meeting. The proposed next steps include:

- Look at a Pilot Program to develop an operating system that works
- Change cost subsidy policy ranges
- Grow the Pilot Program if a positive evaluation is determined

Summary: Over the last several months, the Parks and Recreation Department (PAR) staff along with the Finance Department staff has been researching the concepts associated with the creation and possible implementation of a PAR Enterprise Fund. The basic intent of this fund would be to see what revenue producing activities could be removed from the General Fund Budget and still exist as a special fund with its revenues covering the agreed upon expenses in a self supporting environment with as minimal General Fund subsidy as possible.

In light of the current economic conditions, staff has been reviewing what possible alternatives might be used to preserve many of the City's recreation programs while at the same time not placing a strain on the General Fund for the programs' continued funding needs. The department currently offers such a program in a much smaller scope with its Xtra Education Program. It must be understood that not all expenses associated with a recreation program will be covered by this proposed new fund. There would still be some expenses borne by the General Fund as an ongoing subsidy. Staff is also recommending that certain recreation programs that the City currently provides, such as the Challenger Sports and Learn to Swim Programs, should continue to be supported by the General Fund and not be considered for inclusion in the proposed new fund.

Depending upon Council direction, some of the proposed program areas to include in the Pilot Program with varied participation levels for comparisons are:

- Athletics – Youth and adult softball, volleyball, flag football and kickball
- Instructional programs – tennis, water aerobics and basketball skills
- Recreational Programs – Lincoln Center field trips

A survey study of the benchmark cities for College Station revealed that not too many cities are using an enterprise or performance based fund for their recreation programs. The City of Denton however did use a Recreation Fund for this purpose and is probably the best

example of how this type of fund might be used. Their Recreation Fund, in place since 1982, is used to cover the direct expenses related to their recreation programs that are offered in the recreation centers or out on the city's athletic fields. The basic difference that the Denton PARD staff made between the General Fund and the PARD Recreation Fund is that the General Fund is used to cover the "green and growing expenses" while the Recreation Fund covers the "activities in the parks expenses."

Budget & Financial Summary: The General Fund FY 11 operating expense and revenue budgets for these recreation programs will need to be amended should the Council decide to move forward in this area of operations.

May 17, 2010
Workshop Agenda Item No. 3
Parks and Recreation Department FY 10 Budget Savings
Presentation

To: Glenn Brown, City Manager

From: David Schmitz, Assistant Director, Parks and Recreation

Agenda Caption: Presentation, possible action, and discussion regarding the Parks and Recreation Department FY 10 Budget Savings Presentation.

Recommendation(s): Staff requests that the Council provide input and policy direction on the presentation provided by staff regarding proposed budget savings in the FY 10 General Fund Operating Budget for the Parks and Recreation Department.

Staff from both the Finance Department and the Parks and Recreation Department has been working on the budget forecast for the rest of the FY 10 Parks and Recreation Department operations.

Summary: The analysis of the expenditures and revenues for the rest of the fiscal year in the area of Parks and Recreation operations has led to a projected overage in allocated funds in an approximate amount of \$140,000. This overage is forecast in addition to the changes that have already been made as a part of the Budget Amendment #2 for the FY 10 General Fund Budget. Actual reductions in Parks and Recreation operations expenditures need to happen in order to not exceed the amended budget allocation. The overage is comprised principally of the reintroduction of the Umpires Contract expenses (\$50,000), projected historical overages in the pool chemicals and seasonal staff accounts as well as the inclusion of additional landscape and irrigation maintenance responsibilities for City facilities and streets.

Staff has identified four key areas where either savings in expenses or additions in revenue may be used to help offset the projected overage. These areas include:

- Instructional Programs
- Aquatics and The EXIT Programs
- Park Operations
- Parks and Recreation Programs Revenues

With the summer season quickly approaching, it is imperative that the City communicate these proposed changes in operations to its clients as soon as possible.

Budget & Financial Summary: The amended FY 10 Budget for the Parks and Recreation Department is \$8,864,910. The estimated overage is approximately \$140,000.

