
Wednesday, August 21, 2024
9:00 AM

City Hall - 141 W. Renfro
Burleson, TX 76028

1. **CALL TO ORDER**

2. **CITIZEN APPEARANCES**

Each person in attendance who desires to speak to the Committee on an item NOT posted on the agenda, shall speak during this section. A speaker card must be filled out and turned in to the City Secretary prior to addressing the Committee. Each speaker will be allowed three minutes to speak.

3. **GENERAL**

- A. Consider approval of the minutes from the April 17, 2024 Council Policy and Valuation Committee meeting. *(Staff Contact: Amanda Campos, City Secretary)*
- B. Consider approval of a recommendation for the Council to review and approve the City Council Policy #30, as required annually by the Public Funds Investment Act and the City's charter for the City of Burleson. *(Staff Contact: Harlan Jefferson, Deputy City Manager)*
- C. Receive a report, hold a discussion and provide staff direction on the proposed Newspaper Services contracts for publishing legal notices. *(Staff Contact: Richard Abernethy, Director of Administrative Services)*
- D. Receive a report, hold a discussion and provide staff direction regarding Municipal Utility Districts and Public Improvement Districts. *(Staff Contact: Tony McIlwain, AICP, CFM, Development Services Director)*
- E. Receive a report, hold a discussion and provide staff direction regarding neighborhood empowerment zones (NEZs). *(Staff Contact: Tony McIlwain, AICP, CFM, Development Services Director)*
- F. Receive a report, hold a discussion and provide staff direction regarding a possible use policy for the City Hall Annex balcony. *(Staff Contact: Janalea Hembree, Assistant to the City Manager)*

4. **BOARD REQUESTS FOR FUTURE AGENDA ITEMS OR REPORTS**

5. **EXECUTIVE SESSION**

In accordance with Chapter 551 of the Texas Government Code, the Committee may convene in Executive Session in the City Council Workroom at City Hall to conduct a closed meeting to discuss any item listed on this agenda.

- A. **Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071**

6. **ADJOURN**

CERTIFICATE

I hereby certify that the above agenda was posted on this the 14th of August 2024, by 5:30 p.m., on the official bulletin board at the Burleson City Hall, 141 W. Renfro, Burleson, Texas.



Amanda Campos

City Secretary

ACCESSIBILITY STATEMENT

The Burleson City Hall is wheelchair accessible. The entry ramp is located in the front of the building, accessible from Warren St. Accessible parking spaces are also available in the Warren St. parking lot. Sign interpretative services for meetings must be made 48 hours in advance of the meeting. Call the A.D.A. Coordinator at 817-426-9600, or TDD 1-800-735-2989.

Council Policy and Valuation Committee

DEPARTMENT: City Secretary's Office
FROM: Amanda Campos, City Secretary
MEETING: August 21, 2024

SUBJECT:

Consider approval of the minutes from the April 17, 2024 Council Policy and Valuation committee meeting. *(Staff Contact: Amanda Campos, City Secretary)*

SUMMARY:

The Council Policy and Valuation committee duly and legally met on April 17, 2024 for a regular meeting.

OPTIONS:

Committee may approve the minutes as presented or approve with amendments.

RECOMMENDATION:

Approve.

STAFF CONTACT:

Amanda Campos
City Secretary
acampos@burlesontx.com
817-426-9665

COUNCIL POLICY & VALUATION COUNCIL COMMITTEE

April 17, 2024
DRAFT MINUTES

Council present:

Dan McClendon, Chair
Larry Scott
Adam Russell

Council Absent:

Staff present

Tommy Ludwig, City Manager
Harlan Jefferson, Deputy City Manager
Eric Oscarson, Deputy City Manager
Matt Ribitzki, Deputy City Attorney
Amanda Campos, City Secretary
Monica Solko, Deputy City Secretary

1. CALL TO ORDER – Time: 11:00 a.m.

Chair Dan McClendon called the meeting to order. **Time: 11:11 a.m.**

2. CITIZEN APPEARANCES

- None.

3. GENERAL

A. Consider approval of the minutes from the January 24, 2024 Council Policy and Valuation Committee meeting. (Staff Contact: Amanda Campos, City Secretary)

Motion made by Larry Scott and seconded by Adam Russell to approve.

Motion passed 3-0.

B. Receive a report, hold a discussion, and provide staff direction on the City's Newspaper Service for public and legal notices. (Staff Presenter: Richard Abernethy, Administrative Services Director)

Richard Abernethy, Administrative Services Director, reported on the city's newspaper service to the committee.

Presentation included background, cost comparisons, current contract, legal requirements, and options.

Options:

- Competitively bid advertisement of official city notices:
 - Consider having a primary and secondary newspaper for legal notices and go under contract with both the Fort Worth Star Telegram (McClatchy) and Cleburne Times Review.
- Track spending with McClatchy and bring forward to City Council should spending \$50,000 threshold be reached.
- Go under annual contract with the Cleburne Times Review in an amount not to exceed \$50,000 and utilize them along with the Fort Worth Star-Telegram

The committee was in favor competitive bid process with both newspaper options and for staff to bring an item forward to the full council for consideration.

C. Review, discuss, and provide feedback on possible amendments to City Council Policy #17 Establishing City Council Rules and Procedure for City Council Meetings. (Staff Presenter: Amanda Campos, City Secretary)

Amanda Campos, City Secretary, reviewed City Council Policy #17 with the committee.

The committee discussion included:

Citizen Appearance:

- Council should not address citizen unless referencing policy best practice is to direct them to staff or legal.
- Council can direct citizen to speak with staff, City Manager, or legal so they can address the citizens concern.

Executive Session:

- Try not to convene into executive session before the consent agenda
- If an executive session is needed in regards to a consent agenda item, pull item from the consent agenda.
- Add a section regarding: Rules of executive session to help council understand
 - Recording meeting vs. certified agenda
 - Confidentiality of all discussion during executive session
 - Council nor staff may secretly record executive session (Texas Open Meetings Act)

Committee member Larry Scott requested the following:

- To ensure complete transparency and efficient budget oversight, the City Manager is to present all initiated requests from city management made by an elected official for approval during the upcoming regular city council meeting. Requests from elected officials should be formally documented using the appropriate form.
- The City Manager must present project details, including associated costs.

- Requests not beyond routine maintenance operations will be exempt from this policy; for example, potholes, plugged drainage, renewal of roadway traffic control markings, signage, mowing, code enforcement, etc.

The committee requested staff to make the changes and to bring an item forward to the full council for consideration.

4. EXECUTIVE SESSION

In accordance with Chapter 551 of the Texas Government Code, the Committee may convene in Executive Session in the City Council Workroom at City Hall to conduct a closed meeting to discuss any item listed on this agenda.

A. Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071

- No executive session needed.

5. BOARD REQUESTS FOR FUTURE AGENDA ITEMS OR REPORTS

- None.

6. ADJOURN

There being no further business Chair Dan McClendon adjourned the meeting.

Time: 12:30 p.m.

Monica Solko
Deputy City Secretary

Council Policy and Valuation Committee

DEPARTMENT: Finance
FROM: Harlan Jefferson, Deputy City Manager
MEETING: August 21, 2024

SUBJECT:

Consider approval of a recommendation for the Council to review and approve the City Council Policy #30, as required annually by the Public Funds Investment Act and the City's charter for the City of Burleson. *(Staff Contact: Harlan Jefferson, Deputy City Manager)*

SUMMARY:

In 1987, State legislation adopted the Texas Public Funds Investment Act (PFIA). Because of PFIA, the City Council adopted Investment Policy #30 on May 26, 1988. The policy was amended on October 5, 1995, and reviewed yearly with minor updates made since 1995. The most recent revision was on November 14, 2022, with minor changes in wording that included the following:

- Delegation of Authority, updated title from Accounting Manager to Controller
- Maximum Maturities and Investment Strategies, move "Liquidity" to follow "Safety of Principal" to align with the investment strategy of yield objectives shall at all times be subordinate to the objective of safety and liquidity
- Vining Sparks acquired by Stifel, name updated in Approved Broker/Dealer list.

On June 21, 2021, the Council approved an investment advisory service agreement with Valley View Consultants. One of the initial tasks with Valley View was to work with staff to review the city's current investment policy. In the review process, they referenced the Government Treasurers' Organization of Texas (GTOT) for recommended best practices and their checklist for the GTOT Investment Policy Certification Award Program. On May 14, 2022, the City was awarded the GTOT Investment Policy Certification Award. We are currently going through the recertification process.

No significant changes have been made to or recommended for the Investment Policy. Minor changes proposed are as follows:

- Investment officer titles were updated to reflect the current titles of the officers.
- Added: Deputy City Manager
- Added: Chief Accountant

- Added: Accounting Supervisor
- Removed: Controller
- Minor indentations and typo corrections

RECOMMENDATION:

Recommend that the City Council Approve or Deny the Resolution Declaring the Council's review and approval of City Council Policy #30 for FY 2023-2024

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A

REFERENCE:

N/A

FISCAL IMPACT:

N/A

STAFF CONTACT:

Harlan Jefferson
Deputy City Manager
hjefferson@burlesontx.com
817-426-9651



City Council Policy #30 - Investments

PRESENTED TO THE POLICY AND VALUATION COMMITTEE ON AUGUST 19, 2024

Texas Public Funds Investment Act (PFIA)

- State legislation originally adopted in 1987
 - Chapter 2256, Government Code
- Last Amended in 2019
- PFIA requires local governments to develop an investment policy and reviewed and approved on an annual basis by the governing board.

Policy #30

- Adopted May 26, 1988
- Last Updated on November, 14 2022
 - No significant changes to Investment Policy
 - Minor changes proposed as follows:
 - Delegation of Authority, updated title from Accounting Manager to Controller
 - Maximum Maturities and Investment Strategies, move “Liquidity” to follow “Safety of Principal” to align with the investment strategy of yield objectives shall at all times be subordinate to the objective of safety and liquidity.
 - Vining Sparks acquired by Stifel, name updated in Approved Broker/Dealer list.
 - Based on the Government Treasurers’ Organization (GTOT) of Texas’ recommended best practices
 - GTOT’s Investment Policy Certification Award Program checklist
 - City of Burleson has an expired GTOT Investment Policy Certification Award as of May 2024
 - GTOT is currently reviewing the City of Burleson’s policy for recertification
- PFIA requires the City Council to review and approve investment policy on an annual basis, even if changes are not made

Investment Policy for FY 2024

- No significant changes to Investment Policy
- Minor changes proposed as follows:
 - Investment officer titles were updated to reflect the current titles of the officers.
 - Added: Deputy City Manager
 - Added: Chief Accountant
 - Added: Accounting Supervisor
 - Removed: Controller
- Minor indentations and typo corrections

Option

- Recommend that the City Council Approve or Deny the Resolution Declaring the Council's review and approval of City Council Policy #30 for FY 2023-2024
- Staff support the recommendation for approval

QUESTIONS/COMMENTS



CITY COUNCIL POLICY

30

Policies for the Investment of Funds of the City of Burleson

Adopted date	May 26, 1988
Revised date	October 5, 1995 (Policy is reviewed yearly) July 19, 2021 February 7, 2022 November 14, 2022 September XX, 2024
Department Name	Finance

CITY OF BURLESON

COUNCIL POLICY

I. POLICY

It is the policy of the City of Burleson, Texas (the “City”) that after allowing for the anticipated cash flow requirements of the City and giving due consideration to the safety and risk of the investment, all available funds shall be invested in conformance with these legal and administrative guidelines, seeking to optimize interest earnings to the maximum extent possible.

Effective cash management is recognized as essential to good fiscal management. Investment interest is a source of revenue to the City’s funds. The City’s investment portfolio shall be designed and managed in a manner to optimize this revenue source, to be responsive to public trust, and to be in compliance with legal requirements and limitations.

Investments shall be made with the primary objectives of:

- **Safety** and preservation of principal,
- Maintenance of sufficient **liquidity** to meet operating needs,
- **Public trust** from prudent investment activities, and
- Optimization of **interest earnings** (yield) on the portfolio.

II. PURPOSE

The purpose of this Investment Policy is to comply with Government Code Chapter 2256, Public Funds Investment Act (the “PFIA”) which requires each city to adopt a written investment policy regarding the investment of its funds and funds under its control. This Investment Policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City’s funds.

III. SCOPE

This Investment Policy shall govern the investment of all financial assets of the City and the Burleson Community Service Development Corporation (Type B), Economic Development Corporation (Type A), and Tax Increment Financing (TIF). These funds are accounted for in the City's Annual Financial Report and include:

- General Fund
- Special Revenue Funds
- Debt Service Funds
- Capital Project Funds
- Enterprise Funds
- Internal Service Funds
- Any new fund created by the City, unless specifically exempted from this Policy by the City Council, or by law.

When advantageous, the City will consolidate cash balances to optimize investment strategy implementation. Investment income will be allocated to the consolidated funds based on their respective participation in the consolidated balances and in accordance with generally accepted accounting principles.

This Investment Policy shall apply to all transactions involving the financial assets and related activity for all the foregoing funds. However, this Policy does not apply to the assets administered for the benefit of the City by outside agencies under pension plans or deferred compensation programs.

IV. INVESTMENT OBJECTIVES

The City shall manage and invest its cash with four primary objectives, listed in order of priority: **safety, liquidity, public trust, and yield (expressed as optimized interest earnings)**. The safety of the principal always remains the primary objective. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

The City shall maintain a comprehensive cash management program, which includes collection of account receivables, vendor payments in accordance with invoice terms, and prudent investment of available cash.

Safety

Safety of principal is the foremost objective of the investment program. The objective will be to mitigate credit and interest rate risk.

