

**KENNEDALE CITY COUNCIL
AGENDA
REGULAR MEETING
November 7, 2012
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

**WORK SESSION - 5:30 PM
REGULAR SESSION - 7:00 PM**

I. CALL TO ORDER

II. WORK SESSION

**NOTE: Pursuant to Section 551.071, Texas Government Code, the City Council reserves the right to adjourn into Executive Session at any time during the work session or the regular session to discuss posted executive session items or to seek legal advice from the City Attorney on any item posted on the agenda.*

- A. Presentation on the 'Rachel's Challenge' program.
- B. Discuss a petition against on-street parking on a portion of Woodlea Lane.
- C. Presentation and discussion related to an automated meter infrastructure, customer information system, and utility billing system.
- D. Governance discussion and drafting of policies.

III. REGULAR SESSION

IV. ROLL CALL

V. INVOCATION

VI. UNITED STATES PLEDGE

VII. TEXAS PLEDGE

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State under God; One and Indivisible."

VIII. VISITOR/CITIZENS FORUM

At this time, any person with business before the City Council not scheduled on the Agenda may speak, provided that an official 'Visitor/Citizen Request to Speak' Form has been completed and submitted to the City Secretary prior to the start of the meeting. All comments must be directed towards the Council as a whole, rather than individual councilmembers or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.

IX. REPORTS/ANNOUNCEMENTS

In addition to any specific matters listed below, the city council may receive a report about items of community interest, including but not limited to recognition of individual officials, citizens or departments, information regarding holiday schedules, upcoming or attended events, etc.

X. CONSENT ITEMS

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

- A. Consider approval of meeting minutes from September 12, 2012 and October 3, 2012 regular meetings.
- B. Consider amendments to the police department's non-consent wrecker contract.

XI. REGULAR ITEMS

A. CASE PZ # 12-05 to receive comments and consider action on a request by ASE Ice to amend Section 17-421 of the Kennedale city code by adding Ice Sales—Retail to the Schedule of Uses as a permitted use with a Conditional Use Permit (CUP) in the “C-1” Restricted Commercial, “C-2” General Commercial, and “I” Industrial zoning districts.

- A. Staff presentation
- B. Applicant presentation
- C. Public hearing
- D. Applicant response
- E. Staff response

B. CASE PZ # 12-06 to receive comments and consider action on a request by ASE Ice for a Conditional Use Permit as required in Section 17-421 of the Kennedale city code to allow Ice Sales—Retail at 198 E Broadway, legal description of C A Boaz Subdivision Lot 36E, Kennedale, Tarrant County, Texas.

- A. Staff presentation
- B. Applicant presentation
- C. Public hearing
- D. Applicant response
- E. Staff response

C. Consider CASE # PZ 11-06 to review and consider action on an ordinance amending Chapter 12, Section 12-4 and Chapter 17, Sections 17-413A, 17-414, and 17-431 of the Kennedale city code (1991), as amended, by amending regulations governing outdoor display of merchandise and amending definitions.

- A. Staff Presentation
- B. Public Hearing
- C. Staff Response and Summary

D. Consider authorizing the City Manager to execute an agreement with QuikTrip for construction of an entrance sign on Kennedale Parkway.

E. Consider authorizing the City Manager to execute a contract with the Texas Department of Transportation regarding maintenance of city entrance sign within the right-of-way.

F. Consider a resolution to authorize the submission of a grant application to the Texas Department of Transportation related to the program for pedestrian improvements.

XII. EXECUTIVE SESSION

A. The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda and legal issues regarding right of way acquisition.

1. Right of way acquisition related to Link Street construction.

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

XIV. WORK SESSION, CONTINUED

A. Governance discussion and drafting of policies.

XV. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact Amethyst Cirno, City Secretary, at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the November 7, 2012, agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.



Amethyst G. Cirno, City Secretary

Date: November 7, 2012

Agenda Item No: WORK SESSION - A.

I. Subject:

Presentation on the 'Rachel's Challenge' program.

II. Originated by:

Amethyst G. Cirimo, City Secretary and Communications Coordinator

III. Summary:

Kennedale High School will bring this inspiring story and challenge to our students and community on November 14, 2012. In the face of adversity, bullying and negative social messages, Rachel's Challenge brings a message of kindness and hope.

"Each day 160,000 students do not go to school because they are bullied, teased and harassed. By turning the story of a tragic death at Columbine High School into a mission for change, Rachel's Challenge is helping create safer learning environments and making a world-wide impact."

During the school day, we will have an assembly with all students. We are inviting School and Community leaders to the event as well. 100 of our 980 students will continue after the assembly to a Challenge training event. Joining them will be 20 faculty, staff and community leaders.

At 6:30 that same evening, there will be a "community event" in the auditorium for those students, their parents and the community to see the effects of this program.

I have included some links for you to explore this program. I am asking that we have a representative of the school board who will be willing to attend the assembly, the training and the community event. You are all welcome and encouraged to attend the assembly and community event as well.

About Rachel's challenge: <http://www.rachelschallenge.org/big-picture/about-rachels-challenge/>

The community Event: <http://www.rachelschallenge.org/big-picture/programs/middle-school/mscommunity/>

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

1.	PPT	RachelsChallenge.pptx
2.	Flyer	RachelChallengeFlyer.pdf

<http://vimeo.com/33291369>

RACHEL'S CHALLENGE



KENNEDALE HIGH

COMMUNITY EVENT

- Join Kennedale High School to make a difference.
- November 14, 2012
- 6:30 PM in the KHS auditorium

PARTICIPATE

- The student assembly will be November 14
- 10:00 – 11:20
- In the KHS Performing Arts Center
- We would like at least one member to attend and participate in the “challenge”.
- Challenge is 12:55- 2:45
- Then attend the 6:30 Community Event

COMMUNITY EVENT

Come hear the inspiring true story about one girl's dream to change the world.



**RACHEL'S
Challenge**

While her life was tragically cut short during the Columbine High School shooting on April 20, 1999, Rachel Joy Scott's shining example of kindness and compassion was not defeated that day. Come hear the inspiring true story of one girl's dream being fulfilled over a decade after her death. The presentation is a powerful reminder of the little things we can do everyday to make our world a better place.

November 14, 2012

6:30 PM

***High School Auditorium
901 Wildcat Way***

RachelChallenge.org

Date: November 7, 2012

Agenda Item No: WORK SESSION - B.

I. Subject:

Discuss a petition against on-street parking on a portion of Woodlea Lane.

II. Originated by:

Tommy Williams, Police Chief

III. Summary:

A petition has been received from resident Paula Chanel in regards to parking in front of Morrison's Automotive on Woodlea Lane. She has submitted a petition from residents addressing the problem and asking for a no parking zone.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	petition	petition.pdf
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Date: November 7, 2012

Agenda Item No: WORK SESSION - C.

I. Subject:

Presentation and discussion related to an automated meter infrastructure, customer information system, and utility billing system.

II. Originated by:

III. Summary:

Background

Staff has had an ongoing discussion with Global Water representatives to provide the City with a "customer information system with customer care and utility billing with advanced metering infrastructure."

Global Water completed a cost analysis which demonstrates cost savings to the City. Larry Ledbetter, Sakura Dedrick, and Amy Owens met with and toured the Global Water offices in Phoenix. Global Water owns and operates twelve regulated private water and wastewater utilities in Arizona and currently serves the cities of Covina, Grass Valley, Menlo Park, Torrance, Goleta, El Cajon and South Pasadena in California.

A contract with Global Water benefits Kennedale by:

Enable the City to develop and promote a leading edge conservation program.

Improve customer service and elevate the quality of service and management throughout the organization.

Analysis

Global Water proposes providing advanced metering infrastructure and customer care and utility billing services via its FATHOM platform for the City.

Global Water's proposed contract provides the customer care and utility billing services with advanced metering infrastructure for Kennedale for \$8.24 per account per month which is approximately \$257,057 annually based on 2,600 account connections. By way of comparison, the City's current per unit cost for customer care and utility billing and meter reading functions is approximately \$10.68 per account per month.

It is estimated that there is an additional savings, included found revenue, of approximately \$60,000 per year. This will be seen through corrections to the City's data through Global Water's auditing process and decrease bulk water purchases and water and wastewater treatment costs throughout decrease water

consumption.

Improved Customer Service and Utility Billing Services

In addition to the savings, Global Water offers an increased service levels. The Customer Care and Billing component of FATHOM offered by Global Water will allow for an increased service level at a decreased cost. The backbone of Global Water's utility billing system is software that fully-integrates the billing system with the payment and accounting system that creates a seamless transition between its billing, collection, and accounting application. The result integration allows CIS system to:

- Automatically prepare monthly bills to customers via email as well as print mail

- Accept payments on-line over customers' existing Internet bill pay site, via the City's website, via automatic payment applications, via an iPhone application, or by an integrated voice response (IVR) system over the phone

- Allow customers to look at bills on-line, make payments by check, e-check or credit card, update their contact information, and check on their water usage history in a self-serve mode

- Automatically phone potentially delinquent accounts to remind them of the need to pay their bill and provide for IVR payment at the same time

- Allow customers to opt to receive text alerts to remind them of the need to pay their bill

- Route all payments, both received by mail and electronic transfers, to a bank lockbox that processes all remittances and provides an electronic file of payments received that is uploaded into the accounting system without any redundant data entry by utility personnel

- Import all daily transactions into the utility's financial system in an easily audited format

- Provide monthly bill inserts, not including the Annual Water Quality Report

- Provide work orders to City staff in regard to service start and stops and other

No Up-Front Costs for Technology

In the past the City, and cities in general, purchased the software, hardware, and information technology (IT) infrastructure necessary to run their desired operating systems. However, rather than following this paradigm, staff is proposing that the City obtain the functionality of the CIS system by essentially contracting with Global Water for access to their existing CIS system on a per bill basis, which negates any up-front capital outlay, IT infrastructure needs, maintenance contracts, or software upgrade costs. Global Water's server infrastructure is co-located with IBM in a state of the art data center. The architectural plan utilizes CITRIX to deploy applications over the Internet to Global Water and any client utility operations, allowing Global Water to provide access to the system without any geographic limitations.

Global Water would provide the City with user licenses for their proprietary software through a completely turnkey approach. Under this approach, Global Water would provide the following services:

- Provide all required licenses for both server and desktop applications

- Provide all server hardware and desktop hardware, if required

- Covert all data from the City's old billing system to the new CIS system

Develop customized reporting packages specific to the City's requirements

Training for all users

Go-live support and Help Desk support

All software and hardware upgrade for the duration of the contract

On-going IT support

Disaster plan and recovery plan for all applications

Management on third-party billing and mailing

Management on third-party bank lockbox operations

Weekly wiring of funds to the City

Advance Metering Infrastructure

The existing meter population for the City will also be replaced as part of these services. The meters will be upgraded with advanced metering technology that will allow customer to have access to their usage on an hourly basis. This will allow the customers to adjust their water consumption behavior in near real time. In addition, this will eliminate most water loss at the meter. This is a critical step in implementing successful water conservation campaigns as well as the design and implementations of flexible rate structures.

Evaluation of Global Water

Global Water has invested heavily in technology to automate traditionally labor intensive utility operations and processes; to the point that Global Water's utilities are now some of the "greenest," most efficient operations anywhere. This has been accomplished by developing and implementing two key operational components: 1) a state-of-the-art automated billing system that eliminates labor intensive operations and management of the system; and 2) an Advanced Metering Infrastructure (AMI) system which automatically and remotely reads meters, eliminating the need to manually read every meter within the system.

Based on meetings with Global Water, staff believes that Global Water is a good fit for Kennedale. Based on the forgoing and the workshop discussion, it is requested that the City Manager be able to negotiate a contract with Global Water and bring to the December or January meeting for Council consideration and action.

Attached are three documents for further reading.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	1	AMI-CIS Council FAQ - Draft.docx
2.	2	Direct Drive Conservation - WaterWorld, Jan 2012.pdf
3.	3	Why Do We Pay For Water - Water Efficiency Magazine - (Article Only) July-August 2011.pdf

Advanced Metering Infrastructure & Customer Information System

Frequently Asked Questions for City Council



The City of Kennedale is considering selecting Global Water to provide a customer information system (CIS) with utility billing and customer care and to install and operate an advanced metering infrastructure (AMI) system for the City. If selected, this partnership will provide your customers with increased service levels and robust functionality from the CIS, including additional payment methods and increased access to their account and information. The AMI system will provide both you and your customers with increased information on water usage and sets the stage for implementing conservation measures and unique rate structures.

Global Water is excited to work with the City of Kennedale and we look forward to providing you with an innovative, sophisticated and integrated AMI system and CIS that brings heightened efficiencies to your operations.

WHO IS GLOBAL WATER?

Global Water is a water and wastewater utility who owns and operates 12 regulated water and wastewater utility companies with a vision of “Total Water Management.” To achieve this vision, Global Water developed FATHOM™ – an integrated suite of advanced technologies that delivers both increased levels of service for the customer and efficiencies for the utility – to initially support and optimize its own utilities. Through our investment in people, processes and technology, Global Water utilities are some of the greenest, most efficient operations anywhere. With FATHOM, Global Water can now offer this same state-of-the-art technology to the City of Kennedale.

WHY ARE WE UPGRADING TO FATHOM CIS?

The current Customer Information System (CIS) being utilized by the City is antiquated and does not have the ability to support complex rate structures, such as personalized water based budget models. Upgrading a typical CIS requires a large capital outlay to purchase the software, hardware and infrastructure technology (IT) necessary to run the systems. In addition, implementation and configuration on a typical CIS is lengthy process that oftentimes spans years, which both delays the benefits to both the customer and the City.

Global Water FATHOM is not a typical CIS platform. It is a geospatial platform that has the ability to capture the required information to implement complex rate engines. It is also cloud-based, which means there are no additional software, hardware or IT commitments required above a computer with internet access. It also significantly shortens the implementation time to a matter of months. In addition, the data within the system is cleansed, verified and compared to the geospatial mapping tools to ensure that every

Advanced Metering Infrastructure & Customer Information System

Frequently Asked Questions for City Council



customer is billed, every time, perfectly. This can all be provided at a cost lower than is currently being spent by the City to provide these services internally.

WHY ARE WE UPGRADING TO FATHOM AMI?

Currently, water meters throughout the City are read mainly via a drive-by system, however some are read manually. On average, it takes a meter reader approximately 15 days to complete meter reading activities throughout the entire City each month. This means the City and its customers get information on their water consumption just 12 times per year.

With FATHOM AMI, newly installed water meters are read “remotely,” allowing staff to focus on other valuable projects throughout the City. In addition, hourly reads from the meters offer the City and its customers 720 meter reads per month, which is 8,760 reads per year on average. This increased data allows the City to better understand the water consumption habits its customers, extrapolate trends and use this information to evaluate conservation measures and rate structure strategies. In addition, the City’s customers get greater, detailed insight into their own water usage, making immediate adjustments and behavior change possible.

The City will also have access to system analytics to determine meter issues—before it’s time for bills to be sent, including: finalized accounts that are still using water (identifying potential water theft), accounts where the water usage never drops to zero (identifying potential leaks) and normally high volume water users suddenly using significantly less water (identifying potential meter failures).

WHAT ARE THE PROJECT INITIATIVES?

There are three key initiatives for this project:

Paper and Field Audits

The goal of these audits is to ensure every customer’s account is accurate and accounted for in the billing information system. First, the billing system is compared to parcel records and aerial photography to determine which parcels are expected to have service and which are not. The data is also compared to service area boundaries and other information to ensure that the correct billing codes are applied in the system.

Once the paper audit is complete, field technicians are deployed to every meter location to verify the location address, meter number, meter reading, meter size and GPS coordinates as well as take photographs. The field technicians will not have to enter customer homes, but they need to access the water meter wherever it may reside on the property. The data is collected with field computers and

Advanced Metering Infrastructure & Customer Information System

Frequently Asked Questions for City Council



uploaded directly into the new customer service and billing platform. All accounts are 100% accurate and accounted for through the audit processes.

FATHOM CIS Implementation

The objective of this initiative is to provide superior 24 hour customer service, provide customers several new options to pay their bills and set the stage to transition to monthly billing. Global Water will utilize their proven technologies and state-of-the-art customer care center & bill processing facility to provide superior service to the City. The new pay options include credit card or e-check payments via the internet or over the phone with customer service, personal bank bill pay, pay cash in person, mail in a check with the pay stub, or sign up for automatic clearing house (ACH).

FATHOM AMI Implementation

The goal of the implementation is to install a highly accurate water metering device and an automated meter reading system at each meter location in the service area. Field technicians are deployed to every water meter to replace the existing meter with a new meter and electronic endpoint. Solar powered data collection units will be strategically located throughout the City and they communicate with each endpoint several times a day.

In addition to reading the City's meters on an hourly basis, our approach delivers a risk-free opportunity to transform that data into actionable information for your utility. The data analytics associated with AMI from our read management platform allows the City to look into your system, in near real-time, to stop the revenue loss associated leaks and unauthorized use from finaled accounts. The data analytics from the customer presentment side allows the customer to engage and modify their behavior immediately in response to their water consumption. This opens the door for the City to promote successful water conservation programs and potentially personal water-based budget structure.

WHAT OTHER FEATURES DOES GLOBAL WATER OFFER?

In addition to FATHOM AMI and FATHOM CIS, Global Water also offers FATHOM **AMS** – an Asset Management System. This system is integrated to the same database as FATHOM AMI and FATHOM CIS.

The philosophy of the FATHOM AMS platform is simple – repairing failed infrastructure is much more expensive than maintaining it. To that end, FATHOM AMS addresses three main components that directly relate to maintaining your infrastructure – historical system information centrally located for easy access from anywhere, standardized best practices for operations and maintenance, and the ability to update field technicians to the status of work orders and emergency repairs while they are still in the field.

Advanced Metering Infrastructure & Customer Information System

Frequently Asked Questions for City Council



WHAT ARE THE BENEFITS FOR YOUR CUSTOMERS?

The benefits for the City's customers are numerous. City of Kennedale customers can enjoy increased confidence in the measurement of their water consumption and will now have the ability to engage in—and modify access to—their water usage in near real time. They will also receive improved customer care service levels and the availability of additional payment methods as well as providing them the opportunity to manage their own account, including accessing usage history, billing history, payment history and the ability to reprint their bill.

- Accurate bills, every time
- Access to perfect real-time data whenever, and wherever, it's needed
- Ability to identify and report leaks and potential issues *before* the bill is sent
- Multiple payment methods, including:
 - Paperless billing
 - Pay by phone
 - Pay by mail
 - Pay by credit or debit card
 - Pay locally
 - Pay by electronic check
 - Pay by ACH
- Support and management of account via the internet, including:
 - Account Information
 - Payments
 - Review Bill History
 - Review Usage History
 - Report an issue
 - Move in and/or Move out
- Access to customer care call center
 - Staffing will be handle 70% of the call volume within 60 seconds and maintain an abandon rate of less than 5%
 - Emergency afterhours access 24/7
- Access to Global Water FATHOM iPhone and Android application for access on the go

WHAT ARE THE CITY'S BENEFITS OF THIS PROJECT?

Advanced Metering Infrastructure & Customer Information System

Frequently Asked Questions for City Council



The benefits to the City include an instant increase in revenue through the paper and field audits. The City will also see reduced costs through process automation and efficient reporting and tracking capabilities and residents will be experiencing higher levels of customer care. The system also sets the stage for the potential implementation of complex, personal water based budgets that will allow the City to focus on conservation programs without destroying their revenue.

The data available to the City via the AMI system and the associated analytics will give the City greater insight into the operation of their water and wastewater systems. Real time work orders will maximize the efficiencies of City staff and allow the City to provide better service to its customers.

Overall, with FATHOM, the City will see increased revenues, decreased costs, improved service levels and more engaged customers.

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Direct Drive Conservation ? Using Information and Incentives to Save Water

By Graham Symmonds

The evolution of the Smart Grid for Water and rate designs have progressed to the point where utilities can now actively engage consumers in real-time, conscious reduction in consumption. Automated metering systems help water agencies monitor and immediately report water use, dramatically increasing the visibility of water, and providing to consumers the necessary feedback to achieve sustained conservation.

Water scarcity is a looming problem and changing individual behavior to compensate is a key element of sustainability. Unfortunately, the economic value of water and the consumer's experiential understanding of where, when and how they consume water stands in the way. The evolution of the Smart Grid for Water and rate designs have progressed to the point where utilities can now actively engage the end consumer in "direct-drive conservation": the real-time, conscious reduction in consumption.

For the first time water agencies have the ability to monitor and immediately report water use, dramatically increasing the visibility of water, and providing to consumers the necessary feedback to achieve sustained conservation. Further, through effective rate design, consumers can be financially rewarded for conservation.

Editors note: Graham Symmonds is Chief Technology Officer for Global Water Resources, a company that owns and operates regulated water and wastewater utilities and is active in the field of Total Water Management. The company also markets Fathom™ – an integrated suite of technology products designed to bring heightened efficiencies to utility operations.

Messaging

Water conservation has become a major theme of many utilities. Websites and utility customer care centers are replete with exhortations to turn off the tap while brushing your teeth, to stop irrigating your lawn in the rain, to not use your hose as a brush for your driveway. These messages are important but often fall short of measurable impact. Water managers have been so successful in engineering solutions to our water needs that the average consumer not only believes that clean and plentiful water must be available on demand, but they pass not a thought about the complexity of this service. The ignorance of the personal impact each consumer has on our water resources is a major hurdle to sustainability. A shift to a water scarcity message can be more effective in this regard.

Global Water's view is that the volatility of water resources in the face of an increasingly erratic climate system is rapidly driving our past engineering-centered water management policies into obsolescence. To be sustainable, we need to adopt a distributed approach to the demand management – and that means engaging the consumer at a fundamentally more granular level.

Data Granularity

A utility can tell you to the millisecond when a booster pump turned on; however, in many cases it cannot tell you until next month – or the month after, or six months later – where that water went. That's not acceptable. In a world where every drop counts, instantaneous understanding of the entire water system is required.

Further, continuity of revenue is now a major concern for utilities in a time of shrinking population bases and dwindling budgets. And for consumers, that means costs are going up.

Increasing price certainly makes people more aware of their usage. In 2009, Boenning & Scattergood noted: "as with the sudden interest in fuel-efficient cars in the U.S., consumers generally become much more interested in conservation and efficiency when the price of the commodity in question - be it oil or water - becomes high enough to provide that motivation."

In other words, when water is cheap, no one notices. As prices increase, people look to control their consumption. To do so requires data – data that most utilities cannot readily supply. However, given access to highly granular, time-relevant data, consumers can make dramatic changes in consumption. A recent study completed by California State University indicated that through the provision of instantaneous feedback on water consumption, average water consumption reductions in the order of 14% can be achieved.

In addition, subtle societal pressures can be reinforced with access to such data. Robert Cialdini, a psychologist at Arizona State University, recently noted: "People don't recognize how powerful the pull of the crowd is on them... We can move people to environmentally friendly behavior by simply telling them what those around them are doing."

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The Global Water Fathom iPhone application allows utility customers to access near-real-time consumption data and billing information.

To make a rational decision about water use, the consumer needs to have the opportunity to review daily consumption, and make a value decision based on that information. To be successful in reducing consumption, people must be given the "geo-temporal" context of their consumption: where, when and why am I using water.

By employing such a system, the consumer is afforded the opportunity to pause, and ask the questions: "Do I need to use that gallon of water?" and "Am I prepared to incur the costs of using that next gallon of water?"

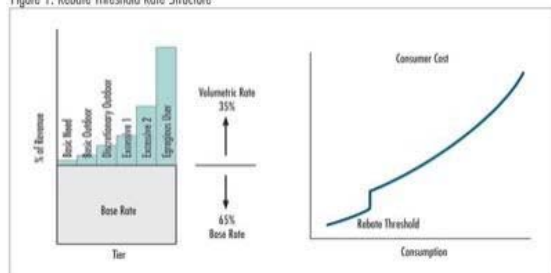
The need for data to make decisions is a well worn business mantra. But it also applies to consumers. Jesse Berst, popular speaker and Smart Grid expert, recently opined "consumers want highly personalized information and they want it at any time on any device – Web, TV, print, smart phone."

It is for this reason that the information presentment options are converging to mobile devices like Global Water Fathom's iPhone application. This application is one of the first commercially available water conservation/consumption data delivery tools for consumers, and allows utility customers to access near-real-time consumption data and billing information.