Attachments:

1. April 21, 2010 Memorandum

Memorandum

To: Glenn Brown, City Manager
Through: David Neeley, Assistant City Manager
From: Marco A. Cisneros, Director, Parks and Recreation
Subject: FY 10 Budget Savings for Parks and Recreation Department
Date: April 21, 2010

The recent budget amendment for the General Fund brought to light a number of the ongoing challenges that the Parks and Recreation Department faces with its operating budget for the rest of this fiscal year. In cooperation with the Finance staff, PARD staff has estimated a budget overage in expenditures in the amended budget to be approximately \$140,000. In other words if the forecast expenditures continue through the rest of the fiscal year without any changes being made then the department will exceed its allocated budget by approximately \$140,000. With that in mind PARD staff has looked at various options to see what can be done to offset that budget overage with the implementation of concentrated savings efforts throughout the department as well as the use of increased revenues. Here is a breakdown of that plan with an emphasis on the part of the department that it involves:

#1 – Instructional Programs

Staff is looking at revamping the delivery of the Instructional Programs activities. Some savings can be achieved by shifting staff responsibilities for instructional classes as well as using the electronic media rather than more printing of materials for the marketing of the program. This will not lessen the capacity for the delivery of the programs to the public. These savings would be achieved in reduced overtime salaries, promotional materials and printing costs.

Estimated Savings - \$8,000

#2 – Aquatics and The EXIT Programs

In the area of Aquatics, the proposal is for a one day per week for each of the three aquatic facilities to be closed for the summer season. These closures would be programmed on alternate days Monday through Wednesday so that as one facility is closed, the swim clients would still have the option of going to one of the other facilities. In the spring months we would also be reducing the Natatorium operating hours as the operations shift to the Hallaran Pool at Southwood Athletic Park as has been done in the past.

Savings would be achieved in less seasonal staff being needed for those days through the summer season. There would not be any significant anticipated savings in utilities or chemicals because the pool water quality has to remain at the standard levels for meeting state requirements.

The EXIT Teen Center operations would be closed earlier on Friday nights since that typically is one of the lowest attendance times for the center. The savings would be achieved in less seasonal staff and some reductions in supplies.

Estimated Savings - \$46,500

#3– Park Operations

Savings will be achieved in the Park Operations area by not filling any of the seasonal positions that typically get filled during the peak mowing and special events season. Split shifts and alternating crews will be used to cover the weekend operations for athletic tournaments and pavilion reservations that the seasonal staff would typically cover.

Additional savings will also be achieved by not filling a grounds worker position that just came open due to an employee that left the City for a parks and recreation promotion position in another city. Park Operations staff will continue to work with the available staff for the rest of the fiscal year. Possible impacts are that mowing schedules will be affected and special event support for outside groups will be limited in scope due to the available resources. The operating philosophy for the parks becomes addressing safety issues first, function issues second and aesthetic issues third. Depending upon the weather there may be times that we will not be able to address aesthetic issues as quickly as we would like to.

Estimated Savings - \$53,600

#4 – PARD Revenues

The PARD revenues that are derived from the various fees that are collected for programs, leagues and facility reservations are doing a little better than expected. PARD staff in cooperation with the Finance staff has been tracking those revenues. The current trend for the fiscal year is about three percent (3%) above the budget projections. If that trend continues that three percent translates into an additional \$30,000 in PARD revenues that can be used to help offset expenditures.

Estimated Increased Revenues - \$30,000

Estimated #1- 3 Savings -	\$108,100
Estimated #4 Increased Revenues -	<u>\$30,000</u>
Total Savings and Increased Revenues -	\$138,100

With the summer season right around the corner it is imperative that we communicate these changes in operations to our clients as soon as possible. With your authorization we will move forward in making these changes in operations with a strong emphasis on maintaining as much of our service delivery as possible.

May 17, 2010
Workshop Agenda Item No. 4
Discussion related to Chapter 10 Code of
Ordinances related to Parking Regulations

To: Glenn Brown, City Manager

From: Jeff Capps, Chief of Police

Agenda Caption: Presentation, possible action, and discussion regarding modifications to Chapter 10 Traffic Code, Section 6 B. (1 – 4) of the City of College Station Code of Ordinances as it relates to regulations for parking, standing, or storing of recreational vehicles, trailers or trucks in residential areas.

Recommendation(s): Seeking Council Direction

Summary: This item is a follow up to Council initiated discussion as it relates to the regulations of parking trailers in residential areas.

