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**Mayor**

Nancy Berry

**Mayor Pro Tem**

John Crompton

**Interim City Manager**

David Neeley

**Council members**

Jess Fields

Dennis Maloney

Katy-Marie Lyles

Dave Ruesink

Jana McMillan

**Agenda**

**College Station City Council**

**Workshop Meeting**

**Thursday, February 10, 2011 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 proposed changes to the City's Fair Housing Ordinance.
3. Presentation, possible action, and discussion regarding a joint meeting of the City Council and the Cemetery Committee on potential changes to the College Station Code of Ordinances, Chapter 1 "GENERAL PROVISIONS", Section 29 "COLLEGE STATION CEMETERY RULES AND REGULATIONS", Sub-Sections H: PLANTINGS AND OTHER DECORATIONS IN CITY CEMETERIES and Sub-Section M: RULES ENFORCEMENT.
4. Presentation, possible action, and discussion regarding the content of the draft Impact Fee Report for potential "system capacity" impact fees for Water and Wastewater.
5. Council Calendar
  - February 11-13 AMCC Elected Official Conference in Austin, 8:00 a.m.
  - February 14 TML Legislative Briefing in Austin, 8:00 a.m.
  - February 17 Audit Committee Meeting in Administrative Conference Room, 5:00 p.m.
  - February 24 City Council Workshop/Regular Meeting 3:00 p.m. & 7:00 p.m.
6. 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.
7. Discussion, review and possible action regarding the following meetings: Arts Council of the Brazos Valley, Audit Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Wide Area Communications Task Force, BVSWMA, BVWACS. Cemetery Committee, Code Review Committee, Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Board, Mayor's Council on Physical

## City Council Workshop Meeting

Thursday, February 10, 2011

Fitness, Mayor's Development Forum, Metropolitan Planning Organization, National League of Cities, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Partnership, Regional Transportation Committee for Council of Governments, Signature Event Task Force, Sister City Association, TAMU Student Senate, Texas Municipal League, Transportation Committee, Wolf Pen Creek Oversight Committee, Zoning Board of Adjustments, (Notice of Agendas posted on City Hall bulletin board).

8. 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. Water CCN / 2002 Annexation / Wellborn Water Supply Corporation
- c. Clancey v. College Station, Glenn Brown, and Kathy Merrill
- d. Rachel Rahn v. Alma Martinez, The Arkitex Studio, Inc. et al, cause No. 09-000656-CV361
- e. Timothy Delasandro et al v. City of College Station et al; Cause No. 11-000240-CV-272
- f. City of College Station, Texas, v. Virtual Equity Group, Inc, et al relating to nonpayment of hotel occupancy taxes for College Station Inn

Legal Advice

- a. Legal Issues Related to Wellborn Annexation
- b. Legal Issues Related to Recall Petitions
- c. Legal issues of purchase and lease back to Arts Council

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

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 Manager
- b. Council Self Evaluation
- c. City Attorney

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. Global Event Group

City Council Workshop Meeting  
Thursday, February 10, 2011

9. 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 10th day of February, 2011 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 7th day of February, 2011 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](http://www.cstx.gov) . The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on February 7, 2011 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 \_\_\_\_\_, 2011.

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](http://www.cstx.gov). Council meetings are broadcast live on Cable Access Channel 19.

**February 10, 2011**  
**Workshop Agenda Item No. 2**  
**Fair Housing Ordinance Changes**

**To:** David Neely, Interim City Manager

**From:** David Gwin, Director of Economic and Community Development

**Agenda Caption:** Presentation, possible action, and discussion regarding the proposed changes to the City's Fair Housing Ordinance.

**Relationship to Strategic Goals:** Goal II.5 Neighborhood Services; Goal V.1 Continue education to citizens and within city; and Goal III.12 Housing affordability.

**Recommendation(s):** Staff requests that the City Council receive a presentation and provide any input or direction in this regard.

