

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Parks and Recreation
AGENDA DATE: May 19, 2009
CONTACT PERSON/PHONE: Nanette Smejkal, 541-4331
DISTRICT(S) AFFECTED: 1

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Approve a Joint Use Resolution of the El Paso Water Utilities Public Service Board, Trustees (PSB) and the City Council of the City of El Paso, Texas, (CITY) pertaining to the joint use of property located adjacent to Brown Street and Schuster Avenue being portions of Blocks 39F, 137, 138, 139, 142, 143 and 174 Alexander Addition, and Tract 35 (also known as Parcel 1) and a portion of Tract 16, H.F. Fisher Survey No. 293, subject to the permanent easement signed by the City of El Paso on September 30, 1971 and all vacated streets and alleys, El Paso, El Paso County, Texas (District #1) to allow for compatible use with the City's adjoining property. (District #1).

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

The Parks and Recreation Department desires to implement the goals of the adopted Parks and Recreation Master Plan and improve additional recreation areas. Staff recommends approving joint use of approximately 6.538 acres more or less which is located adjacent to Art Wood Reservoir for the purpose of construction, use and maintenance of baseball and softball sports fields. The use and improvement will be in conjunction with the El Paso Independent School District

The Joint Use Resolution was approved by the El Paso Water Utilities Public Service Board, Trustees (PSB) at their meeting of April 22, 2009, authorizing the joint use of the 6.538 acre parcel.

Upon approval by the City Council, staff will next work to finalize a lease agreement and interlocal agreement with EPISD for the construction of baseball and softball fields at Tom Lea Park and this parcel.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

From time-to-time, the City Council approves joint land use agreements with the PSB.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

This PSB parcel will be used by the City at no cost.

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A

Approved by the El Paso Water Utilities Public Service Board by Joint Resolution April 22, 2009.

*******REQUIRED AUTHORIZATION*******

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

Attachments

JOINT USE RESOLUTION

A JOINT USE RESOLUTION OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, TRUSTEES (PSB) AND THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, (CITY) PERTAINING TO THE JOINT USE OF PROPERTY LOCATED ADJACENT TO BROWN STREET AND SCHUSTER AVENUE BEING PORTIONS OF BLOCKS 39F, 137, 138, 139, 142, 143 AND 174 ALEXANDER ADDITION, AND TRACT 35 (ALSO KNOWN AS PARCEL 1) AND A PORTION OF TRACT 16, H.F. FISHER SURVEY NO. 293, SUBJECT TO THE PERMANENT EASEMENT SIGNED BY THE CITY OF EL PASO ON SEPTEMBER 30, 1971 AND ALL VACATED STREETS AND ALLEYS, EL PASO, EL PASO COUNTY, TEXAS (DISTRICT #1) TO ALLOW FOR COMPATIBLE USE WITH THE CITY'S ADJOINING PROPERTY.

WHEREAS, the El Paso Water Utilities Public Service Board, Trustees (PSB) is carrying in its real property inventory a certain Parcel of land adjacent to Brown Street and Schuster Avenue consisting of North 24 feet of Lot 7, all of Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20, of Block 137, all of Blocks 138, 142 and a Portion of Blocks 139, 143, 174 and 39F, all vacated streets and alleys pursuant to Ordinance No. 4444, Alexander Addition, and Tract 35 (also known as Parcel 1) and a portion of Tract 16 of H.F. Fisher Survey No. 293, subject to the Permanent Easement signed by the City on September 30, 1971, El Paso, El Paso County, Texas totaling approximately 6.538 acres, more or less, which is located adjacent to the Art Woods Reservoir Site as illustrated on Exhibit "A"; and

WHEREAS, the City of El Paso ("City") desires to use portions of the above described property in conjunction with use of the City's adjoining property to allow for the construction, use and maintenance of baseball and softball sports fields on the portion of the City property described by metes and bounds on Exhibit "B" (Project Property); and

WHEREAS, the construction of baseball and softball fields ("Facilities") on the adjoining property owned by the City, part of which is currently set aside for park use, and the PSB Property is a positive, public use of the Property; and

WHEREAS, the PSB desires to enter into this Joint Use Resolution with the City providing for use of the PSB Property, compatible with the use of the City's adjoining property to allow for the construction and operation of the Facilities; and

WHEREAS, the PSB finds that the use of the PSB Property described above is acceptable to the PSB and will not impair the assets of the El Paso Water Utilities or adversely affect the operation thereof; and

WHEREAS, the PSB previously adopted a Joint Use Resolution/Agreement on September 24, 2003 approving a similar recreational use of the PSB Property, subject to certain terms and conditions of a lease agreement between the City and the El Paso Border Youth Athletic Association, and that lease was terminated on September 30, 2008.