The current Ordinance prohibits the parking, storing or standing of trucks, truck tractors or trailers in residential areas for other than the actual loading or unloading of goods or passengers. It further prohibits the parking, storing or standing of trucks, truck tractors or trailers in residential lawns or driveways for other than the actual loading or unloading of goods or passengers.

Staff seeks Council direction on any modifications it may be seeking.

Budget & Financial Summary: N/A

Attachments:

1. Copy of current Ordinance

Current Ordinance

SECTION 6: PARKING, STANDING, OR STORING OF RECREATIONAL VEHICLES, TRAILERS OR TRUCKS IN RESIDENTIAL AREAS

A. DEFINITIONS

- (1) **Camper** - A separate vehicle designed for human habitation which can be attached and detached to or towed by a motor vehicle.
- (2) **Driveway** - Any paved concrete, asphalt, gravel and/or other impervious surface area on a lot designed and required to provide direct access for vehicles between a street and private garage, carport, or other permitted parking space, or parking area or loading area, garage and attached or detached accessory building located on a lot developed with a residential dwelling used by the occupant of the premises principally for, but not limited to, the storage of passenger vehicles or other vehicles and equipment. Driveways or paved parking areas must be substantially free from grass, weeds, or other vegetation and must be adequately maintained.
- (3) **Motor Home** - A self-contained vehicle designed for human habitation with its own motive power and with a passageway from the body of the home to the driver and front passenger seats.
- (4) **Motor Vehicle** - A self-propelled device in, upon or by which any person or property is or may be transported.
- (5) **Recreational Vehicle** - Any motor vehicle or trailer designed or used as a travel trailer, camper, motor home, tent trailer, boat, boat trailer, camping trailer, or other similar purposes.
- (6) **Residential area or residential lot** - shall mean any area or lot occupied by residential dwellings though the area may be zoned for use other than residential.
- (7) **Trailer** - A vehicle without motive power designed for carrying persons, animals, or property on its own structure and to be drawn by a vehicle with motive power. The term shall include, but not be limited to, semi-trailer, and utility trailer. Trailer shall not include any trailer defined as a recreational vehicle.
- (8) **Truck** - means any motor vehicle designed, used or maintained primarily for the transportation of property, with a manufacturer's rated carrying capacity exceeding two thousand (2,000) pounds.
- (9) **Truck-tractor** - means any motor vehicle designed or used primarily for drawing other vehicles. It is intended that the term includes a motor vehicle that is otherwise a truck-tractor that may be engaged with a semi-trailer.

B. REGULATIONS

- (1) It shall be unlawful for the owner, occupant or person in charge of property used for residential purposes to permit the parking, standing or storing of trucks, trailers, or truck-tractors as defined herein in residential areas for other than actual supervised loading or unloading of goods and passengers. It shall be unlawful for the owner, occupant or person in charge of property used for residential purposes to permit the parking, standing or storing of trailers, trucks, or truck-tractors in residential yards or lawns, including driveways, for other than actual supervised loading or unloading of goods or passengers.
- (2) It shall be unlawful for the owner, occupant or person in charge of property used for residential purposes to permit the parking, standing or storing of recreational vehicles on residential

streets for a period of time in excess of seventy-two (72) hours within any thirty (30) day period.

- (3)** It shall be unlawful for the owner, occupant or person in charge of property used for residential purposes to permit the parking, standing or storing of motor vehicles, excluding recreational vehicles on yards or lawns excluding driveways, paved parking areas, or areas screened from public view by fencing."
- (4)** It shall be unlawful for the owner or occupant of a vehicle, other than recreational vehicles, to park or permit the parking, standing or storing of such vehicle on the yards or lawns of property used for residential purposes. Parking on driveways or paved parking areas or areas screened from public view by fencing is permitted.

**May 17, 2010
Workshop Agenda Item No. 5
Certify Petition**

To: Glenn Brown, City Manager

From: Connie Hooks, City Secretary

Agenda Caption: City Secretary Certification of review of Wellborn Petition to the City Council, and discussion of Charter requirements.

Summary: On Tuesday, May 4, an initiative petition and ordinance were submitted to the City from Mrs. Jane Cohen. Members of the circulation committee are College Station residents and registered voters, Brian Alg, Elizabeth Becker, Louis Bouse, Teri Gerst, and Marcy Halterman.