- Credit Risk and Concentration of Credit Risk - The City will minimize credit risk, the risk of loss due to the failure of the issuer or backer of the investment, and concentration

risk, the risk of loss attributed to the magnitude of investment in a single issuer, by:

- Limiting investments to the safest types of issuers;
 - Pre-qualifying the financial institutions and brokers/dealers with which the City will do business; and
 - Diversifying the investment portfolio so that potential losses on individual issuers will be minimized, as appropriate.
- Interest Rate Risk - The City will manage the risk that the interest earnings and the market value of investments in the portfolio will fall due to changes in general interest rates. The City will:
- Structure the investment portfolio so that investments mature to meet cash requirements for ongoing operations, thereby avoiding the need to liquidate investments prior to maturity;
 - Invest funds primarily in certificates of deposit, shorter-term securities, financial institution deposits, or money market mutual funds and local government investment pools whose investment objectives include maintaining a stable \$1.0000 net share value; and
 - Diversify maturities and stagger purchase dates to minimize the impact of market movements over time.

Liquidity

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that investments mature concurrent with cash needs to meet anticipated demands. Because all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in cash-equivalent options that offer same-day liquidity. In addition, any security positions will consist of securities with active secondary or resale markets.

Public Trust

All participants in the City's investment process shall seek to act responsibly as custodians of the public trust. Investment Officer(s) shall avoid any transaction that might impair public confidence in the City's ability to govern effectively.

Yield (Optimized Interest Earnings)

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the City's investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above.

V. RESPONSIBILITY AND CONTROL

Delegation of Authority

In accordance with the PFIA, the City Council designates the Deputy City Manager, Finance Director, Assistant Finance Director, Chief Accountant, and Accounting Supervisor as the City's Investment Officer(s). An Investment Officer is authorized to execute investment transactions on behalf of the City. No person may engage in an investment transaction of the management of City funds except as provided under the terms of this Investment Policy as approved by the City Council. The investment authority granted to the Investment Officer(s) is effective until rescinded by the City Council.

Quality and Capability of Investment Management

The City shall provide periodic training in investments for the Investment Officer(s) and other investment personnel through courses and seminars offered by approved professional organizations, associations, and other independent sources in order to ensure the quality and capability of investment management in compliance with the PFIA.

Training Requirements

In accordance with the PFIA, the Investment Officer(s) shall attend investment training no less often than once every two-year period that begins on the first day of the City's fiscal year and consists of the two consecutive fiscal years after that date, and accumulate not less than 8 hours of instruction relating to investment responsibilities and requirements of the PFIA. A newly appointed Investment Officer(s) must attend training accumulating at least 10 hours of instruction within twelve months of the date the Officer took office or assumed the Officer's duties. Training must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the PFIA.

Internal Controls

The Finance Director is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

The internal controls shall address the following points:

- Avoidance of collusion,
- Separation of transactions authority from accounting and record keeping,
- Third-party safekeeping and custody,

- Clear delegation of authority of subordinate staff members, and
- Written confirmation for transactions for investments and wire transfers.

Standard of Care

The standard of care to be applied by the Investment Officer(s) shall be the “prudent person” rule. This rule states that “Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person’s own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.” In determining whether an Investment Officer(s) has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- The investment of all funds, or funds under the City’s control, over which the Investment Officer(s) had responsibility rather than a consideration as to the prudence of a single investment, and
- Whether the investment decision was consistent with the written approved Investment Policy of the City.

Indemnification

An Investment Officer(s), acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific investment’s credit risk or market price changes, provided that these deviations are reported in a timely manner and the appropriate action is taken to control adverse developments.

Ethics and Conflicts of Interest

Investment Officer(s) and employees involved in the investment process shall refrain from personal business activity that would conflict with the proper execution and management of the investment program, or that would impair their ability to make impartial decisions. Investment Officer(s) and employees shall disclose any personal material interests in financial institutions with which the City conducts business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Investment Officer(s) and employees shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of the City.

An Investment Officer(s) who has a personal business relationship with an organization seeking to sell an investment to the City shall file a statement disclosing that personal business interest. An Investment Officer(s) who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the City Council.

Investment Committee

The Finance Committee shall function as the City's designated Investment Committee to oversee the implementation of investment strategies and other cash and investment management-related activities, approve Independent Training Sources, and authorize Broker/Dealers. The Committee shall meet at such times as necessary or requested by the Investment Officer(s).

VI. SUITABLE AND AUTHORIZED INVESTMENTS

Portfolio Management

The City utilizes a "buy and hold" portfolio strategy. Maturity dates are matched with cash flow requirements and investments are purchased with the intent to be held until maturity. However, investments may be liquidated or redeemed prior to maturity for the following reasons:

- An investment with declining credit may be liquidated early to minimize loss of principal, or
- Cash flow needs of the City require that the investment be liquidated.

Investments

City funds governed by this Investment Policy may be invested in the instruments described below, all of which are authorized by the PFIA. Investment of City funds in any instrument or security not authorized for investment under the PFIA is prohibited. The City will not be required to liquidate an investment that becomes unauthorized subsequent to its purchase.

I. Authorized

- a. Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks.
- b. Direct obligations of the State of Texas or its agencies and instrumentalities.
- c. Other obligations, the principal of and interest on which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States.

- d. Obligations of states, agencies, counties, cities, and other political subdivisions of the State of Texas rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
- e. Financial institution deposits that, are issued by a state or national bank that a) has its main office or a branch office in Texas and is guaranteed or insured by the FDIC or its successor, b) is secured by obligations in a manner and amount provided by law and this Investment Policy for deposits of the City, or c) is placed in a manner that meets the requirements of the PFIA.
- f. Fully collateralized direct repurchase agreements with a defined termination date secured by obligations of the United State or its agencies and instrumentalities. These shall be pledged to the City, held in the City's account, and deposited at the time the investment is made with the City or with a third party selected and approved by the City. Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in Texas. A Repurchase Agreement must be signed by the counter-party prior to investment in a repurchase agreement. All repurchase agreement transactions must have a market value of purchased securities greater than or equal to 102 percent of the total balance of the agreement.
- g. Money Market Mutual funds that: (1) are registered and regulated by the Securities and Exchange Commission, (2) seek to maintain a net asset value of \$1.0000 per share, and (3) are rated AAA by at least one nationally recognized rating service.
- h. Local government investment pools, which (1) meet the requirements of the PFIA, (2) are rated no lower than AAA or an equivalent rating by at least one nationally recognized rating service, and (3) are authorized by resolution or ordinance by the City Council.

All prudent measures will be taken to liquidate an investment that is downgraded to less than the required minimum rating. (PFIA 2256.021)

II. Not Authorized

- Collateralized mortgage obligations
- Commercial paper
- Banker's acceptances
- Reverse repurchase agreements
- No-load mutual funds other than no-load money market mutual funds
- Guaranteed investment contracts not structured as flexible repurchase agreements

- Securities lending programs

VII. INVESTMENT PARAMETERS

Maximum Maturities and Investment Strategies

The City may utilize fund-type investment groups. These groups will reflect similar needs as to maturity limits, diversity, and liquidity.

City funds shall seek to achieve a competitive yield appropriate for each strategy. A comparably structured U.S. Treasury security portfolio shall represent the minimum yield objective. Weighted average yield to maturity shall be the portfolio's performance measurement standard. Yield objectives shall at all times be subordinate to the objectives of safety and liquidity. Tax-exempt debt proceeds shall be invested to optimize the interest earnings retained by the City, while at the same time fully complying with all applicable State laws and federal regulations, including the arbitrage rebate regulations.

All investment-specific restrictions shall be measured at the time of purchase and based on portfolio book value.

The City maintains the following fund-type portfolios which will utilize the following specific investment considerations designed to address the unique characteristics of the pooled fund groups or separately held investment assets represented in the portfolios:

(1) Operating Funds

This pooled investment group includes the total of cash and investments available for current operations plus all required operating reserves of the following fund types: general fund, internal service funds, debt service funds, special revenue funds, and enterprise funds.

Suitability - Any investment eligible in the Investment Policy is suitable for Operating Funds.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations may occur. However, by managing the weighted average days to maturity for the Operating Fund's portfolio to less than 365 days and restricting the maximum allowable maturity to three years, the price volatility of the overall portfolio will be minimized.

Liquidity - The Short-term Operating Funds require the greatest short-term liquidity of any of the Fund types. Cash equivalent investments will provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Marketability - Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement.

Diversification - Investment maturities should be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City. Market cycle risk will be reduced by diversifying the appropriate maturity structure out through two years.

Yield - Attaining a competitive market yield for comparable investment-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury bill portfolio will be the minimum yield objective.

(2) Bond Proceeds and Capital Improvement Funds

Suitability - Any investment eligible in the Investment Policy is suitable for the Bond Proceeds and Capital Improvement Funds.

Safety of Principal - All investments will be of high quality with no perceived default risk. Market fluctuations may occur. However, by restricting the maximum maturity to three years and by managing the Bond Proceeds and Capital Improvement Funds to balance the short term and long term anticipated cash flow requirements, the market risk of the portfolio will be minimized.

Liquidity - Selecting investment maturities that provide greater cash flow than the anticipated needs and maintaining appropriate cash-equivalent balances will reduce the liquidity risk of unanticipated expenditures.

Marketability - The balancing of short-term and long-term cash flow needs requires the short-term portion of the Bond Proceeds and Capital Improvement Funds to have securities with active and efficient secondary markets.

Diversification - Investment maturities should blend the short-term and long-term cash flow needs to provide adequate liquidity, yield enhancement, and stability.

Yield - Attaining a competitive market yield for comparable investment-types and portfolio structures is the desired objective, however this portfolio maintains an investment strategy is comply with any applicable arbitrage or yield restriction regulations.

(3) Debt Service Sinking Funds

Suitability - Any investment eligible in the Investment Policy is suitable for the Debt Service Sinking Funds.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations may occur. However, by managing Debt Service Sinking Funds to not exceed the debt service payment schedule the market risk of the overall portfolio will be minimized.

Liquidity - Debt Service Funds have predictable payment schedules. Therefore, investment maturities should not exceed the anticipated cash flow requirements. Cash equivalent investments may provide a competitive yield alternative for short term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any debt service payment. This investment structure is commonly referred to as a flexible repurchase agreement.

Marketability - Securities with active and efficient secondary markets are not necessary as the event of an unanticipated cash flow requirement is not probable.

Diversification - Market conditions influence the attractiveness of fully extending maturity to the next “unfunded” payment date. Generally, if investment rates are anticipated to decrease over time, the City is best served by locking in most investments. If the interest rates are potentially rising, then investing in shorter and larger amounts may provide advantage. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.

Yield - Attaining a competitive market yield for comparable investment-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury bill portfolio shall be the minimum yield objective.

(4) Debt Service Reserve Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Debt Service Reserve Funds. Bond resolution and loan documentation constraints and insurance company restrictions may create specific considerations in addition to the Investment Policy.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations may occur. However, managing Debt Service Reserve Fund maturities to not exceed the call provisions of the borrowing reduces the investment’s market risk if the City’s debt is redeemed and the Reserve Fund liquidated. No stated final investment maturity shall exceed the shorter of the final maturity of the borrowing or three years. Annual mark-to-market requirements or specific maturity and average life limitations within the borrowing’s documentation will influence the attractiveness of market risk and reduce the opportunity for maturity extension.

Liquidity - Debt Service Reserve Funds have no anticipated expenditures. The Funds are deposited to provide annual debt service payment protection to the City’s debt holders. The funds are “returned” to the City at the final debt service payment. Market conditions and arbitrage regulation compliance determine the advantage of investment diversification and liquidity. Generally, if investment rates exceed the cost of borrowing, the City is best served by locking in investment maturities and reducing liquidity. If the borrowing cost cannot be exceeded, then concurrent market conditions will determine

the attractiveness of locking in maturities or investing shorter and anticipating future increased yields.

Marketability - Securities with less active and efficient secondary markets are acceptable for Debt Service Reserve Funds.

Diversification - Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for Debt Service Reserve Funds. At no time shall the final debt service payment date of the bond issue be exceeded in an attempt to bolster yield.

Yield - Achieving a positive spread to the applicable borrowing cost is the desired objective. Debt Service Reserve Fund portfolio management shall at all times operate within the limits of the Investment Policy's risk constraints.

Diversification

The City recognizes that investment risks can result from issuer defaults, market price changes or various technical complications leading to temporary illiquidity. Risk is managed through portfolio diversification that shall be achieved by the following general guidelines:

- Limiting investments to avoid overconcentration in investments from a specific issuer or business sector, when appropriate,
- Limiting investment in higher credit risk issuers,
- Investing in investments with varying maturities, and
- Continuously investing a portion of the portfolio in readily available funds such as financial institution deposits, local government investment pools, money market funds, or overnight repurchase agreements to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.

Competitive Environment

The City requires a competitive environment for all individual security purchases and sales, financial institution time deposit and transaction accounts, and money market mutual fund and local government investment pool selections. The Finance Director shall develop and maintain procedures for ensuring a competitive environment in the investment of the City's funds.

Delivery versus Payment

All security transactions shall be settled on a **delivery versus payment** basis.

VIII. PRIMARY DEPOSITORY AND BROKER/DEALERS

Primary Depository

At least every five years a Primary Depository shall be selected through the City's banking services procurement process, which shall include a formal request for application (RFA). The selection of a primary depository will be determined by evaluation of the "best value" criteria during the RFA process, and may include the following selection criteria:

- The ability to qualify as a depository for public funds in accordance with state law,
- The ability to provide requested information or financial statements for the periods specified,
- The ability to meet the minimum required items in the banking RFA,
- Complete response to all required items on the RFA form, and
- Competitive net banking service cost, consistent with the ability to provide an appropriate level of service.

