



# City of Farmers Branch

City Hall  
13000 Wm. Dodson Pkwy  
Farmers Branch, TX 75234

## Meeting Minutes

### Planning and Zoning Commission

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Monday, May 21, 2018

7:00 PM

City Hall

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#### Study Session Meeting to be held at 6:00 PM in Study Session Room

**Excused** 2 - Commissioner Chris Brewer, and Commissioner Linda Bertl

**Present** 12 - Commissioner Tim Yarbrough, Commissioner David Moore, Commissioner Michael Driskill, Commissioner Jared Sullivan, Chairman Jason O'Quinn, Commissioner Giovanni Zavala, Vice Chair Sergio De Los Santos, Tina M. Figgins AICP Director of Planning, Andreea D. Udrea Planning Manager, Brian Campbell Planning Technician, Kevin Laughlin City Attorney, and John Land Deputy City Manager

Hard copies of the full Planning and Zoning Commission agenda packet are accessible the Friday prior to every regularly scheduled meeting at the following locations:

- 1) Manske Library
- 2) City Hall

Additionally, the agenda packet is available for download from the City's web site at [www.farmersbranchtx.gov](http://www.farmersbranchtx.gov). This download may be accessed from any computer with Internet access, including computers at the Manske Library and in the lobby of City Hall.

Any individual who wishes to speak on an agenda item should fill out a Registration Form for Appearance before the Planning and Zoning Commission (white card located in the back of the Council Chambers) and submit the completed card to City Administration member prior to the start of the meeting.

#### **A. STUDY SESSION**

**Excused** 2 - Commissioner Chris Brewer, and Commissioner Linda Bertl

**Present** 12 - Commissioner Tim Yarbrough, Commissioner David Moore, Commissioner Michael Driskill, Commissioner Jared Sullivan, Chairman Jason O'Quinn, Commissioner Giovanni Zavala, Vice Chair Sergio De Los Santos, Tina M. Figgins AICP Director of Planning, Andreea D. Udrea Planning Manager, Brian Campbell Planning Technician, Kevin Laughlin City Attorney, and John Land Deputy City Manager

##### **A.1 [TMP-2744](#)**

Discuss Regular Agenda items.

Chairman O'Quinn opened the Study Session at 6:00 PM. Chairman O'Quinn thanked the Commissioners for their service.

Chairman O'Quinn opened discussion on Study Session Agenda Item A.1 Discuss Regular Agenda Items.

Chairman O'Quinn asked for any questions or comments regarding Regular Agenda Item B.1.

Hearing no questions or comments from the Commissioners, Chairman O'Quinn asked for any questions or comments regarding Regular Agenda Item B.2.

Hearing no questions or comments from the Commissioners, Chairman O'Quinn asked for any questions or comments regarding Regular Agenda Item C.1.

Regarding Regular Agenda Item C.1, Chairman O'Quinn asked if staff would be giving a presentation regarding the applicant's proposal. Mrs. Andreea Udrea, Planning Manager, said yes. Chairman O'Quinn asked if the applicant would be present at the Regular Meeting. Mrs. Udrea said yes, and that she had emailed the applicant.

Regarding Regular Agenda Item C.1, Commissioner Zavala asked if the Specific Use Permit (SUP) process was currently being evaluated regarding the types of requests being brought to the Commission and City Council. Mrs. Tina Figgins, Director of Planning, said the SUP process was a topic of discussion during Chairman O'Quinn's presentation before City Council at their April 3, 2018 Study Session. Mrs. Figgins said that City Council had requested that the Planning and Zoning Commission evaluate the SUP request types to determine if the SUP process was the appropriate regulatory means for a particular request. Mrs. Figgins said the request type for Regular Agenda Item C.1, Residential Accessory Structures, could be evaluated. Mrs. Figgins said the Comprehensive Zoning Ordinance requires approval of an SUP for residential accessory structures exceeding 120 square feet. Commissioner Yarbrough asked Mrs. Figgins about the maximum square footage permissible for a residential accessory structure. Mrs. Udrea said it was 120 square feet for closed accessory structures, including those featuring at least one (1) full wall. Mrs. Udrea said for open accessory structures, the maximum square footage permissible was 200 square feet. Mrs. Udrea explained that, per the applicant, the original accessory structures were built prior to the revisions in the CZO regarding accessory structures hence the structures were designated as legal non-conforming. Mrs. Udrea explained that a structure loses its non-conforming status when more than 50 percent of said structure is rebuilt. Mrs. Udrea said that the applicant chose to completely rebuild one of the structures due to damage hence this SUP request. Commissioner Sullivan commented that the applicant's accessory structures were originally legal non-conforming, but because one of the structures is being rebuilt at least 50 percent, the legal non-conforming status has been lost. Mrs. Udrea said yes.