Pricing

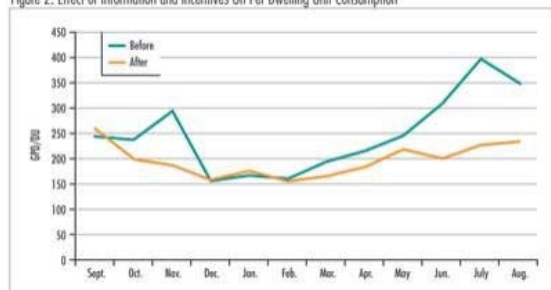
No talk about conservation can exist without an effective pricing mechanism. If water does not have real monetary value, consumers will not conserve. Scott Hempling of the National Regulatory Research Institute notes:

Figure 1: Rebate Threshold Rate Structure



"Rate design is the key to consumer protection. To moderate cost increases, we must moderate the demands that cause costs. Rate design offers the double anti-oxymoron: price increases are consumer protection, because (1) price increases change behavior and (2) behavior change yields lower total costs."

Figure 2: Effect of Information and Incentives On Per Dwelling Unit Consumption



On average, a 10% increase in the marginal cost of water can be expected to reduce residential demand by 3-4% in the short run. In the long term, such an increase could be expected to yield a 6% decrease in demand.

Clearly, price sensitivity to water resulting in demand reductions will reduce utility revenue. A true conservation-oriented rate structure must take into account this revenue destruction that is concomitant with demand reduction.

In Global's case, we developed an innovative rate design that both rewards the consumer for conservation activity, and ensures the financial stability of the utility. This rate design is known as the Rebate Threshold Rate (RTR) structure. The RTR works by adopting three basic elements:

- Volumetric rebate. Any time a customer achieves a consumption level below the Rebate Threshold, the customer is entitled to receive a reduction in volumetric charges (commodity charges). That reduction is typically 45% to 65%. This reduction is shown as a "conservation rebate" on the consumer's invoice.
- Increasing the number and granularity of tiers. An increase in the number and granularity of tiers in the RTR structure ensures that there are a greater number of decision gates presented to the consumer as consumption increases.
- Achieving some measure of rate decoupling by increasing the fixed rate component. By generating approximately 65% of the revenue from monthly base fees, the financial viability of the utility can be assured. This is recognition that the fixed costs do not simply represent infrastructure, but the "operational availability" of infrastructure.

Conclusions

By applying these elements of pricing signals and information to Global's own utilities, we have seen an average sustained reduction in demand of 16%.

The world of water resources management is changing rapidly – scarcity and price increases are a certainty. To adapt utilities must, as Dr. Peter Gleick of the Pacific Institute noted, seek to increase sustainability through "efficiency, smart economics, advanced technology and better governance and water management".

The water utility of the 21st century must not only increase the availability of data, but must get that information out to consumers. In doing so, when combined with the right economics, dramatic and sustained reductions in demand can be achieved. And our natural resources sustained for the future. WW

About the Author: Graham Symmonds is the Chief Technology Officer and Senior Vice President of Regulatory Affairs & Compliance with Global Water Resources. He has a degree in Mechanical Engineering from the University of Toronto and completed post graduate training at the Royal Naval Engineering College in Plymouth UK. He has spent 17 years in the water industry after serving in the Canadian Navy for 9 years.

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WHY DO WE PAY FOR WATER?

Sustained water conservation by combining incentives, data, and rates to affect consumer behavioral change

BY TREVOR HILL AND G. SYMMONDS

ISTOCKPHOTO.COM/F

Water scarcity is a looming problem and changing individual behavior to compensate is a key constituent of sustainability. Behavioral change is a complex task requiring a combination of appeals, information, financial and social influences, and barrier elimination efforts. Implementing these concepts has been notoriously difficult, and it is only recently that advances in data access and presentment have allowed for a program that encourages behavioral change—providing a detailed, highly granular personalized understanding of consumption patterns, which, combined with financial incentives and social pressures, results in sustained resource conservation. Developing a rate design to complement the demand destruction and ensure the financial health of the utility is a vitally important component in achieving sustainability.

WHY DO WE PAY FOR WATER?

In the 13th century, the City of London embarked on the construction of 12 “conduits”—designed to bring water from springs to cistern houses. From these cisterns, the water was piped to larger storage facilities equipped with cocks or taps for dispensing the water. In the early 14th century, it was decided that brewers, cooks, and fishmongers should pay for the water they used at the discretion of the keeper of

the conduit, whose chief duty was to ensure that the water was not stolen for commercial purposes (Hansen). Water “cobs” hand-delivered water on a fee-for-service basis from the cisterns to the City’s residents. Water had acquired “value.”

The growing population soon outstripped the existing conduits, and the polluted Thames River was increasingly less desirable as a source. The solution was to construct the “New River” aqueduct system to bring water from springs in the countryside to the City. This 60-km aqueduct was enormously expensive, requiring significant investment. The king provided half the funds (for which the royal household would receive “for ever the one halfe of the benefitt profit”). A further 29 investors completed the funding and the aqueduct and distribution system was completed in 1613. Water had become a “business.”

But it was not until 1633 that the New River Company began distributing profits to its shareholders. The infrastructure costs far exceeded the carrying capacity of the revenue derived from the system.

These examples demonstrate—from a very early point—the financial complexity of water service provision: Infrastructure is massively expensive; investors demand returns; and ensuring the cost recovery of operating and maintaining delivery systems are essential in sustaining service.

The same holds true today. Water remains the most capital-intensive

utility business in which to operate. The National Association of Water Companies notes that, “for a water utility to earn a dollar, nearly \$3.40 must be invested in infrastructure, an intensity that approaches an average of three times that of other utility sectors” (*Price, Cost, Value*).

THE CERTAINTY OF DEMAND DESTRUCTION

While most municipalities have means for recovering costs for the provision of water service, the underlying rate structures and the principles and goals vary widely. Today, water utilities must operate in the reality of decreasing supplies, increasing costs, and revenue reductions.

Water utilities must now permanently destroy demand to survive resource scarcity. How to do this without also destroying the financial viability of the utility will be the fundamental problem of 21st century utility management. Particularly since the infrastructure requirements for water sustainability (water reuse, dual water mains, control systems, treatment) and water suitability (treatment, etc.) will continue to increase the cost of providing service to consumers.

BEHAVIOR MODIFICATION TOOLS FOR FINANCIAL AND WATER RESOURCE SUSTAINABILITY

Changing behavior is a complex task. Dietz, et al. described this when referring to behavioral changes associated with carbon reduction (Dietz, et al.

2009). The applicability to water conservation is equally as strong. To be successful, water managers will need to touch consumers many times and in many ways:

Mass media appeals and informational programs can change attitudes and increase knowledge, but they normally fail to change behavior, because they do not make the desired actions any easier or more financially attractive. Financial incentives alone typically fall far short of producing cost minimizing behavior. . . . However, *interventions that combine appeals, information, financial incentives, informal social influences, and efforts to reduce the transaction costs of taking the desired actions have demonstrated synergistic effects beyond the additive effects of single policy tools* (emphasis added, Dietz, et al. 2009).

It is clear that to be successful, it is imperative to use the influence of education, information, and incentive packages to change behavior. And they have to be easy to implement and use for the consumer.

While the majority of the reasons to conserve have historically been altruistic, there now exist powerful tangible reasons for conservation, including real scarcity, growing populations, and a desire to reduce costs. Further, if a financial incentive can be developed such that consumers are rewarded for conservation, the untapped power of positive reinforcement can be brought to bear on water use.

However, in many cases, rate designs are such that achieving conservation via increased consumer costs inevitably result in decreasing revenues for the utility. Establishing a rate structure that destroys demand without destroying the utility financially is critical for our water utilities to continue to manage this vital resource.

THE CERTAINTY OF INCREASING RATES

Increasing demand, decreasing quality, increasingly stringent water-quality requirements, deteriorating infrastructure, and the future impact of climate-induced variability are straining water resources and the utility's financial capacity to address them. The cost of acquiring, producing, treating, and delivering water is going up. The result: higher prices for consumers. Ironically, conservation does not mean prices will

decrease for all consumers. Properly capitalized, financially solvent utilities are the cornerstone for the investment we need in a sustainable water future.

The question is whether regulators, or city councils, have the will or the ability to execute on a strategy that brings both financial stability and conservation at the same time. As we know, the result of price increases will be public outcry—but does it have to be? As Scott Hempling of the National Regulatory Research Institute (NRRI) points out, those years-long rate freezes lull the public into thinking rate stability is an entitlement. When, after 10 years of below-cost rates, the commission realigns rates with cost, the following happens:

1. Voters don't offer thanks for the prior windfall; they protest the new levels, loudly.
2. Politicians fan these flames, making rational policymaking difficult.
3. The compromise arrives, usually more pain deferral than pain sharing, thus skirting the underlying problem (the public's lack of acceptance that utility costs, like all costs, rise). What works in politics—mediating between positions—rarely works in regulation, where the midpoint between two wrong answers is a third wrong answer.

The problem is that regulators (be they public utility commissions or City Councils) do not regulate consumers, but utilities. And if conservation is a public interest goal, they must provide the incentives to consumers *through utilities*. Part of that program is getting the prices and price signals right so as to eliminate waste, but also to serve the competing goals of consumer protection, utility financial stability and achieving water sustainability.

Hempling continues: "Rate design is the key to consumer protection. To moderate cost increases, we must moderate the demands that cause costs. Rate design offers the double anti-oxymoron: price increases are consumer protec-

tion, because (1) price increases change behavior, and (2) behavior change yields lower total costs" (Hempling 2009).

PRICE ELASTICITY OF WATER

One of the conundrums of developing conservation oriented rates is the fact that at current prices, demand is unresponsive to price. However, Olmstead notes that any estimate of price elasticity "represents an elasticity in a specific range of prices." That is, if the total cost is low, the response to increasing costs will be low. As prices increase—and they surely must—responsiveness increases. This presents some interesting rate design issues, as elasticity will begin to occur at higher tier levels within the same classes of consumers.

In general, the long-term impacts of price elasticity are greater than the short-term elasticity. This is a result of the time required for consumers to react to the implementation of higher rates and to the completion of the necessary modifications (behavioral and infrastructure) to achieve reductions in consumption. For example, if a large step-function increase in rates is applied, consumers may immediately be able to reduce some discretionary consumption, resulting in a dip in demand. However, to complete the reaction, in some cases retrofitting fixtures, replacing landscaping, increasing internal water reuse will occur, and that process will take time.

On average, a 10% increase in the marginal cost of water can be expected to reduce residential demand by 3-4% in the short run. In the long term, such an increase could be expected to yield a 6% decrease in demand (Olmstead).

Clearly, price sensitivity to water resulting in demand reductions will reduce utility revenue. A true conservation-oriented rate structure must take into account this revenue destruction that is concomitant with demand reduction.

RATE TUNING—THE CARROT AND STICK

The Rebate Threshold Rate (RTR) structure allows for utilities and regulators to tune rates to achieve specific objectives. For instance, the rebate threshold can be incrementally lowered to drive consumption down. Or the granularity of tiers can be altered to ensure that lifeline water supplies always remain within access for

Continued on pg. 51...



Rebate Threshold Rate Structure

Today, the altruistic desire to conserve is being overtaken by real practical requirements. Water scarcity, dwindling historic supplies, environmental diversions, population growth, and regulatory requirements are all conspiring to send a clear message—use less water tomorrow, and even less the day after that. However, the decisions that drive conservation are most often based on economic factors at the household level. The Rebate Threshold Rate (RTR) structure is designed to reflect this reality and to maximize the behavioral change opportunities for consumers. This is achieved by the adoption of three basic elements in the RTR:

- Volumetric Rebate and increasing volumetric charges in higher tiers to compensate;
- Increasing the number and granularity of tiers; and
- Achieving some measure of rate decoupling by increasing the fixed-rate component.

VOLUMETRIC REBATE

The volumetric rebate allows for residential customers who achieve real, immediate reductions in water consumption to realize an immediate reduction in their volumetric charges. Any time a customer achieves a consumption level below the Rebate Threshold, the customer is entitled to receive a reduction in volumetric charges (commodity charges). That reduction is typically 45% to 65% (figure 2). This

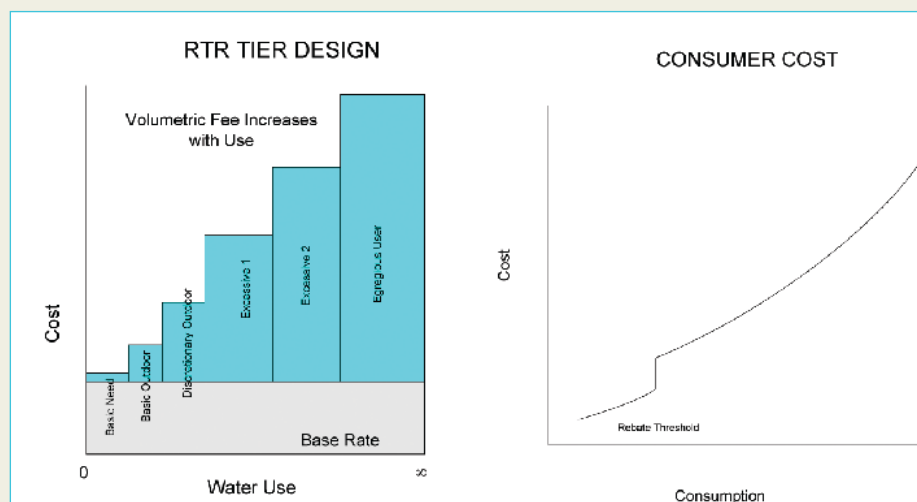


Figure 2: Rebate Threshold Rate structure

consumption for a specific period, and remains static between changes in rates, but it could easily be tuned annually or as desired. As water elasticity occurs over longer timescales, it is important to allow people sufficient time to develop personal water management techniques and practices to maximize their benefit.

A key supporting element of the RTR rate design is consumer feedback with sufficient granularity for the consumer to make changes in near-real time to control their costs.

VOLUMETRIC TIERS

An increase in the number and granularity of tiers in the RTR structure allows customers to manage their usage, even if they are not below the Rebate Threshold and still achieve meaningful

two or three-tier rate structure in an IBR design. The downside is that by limiting rate design to two or three tiers, those tiers are by necessity broad, limiting the ability for customers to manage their consumption in a cost avoidance manner. This means that customers have fewer opportunities to manage themselves to a lower tier. In addition, the financial incentive for conservation in an IBR design ends far below a customer's consumption, meaning there is no increased marginal cost to carry on with that behavior-modifying activity.

Increasing the number of tiers offers a number of “gates” through which the consumer has the option of passing, or not, placing the control of the consumer's volumetric costs squarely in the hands of the consumer. In the case of a two- or three-tier system, the gates are passed too quickly and with little fanfare. The incentive to conserve through the traditional two- or three-tier price points is lost immediately upon entering the final tier. With a six-tier design, customers have an incentive to think about different water price points throughout the consumption spectrum (figure 2).

In a six-tier RTR system, with the tiers established across effective thresholds, the customer has an opportunity, through active management, to maintain his or her consumption in a lower tier, and receive the benefit of the lower rate. Also with a six-tier system, finer modifications to rates can be achieved, saving

The decisions that drive conservation are most often based on economic factors at the household level.

reduction is shown as a “conservation rebate” on the consumer's invoice.

The rebate threshold is established at a percentage of the average residential

cost reductions. Further, it ensures that there are greater financial disincentives as water use increases.

Today, utilities typically employ a

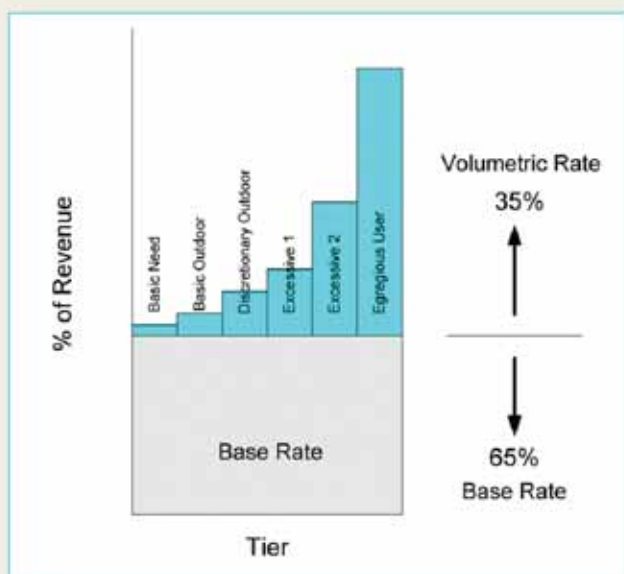


Figure 3: Rebate Threshold Rate structure revenue allocations

customers money, and reinforcing the conservation message. Tiers can also be tuned to specific users, if desired, building on the “individuality” of the water budget-based rate structure.

REVENUE DECOUPLING

The Monthly Minimum Charge (or base rate or basic charge) allows the utility to effect meaningful, measurable and repeatable resource conservation without the implosion of utility revenue. Historically, support for conservation in the water utility business has been suspect: the utility knows that by encouraging its customers to use less, there is a real chance of revenue reduction, and potentially a conflict with “used and useful” doctrines as infrastructure may be seen as “unnecessary” in the context of a reduced demand.

To achieve conservation goals, we must break the cycle of selling more water. By allowing for the recovery of fixed costs with a bias toward the monthly minimum, we can achieve both goals.

From a theoretical economic perspective, the provision of water service can be separated into infrastructure (fixed) and delivery (variable) costs. In practice, the dividing line is not as neat. Nor should it be, particularly as the goal of rates shifts from specific cost recovery, to behavioral modification for the purposes of resource management.

to encourage conservation, because a reduction in use means an immediate reduction in revenue. Further, there is no incentive for the utility to invest in replacing aging infrastructure.

Clearly, if the bias is toward 100%

Attempting to definitively separate infrastructure and delivery costs can lead to some unintended consequences. As utility plant depreciates, there can be a tendency for regulators and city councils to reduce the “fixed” component of water rates (with the belief that full cost recovery has been achieved) and recover more utility costs through the “variable”, or volumetric component. Under this condition, the utility loses its incentive

cost recovery via monthly minimum charges and no increasing commodity rate, there is no incentive for the consumer to conserve. Conversely, biasing rate structures to recover all costs via the commodity rate creates a strong economic disincentive for the utility to promote water conservation. By establishing a reasonable apportionment of costs to the monthly minimum and the commodity costs, both goals are achieved.

By generating approximately 65% of the revenue from monthly base fees (figure 3), the financial viability of the utility can be assured. This is a key differentiator between the RTR and standard rate designs. The RTR design requires that the higher users contribute more as a function of consumption, but also that more of the revenue is achieved through the fixed component. This is a recognition that the fixed costs do not simply represent infrastructure, but the “operational availability” of infrastructure.

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The primary purpose of any rate design is that it generates the necessary revenue for the utility in a manner that is fair and based on the cost of providing service (Rubin 2010).

Various forms of rate structure have been developed and employed, not all of which satisfy Bonbright's and Phillips' effective rates criteria. In municipal applications, water service has been provided under many differing cost recovery mechanisms, notably:

- Free
- Fixed Fee (no volumetric rate)
- Uniform Rates (fixed base rate + static volumetric rate)
- Declining Block Rates (fixed base rate + decreasing volumetric rates)
- Pyramid Rates (fixed base rate + increasing volumetric rates for small users and decreasing volumetric rates for larger users)
- Inclining Block Rates (fixed base rate + increasing volumetric rates)
- Water Budget-Based Rates (based on housing population and landscaping)

Free Water

Clearly free water is no longer an option—although it still exists in many jurisdictions. And in reality, it has never been free to constituents as the costs of operating any municipal infrastructure are recovered through some revenue stream. The primary problem with free water is that it perpetuates the invisibility of water while simultaneously reinforcing the myth that water is ubiquitous and continuously available.

Fixed Fee

Prior to metering (and in some cases even with metering), water charges were assessed on a flat fee structure. All consumers paid the same fees regardless of usage (e.g., \$20 per month). While this has the benefit of generating revenue for the utility and increasing the awareness of water for the general public, there is no incentive for the consumer or the utility to reduce usage.

Uniform Rates

Uniform rates provide for a small “fixed” fee with a non-variable volumetric charge. This rate structure provides no incentive

All of the “standard” rate designs suffer from significant shortfalls when it comes to encouraging conservation while preventing utility financial distress.

to conserve (that is, there are no additional charges for using more), and the small fixed component drives the utility to encourage consumption as a means to ensure revenue or even to generate incremental revenue.

Declining Block Rates

Declining block rates are employed to provide volumetric breaks to large consumers under the premise that the marginal cost of providing large amounts of water to a small number of users is lower than providing the infrastructure, operations and maintenance for a large number of lower consumption users.

However, in many cases, large water users can actually define a system's necessary capacity (and thus the cost of the system's infrastructure.) As an example, if you consider that a large industrial consumer may demand short periods of 2000 gallons per minute, this is the equivalent of the peak hour flow from 3400 single family dwellings. Notwithstanding that the demand may be intermittent, the infrastructure needs to be there.

Regardless, the declining block model encourages the consumer and the utility to increase consumption—the consumer because his or her marginal cost declines with use, and the utility must sell more water at a lower cost to ensure the revenue requirement is met.

Pyramid Rates

Pyramid rates combine Inclining Block Rate structure and Declining Block Rate structures in an attempt to eliminate the detrimental aspects of each. In this case, consumers are charged higher volumetric rates as consumption increases to a specified point, and then volumetric costs decrease.

Such a system does not promote conservation for the higher consumer. Wang notes “It is likely not accurate, however, to consider pyramid block rates to be water conservation-oriented rates, as they result in the highest consumers

within the commercial class paying less per unit than those who use less” (Wang, Smith, and Byrne 2005).

Inclining Block Rates

With inclining block rates, more consumption means higher cost. While recognized as a water conservation rate structure, the Inverted Block Rate (IBR) structure encourages the utility to maintain consumption levels because the marginal revenue decrease from conservation occurs at the higher rate. In addition, IBRs are typically designed with low price signals (that is small tier increments) and broad tier ranges that lose effectiveness quickly in the consumption spectrum.

Water Budget-Based Rates

Water budget-based rates define “normal” usage for a particular property based upon actual water use, size of meter and the customized water budget for the property. Consumers whose water use remains within their water budgets are billed the lower rates, and consumers who exceed their budgets are billed at higher consumption rates.

The water budget is calculated for residential customers based upon surveys conducted of each customer's lot size and landscaped area, the number of residents in each home and localized weather data. Water budgets change with seasons. For commercial applications, water budgets are established on rolling averages of use.

A key difficulty in establishing water budgets is the necessity to frequent and up-to-date property information with respect to population and landscaping, increasing manpower commitments to manage the program.

SUMMARY

All of the “standard” rate designs suffer from significant shortfalls when it comes to encouraging conservation while preventing utility financial distress. A new form of rate design, the tunable RTR structure, alleviates these problems.

low-income households. Or the utility can establish tier levels to derive more revenue from egregious users to fund conservation infrastructure projects. Or the utility can fine-tune the “gates” for individual users.

As an example, if a utility desires to fund conservation infrastructure (e.g., recycled water distribution systems, Smart Grid for Water installation, etc.), it can increase the cost of higher tier water (tiers 4, 5, and 6) while maintaining lower tiers to ensure accessibility to water for all.

Alternatively, a utility may wish to reduce overall demand due to dwindling resource availability. In this case, the utility can shift the rebate threshold to a lower volume, providing an economic incentive for all users to reduce demand. Users around the rebate threshold will adjust usage to maintain their economic incentive, and users above the threshold will adjust usage to remain in lower cost tiers (figure 1).

DATA REQUIREMENTS

To be effective, the RTR structure requires that consumers be afforded access to highly granular, near-real-time data. The consumer needs to have the opportunity to review daily consumption, and make an economic decision based on that information. But equally important is the data presentment or in Dietz’s parlance, “informal social influences.” To be successful, a conservation program must get the data out to customers and make the change financially beneficial to the consumer. But even further, people must be given the “geotemporal” context of their consumption:

- How much water do I use?
- How do I fare compared to my street, my neighborhood, my city?
- How much water should I use?
- Based on weather data and evapotranspiration calculations—how much should I have used outside?

Robert Cialdini, a psychologist at Arizona State University, recently notes, “People don’t recognize how powerful the pull of the crowd is on them. . . . We can move people to environmentally friendly behavior by simply telling them what those around them are doing” (Simon 2010).

A recent study completed by California State University indicated that

through the provision of instantaneous feedback on water consumption, average water consumption reductions in the order of 14% can be achieved (Schultz).