Authorized Broker/Dealers

The Investment Committee shall, at least annually, review, revise and adopt a list of authorized broker/dealers authorized to engage in securities transactions with the City. Those firms that become qualified may be required to provide a completed broker/dealer questionnaire that provides information regarding creditworthiness, experience and reputation. Authorized firms may include primary dealers or regional dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule), and qualified depositories.

Investment Policy Certification

All local government investment pools and discretionary investment management firms must sign a certification acknowledging that the organization has received and reviewed the City's Investment Policy and that reasonable procedures and controls have been implemented to preclude investment transactions that are not authorized by the City's Policy and in accordance with the PFIA.

IX. SAFEKEEPING AND CUSTODY

Safekeeping and Custodial Agreements

The City shall contract with a bank or banks for the safekeeping of securities either owned by the City as part of its investment portfolio or held as collateral to secure demand or time deposits. Securities owned by the City shall be held in the City's account as evidenced by safekeeping receipts of the institution holding the securities. The City shall approve all third-party custodians for the holding of securities pledged to the City as collateral to secure financial institution deposits.

Collateral Policy

The City has established a collateral policy in compliance with Government Code Chapter 2257, Public Funds Collateral Act. Deposits secured with irrevocable letters of credit shall have 100% of principal plus anticipated interest of the deposit, less any amount insured by the FDIC. Deposits secured with pledged marketable securities shall have a market value equal to or greater than 102% of the principal plus accrued interest of the deposit, less any amount insured by the FDIC. All deposits shall be insured or collateralized in compliance with applicable State law. The City reserves the right, in its sole discretion, to accept or reject any form of insurance or collateralization pledged towards financial institution deposits. Financial institutions serving as City Depositories will be required to sign a depository agreement with the City. The collateralized deposit portion of the agreement shall define the City's rights to the collateral in case of default, bankruptcy, or closing, and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- The agreement must be in writing;
- The agreement has to be executed by the Depository and City contemporaneously with the acquisition of the asset;
- The agreement must be approved by the Board of Directors or designated committee of the Depository and a copy of the meeting minutes must be delivered to the City; and
- The agreement must be part of the Depository's "official record" continuously since its execution.

Collateral Defined

Acceptable forms of collateral are limited to those authorized in the Public Funds Collateral Act.

Subject to Audit

All collateral shall be subject to inspection and audit by the City or the City's independent auditors.

X. REPORTING

Methods

Each quarter, the Investment Officer(s) shall prepare and submit to the City Council a written report of all investment transactions. The investment report will be prepared in a manner that will allow the City to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will be provided to the City Council and include the following:

- A listing of individual investments held at the end of the reporting period,
- Unrealized gains or losses resulting from appreciation or depreciation, by listing the beginning and ending book and market value of investments for the period,
- Additions and changes to the market value during the period,

- Average weighted yield to maturity of the portfolio,
- Listing of investment by maturity date,
- Fully accrued interest for the reporting period,
- The percentage of the total portfolio that each type of investment represents, and
- Statement of compliance of the City's investment portfolio with State law and the Investment Policy (and incorporated Strategy) approved by the City Council.

This report must be prepared and signed by the Investment Officer(s) of the City.

In conjunction with the quarterly investment report, the Investment Officer(s) will verify from reliable sources market value of all securities and the current credit rating for each held investment that has a PFIA-required minimum rating.

Compliance Audits

The City, in conjunction with its annual financial audit, will require the audit firm to conduct a compliance audit of the management controls on investments and adherence to investment policies.

Also, in conjunction with the annual audit, the quarterly reports shall be formally reviewed by the City's independent auditor, and the result of the review shall be reported to the City Council by that auditor. Said results may be included in the annual audit report.

XI. INVESTMENT POLICY ADOPTION

The City Council shall adopt, by resolution, the Investment Policy. It is the City's intent to comply with State laws and regulations. The City's Investment Policy shall be subject to revisions consistent with changing laws, regulations, and the needs of the City. Additionally, the City Council shall adopt a resolution stating that it has reviewed the Investment Policy (and incorporated strategies) at least annually, approving any changes or modifications.

Attachment A Approved Brokers/Dealers

Great Pacific Securities
Hilltop Securities
Multi-Bank Securities
RBC Capital Markets
Stifel
Wells Fargo Securities

Attachment B Independent Training Sources

Government Finance Officers Association
Government Finance Officers Association of Texas
Government Treasurers' Organization of Texas
International City/County Management Association
Texas Municipal League
Council of Governments
University of North Texas Center for Public Management
American Institute of Certified Public Accountants

Council Policy and Valuation Committee

DEPARTMENT: Administrative Services

FROM: Richard Abernethy, Director of Administrative Services

MEETING: August 21, 2024

SUBJECT:

Receive a report, hold a discussion and provide staff direction on the proposed Newspaper Services contracts for publishing legal notices. (*Staff Contact: Richard Abernethy, Director of Administrative Services*)

SUMMARY:

The Local Government Code requires that legal notices be published in a newspaper within their political subdivision. The City of Burleson has published legal notices with The Fort Worth Star Telegram since the closure of the Burleson Star in 2019. Through the use of new financial software, it has been determined that expenditures for the advertisement of official city notices have exceeded \$50,000 in recent years.

This prompted staff to seek direction from the Council Policy and Valuation Committee on April 17, 2024. The consensus was to competitively bid this service with the objective of selecting a primary and secondary newspaper for publishing legal notices.

The recommendation of the Council Policy and Valuation Committee was taken to the City Council on May 6, 2024, where it was reaffirmed to competitively bid the service to identify a primary and secondary newspaper for legal notices.

ITB 2024-019 Advertisement of City notices was posted on June 21, 2024, advertised in the Fort Worth Star-Telegram on June 21, 2024 and June 28, 2024. Invitations were sent to prospective bidders (including the Fort Worth Star-Telegram, Cleburne Times-Review, Commercial Recorder, and others). Additionally, the purchasing staff sent email correspondence and contacted potential bidders via phone. One submission was received by The Cleburne Times-Review.

RECOMMENDATION:

Staff recommends rejecting the bid from The Cleburne Times-Review (CNHI North Texas) and executing a one-year contract with McClatchy Services (Fort Worth Star-Telegram). Staff will re-evaluate the service at the end of the contract term and consider re-bidding for a longer-term agreement.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

April 17, 2024: The City Council Policy and Valuation Committee received a report, held a discussion, and provided staff feedback regarding newspaper services for publishing legal notices.

May 6, 2024: City Council received a report, held a discussion, and provided staff feedback regarding newspaper services for publishing legal notices.

REFERENCE:**FISCAL IMPACT:**

\$40,000 annually

STAFF CONTACT:

Richard Abernethy
Director of Administrative Services
rabernethy@burlesontx.com
817-426-6662



Newspaper Services Contracts

CITY COUNCIL POLICY AND VALUATION COMMITTEE

AUGUST 21, 2024

Background

- December, 2023: Administrative Services, began looking into options for lowering the cost of the City’s newspaper services for publishing legal notices while also staying compliant with bidding and procurement laws.
- April 17, 2024: Staff briefed the City Council Policy and Valuation Committee and recommended bidding out newspaper services with the objective of selecting a primary and secondary newspaper for publishing legal notices.
- May 8, 2024: Staff briefed the City Council on newspaper services. The consensus was to bid out newspaper services with the objective of selecting a primary and secondary newspaper for publishing legal notices.
- June-July 2024: The City advertised a request for bids for Newspaper Services. The city received one bid from the Cleburne Times Review.

Local Government Code Requirements

- Texas Local Government Code requires that notices be published in a newspaper. These notices include, but are not limited to:
 - Advertisements for competitively sealed bids
 - Election notices
 - Items related to development
 - Items related to water utilities
 - Items related to zoning regulations
 - Meeting notices
 - Public hearings related to budget

In 2023, HB 622 would have authorized alternative media to satisfy the public notice requirements, including social media, free newspapers, school newspapers, a homeowners' association newsletter or magazine, utility bills, direct mailings and any other form of media authorized by the comptroller. The bill made it through the House Committee but failed to move on to vote by the house.

Local Government Code Requirements – continued

- Texas Local Government Code also has stipulations related to the type of newspaper in which these notices may be published:
 - Devote not less than 25% of total column lineage to general interest items;
 - Be published at least once each week;
 - Be entered as second-class postal matter in the county where published;
 - Have been published regularly and continuously for at least 12 months before the governmental entity or representative published notice; and
 - A weekly newspaper that has been published regularly and continuously

The City currently uses the Fort Worth Star-Telegram to advertise all legal notices.

Historical Cost for City Notices

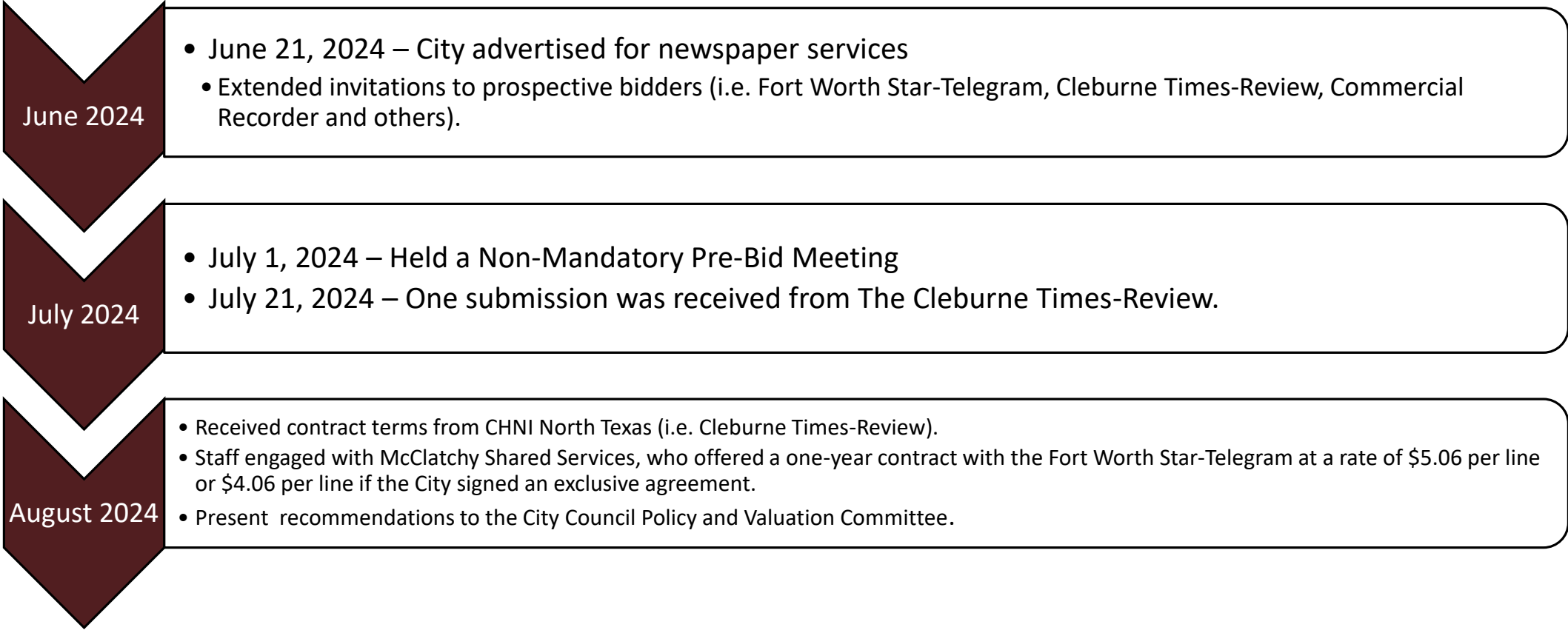
Fiscal Year	Transaction Count	Amount	Avg. Cost Per Transaction
2019-2020	82	\$99,633.95	\$1,215
2020-2021	62	\$82,944.11	\$1,338
2021-2022	100	\$73,465.04	\$735
2022-2023	82	\$43,190.10	\$527
2023-2024 (spend to date)	49	\$21,818.79	\$445

Notes:

- A contract with The Fort Worth Star Telegram (McClatchy Shared Services) was negotiated in 2021 and the rate being charged was reduced from market rate to \$6.06 per line + \$10.00 online publication fee.
- The May 2020 election, originally scheduled for fiscal year 2020-2021, was delayed to November 2021, aligning with the 2021-2022 fiscal year. This shift necessitated the re-issuance of legal notices and may have contributed to a higher-than-average number of transactions.

*Transaction count refers to the number of individual accounts that incur charges for each invoice
*This data was pulled from the Munis system and includes issued checks and P-Card transactions beginning in 2022

Newspaper Bid Time Line



Note: The City did extend the bid deadline by one week to allow extra time for bidders to respond.

Proposed Rates

Fort Worth Star-Telegram

Type	Rate
Per Line Rate	\$5.06
Online Fee	\$10
Estimated Cost for Typical City Ad	\$460

Cleburne Times-Review

Type	Rate
Per column inch (Weekday)	\$20
Per column inch (Sunday or Saturday)	\$20
Misc. Advertising Cost (Online)	\$17
Estimated Cost for Typical City Ad	\$388

Note:

- McClatchy Shared Services also offered a lower rate at \$4.06 per line if we signed a one year exclusive. A typical ad cost would then be slightly lower than the Cleburne Times-Review at \$378.

Recommended Approach

- Option 1. (Recommended)
 - Reject the one submission we have received.
 - Execute an administrative contract with McClatchy Services for one-year at the rate of \$4.06 per line.

- Option 2.
 - Enter into a separate agreements with both publications.
 - Utilize The Cleburne Times-Review (CNHI North Texas) for general publications and The Fort Worth Star-Telegram (McClatchy Shared Services) for election, tax rate, and development notices.

- Under both options, staff recommends re-evaluating the service contract at the end of the term and considering re-bidding for a longer-term contract.

