

ORDINANCE NO. 2016-11-05

AN ORDINANCE OF THE CITY OF WESTON, COLLIN COUNTY, TEXAS, PURSUANT TO SECTION 43.028 OF THE TEXAS LOCAL GOVERNMENT CODE, ANNEXING THE HEREINAFTER DESCRIBED 135.2 ACRE TRACT INTO THE CITY OF WESTON, COLLIN COUNTY, TEXAS, FOR ALL MUNICIPAL PURPOSES; APPROVING A SERVICE PLAN FOR SUCH TERRITORY; PROVIDING CUMULATIVE REPEALER, SEVERABILITY, AND SAVINGS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Weston, Texas is a general-law municipality located in Collin County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City has received a Petition for Voluntary Annexation ("Petition") pursuant to Section 43.028 of the LGC to annex that certain property described as Abs A0982 Leonidas Wilson Survey, Tract 2, 135.2 acres and more particularly described by metes and bounds attached hereto as Exhibit "A"; and

WHEREAS, LGC Ch. 43.106. requires the annexation of the entire width of a county road and the adjacent right-of-way on both sides of the county road where it abuts the territory being annexed; and

WHEREAS, said property to be annexed is less than one-half mile in width, is contiguous to the present city limits of the City of Weston, Collin County, Texas, and on which fewer than three qualified voters reside; and

WHEREAS, the City accepted said Petition via City of Weston Ordinance 2016-11-04.

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

SECTION 1 ANNEXATION

That the certain property described as Abs A0982 Leonidas Wilson Survey, Tract 2, 135.2 acres and more particularly described by metes and bounds attached hereto as Exhibit "A", along with the entire width of County Road 170 and its right-of-way on both sides where it abuts Abs A0982 Leonidas Wilson Survey, Tract 2, is hereby annexed into the City of Weston, Collin County, Texas, and that the boundary limits of the City of Weston, Texas, are hereby extended to include the above-described territory within the city limits of the City of Weston, Texas, and the same shall hereafter be included within the territorial rights of said City.

SECTION 2 RIGHTS AND DUTIES OF OWNERS AND INHABITANTS IN NEWLY ANNEXED AREA

The owners and inhabitants of the Territory are entitled to all of the rights and privileges of all other citizens and property owners of the City of Weston, and are bound by all acts, ordinances, and all other legal action now in full force and effect and all those which may be subsequently adopted.

SECTION 3 OFFICIAL MAP

The official map and boundaries of the City, previously adopted, are amended to include the Territory as a part of the City of Weston, Texas. The City Secretary is directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the City to add the territory annexed as required by law.

SECTION 4 SERVICE PLAN

The Service Plan attached hereto as Exhibit "B" is hereby adopted and the same shall govern the delivery of Weston's municipal services to the annexed territory.

**SECTION 5
CUMULATIVE REPEALER CLAUSE**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

**SECTION 4
PROVISIONS SEVERABLE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, 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 or 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 5
SAVINGS CLAUSE**

All rights and remedies of the City of Weston are expressly saved as to any and all violations of the provisions of any ordinance that has 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 6
AREAS EXCEPTED FROM ANNEXATION**

Should this ordinance for any reason be ineffective as to any part of the area hereby annexed to the City of Weston, such ineffectiveness of this ordinance as to any such part or parts of any such area shall not affect the effectiveness of this ordinance as to the remainder of such area. The City Council hereby declares it to be its purpose to annex to the City of Weston every part of the area described in Section 1 of this ordinance, regardless of whether any part of such described area is hereby not effectively annexed to the City. Provided, further, that if there is included within the general description of territory set out in Section 1 of this ordinance to be hereby annexed to the City of Weston any lands or area which are presently part of and included within the limits of any other City, Town or Village, or which are not within the City of Weston's jurisdiction to annex, the same is hereby excluded and excepted from the territory to be annexed hereby as fully as if such excluded and excepted area were expressly described herein.

**SECTION 6
EFFECTIVE DATE**

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

PASSED AND APPROVED by Council this, the 8th day of November, 2016.