The petition contains language that directs the College Station City Council to either adopt an ordinance granting consent to the citizens of Wellborn for an election on the proposition of the incorporation of Wellborn as a municipality, or call an election placing the proposition before the voters in College Station.

The City Secretary examined the petition and will present the findings during the workshop meeting.

Recommendation: No action is required by the City Council

Attachments:

1. May 4, 2010 Letter from Jane Cohen
2. Filer's Certification
3. Initiative Petition (signature sheet)
4. Ordinance granting consent to Incorporation
5. Affidavit of Circulators (5 copies)
6. May 13 memo to City Secretary from City Attorney
7. Certification of Wellborn Petition from City Secretary

President Jane W. Cohen
Citizens for Wellborn
690-3500
j-cohen@aggienetwork.com

City Secretary



Vice Pres. A. P. Boyd & Cindy Robinson
Secretary Karen Severn
Treasurer Robert S. Cohen
P.O. Box 422, Wellborn, TX 77881

May 4, 2010

Connie Hooks, City Secretary
1101 Texas Ave., P.O. Box 9960
College Station, TX 77842

HAND

MAY - 4 2010

DELIVERED

Dear Ms. Hooks:

The Committee of Collectors, Brian K. Alg, Elizabeth (Beth) J. Becker, Louis F. Bouse, Teri L. Gerst, and Marcy Halterman, who are registered voters of the City of College Station, respectfully submit the attached Initiative Petition and Ordinance to be adopted or to hold a special election within the City of College Station allowing the voters of College Station to vote to allow Wellborn residents the right to vote on incorporation. This Initiative Petition and Ordinance is governed by Article X of the College Station City Charter.

The residents of College Station wish that the College Station City Council adopt the Ordinance or to call a special election on the issue of incorporation at the earliest possible date under the terms of the City's Charter; to allow Wellborn the right to vote and meet the required deadlines imposed by State law for such an election. Furthermore, Article X, Section 86 of the City's Charter requires that you review and certify the attached petition and signatures **no later than ten (10) days** after the petition is submitted to you. This petition is being filed with you on May 4, 2010, therefore, we expect your review and certification to the City Council to be completed by May 14, 2010, and placement of this Ordinance on the next City Council agenda after your verification is complete.

If you have any questions, please feel free to contact any of the Committee of Collectors, me (979-690-3500), or our legal counsel, Alan J. Bojorquez (512) 250-0411.

Thank you,

Jane W. Cohen

Jane W. Cohen
3655 McCullough Road
College Station, Tx 77845-6889

City Secretary

FILER'S CERTIFICATION

The document entitled, "*Initiative Petition Submission An Ordinance Granting Consent for the Incorporation of Wellborn*", was personally submitted by us to the Office of the City Secretary for the City of College Station, Brazos County, Texas, on this, the 4th day of May 2010.

Louis F. Bouse
Louis F. Bouse

Elizabeth (Beth) J. Becker
Elizabeth (Beth) J. Becker

Teri Lee Gerst
Teri Lee Gerst

Brian Alg
Brian Alg

NOTARIZATION

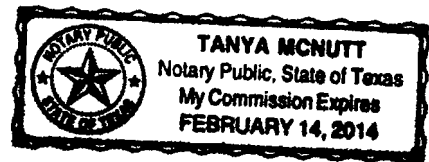
BEFORE ME, the undersigned authority, on this day personally appeared Louis F. Bouse, Elizabeth (Beth) J. Becker, Teri Lee Gerst, Brian Alg, who acknowledged to me and by oath stated that the facts herein stated above are true and correct.

GIVEN UNDER MY HAND & SEAL of office this, the 4th day of May, 2010.