- One-year contract could be executed administratively.

Questions

Council Policy and Valuation Committee

DEPARTMENT: Development Services

FROM: Tony D. McIlwain, Development Services Director

MEETING: August 21, 2024

SUBJECT:

Receive a report, hold a discussion and provide staff direction regarding Municipal Utility Districts and Public Improvement Districts. (*Staff Contact: Tony McIlwain, AICP, CFM, Development Services Director*)

SUMMARY:

The purpose of the presentation is to 1:) provide a brief recap of Public Improvement Districts (PIDs) and Municipal Improvement Districts (MUDs) and 2:) receive direction from Committee on possible elimination or changes to the City's existing PID policy and the possible creation of a MUD policy.

RECOMMENDATION:

Staff recommends consideration of PIDs and MUDs on a case-by -case basis. Staff recommends that, at a minimum, removing the tax cap from the PID policy.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

May 6, 2024: Staff provided City Council a presentation on Municipal Utility Districts and Public improvement Districts.

REFERENCE:

N/A

FISCAL IMPACT:

N/A

STAFF CONTACT:

Tony D. McIlwain
Development Services Director
tmcilwain@burlesontx.com
817-426-9684



Developer's Tools: Public Improvement Districts (PIDs) and Municipal Improvement Districts (MUDs)

COUNCIL POLICY AND VALUATION COMMITTEE: AUGUST 21, 2024

Purpose

- On May 6th, City Council received a staff presentation on Public Improvement Districts (PUDs) and Municipal Utility Districts (MUDs).
- Following the presentation, Council directed the City Manager to review the city’s existing PID policy and discuss a possible MUD policy with the Policy and Valuation Committee.
- The purpose of this presentation is to:
 - i. Provide a brief recap of PIDs and MUDs;
 - ii. Review the City's current PID policy and receive direction regarding revising or eliminating the policy, or leaving as-is; and
 - iii. Receive direction on a MUD policy.

PIDs and MUDs

- Developers and other interested parties have an array of tools available to them under the Texas Local Government Code and Texas water Code.
- Chapter 372 of the Local Government Code serves as the enabling legislation for special districts such as PIDs. Chapter 54 of the Water Code serves as the enabling legislation for MUDs.
- A MUD is created to finance, build and maintain infrastructure and services related to water, sewer, and drainage in areas that are otherwise unmanaged by local governments.
- A PID can be used for a variety of public community improvements, including parks, fountains, landscaping, infrastructure and other non-utility enhancements.

WHAT TYPE OF PIDs ARE THERE?

- **Capital PID:** Construction of infrastructure to serve the development (entry features, fountains, signage, water features, etc).
 - I. **Reimbursement PID:** Developer funds construction and is reimbursed over time by the PID assessments.
 - II. **Bonded PID:** PID issues bonds that the developer uses for the construction and the bonds are repaid through the PID assessments.

- **Operations and Maintenance (O&M) PID:** Ongoing maintenance of improvements, such as parks and open space, entry features or any other feature that would qualify for PID funding.

Projects may include both capital and O&M PIDs.

BURLESON'S PID POLICY CONTENTS

Council approved a PID policy on November 12, 2018.

CONTENTS:

- Purpose and Intent
- PID Objectives
- Types of PIDs
- General Policies
- Steps in Establishing a PID
- Specifics for Capital PIDs
- Attachments
 - Process
 - Professional Services Agreement
 - PID Petition Requirements
 - Petition Template

POLICY OBJECTIVES

PID Consideration may be granted for projects that:

- Meet or preferably enhance the City’s master plan, thoroughfare plan, water and wastewater plans.
- Advance the City’s trail and park plans.
- Exceed the City’s requirements for design, building standards, amenities and landscaping.
- Accomplish a particular housing objective or goal established by City Council.
- Are master-planned residential communities.
- Are within the ETJ that meet stated objective(s) provided the property owners agree to submit a petition for voluntary annexation into the City, if the City desires such annexation.
- Require public participation to materialize.

PID Policy Tax Cap

- The current PID policy has a tax cap. The tax cap limits as follows: *the maximum assessment per \$100 valuation, when added to the total (City, County, School, etc.) tax rate, may not exceed the highest total tax rate in effect for any property in the City.*
- Staff recommends considering PIDS on a case-by-case basis to better gauge prospective improvements and long-term costs, or removal of the tax cap.

Municipal Utility Districts (MUDs)

- MUDs have the authority to provide water, wastewater, drainage and other services to facilitate development within a city's corporate boundaries and extraterritorial jurisdiction.
- The funds used to construct a MUD's facilities are obtained through the public sale of tax-exempt municipal bonds. The MUD provides for the payment of the principal and interest on the bonds through its unlimited power to levy and collect ad valorem taxes on all taxable property in the MUD.
- Taxes are paid by homeowners and landowners in the MUD. Additionally, homeowners and other users pay monthly water and sewer fees to pay for the costs of operating and maintaining the system.

How Are They Created?

- MUDs are created in two ways: by either bringing a bill to be approved by the state legislature, or petitioning the Texas Commission on Environmental Quality (TCEQ). The TCEQ regulates and supervises MUDs.
- If the property is located in the City’s jurisdiction, to be included in a MUD, City consent is required (prior to creation) as part of the TCEQ process.
- If the City fails or refuses to grant consent within 90 days after receipt of a petition, the state statute provides for a 120 day period for negotiation of a contract for City water and sewer service to the proposed development. If a contract for service is not executed, the applicant is authorized to initiate proceedings with TCEQ to create a MUD.

Can A MUD Be Annexed?

- A city can annex a MUD through a mutual agreement via a strategic partnership.
- Annexation cannot be a condition of approval of a MUD.
- A MUD can be annexed in its entirety; however, a partial annexation of a MUD territory is not allowed.
- A MUD can be part of a full purpose annexation.
- A MUD can be part of a limited purpose annexation.

Strategic Partnership Agreement

- Local Government Code Chapter 43 establishes the provisions for Strategic Partnership Agreements.
- It is essentially a written agreement between a city and a District. A Strategic Partnership Agreement can provide for annexation of a MUD into the city.
- In an annexation, the city would have to assume any outstanding MUD bonds and pay the debt back to the bond investors.
- The city and the MUD’s governing bodies must provide proper notice to the public and conduct at least two joint public hearings prior to entering a Strategic Partnership Agreement. An Agreement may be extended for one 10-year period.

Recommendation

- Currently the City has a PID policy, but staff wants to discuss amending (i.e. removal of the tax cap) or eliminating the policy.
- The policy has been included for discussion.
- Does the Committee want further discussion or action on establishing a MUD policy?
- The City is in receipt of a MUD petition and interest from a different developer for a MUD development.



Questions/ Comments

STAFF CONTACT:

TONY D. MCILWAIN, AICP, CFM

DEVELOPMENT SERVICES DIRECTOR

TMCILWAIN@BURLESONTX.COM

817-426-9684

CITY OF BURLESON

PUBLIC IMPROVEMENT DISTRICT POLICY

OVERVIEW

Pursuant to the Texas Local Government Code Chapter 372 (the “PID Act”), Public Improvement Districts (“PIDs”) provide the City of Burleson (the “City”) an economic development tool that permits the financing of qualified public improvement costs that confer a special benefit on a definable part of the City, including both its corporate limits and its extra-territorial jurisdiction (ETJ). A PID can finance capital costs and fund supplemental services to meet community needs which could not otherwise be constructed or provided. The costs of the capital improvements and/or supplemental services are paid entirely by property owners within the Public Improvement District that receive special benefits from the capital improvements or services. A PID may only be used to pay for qualified public improvements under the PID Act.

A PID is a defined area of properties, whose owners have petitioned the City to form a PID. The City Council establishes a PID by adoption of a resolution after a public hearing. The public hearing is publicized per the PID Act and written notification of the hearing is mailed to all property owners in the proposed PID. By petition, the owners pledge to pay an assessment in order to receive a special benefit, enhanced services and/or improvements within the PID.

PURPOSE AND INTENT

The purpose and intent of this Policy is to provide the policy parameters for establishment and use of PIDs within the City or its ETJ and to outline the issues to be addressed before the City Council can support the establishment of a PID. The City Council supports the use of PIDs to create sustainable developments with a higher level of public improvements (and maintenance of those improvements) than exists in a development that meets the City’s minimum standards. PIDs are a viable alternative for enhanced public open space and maintenance of enhanced public parks and trails. Within the City, PIDs should be self-supporting, should not place administrative burdens on the City nor involve management or oversight by the City for their daily activities. This Policy is intended to provide guidance to developers and City Staff in the creation of a PID and outline pertinent matters including but not limited to petition requirements, qualified costs, financing criteria, information disclosures to property owners, and the determination of annual plans of services, budgets and assessments. The City Council, upon City Staff recommendation, shall have the authority to establish PIDs that vary from this policy as long as they are in accordance with State law.

PID OBJECTIVES

The Texas Local Government Code allows for PID funds to be used, among others, in the construction of roadways, water, wastewater, drainage, landscaping, parks, and expenses incurred in the establishment, administration and operation of the PID. Generally, PID consideration may be granted for projects that:

1. Meet or preferably enhance the City’s master plan, thoroughfare plan, water and wastewater plans;
2. Advance the City’s trail and park plans;
3. Exceed the City’s requirements for design, building standards, amenities and landscaping;

- 4. Are of mixed residential and commercial use;
- 5. Accomplish a particular housing objective or goal established by City Council;
- 6. Are master-planned residential communities;
- 7. Are within the ETJ that meet the above qualifications provided the property owners agree to submit a petition for voluntary annexation into the City, if the City desires such annexation; or
- 8. Require public participation to materialize.

The City Council, upon City Staff recommendation, shall have the authority to consider other projects that may be different from those listed above in accordance with the applicable State law.

TYPES OF PIDS:

- 1. **Capital PIDs** are those that are established to construct infrastructure within a development. There are two types of Capital PIDs:
 - **Reimbursement PID:** The developer pays for the infrastructure up front and is reimbursed from assessments collected over time.
 - **Bonded PID:** The City issues special revenue bonds for the construction of improvements and/or reimbursement to the Developer and such bonds are repaid from assessments collected annually.

Capital PIDs have a termination date of either the maturity of the bonds for Bonded PID, or full repayment of the developer for Reimbursement PID.

The principal amount for a Capital PID may be paid in full or in part by the property owner at any time without any prepayment penalty.

- 2. **Operation and Maintenance PIDs** (O&M PIDs) are used to fund ongoing enhanced operation and maintenance for public improvements such as parks, public open space, trails and other public improvements.
 - There may be no termination date with an O&M PID until City Council decides otherwise.
 - The assessment is determined annually based on a budget to maintain and operate the PID.
 - Payment of the assessment is on an annual basis, and no pre-payment can occur since there is no principal amount.
 - The City may create advisory boards for Maintenance PIDs.

Projects may include both Capital PIDs and Maintenance PIDs.

GENERAL

- 1. A PID may be created and utilized to construct qualified public improvements and/or reimburse a developer’s actual, documented costs above and beyond the costs for standard infrastructure required to serve the development. Such incremental costs shall be associated with the construction of qualified public improvements.
- 2. PIDs must be self-sufficient and not require the City to incur any costs associated with the formation of the PID, bond issuance costs, PID administration or the construction of PID improvements.

- 3. PID petition signatures should reflect that a reasonable attempt was made to obtain the full support of the PID by the majority of the property owners located within the proposed PID. Priority will be given to PIDs with the support of 100% of the landowners within a PID.
- 4. Priority will be given to PID improvements:
 - a. In support of development that will generate greater economic development benefits to the City beyond the project;
 - b. That provide enhanced aesthetic features (e.g., entryways, landscaping, fountains, specialty lighting, art, decorative and landscaped streets and sidewalks, bike lanes, multi-use trails, signage); and,
 - c. That meet specific community needs
- 5. A PID’s budget shall include sufficient funds to pay for all additional costs incurred by the City above its normal operational costs, including additional administrative and/or operational costs.
- 6. A Landowner’s Agreement must be recorded in the Official Public Records of the County in which the PID is located which, among other things, will notify any prospective owner of the existence or proposal of assessments on the property. All closing statements and sales contracts for lots must specify who is responsible for payment of any existing assessment or a pro rata share thereof.
- 7. The City Council reserves the right, on a case-by-case basis, to waive specific requirements listed in this Policy. Such waived requirements shall be noted in the approval of any petition together with a finding that the deviation from the Policy is in the best interest of the City. Additionally, the City Council maintains discretion to approve or disapprove the PID application.
- 8. No PIDs will be allowed to be created that overlap the boundaries of another PID.
- 9. The boundaries of existing PIDs can be modified during a renewal process (with updated map as part of the petition). However, a boundary change during the existing term of a PID may only be considered if a re-petition of the entire PID area (both current boundary and proposed modified areas) meets the minimum criteria for creation/renewal and application fee as described below is submitted.

ESTABLISHMENT OF PID

Following is a summary of the major steps involved in the establishment of a PID. Detailed steps are included in Attachment A.

Professional Services Reimbursement Agreement

If the City determines it is in its best interest to establish a PID, a Professional Services Agreement (PSA) will be entered into with the developer (template attached as Attachment B). The PSA will require the developer to initially deposit funds to pay for third-party consultants including, but not limited to, Bond Counsel, Financial Advisor, PID Administrator, Appraiser, and Market Study Analysis. Additional deposits will be required when the deposit balance meets a minimum threshold as described below. Funds that have been expended for payment to the City’s consultants are non-refundable. The unused balance will be rolled into the PID admin costs for the creation of the PID, or refunded to Developer depending on circumstances.