APPROVE

Patti Harrington
Patti Harrington, Mayor

ATTEST

Susan M. Coffey
Susan Coffey, City Secretary



EXHIBIT "A"

BEING a tract of land situated in the Leonidas Wilson Survey, Abstract Number 982, Collin County, Texas, according to the deed thereof described to Caveness Family, LLC, as recorded in Instrument Number 2010-1183830 of the Official Public Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found for the Northeast corner of the herein described tract, and being the Southeast corner of a tract of land described in a deed to Honey Creek Ranch Corporation, according to the deed thereof recorded in Instrument Number 2001-0062681 of the Official Public Records of Collin County, Texas, said point lies in the West Right-of-Way line of Farm to Market Road 543 (Known locally as Weston Road);

Thence South 00.30'06" East with the West Right-of-Way of said road for a distance of 793.61 feet to a 1/2" capped iron rod set stamped "Eagle Surveying";

Thence South 00°29'44" East continuing along said course for a distance of 283.22 feet to a 1/2" iron rod found for the Northeast corner of a tract of land described in a deed to Erik E. Fuller & Victoria J. Fuller, according to the deed thereof recorded in Instrument Number 2015-974490 of the Official Public Records of Collin County, Texas;

Thence South 81°22'08" West with the North boundary line of said Fuller tract for a distance of 22.14 feet to a 60d nail found; Thence South 67°20'10" West continuing along said course for a distance of 290.10 feet to a 1/2" capped iron rod stamped "Eagle Surveying" for the Northwest corner of said Fuller tract;

Thence South 15°59'17" West with the West boundary line of said tract, and the following tracts of land; to J. Marc Hesse as recorded in Instrument Number 2002-0043013, Sandra Keller Scott as recorded in Instrument Number 2005-0083599, John Shannon Brinton as recorded in Instrument Number 2013-934040, Javier Meza & Veronica Meza as recorded in Instrument Number 2001-0110309, and Steven Wade Ford & Lisa Ovigian as recorded in Instrument Number 2015-1003760 of the Official Public Records of Collin County, Texas, in all for a distance of 1467.99 feet to a metal fence corner post found for corner, said point also being the Southwest corner of said Ford-Ovigian tract;

Thence North 89°59'44" East with the South boundary line of said Ford-Ovigian tract for a distance of 704.69 feet to a 1/2" capped iron rod set stamped "Eagle Surveying" in the West Right-of-Way line of aforementioned Farm to Market Road 543;

Thence along the West Right-of-Way line of said Farm to Market Road 543 the following courses to wit:
South 00°36'07" East for a distance of 907.32 feet to a 112" capped iron rod set stamped "Eagle Surveying";
South 00°42'55" East for a distance of 1007.72 feet to a 112" capped iron rod set stamped "Eagle Surveying";
South 00°04'30" West for a distance of 350.63 feet to a mag nail set in County Road 170 for the Southeast corner of the herein described tract, and being the Northwest corner of a tract of land described in a deed to BFJ Land, LLC, according to the deed thereof recorded in Instrument Number 2013-1293160 of the Official Public Records of Collin County, Texas;

Thence North 89°43'09" West with the North boundary line of said BFJ tract for a distance of 1455.74 feet to a capped iron rod stamped "RPLS #4857" found for the Southwest corner of the herein described tract;

Thence along the East boundary line of said BFJ tract the following courses to wit:
North 01°54'58" East for a distance of 706.06 feet to a mag nail set near the centerline of said County Road 170; North 01°31'41" East for a distance of 1549.66 feet to a mag nail set near the centerline of said road;
North 02°56'58" East for a distance of 1352.66 feet to a 1/2" capped iron rod set stamped "Eagle Surveying";

Thence North 00°52'23" West continuing along said course, and passing the tracts of land described to Michael G. McKee as recorded in Instrument Number 2004-0162135 and James Earl Johnson as recorded in Instrument Number 2003-0093303 of the Official Public Records of Collin County, Texas, in all for a distance of 1260.28 feet to a 112" iron rod found for the Northwest corner of the herein described tract, and being the Northeast corner of said Johnson tract, the Southeast corner of a tract of land described in a deed to Honey Creek Ranch Corporation as recorded in Instrument Number 2000-0110063, and the Southwest corner of aforementioned Honey Creek Ranch Corporation tract recorded in Instrument Number 2001-0062681;

Thence North 89°56'00" East with the South boundary line of said tract for a distance of 798.92 feet to a 1/2" iron rod found;

Thence South 89°23'48" East continuing along said course for a distance of 499.69 feet to the POINT OF BEGINNING and there terminating, enclosing 135.37 acres of land, more or less.

EXHIBIT "B"

SERVICES PROVIDED

A. POLICE PROTECTION

The City of Weston, Texas does not provide police protection within the City. Police protection may be available through the Collin County Sheriff's Dept.

B. FIRE PROTECTION AND AMBULANCE SERVICE

The City of Weston, Texas does not provide fire or EMS service protection. EMS Service is contracted via Collin County with American Medical Response (AMR). Fire protection may be available through the Weston Volunteer Fire Department.