Combining price structure and appropriate signals, financial incentives, information, and subtle societal

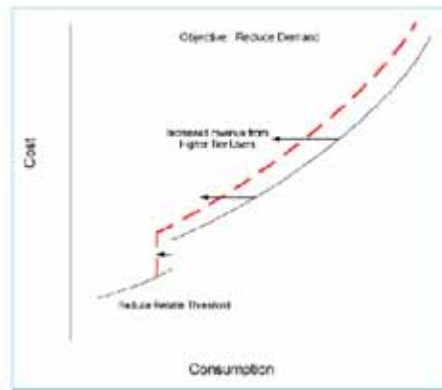


Figure 1: Adjusting demand with the Rebate Threshold Rate structure

pressures, consumer behavior can be altered to the point where he or she asks the questions: “Do I need to use that gallon of water? And, “Am I prepared to jeopardize my financial incentive to use the next gallon of water?”

CONCLUSIONS

The cost of water is going up while the availability of the resource is declining. In order to facilitate the survival of our natural resources, and our water utilities, a new pathway on rate design and cost recovery needs to be developed. The RTR structure allows communities to determine conservation goals and tune rates to achieve them, while ensuring the financial stability of the water utility. By employing education, incentives, and information in easily digestible and actionable forms, utilities can achieve sustained, meaningful reductions in demand, water sustainability, and financial sustainability. **WE**

Trevor Hill is president and CEO at Global Water Resources. G. Symmonds is the senior vice president of Regulatory Affairs and Compliance and Chief Technology Officer of GWRI.



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Date: November 7, 2012

Agenda Item No: WORK SESSION - D.

I. Subject:

Governance discussion and drafting of policies.

II. Originated by:

Amethyst G. Cirimo, City Secretary and Communications Coordinator

III. Summary:

At this time the Council will continue an ongoing discussion of governance with the city manager.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Date: November 7, 2012

Agenda Item No: CONSENT ITEMS - A.

I. Subject:

Consider approval of meeting minutes from September 12, 2012 and October 3, 2012 regular meetings.

II. Originated by:

Amethyst G. Cirimo, City Secretary and Communications Coordinator

III. Summary:

Please see the attached minutes

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	September Minutes	09.12.2012 CC Minutes.doc
2.	October Minutes	10.03.2012 CC Minutes.doc

**KENNEDALE CITY COUNCIL
MINUTES
REGULAR MEETING
September 12, 2012
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

I. CALL TO ORDER

II. WORK SESSION

A. Presentation from the KISD School Health Advisory Council.
April Coltharp presented information on this topic, noting that many sidewalks near Kennedale schools were in disrepair or were nonexistent. She also noted that the school and the advisory council were looking into grant funding through the Safe Routes to School federal program.

B. Policy Governance Overview

Bob Hart approached the Council to discuss a variety of policy governance issues, including the basic framework of good governance. The Council noted that they would prefer to hold two meetings per month, one dedicated governance workshop and one regular meeting.

Mayor Clark asked that the agenda items to discuss the YAC and the board appointment process be discussed at the next regular meeting, due to time restraints.

C. Revenue Rescue discussion within fire-rescue-hazmat services

Representative from Revenue Rescue described the details of this program to the Council, noting that it allows fire departments to collect revenue from certain types of responses through appropriately filed insurance claims. Collections through this program are made directly through insurance companies and not through residents.

III. REGULAR SESSION

IV. ROLL CALL

Present Frank Fernandez, John Clark (Not Voting), Kelly Turner, Liz Carrington, Charles Overstreet, Brian Johnson

V. INVOCATION

VI. UNITED STATES PLEDGE

VII. TEXAS PLEDGE

VIII. VISITOR/CITIZENS FORUM

Two residents signed up to speak.

1. Thomas Chapman of 1317 Meadowview Drive approached the Council to ask about recycling. Bob Hart noted that many options had been looked at regarding curbside recycling and that the city revisits that topic each year when the contract is renewed. Mr. Chapman also noted that the recycling drop-off locations were constantly overfull and that he would like to see larger containers.
2. Charles Robeson of 213 Broadway Street, a 27 year resident, approached the council regarding small businesses, noting that he would like to see new businesses in town as well as encouragement of current businesses to keep them in town. He would also like to see a buy local campaign in the city.

IX. REPORTS/ANNOUNCEMENTS

- A. Updates and information from the Mayor.
There were no updates.
- B. Updates and information from Councilmembers.
There were no updates.
- C. Updates and information from the City Manager.
There were no updates.

X. CONSENT ITEMS

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

- A. Consider approval of minutes from August 9, 2012 regular meeting.
- B. Consider authorizing the City Manager to sign an amended interlocal agreement renewal with Tarrant County for the Little School Road Project.
- C. Consider authorizing the City Manager to sign an amended interlocal agreement renewal with Tarrant County for the Sublett Road Project.
- D. Consider authorizing the City Manager to sign an interlocal agreement with Tarrant County for the reconstruction of Kenney Street.
- E. Consider authorizing the City Manager to sign an interlocal agreement with Tarrant County for the reconstruction of Sulphur Street.
- F. Consider resolution establishing energy conservation goals as required by Texas Health and Safety Code.

Councilmember Johnson asked that item A be removed and considered separately.

Motion Approve the consent agenda items B through F as presented. , **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Charles Overstreet
Motion Passed Unanimously

Motion To amend the August 9, 2012 minutes with the correction that the vote to move Darrel Dixon and Jeff Madrid to regular seats on the Board of Adjustment passed unanimously. , **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Charles Overstreet
Motion Passed Unanimously

Motion Approve the August 9, 2012 minutes as amended. , **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Charles Overstreet
Motion Passed Unanimously

XI. REGULAR ITEMS

A. Public hearing to receive input on the Fiscal Year 2012-2013 Proposed Budget.

1. Staff Presentation

Bob gave the council an overview of the budget, mentioning key projects and areas for the next fiscal year

2. Public Hearing

One individual chose to speak.

Hollis Mathews 1252 Emerald Drive approached the council, noted that great things were happening in the City. He acknowledged the amount of work that the Council had done on the budget this far. He was displeased with several aspects of the budget, including general fund balance, potential unsustainability, He asked that the Council being to conduct a quarterly evaluation of the budget, adjust their strategies as needed throughout the year, re-evaluate technological needs with regard to staffing, and pay particular attention to insurance on city equipment.

No one else signed up to speak, and Mayor Clark closed the public hearing.

3. Staff Response and Summary

No staff response was necessary. Bob Hart mentioned that the official vote on the budget and the tax rate would occur at 6:00 PM on Wednesday, September 19.

B. Discuss and consider an ordinance amending the city's schedule of administrative fees.

Finance Director Sakura Dedrick noted that there were five changes in the fee schedule.

- A. Dolores Garza Chesapeake Energy 100 Energy Way Fort Worth Texas 76102, asked to speak to the Council. She provided a letter to Council and asked that council consider lowering well permit fees instead of raising them.

City attorney Wayne Olson noted that fees had to be based on administrative costs and not regional costs. Bob Hart and Rachel Roberts noted that the city recommends moving to a fixed cost versus the old sliding scale in order to be more efficient and transparent.

Motion to approve the recommended updates to the administrative schedule of fees. , **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Frank Fernandez

Motion passed unanimously.

C. Consider authorizing the City Manager to execute a new contract with Intermedix for emergency medical service billing.

Fire Chief Mike McMurray approached the council, noting that this item was related to discussions that were held during the budget workshop.

Paul Crawford from Intermedix approached the council, noting that the proposed Centers for Medicare and Medicaid Services (CMS) amendment to the contract would allow for increased collection.

Motion to authorize the City Manager to rescind the 2008 letter and by doing so remove the CMS directive from the contract with Intermedix. , **Action** Approve, **Moved By** Frank Frenandez, **Seconded By** Charles Overstreet
Motion passed unanimously.

D. Review draft concept plan for the Oak Crest area and consider sending the plan to the Planning and Zoning Commission for review and adoption.

Bob Hart approached the Council regarding a new potential plan for the Oak Crest area. The plan includes opening a new street in the middle and linking other streets. This is intended to increase the potential for retail and other business in that area. Bob noted that a variance would be needed in order to deal with QTs driveway, and would likely pass due to the severe topographical restrictions of the area.

Motion to send the draft Oak Crest concept plan to the Planning and Zoning Commission for review , **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Charles Overstreet
Motion passed unanimously.

E. Public hearing on Case # PZ 12-02, a request by Cynthia Sasedor for a zoning change from "C-1" Restricted Commercial and "R-2" Single Family Residential to "PD" Planned Development District for approximately 2.5 acres at an unaddressed parcel at Little School Rd and Potomac Pkwy located in the M P Lamar Survey A987, Kennedale, Tarrant County, Texas. *(This application has been withdrawn by the applicant and no action will be taken at this time)*

Motion to accept the applicant's retraction related to PZ Case #12-02. , **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Kelly Turner
Motion passed unanimously.

F. Public Hearing on Case PZ 12-03, to consider action on an ordinance prohibiting the development of gated communities by amending the subdivision regulations of the City of Kennedale.

1. Staff Presentation

Rachel Roberts noted that this item was tabled at the last meeting. She reiterated that the ordinance fell in line with the comp plan and was backed by a broad range of national research. This ordinance would not affect any existing gated communities.

2. Public Hearing

Mayor Clark opened the public hearing. One speaker signed up to speak.

Roy Boening of 1020 Kennedale Sublett Road noted that his research indicated that people

like to live in these types of communities and that gated residential areas are not contrary to community development. He noted that he had recently read that a majority of new subdivisions were constructed as gated communities and that the city may be losing out on new development by passing this ordinance.

No one else signed up to speak and the public hearing was closed.

3. Staff Response and Summary

Bob Hart noted that prohibiting gated communities would also lessen costs in terms of money needed to include the building and maintenance of additional collector streets.

Rachel Roberts noted that development in Kennedale had recently increased that that a lack of gated communities did not appear to deter development at this time.

4. Action by the City Council

Motion to pass an ordinance prohibiting the construction of gated communities. , **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Liz Carrington

Ayes:, Kelly Turner, Liz Carrington, Charles Overstreet, Brian Johnson

Nays: Frank Fernandez

Motion passed (4-1)

G. Consider adopting standard parliamentary procedures and implementing those procedures for all city boards and commissions.

City attorney Wayne Olson noted several small changes in wording. The council asked that these changes be brought back at the next meeting.

Motion to table action on new parliamentary procedures . , **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Kelly Turner

The motion passed unanimously.

H. Consider amendments to the Arts and Culture Advisory Board Ordinance.

Bob Hart noted that amendments to this ordinance included allowing for one member to be from the Chamber of Commerce and one member to be from within the Kennedale boundaries or the KISD boundaries.

Motion to approve amendments to the Arts and Culture Advisory Board Ordinance . , **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Charles Overstreet

The motion passed unanimously

I. Consider appointments to the Arts and Culture Advisory Board.

Motion to table appointments to the Arts and Culture Advisory Board . , **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Kelly Turner

The motion passed unanimously.

J. Consider appointments to the Board of Adjustment/Building Board of Appeals.

Motion to table appointments to the Arts and Culture Advisory Board . , **Action** Approve, **Moved By** Frank Fernandez, **Seconded By** Brian Johnson

The motion passed unanimously.

K. Consider casting votes for the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election.

Bob Hart recommended that the Council consider casting votes for the following incumbents:

Place11 Greg Ingham, Place12 Larry Gilley, Place 13 Byron Block, Place 14 Pat Norriss.

Motion to cast votes for Greg Ingham (Place11), Larry Gilley (Place12), Byron Block (Place 13), and Pat Norriss (Place 14) to the Texas Municipal League Intergovernmental Risk Pool Board of Trustees. , **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Kelly Turner
The motion passed unanimously.

L. Consider approving updates to the City of Kennedale Employee Handbook.

Kelly Cooper approached the council, noting that bot the Kennedale Action Team and the management team had been active in the amending of this new handbook. The handbook was brought up to date legally and in terms of the new Kennedale organizational culture.

Motion to approve updates to the Kennedale Employee Handbook , **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Liz Carrington
The motion passed unanimously.

The Council entered executive session at 10:00 PM.

XII. EXECUTIVE SESSION

A. The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda and legal issues regarding amortization of nonconforming uses.

1. Consultation with city attorney regarding amortization.
2. Consultation with city attorney regarding TIRZ conflict of interest.

B. The City Council will meet in closed session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property for the following:

1. 1125 W Kennedale Parkway

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

The council reconvened into open session at 11:07 PM.

No action pursuant to executive session was necessary.

XIV. ADJOURNMENT

Motion Adjourn. , **Action** Adjourn, **Moved By** Brian Johnson, **Seconded By** Kelly Turner
Motion Passed Unanimously

The meeting was adjourned at 11:09 PM.

APPROVED:

Mayor John Clark

ATTEST:

Amethyst G. Cirno, City Secretary

**KENNEDALE CITY COUNCIL
MINUTES
REGULAR MEETING
October 3, 2012
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

I. CALL TO ORDER

Mayor Clark called the work session to order at 5:30.

II. WORK SESSION

A. Presentation from the Youth Advisory Council.

Representatives from the YAC presented information to the Council regarding a potential restructuring of YAC membership to include members from Fellowship Academy school.

B. Discuss participation in Rachel's Challenge with KISD.

There was no speaker for this item and it was not discussed.

C. Discuss water metering system options.

Bob Hart and Amy Owens approached the council regarding new technologies related to water utilities and smart meters, noting that as general water scarcity increases, reductions in water usage and cost will be increasingly important. The city is currently exploring options.

D. Discuss governance workshop schedule.

Council set the following schedule for an upcoming series of governance workshops:

- October 10, 2012 at 7:00 PM
- November 29, 2012 at 5:30 PM

III. REGULAR SESSION

IV. ROLL CALL

Present Frank Fernandez, John Clark (Not Voting), Kelly Turner, Liz Carrington, Charles Overstreet
Brian Johnson.

V. INVOCATION

VI. UNITED STATES PLEDGE

VII. TEXAS PLEDGE

VIII. VISITOR/CITIZENS FORUM

One speaker signed up for the forum.

1. Michael Chandler from the Keep Kennedale Beautiful Commission approached the council to announce the 'Bring It' recycling event to be held in TownCenter Plaza on October 20th from 9:00 AM – 12:00 PM.

IX. REPORTS/ANNOUNCEMENTS

A. Updates and information from the Mayor.

Mayor Clark asked council to volunteer to assist during junior high sports events.

B. Updates and information from Councilmembers.

Brian Johnson noted that the Art in the Park would be held on April 5, 6, and 7 of 2013. The next meeting of the Art in the Park Committee is scheduled for October 16.

He also noted that Mayor Clark would be presenting the 'State of the City' address at the Chamber of Commerce luncheon on October 17th.

C. Updates and information from the City Manager.

Bob Hart noted that the Christmas Tree lighting would be held on December 4th, 2012.
There will be a bird identification workshop on October 6th as well as the citywide cleanup.

X. CONSENT ITEMS

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

A. Consider approval of Fort Worth Wholesale "Water" Customer Advisory Committee (WCAC) Members.

B. Consider approval of Fort Worth Wholesale "Wastewater" Customer Advisory Committee (WCAC) Members.

C. Consider a resolution authorizing participation in various cooperative purchasing programs.

D. Consider a resolution adopting an amended City of Kennedale Identity Theft Prevention Program Policy.

E. Consider a resolution adopting an amended City of Kennedale Grant Submission & Acceptance Policy.

F. Consider a resolution adopting an amended City of Kennedale Fraud Policy.

G. Consider a resolution adopting an amended City of Kennedale Unclaimed Property Policy.

H. Consider a resolution adopting an amended City of Kennedale Purchasing Policy.

I. Consider a resolution adopting an amended City of Kennedale Procurement Card Program Policy.

J. Consider a resolution adopting an amended City of Kennedale Investment Policy.

K. Consider a resolution adopting an amended City of Kennedale Internal Controls & Cash Handling Policy.

L. Consider a resolution adopting an amended City of Kennedale Financial Management Policy.

Motion Approve the consent agenda as presented. , **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Kelly Turner.
Motion Passed Unanimously

XI. REGULAR ITEMS

A. Consider authorizing the City Manager to execute a renewal contract with Progressive Waste Solutions for waste hauling services.

Bob Hart noted that the city has been using this company for the past 5 years. The contract allows for two 5-year extensions which the city recommends. The new contract provides for an annual donation to the Keep Kennedale Beautiful Commission.

Councilmember Carrington asked that the issue of recycling be placed on a future agenda for discussion.

Motion Authorize the City Manager to execute a contract renewing service with Progressive Waste Solutions. , **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Liz Carrington.
Motion Passed Unanimously

B. Consider awarding the 38th Year CDBG contract to R&D Burns Brothers, Inc. and supplemental Funding Approval.

Larry Ledbetter approached the council, noting that the city plans on replacing sanitary sewer on Municipal Drive and is completing the required steps to do so through the CDBG program.

Motion Authorize the 38th Year CDBG contract to R&D Burns Brothers, Inc and approving supplemental funding. , **Action** Approve, **Moved By** Liz Carrington, **Seconded By** Kelly Turner.
Motion Passed Unanimously

C. Consider approval of the concept plan for the Oak Crest area.

Recommendations from the Planning and Zoning Commission included renaming Link Street to Kennedale Street and expanding the plan area to the entire area currently encompassed by Fort Worth Tower, Inc, and to convert the area currently noted as park and ride to office space. After careful consideration, staff does not recommend these proposed changes to the original plan.

Motion Approve the concept plan for the Oak Crest area as originally presented by staff . , **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Charles Overstreet..
Motion Passed Unanimously

D. Consider appointments to the Kennedale Economic Development Corporation.

Motion to reappoint Pat Turner to Place 2 on the Economic Development Corporation, , **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Charles Overstreet..
Motion Passed Unanimously

Motion to reappoint Robert Mundy to Place 4 on the Economic Development Corporation, **Action**

Approve, **Moved By** Kelly Turner, **Seconded By** Liz Carrington..
Motion Passed Unanimously

Motion to reappoint Mark Yearly to Place 6 on the Economic Development Corporation, **Action** Approve, **Moved By** Frank Fernandez, **Seconded By** Kelly Turner.
Motion Passed Unanimously

E. Consider appointments to the Arts & Culture Advisory Board.

Motion to Appoint Carolyn Cullum to Place 7 of the Arts and Cultural Advisory Board, **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Liz Carrington.
Motion Passed Unanimously

Motion to Appoint Donna Sellers to Place 6 of the Arts and Cultural Advisory Board , **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Kelly Turner
Motion Passed Unanimously

F. Consider appointing seven members to the Tax Increment Reinvestment Zone Number One.

Motion to Appoint Jeni McGarry as the Tarrant County representative to the Tax Increment Reinvestment Zone Number One Board. **Action** Approve, **Moved By** Liz Carrington, **Seconded By** Kelly Turner
Motion Passed Unanimously

Motion to Appoint Scott Rule as the Tarrant County Health District representative to the Tax Increment Reinvestment Zone Number One Board., **Action** Approve, **Moved By** Liz Carrington, **Seconded By** Charles Overstreet
Motion Passed Unanimously

Motion to Appoint Mark McLendon as the Tarrant County Community College representative to the Tax Increment Reinvestment Zone Number One Board. **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Frank Fernandez
Motion Passed Unanimously

Motion to Appoint Frank Fernandez as the City Council representative to the Tax Increment Reinvestment Zone Number One Board. **Action** Approve, **Moved By** Brian Johnson, **Seconded By** Charles Overstreet
The motion passes (4-0-1), with Frank Fernandez abstaining.

Motion to Appoint Pat Turner as a Kennedale Economic Development Corporation representative to the Tax Increment Reinvestment Zone Number One Board. **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Frank Fernandez
Motion Passed Unanimously

Motion to Appoint Robert Mundy as a Kennedale Economic Development Corporation representative to the Tax Increment Reinvestment Zone Number One Board **Action** Approve, **Moved By** Turner, **Seconded By** Carrington
Motion Passed Unanimously

Motion to Appoint Rebecca Mowell as a Kennedale Economic Development Corporation representative to the Tax Increment Reinvestment Zone Number One Board **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Liz Carrington
Motion Passed Unanimously

Motion to Appoint Robert Mundy as Chair of the Tax Increment Reinvestment Zone Number One Board **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Liz Carrington

Motion Passed Unanimously

XII. EXECUTIVE SESSION

No executive session was held.

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

No executive session was held.

XIV. ADJOURNMENT

Motion to Adjourn **Action** Adjourn, **Moved By** Brian Johnson, **Seconded By** Kelly Turner.

Motion Passed (4-1)

Ayes: Kelly Turner, Liz Carrington, Charles Overstreet, Brian Johnson.

Nays: Frank Fernandez

The meeting was adjourned at 8:17 PM.

APPROVED:

Mayor John Clark

ATTEST:

Amethyst G. Cirimo, City Secretary

Date: November 7, 2012

Agenda Item No: CONSENT ITEMS - B.

I. Subject:

Consider amendments to the police department's non-consent wrecker contract.

II. Originated by:

Tommy Williams, Police Chief

III. Summary:

Beard's Towing has changed ownership and is requesting an amendment to the existing contract. Specifically we need to remove the wording that requires a police receipt to pick up an impounded vehicle. This conflicts with federal regulatory law that they also must abide by. In addition, they have move to a larger property with a new address which needs to be reflected in the contract.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	contract	KENNEDALE WRECKER AGREEMENT.docx
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KENNEDALE WRECKER AGREEMENT

THIS AGREEMENT is entered into between the City of Kennedale, Texas, a home rule municipal corporation located in Tarrant County, Texas, (City of Kennedale), acting through its City Manager, Bob Hart, and JDB Towing, LLC dba Beards Towing, ("Operator"), acting through its duly authorized President, James Bennett, Jr.

WHEREAS, the City Council adopted Ordinance No. 50 providing for regulations applicable to wrecker and towing services within the City; and

WHEREAS, pursuant to Ordinance No. 50, the City Council deems it in the best interests of the citizens of the City to enter into this agreement for the providing of wrecker and vehicle removal services where needed pursuant to the exercise of the City's police or governmental powers;

NOW THEREFORE,

City and Operator Agree as Follows:

I. SCOPE

Operator agrees to provide emergency and non-emergency wrecker and vehicle removal service when requested by the City through its Police Department for accidents on public streets, DWI arrests, disabled vehicle incidents, or other vehicle removals requested by the Police Chief where authorized or required to do so.

II. TERM

This agreement shall be for a term of one year commencing on 03/1/2012. City may extend this agreement for additional one -year terms by giving written notice thereof to Operator at least 30 days prior to the expiration of any term. Notwithstanding the above, either party may cancel this agreement upon 30 days written notice given at any time to the other party.

III. PRIMARY WRECKER SERVICE

During the term of this agreement and so long as Operator is not in default of its obligations under this agreement, Operator shall be entitled to serve as the principal towing and storage provider for the towing and storage of motor vehicles which Operator has removed at the request of the City. The City agrees to use Operator for all police requested vehicle removals except in emergency situations requiring equipment, personnel, or storage facilities that cannot be promptly provided by Operator. The decision of whether to additional wrecker services in emergency situations shall be made by the Police Chief in his sole discretion.

IV. TWENTY-FOUR HOUR SERVICE; ASSIGNMENT

Operator agrees to maintain wrecker service 24 hours a day, seven days a week. Operator shall conduct its operations in such a manner as to insure an average response time of 30 minutes or less. No calls for wrecker service may be referred or subcontracted to any other wrecker operator except upon prior written approval by the Police Chief. This agreement may not be

assigned, in whole or in part, without the prior written approval of the City, and any attempted assignment shall be void. In the event that Operator is unable to provide wrecker service as requested by the City, Operator shall immediately advise the Police Department in order that additional wrecker service may be procured.

V. WRECKER LICENSE

- A. Operator shall procure a license from the City as required by Ordinance No. 50 in order to operate a wrecker service within the City. In the event the Operator's license for wrecker services is suspended or revoked by the City in accordance with Ordinance No. 50, the City may cancel this agreement or may utilize additional wrecker services during the period of a suspension or revocation.
- B. Operator agrees to comply with all requirements of Ordinance No. 50. The failure to comply with any of the requirements of Ordinance No. 50 shall be deemed to be a breach of this agreement.