Regarding evaluating SUP request types as it related to accessory structures, Commissioner Moore asked if staff could research the requirements of other cities with regards to residential accessory structures and present the information to the Commissioners. Commissioner Moore said he believed this would help educate the Commissioners on residential accessory structures and help them make an informed recommendation to City Council. Commissioner Moore expressed concerns over potential situations that could result from current accessory structure requirements being revised, using the example of a homeowner with a smaller lot building a structure with a restroom, and then the structure being leased out. Commissioner Moore said it may be the consensus that the current accessory structure requirements are outdated and if so, they should be revised in a common sense manner. Mrs. Figgins said she agreed, noting the importance of looking to what other cities do with regards to

residential accessory structures as well as other items to be part of the list of SUP request types that may need to be reevaluated.

Regarding Regular Agenda Item C.1, Commissioner Zavala asked if there were any situations in which an SUP could be administratively approved by staff. Mrs. Firgens said that SUP requests are considered a zoning action and that staff does not have the authority to approve SUP requests. Mrs. Firgens said that as part of the process for revising SUP requirements in the CZO with regards to residential accessory structures, the Commissioners could look at different aspects, such as square footage and percentage of lot coverage to determine how the requirements should be revised. Additionally, Mrs. Firgens stated that it could be that certain provisions are established that grant authority to staff and that anything beyond that then goes before the Commission. As SUP requests are continued to be brought forth, Mrs. Firgens stated that these are all items that could be considered. Vice Chairman De Los Santos commented that residential accessory structures should perhaps fall under the purview of the Zoning Board of Adjustment. Mrs. Firgens said a challenge with the Zoning Board of Adjustment is the property hardship test. Mrs. Firgens said that there are four (4) main criteria for cases involving the Zoning Board of Adjustment and that property hardship is one of them. Mrs. Firgens said in many instances, requests coming before the Board do not involve property hardship. Mrs. Firgens said that the SUP process for residential accessory structures allows for a subjective review of structures that may be appropriate within a particular zoning district, but may not be appropriate for all properties within that zoning district. Mrs. Firgens said that the SUP process allows for the opportunity to evaluate what the requirements are based on, using the example of top plate height of a structure. Mrs. Udrea added that there is a requirement in the CZO that residential lots cannot be covered by more than 50 percent of impervious surfaces. Mrs. Udrea said that even for SUP requests regarding accessory structures, there is still a cap on the maximum permitted square footage per the requirements of the CZO. Mrs. Firgens said that the Commissioners were bringing forth good points of discussion that could help the Planning and Zoning Commission formulate recommendations to City Council on reevaluating the SUP process for certain items per the list being created by the Commissioners and staff. Mrs. Firgens said residential accessory structures could be added to this list.

Regarding Regular Agenda Item C.1, Chairman O'Quinn commented that it would be helpful to know, in these situations, how many times an applicant decides not to move forward once they learn from staff that they will need approval of an SUP for their residential accessory structure and the process. Chairman O'Quinn noted that there may be times in which said applicant did not go through the SUP process originally and the requirements of the CZO prevented said applicant from moving forward on construction of an accessory structure. Chairman O'Quinn said it was his understanding that City Council would like the Planning and Zoning Commission to work with staff on evaluating the case types that are coming before the Planning and Zoning Commission and City Council in order to determine which case types would be more appropriate to be handled administratively by staff. Chairman O'Quinn said that in revising the requirements in the CZO regarding residential accessory structures, one (1) revision could involve expanding the maximum permitted square footage and having the SUP process give a measure of relief for the applicant. Chairman O'Quinn clarified that he would like to know the number of applicants who decide not to move forward with an SUP request for a residential accessory structure once they learn the maximum square footage permitted. Mrs. Firgens said this was a good question, noting that the SUP process for accessory structures could sometimes be used as a deterrent for potential applicants. Mrs. Firgens said that these SUP requests also come about as the result of code enforcement issues. Mrs. Firgens said these are all

items that could be considered in reevaluating the SUP process.