C. SOLID WASTE COLLECTION

At the present time the City of Weston, Texas, is using a designated, specified contractor for collection of solid waste and refuse within the city limits of the City of Weston, Texas. Upon payment of any required deposits and the agreement to pay lawful service fees and charges, solid waste collection will be provided to citizens in the newly annexed area to the extent that the City's contractor has access to the area to be serviced.

D. MAINTENANCE OF WATER AND WASTE WATER FACILITIES

The City does not own or maintain any water or wastewater facilities. Water service may be available through Weston Water Supply Corporation, North Collin Water Supply and Gunter Water Supply Corporation.

E. MAINTENANCE OF ROADS AND STREETS

Any and all public roads, streets or alleyways which have been dedicated to the City of Weston, Texas, or which are owned by the City of Weston, Texas, shall be maintained to the same degree and extent that other roads, streets and alleyways are maintained in areas with similar topography, land use and population density. Any and all lighting of roads, streets and alleyways which may be positioned in a right-of-way, roadway or utility company easement shall be maintained by the applicable utility company servicing the City of Weston, Texas, pursuant to the rules, regulations and fees of such utility.

F. MAINTENANCE OF PARKS, PLAYGROUNDS AND SWIMMING POOLS

The City Council of the City of Weston, Texas, is not aware of the existence of any parks, playgrounds or swimming pools now located in the area proposed for annexation. In the event any such parks, playgrounds or swimming pools do exist and are public facilities, the City of Weston, Texas, will maintain such areas to the same extent and degree that it maintains parks, playgrounds and swimming pools and other similar areas of the City now incorporated in the City of Weston, Texas.

G. MAINTENANCE OF MUNICIPALLY OWNED FACILITY, BUILDING OR MUNICIPAL SERVICE

The City Council of the City of Weston, Texas, is not aware of the existence of any municipally owned facility, building or other municipal service now located in the area proposed for annexation. In the event any such municipally owned facility, building or municipal service does exist and are public facilities, the City of Weston, Texas, will maintain such areas to the same extent and degree that it maintains publicly owned facilities, buildings or municipal services of the City now incorporated in the City of Weston, Texas.

CAPITAL IMPROVEMENTS

H. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

The City Council of the City of Weston, Texas finds and determines it to be unnecessary to acquire or construct any capital improvement for the purposes of providing police protection, fire protection, or emergency medical services. Because the City of Weston does not provide police, fire or EMS services, the City Council finds and determines that it has at the present time adequate facilities to provide the same type, kind and level of protection and service which is presently being administered to other areas already incorporated in the City of Weston, Texas, with the same or similar topography, land use and population density, without reducing by more than a negligible amount the level of fire, police and emergency services provided within the corporate limits of the City.

I. WATER FACILITIES

The City Council of the City of Weston, Texas, has determined that water is available for point of service extension from the appropriate third party provider in accordance with the City's utility policies and ordinances. Therefore, capital improvements are not necessary to provide full municipal services for water.

J. WASTE WATER FACILITIES

The City Council of the City of Weston, Texas, has determined that wastewater service is unavailable for any area of the City, including the newly annexed area. As a result, capital improvements are not necessary to provide equivalent wastewater service.

K. ROADS AND STREETS

Within 2 ½ years, the City of Weston, Texas, with a cooperative effort of the City's designated utility company, will undertake to provide the same degree of road and street lighting as is provided in areas of similar topography, land use and population density within the present corporate limits of the City of Weston, Texas. Maintenance of properly dedicated roads and streets will be consistent with the maintenance provided by the City to other roads and streets in areas of similar topography, land use and sub-development of the annexed property. Developers will be required pursuant to the ordinances of the City of Weston, Texas, to provide internal and peripheral streets and to construct those streets in accordance with the specifications required by the City of Weston, Texas, for the properly dedicated street. City participation in capital expenditures will be in accordance with city policies.

L. CAPITAL IMPROVEMENTS

Notwithstanding any other provision of this service plan, a landowner within the newly annexed area will not be required to fund capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 of the Local Government Code, unless otherwise agreed to by the landowner.

SPECIFIC FINDINGS

The City Council of the City of Weston, Texas finds and determines that this proposed Service Plan will not provide any fewer services, and it will not provide a lower level of service in the area proposed to be annexed than were in existence in the proposed area at the time immediately preceding the annexation process. Because of the differing characteristics of topography, land utilization and population density, the service levels which may ultimately be provided in the newly annexed area may differ somewhat from services provided other areas of the City of Weston, Texas. These differences are specifically dictated because of differing characteristics of the property and the City of Weston, Texas will undertake to perform consistent with this contract so as to provide the newly annexed area with the same type, kind and quality of service presently enjoyed by the citizens of the City of Weston, Texas who reside in areas of similar topography, land utilization and population.