VI. EQUIPMENT

Operator agrees to provide equipment and vehicles meeting the minimum requirements of Ordinance No. 50. Operator agrees to provide the following additional equipment throughout the term of this agreement:

- A. Each wrecker utilized by Operator shall be equipped with a mobile telephone or a two-way radio.
- B. Operator shall maintain in the Operator's fleet a trailer, tilt bed or other similar vehicle capable of handling the safe movement of motorcycles and large vehicle component parts.
- C. Operator shall provide or have immediate access to at least one wrecker capable of towing a tractor trailer. Operator shall provide proof of ability to access such a vehicle to the Police Chief.

All vehicles and equipment shall be maintained in a good working condition, subject only to replacement in the normal course of business, in substantially equivalent form.

V. STORAGE FACILITIES

All vehicles removed pursuant to this agreement and stored pending being claimed by the owner, shall be taken to the Operator's storage facility located at 5305 Vesta Farley Road, Fort Worth, Texas 76119, or to such other location as directed by the City or as Operator and the vehicle owner may agree. Operator shall maintain its storage facilities in compliance with all applicable laws and ordinances and in a good condition and state of repair, without the accumulation of vegetation, litter, trash, or debris. All vehicle and vehicle parts shall be stored and maintained in a neat and orderly condition and shall be secured from unlawful tampering and vandalism. Operator shall provide a minimum of two storage spaces for the indoor-storage

of designated vehicles which must be secured from unlawful tampering and weather related damage for purposes of preserving evidence for use at trial.

VIII. FEES

- A. Unless otherwise agreed to in writing by the City, all fees charged by Operator for services for towing and impounding vehicles shall be in accordance with the bid submitted to the City, attached as Exhibit A, and made part of this agreement for all purposes.
- B. Upon payment of the fees established in Exhibit A, the vehicle shall be released to the owner. No additional charges for calls or service in the City shall be made unless agreed to in writing by the City. For towing to points outside of the City or originating outside of the City, the Operator and Owner(s) shall agree upon their own price and the City shall not be responsible for supervision of this charge.
- C. Operator agrees that the City is not responsible or liable to Operator for costs incurred by Operator in responding to calls when it is subsequently determined that vehicle removal is not needed. In this regard, the City agrees that it will exercise reasonable efforts to ascertain the necessity for wrecker service before calling Operator and will make reasonable efforts to keep Operator from making unnecessary calls.
- D. Operator shall provide removal or towing services for City Police Department and City Administrative vehicles of less than one ton in size:
 - (1) From within Tarrant County at no charge to the City; and
 - (2) For vehicles outside Tarrant County and those counties contiguous to Tarrant County, at the minimum towing charge allowed under state law.
- E. Operator shall provide storage to the City for vehicles which are forfeited to the City pursuant to state or federal forfeiture laws for the minimum storage fee allowed under state law. In those cases where the court awards the vehicle back to the owner, the minimum storage fee will be charged to the owner for the period of time from the date of the tow to the date custody of the vehicle is awarded by the court back to the owner. Regular fees for storage after the date of the court order and other reasonable fees may be collected from the owner.
- F. Operator agrees that under no circumstances shall the City be liable for fees owed for towing or impounding a third party vehicle.

IX. WAIVER OF CHARGES

It is contemplated by the parties hereto that a small percentage of the vehicle pulls and impoundments performed pursuant to this agreement will result in all or a portion of the fees therefore being uncollectible due to unusual circumstances. Due to the nature of police pulls, circumstances may arise where the collection of towing and impoundment fees would result in

inequity to the owner of the vehicle, whether because of the propriety of the pull, judicial delays or because of other circumstances which unreasonably prevented the release of the vehicle in a timely manner. Operator specifically acknowledges and agrees that the benefits received under this agreement outweigh any offset for uncollectible fees in these unusual circumstances; therefore, Operator agrees to waive all or a portion of the fees where equity so dictates. In most circumstances, Operator shall nevertheless be entitled to collect a nominal fee equivalent to the charges for towing and three (3) days of impoundment.

X. OPERATOR'S RESPONSIBILITIES

Operator agrees that it shall comply with the following:

- A. Operator shall maintain in good standing, without any reduction in scope or authority, its certificates for operation issued by the Texas Department of Transportation and the United States Interstate Commerce Commission.
- B. Operator shall maintain its principal place of business at 5305 Vesta Farley Road, Fort Worth, Texas 76119, or such suitable location as may be agreed to in writing between the parties.
- C. Operator shall be responsible for all vehicles which are towed and any contents or personal property in those vehicles while they are in operator's custody.
- D. Operator shall send all notices and file all forms required by law with respect to the storage or disposition of a motor vehicle the Operator removes under this agreement, whether the notice or form is required to be filed by Operator or by the City.
- E. Operator shall keep all information required by this agreement and in its application for a wrecker license updated and current.

XI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Operator shall operate under this agreement as an independent contractor and not as an agent, representative, servant or employee of the City; that Operator shall be solely responsible for the acts and omissions of its officers, agents, contractors, subcontractors, servants and employees; and that nothing in this agreement shall be construed as creating a partnership or joint enterprise between the City and Operator.

XII. INSURANCE

Operator agrees to maintain in full force and effect and at its sole cost and expense, the following types and limits of insurance:

- A. Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of \$100,000 for each accident.

- B. Comprehensive commercial general liability insurance with minimum limits of \$1,000,000 as the combined single limit for each occurrence of bodily injury, personal injury and property damage.
- C. Automobile liability insurance covering all owned, hired, and nonowned vehicles in use by Operator, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law with minimum limits of \$500,00 as the combined single limit for each occurrence for bodily injury and property damage.
- D. All policies other than those for Worker's Compensation shall be written on an occurrence and not on a claim made basis.
- E. The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.
- F. All policies, except for worker's compensation policies, shall name the City, its officers, boards, commissions, employees, and agents as additional insured's ("Additional Insured's ")
- G. Certificates of insurance for each insurance policy required to be obtained in compliance with the paragraph, shall be filed and maintained with the City annually during the term of this agreement. Operator shall immediately advise the City of any claim or litigation that may result in liability to the City.
- H. All insurance policies maintained pursuant to this agreement shall contain the following endorsement:

"At least thirty (30) days prior written notice shall be given to the City of Kennedale, Texas, by the insurer of any intention not to renew this policy or to cancel, replace or materially alter this policy, the notice to be given by registered mail".
- I. The insurance required in this paragraph shall be carried with a responsible company or companies acceptable to the City, licensed to do business in the State of Texas.

XIII. OPERATION FEE

Operator shall pay to the City an operation fee of \$0.00 per month. An authorized tow is one made at the direction of a police officer of the City and for which a Police Department pull sheet is prepared. The fees required herein shall be paid to the City monthly, no later than the tenth (10) day of the month following the month in which such tow is made. Such sums shall be documented in a form and manner agreed upon between Operator and the City.

XIV. INSPECTION

City employees and officials shall have the right of entry into Operator's storage facility at reasonable times to inventory and inspect vehicles removed at the direction of the City.

Operator shall be furnished a copy of any inventory so taken. Operator shall be responsible for vehicles and their contents while in Operator's custody. The City is hereby authorized to inspect, audit and examine all books and records of Operator that pertain to the performance, operation, and payments of Operator hereunder.

XV. ADMINISTRATIVE FORMS

- A. Operator shall prepare and issue in a proper and timely manner all necessary notices required under applicable laws and ordinances, including, without limitation, the Texas Litter Abatement Act and the Texas Abandoned Motor Vehicle Act, as amended, to provide adequate notification to owners and lienholders of motor vehicles which are towed and impounded and any attendant auction and sale of unclaimed or abandoned motor vehicles. Operator shall obtain a release from the Police Department prior to the disposition of any vehicle. Operator shall maintain accurate and proper documentation of all fees incurred and notices sent for purposes of verifying the accuracy of any fees charged and procedures implemented. In addition, Operator shall keep and maintain books and records reflecting its operations as required by Ordinance No. 50.
- B. Operator shall submit to the Police Department no later than the 10 day of each month a monthly activity report related to Operator's operation during the previous month pursuant to the agreement. This monthly report shall contain, at a minimum, the following information:
 - (1) Number and listing of vehicles towed.
 - (2) Number and listing of vehicles released.
 - (3) Number and listing of vehicles currently in custody.
 - (4) Length of impoundment of vehicles.
 - (5) Any disposition of vehicles not released to the owner.
 - (6) Such other information that may be required by the Police Chief.

XVI. INDEMNIFICATION

OPERATOR HEREBY AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM ANY AND ALL CLAIMS, DEMANDS OR CAUSES OF ACTION, OF WHATSOEVER KIND OR NATURE, ARISING OUT OF OUR INCIDENT TO THE TOWING, STORAGE AND SALE OF MOTOR VEHICLES PURSUANT TO THIS AGREEMENT OR THE PERFORMANCE OF ANY DUTIES ARISING UNDER OR BY VIRTUE OF THIS AGREEMENT, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY THE ALLEGED NEGLIGENCE OF THE CITY OR ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES. OPERATOR SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE CITY SHALL NOT BE LIABLE FOR ANY TOWING OR IMPOUNDMENT CHARGES OR ANY OTHER COSTS OR EXPENSES INCURRED BY OPERATOR PURSUANT TO THIS AGREEMENT.

XVII. DEFAULT

In the event the Operator should breach any of the terms or conditions of this agreement or should otherwise be in default of any of its obligations pursuant to this agreement, the City shall

have the right to terminate this agreement as provided below. Upon the occurrence of any event of default, the City shall provide 30 days written notice to Operator of the default. In the event that Operator fails or refuses to cure the conditions of default within said 30 day period, the City may, in writing, immediately declare this agreement terminated. Notwithstanding the above, City shall only be required to give 10 days' written notice of a default by Operator for non - payment of any sums due the City under this agreement. No waiver by the City of any default in the obligations of the Operator shall constitute in any form an estoppel of the City from at any time asserting or reasserting any such default, it being clearly understood and agreed by the parties that no waiver or estoppel shall occur except by written agreement duly authorized and signed by the City Manager.

XVIII. NOTICES

Notices required to be delivered pursuant to this agreement shall be sufficient if personally delivered or sent by certified mail in the United States Mail, postage pre -paid to the appropriate party at the following address:

If to City: City of Kennedale
 401 Municipal Drive
 Kennedale, TX 76060
 Attention: Police Chief

If to Operator: JDB Towing, LLC dba Beards Towing
 5125 Sun Valley Drive
 Fort Worth, Texas 76119
 Attention: James Bennett Jr., President

XIX. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the parties and may not be modified or amended except by written agreement signed by the parties.

XX. VENUE

Should any action, whether real or asserted, at law or in equity, arise out of the execution, performance or nonperformance of this agreement, venue for the action shall be in Tarrant County, Texas.

EXECUTED this 7th day of November, 2012.

JDB Towing, LLC dba Beards Towing

City of Kennedale

By: _____
James Bennett, Jr.

By: _____
Bob Hart, City Manager

ATTEST:

Notary Public in and for the State of Texas

City Secretary

Typed/Printed Name of Notary Public

My Commission Expires: _____

BID SHEET FOR TOWING AND IMPOUND SERVICE

A. Base charge for Police Authorized Tows:

- | | |
|--|----------------------------|
| 1. Base charge pulls (normal & flatbed /car carrier)
(up to 10,000 GVW) | <u>\$135.00</u> |
| 2. Additional charges to base | |
| a. Use of Dollies | <u>\$25.00</u> |
| b. Winching | <u>\$30.00</u> |
| c. Waiting /Standby Hourly Rate | <u>\$20.00 per 15 mins</u> |
| d. Working Time
(first 15 min free) | <u>\$100.00 per hr</u> |
| e. Pulls of 10,001 GVW and greater
(2 hour minimum) | <u>\$250.00 per hour</u> |

**B. Base charge for city vehicles: (Towing only)
(i.e. police department, fire department, & pick - ups, etc.)**

- | | |
|--|--|
| 1. Base charge pulls (normal & flatbed /car carrier) | 1 ton & under - No charge
(within Tarrant County) |
| 2. Additional charges to base | |
| a. Use of Dollies | <u>\$25.00</u> |
| b. Winching | <u>\$30.00</u> |
| c. Waiting /Standby Hourly Rate | <u>\$20.00 per 15 mins</u> |
| d. Working Time \$
(first 15 min free) | <u>100.00 per hour</u> |
| e. Pulls of 10,001 GVW and greater | <u>\$250.00 and up</u> |

C. Storage Rate per day	<u>\$20.00 per day</u> (under 25 feet) <u>\$35.00 per day</u> (25 feet and over)
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D. Preservation	<u>\$20.00</u>
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E. Notification Fee	<u>\$50.00</u>
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F. Motorcycle /Trailer Usage	<u>same as tow above</u>
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G. Franchise percentage from revenues as described	<u>0%</u>
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BID SHEET FOR AUCTION REVENUES AND CHARGES

The successful bidder must fill out this portion of the bid explaining various revenues and charges for Police impounded vehicles that are auctioned by the bidder. This section applies specifically to vehicles that are towed to the impound area because of a police call.

- (1). Charge, if any, to the City of Kennedale for towed vehicles that are auctioned by the bidder. NO CHARGE
- (2). Charge, if any, to the City of Kennedale for the storage of any vehicles that are auctioned. NO CHARGE
- (3). Charge, if any, to the City of Kennedale for any other service on vehicles that are auctioned. List: NO CHARGE
- (4). Revenue, if any, to the City of Kennedale for proceeds from the sales by the bidder of any auctioned vehicles. This can be stated in a specific dollar amount per vehicle or a percentage of sale amount per vehicle. The stated amount will be before auction commission is deducted.

NONE

* * * *ALL NEWSPAPER PUBLICATIONS PERTAINING TO VEHICLE TAKEN INTO
POSSESSION OR AUCTIONS WILL BE PAID BY BEARD'S TOWING * * * *



Date: November 7, 2012

Agenda Item No: REGULAR ITEMS - A.

I. Subject:

CASE PZ # 12-05 to receive comments and consider action on a request by ASE Ice to amend Section 17-421 of the Kennedale city code by adding Ice Sales—Retail to the Schedule of Uses as a permitted use with a Conditional Use Permit (CUP) in the “C-1” Restricted Commercial, “C-2” General Commercial, and “I” Industrial zoning districts. A. Staff presentation

B. Applicant presentation

C. Public hearing

D. Applicant response

E. Staff response

II. Originated by:

III. Summary:

ASE Ice has requested to add Ice Sales--Retail to the Schedule of Uses for the C-2 zoning district. Similar uses are already permitted in C-2 districts, such as snow-cone stands. But ice sales as proposed are different from uses already permitted in that the use is intended to operate without an employee on site and will be entirely self-service. Also, due to the way the operation is run, there are no windows on the building, and it therefore has a different effect on the streetscape than a food kiosk would have. In some cases, this kind of use would be compatible with surrounding uses and neighborhood character, and in some cases it would not.

City code requires that applicants who request the City to add a new or unlisted use to the Schedule of Uses should submit a statement of facts listing the nature of the use and a number of other characteristics. The applicant has submitted a statement of facts for your review (attached to this staff report).

The nature of the proposed use appears to be compatible with C-2 and Industrial zoning districts, and can also be compatible with the C-1 zoning district, depending on surrounding uses, site and building design, and circulation and amount of traffic in the surrounding neighborhood.

It could benefit the community to permit this kind of use, since it's a service not currently provided, but the City should maintain the ability to review the use on a case-by-case basis per location. Staff recommends adding Ice Sales--Retail to the Schedule of Uses as a Conditional Use Permit in C-1, C-2, and Industrial zoning districts.

An ordinance adding the use to the Schedule of Uses is attached to this message for your review. The applicant's written request to add the use to the Schedule of Uses is also attached.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

Approve

VIII. Alternative Actions:

IX. Attachments:

1.	PZ 12-05 application	PZ 12-05 application.pdf
2.	Ordinance PZ 12-05	Ice sales - retail, PZ 12-05.doc
3.	Ordinance Exhibit A	PZ 12-05 ordinance ex A.doc

Request for Classification of New Use per Kennedale city Code Section 17-427
Automated Ice and Water Vending Building

ASE Ice requests that "retail ice vending" be added to the approved list of uses for the C-2 general commercial zoning district. Retail ice vending is the self-service vending of ice from automated machinery, either into machine-provided bags or loose into customer-supplied containers, typically ice chests and insulated water coolers. Filtered water can also be dispensed into customer-supplied water containers. The machinery is wholly contained within a building with only the customer interface and dispensing chutes exterior to the building. See the attached drawing for a representation of the exterior appearance of the building and how it might be sited on a location.

Kennedale Ordinance Section 17-415 describes zoning district C-2 as a general commercial district. The Section 17-421 list of approved uses for district C-2 contains all but one of the uses listed for district C-1 (the restricted commercial district) plus additional uses related to outside storage of goods, material, equipment, machinery and vehicles. The list of approved uses for district C-2 includes many types of retail sales operations. Retail ice vending is complementary to these already-approved uses.

Most of the C-2 zoning district, and the areas where sited is desired in particular, falls in what the 2012 Kennedale Comprehensive Plan describes as the "Urban Corridor." The Urban Corridor "typology assumes a higher intensity of activity in terms of traffic and commerce. It can be expected that it will remain auto-oriented." Development types for the urban corridor include restaurants, professional offices, retail businesses, and service businesses.

Most customers for retail ice vending are individuals that either live or work within a 3 to 5 mile radius of the location and drive to the location. Secondary customers are those that pass the site during their regular commute or on the way to recreational activities. This is consistent with the expected use for a business in the Urban Corridor. The majority of weekday sales occur between 7 am and 9 pm with the heaviest period of use being from 4 pm to 7 pm although sales can occur 24 hours a day. On the weekends, sales tend to be steady throughout the daylight hours with Saturdays being busier than Sundays.

Figure 1 depicts an artist's rendering of how the ice house may appear.

The wastewater generated by the ice house consists of ice melt, refrigeration system condensation, and water filtration system bypass water. Investigations are ongoing to divert this water to irrigation use on the property rather than returning it to the sanitary sewer system.

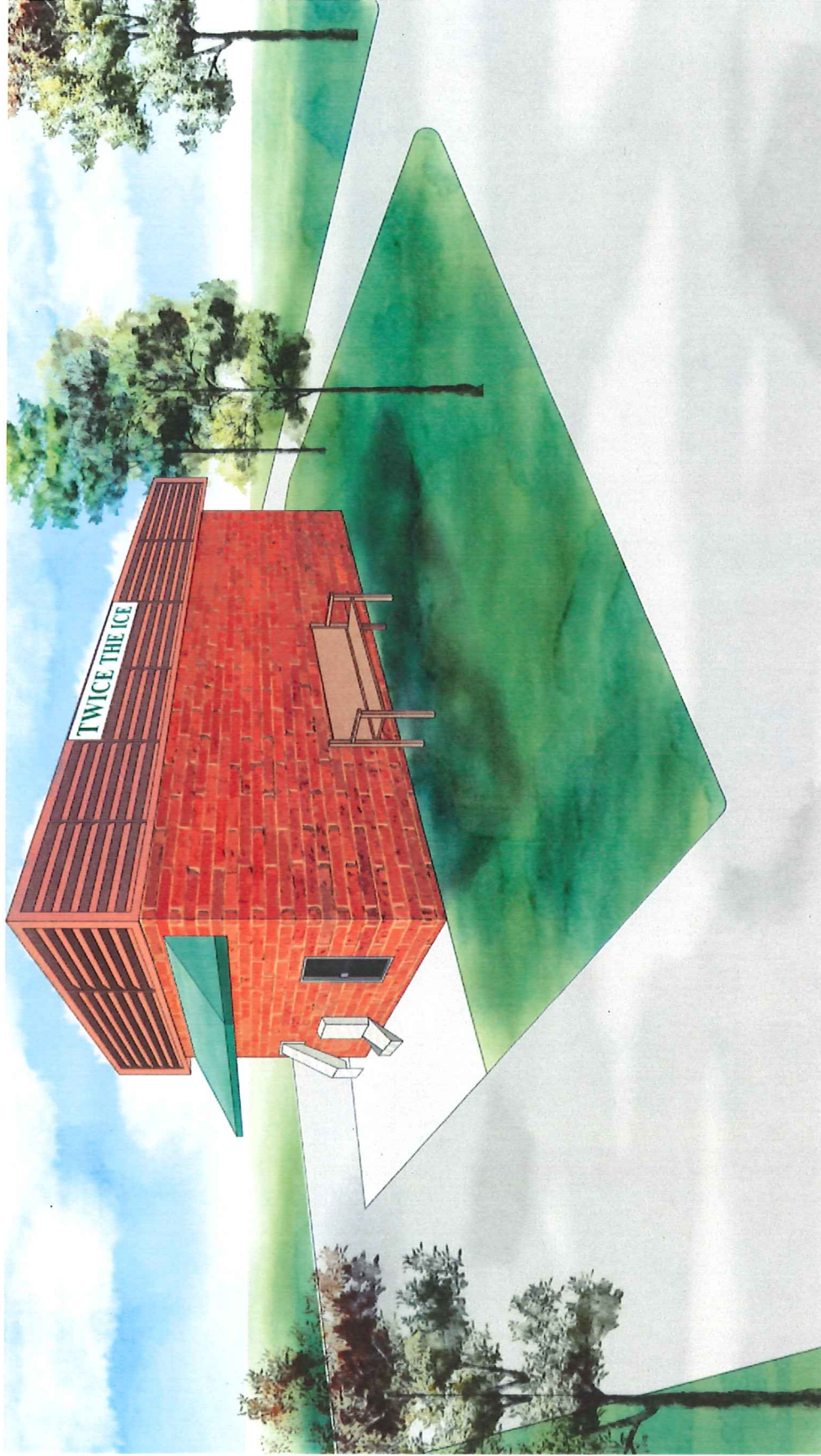


Figure 1. Artist's sketch of proposed ice house.

Below is the categorized information for a new use requested by Kennedale Ordinance Section 17-427 (1).

- **Nature of Use** – The use is for retail sales and involves no dwelling activity.
- **Sales** – Bagged ice, loose ice, and water are sold retail. Ice sales are taxable and will contribute to the city sales tax income.
- **Processing** – The building contains water filtration and storage and ice production and storage equipment.
- **Type of product** – Ice and water suitable for human consumption are sold.
- **Storage and amount or nature thereof** – The building contains an internal ice storage bin with a capacity of approximately 2 tons and water storage capacity of approximately 150 gallons.
- **Enclosed or open storage** - All storage needed for business operation is contained within the building.
- **Anticipated employment** – The business is not routinely staffed. Personnel are present intermittently to maintain the equipment, restock supplies, and perform general housekeeping tasks.
- **Transportation requirements** – Transportation requirements are limited to those needed for customer access. Expected traffic is estimated at 30 to 100 vehicles per weekday with twice that volume on weekends and holidays. Traffic is also seasonal with the busiest months being during the summer and much less traffic during the winter.
- **Noise, odor, fumes, toxic material and vibration likely to be generated** – No odors, fumes, toxic material, or vibration will be generated. Noise will be limited to the refrigeration compressor, which is similar to that from a home air conditioning compressor, and not discernible from beyond the property line.
- **General requirements for public utilities and sanitation collection** – City water and 3-phase power will be needed. Minimal trash is generated and is removed from the location by the personnel servicing the equipment. Wastewater from condensation and the filtration system bypass will be used for irrigation purposes or will be directed to the sanitary sewer system.

AN ORDINANCE AMENDING ARTICLE VI OF CHAPTER 17 OF THE KENNEDALE CITY CODE (1991), AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF KENNEDALE, TEXAS BY AMENDING SECTION 17-421 SCHEDULE OF USES BY ADDING ICE SALES—RETAIL AS A PERMITTED USE WITH A CONDITIONAL USE PERMIT IN CERTAIN ZONING DISTRICTS; AMENDING SECTION 17-431 DEFINITIONS BY ADDING A DEFINITION FOR ICE SALES--RETAIL PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, in order to promote the public health, safety and general welfare the City Council desires to adopt the proposed amendment to its city code in order to add regulations governing the retail sales of ice; and

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has adopted a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, the Planning and Zoning Commission of the City of Kennedale, Texas held a public hearing on October 18, 2012, and the City Council of the City of Kennedale, Texas held a public hearing on November 7, 2012, with respect to the amendments described herein; and

Whereas, the City has complied with all requirements of Chapter 211 of the Local Government Code, Section 17-429 of the Zoning Ordinance, and all other laws dealing with notice, publication, and procedural requirements for the approval of amending the Schedule of Uses under Section 17-421 of the Kennedale City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, THAT:

SECTION 1.

The Zoning Ordinance of the City of Kennedale, Texas, as amended, is hereby amended by adding the use Ice Sales—Retail to the Schedule of Uses in Section 17-421 of the Kennedale City Code as a Conditional Use Permit, as provided in Exhibit “A” attached hereto and incorporated herein.