Hearing no further questions or comments from the Commissioners regarding agenda item C.1, Chairman O'Quinn asked Mrs. Firgens to address Regular Agenda Item D.1. Mrs. Firgens noted that at the May 7, 2018 Study Session of the Planning and Zoning Commission, some of the Commissioners expressed interest in moving Regular Agenda Item D.1 to the Study Session agenda for future meetings. Mrs. Firgens asked if there was general consensus amongst the Commissioners to move Regular Agenda Item D.1 to the Study Session agenda of which there was consensus. Chairman O'Quinn asked if this discussion was more appropriate during the Study Session or at the Regular Meeting. Mrs. Firgens said it was fine to have this discussion during the Study Session. Chairman O'Quinn commented that he believed moving agenda item D.1 to the Study Session would provide a better avenue for the Commissioners to discuss items for future consideration. Chairman O'Quinn said the intent of having agenda item D.1 occur at the end of the meeting was to provide the Commissioners an opportunity to bring up items for future consideration after going through the entire Regular Meeting Agenda. Chairman O'Quinn noted that with regards to the Commissioners bringing up items occurring during the Regular Meeting as points for future discussion, this has not happened often. The Commissioners agreed to move Regular Agenda Item D.1 to the Study Session agenda. Chairman O'Quinn asked Mrs. Firgens if this discussion needed to be brought up as Regular Agenda Item D.1 during the Regular Meeting. Mrs. Firgens said it would be appropriate to summarize this discussion for agenda item D.1 during the Regular Meeting. Mrs. Firgens said agenda item D.1 would be a regularly occurring item on the Study Session agenda for future Planning and Zoning Commission meetings.

Hearing no further questions or comments from the Commissioners, Chairman O'Quinn closed discussion on this agenda item.

## **A.2**    [TMP-2729](#)

### **Discuss the Texas Open Meetings Act.**

Chairman O'Quinn opened discussion on Study Session Agenda Item A.2 Discuss the Texas Open Meetings Act. Chairman O'Quinn introduced Mr. Kevin Laughlin, City Attorney, and said he was present to provide a follow up to his presentation regarding the Texas Open Meetings Act at the April 23, 2018 Study Session of the Planning and Zoning Commission.

Mr. Laughlin reminded the Commission that agenda item D.1 regarding items for future consideration was to be used only to request items for discussion at future Study Sessions of the Planning and Zoning Commission. Mr. Laughlin said such items could not be discussed at the meeting or session in which the item is being requested. Mr. Laughlin said such in-depth discussion on such an item is not necessary at the time said item is being requested and discussing items not posted on the official agenda was a violation of the Texas Open Meetings Act.

Mr. Laughlin presented a follow up to his presentation regarding the Texas Open Meetings Act, including discussion of the following topics: what constitutes a closed meeting and the procedures for conducting a closed meeting; what constitutes a closed session and the procedures for conducting a closed session; what constitutes violations of the Texas Open Meetings Act and what are the consequences associated with these violations.

Mr. Laughlin reiterated the importance of not discussing items during the Study Session or Regular Meeting for which the Planning and Zoning Commission is not posted to discuss per the agenda. Mrs. Firgens commented that staff has begun implementing the practice of bringing back items of interest to the Commissioners, such as discussion regarding the City's zoning and permitting processes.

The questions from the Commissioners were as follows.

Regarding closed meetings, Chairman O'Quinn asked about the level of detail needed on the agenda for items to be discussed at a closed meeting, using the topic of real estate as an example. Mr. Laughlin said a description of said item would be required for the agenda. Taking Chairman O'Quinn's real estate example, Mr. Laughlin said it was a typical for an agenda item description regarding real estate to include the boundaries of a property. Mr. Laughlin said the level of detail for an agenda item description for those items to be discussed in a closed meeting had to be detailed enough to give the public a general idea of what is to be discussed without giving the specifics on said item.