- Capital PIDs: Initial Amount is \$7,500 with additional \$10,000 increments when deposit balance reaches \$2,500.
- Maintenance PIDs: Initial Amount is \$7,500 with additional \$5,000 increments if deposit balance reaches \$1,500
- Combined Capital/Maintenance PIDs will follow the Capital PID funding requirements.

A City Council briefing on the PID Petition is recommended prior to filing.

PID Petition

Once it has been determined by the City Staff and City Council that a PID is appropriate for the project, a petition for the creation of the PID shall be submitted in accordance with the following:

1. The submittal of a petition letter that is signed by:
 - a. Owners of taxable real property representing more than 50% of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and,
 - b. Record owners of real property liable for assessment under the proposal who:
 - i. Constitute more than 50% of all record owners of property that is liable for assessment under the proposal; or
 - ii. Own taxable real property that constitutes more than 50% of the area of all taxable real property that is liable for assessment under the proposal.
2. The petition must be submitted using the form included as Attachment C. See the Petition Requirements attached herein for additional specific requirements.

Service and Assessment Plan

The City will cause to be prepared a Preliminary Service and Assessment Plan (“SAP”) based on an Engineer’s opinion of probable costs of the public improvements to construct and complete the project. The parameters of the SAP will be based on the City Staff’s direction regarding the amount to be reimbursed relative to the type of PID, the Policy objectives, and the recommendation of the City’s consultants.

Maximum Assessment

The maximum assessment per \$100 valuation, when added to the total (City, County, School, etc.) tax rate, may not exceed the highest total tax rate in effect for any property in the City. For example, in 2023, the highest total tax rate is \$2.4523 per \$100 valuation. See table below:

	Johnson			Tarrant	
	BISD	JISD	AISD	BISD	CISD
City	\$0.6325	\$0.6325	\$0.6325	\$0.6325	\$0.6325
ISD	\$1.2575	\$1.0872	\$1.1692	\$1.2575	\$1.2575
County	\$0.3350	\$0.3350	\$0.3350	\$0.2290	\$0.2290
JC Lateral Rd	\$0.0500	\$0.0500	\$0.0500		
Hill College		\$0.0480	\$0.0447		
Tarrant College				\$0.1121	\$0.1121
Tarrant Hospital				\$0.1945	\$0.1945
TC Regional Water				\$0.0267	\$0.0267
Total	\$2.275	\$2.1527	\$2.2314	\$2.4523	\$2.4523

The above tax rates are from 2023 and are subject to change annually. City staff may update the applicable maximum tax rates each year and such annual updates may not require formal amendment to this policy.

Disclosure to Homeowners

To satisfy disclosure to homeowners, the City will require the petitioner to comply with the following:

- Landowner’s Agreement to be recorded in the Official Public Records of the applicable County.
- Signage at major entryways and exits as approved by City Staff. All signage shall be clearly visible to all motorists entering and exiting the PID.
- Signage and information flyers for use at sales offices and model homes as provided by City’s PID Administrator.
- Homebuyer disclosure documents in accordance with Section 5.014 of the Texas Property Code to be signed both at contract signing and at closing with such agreements maintained on file by each homebuilder and available for inspection by the City.
- Requirement to provide notice of the PID to builders in addendum to contracts and to disclose the PID on any MLS listing.

PID Administration

1. The City may contract with a qualified third-party company to manage and administer the PID, subject to oversight by City Staff.
2. The PID Administrator will coordinate the annual development of the budget, which will be submitted to the City Council for consideration in accordance with the PID Act.

Collection of Assessments

The City will enter into an agreement, as applicable, with the appropriate tax collecting entity (i.e. the entity collecting the City ad valorem taxes) to include the annual assessments on the appropriate property tax bill. If such agreement is not feasible, the City will pursue other available alternatives for collecting the assessments and annual installments.

CAPITAL PIDS

If it is proposed that debt obligations secured by and payable from assessments are to be issued to reimburse for authorized improvements that a developer would ordinarily fund at its own costs, the petition must demonstrate how creation of the PID and financing of the infrastructure provides a special benefit to the property that, but for the PID, would not occur. Examples of “special benefits” under which the City is willing to consider a PID include, but are not limited to, the following: accelerated development of neighborhood amenities, high quality development (i.e. amenities, sustainability, etc.) or furtherance of a major City Policy objective.

Specifics of Bonded PID

If the PID issues bonds for the developer to construct the improvements and the debt is repaid through the collected property assessments, the following must be met:

- Minimum value to lien ratio of 3:1 based on third party appraisals approved by the City.
- To the extent feasible, preliminary design and engineering work for public improvements to be funded with PID Bonds shall be undertaken prior to the levy of assessment.
- Developer is required to demonstrate committed capital in the form of cash deposit, proof of bank financing and/or equity capital, or letter of credit, which represents the difference between budgeted cost to complete the public improvements assumed to be complete in the appraisal and the net proceeds of the PID Bonds. The form of committed capital (cash deposit or letter of credit) will be determined by the City (in consultation with its financial advisors, consultants and participating underwriters) on a case-by-case basis. Terms of the letter of credit will include: (i) an irrevocable and unconditional letter of credit issued by one or more banks satisfactory to the City and on terms and conditions satisfactory to the City to provide a funding source for the agreed upon cost of infrastructure improvements that will be constructed with funds other than bond proceeds, or (ii) any such letter of credit must name the City as the beneficiary and must be able to be drawn upon by the City to fund any obligation of the Developer to pay for a portion of the costs to the infrastructure improvements that are not being funded with the proceeds of any bonds issued by the City upon the presentation to the letter of credit provider of a properly executed draft request. An acceptable letter of credit provider will need to have a long-term rating by a nationally recognized ratings service of at least the City’s credit rating or better.

Other Financing Considerations

1. PID Bonds may be issued in advance of construction as a whole or on a phase-by-phase basis subject to compliance with the applicable standards.

2. General Obligation or Certificates of Obligation will not be utilized by the City to fund or support the PID Bonds.
3. All proposed initial and subsequent PID Bond issues for a project, if any, will be subject to approval by the City Council.
4. The City shall not be obligated to provide funds for any improvement except from the proceeds of the PID Bonds and assessments.
5. Each PID Bond Indenture will contain language explicitly precluding the City from making any debt service payments for the PID Bonds other than from available assessment revenues. There will be no tax pledge from the City to support PID Bonds.

Developer Reimbursement

1. The Developer will submit expenses for reimbursements in accordance with the requirements of the applicable financing agreement.
2. The City's appointed designee(s) will verify the eligibility and validity of such reimbursement requests in accordance with the applicable agreements and/or PID documents.
3. Once expenses have been verified, payment will be processed within the timeframe stipulated in the applicable agreements and/or PID documents.

Assessment Term/Bond Term

The maximum term of a Capital PID assessment is not to exceed 30 years and the assessment term must equal the bond term. This does not apply to O&M PIDs.

Miscellaneous

1. Severability: If any section, subsection, sentence, clause, phrase, or word of this Policy is declared unconstitutional or invalid for any purpose, the remainder of this Policy shall not be affected.
2. Any exceptions or waivers to this Policy must be approved by the City Council.
3. The City shall, upon reasonable prior written notice to the Developer and during normal business hours, have the right to audit and inspect the Developer's records, books, and all other relevant records related to reimbursements through the PID. All parties agree to maintain the appropriate confidentiality of such records, unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, State Law, municipal ordinance, or at the direction of the Office of the Texas Attorney General.

Council Policy and Valuation Committee

DEPARTMENT: Development Services

FROM: Tony D. McIlwain, Development Services Director

MEETING: August 21, 2024

SUBJECT:

Receive a report, hold a discussion and provide staff direction regarding neighborhood empowerment zones (NEZs). (*Staff Contact: Tony McIlwain, AICP, CFM, Development Services Director*)

SUMMARY:

A neighborhood empowerment zone (NEZ) is a municipal planning and development program/tool that allows a municipality to designate a defined geographic area for the purpose of providing municipal property tax abatements, fee waivers, release of city liens, etc. These incentives are designed to promote affordable housing, economic development and expanded services, and are available to property owners who build or rehabilitate property within a NEZ. The purpose of this presentation is to provide the Committee information on the following topics:

- What is a Neighborhood Empowerment Zone (NEZ)?
- NEZ Adoption Process
- Municipal Authority
- Eligibility Criteria (examples)
- Incentives and Funding
- Fort Worth example
- Area Examples
- Questions/ Comments

RECOMMENDATION:

Staff has no recommendation, but will proceed with any next steps as directed by the Committee.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A

REFERENCE:

N/A

FISCAL IMPACT:

N/A

STAFF CONTACT:

Tony D. McIlwain
Development Services Director
tmcilwain@burlesontx.com
817-426-9684



Neighborhood Empowerment Zones

AUGUST 21, 2024: POLICY AND VALUATION COMMITTEE

Discussion Topics

- What is a Neighborhood Empowerment Zone (NEZ)?
- NEZ Adoption Process
- Municipal Authority
- Eligibility Criteria (examples)

- Incentives and Funding
- Fort Worth example
- Area Examples
- Questions/ Comments

What is a Neighborhood Empowerment Zone (NEZ)?

- A NEZ is a municipal planning and development program/tool that allows a municipality to designate a defined geographic area for the purpose of providing municipal property tax abatements, fee waivers, release of city liens, etc.
- These incentives are designed to promote affordable housing, economic development and expanded services.
- These incentives are available to property owners who build or rehabilitate property within a NEZ.

What is a Neighborhood Empowerment Zone (NEZ)?

- Chapter 378 of the Local Government Code (LGC) provides the enabling legislation for the NEZ program.
- Specifically, LGC section 378.002 states that a municipality may create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:
 - (1) the creation of affordable housing, including manufactured housing, in the zone;
 - (2) an increase in economic development in the zone;
 - (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
 - (4) the rehabilitation of affordable housing in the zone.

NEZ Adoption Process

- LGC section 378.003 provides the steps for the adoption of NEZ.
 - (a) A municipality may create a zone if the governing body of the municipality adopts a resolution containing:
 - (1) the determination described by Section 378.002;
 - (2) a description of the boundaries of the zone;
 - (3) a finding by the governing body that the creation of the zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the municipality;
 - (4) a finding by the governing body that the creation of the zone satisfies the requirements of Section 312.202, Tax Code (i.e. reinvestment zone).
 - (b) A municipality may create more than one zone and may include an area in more than one zone.

Municipal Authority

- LGC section 378.004 allows cities the following authority:
 - (1) waive or adopt fees related to the construction of buildings in the zone, including fees related to the inspection of buildings and impact fees;
 - (2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for refunds of municipal sales tax on sales made in the zone;
 - (3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section 312.204, Tax Code; and
 - (4) set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.

Eligibility Criteria Examples

- Council would be required to establish NEZ project eligibility. Some project eligibility examples include:
 - (1) Number of jobs created
 - (2) Land use type (e.g. residential-only; commercial-only)
 - (3) Total amount of capital investment
 - (4) Project must be a permanent structure
 - (5) Project must be conforming with zoning, plat status
 - (6) Project must have no outstanding code compliance cases, liens or owed taxes
 - (7) Rehabilitation work must be receipted and greater than a certain percentage of County appraised value

NEZ Incentives and Funding

- Examples of possible NEZ incentives include:
 - (1) Development Fee waivers (e.g. zoning, platting, commercial site plan fees)
 - (2) Impact fee reimbursements
 - (3) Release of city liens
 - (4) City Property tax abatement (would require City Council action)
- Fee waiver incentives would result in foregone revenue (i.e. General Fund)

NEZ Benefits

- A NEZ could assist with:
- Reducing blight
- Extend life cycle of housing through rehabilitation
- Encourage new investment in the community
- Investment and incentives bring increased awareness, attention and heightened visibility, which may (over time) reduce instances of criminal-related property damage and mischief

Local Data

- Development Services and the Police Department met and discussed areas that might benefit from a NEZ, based on statistical data
- Staff identified three areas, which we have listed as Target Areas 1, 2 and 3
- This area is largely comprised of older housing stock and has benefitted from targeted Code Compliance action in the past
- The common code compliance violations in these areas include property maintenance, high grass, junk and trash, dilapidated fences, yard parking and inoperable vehicles.

■ Target Area 2

- Area is comprised of Tarrant Addition.
- This area is generally bounded by the SW Johnson, SE Dian, S Warren and SE Tarrant rights-of-way.