**Summary:** College Station strives to be a diverse community embracing all present and future residents. The City's objective is to ensure that all people have a fair and equal opportunity to purchase, own, lease, or occupy housing within the City of College Station without discrimination. Located in Section 12 of Chapter 4 in the College Station Code of Ordinances, the City's Fair Housing Ordinance plays an important role in discouraging illegal and unethical housing practices by promoting and encouraging fair housing to all.

With the proposed changes the City's Fair Housing Ordinance will match the State and Federal Fair Housing Acts. The proposed changes would:

- Add familial status as a protected class,
- Add handicap (disability) as a protected class, and
- Add language to support nondiscriminatory practices of these protected classes.

**Budget & Financial Summary:** N/A

**Attachments:**

Attachment 1: Fair Housing Laws Applicable to College Station

Attachment 2: Proposed Changes to City Ordinance Chapter 4

## Attachment 1: Fair Housing Laws Applicable to College Station

This chart summarizes the fair housing laws applicable to rental and sale of housing in College Station. It is not an exhaustive review of the various laws, and there are important provisions not listed here.

|                                 | <b>Federal Fair Housing Act</b>   | <b>Texas Fair Housing Act</b>  | <b>Current City Fair Housing Ordinance</b>   |
|---------------------------------|---|--|--|
| <b>What does the law cover?</b> | Most housing in the United States.  | Most housing in Texas.   | Most housing in College Station.   |
| <b>What's protected?</b>        | <ul style="list-style-type: none"> <li>- Race</li> <li>- Color</li> <li>- Religion</li> <li>- Sex</li> <li>- National Origin</li> <li>- Disability</li> <li>- Familial Status</li> </ul>  | - Same   | <ul style="list-style-type: none"> <li>- Race</li> <li>- Color</li> <li>- Religion</li> <li>- Sex</li> <li>- National Origin</li> </ul> <p><i>(Familial Status and Disability to be added in proposed changes)</i></p> |
| <b>What's prohibited?</b>       | <ul style="list-style-type: none"> <li>- Refusing to sell, rent, negotiate for sale or rental, or otherwise making unavailable or denying a dwelling based on a person's protected status.</li> <li>- Imposing different terms/conditions based on a person's protected status.</li> <li>- Making discriminatory statements or publishing discriminatory communications. (Note: Certain exemptions do not apply to this prohibition.)</li> <li>- Lying about the availability of a dwelling because of a person's protected status.</li> <li>- Refuse to provide loan information or purchase a loan, set different loan terms or conditions, or discriminate in appraising property based on a person's protected status.</li> </ul> | <ul style="list-style-type: none"> <li>- Same</li> <li>- Same</li> <li>- Same</li> <li>- Same</li> <li>- Same</li> </ul> | <ul style="list-style-type: none"> <li>- Same.</li> <li>- Same.</li> <li>- Same.</li> <li>- Same.</li> <li>- Not included.</li> </ul> <p><i>(To be added in proposed changes)</i></p>                                  |