Tanya McNutt
Signature of Notary Public

Tanya McNutt
Printed Name of Notary Public

Commission expires: 2/14/14



INITIATIVE PETITION SUBMISSION AN ORDINANCE GRANTING CONSENT FOR THE INCORPORATION OF WELLBORN

WHEREAS, the citizens of the historic community commonly known as Wellborn seek to exercise their right to vote on whether to incorporate the area as a municipality; and
 WHEREAS, the proposed municipality is located in the extraterritorial jurisdiction of the City of College Station, Texas, and
 WHEREAS, the undersigned individuals favor allowing the citizens of Wellborn the opportunity to vote on whether to incorporate the community as a municipality; and
 WHEREAS, the undersigned individuals propose the attached ordinance, *Exhibit "A"*, either be approved by the College Station City Council, or be placed on an election ballot for the electors of the City of College Station to determine whether to grant consent for Wellborn to incorporate; and
 WHEREAS, this Petition is made pursuant to College Station City Charter: Art. X, Sections 83, 85, 86, 88, and 90; and
 WHEREAS, the undersigned individuals are qualified voters/electors within the municipal limits of the City of College Station; and
 NOW THEREFORE, through the power of Initiative, the Petitioners direct the College Station City Council to either adopt the attached ordinance or call an election placing the proposition before the voters in accordance with the Charter.

Circulated by 1) Louis F. Bouse, 811 Plum Hollow Drive, College Station, Tx, 2) Brian K. Alg, 2003 Longmire Court #3, College Station, Tx, 3) Teri L. Gerst, 3923 Hawk Owl Cove, College Station, Tx, 4) Beth J. Becker, 15203 Post Oak Bend, College Station, Tx, 5) Marcy Halterman, 1605 Rock Prairie Road #222, College Station, Tx.

Date	Applicant's Signature	Printed Name of Applicant	Date of Birth (M/D/Y)	Residence Address (Street/City/State/Zip)	Voter Registration Number
4/13/10	<i>Charlynn Beason</i>	Charlynn Beason	6/22/1953	2105 FAIRFAX College Station, TX 77845	1040670180 ✓
4/13/10	<i>John M Brown</i>	JOHN M BROWN	6/28/38	8706 DRIETLAND PAL COLLEGE STATION TEXAS	1040900585 ✓
4/13/10	<i>Vicente Hernandez</i>	Vicente Hernandez	9/10/50	6606 - 2603 Cumberland College Station TX 77845	1041295631 ✓
4/13/10	<i>George Luber</i>	GEORGE LUBER	5/14/37	2510 ANTIETAM DR C/S TX 77845	1009461271 ✓
4/13/10	<i>F. Heaney</i>	Frederick Heaney	1/27/42	3511 Merrimac CT C/S TX 77845	1041352933 ✓
4/13/10	<i>Shayne Kinard</i>	^{Rhonda} Shayne Kinard	4/4/65	7806 Appomattox C.S. TX 77845	1040826119 ✓
4/13/10	<i>B. Keith Hall</i>	^{Brian} B. Keith Hall	9/10/62	9228 Brookwater C.S. TX 77845	1041559156 ✓
4/13/10	<i>Nancy Ann Fink</i>	Nancy Ann Fink	11/10/37	8203 Raintree Dr C.S TX 77845	1040670870 ✓
4/13/2010	<i>Jane A Callahan</i>	JANE A CALLAHAN	2/18/1946	8706 APPOMATTOX DRIVE C.S. TX 77845	1040616402 ✓
4/13/2010	<i>Mark Saunders</i>	MARK SAUNDERS	7/21/1959	2501 Monitor Ct C.S. TX 77845	1146954777 ✓
4/13/2010	<i>Kurt Ritter</i>	Kurt Ritter	06/18/1944	1806 Rosebud Court College Station TX 77845	1040695134 ✓

Circulator's Initials *BA*

**ORDINANCE GRANTING CONSENT
TO THE INCORPORATION OF WELLBORN**

AN ORDINANCE OF THE CITY OF COLLEGE STATION, TEXAS, GRANTING CONSENT TO THE CITIZENS OF WELLBORN, TEXAS, FOR AN ELECTION ON THE PROPOSITION OF THE INCORPORATION OF THE WELLBORN AREA AS A MUNICIPALITY UNDER THE LAWS OF TEXAS; PROVIDING AN EFFECTIVE DATE; AND PROPER NOTICE AND OPEN MEETING

WHEREAS, the City of College Station's annexations have caused the historical community known as Wellborn to become wholly located within extraterritorial jurisdiction of College Station; and

WHEREAS, a significant number of citizens of Wellborn have expressed their desire to incorporate the area as a separate municipality, and have sought consent from the College Station City Council through submission of an APPLICATION FOR CONSENT TO CONDUCT AN INCORPORATION ELECTION; and

WHEREAS, Chapter 5 of the Texas Local Government Code provides for incorporation of a territory as a general-law municipality; and