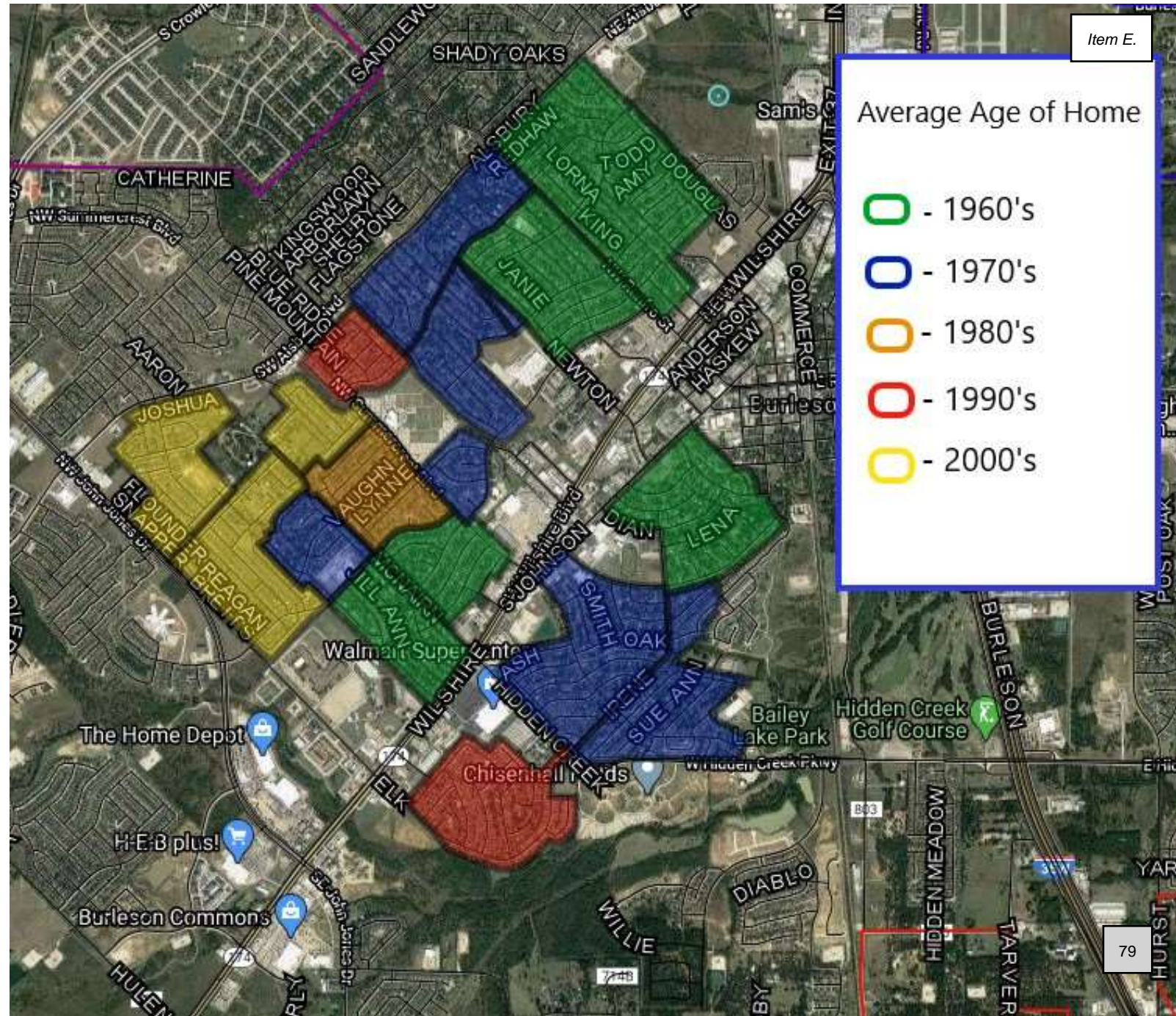
- Target Area 3

- Area is comprised of Summercrest Addition.
- This area is generally bounded by the SW Wilshire, NW Summercrest, SW Hillside rights-of-way and along the north line Burleson High School .



Average Age of Housing Stock

- This map graphic depicts the average age of homes within and around the Target Areas.
- The prevailing stock of housing is 45+ years old.
- A NEZ could extend a lifeline to prolong the life cycle of these homes.



Next Steps

- If the Committee makes the recommendation to pursue a NEZ, the next steps for the full Council to consider are:
 - Evaluation and Identification of the need for a NEZ
 - Evaluation and identification of possible NEZ Target Areas
 - Discussion of creation of a NEZ policy and basic incentives and tax abatement policy (Tax Code 312), to include eligibility criteria and funding sources
 - Discussion of multi-faceted outreach and educational efforts to inform property owners within any proposed Target Area of the program
 - Creation/Adoption per resolution (LGC 378)
 - Note: *public notice and public hearings are not required, but staff strongly encourages both to allow for public comment/feedback*

Fort Worth NEZ Program

- The City of Fort Worth has a robust Neighborhood Empowerment Zone program.
- Staff has included their NEZ information as a reference point.



Questions / Comments

TONY MCILWAIN, AICP, CFM
DEVELOPMENT SERVICES DIRECTOR
TMCILWAIN@BURLESONTX.COM
817.426.9684

**CITY OF FORT WORTH
NEIGHBORHOOD EMPOWERMENT ZONE PROGRAM (NEZ)
BASIC INCENTIVES AND TAX ABATEMENT POLICY**

I. GENERAL PURPOSE AND OBJECTIVES

Chapter 378 of the Texas Local Government Code allows a municipality to create a Neighborhood Empowerment Zone (NEZ) when a "...municipality determines that the creation of the zone would promote:

- (1) the creation of affordable housing, including manufactured housing, in the zone;
- (2) an increase in economic development in the zone;
- (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- (4) the rehabilitation of affordable housing in the zone."

The City, by adopting the following NEZ Program Basic Incentives and Tax Abatement Policy, will promote affordable housing and economic development in Neighborhood Empowerment Zones. NEZ incentives will not be granted after the NEZ expires as defined in the resolution designating the NEZ. For each NEZ, the City Council may approve additional terms and incentives as permitted by Chapter 378 of the Texas Local Government Code or by City Council resolution. However, any tax abatement awarded before the expiration of a NEZ shall carry its full term according to its tax abatement agreement approved by the City Council.

As mandated by state law, the property tax abatement under this policy applies to the owners of real property. Nothing in the policy shall be construed as an obligation by the City of Fort Worth to approve any tax abatement application.

II. DEFINITIONS

"Abatement or Tax Abatement" means a full or partial exemption from City of Fort Worth ad valorem taxes on eligible real property located in a NEZ for a specified period on the difference between (i) the amount of increase in the appraised value (as reflected on the certified tax roll of the appropriate county appraisal district) resulting from improvements begun after the execution of a written Tax Abatement Agreement and (ii) the appraised value of such real estate prior to execution of a written Tax Abatement Agreement (as reflected on the most recent certified tax roll of the appropriate county appraisal district for the year prior to the date on which the Tax Abatement Agreement was executed).

"Affordable Units" means affordable to persons earning less than 80% Area Median Family Income (AMFI) as defined by U.S. Department of Housing and Urban Development (HUD) for single family housing and under 60% AMFI as defined by HUD for rental and multi-family.

"Base Value" is the value of the Real Property Improvements, excluding land, as determined by the Tarrant County Appraisal District, during the year rehabilitation occurs.

"Building Standards Commission" is the commission created under Sec. 7-77, Article IV. Minimum Building Standards Code of the Fort Worth City Code.

"Capital Investment" includes only Real Property Improvements such as new facilities and structures, site improvements, facility expansion, and facility modernization. Capital Investment does NOT include land acquisition costs and/or any existing improvements on the property prior to the City Council's authorization, or personal property (such as machinery, equipment, and/or supplies and inventory).

"City of Fort Worth Tax Abatement Policy Statement" means the policy adopted by City Council.

"Commercial/ Development Project" is a development project which proposes to construct or rehabilitate commercial facilities on property that is (or meets the requirements to be) zoned commercial as defined by the City of Fort Worth Zoning Ordinance.

“Industrial Development Project” is a development project which proposes to construct or rehabilitate industrial facilities on property that is appropriately zoned for industrial use as defined by the City of Fort Worth Zoning Ordinance and meets the criteria for industrial use as put forth in the City’s Comprehensive Plan.

“Community Facility Development Project” is a development project which proposes to construct or rehabilitate community facilities on property that allows such use as defined by the City of Fort Worth Zoning Ordinance.

“Eligible Rehabilitation” includes only physical improvements to Real Property Improvements. Eligible Rehabilitation does NOT include personal property (such as furniture, appliances, equipment, and/or supplies). Eligible Rehabilitation costs must be 30% or more of the current Base Value Improvements as defined by Tarrant Appraisal District at the time of application in order for a rehabilitation project to apply for any NEZ incentives.

“Gross Floor Area” is measured by taking the outside dimensions of the building at each floor level, except that portion of the basement used only for utilities or storage, and any areas within the building used for off-street parking.

“Minimum Building Standards Code” is Article IV of the Fort Worth City Code adopted pursuant to Texas Local Government Code, Chapters 54 and 214.

“Minority Business Enterprise (MBE)” and “Women Business Enterprise (WBE)” is a minority or woman owned business that has received certification as either a certified MBE or certified WBE by either the North Texas Regional Certification Agency (NTRCA) or the Texas Department of Transportation (TxDot), Highway Division.

“Mixed-Use Development Project” is a development project which proposes to construct or rehabilitate mixed-use facilities in which residential uses constitute 20 percent or more of the total gross floor area, and office, eating and entertainment, and/or retail sales and service uses constitute 10 percent or more of the total gross floor area and is on property that is (or meets the requirements to be) zoned mixed-use as described by the City of Fort Worth Zoning Ordinance.

“Multi-family Development Project” is a development project which proposes to construct or rehabilitate 3 or more multi-family residential living units on a property that is (or meets the requirements to be) zoned multi-family or mixed use as defined by the City of Fort Worth Zoning Ordinance.

“New Construction” is a newly constructed habitable structure improvement requiring a permanent foundation. This excludes accessory structures such as sheds, incidental out buildings and detached garages.

“Primary Residence” is the residence that has a Homestead Exemption on file with Tarrant County Appraisal District.

“Project” means a *“Residential Project”*, *“Commercial/Industrial Development Project”*, *“Community Facility Development Project”*, *“Mixed-Use Development Project”*, or a *“Multi-family Development Project.”*

“Real Property Improvements” – means a habitable structure as defined by the Fort Worth Building Code.

“Reinvestment Zone” is an area designated as such by the City of Fort Worth in accordance with the Property Redevelopment and Tax Abatement Act codified in Chapter 312 of the Texas Tax Code, or an area designated as an enterprise zone pursuant to the Texas Enterprise Zone Act, codified in Chapter 2303 of the Texas Government Code.

“Residential Project” – means less than 3 residential units.

III. **PROCEDURAL STEPS**

A. **APPLICATION FEE**

1. An application fee of \$25.00 for all basic incentives, excluding tax abatements. The Application Fee shall not be credited or refunded to any party for any reason.
2. The application fee for residential tax abatements is \$100.00 for each residential unit. The Application Fee shall not be credited or refunded to any party for any reason.
3. The application fee for tax abatements for multi-family, commercial, industrial, community facilities and mixed-use development projects is one-half of one percent (0.5%) of the proposed Project's Capital Investment, with a \$200 minimum not to exceed \$2,000. The Application Fee shall not be credited or refunded to any party for any reason.

B. **APPLICATION SUBMISSION**

1. The applicant applying for any NEZ incentives must complete and submit a City of Fort Worth "Application for NEZ Incentives" and pay the appropriate application fee for certification of basic incentives to the Neighborhood Services Department. Incomplete applications will not be accepted or processed.
2. The applicant applying for Tax Abatement will pay the appropriate abatement application fee to the Neighborhood Services Department after Project certification for basic incentives by the Neighborhood Services Department. The application fee, review, evaluation and approval will be governed by City of Fort Worth Neighborhood Empowerment Zone Basic Incentives and Tax Abatement Policy for qualifying Development Projects.
3. All NEZ certifications for incentives will expire after five years and are project and owner specific. Minor modifications to an existing certification may be made with correct documentation. Minor modifications will not change or extend the original certification date. New or additional projects at the same address or in the same development will require a new application for project certification.
4. City Council may change NEZ boundaries or terminate NEZ areas. Projects that have been certified eligible for basic incentives will maintain eligibility for the original five years from the date of certification. The certification date will not be modified or extended.

C. **CERTIFICATIONS FOR APPLICATIONS**

1. In order for a property owner/developer to be eligible to apply for any NEZ incentives for a Project, the property owner/developer:
 - a. Must submit a complete application to the City with all required documentation;
 - b. Must not be delinquent in paying property taxes for any property owned by the owner/developer or applicant;
 - c. Must not be responsible for City of Fort Worth liens on the project property;
 - d. Must not have any City liens filed against any property owned by the applicant or property owner/developer, including the project property. "Liens" includes but is not limited to, weed liens, demolition liens, board-up/open structure liens and paving liens;
 - e. Must not have been subject to a Building Standards Commission's Order of Demolition where the property was demolished within the last five (5) years;
 - f. Must not have a building permit issued with the City for the project address; and
 - g. Must apply for NEZ incentives before **any** improvements are made to the project property.
2. The Neighborhood Services Department will review all NEZ applications for accuracy and completeness. A complete application must include:
 - a. Proof that the Project is located in a NEZ;

- b. A completed NEZ application;
- c. Attachment of **all** items on the NEZ Application Submittal Requirement Checklist; and
- d. Compliance with the design guidelines under Section III E.

Item E.

Once the Neighborhood Services Department determines that the application is complete, the Neighborhood Services Department will certify the property owner/developer's eligibility to receive basic incentives and/or tax abatement based on the criteria set forth in this policy. Ineligible applications will be denied. Once an applicant's project is certified, the Neighborhood Services Department will inform appropriate departments administering the incentives.

Approval of the application and Project certification shall not be deemed to be approval of any aspect of the Project. Before construction, the applicant must ensure that the project is located in the correct zoning district.

D. PUBLIC NOTIFICATION

In order for an owner/developer to apply to receive any incentives provided for under the NEZ Program Basic Incentives and Tax Abatement Policy, Neighborhood Services staff will send a complete Project application packet dually for notification purposes to the following persons and organizations:

1. The neighborhood associations or community based organizations registered with the city located within 300 feet of the proposed Project. The measurement of the distance between the proposed project and Neighborhood Associations or Community Based Organizations shall be along the property lines of the street fronts and from front door to front door, and in direct line across the intersections. If recipients wish to comment on the Project, all comments must be received within 14 days/two weeks of notification; and
2. The Council Member for the District in which the Project is located. Any comments received within 14 days of notification from the registered neighborhood associations or community based organizations within 300 feet of the proposed Project will be sent to the Council Member for informational purposes.