|  |   |   |   |
|--|---|---|---|
|  | <ul style="list-style-type: none"> <li>- Retaliating against, interfering with, or intimidating a person exercising his/her fair housing rights.</li> <li>- Landlord may not refuse to make reasonable modifications to dwelling unit or common areas or to make reasonable accommodations in rules, policies or practices for a disabled person.</li> <li>- Building or community may not discriminate based on familial status. (Exempt if housing qualifies for older persons.)</li> </ul> | <ul style="list-style-type: none"> <li>-Same</li> <li>-Same</li> <li>- Same</li> </ul>                | <ul style="list-style-type: none"> <li>- Same.</li> <li>- Not included.<br/><i>(To be added in proposed changes)</i></li> <li>- Not included.<br/><i>(To be added in proposed changes)</i></li> </ul> |
| <b>What's exempted from the law?</b>   | <ul style="list-style-type: none"> <li>- Owner-occupied 4-unit (or fewer) buildings. (But not exempted from discriminatory statements.)</li> <li>- Rental of single family house by owner (if he/she owns fewer than 3 houses and if a salesman is not used). (But not exempted from discriminatory statements.)</li> <li>- Religious organizations and private clubs.</li> </ul>   | <ul style="list-style-type: none"> <li>- Same</li> <li>-Same</li> <li>- Same</li> </ul>               | <ul style="list-style-type: none"> <li>- Same.</li> <li>- Same.</li> <li>- Same.</li> </ul>   |
| <b>Where to go if you believe your fair housing rights have been violated:</b> | <p>U.S. Department of Housing &amp; Urban Development (HUD)</p> <p>1 (800) 669-9777<br/>(817) 978-5900 (Fort Worth Regional Office of FHEO)</p>   | <p>Texas Workforce Commission Civil Rights Division</p> <p>1 (888) 452-4778 or<br/>(512) 463-2642</p> | <p>City Attorney's Office</p> <p>(979) 764-3541</p>   |
| <b>How long do you have to file a complaint?</b>                               | <ul style="list-style-type: none"> <li>- One (1) year from alleged violation.</li> <li>-Two (2) years if you file directly in federal court.</li> </ul>   | <ul style="list-style-type: none"> <li>- One (1) year from alleged violation.</li> </ul>              | <ul style="list-style-type: none"> <li>- Ninety (90) days from alleged violation</li> </ul>   |

## Attachment 2: Proposed Changes to City Ordinance Chapter 4

### SECTION 12: FAIR HOUSING REGULATIONS

#### A. DEFINITIONS

For the purpose of this section the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words so used in the present tense include the future, words in the masculine gender include the feminine, words in the plural number include the singular, and words in the singular number include the plural.

- (1) Discriminatory Housing Practice means an act that is unlawful under subsections B, C, D, E or F of this section.
- (2) Dwelling means any building, structure, or portion thereof which is occupied as, or designed and intended for occupancy as, a residence by one (1) or more families or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (3) Family includes a single individual.
- (4) Person includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.
- (5) To Rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (6) Private Club includes fraternities and sororities.

#### B. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

Except as exempted by subsection E, it shall be unlawful for any person to:

- (1) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, sex, religion, national origin, familial status, or handicap (disability).
- (2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion, national origin, familial status, or handicap (disability).
- (3) Make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, sex, religion, national origin, familial status, or handicap (disability), or an intention to make any such preference, limitation, or discrimination. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.
- (4) Represent to any person because of race, color, sex, religion, national origin, familial status, or handicap (disability) that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit or with the hope or expectation of profit, induce or attempt to induce any PERSON to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion, national origin, familial status or handicap (disability).

#### C. DISCRIMINATION IN THE FINANCING OF HOUSING

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling; or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, sex, religion, national origin, familial status, or handicap (disability) of such person or of any person associated with him in connection with such loan or other financial assistance or the race, color, sex, religion, national origin, familial status, or handicap (disability) of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part of the making or purchasing of commercial or residential real estate loans, to discriminate in appraising property, refuse to purchase a loan, or set different terms or conditions for purchasing a loan because of race, color, sex, religion, national origin, familial status, or handicap (disability).

#### D. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

It shall be unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership, or participation on account of race, color, sex, religion, national origin, familial status, or handicap (disability).

#### E. ADDITIONAL PROTECTION FOR THE DISABLED

It shall be unlawful for a landlord to refuse to let tenant or someone associated with tenant to make reasonable modifications to dwelling or common areas, at tenant's expense, or to make reasonable accommodations in rules policies, practices or services if necessary for the disabled person to use the housing which includes tenant or someone associated with tenant that have or are regarded as having a physical or mental disability (including hearing, mobility, and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities.

Not replacing more stringent standards in State or local law, new buildings with an elevator and four or more units are required to have public and common areas accessible to persons with disabilities, doors and hallways must be wide enough for wheelchairs, and units must have an accessible route into and through the unit, have accessible light switches, electrical outlets, thermostats, and other environmental controls, reinforced bathroom walls to allow later installation of grab bars, and kitchens and bathrooms that can be used by people in wheelchairs.