Mrs. Firgens commented that in reviewing previous agendas for the Planning and Zoning Commission, she noticed that there is not language on these agendas regarding the Planning and Zoning Commission conducting a closed meeting to seek legal advice. Mrs. Firgens asked Mr. Laughlin if such language needed to be included on future Planning and Zoning Commission meeting agendas. Mr. Laughlin said it is necessary if the City Attorney is to be on call or present at a particular meeting. Mr. Laughlin said he had this conversation with the previous Planning Director and such language had been on the Planning and Zoning Commission meeting agendas, but the language was later dropped from these agendas due to personnel changes. Mr. Laughlin said that City attorneys serve as outside counsel, therefore they can conference call into closed meetings as necessary. Mrs. Firgens asked if the language not being on the agenda prohibited consultation with the City attorney. Mr. Laughlin said no, stating that consulting the City attorney is the one (1) exception to the requirement of posting what is to be discussed during a closed meeting. Mr. Laughlin said he recommends having such language on the meeting agenda, noting that this is standard practice for meeting agendas for City Council. Mr. Laughlin said there may be instances in which the public questions the ability of a board or commission to consult an attorney.

Regarding actions taken by the Planning and Zoning Commission, Chairman O'Quinn asked if it would be appropriate for the Commissioners to consider tabling, or continuing, deliberation on certain cases in order to receive clarification on or request modifications to an applicant's site plan. Mr. Laughlin said yes, but that timing had to be taken into consideration. Mr. Laughlin said tabling a case would impact the timeline for when said case would go before City Council as City Council cannot hear a case until receiving a recommendation from the Planning and Zoning Commission. Mr. Laughlin said there were no statutes prohibiting the Planning and Zoning Commission from continuing discussion on a case until the next meeting. Mr. Laughlin used the example of an applicant's site plan of which the Planning and Zoning Commission would like to see modifications. Mr. Laughlin stated that it was his preference that the Planning and Zoning Commission be given the opportunity to see the modified site plan prior to taking action on said case. Mr. Laughlin stated the importance of City Council voting on what was recommended by the Planning and Zoning Commission without any discrepancies regarding an applicant's site plan. Mr. Laughlin stated the Planning and Zoning Commission was free to table a case until the Commissioners have had a chance to view any modifications to an applicant's site plan. Mrs. Firgens said she

agreed. Mrs. Firgens also stated having some changes to the plan, such as adding shrubbery along a property line, could be handled at the staff level. Mrs. Firgens said for substantial changes that could potentially impact the layout of an applicant's site plan, the Planning and Zoning Commission should table said item until a future meeting, and that staff would seek direction from the Commissioners as to what modifications they would like to see in order to effectively communicate these changes to the applicant. Mr. Laughlin said one consideration in some instances of continuing a case would be continuing the public hearing. Mr. Laughlin said that once a public hearing is closed during the Regular Meeting, it must be reopened during that meeting in order to continue the public hearing at the meeting in which said case will be deliberated upon again. Mr. Laughlin said there are some instances in which staff may want to consider reopening the public hearing in order to continue accepting public input on said case after the applicant submits modifications to the site plan. Mr. Laughlin stated that the public hearing would need to take place at the next Planning and Zoning Commission meeting per the requirements of the Act. Mr. Laughlin said in instances in which the Planning and Zoning Commission required more time, the notice of public hearing would need to be reposted.

Hearing no further questions or comments, Chairman O'Quinn closed discussion on this agenda item.

**A.3**     [TMP-2750](#)

Receive a report regarding zoning and development cases acted upon by City Council.

Chairman O'Quinn opened discussion on Study Session Agenda Item A.3 Receive a report regarding zoning and development cases acted upon by City Council.

Mrs. Firgens said, per the attachment for this agenda item, there were only two (2) cases to report on. Mrs. Firgens said case 18-SP-06 for the office and warehouse buildings located at 1903 Diplomat Drive was approved as submitted. Mrs. Firgens said that case 18-SU-06 for the massage and reflexology establishment located at 12879 Josey Lane, Suite No. 115 was denied with the vote being four (4) to one (1) as denoted in the agenda packet. Mrs. Firgens said there was concern amongst Council members regarding business operations for this establishment and how the business could potentially evolve. Mrs. Firgens noted similar concerns raised by the Planning and Zoning Commission during their discussion on this case. Mrs. Firgens said some Council members also expressed concerns regarding how this establishment could impact implementation of the Four Corners Area plan. Mrs. Firgens said the Commissioners could view the video of the May 15, 2018 City Council meeting in which this case was heard, should they be interested in watching Council's discussion.