E. DESIGN GUIDELINES

1. All applications for NEZ incentives must meet the following design requirements for certification.
 - a. No metal buildings except for industrial projects.
 - b. All new construction projects must contain 70% masonry product
 - c. Exceptions to the masonry product will be made for approved plans within all Local Historic Districts and the following Urban Design Districts.
 - i. Near Southside
 - ii. Camp Bowie
 - iii. StockyardsApplicants must provide a Certificate of Appropriateness and supporting documentation for the project with their completed NEZ application. This exemption applies only to the masonry product requirement. All other design guidelines will not be waived.
 - d. Compliance with design guidelines for Council adopted NEZ Strategic Plans is required for certification.
 - e. Attached garages for new single family homes may not extend more than 4 feet past the front building wall.

F. REFUND POLICY

In order for an owner/developer of a Project in a NEZ to receive a refund of any development fees or impact fees, the conditions set forth in the *Refund of Development and Impact Fee Policy*, attached as Attachment "A", must be satisfied.

IV. FEE WAIVERS

A. ELIGIBLE RECIPIENTS/PROPERTIES

1. In order for a property owner/developer to be eligible to apply for any fee waivers for a Project, the property owner/developer:
 - a. Must submit an application to the City and receive NEZ certification for the project;
 - b. Must be in compliance with Section III, A, B, C, D and E.

B. DEVELOPMENT FEES

1. The following fees for services are waived for eligible, certified NEZ Projects:
 - a. All Building Permit related Fees (including Plans Review and Inspections) except as stated in IV B. 2. below
 - b. Plat Application Fee (including Concept Plan, Preliminary Plat, Final Plat, Short Form Replat)
 - c. Board of Adjustment Application Fee
 - d. Demolition fee
 - e. Structure Moving Fee
 - f. Community Facilities Agreement (CFA) Application Fee
 - g. Zoning Application Fee
 - h. Street and Utility Easement Vacation Application Fee
 - i. Ordinance Inspection Fees
 - j. Consent/Encroachment Agreement Application Fees
 - k. Transportation Impact Fees
 - l. Urban Forestry Application Fees
 - m. Sign Permit Fees
2. If a permit or application listed in B (1) is expired, the fee to reactivate, renew or reapply shall not be waived. In addition, penalties and extension fees or re-permitting fees will not be waived.
3. Fire inspection and permit fees will not be waived.
4. Fees for special services, such as simultaneous plan and plat review or expedited plan review will not be waived.
5. Infrastructure Plan Review Center fees will not be waived.
6. Development Fees not specifically listed in the policy and the project certification letter will not be waived or reduced.
7. Other development related fees not specified in this policy may be brought forward to City Council on a case-by-case basis as determined by staff analysis.

C. IMPACT FEES

1. Single family and multi-family residential development projects in the NEZ. Automatic 100% waiver of water and wastewater impact fees will be applied.
2. Commercial, industrial, mixed-use, or community facility development projects in the NEZ.
 - a. Automatic 100% waiver of water and wastewater impact fees up to \$55,000 or equivalent to two 6-inch meters for each commercial, industrial, mixed-use or community facility development project; whichever is less.
 - b. If the project requests an impact fee waiver exceeding \$55,000 or requesting a waiver for larger and/or more than two 6-inch meter exceeding \$55,000, then City Council approval is

required. Applicant may request the additional amount of impact fee waiver through Development Services Department.

Item E.

V. RELEASE OF CITY LIENS

A. ELIGIBLE RECIPIENTS/PROPERTIES

1. In order for a property owner/developer to be eligible to apply for release of any City liens for a Project, the property owner/developer:
 - a. Must submit an application to the City and receive NEZ certification for the project;
 - b. Must be in compliance with Section III, A, B, C, D and E.
 - c. Only liens listed in this Policy shall be released once the Project Improvements have been made to the property. Applicants must contact City after project completion for lien releases.
 - d. Any liens filed after the initial certification of the property shall not be released.

For certified applicants of Projects requesting release of City liens, the Neighborhood Services Department will request the release of the appropriate liens on NEZ tax abatement Projects. The Planning & Development Department will request the release of the appropriate liens on NEZ basic incentives Projects.

B. WEED LIENS

The following are eligible to apply for release of weed liens:

1. Single unit owners performing rehabilitation on their properties.
2. Builders or developers constructing new homes on vacant lots.
3. Owners performing rehabilitation on multi-family, commercial, industrial, mixed-use, or community facility properties.
4. Developers constructing new multi-family, commercial, industrial, mixed-use or community facility development projects.

C. DEMOLITION LIENS

Builders or developers developing or rehabilitating a property for a Project are eligible to apply for release of demolition liens for up to \$30,000. Releases of demolition liens in excess of \$30,000 are subject to City Council approval.

D. BOARD-UP/OPEN STRUCTURE LIENS

The following are eligible to apply for release of board-up/open structure liens:

1. Single unit owners performing rehabilitation on their properties.
2. Builders or developers constructing new single family homes on vacant lots.
3. Owners performing rehabilitation on multi-family, commercial, industrial, mixed-use, or community facility properties.
4. Developers constructing multi-family, commercial, industrial, mixed-use, or community facility projects.

E. PAVING LIENS

The following are eligible to apply for release of paving liens:

1. Single unit owners performing rehabilitation on their properties.
2. Builders or developers constructing new homes on vacant lots.
3. Owners performing rehabilitation on multi-family, commercial, industrial, mixed-use, or community facility properties.
4. Developers constructing multi-family, commercial, industrial, mixed-use, or community facility projects.

ALL OTHER CITY LIENS WILL NOT BE WAIVED

VI. MUNICIPAL PROPERTY TAX ABATEMENTS

Item E.

A. ABATEMENT GUIDELINES

1. Staff will review and evaluate each Residential, Multi-Family, Commercial, Industrial, Community Facilities and Mixed-Use tax abatement application prior to submission to the City Council. The City Council has designated certain areas of the City as Tax Increment Reinvestment Zones (TIFs). If a NEZ is located in a TIF, a person or entity seeking Tax Abatement on property owned or leased in a TIF shall not be granted a NEZ Tax Abatement.
2. A tax abatement shall not be granted for any development project in which a building permit application, excluding grading and/or demolition, has been filed with the City's Development Services Department. In addition, the City will not abate taxes on the value of real property improvements for any period of time prior to the year of execution of a Tax Abatement Agreement with the City.
3. Tax Abatements for a new construction project will automatically terminate two years after Council approval of the tax abatement if a building permit has not been pulled and a foundation has not been poured (unless otherwise specified in the tax abatement agreement).
4. Tax Abatements for a rehabilitation project will automatically terminate two years after Council approval of the tax abatement if the project is not complete (unless otherwise specified in the tax abatement agreement).
 - a. Abatements for Residential, Commercial, Industrial, Mixed-Use, Multi-Family and Community Facilities Projects for up to 5 years are subject to City Council approval. The applicant may apply with the Neighborhood Services Department for such abatement after project certification. In order to be eligible to apply for a tax abatement, the property owner/developer must:
 - b. Submit an application to the City and receive NEZ certification for the project;
 - c. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable.
 - d. Real Property Improvements are newly constructed or rehabilitated after NEZ designation and City Council approval of the tax abatement is granted before filing for a building permit and before any improvements are made;
 - e. Property is not in a tax-delinquent status when the abatement application is submitted;
 - f. Property is in conformance with the City of Fort Worth Zoning Ordinance however, a property use that is legal non-conforming shall not be eligible to receive a tax abatement.
5. Once a NEZ property owner of a residential property (including multi-family) in the NEZ satisfies the criteria set forth in Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable, and applies for an abatement, a property owner may enter into a tax abatement agreement with the City of Fort Worth after City Council approval of the tax abatement. The tax abatement agreement shall automatically terminate if the property subject to the tax abatement agreement is in violation of the City of Fort Worth's Minimum Building Standards Code and the owner is convicted of such violation.
6. A tax abatement granted under the criteria set forth in Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable, can only be granted once for a property in a NEZ for a maximum term as specified in the agreement. If a property on which tax is being abated is sold, the City may assign the tax abatement agreement for the remaining term as allowed by the tax abatement agreement, once the new owner submits an application so long as the new owner complies with all of the terms of the tax abatement agreement.
7. A property owner/developer of a multifamily development, commercial, industrial, community facilities and mixed-use development project in the NEZ who desires a tax abatement must:

- a. Satisfy the criteria set forth in Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable, and
 - b. Submit an application to the City and receive NEZ certification for the project;
 - c. The property owner must enter into a tax abatement agreement with the City of Fort Worth. In addition to the other terms of agreement, the tax abatement agreement shall provide that the agreement shall automatically terminate if the owner receives one conviction of a violation of the City of Fort Worth's Minimum Building Standards Code regarding the property subject to the abatement agreement during the term of the tax abatement agreement; and
 - d. If a property in the NEZ on which tax is being abated is sold, the new owner may enter into a tax abatement agreement on the property for the remaining term as allowed by the tax abatement agreement.
8. If the terms of the tax abatement agreement are not met, the City Council has the right to cancel or amend the abatement agreement. In the event of cancellation, the recapture of abated taxes shall be limited to the year(s) in which the default occurred or continued.
9. The terms of the agreement shall include the City of Fort Worth's right to: (1) review and verify the applicant's financial statements in each year during the life of the agreement prior to granting a tax abatement in any given year, (2) conduct an on-site inspection of the project in each year during the life of the abatement to verify compliance with the terms of the tax abatement agreement, (3) terminate the agreement if the Project contains or will contain an ineligible Project as defined in Section VII 1 through 6.
10. Upon completion of construction of the Project, the City shall no less than annually evaluate each project receiving abatement to insure compliance with the terms of the agreement. Any incidents of non-compliance will be reported to the City Council.
11. On or before February 1st of every year during the life of the agreement, any individual or entity receiving a tax abatement from the City of Fort Worth shall provide information and documentation which details the property owner's compliance with the terms of the respective agreement and shall certify that the owner is in compliance with each applicable term of the agreement. Failure to report this information and to provide the required certification by the above deadline shall result in cancellation of agreement and any taxes abated in the prior year being due and payable.
12. If a property in the NEZ on which tax is being abated is sold, the new owner may enter into a tax abatement agreement on the property for the remaining term as allowed by the tax abatement agreement. Any sale, assignment or lease of the property which is not permitted in the tax abatement agreement results in automatic cancellation of the agreement and recapture of any taxes abated after the date on which an unspecified assignment occurred.
13. All Multi-Family, commercial, industrial, community facilities and mixed use tax abatements will be capped at 150 percent of the Capital Investment.
14. Residential owner occupied tax abatements will be capped at the annual median home value as reported by the National Association of Realtors for Tarrant County. This value will be updated annually.

B. APPLICATION REVIEW AND EVALUATION FOR APPLICATIONS

- 1. Property Tax Abatement for Residential Properties, Commercial, Industrial, Mixed Use, Community Facilities and Multi-family Development Projects

- a. For a completed and certified application for no more than five years of tax abatement, with Council approval, the City Manager shall execute a tax abatement agreement with the applicant.
- b. Tax abatement applications will be reviewed by staff prior to submission to the City Council. Commercial, Industrial, Mixed Use, Community Facilities and Multi-family Development Projects must provide evidence of:
 - i. Production of development with no net additional cost to the City while producing a positive economic impact to the tax paying citizens of Fort Worth;
 - ii. Promotion of quality, affordable housing and/or mixed income development;
 - iii. Advancement of high quality development or redevelopment opportunities on nearby or adjacent properties in a manner that supports the establishment of a cohesive, distinctive and walkable district or neighborhood;
 - iv. Effectively leverage private investment;
 - v. Possesses economic gap “but-for”;
 - vi. Furthers community revitalization.

Item E.

2. Consideration by the City Council

- a. The City Council retains sole authority to approve or deny any tax abatement agreement and is under no obligation to approve any tax abatement application or tax abatement agreement. The City of Fort Worth is under no obligation to provide tax abatement in any amount or value to any applicant.
- b. Effective Date for Approved Agreements
 - i. All tax abatements approved by the City Council will become effective on January 1 of the year following the year in which a Certificate of Occupancy (CO) is issued for the qualifying development project (unless otherwise specified in the tax abatement agreement). Unless otherwise specified in the agreement, taxes levied during the construction of the project shall be due and payable.
 - ii. Owners/developers are responsible for informing the City when a certified Project is complete.

C. RESIDENTIAL PROPERTIES LOCATED IN A NEZ- FULL ABATEMENT FOR 5 YEARS

- 1. A homeowner or developer of residential single family property developed for a homeowner, shall be eligible to apply for a tax abatement by meeting the following after certification of the project:
 - a. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable;
 - b. For rehabilitated Real Property Improvements, Eligible Rehabilitation costs on the Real Property Improvements shall be equal to or in excess of 30% of the Base Value of the Real Property Improvements and City Council approval of the tax abatement is granted before improvements are made.

D. MULTI-FAMILY AND MIXED-USE DEVELOPMENT PROJECTS LOCATED IN A NEZ – 100% ABATEMENT FOR 5 YEARS

- 1. A developer of a Multi-Family or Mixed-Use Development Project shall be eligible to apply for a tax abatement by meeting the following after project certification:
 - a. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable.
 - b. For a multi-family development project newly constructed, the project must provide at least five (5) residential living units OR have a minimum Capital Investment of \$200,000;

- c. For a multi-family rehabilitation project, the Eligible Rehabilitation costs on the Real Property Improvements shall be at least 30% of the Base Value of the Real Property Improvements. Such Eligible Rehabilitation costs must come from the rehabilitation of at least five (5) residential living units or a minimum Capital Investment of \$200,000;
- d. Residential uses in a mixed-use project must constitute 20 percent or more of the total Gross Floor Area of the project;
- e. Office, eating and entertainment, and/or retail sales and service uses in a mixed-use project must constitute 10 percent or more of the total Gross Floor Area of the project; and
 - i. A mixed-use development project newly constructed must have a minimum Capital Investment of \$200,000; or
 - ii. For a rehabilitation project, Eligible Rehabilitation costs on the Real Property Improvements shall be at least 30% of the Base Value of the Real Property Improvements, or \$200,000, whichever is greater.