WHEREAS, Chapter 42 of the Texas Local Government Code allows a territory located in an existing municipality's extraterritorial jurisdiction to incorporate after obtaining consent from the existing municipality by ordinance or resolution; and

WHEREAS, a significant number of electors College Station, have expressed their desire to grant the citizens of Wellborn consent to incorporate the area as a separate municipality, and have submitted an INITIATIVE PETITION SUBMITTING AN ORDINANCE GRANTING CONSENT FOR THE INCORPORATION OF WELLBORN; and now, therefore,

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

Section 1: This Ordinance constitutes the governing body of the City of College Station's consent to the incorporation of the proposed municipality of Wellborn, Texas, in the proposed boundaries delineated on the attached plat.

Section 2: This Ordinance shall take effect immediately from and after its passage and publication as required by governing law and the City's Charter.

Section 3: A copy of this Ordinance shall be conveyed to the County Judge of Brazos County immediately upon having been signed by the mayor and verified by the city secretary.

PASSED & APPROVED by the City Council of College Station on this, the ___th day of _____, 2010.

CITY OF COLLEGE STATION:

Honorable Mayor

ATTEST:

City Secretary

AFFIDAVIT OF CIRCULATOR

324 - ✓

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STATE OF TEXAS

COUNTY OF BRAZOS

BEFORE ME, the undersigned, on this 4/26/10 (date) personally appeared Louis F. Bouse, (name of person who circulated petition) who being duly sworn, deposes and says: "I called each signer's attention to the petition statements and read them to the signer before the signer affixed their signature to the petition. I witnessed the affixing of each signature. The correct date of signing is shown on the petition. I verified each signer's registration status and believe that each signature is the genuine signature of the person whose name is signed and that the corresponding information for each signer is correct."

Louis F. Bouse collected 648 signatures on pages 1-71.

SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE

Louis F. Bouse - 1040571685 - Prec. 41

Signature of Circulator

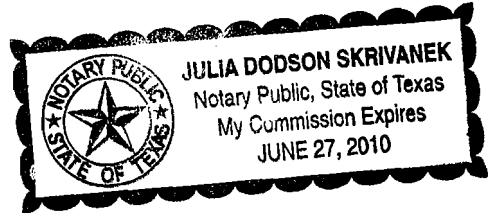
Julia Dodson Skrivanek

(SEAL)

Signature of officer administering oath

Notary Public

Title of officer administering oath



JC Page 1018b 153

AFFIDAVIT OF CIRCULATOR

STATE OF TEXAS

COUNTY OF BRAZOS

BEFORE ME, the undersigned, on this 5/3/10 (date) personally appeared Elizabeth (Beth) J. Becker (name of person who circulated petition) who being duly sworn, deposes and says: "I called each signer's attention to the petition statements and read them to the signer before the signer affixed their signature to the petition. I witnessed the affixing of each signature. The correct date of signing is shown on the petition. I verified each signer's registration status and believe that each signature is the genuine signature of the person whose name is signed and that the corresponding information for each signer is correct."

Elizabeth (Beth) J. Becker collected 246 signatures on pages 72-101.

SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE

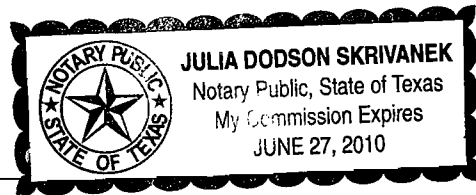
Elizabeth J. Becker 1040686276 - PRE 80

Signature of Circulator

Julia Dodson Skrivanek

(SEAL)

Signature of officer administering oath



Notary Public

Title of officer administering oath

AFFIDAVIT OF CIRCULATOR

STATE OF TEXAS

COUNTY OF BRAZOS

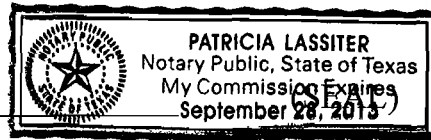
BEFORE ME, the undersigned, on this 05/03/10 (date) personally appeared Teri Gerst, (name of person who circulated petition) who being duly sworn, deposes and says: "I called each signer's attention to the petition statements and read them to the signer before the signer affixed their signature to the petition. I witnessed the affixing of each signature. The correct date of signing is shown on the petition. I verified each signer's registration status and believe that each signature is the genuine signature of the person whose name is signed and that the corresponding information for each signer is correct."