SECTION 2.

The Zoning Ordinance of the City of Kennedale, Texas, as amended, is hereby amended by adding a definition for Ice Sales—Retail to Section 17-431 Definitions of the Kennedale City Code, to read as follows:

Ice Sales—Retail means a freestanding, self-contained facility no larger than 15.0' feet in height and no larger than 300 square feet in area that may operate with or without full-time service personnel. The unit is designed to store and/or manufacture ice for sale directly to the final consumer. The primary product for sale is ice, but filtered water may also be sold as a secondary product.

SECTION 3.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Kennedale, Texas (1991), as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clause, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 5.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, penalty clause, publication clause and effective date clause of this ordinance as provided by Section 3.10 of the Charter of the City of Kennedale.

SECTION 8.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS DAY OF 7th NOVEMBER 2012.

MAYOR

ATTEST:

CITY SECRETARY

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY

EXHIBIT "A"

[illegible]



Date: November 7, 2012

Agenda Item No: REGULAR ITEMS - B.

I. Subject:

CASE PZ # 12-06 to receive comments and consider action on a request by ASE Ice for a Conditional Use Permit as required in Section 17-421 of the Kennedale city code to allow Ice Sales—Retail at 198 E Broadway, legal description of C A Boaz Subdivision Lot 36E, Kennedale, Tarrant County, Texas. A. Staff presentation

- B. Applicant presentation
- C. Public hearing
- D. Applicant response
- E. Staff response

II. Originated by:

III. Summary:

Pending approval of Case PZ 12-05, ASE Ice is requesting a Conditional Use Permit for ice sales, as noted above. City code outlines what the City must consider in determining whether to grant a CUP. ASE Ice has addressed these factors in its application (attached to this message), and staff also addresses the various elements below.

Factors to Consider:

(1) Conformance with applicable regulations and standards established by the subdivision ordinance and the zoning ordinance;

The use must meet the requirements of the C-2 zoning district, the subdivision regulations, and any other applicable regulations and standards before a certificate of occupancy would be granted. The site design, as proposed and based on information submitted, appears to be in compliance city regulations and standards. Landscaping plans and driveway construction plans as normally required for development would be subjected to review by city staff if the CUP is approved. These plans would be required to meet city codes before construction of the site could be begin and before a certificate of occupancy would be issued.

(2) Compatibility with existing or permitted uses on abutting sites in terms of building height, bulk, scale, setbacks, open spaces, landscaping and site development, and access and circulation capacity;

Abutting uses are a church and a vacant commercial building and storage building used by a nearby roofing company (see attached picture). The facility proposed by ASE Ice would be compatible in terms of height, bulk, scale, and other site-related characteristics. The landscaping installed would be in compliance with the city's landscaping regulations, which would improve the appearance of this part of the street.

In terms of circulation capacity, the proposed circulation plan is compatible with existing and permitted uses on abutting sites. The commercial building has a small parking area out front but not much room for vehicle maneuvering when all spaces are filled. The church has a long driveway that allows for more maneuvering but

is not designed to help with traffic flow; there is a shared drive for entry and exit, and there are no paved vehicle lanes for circulation in the parking area). The driveway/access way proposed for the ice sales facility is a circular drive that facilitates traffic flow.

(3) Potentially unfavorable effects or impacts on existing or permitted uses on adjacent sites, to the extent such impacts exceed those that reasonably may result from use of the site by a permitted use, including without limitation:

a. Location, lighting and type of signs, and the relation of signs to adjacent properties;

The proposed signs are a monument sign and lighted sign on the structure. Kennedale sign regulations allow one attached sign per street front, with a maximum of two attached signs per tenant/lease space. The elevation drawings submitted by the applicant show two attached signs, one on the side of the building facing the street and one on the side facing the parking area.

b. Noise producing elements;

According to the applicant, the only element expected to generate noise is the refrigeration compressor, which produces a sound level similar to the noise generated by a home air conditioning compressor.

c. Glare of vehicular and stationary lights and effect of such lights on the established character of the neighborhood;

The established character of the neighborhood is commercial in nature, and glare of lights is not expected to conflict with the neighborhood character.

d. Safety from fire hazard, and measures for fire control; and

According to the applicant, the building will be constructed of fire-resistant or fire-proof materials. The application states that the "main fire hazard is electrical malfunction, which is controlled by circuit breakers in the event of an overload"; the facility will be equipped with smoke alarms and remote monitoring equipment that includes alarms for equipment malfunctions.

I checked the fire department, and they do not expect this use to be a fire hazard.

e. Protection of adjacent property from drainage, floods, erosion or other water damage.

Staff does not foresee negative effects on surrounding uses from drainage, floods, erosion, or other water damage, and if there were such effects, staff does not expect that they would exceed those that reasonably may result from use of the site by a use already permitted.

(4) Safety and convenience of vehicular and pedestrian circulation on the premises and in the area immediately surrounding the site, and the effect of traffic reasonably expected to be generated by the

proposed use and other uses reasonably anticipated in the area considering existing zoning and proposed land uses in the area and the ability of the city's existing transportation network to handle the traffic.

Safety and convenience of vehicular and pedestrian traffic on the premises and in the area immediately surrounding the site

Staff believes the applicant has adequately planned for the vehicular traffic on the premises and in the area immediately surrounding the site. As for pedestrians, very little foot traffic is expected. Pedestrian traffic would most likely come from Old Town. City of Kennedale regulations require sidewalks be installed by developers when a building permit is requested for a lot where sidewalks are not already present. The lot in question would therefore have sidewalks provided for pedestrians, installed as part of construction for the proposed use.

Effect of traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area

Adjacent uses are a church and a commercial building (currently vacant). Traffic generated by the church is most likely to occur on Sundays. Most of the traffic for the commercial building will come from Kennedale Parkway, rather than from Broadway and the direction of the proposed use. The addition of the traffic generated by this use should be within the capacity of the existing roads.

Minor traffic stacking may occur during holidays and other infrequent peak times, but the driveway was planned to be wide enough to accommodate extra parking, if needed.

(5) Compliance with the city's comprehensive land use plan and whether the proposed use is compatible with existing and planned development of surrounding properties and will promote economic growth.

Compliance with the comprehensive land use plan.

The comprehensive land use plan shows this property at the intersection of two character districts, Urban Corridor and Downtown Village (most of the property is within the Downtown Village district, but a portion of it falls in the Urban Corridor). The Urban Corridor generally includes the property along Kennedale Parkway and is intended to be auto-oriented, although pedestrians should be planned for and accommodated. The Downtown Village is intended to preserve the original Kennedale street grid and is expected to be commercial and residential in nature; this part of the Downtown Village is (for the present) entirely commercial. The Downtown Village is intended to be easily accessible to pedestrians; this factor is addressed through item (4), above. The Village serves as a gateway into the city center, and it is therefore especially critical that the proposed use be held to city regulations in terms of building materials, landscaping, and sign regulations. The applicant's proposed plans indicate compliance with these regulations.

Compatibility with existing and planned development of surrounding properties.

The proposed use is compatible with existing and planned development of surrounding properties.

Promotion of economic growth.

The proposed use would lead to construction of a new building in the Old Town/Kennedale Parkway area that meets current zoning codes and would generate sales tax, and as such would promote economic growth.

Recommendation.

Given the applicant's plans for the site and the factors discussed above, staff recommended to the Planning & Zoning Commission that they forward a recommendation to Council to grant the CUP.

The Planning & Zoning Commission held a public hearing on this case during its meeting in October and voted to recommend approval.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

Approve

VIII. Alternative Actions:

IX. Attachments:

1.	Application for PZ 12-06	PZ 12-06 application.pdf
2.	Ordinance, PZ 12-06	CUP for Ice Sales, PZ 12-06.doc
3.	PZ 12-06 aerial view	PZ 12-06 aerial view.pdf
4.	Street view, facing site	street view of PZ 12-06 site(1).pdf
5.	View of properties across street from site	across the street from PZ 12-06 site.pdf

**REQUEST FOR
A CONDITIONAL USE PERMIT**

PZ CASE # PZ 12-06
(assigned by city staff)

DATE:

City Council
City of Kennedale
Kennedale, Texas 76060

HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:

You are hereby respectfully requested to grant a conditional use permit for the following use:

The property for which the CUP is requested is zoned: C-2.

Please see Exhibits A and B for a map and legal description of the property.

The property is 0.239 acres in size.

Present use of the property is vacant

Address of the property is 198 E. Broadway, Kennedale, TX 76060

Property Owner's Name: James M. obson

Address: _____

Telephone Number: _____

Applicant's Name: ASE Ice

Address: 835 E. Lamar Blvd # 286
Arlington, TX 76011

Telephone Number: 817-995-6762

THIS IS TO CERTIFY THAT James M. Jacobson IS THE SOLE OWNER(S) OF THE PROPERTY DESCRIBED IN EXHIBIT "A" AND DEPICTED IN EXHIBIT "B", ON THE DATE OF THIS APPLICATION. If the applicant is not the owner, a signed, notarized Owner Affidavit is attached as part of this application.



Applicant or Owner Signature

Applicant or Owner Signature

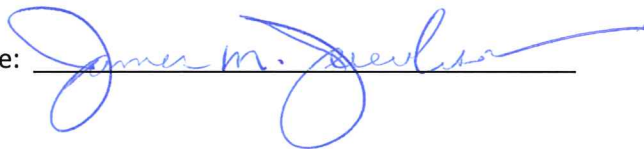
**PLANNING & ZONING COMMISSION
OWNER AFFIDAVIT**

Case #:	PZ <u>12</u> - <u>06</u>
Property Address:	198 E. Broadway Kennedale, TX 76060
Legal Description:	C.A. Boaz Subdivision Lot 36E Doc. No. D204344102 DRDCT
Applicant:	ASE Ice

Request:

☐ Zoning Change ☐ Plat ☒ Conditional Use Permit

I, James M. Jacobson, current owner of above mentioned property, authorize the applicant or his authorized representative to make application for the Kennedale Planning & Zoning Commission/City Council to consider granting the above referenced request on my behalf and to appear before the Commission/Council.

Owner Signature: 

SWORN TO and Subscribed before me by James Jacobson

ON THIS DAY OF September 27, 2012


Notary Public, Tarrant County, Texas



**ASE Ice
Retail Ice Sales
198 E Broadway Street
Conditional Use Permit Application**

ASE Ice requests a conditional use permit for construction of a retail ice sales building at 198 E Broadway in Kennedale. Below is detailed information responsive to the general factors to be considered in granting an application for a conditional use permit.

Conformance with applicable regulations and standards established by the zoning ordinance.
The ice house and associated landscaping will be in compliance with the zoning requirements for the C-2 zoning district and the landscaping requirements of Ordinance 17-601 through 17-613 as applicable.

Ice and water are considered foodstuffs and are subject to regulation by the Texas Department of Safety and Health Services. The ice house will be in compliance with those applicable regulations.

Compatibility with existing or permitted uses on abutting sites

The adjoining properties are an office building with associated warehousing and garage space to the east (currently vacant). Behind the subject property is a fenced laydown yard that is part of the office/ warehouse property to the east. This property is owned by the same landlord as 198 E Broadway. To the west is a church parking lot for the Revival Worship Center. The church itself is well set back from the road on the same lot. Across the street is the back side of the property of a party venue and CPA firm that face onto Kennedale Parkway.

The building height is the approximately the same as the office building to the east, but smaller in scale and set back further from the road. The ice house will be the only building on the property, with the rest of the property containing only parking and driveways and landscaping.

Access will be by means of a circular driveway which will permit all maneuvering to park to be done within the confines of the property and for traffic to exit head-first onto Broadway.

The proposed landscaping will meet the current zoning and landscaping requirements and exceed the present landscaping of any of the adjoining properties and any properties on the same block of Broadway.

Potential Impacts on Adjoining Properties

The properties in the vicinity are:

- Office/warehouse (currently vacant)
- Church
- Roofing business
- Party venue
- CPA firm

Signage will consist of lighted signs on the ice house and a lighted monument sign. Other than sign lighting, lighting will consist of task lighting at the point of sale and a pole-mounted security light for general lighting of the parking lot. There are no residential properties in the vicinity to be impacted by lighting. This area is well-established as a commercial area and likely to remain so given its proximity to Kennedale Parkway, present zoning, and planned usage in the Kennedale Comprehensive Land Use Plan.

The ice house is constructed of fire-resistant or fire-proof materials. Interior equipment is primarily constructed of food-grade stainless steel. The main fire hazard is electrical malfunction which is controlled by circuit breakers in the event of overload.

There will be no increase in the hazard of drainage, flood, erosion or other water damage to adjacent properties. No re-grading will be performed and the majority of the property will remain landscaped and not contribute to increased runoff. In fact, some paving currently present will be removed, resulting in little overall change in landscaped area.

The building is equipped with a remote monitoring system, including exterior cameras and microphones, that permits monitoring and some control over the operation of the ice house, including alarms for equipment malfunctions. The system includes alarms for intrusion and shock sensors. The interior has smoke alarms as well.

Vehicle and Pedestrian Traffic Safety

The traffic flow on the property is configured to permit customers to enter the property from Broadway head-first, maneuver to park, park, exit the parking spaces, and exit head-first onto Broadway. All maneuvers necessary to park will occur within the confines of the property and not interfere with traffic on Broadway. The parking spaces will be directly in front of the point of sale, with the point of sale protected from vehicles by bollards and curb stops to ensure pedestrian safety.

Vehicular traffic is expected to range from 30 to 100 vehicles per day, with the majority of the traffic occurring over a 12 hour period. Thus, for 100 vehicles per day, the average traffic is 8 vehicles per hour with an anticipated peak traffic in any one hour of twice that, or 16 vehicles in one hour. It takes 50 seconds to complete a single ice vend transaction with the customer's vehicle occupying a parking space for approximately 2 minutes. Therefore, a single parking space can handle approximately 30 vehicles per hour. The ice house will have two general use parking spaces, allowing for up to 60 vehicles per hour, well in excess of the anticipated peak demand of 16 vehicles per hour. There is also a handicapped parking space.

Compliance with Kennedale's Comprehensive Land Use Plan

198 E Broadway is zoned C-2. Kennedale Ordinance Section 17-415 describes zoning district C-2 as a general commercial district. The Section 17-421 list of approved uses for district C-2 contains all but one of the uses listed for district C-1 (the restricted commercial district) plus additional uses related to outside storage of goods, material, equipment, machinery and vehicles. The list of approved uses for district C-2 includes many types of retail sales operations. Retail ice vending is complementary to these already-approved uses.

198 E Broadway falls in what the 2012 Kennedale Comprehensive Plan describes as the "Urban Corridor." The Urban Corridor "typology assumes a higher intensity of activity in terms of traffic and commerce. It can be expected that it will remain auto-oriented." Development types for the urban corridor include restaurants, professional offices, retail businesses, and service businesses. This is consistent with the present uses around 198 E Broadway and also with retail ice sales.

Site Plan

Exhibit C is the dimensioned site plan. The site is currently a vacant lot that is flat with minimal grading. The property generally drains the south and west. The front $\frac{1}{4}$ of the lot is paved and appears to have previously been a parking area. There are no known easements on the property. Exhibit D shows the contiguous properties and water and sewer lines.

Elevation Drawings

Exhibit E shows the elevation drawings for the proposed building.

Exhibit A

Property Metes and Bounds

EXHIBIT "A"

Being a 0.239 acre tract of land situated in the J. B. Renfro Survey, Abstract No. 1260, Tarrant County, Texas, and being a portion of Lot 36, C. A. Boaz Subdivision, Second Filing, as recorded in Volume 388-A Page 97, Plat Records, Tarrant County, Texas, and being that certain tract of land as deeded to First Assembly of God, as recorded in Volume 11801 Page 1517 and Volume 11801 Page 1520, Deed Records, Tarrant County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a 1/2 inch iron rod found in the North line of said Lot 36 and being East 350.00 feet from the Northwest corner of said Lot 36 and being the Northwest corner of a tract of land as deeded to the First Assembly of God, as recorded in Volume 11801 Page 1520, said Deed Records and being in the South line of East Broadway Street;

Thence East, along the said North line of the said Lot 36, 104.00 feet to a 1/2 inch iron rod found and being the Northeast corner of a tract of land as deeded to the First Assembly of God Church, as recorded in Volume 11801 Page 1517, said Deed Records;

Thence South, along the East line of said Church tract, 100.00 feet to a 1/2 inch iron rod found and being the Southeast corner of the said Church tract, from which a 1/2 inch iron rod found bears N 24° 19' 20" E, 2.29 feet;

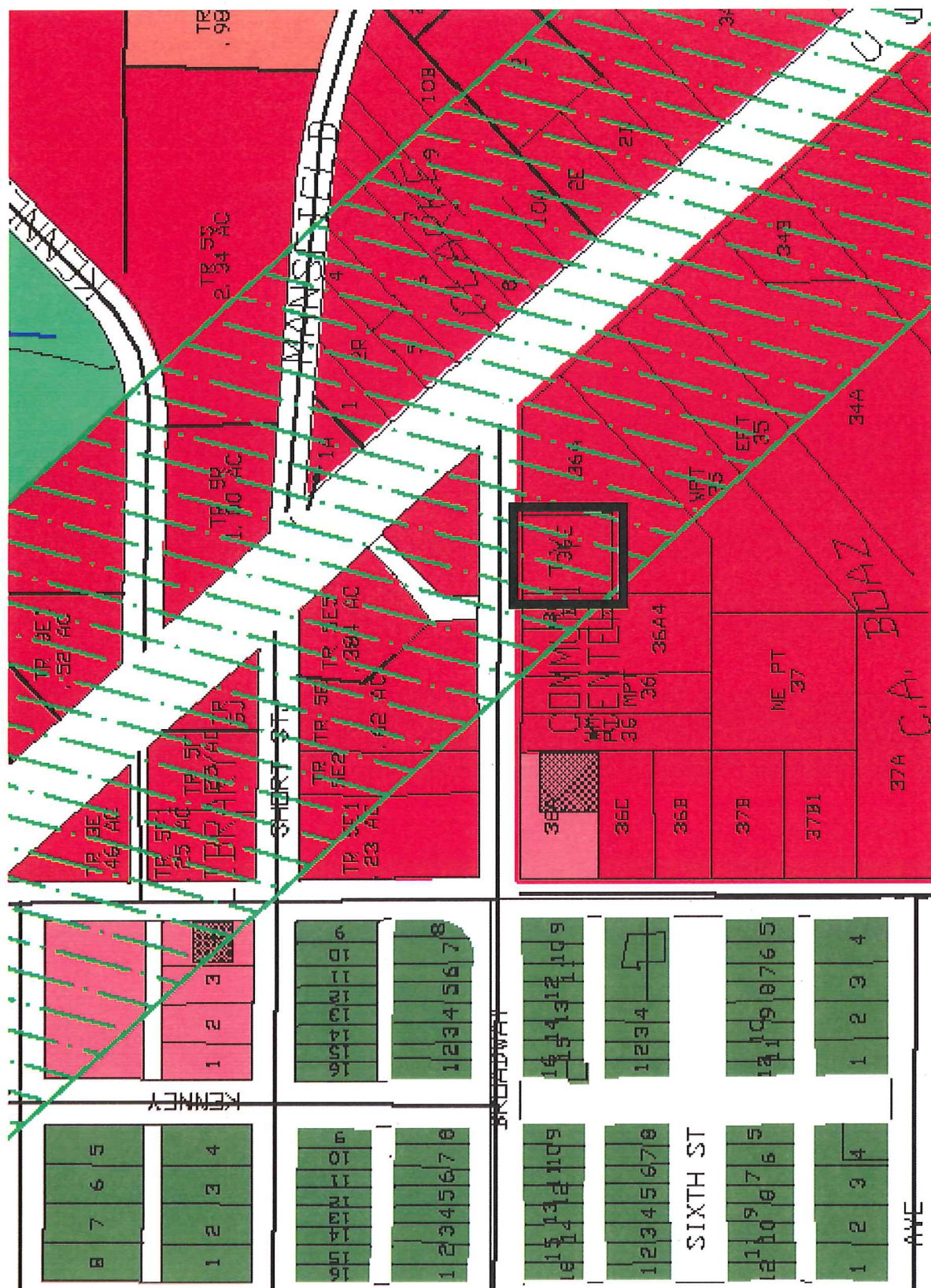
Thence West, along the South line of the Church tracts, 104.00 feet to a 1/2 inch iron rod found;

Thence North, along the West line of said First Assembly of God tract, 100.00 feet to the Point of Beginning and containing 0.239 acre of land, more or less.



Exhibit B

Map of the Vicinity of 198 E. Broadway

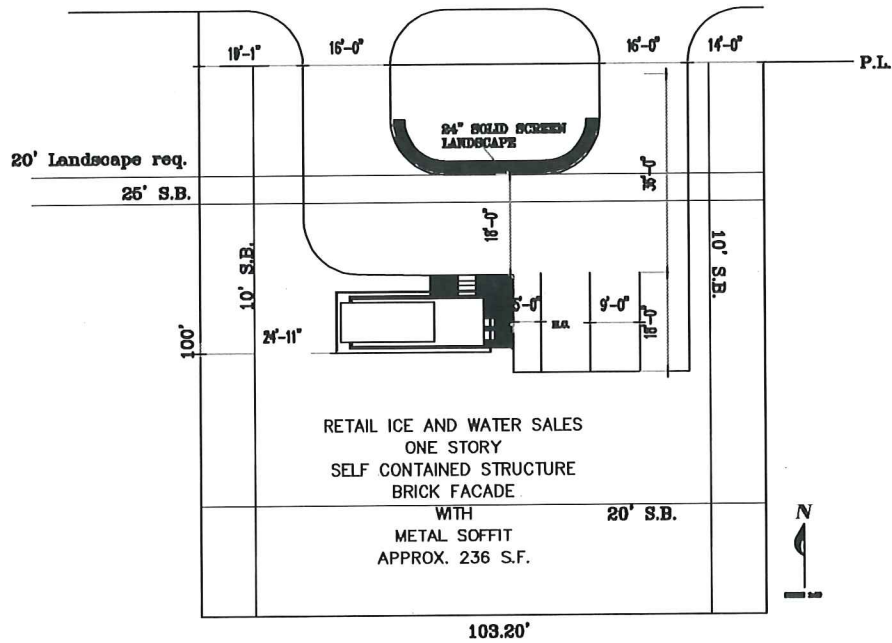


The dark square highlights the boundary of 198 E Broadway.

Exhibit C

Site Plan

E. BROADWAY STREET
(50' R.O.W.)



SITE PLAN REQUIREMENTS:

Plan meets the 60% Maximum lot coverage requirement for c2 zoning.

Plan meets the 80% Masonry requirement for c2 zoning.

LANDSCAPE REQUIREMENTS.

Total area: 10,320 s.f.
15% landscape area required: 1548 s.f.
Provided 1699 s.f.
50% of required landscape in front of building.
Require 4 trees for 1548 s.f.
Require 3 trees for 103' of front buffer
Require 24" high solid landscape screen hedge for parking located within 50' of front property line

2	DATE	10/01/2012
	BY	W.A.R.
	FOR	198 E. BROADWAY
	SITE PLAN	

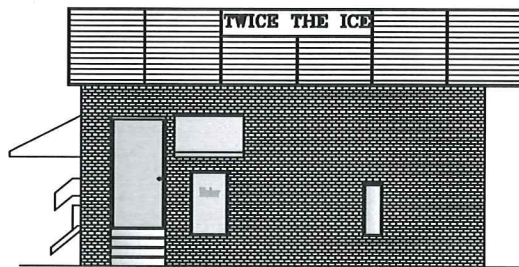
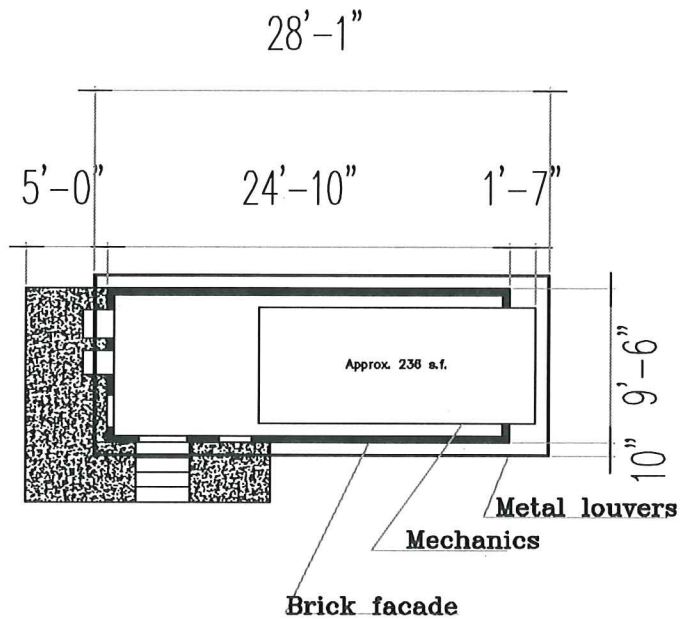
	198 E. BROADWAY STREET	
	WENDY WANN RANCH	
	WENDY@WANNRANCH.COM 817-958-2129	

PROJECT SITE PLAN FOR TWICE THE ICE THIS DESIGN IS PROTECTED BY COPYRIGHT AND IS THE SOLE PROPERTY OF CONSTRUCTION HOUSE, INC.