## F. HOUSING OPPORTUNITIES FOR FAMILIES

It shall be unlawful for a building or community to discriminate against families in which one or more children under 18 live with a parent, a person who has legal custody of the child or children, or the designee of the parent or legal custodian with the parent or custodian's written permission; unless the building or community is determined by the HUD Secretary that it is specifically designed for elderly persons under a Federal, State, or local government program, is occupied solely by persons who are 62 or older, or houses at least one person who is 55 or older in at least 80 percent of the occupied units and adheres to a policy that demonstrates an intent to house person who are 55 or older.

## G. EXEMPTIONS AND EXCLUSIONS

There shall be exempted from the application of this section all transactions involving:

### (1) Exemptions Enumerated

- (a) The rental of units in dwellings containing living quarters occupied or in-tended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one (1) of such units as his residence.
- (b) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one (1) family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four (4) such rooms are offered.
- (c) The sale or rental of any single house by a private individual who owns such house; provided that:
  - (i) The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any such broker, agent, salesman, or person; and
  - (ii) The sale is made without the publication, posting, or mailing of any advertisement or written notice in violation of subsection B(3) of this section; this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; and
  - (iii) The owner does not own more than three (3) single-family houses at the time of the sale; and
  - (iv) The owner does not own any interest in, nor is there owned or re-served on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one (1) time.
  - (v) If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period.

### (2) Religious Organizations

Nothing in this section shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious association or society from limiting the sales, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status, or handicap (disability).

(3) Private Clubs

Nothing in this section shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose, provides lodging which it owns and operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(4) Housing Accommodations

Nothing in this section shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased, or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen, or similar facilities available for the use of all persons occupying such housing accommodation.

H. COMPLAINTS

(1) Who May File

Only a person who claims to have been injured by a discriminatory housing practice or who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring, hereinafter referred to as person aggrieved, may file a complaint with the City Attorney of the City of College Station. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The City Attorney shall prepare complaint forms and furnish them without charge to any person upon request.

(2) City Attorney May File Complaint

If at any time the City Attorney shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the City Attorney may prepare and file a complaint upon his own motion and in his own name, and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

(3) Deadlines; Notifications

All complaints shall be filed within ninety (90) days following the occurrence of an alleged discriminatory housing practice. Upon the filing of any complaint, the City Attorney shall provide notice of the complaint by furnishing a copy of such complaint, to the person or persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.

(4) Subscribed and Sworn

All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.

I. INVESTIGATION

(1) By City Attorney

Upon the filing of a complaint as herein provided, the City Attorney shall cause to be made a prompt and full investigation of the matter stated in the complaint.

(2) City Attorney to Effect Conciliation

During or after the investigation, but subsequent to the mailing of the notice of complaint, the City Attorney shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this section.

(3) When City Attorney May Prosecute

Upon completion of the investigation and informal endeavors at conciliation by the City Attorney, but within thirty (30) days of the filing of the complaint with the City Attorney, if the efforts of the City Attorney to secure voluntary compliance have been unsuccessful, and if the City Attorney has made a determination that a discriminatory housing practice has in fact occurred, such violation shall be prosecuted in the Municipal Court of the City of College Station. If the City Attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (30) days after such determination, or as soon thereafter as practicable.

(4) Lack of Probable Cause

If the City Attorney determines that there is not probable cause to believe that a particular alleged or suspected discriminatory housing practice has been committed, the City Attorney shall take no further action with respect to that alleged or suspected offense. In such case the person filing the complaint shall be notified by the City Attorney and informed of any alternate action he may take.

J. CUMULATIVE LEGAL EFFECT

This section is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue.

K. UNLAWFUL INTIMIDATION

It shall be unlawful for any person to harass, threaten, harm, damage, or otherwise penalize any individual, group, or business because he or they have complied with the provisions of this section, because he or they have exercised his or their rights under this section, or enjoyed the benefits of this section, or because he or they have made a charge, testified, or assisted in any manner in any investigation, or in any proceeding hereunder or have made any report to the City Attorney.