Teri Lee Gerst collected 233 signatures on pages 102-131.

SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE

Teri Gerst 1641144555
Signature of Circulator

Patricia Lassiter



Signature of officer administering oath

Notary Public - Brazos Co.

Title of officer administering oath

JC Page 150 of 153

AFFIDAVIT OF CIRCULATOR

STATE OF TEXAS

COUNTY OF BRAZOS

BEFORE ME, the undersigned, on this 4/30/10 (date) personally appeared Brian Alg, (name of person who circulated petition) who being duly sworn, deposes and says: "I called each signer's attention to the petition statements and read them to the signer before the signer affixed their signature to the petition. I witnessed the affixing of each signature. The correct date of signing is shown on the petition. I verified each signer's registration status and believe that each signature is the genuine signature of the person whose name is signed and that the corresponding information for each signer is correct."

Brian Alg collected 133 signatures on pages 132-150.

SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE

[Handwritten Signature]
Signature of Circulator

111778 7176 PRE 31

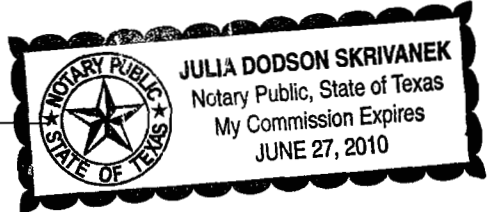
[Handwritten Signature]

(SEAL)

Signature of officer administering oath

Notary Public

Title of officer administering oath



AFFIDAVIT OF CIRCULATOR

15 signatures
verified

JC Page 153 of 153

STATE OF TEXAS

COUNTY OF BRAZOS

BEFORE ME, the undersigned, on this 04/30/10 (date) personally appeared Dr. Marcy Halterman, (name of person who circulated petition) who being duly sworn, deposes and says: "I called each signer's attention to the petition statements and read them to the signer before the signer affixed their signature to the petition. I witnessed the affixing of each signature. The correct date of signing is shown on the petition. I verified each signer's registration status and believe that each signature is the genuine signature of the person whose name is signed and that the corresponding information for each signer is correct."

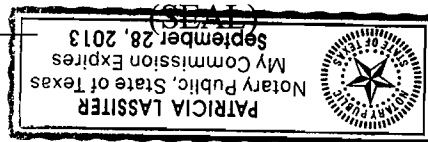
Marcy Halterman collected 16 signatures on pages 151-153.

SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE

Dr. Marcy Halterman - 1040718163 PRE. 80

Signature of Circulator

Patricia Lassiter
Signature of officer administering oath



Notary Public
Title of officer administering oath

MEMORANDUM

TO: Connie Hooks, City Secretary
FROM: Harvey Cargill, Jr., City Attorney
DATE: May 13, 2010
RE: Wellborn

1. As we discussed, I agree with your conclusion that the Petition submitted for an Initiative Ordinance is invalid because it does not have attached to each petition paper an affidavit signed by the circulator and does not contain the full text of the proposed ordinance. Section 86 of the Charter specifically requires that the City Secretary "shall" declare the petition invalid if the circulator requirement is not met.

2. Additionally, the ordinance attached to the Initiative petition proposing that consent be granted provides it is for the area delineated on the attached plat. There is no plat attached to the ordinance. By the Charter, the full text of the proposed ordinance must be contained in the petition papers.

If this petition with the ordinance was shown to the voters signing the Petition without the plat attached, the voters were given no idea of what area was to be incorporated, and the ordinance is vague and invalid. If a plat was shown to each voter and represented to the voters as being the area to be incorporated, the voters would know what area is to be incorporated and the plat can be added to the Petition documents. However, the circulators would have to swear the plat was attached and represented to each voter as being the area to be incorporated. At this point the City does not know what area is to be incorporated by Wellborn, and the Charter requirements have not been met.

3. Further, as was stated in the letter of March 29, 2010, if a plat was shown to the voters, and it was the same plat or map that Wellborn previously submitted to the City Council, the area does not constitute a city/town as provided by Section 6.001, 7.001 and 8.001 of the Texas Local Government Code.