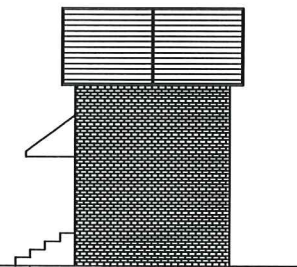
Exhibit D

Site Plan Showing Contiguous Properties

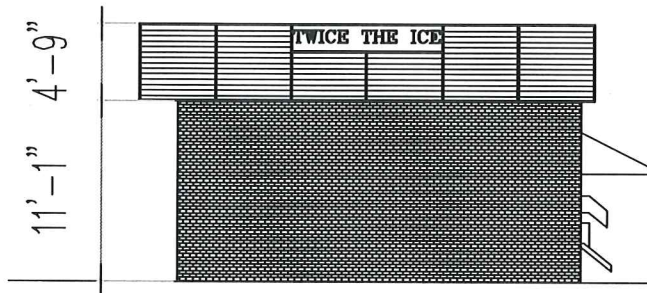
Exhibit E
Elevation Drawings



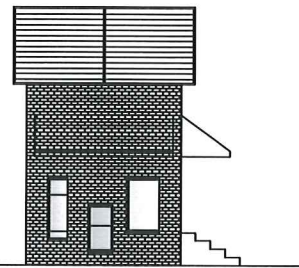
FRONT VIEW



SIDE VIEW



REAR VIEW
scale 1' = 1/4"



SIDE VIEW

3	198 E. BROADWAY STREET	WENDY WASH ROACH	10/07/2012	198 E. BROADWAY STREET
3	198 E. BROADWAY STREET	WENDY WASH ROACH	10/07/2012	198 E. BROADWAY STREET
3	198 E. BROADWAY STREET	WENDY WASH ROACH	10/07/2012	198 E. BROADWAY STREET
3	198 E. BROADWAY STREET	WENDY WASH ROACH	10/07/2012	198 E. BROADWAY STREET
3	198 E. BROADWAY STREET	WENDY WASH ROACH	10/07/2012	198 E. BROADWAY STREET

198 E. BROADWAY STREET

WENDY WASH ROACH
WENDY@WASHROACH.COM 817-956-2129

PROPERTY
SITE PLAN
FOR
TWICE THE ICE
THIS DESIGN IS PROTECTED BY COPYRIGHT
AND IS THE SOLE PROPERTY OF CHAPLAIN HENNER, INC.

AN ORDINANCE AMENDING ARTICLE VI OF CHAPTER 17 OF THE KENNEDALE CITY CODE (1991), AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF KENNEDALE, TEXAS BY APPROVING A CONDITIONAL USE PERMIT ON CERTAIN PROPERTY IN THE CITY OF KENNEDALE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, in accordance with Section 17-422.1 and Section 17-429 of the Zoning Ordinance, an application has been filed for a Conditional Use Permit for Ice Sales—Retail for the property located at 198 E Broadway Street, otherwise known as Lot 36E, C.A. Boaz Subdivision of the J.B. Renfro Survey, Abstract No. 1260, containing approximately .239 acres of land, and the owner of the property has agreed in writing to allow the applicant to request a Conditional Use Permit for such use; and

WHEREAS, the Planning and Zoning Commission of the City of Kennedale, Texas held a public hearing on October 18, 2012, and the City Council of the City of Kennedale, Texas held a public hearing on November 7, 2012, with respect to the Conditional Use Permit described herein; and

Whereas, the City has complied with all requirements of Chapter 211 of the Local Government Code, Sections 17-422.1 and 17-429 of the Zoning Ordinance, and all other laws dealing with notice, publication, and procedural requirements for the approval of a Conditional Use Permit on the property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, THAT:

SECTION 1.

The Zoning Ordinance of the City of Kennedale, Texas, as amended, is hereby amended to permit the following conditional use on the hereinafter described property and area as shown below:

An approximately .239 acre tract of land situated in the J.B. Renfro Survey, Abstract No. 1260, Tarrant County, Texas, being platted as Lot 36E, C.A. Boaz Subdivision, and being further described by metes and bounds in Exhibit "A" attached hereto and incorporated herein.

A Conditional Use Permit for Ice Sales—Retail, as shown on the site plan attached hereto and incorporated herein as Exhibit “B”.

SECTION 2.

The Conditional Use Permit as herein established has been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the community.

SECTION 3.

The official map of the City of Kennedale is amended and the City Secretary is directed to revise the official zoning map to reflect the approved Conditional Use Permit as set forth above.

SECTION 4.

The use of the property described above shall be subject to all restrictions, terms, and conditions contained in Exhibit “B” as well as the applicable regulations contained in the Comprehensive Zoning Ordinance and all other applicable and pertinent ordinances of the City of Kennedale. [If additional conditions are applied, add: The use of the property is further subject to the following specific conditions and limitations: (list conditions and limitations)].

SECTION 5.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Kennedale, Texas (1991), as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 6.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clause, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 7.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 8.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing zoning that have

accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 9.

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, penalty clause, publication clause and effective date clause of this ordinance as provided by Section 3.10 of the Charter of the City of Kennedale.

SECTION 10.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS DAY OF 7th NOVEMBER 2012.

MAYOR

ATTEST:

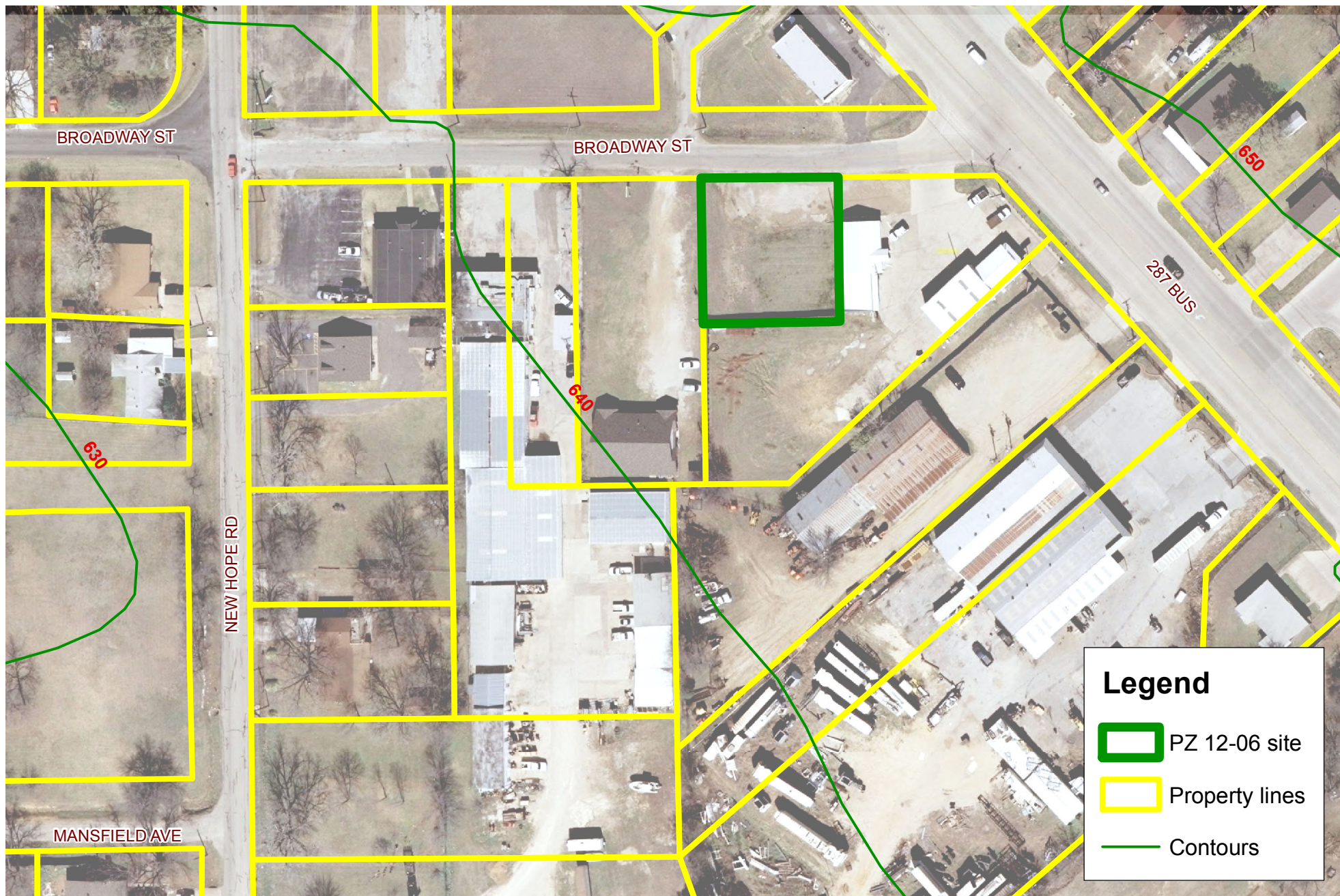
CITY SECRETARY

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY

PZ 12-06 Aerial View

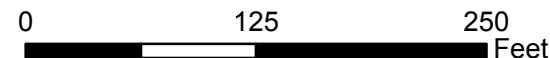


Legend

-  PZ 12-06 site
-  Property lines
-  Contours

Boundary line, contour, and street centerline data
provided by North Central Texas Council of Governments

1 inch = 104 feet



157 East Broadway Street



Exit Street View



© 2012 Google

© 2012 Google

Google earth

[Report a problem](#)

32°38'38.10" N 97°13'10.78" W elev 662 ft

Eye alt 655 ft

Click to switch between Street View and ground-level view



Exit Street View



© 2012 Google

© 2012 Google

Google earth

[Report a problem](#)

32°38'42.36" N 97°13'13.17" W elev 670 ft

Eye alt 655 ft

Overview of current regulations on outdoor display

Over the past several years, the Planning & Zoning Commission has been discussing various aspects of the city code that are redundant, inadequate, or obsolete and has made various recommendations to Council about how to resolve problems with the zoning code. One issue the Commission has tackled is the outdoor display of goods for sale. At the request of one of the commissioners, the board agreed to develop stricter regulations to govern the display of items for sale outside and to forward these regulations to Council for its consideration, and the Commission asked staff to prepare an ordinance.

The issue arose because the city's existing regulations on outdoor display govern **when** goods may be displayed outside and **where** they may be displayed. But they do not govern **what kind** of goods may be displayed, **how many** may be displayed, or other aspects of the appearance or visual effect of displayed goods.

Sections of City Code Governing Outside Display

When

Outside display permitted but during business hours only, with exceptions for automotive uses. (Sec. 12-4)

Where

Sec. 4-227

No outside display is permitted within 10 feet of the nearest right-of-way line to a public street. (Sec. 4-227(a), as amended).

No outside storage or display for salvage yards is permitted within 50 feet of the nearest right-of-way line of Business 287. (Sec. 17-420(m))

In C-0, C-1, and C-2 zoning districts, outdoor display is allowed (Sec. 17-413A, 17-414, and 17-415).

[See below for a list of the regulation governing outdoor display.]

Proposed changes

Attached to this message is a copy of the ordinance recommended by the Planning & Zoning Commission. The ordinance governs **appearance** of the outside display and provides an additional control for **location**. The proposed changes would permit only one item to be displayed at a time, and the item must clearly be indicated as a display item, for example, it must be removed from its original packaging. Exceptions from some of the new regulations would be provided for automobile sales or industrial equipment of comparable size or larger, farmer's markets, feed stores, and plant nurseries.

The ordinance also adds to the purpose statements for C-0 and C-1 districts a sentence that outdoor display is subject to regulations under Chapter 4 and 12 of the city code (intended to ensure staff or anyone else reading the zoning code knows to refer to these other parts of the code for additional regulations). And it provides a definition for outdoor display under zoning code as follows.

Display outdoor means the exhibition of vehicles, trailers, boats, goods, wares, or merchandises as a representation of products available for sale, rental, or lease on site. The items on display outside of a building or enclosed structure shall not be sold, rented, or leased, with the exception of the following uses, so long as same is displayed for sale in conformity with other applicable ordinances of the city: auto sales, trailer sales, boat sales, farmer's markets, flea markets, and plant nurseries. With the exception of the uses listed above, all items on display must be removed from packaging.

The Planning & Zoning Commission considered the ordinance in May 2011 and voted to recommend approval.

Recommendations

Staff recommends this ordinance be denied. The proposed amendment to the zoning ordinance conflicts with Section 4 of the building regulations. If Council feels this is a necessary ordinance, the staff could prepare an ordinance reconciling the two provisions.

Outdoor display in the zoning code

C-0 (Commercial)
Sec. 17-413A. (a) <i>Purpose</i> [excerpt] This section is not intended to prohibit the outside display of merchandise in the normal course of retail business.
C-1 (Commercial)
Sec. 17-414. (a) <i>Purpose</i> [excerpt] This section is not intended to prohibit the outside display of merchandise in the normal course of retail business.
C-2 (Commercial)
Sec. 17-4145 (a) <i>Purpose</i> [excerpt] This district permits the storage of goods, materials, equipment, machinery and vehicles outside of enclosed buildings.
I (Industrial)
No mention of outside display
Overlay Districts
No outside storage or display for salvage yards is permitted within 50 feet of the nearest right-of-way line of Business 287. (Sec. 17-420(m))
Outdoor display in other parts of the zoning code
Chapter 17: All commercial sales must be enclosed in C-0 and C-1 zoning districts, except that sidewalks sales are allowed with a permit from city council (Sec. 17-413A and 17-414).
Chapter 17: Outdoor display is permitted for large retail facilities, but shall not be larger than 5% of gross floor area or 10,000 square feet and must be screened (additional regulations listed under Section 17-422.1(d)(7)).
Chapter 17: Definitions: <i>Display</i> means the exhibition of vehicles, trailers, boats, goods, wares, or merchandise for sale, rental, or lease.

Outdoor display in other parts of the code

Outdoor display in other parts of the code
Chapter 12: Outside display permitted but during business hours only, with exceptions for automotive uses. (Sec. 12-4)
Chapter 4: No outside display is permitted within 10 feet of the nearest right-of-way line to a public street. (Sec. 4-227(a), as amended). Additional regulations governing the placement of outside display are listed under Section 4-227 outside/outdoor display regulations.

CITY OF KENNEDALE

ORDINANCE NO. ____

AN ORDINANCE AMENDING SECTIONS 12-4, 17-413A, 17-414, AND 17-431 OF THE KENNEDALE CITY CODE (1991), AS AMENDED, BY AMENDING REGULATIONS GOVERNING OUTDOOR DISPLAY OF MERCHANDISE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council previously adopted regulations governing outdoor display of merchandise set forth in the City's general regulations and zoning district regulations; and

WHEREAS, the City Council now desires to amend said regulations by providing more specific guidelines for permissible outdoor display in order to better protect the public health, safety and welfare; and

WHEREAS, public hearings were held by the Planning and Zoning Commission of the City of Kennedale, Texas, on [date], and by the City Council of the City of Kennedale, Texas, on [date], with respect to the amendments described herein; and

WHEREAS, all requirements of law dealing with notice and publication and all procedural requirements have been complied with in accordance with the Comprehensive Zoning Ordinance and Chapter 211 of the Local Government Code;

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

SECTION 1.

Section 12-4 of the Kennedale City Code is hereby amended to read as follows:

Sec. 12-4. – Outdoor display of merchandise.

(a) It shall be unlawful for any person to display any goods, wares or merchandise on the outside of a building or enclosed structure except during hours that the business establishment or owner or custodian of such goods, wares or merchandise

offering the same for sale is open for business and available at the scene of display, either in person or through an agent or employee, to conclude a sale of same.

(b) No more than one (1) item may be displayed outside of a building or enclosed structure at a time. The displayed item must be removed from packaging and displayed as a representation of products available for sale indoors.

(c) This section shall not apply to the display of automobiles, motor vehicles or industrial equipment of comparable size or larger, farmer's markets, flea markets, feed stores, or plant nurseries, so long as same is displayed for sale in conformity with other applicable ordinances of the city.

(d) Outdoor display shall not be located more than 15' from the principal building.

(e) The City reserves the right to require the removal of any merchandise displayed outside on the public right-of-way/sidewalk that may be obtrusive, unsafe, or otherwise interfere with pedestrian traffic.

(f) Items on display shall conform to Sec. 4-227 of this code.

(g) Outdoor display requirements for large retail facilities will be governed by Section 17-422.1(d)(7) and any special conditions set forth in the terms of the Conditional Use Permit issued for the large retail facility.

SECTION 2.

Section 17-431 of the Kennedale City Code is hereby amended to read as follows:

Display, outdoor means the exhibition of vehicles, trailers, boats, goods, wares, or merchandise as a representation of products available for sale, rental or lease on site. The items on display outside of a building or enclosed structure shall not be sold, rented, or leased, with the exception of the following uses, so long as same is displayed for sale in conformity with other applicable ordinances of the city: auto sales, trailer sales, boat sales, farmer's markets, flea markets, and plant nurseries. With the exception of the uses listed above, all items on display must be removed from packaging.

SECTION 3.

Paragraph (a) of Section 17-413A, "C-0" Retail Commercial District, of the Kennedale City Code is hereby amended to read as follows:

(a) *Purpose.* The "C-0" retail commercial district has been established to provide for the development of retail oriented uses. This district is intended to accommodate the basic shopping and service needs of residents and to provide retail for merchants. This section is not intended to prohibit the outside display of merchandise in the normal course of retail business, subject to Sec. 4-227 and Sec. 12-4 of the city code.

SECTION 4.

Paragraph (a) of Section 17-414, "C-1" Restricted Commercial District, of the Kennedale City Code is hereby amended to read as follows:

(a) *Purpose.* The "C-1" restricted commercial district has been established to limit commercial uses and operations within enclosed buildings and prohibiting outside storage of new goods and materials, and new or used vehicles and equipment. This district is intended to accommodate the basic shopping and service needs of residents and to provide retail and office space for merchants and financial, administrative, government and business services. This section is not intended to prohibit the outside display of merchandise in the normal course of retail business, subject to Sec. 4-227 and Sec. 12-4 of the city code.

SECTION 5.

This ordinance shall be cumulative of all provisions of ordinances and the Code of the City of Kennedale, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such and Code, in which event the conflicting provisions of such ordinances and Code are hereby repealed.

SECTION 6.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 7.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of the Kennedale City Code (1991), as amended, or any other ordinance or code provision affecting outdoor display which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such

ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 8.

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, penalty clause, publication clause and effective date clause of this ordinance as provided by Section 3.10 the Charter of the City of Kennedale.

SECTION 9.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning and Five Hundred Dollars (\$500.00) for all other offenses, and in addition shall pay all costs and expenses involved in the case. Each day a violation occurs is a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 10.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS 7th DAY OF NOVEMBER, 2012.

Mayor, John Clark

ATTEST:

City Secretary

APPROVED AS TO FORM AND LEGALITY:

City Attorney

Date: November 7, 2012

Agenda Item No: REGULAR ITEMS - D.

I. Subject:

Consider authorizing the City Manager to execute an agreement with QuikTrip for construction of an entrance sign on Kennedale Parkway.

II. Originated by:

Amethyst G. Cirimo, City Secretary and Communications Coordinator

III. Summary:

Staff and QT has worked to relocate the proposed "welcome to Kennedale" sign for the QT property to the median in Kennedale Parkway (or TxDOT ROW). The proposed draft letter agreement would permit such construction. Staff is continuing to work with Wayne Olson and QT to finalize the language and will submit a final version at or before the meeting. The bottom line is that the letter provides for QT to construct the sign and donate it to the city to maintain. Because it is in the right-of-way, TxDOT will only permit a sign owned by the city.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

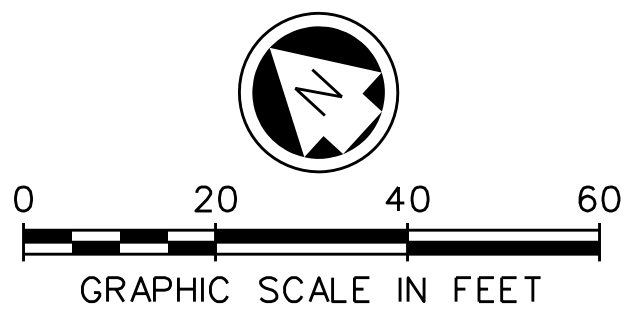
VII. Alternative Actions:

VIII. Attachments:

1.	sign plans	Revised Kennedale Monument Sign Plans.pdf
2.	agreement	Sign Letter Agreement with City of Kennedale GLS 102312.doc



NOTE:
ALL UTILITIES SHOWN ARE APPROXIMATE LOCATIONS
AND SHOULD BE USED FOR REFERENCE ONLY. THE
CONTRACTOR SHALL VERIFY THE LOCATIONS OF ALL
EXISTING UTILITIES AND CONTACT DIG TESS PRIOR
TO ANY EXCAVATION.