L. EDUCATION AND PUBLIC INFORMATION

In order to further the objectives of this section, the City Attorney may conduct educational and public information programs.

(Ordinance No. 1197 of November 29, 1979)

M. PENALTY

(1) Any person, firm or corporation violating any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be fined pursuant to the General Penalty set

out in Chapter 1, Section 5, of this Code of Ordinances. Each day a violation continues after passage of seventy-five (75) days from the date of the filing of the initial complaint with the City Attorney shall constitute a separate and distinct offense.

(Ordinance No. 2030 of September 9, 1993)

(2) Any person, firm or corporation violating any provision of this section may be enjoined by a suit filed by the City in a court of competent jurisdiction, and this remedy is in addition to any penalty provision.

(Ordinance No. 1197 of November 29, 1979)

February 10, 2011  
Workshop Agenda Item No. 3  
Joint City Council and Cemetery Committee Meeting  
Potential Changes to the College Station Code of Ordinances, Chapter 1 "GENERAL PROVISIONS", Section 29 "COLLEGE STATION CEMETERY RULES AND REGULATIONS", Sub-Sections H and M.

To: David Neeley, Interim City Manager

From: David Schmitz, Interim Director, Parks and Recreation

**Agenda Caption:** Presentation, possible action, and discussion regarding a joint meeting of the City Council and the Cemetery Committee on potential changes to the College Station Code of Ordinances, Chapter 1 "GENERAL PROVISIONS", Section 29 "COLLEGE STATION CEMETERY RULES AND REGULATIONS", Sub-Sections H: PLANTINGS AND OTHER DECORATIONS IN CITY CEMETERIES and Sub-Section M: RULES ENFORCEMENT.

**Relationship to Strategic Goals:** Goal I: Financially Sustainable City Providing Response to Core Services and Infrastructure; Action 1: Spending Taxpayer Money Efficiently.

**Recommendation(s):** Staff recommends approval of the proposed changes to the Code of Ordinances, Chapter 1 "GENERAL PROVISIONS", Section 29 "COLLEGE STATION CEMETERY RULES AND REGULATIONS", Sub-Sections H and M.

**Summary:** A joint meeting of the City Council and Cemetery Committee was requested by City Council during their April 22, 2010, Workshop Meeting. The City Council requested the joint meeting to allow discussion between the two groups on the Cemetery Committee's recommendation for changes to the College Station Code of Ordinances, Chapter 1 "GENERAL PROVISIONS", Section 29 "COLLEGE STATION CEMETERY RULES AND REGULATIONS", Sub-Section H and M.

The proposed revisions to Sub-Section H are designed to enhance the aesthetics of the cemetery system in addition to alleviating a growing maintenance concern. Currently an unspecified number of plants, flowers, and objects of a temporary nature may be placed on grave spaces. (Item H.(4) of the existing ordinance currently states "Items of this nature shall be allowed . . .".) The practice of placing numerous items on spaces has increased, which has affected the aesthetics established for the cemetery system. In addition, this practice has greatly increased maintenance requirements as these items typically must be moved to complete turf mowing, trimming, and clean-up operations and then replaced on the spaces. The Committee feels that limiting the number of items per space to two, and implementing a standard schedule of clean-up days for the cemeteries will rectify these aesthetic and maintenance issues. Under Item H.(5), wording will be expanded to include "the City shall conduct a general grounds clean-up of the cemeteries four times a year". The new ordinance will also prohibit the use of glass containers for the placement of items, which is not addressed in the existing ordinance.

The Cemetery Advisory Committee also recommends the removal of the existing variance request process located in Sub-Section M. The variance request process has historically only been utilized for monument (headstone, footstone, corner markers, and ledgers) issues. However, the current wording allows a variance request to be made for any item in

this section of the Code of Ordinances. The Committee has worked diligently over the years to preserve the look of the cemeteries that is a result of the monument restrictions that have been in place in all versions of the cemetery rules and regulations since 1948. As this look has been in place for over sixty years, the Committee feels that allowing exceptions to the monument size restrictions goes against the look and intent that has been established by the City of College Station. In addition, the Committee feels there is no compelling reason for not being able to comply with the restrictions that are currently in place as there are thousands of examples of compliance. (The current variance request appeals process allows cemetery lot owners to present variance requests to the Cemetery Advisory Committee, with appeals regarding those decisions being made to the City Council. It is recommended that the wording in paragraph M.(2) be removed in its' entirety.)