As provided in the 2003 edition of the Municipal Law & Procedure Manual, "Before incorporation under any statute, there must be an unincorporated community in existence with a compact center or nucleus of population around which a city or town or village has developed." *State ex rel Needham v. Wilbank*, 595 S.W. 2d 849 (Tex. 1980). If the incorporation is challenged, the Court will look at whether there is a community in a fairly compact area. There should be a nucleus or center which can be shown by such things as businesses, a community hall, a post office or school in fairly close proximity. The area proposed for incorporation must be capable of receiving municipal services on a reasonable basis. This is the language that appeared before Mr. Bojorquez took over editing the Manual, and it is the current law.

If the area proposed in the Initiative Petition ordinance to be incorporated is the previously set out area, it does not meet the legal requirements for incorporation.

4. In order to incorporate Wellborn must comply with Section 42.041 of the Texas Local Government Code. The first step is to request consent to incorporate from the City Council. If consent is not given, the statute provides for a specific second step, to request the area be annexed, after getting 50% of the landowners to request annexation. If the City of College Station fails to annex within 6 months, by operation of law, consent to incorporate is given.

There is no step for circulating an Initiative petition instead of following §42.041. Texas courts have held that a city can no more add a step to the process than it can omit one. Annexation issues are not subject to direct democracy voting through referendum, but are reserved to representative democracy (City Council). The State has set up how and when an area can be incorporated, and the process needs to be followed.

In conclusion, you have determined that as presented the Initiative Petition lacks the affidavits as required by the Charter, and the Petition must be declared invalid. If the Petition is corrected to include the affidavits, the ordinance remains invalid unless the plat is attached to the proposed ordinance and the circulators can swear that the plat was shown to each voter. If the plat shows the same area to be incorporated as was presented earlier, the area does not meet the legal requirements for incorporation. The purpose of incorporation is to recognize that an area has become an urban, compact, contiguous area of homes, not to incorporate a rural area then have folks come. Simply put, Wellborn is not an existing town. Finally, state law provides a process to be followed for incorporation, and an Initiative Petition is not part of that statutory process.

If consent is given by College Station, it can't be taken back. The result is growth in College Station in the southern direction will be cut off by Wellborn's string of properties. Wellborn is already talking about filling in gaps to areas to be incorporated. The decision the City Council makes will be a decision that will decide present and future needs and growth patterns for College Station.

Ultimately, the decision should be what is in the best interests of the citizens of College Station.

Attachment: March 29, 2010 letter to Alan Bojorquez

cc: Mayor Ben White & Members of the City Council and Mayor Elect Nancy Berry and Council Member Elect Jess Fields
Glenn Brown
David Neeley
Kathy Merrill
Carla Robinson
Mary Ann Powell
Bob Cowell



March 29, 2010

Mr. Alan J. Bojorquez
Attorney at Law
12325 Hymeadow Drive
Suite 2-100
Austin, Texas 78750

RE: Initiative Petition Wellborn

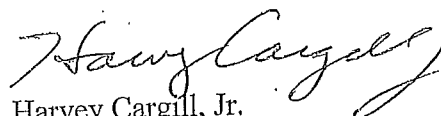
Dear Alan:

I saw in the March 25 newspaper that your clients are going to circulate a petition to authorize the incorporation of Wellborn.

Please be advised that as City Attorney I will recommend to the City Council that no election be called if a petition is submitted. The precedent as established by case law is for zoning and annexation cases, both setting out specific discrete state processes to follow, that "no additional" steps in the process can be imposed and that these processes are "not subject to City Charter initiative or referendum."

Please call if you have questions.

Sincerely,


Harvey Cargill, Jr.
City Attorney

May 17, 2010
Workshop Agenda Item No. 6
Council Retreat Discussion

To: Glenn Brown, City Manager

From: City Manager's Office

Agenda Caption: Presentation, possible action, and discussion regarding a discussion of the City Council's expectations for annual Council retreat scheduled for this summer.

Recommendation(s): N/A

Summary: The City Council participates in an annual summer retreat and the tentative dates are Thursday and Friday, June 17-18 and Monday and Tuesday, June 21-22. We have reserved a room at the College Station Utilities Training Facility where last year's retreat was held.

With this workshop item, staff is seeking Council feedback on what dates they prefer, what they would like to accomplish at the retreat and whether or not we will need a facilitator.

Budget & Financial Summary: N/A

Attachments: N/A