Hearing no questions or comments regarding this agenda item, Chairman O'Quinn closed discussion on this agenda item and adjourned the Study Session at 6:50 PM. Commissioners and staff reconvened in Council Chambers for the Regular Meeting at 7:00 PM.

**B.     REGULAR AGENDA ITEMS**

**B.1**     [TMP-2745](#)

Consider approval of the Attendance Matrix for the Planning and Zoning Commission as presented; and take appropriate action.

**A motion was made by Commissioner Driskill, seconded by Vice Chair De Los Santos, that the Attendance Matrix be approved. The motion carried unanimously.**

**Excused:** 2 - Commissioner Brewer and Commissioner Bertl

**Aye:** 7 - Commissioner Yarbrough, Commissioner Moore, Commissioner Driskill, Commissioner Sullivan, Chairman O'Quinn, Commissioner Zavala and Vice Chair De Los Santos

**B.2**    [TMP-2746](#)

Consider approval of the May 7, 2018 Planning and Zoning Commission Minutes; and take appropriate action.

**A motion was made by Commissioner Moore, seconded by Commissioner Driskill, that the Minutes be approved. The motion carried unanimously.**

**Excused:** 2 - Commissioner Brewer and Commissioner Bertl

**Aye:** 7 - Commissioner Yarbrough, Commissioner Moore, Commissioner Driskill, Commissioner Sullivan, Chairman O'Quinn, Commissioner Zavala and Vice Chair De Los Santos

**C.    PUBLIC HEARING**

**C.1**    [18-SU-08](#)

Conduct a public hearing and consider a request for a Specific Use Permit for the construction of an approximately 260 square feet detached accessory buildings located at 13655 Janwood Lane; and take appropriate action.

The applicants, Raymond and Joetta Moraski, are proposing to rebuild one (1) of the two (2) existing detached accessory buildings in the rear yard of their property at 13655 Janwood Lane. The two (2) detached structures will cumulatively exceed 120 square feet. The Comprehensive Zoning Ordinance requires approval of a Specific Use Permit for accessory buildings constructed with at least one (1) full wall with or without windows and / or door openings (other than detached garage or carport used only for vehicle storage) covering a lot area greater than 120 square feet. The property is located within the Residential District (R-6). Staff recommends approval of this Specific Use Permit request as presented.

Mrs. Andreea Udrea gave a presentation regarding the applicant's proposal as presented in the staff report.

Chairman O'Quinn opened the floor for questions from the Commissioners.

Vice Chairman De Los Santos asked if the proposed accessory structure was already built. Mrs. Udrea said it was in the process of being rebuilt. Mrs. Udrea said the structure still needed a concrete pad as well as the installation of stairs for access. Mrs. Udrea said the structure being rebuilt is the one (1) that triggered this Specific Use Permit request and that the other structure would remain unchanged.

Chairman O'Quinn commented that the structure had an unfinished wood exterior. Chairman O'Quinn asked about finishing touches for the structure. Mrs. Joetta Moraski, 13655 Janwood Lane, Farmers Branch, Texas, said the structure could be painted, noting the wood used in the construction of this structure was composed of a pre-cast, treated, waterproof element. Mrs. Moraski said she had not intended to paint

the structure, but was open to doing so. Mrs. Moraski noted that the color of the wood was not comparable to what was shown in the existing photographs and was more of a walnut type color. Mrs. Moraski said both the exterior and interior of the wood was pre-treated and that this wood was purchased with the intent not to paint it, but she was willing to do so if the Planning and Zoning Commission desired.

Chairman O'Quinn commented that storage would be the primary use for this structure, noting the absence of an existing garage. Mrs. Moraski said that the original structure was built when she moved to the property 46 years ago. Mrs. Moraski said this structure was an eight (8) by ten (10) foot metal building situated on runners. Mrs. Moraski said over time, the building deteriorated. Mrs. Moraski said this building was torn down and the proposed structure began to be constructed, with the intention of improving the property. Mrs. Moraski said that it was during construction of this new structure that she learned that she would need approval of a Specific Use Permit because the structure would be larger than what would be permitted per the requirements of the Comprehensive Zoning Ordinance. Mrs. Moraski said the structure would be used to store lawn mowers, tools and tool boxes, mechanical equipment, household items, and other items that would typically be stored in a garage. Mrs. Moraski said this structure combined with the other existing structure would be the equivalent of a typical garage.