**Budget & Financial Summary: N/A**

**Attachments:**

1. Copy of City Council Agenda Item Cover Sheet (Item #2-F, April 22, 2010 agenda).
2. Proposed changes to COCS Code of Ordinances, Chapter 1, Section 29, Sub-Sections H and M (existing wording with mark-ups).
3. Amending Ordinance No. \_\_\_\_\_

**April 22, 2010**  
**Consent Agenda**  
**Revisions to College Station, Texas, Code of Ordinances, Chapter 1, "GENERAL PROVISIONS", Section 29, "COLLEGE STATION CEMETERY RULES AND REGULATIONS"; SUB-SECTIONS H AND M**

**To:** Glenn Brown, City Manager

**From:** David Schmitz, Assistant Director, Parks and Recreation Department

**Agenda Caption:** Revisions to College Station, Texas, Code of Ordinances, Chapter 1, "GENERAL PROVISIONS", Section 29, "COLLEGE STATION CEMETERY RULES AND REGULATIONS"; Sub-Sections H and M.

**Recommendation(s):** Staff recommends approval of the revisions to College Station, Texas, Code of Ordinances, Chapter 1 "GENERAL PROVISIONS", Section 29, "COLLEGE STATION CEMETERY RULES AND REGULATIONS"; Sub-Sections H and M as presented. These revisions apply to both cemeteries and limit the number of items that can be placed on grave spaces, as well as standardized cemetery monuments with no variances allowed.

The revisions to Sub-Section M were considered by the Cemetery Advisory Committee during their March 2, 2010, meeting, and the Committee made a recommendation to the College Station City Council for approval of the revisions to Sub-Section M as presented. The revisions to Sub-Section H were considered during the Cemetery Advisory Committee meeting of March 30, 2010, and the Committee made a recommendation to the College Station City Council for approval of the revisions to Sub-Section H as presented.

**Summary:** The revisions to Sub-Section H are designed to enhance the aesthetics of the cemetery system in addition to alleviating a growing maintenance concern. Currently an unspecified number of plants, flowers, and objects of a temporary nature may be placed on grave spaces. The practice of placing numerous items on spaces has increased, which has affected the aesthetics established for the cemetery system. In addition, this practice has greatly increased maintenance requirements as these items typically must be moved to complete turf mowing, trimming, and clean-up operations. The Committee feels that limiting the number of items per space to two, and implementing a standard schedule of clean-up days for the cemeteries will rectify these aesthetic and maintenance issues.

The Cemetery Advisory Committee also recommends the removal of the existing variance request process located in Sub-Section M, Number 2. The variance request process has historically only been utilized for monument (including headstone, footstone, corner markers, and ledgers) issues. The Committee has worked diligently over the years to preserve the look of the cemeteries that is a result of the monument restrictions that have been in place in all versions of the cemetery rules and regulations since 1948. As this look has been in place for over sixty years, the Committee feels that allowing exceptions to the monument size restrictions goes against the look and intent that has been established by the City of College Station. In addition, the Committee felt there is really no compelling reason for not being able to comply with the restrictions that are now in place.