NOW, THEREFORE, BE IT RESOLVED BY THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS AND THE CITY OF EL PASO, TEXAS THAT:

1. The following property will be subject to the use of the City of El Paso, compatible with the use of the adjoining City property under the terms of this Joint Use Resolution, in conjunction with the use of certain City parkland, for the construction and operation of baseball and softball fields:

An approximately 6.538-acre parcel of land, more or less consisting of the North 24 feet of Lot 7, all of Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20, of Block 137, all of Blocks 138, 142 and a Portion of Blocks 139, 143, 174 and 39F and all vacated streets and alleys pursuant to Ordinance No. 4444, Alexander Subdivision, and Tract 35 (also known as Parcel 1) and a portion of Tract 16, H.F. Fisher Survey No. 293, subject to the Permanent Easement signed by the City on September 30, 1971, El Paso, El Paso County, Texas, which are within the Project Property described in Exhibit "B" and the portion of the H.F. Fisher Survey No. 293 that would be required for access to the Project Property and being more particularly illustrated on Exhibit "A," which is attached hereto and made a part hereof for all purposes (hereinafter "Property")

2. The PSB agrees that the Property may be used by the City in a way that is compatible with the use of the City's adjoining property, to include the construction, use and maintenance of the Facilities, and for no other purpose. The PSB agrees that the City may enter into one or more lease agreements at its discretion with a third party to achieve the development of the Facilities. The City is authorized to enter into a lease for a period of 30 years with an option to extend for two additional 10 year terms.
3. The City shall pay, or shall cause to be paid under the terms of a lease agreement, all expenses of developing, maintaining, and operating any use of the Property compatible with the City's adjoining property, to include the Facilities. If the City enters into a lease for the development, maintenance and operation of the Property, to include the Facilities, to the extent allowed by law, said lease must require that the lessee indemnify the City and the PSB for harm resulting from any activity on the PSB Property.
4. Except as otherwise provided herein, the PSB retains all rights to surface and underground waters, with the right of access to enter upon the Property for exploration, construction, operation and maintenance of water supply facilities to perform operations necessary to the maintenance of the PSB's water supply system, but consistent with allowing the maximum benefit and use of the Property, compatible with the use of the City's adjoining property.
5. This Joint Use Resolution may not be unilaterally terminated by either party during the term of any lease entered into by the City as authorized in Paragraph 2 herein. After the termination or expiration of any lease entered into by the City, this Joint Resolution will remain in full force until such time as one party notifies the other of its intent to terminate. It is understood and agreed that upon the termination of this Joint Use

Resolution, for any reason, any improvements that have been placed upon the land by the City, remain on the land, and have not been removed within 120 days of termination of this Joint Use Resolution, will be listed in the PSB inventory unless released by the PSB, if the Property is still listed as part of the PSB capital asset inventory. The PSB will not be obligated to compensate or reimburse the City for the cost or value thereof.

6. The parties agree that the use or designation of the Property compatible with the adjoining City property is not a dedication of the land to the public as a park or recreation area or for any other purpose, either expressly or by implication, and the Property is not subject to the provisions of Title 3, Chapter 26 of the Texas Parks and Wildlife Code.
7. It is expressly understood and agreed by and between the parties hereto that the Property that is the subject of this Joint Use Resolution remains an asset of the PSB, and that at some time in the future, said asset may be determined to be inexpedient to the needs of the PSB and that the PSB may deem it advisable and appropriate to sell or otherwise dispose of the same or to put the land to some other use. If the PSB determines that the PSB Property is inexpedient and that it wishes to sell or otherwise dispose of the same, the PSB shall follow the 1965 Joint Resolution between the parties or more current agreement in dealing with capital asset disposition between the parties, and shall transfer the PSB Property to the City's capital asset inventory.
8. This Joint Use Resolution is subject to all rights-of-way, easements, dedications, restrictions, reservations, and other encumbrances of record and running with the land.

PASSED AND APPROVED at the regular meeting of the Public Service Board of the City of El Paso, Texas, this _____ day of _____, 2009 at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001, et. seq.

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

Chair

ATTEST:

APPROVED AS TO FORM:

Secretary-Treasurer

Robert D. Andron, General Counsel

JOINT USE RESOLUTION/AGREEMENT

PASSED AND APPROVED at the regular meeting of the City Council of the City of El Paso, Texas, this _____ day of May, 2009 at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Section 551.001 et. Seq.

CITY OF EL PASO, TEXAS

John F. Cook
Mayor

ATTEST:

Richarda D. Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Kristen L. Choi
Assistant City Attorney

Nanette L. Smejkal, Director
Parks & Recreation Department

EXHIBIT "A"





EXHIBIT "B"

Property Description: All of Blocks 104, 105 and 136 and a portion of Blocks 103, 106, 107, 135, 137, 138, 139, 142, 143 and 174 and a portion of Ange Street, Octavia Street, Price Street, Noble Street, Daggett Street, Wade Street, University Avenue, Blanchard Avenue and Blacker Avenue, Rights-of-ways (Vacated), Alexander Addition, El Paso, El Paso County, Texas.