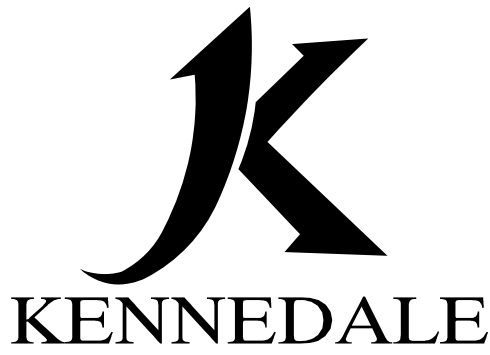


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PRELIMINARY - FOR REVIEW ONLY

These documents are for Design Review
and not intended for Construction,
Bidding or Permit Purposes. They were
prepared by, or under supervision of:

CRAIG H. BARNES 86193 10-23-12
Type or Print Name PE Date



CITY OF KENNEDALE
405 MUNICIPAL DRIVE
KENNEDALE, TX 76060

PHONE 817.985.2100



SHIELD ENGINEERING GROUP, PLLC

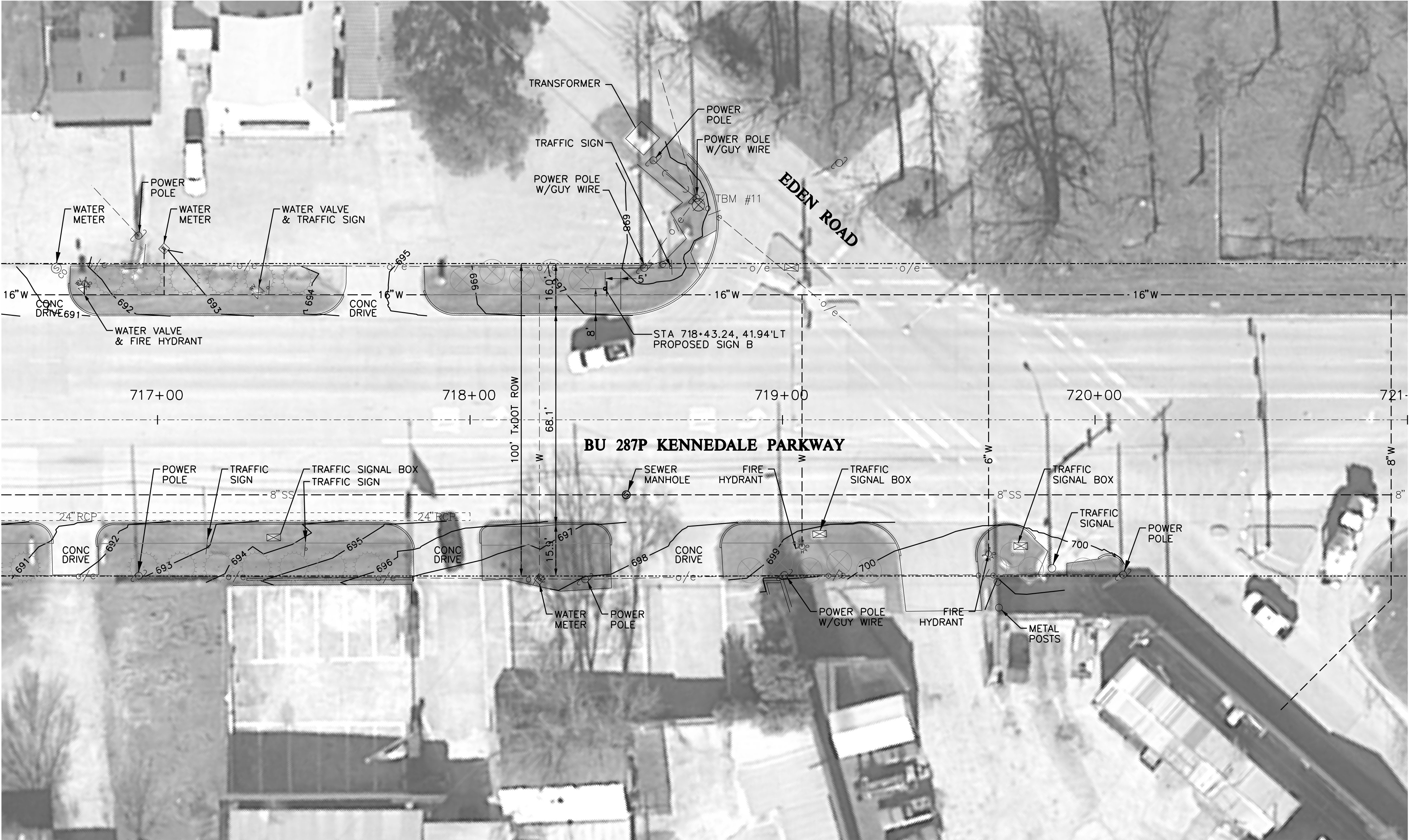
TEXAS REGISTERED ENGINEERING FIRM F-11039

1200 W FREEWAY STE. 300 P 817.810.0696
Fort Worth, Texas 76102 F 817.810.0372

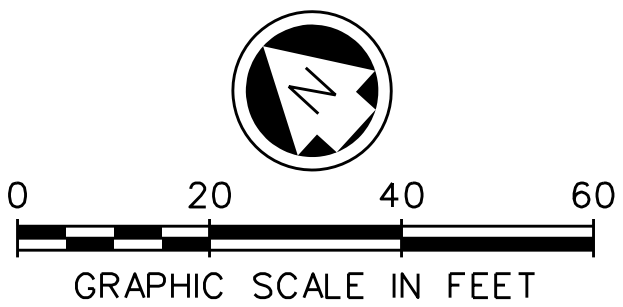


KENNEDALE MONUMENT SIGNS
SITE PLAN

C.O.	REV.	DESCRIPTION			DATE	BY
		FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		SHEET NO.	
		6	STP 2012(497)		1	
REVISIONS		STATE	DISTRICT	COUNTY		
		TEXAS	FTW	TARRANT		
		CONTROL	SECTION	JOB	HIGHWAY NO.	
		0172	02	071, ETC	BU 287P	



NOTE:
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AND SHOULD BE USED FOR REFERENCE ONLY. THE
CONTRACTOR SHALL VERIFY THE LOCATIONS OF ALL
EXISTING UTILITIES AND CONTACT DIG TESS PRIOR
TO ANY EXCAVATION.

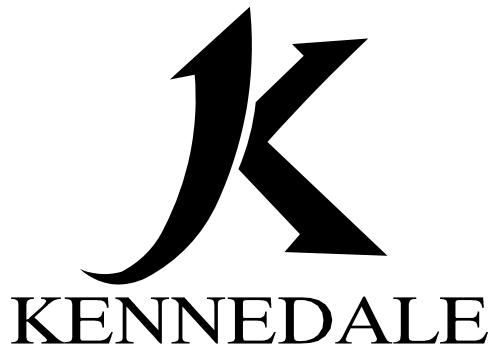


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PRELIMINARY - FOR REVIEW ONLY

These documents are for Design Review
and not intended for Construction,
Bidding or Permit Purposes. They were
prepared by, or under supervision of:

CRAIG H. BARNES 86193 10-23-12
Type or Print Name PE Date



CITY OF KENNEDALE
405 MUNICIPAL DRIVE
KENNEDALE, TX 76060

PHONE 817.985.2100



SHIELD ENGINEERING GROUP, PLLC

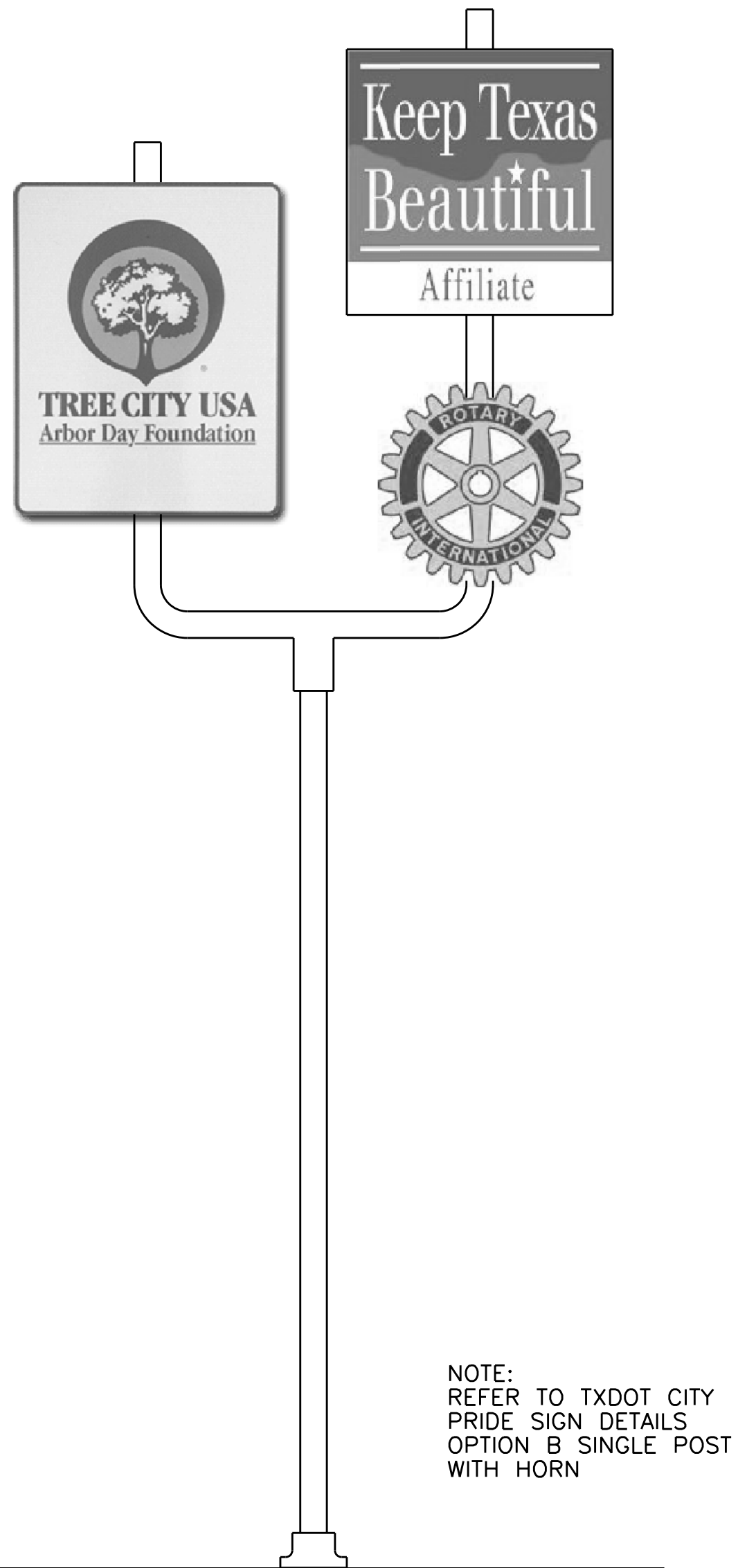
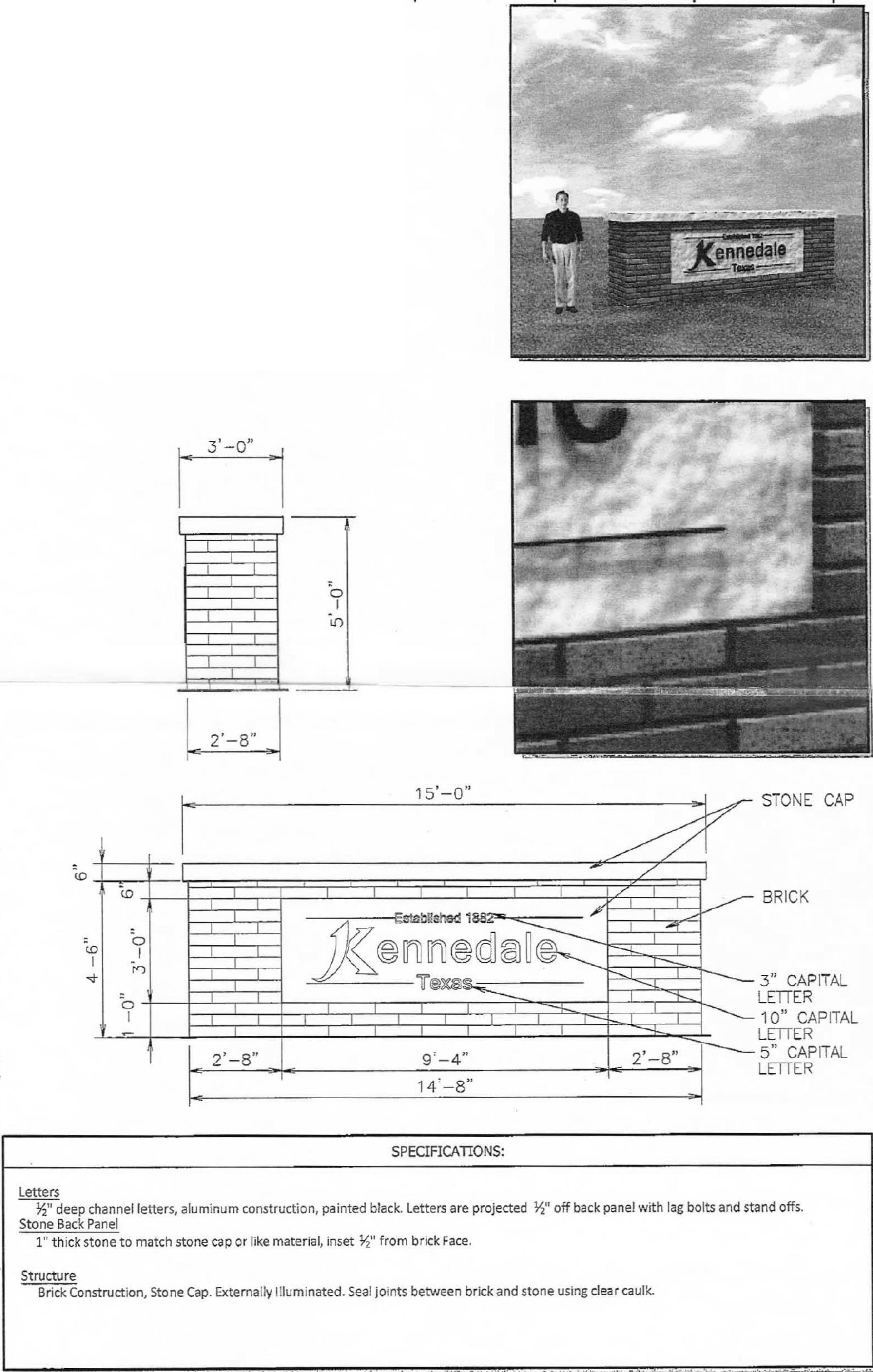
TEXAS REGISTERED ENGINEERING FIRM F-11039

1200 W FREEWAY STE. 300 P 817.810.0696
Fort Worth, Texas 76102 F 817.810.0372



KENNEDALE MONUMENT SIGNS
SITE PLAN

C.O.	REV.	DESCRIPTION			DATE	BY
		FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		SHEET NO.	
		6	STP 2012(497)		2	
REVISIONS		STATE	DISTRICT	COUNTY		
		TEXAS	FTW	TARRANT		
		CONTROL	SECTION	JOB	HIGHWAY NO.	
		0172	02	071, ETC	BU 287P	



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K
KENNEDALE

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405 MUNICIPAL DRIVE
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PHONE 817.985.2100

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TEXAS REGISTERED ENGINEERING FIRM F-11039

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Texas Department of Transportation

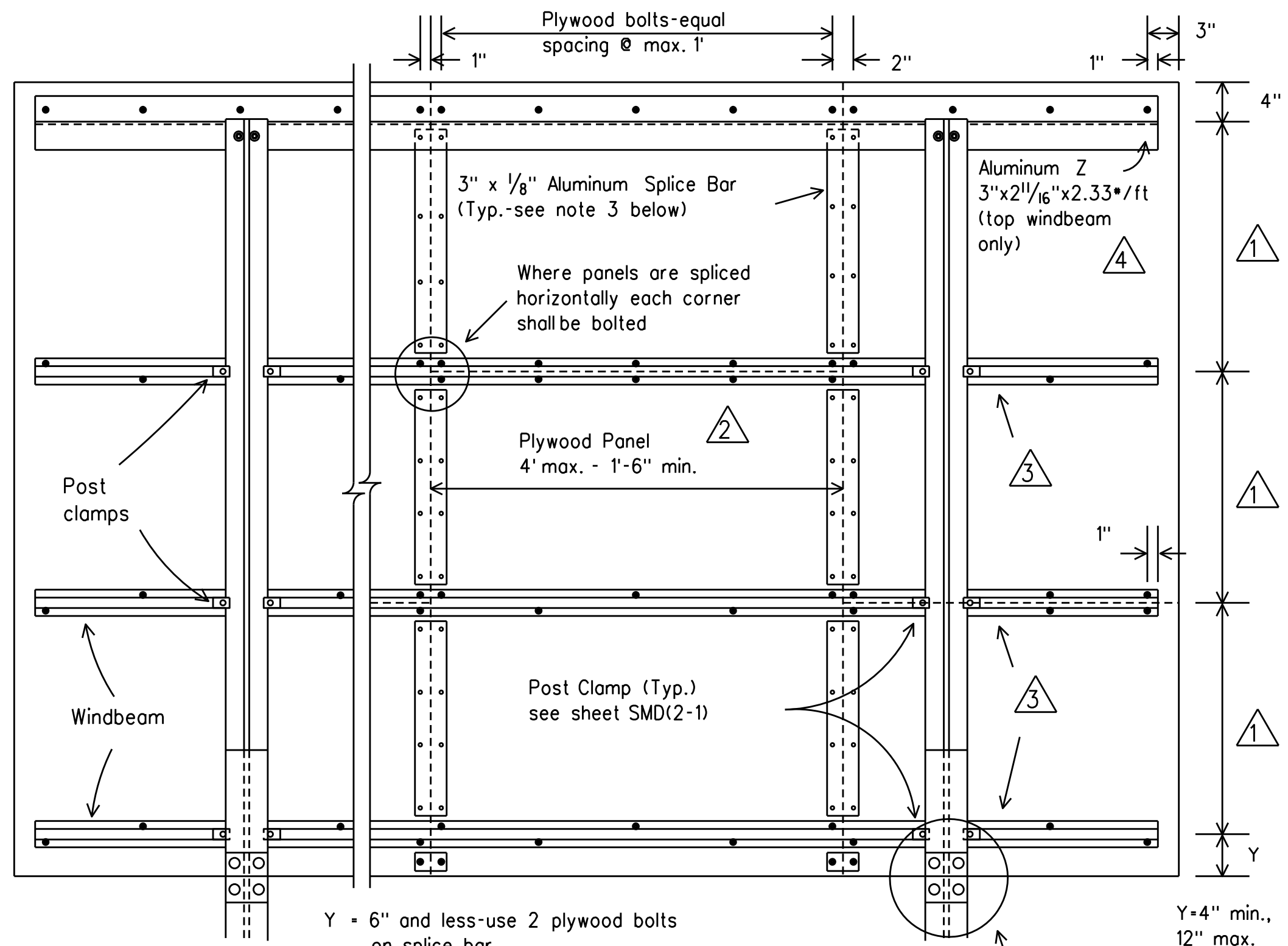
KENNEDALE MONUMENT SIGNS
SIGN DETAILS

C.O.	REV.	DESCRIPTION			DATE	BY
		FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		SHEET NO.	
		6	STP 2012(497)		3	
REVISIONS		STATE	DISTRICT	COUNTY		
		TEXAS	FTW	TARRANT		
		CONTROL	SECTION	JOB	HIGHWAY NO.	
		0172	02	071, ETC	BU 287P	

DISCLAIMER: The use of this standard is governed by the "Texas Engineering Practice Act". No warranty of any kind is made by TxDOT for any purpose whatsoever. TxDOT assumes no responsibility for the conversion of this standard to other formats or for incorrect results or damages resulting from its use.

DATE:
FILE:

TYPICAL PLYWOOD SIGN ASSEMBLY DETAILS

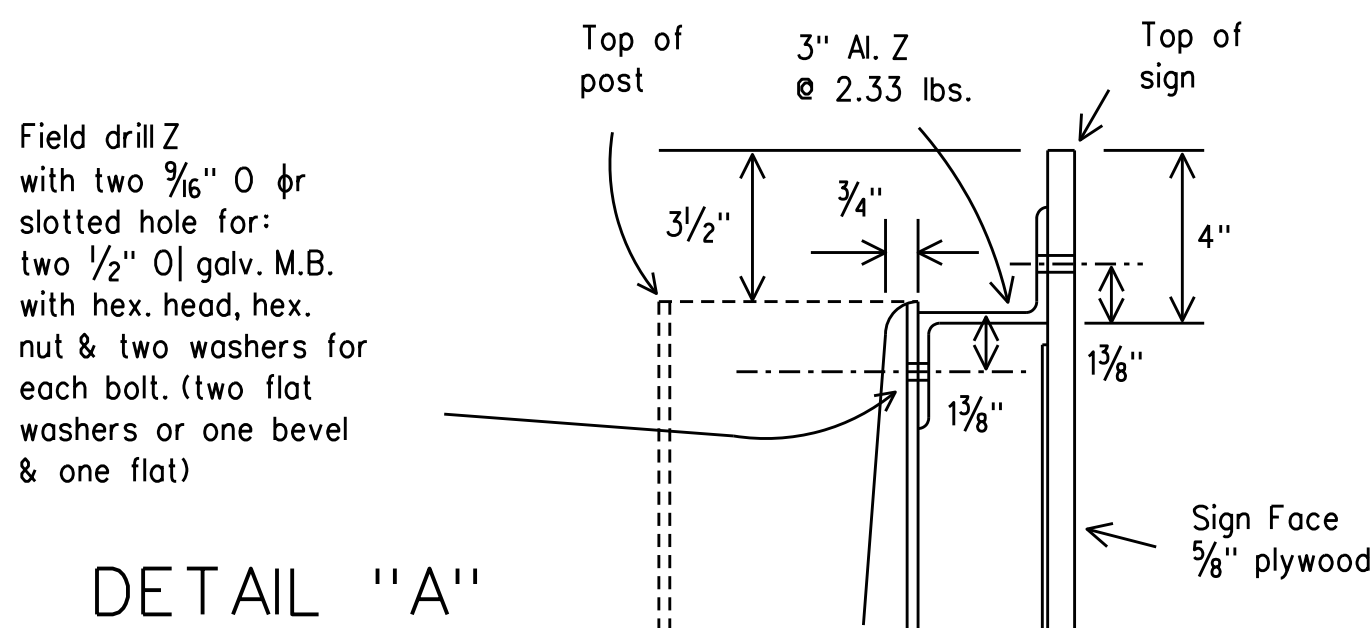


Y = 6" and less-use 2 plywood bolts on splice bar
Y = over 6"-use 2 plywood bolts at bottom of splice bar and 2 No. 10 5/8" woodscrews at top of bar

REAR VIEW

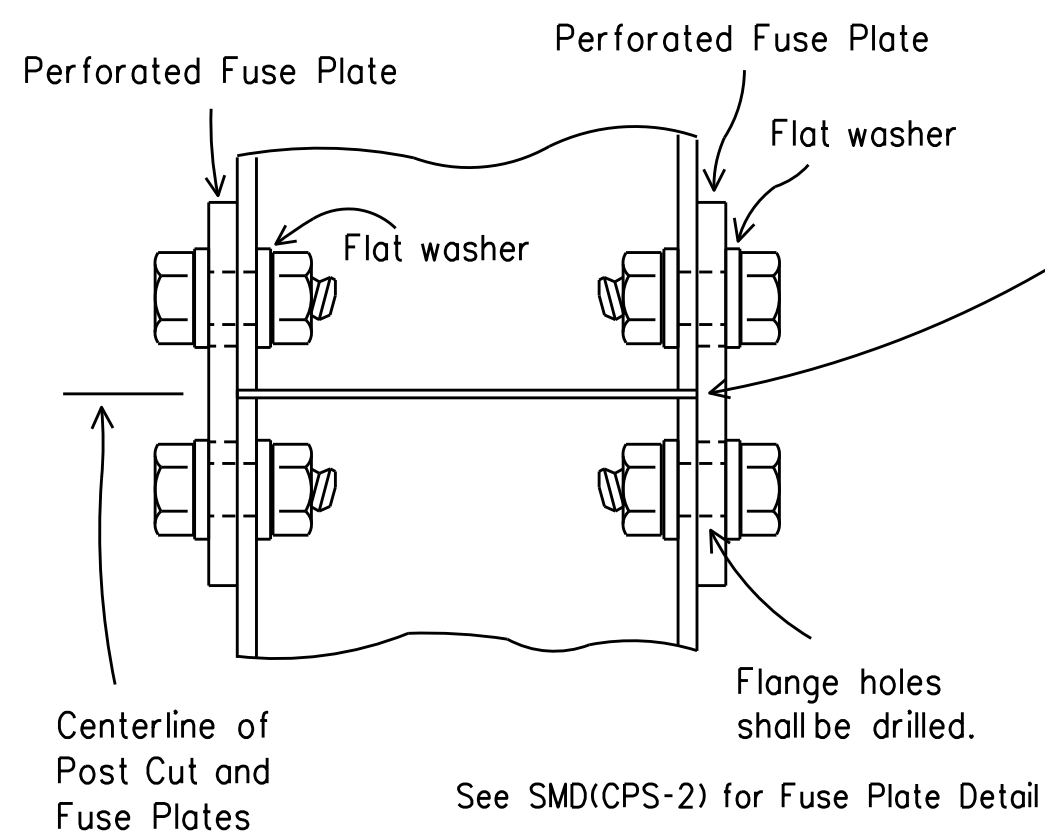
NOTES:

1. A tolerance of plus or minus 1/4 inch will be permitted in the plan dimensions for fabrication of each single increment sign panel when necessary for squaring. A tolerance of plus or minus 1/4 inch will be permitted for each increment of a multi-increment sign panel where necessary to secure square, tight-fitting joints.
2. Plywood bolts shall be 5/16" x 1 1/2" elevator type steel with flat or slightly hemispherical head and 3/4" minimum thread length. The head shall have a minimum diameter of 1 1/16" and a minimum of two fins on the underside. Each bolt shall be provided with one 3/8" steel hex nut, one 3/16" steel flat washer, and one 3/16" steel lock washer. Bolts, nuts and washers shall be galvanized in accordance with ASTM Designation: B695, Class 50, or A153 Class C or D.
3. Splice bars shall be secured with 5/8" long x #10 round head, stainless steel wood screws spaced at 6" maximum along double row spacing with the exception at extreme ends of splice bars, along outside edge of sign, where plywood bolts shall be used as shown. A maximum of one horizontal joint per vertical section will be permitted using a 1/8" gap between panels.
4. Splices shall be kept to a minimum. Panels 4'x8' or larger shall be used to the maximum extent possible in the fabrication of any sign. Signs or sign sections which cannot be fabricated from at least a 4'x8' panel shall be of one piece construction.