**Budget & Financial Summary:** None

**Attachments:**

- 1) Existing Sub-Section H and M with Revision Mark-ups
- 2) Cemetery Rules Amending Ordinance Number \_\_\_\_\_

April 2010 Proposed Revisions to the College Station, Texas, Code of Ordinances:  
Chapter 1, Section 29, Sub-Sections H and M  
(New language is in **bold**, removed language is ~~strikethrough~~)

H. PLANTING AND OTHER DECORATIONS IN CITY CEMETERIES

- (1) Grass, flowers, shrubs, trees, or other types of vegetation shall be planted only by or at the direction of the City Manager or his delegate in accordance with a landscape plan for the entire cemetery. Plantings by individuals are prohibited and shall be removed by the City.
- (2) The City shall establish grass on spaces after an appropriate amount of time has elapsed since burial to allow for settling. During this time the City shall establish the final grade to match the surrounding area.
- (3) Plantings of trees, shrubs or flowers on grave spaces at the College Station Cemetery that existed prior to adoption of Ordinance No. 1959 on June 11, 1992, which were specifically grandfathered with the adoption of that ordinance, shall continue to be grandfathered. These plantings may be removed by the City whenever they become unsightly, or as necessary to provide access to grave spaces. Replacement of grandfathered plantings that have been removed shall not be allowed.

- (4) The placing of potted plants, cut flowers, baskets, floral pieces, funeral designs, decorations, and all other objects of a temporary nature is permitted adjacent to the monument only, and on the owner's space(s) only. **Only two** items of this nature shall ~~only~~ be allowed **per space for a reasonable time after the interment in that space. No glass containers are allowed, and the digging of holes for the placements of any items is prohibited.**

**Items associated with a funeral can remain on the space for a reasonable amount of time after the interment in that space.** Determination of a reasonable amount of time shall be determined by the City Manager or his delegate. ~~The digging of holes for the placement of potted plants and baskets is prohibited.~~

- (5) The City Manager or his delegate shall have the right to remove all flowers, potted plants, wreaths, baskets, floral pieces, funeral designs, decorations and all other objects of a temporary nature when they become withered, unsightly, a safety concern, or an obstruction to maintenance.

**In addition, the City shall conduct a general grounds clean-up of the cemeteries four times a year. In general these will be conducted as follows: mid-January, mid-April, mid-July, and mid-October.**

- (6) No artificial flowers shall be permitted in, on, or around grave spaces.
- (7) The City Manager or his delegate is empowered to and may enter upon any space within the City Cemeteries and remove anything that may have been erected or placed thereon contrary to the provisions of this section, and may remove any dead or damaged tree, shrub or vine.

M. RULES ENFORCEMENT

- (1) No monument, headstone, or marker may be set in the City Cemeteries without the prior approval of the City Manager or his delegate and issuance of a permit. A permit request form may be obtained from the Cemetery Sexton or the Parks and Recreation Department.

All permit requests shall include renderings with size dimensions, names, dates, engravings, and any other ornamentation for each requested monument, foot marker,

corner marker, or niche covering. ~~If the City Manager or his delegate denies the permit, the applicant may appeal the decision to the Cemetery Committee.~~

Any monument, headstone or marker set in violation of this ordinance shall be subject to removal by the City of College Station as provided below.

~~(2) Any requests for variances to this ordinance shall be presented to the Cemetery Committee. Appeals from decisions of the Cemetery Committee shall be to the City Council. Appeals must be in writing and submitted to the office of the City Secretary within ten (10) days of the issuance of the Cemetery Committee's decision. The City Secretary's office shall schedule a hearing of the appeal before the Council within thirty (30) days from receipt of the written request for appeal.~~

(3)(2) Whenever the City Manager or his delegate determines that a violation of this ordinance has occurred, the City shall:

- (a) Record and document the violation(s).
- (b) Notify space owners in writing by regular mail to the last known address for the space owner, of the violation(s).
- (c) Allow fourteen (14) days from the date the notice was mailed for compliance or appeal to the Cemetery **Advisory** Committee.
- (d) If the space owner(s) neither comply with the ordinance nor request an appeal, the City may remedy the violation.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 1, "GENERAL PROVISIONS" OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING SECTION 29 PERTAINING TO CITY CEMETERIES RULES AND REGULATIONS 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 1, "General Provisions", 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 Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, 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 \_\_\_\_\_, 2011.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

APPROVED:

\_\_\_\_\_  
City Attorney

**EXHIBIT "A"****I.**

That Chapter 1, "GENERAL PROVISIONS", Section 29, "COLLEGE STATION CEMETERY RULES AND REGULATIONS", Sub-Sections H and M are hereby amended to read as follows:

"H. PLANTING AND OTHER DECORATIONS IN CITY CEMETERIES

- (1) Grass, flowers, shrubs, trees, or other types of vegetation shall be planted only by or at the direction of the City Manager or his delegate in accordance with a landscape plan for the entire cemetery. Plantings by individuals are prohibited and shall be removed by the City.
- (2) The City shall establish grass on spaces after an appropriate amount of time has elapsed since burial to allow for settling. During this time the City shall establish the final grade to match the surrounding area.
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- (4) The placing of potted plants, cut flowers, baskets, floral pieces, funeral designs, decorations, and all other objects of a temporary nature is permitted adjacent to the monument only, and on the owner's space(s) only. Only two items of this nature shall be allowed per space. No glass containers are allowed, and the digging of holes for the placement of any items is prohibited.

Items associated with a funeral can remain on the space for a reasonable amount of time after the interment in that space. Determination of a reasonable amount of time shall be determined by the City Manager or his delegate.

- (5) The City Manager or his delegate shall have the right to remove all flowers, potted plants, wreaths, baskets, floral pieces, funeral designs, decorations and all other objects of a temporary nature when they become withered, unsightly, a safety concern, or an obstruction to maintenance.

In addition, the City shall conduct a general grounds clean-up of the cemeteries four times a year. In general these will be conducted as follows: mid-January, mid-April, mid-July, and mid-October.

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- (7) The City Manager or his delegate is empowered to and may enter upon any space within the City Cemeteries and remove anything that may have been erected or placed thereon contrary to the provisions of this section, and may remove any dead or damaged tree, shrub or vine.

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All permit requests shall include renderings with size dimensions, names, dates, engravings, and any other ornamentation for each requested monument, foot marker, corner marker, or niche covering.

Any monument, headstone or marker set in violation of this ordinance shall be subject to removal by the City of College Station as provided below.

- (2) Whenever the City Manager or his delegate determines that a violation of this ordinance has occurred, the City shall:
- (a) Record and document the violation(s).
  - (b) Notify space owners in writing by regular mail to the last known address for the space owner, of the violation(s).
  - (c) Allow fourteen (14) days from the date the notice was mailed for compliance or appeal to the Cemetery Advisory Committee.
  - (d) If the space owner(s) neither comply with the ordinance nor request an appeal, the City may remedy the violation.”

**February 10, 2011**  
**Workshop Agenda Item No. 4**  
**Impact Fee Report for Water/Wastewater**

**To:** David Neeley, Interim City Manager

**From:** Dave Coleman, Director of Water Services

**Agenda Caption:** Presentation, possible action, and discussion regarding the content of the draft Impact Fee Report for potential "system capacity" impact fees for Water and Wastewater.

**Relationship to Strategic Goals:** Financially sustainable city providing response to core services and infrastructure.

**Recommendation:** None, presented for information only.

**Summary:** On November 22, 2010 City Council directed staff to proceed with the required analysis for potential impact fees to increase system capacity of the Water and Wastewater systems. Since that time, staff and our consultant, HDR Engineers, have completed the study of the underlying land use assumptions, capital improvements, future growth projections, and rate credits to calculate the maximum impact fees. This information is compiled in a draft Impact Fee Report that has been reviewed by the Capital Improvements Advisory Committee (CIAC).

On February 3, 2011 the City's Planning and Zoning Commission, acting in their designated role as CIAC, reviewed the draft Impact Fee Report. Their specific tasks are to review the calculations for reasonableness, and (if desired) to make a policy recommendation to City Council.

The purpose of this workshop item is to explain the calculations that lead to the maximum impact fees, discuss the issues brought up by the CIAC, and respond to any questions that City Council may have.

**Budget & Financial Summary:** Not applicable

**Attachment:**  
None