METES AND BOUNDS DESCRIPTION

The parcel of land herein described is all of Blocks 104, 105 and 136 and a portion of Blocks 103, 106, 107, 135, 137, 138, 139, 142, 143 and 174 and a portion of Ange Street, Octavia Street, Price Street, Noble Street, Daggett Street, Wade Street, University Avenue, Blanchard Avenue and Blacker Avenue, Rights-of-ways (Vacated), Alexander Addition, El Paso, El Paso County, Texas and is more particularly described by metes and bounds as follows:

Commencing at an existing city monument lying on the centerline intersection of Kansas Street and Schuster Drive; Thence, along the centerline of Schuster Drive, the following courses:

North 52° 23' 00" East, a distance of 1,685.00 feet to a point for a curve; 251.39 feet along the arc of a curve to the left, having a radius of 376.02 feet, a central angle of 38° 18' 19" and a chord which bears North 33° 12' 29" East, a distance of 246.73 feet to a point;

North 14° 03' 35" East, a distance of 69.93 feet to a point;

Thence, North 75° 56' 25" West, a distance of 45.00 feet to a point lying on the westerly right-of-way line of Schuster Avenue (a 90' right-of-way public street) and the southerly right-of-way of Ange Street,

Thence, North 37° 37' 00" West, along said right-of-way line, a distance of 465.29 feet to

a point lying on the easterly right-of-way line of Hague Avenue (a 70' right-of-way public street);

Thence, South 52° 23' 00" West, along said right-of-way line, a distance of 50.62 feet to a point;

Thence, North 37° 37' 00" West, a distance of 70.00 feet to a point for a curve lying on the northerly right-of-way line of Hague Avenue and the easterly right-of-way line of Rim Road, said point being the TRUE POINT OF BEGINNING of this description;

THENCE, along said right-of-way line of Rim Road, the following courses:

209.16 feet along the arc of a curve to the left, having a radius of 483.83 feet, a central angle of 24° 46' 10" and a chord which bears North 03° 36' 53" West, a distance of 207.54 feet to a point for a corner;

North 16° 00' 00" West, a distance of 285.42 feet to a point for a corner and a point for a curve;

258.18 feet along the arc of a curve to the right, having a radius of 465.83 feet, a central angle of 31° 45' 19" and a chord which bears North 00° 21' 35" East, a distance of 254.89 feet to a point for a corner;

North 16° 43' 00" East, a distance of 253.80 feet to a point for a corner and a

point for a curve;

343.53 feet along the arc of a curve to the left, having a radius of 690.63 feet, a central angle of 28° 30' 00" and a chord which bears North 02° 28' 00" East, a distance of 340.00 feet to a point for a corner;

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North 11° 47' 00" West, a distance of 86.74 feet to a point for a corner;

THENCE, North 74° 50' 06" East, a distance of 164.60 feet to a point for a corner;

THENCE, South 37° 39' 34" East, a distance of 410.36 feet to a point for a corner;

THENCE, South 56° 55' 42" East, a distance of 97.50 feet to a point for a corner;

THENCE, North 52° 22' 41" East, a distance of 359.57 feet to a point for a corner;

THENCE, North 28° 16' 48" East, a distance of 61.23 feet to a point for a corner;

THENCE, North 52° 22' 41" East, a distance of 436.53 feet to a point for a corner lying on the common boundary line between Alexander Addition and Tract 16, H. F. Fisher Survey No. 293;

THENCE, South 00° 00' 11" West, along said boundary line, a distance of 40.18 feet to a

point for a corner;

THENCE, South 52° 25' 59" West, a distance of 401.80 feet to a point for a curve, and a point for a corner;

THENCE, 7.86 feet along the arc of a curve to the left, having a radius of 10.00 feet, a central angle of 45° 01' 23" and a chord which bears South 29° 55' 18" West, a distance of 7.66 feet to a point for a corner;

THENCE, South 07° 24' 36" West, a distance of 5.10 feet to a point for a corner;

THENCE, South 37° 37' 00" East, a distance of 364.62 feet to a point for a corner and a point for a curve lying on the westerly right-of-way line of Schuster Avenue (a 90' rightof-

way public street);

THENCE, 245.45 feet along said right-of-way line and along the arc of a curve to the left, having a radius of 344.60 feet, a central angle of 40° 48' 38" and a chord which bears South 03° 10' 11" West, a distance of 240.30 feet to a point for a corner and a point

for a curve;

THENCE, 223.95 feet, continuing along said right-of-way line and along the arc of a curve to the right, having a radius of 517.98 feet, a central angle of 24° 46' 19" and a chord which bears South 01° 03' 42" East, a distance of 222.21 feet to a point for a corner

and a point for a curve;

THENCE, 184.83 feet along the arc of a curve to the right, having a radius of 412.91 feet,

a central angle of 25° 38' 50" and a chord which bears North 50° 26' 27" West, a distance of 183.29 feet to a point for a corner;

THENCE, South 52° 23' 00" West, a distance of 1,110.61 feet to a point, said point being

the TRUE POINT OF BEGINNING of this description.

Said parcel of land contains 21.686 acres (944,630 sq. ft.) of land more or less.

A BOUNDARY SURVEY OF EVEN DATE ACCOMPANIES THIS METES AND

BOUNDS DESCRIPTION.
SLI ENGINEERING, INC.
 Consulting Engineers—Land Surveyors
 Guillermo Licon
 Registered Professional Land Surveyor
 Texas License No. 2998

February 1, 2007; Rev. January 20, 2009; Job Number 09-99-1721