Chairman O'Quinn noted that the existing photographs showed some exterior storage in the rear yard. Chairman O'Quinn asked Mrs. Moraski if this exterior storage would be moved into the proposed structure upon completion. Mrs. Moraski said yes, noting that these items were being stored in a smaller unit covered by a tarp per the photographs.

Commissioner Moore commented that per the staff report, the proposed structure was to be built on a concrete pad, but noted that in the existing photographs the structure was currently situated on cinder blocks. Mrs. Moraski said that per discussions with Mrs. Udrea, the proposed structure would be situated on a concrete pad. Mrs. Moraski said at the time, she was unaware of the requirement in the Comprehensive Zoning Ordinance that accessory structures had to be situated on a permanent concrete foundation.

Commissioner Sullivan asked Mrs. Moraski if she had received any responses from her neighbors regarding her proposed structure. Mrs. Moraski said she had not received any responses from her neighbors. Mrs. Moraski said she had spoken with one (1) neighbor who was not opposed to the construction of this structure. Mrs. Moraski noted that the structure was not visible from the street due to the cedar privacy fence.

Hearing no further questions or comments from the Commissioners, Chairman O'Quinn opened the public hearing. No one came forward to speak to this agenda item. Chairman O'Quinn closed the public hearing and asked for a motion.

Chairman O'Quinn asked when this case would be heard by City Council. Mrs. Udrea said it would be June 19, 2018.

**A motion was made by Commissioner Yarbrough, seconded by Vice Chair De Los Santos, that this Specific Use Permit be recommended for approval. The motion carried unanimously.**

**Excused:** 2 - Commissioner Brewer and Commissioner Bertl



**Aye:** 7 - Commissioner Yarbrough, Commissioner Moore, Commissioner Driskill, Commissioner Sullivan, Chairman O'Quinn, Commissioner Zavala and Vice Chair De Los Santos

#### **D. ITEMS FOR FUTURE CONSIDERATION**

##### **D.1 TMP-2747**

Discuss agenda items for future Planning and Zoning Commission consideration.

Chairman O'Quinn explained that during the Study Session, the Commissioners discussed moving this agenda item to the Study Session agenda. Chairman O'Quinn said the intent of this is to not discuss items, but give the Commissioners an opportunity to bring up potential future agenda items for the Study Sessions of the Planning and Zoning Commission. The Commissioners agreed.

Giving the Commissioners an opportunity to utilize this agenda item, Chairman O'Quinn asked the Commissioners for any items for future consideration.

Commissioner Moore requested that staff review the meeting schedule, noting that the case load of the last few meetings of the Planning and Zoning Commission had been light. Commissioner Moore noted that City Council generally has a reduced meeting schedule during the summer months and said he would like staff to give this same consideration to the Planning and Zoning Commission if deemed appropriate.

To summarize Commissioners Moore's comments, Chairman O'Quinn said that it was being requested that staff look into reviewing the current case schedule and find opportunities for consolidation in order to make for more effective use of meetings of the Planning and Zoning Commission. Chairman O'Quinn also said it was being requested that staff let the Commissioners know if it would be appropriate to have a reduced schedule based on case load during the forthcoming summer months.

Hearing no further comments or questions regarding this agenda item, Chairman O'Quinn closed discussion on this agenda item and adjourned the meeting.

#### **E. ADJOURNMENT**

The meeting was adjourned at 7:19 PM.

Farmers Branch City Hall is wheelchair accessible. Access to the building and special parking are available at the main entrance facing William Dodson Parkway. Persons with disabilities planing to attend this meeting who are deaf, hearing impaired or who may need auxiliary aids such as sign interpreters or large print, are requested to contact the City Secretary at (972) 919-2503 at least 72 hours prior to the meeting.

#### **Certification**

I certify that the above notice of this meeting was posted 72 hours prior to the scheduled meeting time, in accordance with the Open Meetings Act, on the bulletin board at City Hall.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
City Administration

Stamp:

Posted By: \_\_\_\_\_

Posted Date: \_\_\_\_\_