Item E.

2. Multi-family and mixed-use projects must satisfy one of the following:

- a. At least ten percent (10%) of the total residential units constructed or rehabilitated shall be affordable (as defined by the U. S. Department of Housing and Urban Development) and set aside to persons with incomes at or below eighty percent (80%) of area median income based on family size and at least another ten percent (10%) of the total units constructed or rehabilitated shall be affordable (as defined by the U. S. Department of Housing and Urban Development) and set aside to persons with incomes at or below sixty percent (60%) of area median income based on family size;
- b. In addition, at least 5% of the total residential units constructed or rehabilitated shall be compliant with the Americans with Disability Act (ADA) in accordance with Section 504 of the Rehabilitation Act, and must be fully accessible and 2% of the total units constructed must be fully accessible to persons with sensory impairments.

E. COMMERCIAL, INDUSTRIAL AND COMMUNITY FACILITIES DEVELOPMENT PROJECTS LOCATED IN A NEZ – 100% ABATEMENT FOR 5 YEARS

- 1. A developer of a Commercial, Industrial or Community Facilities Development Projects shall be eligible to apply for a tax abatement by meeting the following after project certification:
 - a. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable;
 - b. have a minimum capital investment of \$75,000 for a proposed new construction project; or
 - c. for a rehabilitation project, Eligible Rehabilitation costs on Real Property Improvements shall be at least 30% of the Base Value of the Real Property Improvements, or \$75,000, whichever is greater.

VII. INELIGIBLE PROJECTS

The following Projects or Businesses shall not be eligible for any incentives under the City' of Fort Worth's Neighborhood Empowerment Zone (NEZ) Basic Incentives and Tax Abatement Policy:

- 1. Sexually Oriented Businesses
- 2. Non-residential mobile structures
- 3. Stand-alone bars (Bars as part of a mixed use project may apply for NEZ incentives)
- 4. Single family investor owned projects
- 5. Package stores or liquor stores
- 6. Projects to be constructed on property purchased or to be purchased under a contract for deed

VIII. DENIED APPLICATIONS

Item E.

1. NEZ applications will be denied 30 days after submission if all required or additionally requested documentation is not received by the City.
2. The applicant will have 90 days after the date of denial to resubmit the NEZ application without paying a new application fee.

REFUND OF DEVELOPMENT AND IMPACT FEES POLICY

PURPOSE

This refund policy is for the purpose of establishing the conditions under which the City may refund development and impact fees, normally waived through the Neighborhood Empowerment Zone (NEZ).

APPLICABILITY

Unless expressly accepted, this policy applies to all development and impact fees waived by the City through the NEZ.

CONDITIONS FOR REFUNDS

The City will consider refunds only when circumstances beyond the developers/owners control prevent them from obtaining the certification letter from the Neighborhood Services Department.

A property owner and/or developer may qualify for a refund if the proposed development project meets all criteria to receive a fee waiver under the NEZ Program Basic Incentives and Tax Abatement Policy and:

1. The owner and/or developer was not made aware of the NEZ incentives at the time the fees were paid; or
2. The owner and/or developer was mistakenly told that his/her property was not in a designated NEZ; or
3. The owner and/or developer has put funds in an escrow account with a City Department while awaiting certification of his/her project; or
4. City Council authorizes a City Department to issue a refund to the owner/developer.

REFUND CHARGE

A refund charge will be assessed to help defray administration cost associated with the processing of refund check. The charge shall be 20% of the amount of the refund. This charge will be automatically deducted from the total refund amount.

STATUTE OF LIMITATIONS

Any request, action or proceeding concerning the refund of fees normally waived through the NEZ must be filed within ninety days following the date that the fees were paid. An applicant who does not submit a refund request within 90 days of the transaction shall not qualify for a refund.

To obtain a refund the applicant needs to:

- submit a NEZ application to the Neighborhood Services Department for determination of the eligibility for NEZ fee waivers, and
- submit a written request to the Department in which the fees were paid. Upon receiving a confirmation from the Neighborhood Services Department that the project meets all NEZ fee waiver criteria, that Department shall process the request based on the qualifications discussed in this policy.

EXEMPTIONS

The provisions of this policy do not apply to:

1. Fees that are not waived through the NEZ program;
2. Taxes and special assessments; and
3. City liens such as mowing, board-up, trash, demolition and paving liens.

An applicant shall not qualify for any refund if:

1. The applicant was made aware of the NEZ incentives before he/she pays the fees; or
2. The applicant does not meet the requirements for NEZ incentives at the time he/she paid the fees;
or
3. The applicant paid the fees before the refund policy was put in place; or
4. The applicant paid the fees before the designation date of the NEZ.

DISCLAIMER

In the event of any conflict between the City's ordinances or regulations and this policy, such ordinances or regulations shall control. In the event of any conflict between this policy and other policies or regulations adopted by the City Department issuing the refund, such department policies or regulations shall control. The City reserves the right to deny any or all request for refunds.

Council Policy and Valuation Committee

DEPARTMENT: City Manager's Office
FROM: Janalea Hembree, Assistant to the City Manager
MEETING: August 21, 2024

SUBJECT:

Receive a report, hold a discussion and provide staff direction regarding a possible use policy for the City Hall Annex balcony. (*Staff Contact: Janalea Hembree, Assistant to the City Manager*)

SUMMARY:

The purpose of this presentation is to review existing policies applicable to the City Hall Annex balcony and discuss potential revisions to existing policies or the creation of a standalone policy outlining specific rules of conduct for the balcony.

RECOMMENDATION:

Staff recommends the balcony area be utilized by staff for business purposes in accordance with the existing Building Access Policy. Should special provisions be created for the balcony, staff recommends to revise the Building Access Policy to include special rules of conduct for this area.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A

REFERENCE:

N/A

FISCAL IMPACT:

N/A

STAFF CONTACT:

Janalea Hembree
Assistant to the City Manager
jhembree@burlesontx.com
817-426-9299



Balcony Policy

PRESENTED TO THE CITY COUNCIL

AUGUST 19

Presentation Outline

 Background

 Other Key Burleson Policies

 Policy Components

 Considerations

 Direction



Other Key Burleson Policies


BUILDING ACCESS POLICY
<ul style="list-style-type: none">• Date: August 27, 2018• Key Components:<ul style="list-style-type: none">• Public Access: No member of the public may enter or be present within any public building at any time other than during normal business hours• Restricted Areas: No member of the public may enter an interior area of a city building that is restricted by signage indicated "Authorized Personnel Only"• Area Specific Rules of Conduct: The city may adopt additional rules specific to a particular area.

EMPLOYEE HANDBOOK
<ul style="list-style-type: none">• Date: Revised October 1, 2023• Key Components:<ul style="list-style-type: none">• Chapter 4.8 – Section b:10: An employee of the city shall not use City supplies, equipment, or facilities for any purpose other than the conduct of official city business without proper authorization• Chapter 15 – Drug-Free Workplace: Prohibits alcoholic beverages in the workplace, during working hours, or in a city vehicle.

New Policy Components to Consider

 Eligibility

 Limitations

 Reservations & Application Process

 Prohibited Actions

 Restricted Areas

 Food & Alcohol



New Policy Components to Consider

- Eligibility
 - Council and Staff only
 - Are family and guests allowed
 - Usage and Hours

- Reservations & Application Process
 - Priority & approval process
 - Usage & hours

- Restricted Areas
 - Conference room and balcony are behind doors that state “authorized personnel only”
 - Adjacent to staff offices

- Limitations
 - Conference room occupancy: 28
 - Balcony occupancy: 18

- Prohibited Actions
 - No smoking
 - No alcohol
 - No non-service animals
 - Music & decorations allowed?

- Vision
 - Music
 - Decorations
 - Holidays



Direction & Recommendations

- Staff seeks direction related to the possible establishment of special use provisions for the City Hall Annex and balcony
- Staff recommends that city staff be allowed to utilize the balcony for business use only and within the guidelines established by the existing Building Access Policy
- If the City Council wishes to establish special provisions for the use of the City Hall Annex and balcony staff recommends to revise Building Access Policy to include special rules of conduct for this area

Questions / Comments



MEMORANDUM

TO: All Department Directors and Chiefs

FROM: Dale Cheatham, City Manager

SUBJECT: Building Access Policy

DATE: August 27, 2018

Attached is the revised Building Access Policy.

The Expulsion section was modified to clarify the Department/Police can issue a criminal trespass without prior Deputy City Manager review for a serious matter where immediate attention is required by police. The reporting process should still occur as soon as practical following for the necessary documentation steps.

The policy revision is effective this date. Please familiarize yourself with the policy revision, and share with appropriate personnel.

Building Access Policy

I. Purpose

It is the intent of this building access policy to protect the rights and safety of all citizens and patrons, to protect the rights and safety of city employees and volunteers, and to preserve and protect the city's buildings, facilities, and property.

II. Responsibilities and Procedures

A. *Public Access to City Buildings.* Except as listed below and during certain special events, city owned buildings and facilities are not considered open to the public. Access to city buildings and facilities is therefore generally restricted to employees, volunteers, and invited guests. The following, however, are city buildings for which a portion of the building is unrestricted and open to the public:

1. City Hall (141 W. Renfro St);
2. City Hall Annex-Lobby Only (225 W. Renfro St);
3. Library (248 SW Johnson Ave);
4. Burleson Recreation Center "BRiCK" (550 NW Summercrest Blvd);
5. Service Center Administration Building (725 S.E. John Jones Road);
6. Animal Shelter (775 S.E. John Jones Road);
7. Police Administration Building-Lobby Only (1161 S.W. Wilshire Blvd);
8. Fire Administration Offices;
9. Municipal Court (1131 SW Wilshire Blvd);
10. Hidden Creek Golf Course Clubhouse (555 E. Hidden Creek Parkway); and
11. Senior Activity Center (216 SW Johnson Ave).

B. *Public Access-Hours of Operation.* No member of the public may enter or be present within any public building at any time other than during normal business hours for that building (in general 8:00 a.m. to 5:00 p.m., Monday-Friday, unless otherwise posted). Exception: When a building is open at other hours for a meeting or event at which the public is allowed to attend.

C. *Restricted Areas.* No member of the public may enter an interior area of a city building that is restricted by signage indicating "Authorized Personnel Only" or other similar signage unless accompanied by and with the permission of a city employee or city official.

D. *Public Restrooms.* Restrooms in city buildings are provided for use by employees and members of the public who are conducting business in the building. Restrooms may only be utilized for their intended purpose and for washing of hands and face. Restrooms shall not be used for shaving, bathing, or washing clothes or other items.

Building Access Policy

- E. *General Rules in All Public Areas.* In city buildings, no member of the public may:
1. Engage in any conduct prohibited by federal, state, or local law;
 2. Threaten violence or harm against any city employee, city official, or other member of the public or pose an immediate and imminent danger to any person or property;
 3. Cause noise or engage in conduct that is so disturbing or annoying that it interferes with the ability of city staff to perform their jobs or members of the public to conduct their business;
 4. Continuing to insist that city staff provide a service, explanation or document that city staff has made clear cannot be provided at that time;
 5. Continuing to insist on meeting with a city employee or official and remain in the building after being told that the person is either not available or will not meet with the person;
 6. Obstruct city staff from performing their duties or obstruct other members of the public from completing the business for which they came to the building;
 7. Block public access to any building or office including, but not limited to, the blocking of entrances, exits, or disability ingress or egress.
- F. *Area Specific Rules of Conduct.* The city may adopt additional rules specific to a particular area. For example, the BRiCk may adopt a rule of no running in the area around the swimming pool. Members of the public must follow and abide by all such rules.

III. Violations.

- A. *Application.* Enforcement and consequences for applicable policy violations will be handled in a fair and reasonable manner.
- B. *Authority to Remove.* At the discretion of the department director, city departmental staff has the authority to ask a person to leave a city building for the remainder of a calendar day for violations of this policy or their particular area policies. If such action is exercised, the incident will be reported to departmental management up to the director for awareness and to determine if further action is needed.
- C. *Warning; Removal; Contacting Police.* Members of the public violating this policy will first be asked to refrain from the offending behavior and be advised they will be asked to leave the building if the conduct continues. If the individual fails to comply, staff will ask the individual to leave the building. Finally, if the individual refuses a request to leave, staff will contact the police department for assistance.



Building Access Policy

- D. *Immediate Removal.* A person may be removed from a city building and/or police contacted without prior notice or warning if their conduct or presence poses an immediate danger to person or property.

- E. *Expulsion.* Violation of this policy may lead to further action in addition to removal described above. Upon review of the department director and at the approval of the deputy city manager, a person may be expelled from the premises of a city building, facility, or property, on a temporary or permanent basis, or allowed to return if certain requirements are met. The length of the expulsion shall depend on the following factors: the type of policy violation, the severity of the violation, the number of past violations, the city building being accessed, and the activity conducted in the city building. For severe violations, a person may be expelled permanently or given criminal trespass notification. If the city expels a person from the premises of a city building, facility, or property, a letter from the Deputy City Manager will be sent to the person documenting the policy violation(s), actions taken and expectations, and appeal procedures. This provision is not intended to negate the need for immediate issuance of a criminal trespass by police on scene in sections C and D above; in the event of a criminal trespass issuance by police, Department Staff/Director needs to report as soon as practical to the Deputy City Manager to complete the follow up review and documentation process outlined herein.

- F. *Appeal of Expulsion.* A person expelled or removed from a city building, or restricted in a City building under this policy may request a hearing before the City Manager to contest the expulsion, removal or restrictions. A hearing request must be sent by email or postmarked by mail within 2 business days of receiving the city's letter. A hearing will be held no later than ten days from the date of the hearing request notice.