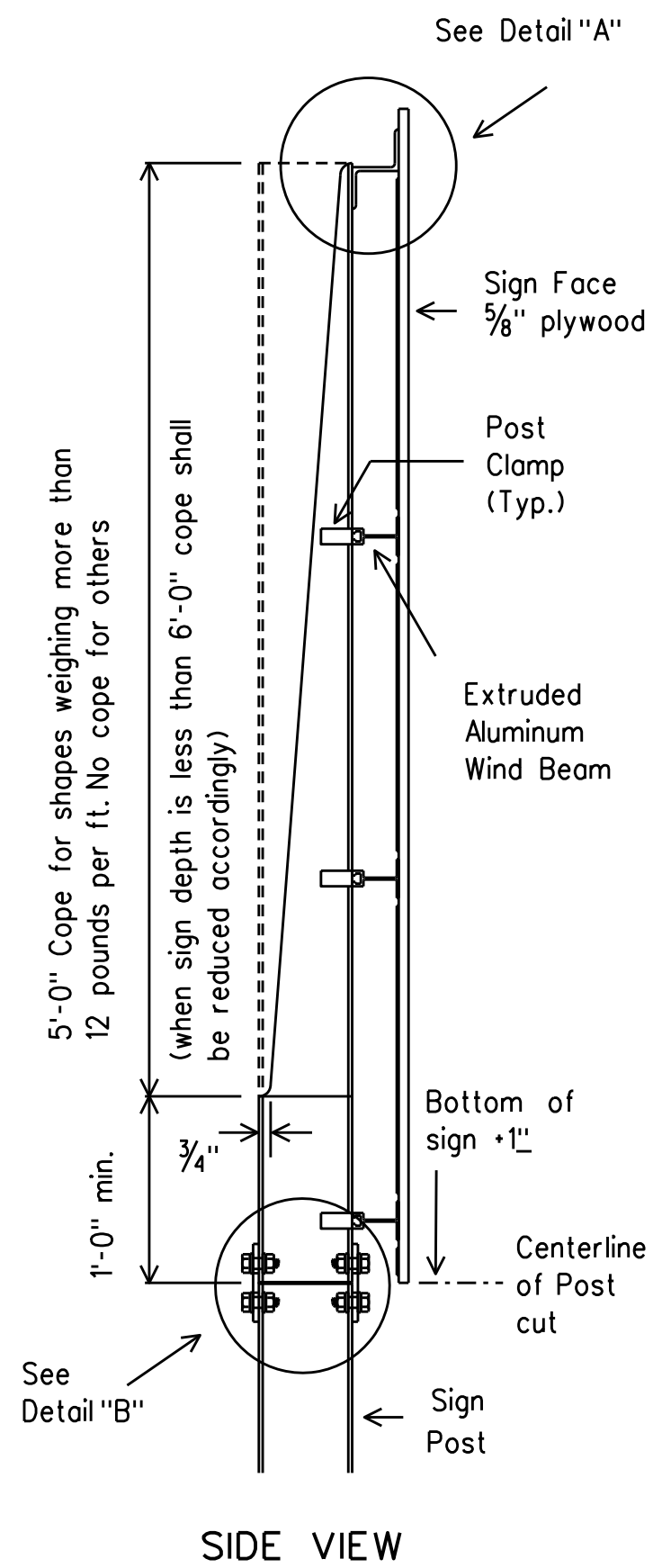


DETAIL "A"

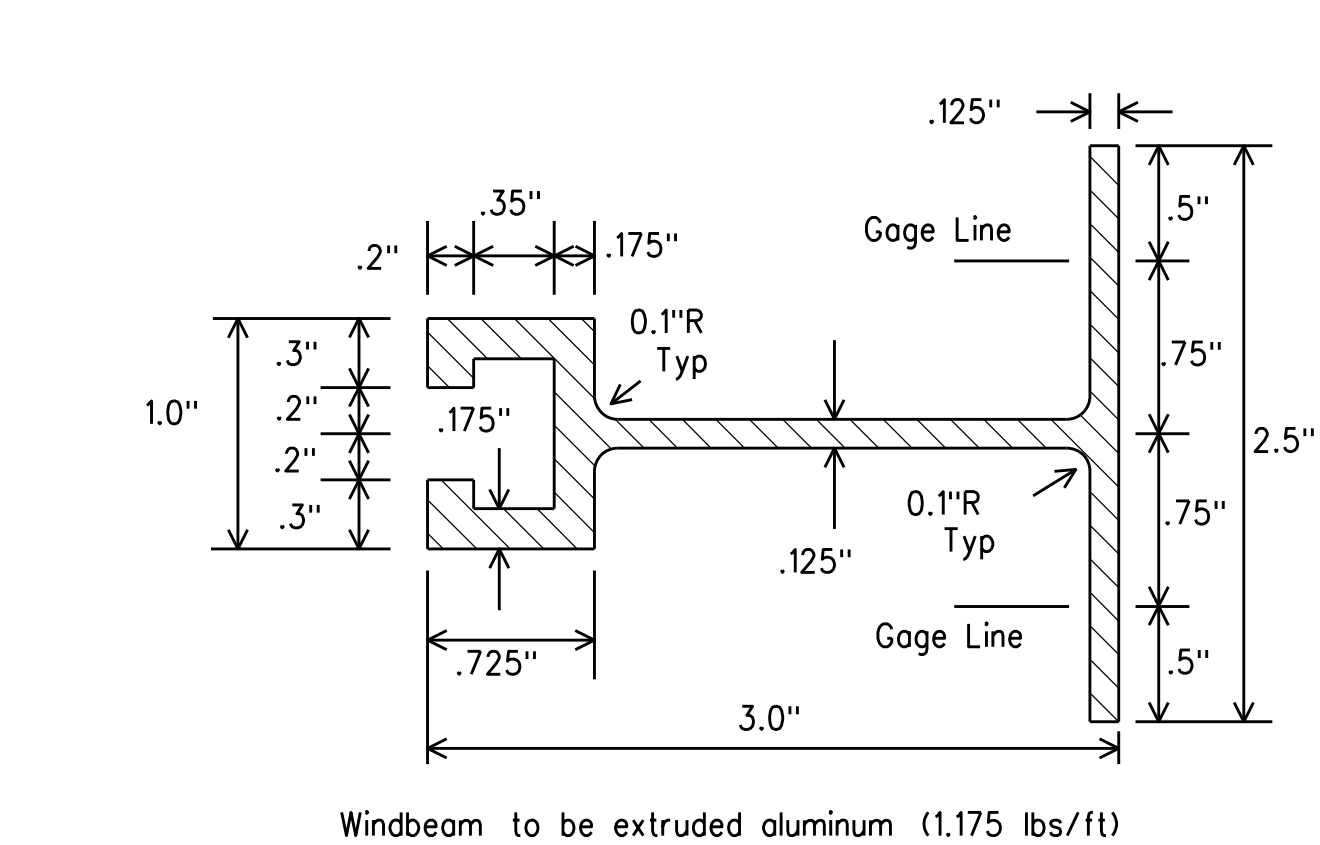
1. Approximately equal spacing, fabricator may vary spacing for least interference with message and to utilize wind beam for horizontal splice. Wind beam spacing will not exceed the maximum shown in table on sheet SMD(2-1). Staggered arrangement of horizontal splices as shown is preferred. However, a single horizontal joint across the sign face is permissible.
2. For signs 4'-0" or less in height the plywood panel may exceed 4'-0" in width.
3. Extruded aluminum wind beams shall be continuous with no splices. (see sheet SMD(2-1).
4. Aluminum Z will be provided unless stated otherwise in the plans. If noted elsewhere in the plans, 1.175 lb/ft extruded aluminum windbeam may be used.



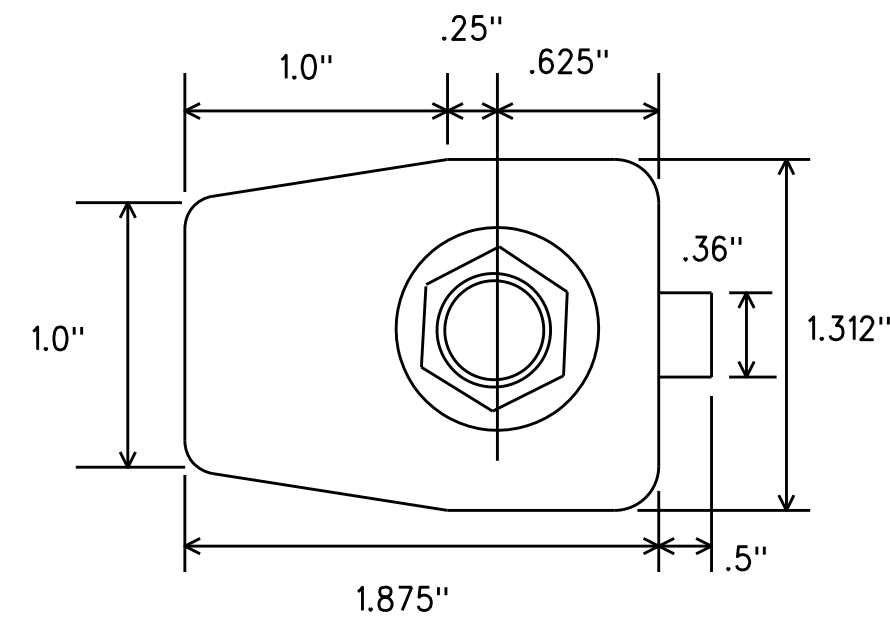
DETAIL "B"



SIDE VIEW

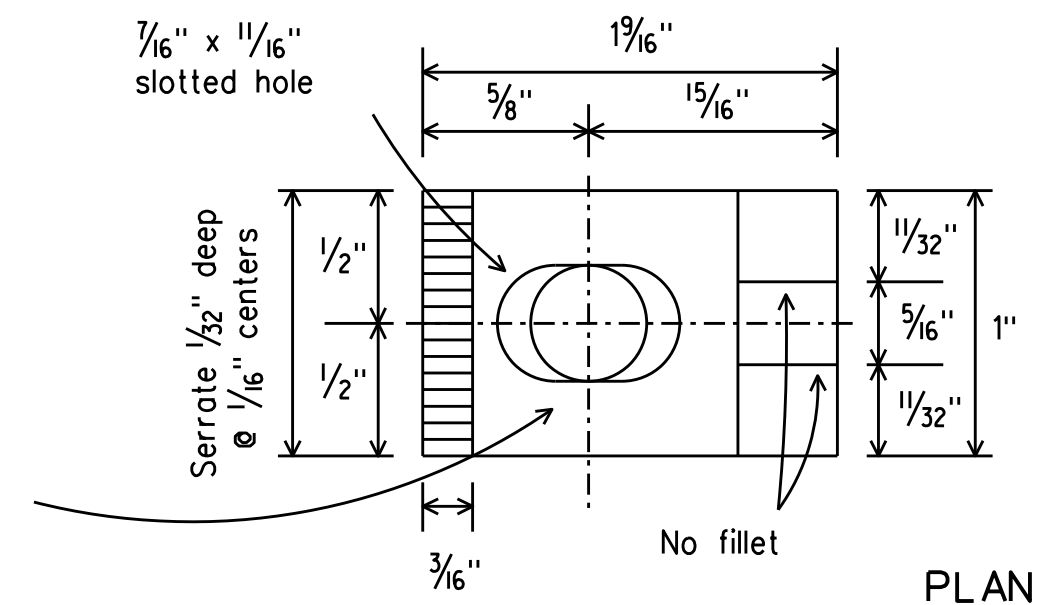


WINDBEAM CROSS SECTION

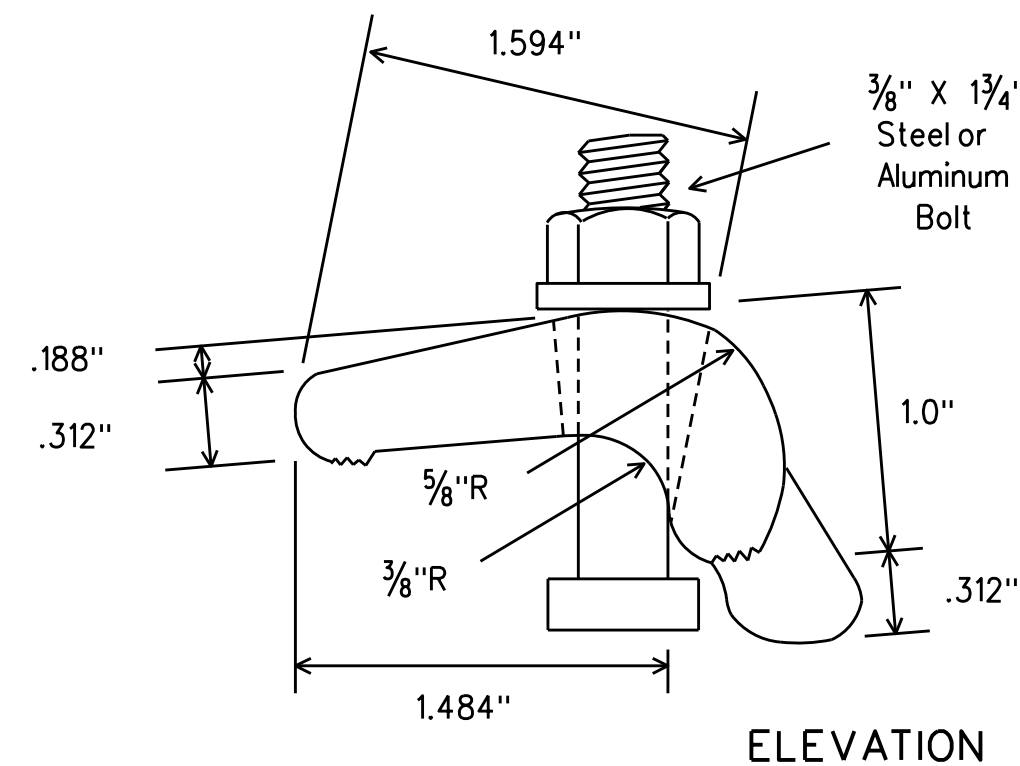


PLAN

NOTE: centerline of hole for 3/8" diameter squarehead bolt x 2 1/4" long with a flat washer and self-locking nut, or lock washer and hex. nut. Bolt head dimensions shall be in accordance with ANSIB 18.2.1 as referred to in the AISC Manual of steel construction. Bolt assembly shall be galvanized.

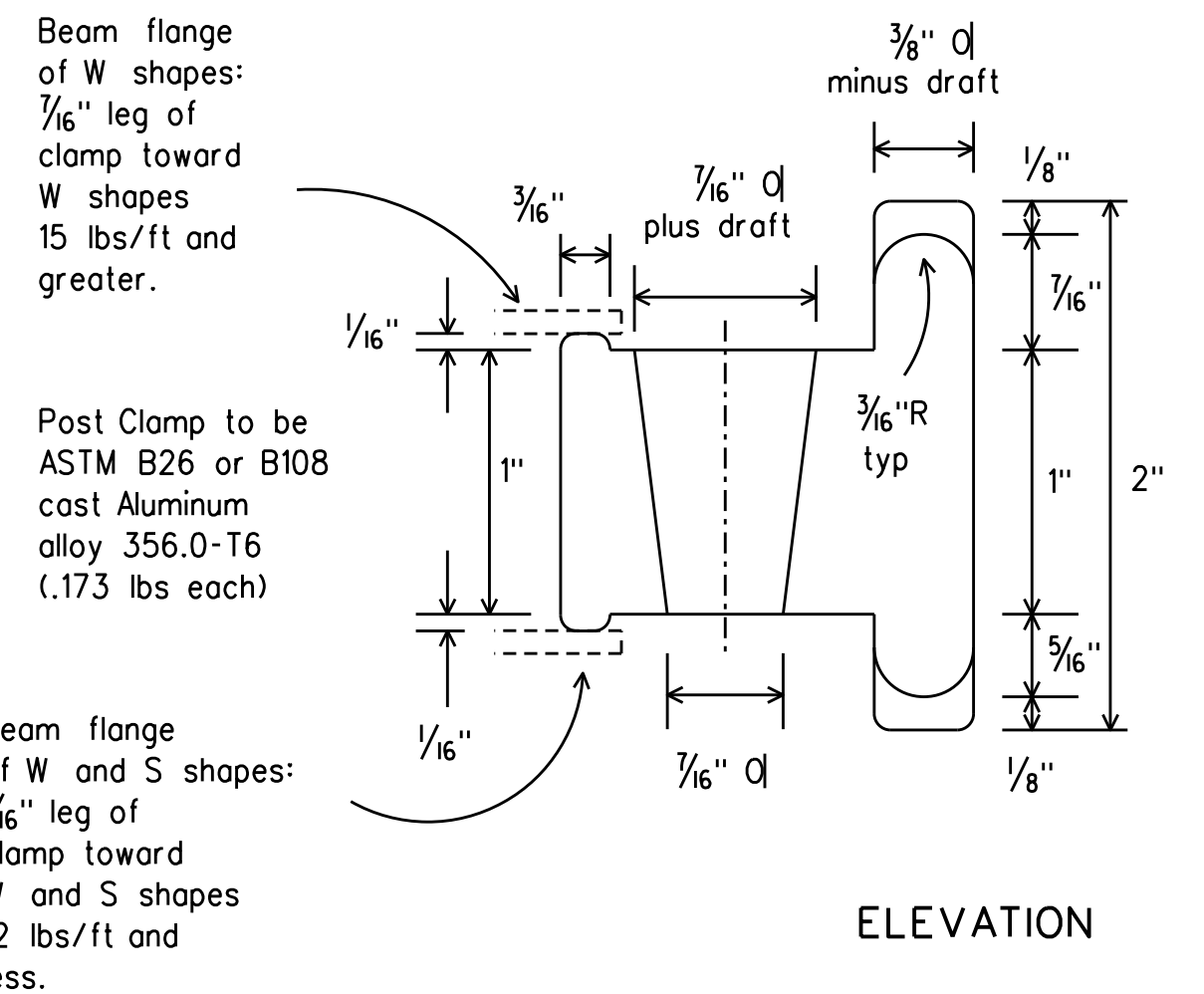


PLAN



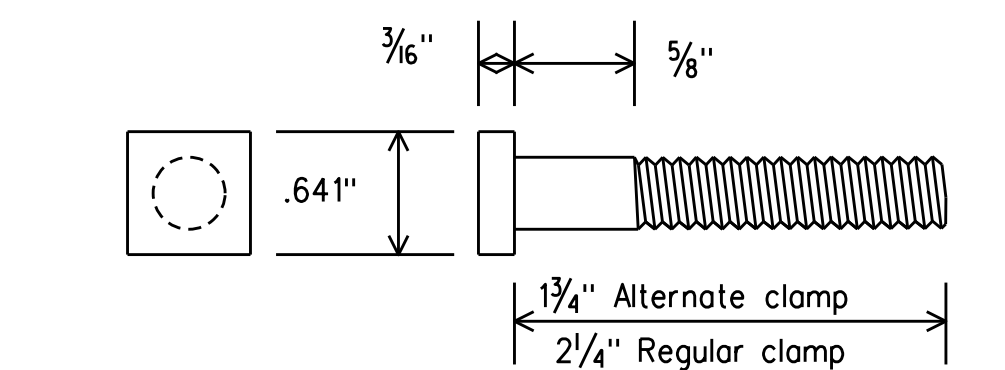
ELEVATION

ALTERNATE POST CLAMP DETAIL



ELEVATION

POST CLAMP DETAIL



POST CLAMP BOLT DETAIL

SIGN SUPPORTS WILL ONLY BE SPLICED BEHIND THE SIGN SUBSTRATE

SPECIFICATION REFERENCE TABLE MATERIALS AND TESTS DIVISION SPECIFICATIONS SIGN HARDWARE	D-9-7120
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GENERAL NOTES:

1. Design conforms with AASHTO Specifications for the design and construction of structural supports for highway signs.
2. Materials and fabrication shall conform to the requirements of the Department material specifications.
3. Structural steel shall be high strength steel (HS) in accordance with the Item 442, "Metal For Structures."
4. Parts shall be saw cut either before galvanizing and the galvanized cut cleaned of zinc build-up, or saw cut after galvanizing and the cut surface treated with zinc-based solder or zinc-rich paint in accordance with ASTM A780. (Cut surface will not be treated until plate is installed and all bolts fully tightened.)



CITY PRIDE SIGN

SHEET 3 OF 3 SMD(CPS-3)-98

© TxDOT December 1998	DN: TxDOT	CK: TxDOT	DW: TxDOT	CK: TxDOT
REVISIONS	CONT	SECT	JOB	HIGHWAY
	DIST		COUNTY	SHEET NO.

October 24, 2012

Bob Hart, City Manager
City of Kennedale
405 Municipal Drive
Kennedale, Texas 76060

***Re: Construction, Maintenance and Ownership of City of Kennedale
Sign; Indemnification***

Dear Mr. Hart:

QuikTrip Corporation ("QuikTrip") has agreed to construct, at its sole cost and expense, a sign advertising/identifying the City of Kennedale (the "City") to be located in the center median of Business Highway 287 located across from the front of QuikTrip's property and to landscape the median area surrounding the sign as depicted on Exhibit A attached hereto (the "Median Landscape Area"). QuikTrip has also agreed to run electric and water utility lines from its property to the signage area; provided, that the City agrees to be responsible for and bear the entire cost and expense of the necessary boring under Business Highway 287 and obtaining the necessary permits for such work. Further, QuikTrip has agreed to provide, at its sole cost and expense, for so long as QuikTrip operates a store on the property, the electricity required to operate/illuminate the sign and the water necessary to irrigate the Median Landscape Area. The City has also agreed that it shall be solely responsible for the maintenance of the sign and Median Landscape Area after QuikTrip has completed the construction and the initial landscaping of the area surrounding the sign.

In exchange for QuikTrip constructing the sign and initial landscaping in the Median Landscape Area for the City, the City hereby agrees to the fullest extent permitted by law, to indemnify and hold harmless QuikTrip, its successors and assigns from and against any and all claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from (i) any damage to the sign or Median Landscape Area caused by a third party, (ii) any third party claims in any way related to the sign or Median Landscape Area and (iii) any dispute involving the performance of the City's obligations with respect to the sign and Median Landscape Area.

Please sign this letter and return it to QuikTrip to acknowledge that a legal, valid and binding agreement exists between QuikTrip and the City as to the subject matter hereof. The parties agree that this letter may be executed in multiple counterparts, each of which shall be deemed an original, and exchanged by facsimile transmission; and that the facsimile copy of a party's signature shall be binding as if the signature were an original signature. Notwithstanding the binding effect of such facsimile copies, the parties shall nevertheless execute and exchange original counterparts of this letter. Please return the original to my attention at the above address. Thank you for your cooperation in this matter.

Sincerely,

QUIKTRIP CORPORATION
AND

ACKNOWLEDGMENT

AGREEMENT:

CITY OF KENNEDALE

By: _____
Joseph S. Faust
Director of Real Estate

By: _____

Exhibit A

Median Landscape Area

Date: November 7, 2012

Agenda Item No: REGULAR ITEMS - E.

I. Subject:

Consider authorizing the City Manager to execute a contract with the Texas Department of Transportation regarding maintenance of city entrance sign within the right-of-way.

II. Originated by:

Bob Hart, City Manager

III. Summary:

If council approves the letter agreement with QT for the placement of the TxDOT sign in the right-of-way, staff will prepare and submit a request for a permit to install the sign. The permit application will require an agreement between the City and TxDOT prior to approving the permit. This has been placed on the agenda requesting such approval so the sign permit and construction (if approved) can be expedited. TxDOT has a standard agreement and it will be reviewed by Wayne Olson prior to execution.

Recommendation

Authorize the city manager to execute an agreement with TxDOT to place a Welcome to Kennedale sign within the TxDOT ROW.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

Date: November 7, 2012

Agenda Item No: REGULAR ITEMS - F.

I. Subject:

Consider a resolution to authorize the submission of a grant application to the Texas Department of Transportation related to the program for pedestrian improvements.

II. Originated by:

III. Summary:

Staff is currently working on this item and will have detailed information available at the meeting.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

Date: November 7, 2012

Agenda Item No: EXECUTIVE SESSION - A.

I. Subject:

The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda and legal issues regarding right of way acquisition.

1. Right of way acquisition related to Link Street construction.

II. Originated by:

Bob Hart, City Manager

III. Summary:

Bob Hart will present information on these topics during executive session.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

Any action that is necessary on this topic will be taken once council has reconvened into open session.

VIII. Attachments:

Date: November 7, 2012

Agenda Item No: WORK SESSION, CONTINUED - A.

I. Subject:

Governance discussion and drafting of policies.

II. Originated by:

Bob Hart, City Manager

III. Summary:

Continued work session discussion.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments: