



## **AGENDA**

**REGULAR MEETING OF THE CITY COUNCIL  
City of Garland  
Duckworth Building, Goldie Locke Room  
217 North Fifth Street  
Garland, Texas  
March 1, 2016  
7:00 p.m.**

The City Council extends to each visitor a sincere welcome. We value your interest in your community and your participation in the meetings of this governing body. Regular meetings of the City Council are held the 1st and 3rd Tuesdays of each month, beginning at 7:00 p.m.; the City Council meets regularly in work sessions at 6:00 p.m. the Monday preceding each regular meeting.

The Duckworth Building is wheelchair accessible. Special parking is available on the north side of the building on Austin Street and may be accessed by a sloped ramp from the street to the door facing Fifth Street. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services must contact the City Secretary's Office at (972) 205-2404 at least two working days prior to the meeting so that appropriate arrangements can be made. **BRILLE IS NOT AVAILABLE.**

### **CITY COUNCIL GOALS 2020**

(Adopted by Resolution No. 9402 on December 20, 2005)

- **Sustainable quality development and redevelopment**
- **Financially stable government with tax base that supports community needs**
- **Defends rightful powers of municipalities**
- **Fully informed and engaged citizenry**
- **Consistent delivery of reliable City services**
- **Safe, family-friendly neighborhoods**
- **Embrace diversity**

## **MAYORAL PROCLAMATIONS, RECOGNITIONS AND ANNOUNCEMENTS**

The Mayor may present proclamations and recognize attendees or award winners, and may make announcements regarding upcoming City events and matters of interest to citizens. There will be no Council deliberations or votes on these matters.

## **CONSENT AGENDA**

All items under this section are recommended for approval by a single motion of Council, without discussion. Council has been briefed on these items at a previous work session and approval of the consent agenda authorizes the City Manager to implement each item. The Mayor will announce the agenda and provide an opportunity for members of the audience and the City Council to request that an item be removed and considered separately.

1. Consider approval of the minutes of the February 16, 2016 Regular Meeting.

2. Consider approval of the following bids:

a. **Rowlett Creek Interceptor Bypass at RCWWTP** **Bid No. 6094-16**

**S.J. Lewis Construction of Texas, Ltd. \$1,200,373.00**

*This request is to provide for the open-cut construction of approximately 1,085 linear feet of 54-inch centrifugally-cast fiberglass sanitary sewer pipe.*

b. **Fairways at Firewheel Fence Replacement** **Bid No. 6314-16**

**Concord Commercial Services, Inc. \$203,184.00**

*This request is to replace wrought iron fences at The Bridges Golf Course. Fences separating several holes from the adjacent homeowner's properties have suffered severe deterioration and are in need of replacement.*

**c. GP&L Wylie Switchyard Civil Site Construction Bid No. 6099-16**

<b>Kwest Group, LLC</b>	<b>\$537,086.50</b>
<b>Optional Contingency</b>	<b><u>53,708.65</u></b>
<b>TOTAL</b>	<b><u>\$590,795.15</u></b>

*This request is to provide civil site improvements in conjunction with the Wylie Switchyard CIP project. This contract will include all necessary clearing, demolition, site work, grading, drainage, grounding, sub-grading, paving, materials, incidentals, and labor. Due to the complex nature of the project, an Optional Contingency is included for any unforeseen work that may be required.*

- 3. Consider an ordinance cancelling the election to be held May 7, 2016 for unopposed candidates for Council Members for Districts 1, 2, 4, and 5; declaring each of the unopposed candidates for Council Members within those respective districts elected to office; ordering the City Secretary to post a copy of this ordinance at each polling place that would have been used in the election; and providing an effective date.**

*Council is requested to accept the Certification of Unopposed Candidates and approve an ordinance cancelling the election for May 7, 2016 for Council Districts 1, 2, 4, and 5 in accordance with the Charter of the City of Garland and the laws of the State of Texas.*

- 4. Consider an ordinance continuing Section 26.10, entitled "Curfew Hours for Minors," of Chapter 26 of the Code of Ordinances of the City of Garland; and providing an effective date.**

*Section 370.002 of the Texas Local Government Code requires that after a city adopts a juvenile curfew ordinance, the city must review and readopt the ordinance every three years. The ordinance was last reviewed and readopted on March 5, 2013.*

## ITEMS FOR INDIVIDUAL CONSIDERATION

### Speaker Regulations:

Anyone wishing to speak for, against, or on agenda items must fill out a speaker card and give it to the City Secretary before speaking (cards are located at the entrance to the Council Chambers). The Mayor will recognize speakers; he may impose a time limit and may provide for rebuttal. All comments and testimony are to be presented from the podium.

**5. Hold a public hearings on the following zoning case:**

- a. Consider the application of Uddhav Chandra Wagle, requesting a variance to reduce the minimum separation requirement between an establishment that sells alcoholic beverages and a church. This property is located at 2433 Parkcrest Drive. (File No. 16-01, District 5)

*The applicant requests approval of a variance to reduce the minimum required distance separation between an establishment that sells alcoholic beverages and a church, public school or public hospital.*

**6. Citizen comments.**

*Persons wishing to address issues not on the agenda may have three minutes to address Council at this time. Council is prohibited from discussing any item not posted according to the Texas Open Meetings Act.*

**7. Adjourn.**

*All Regular Council meetings are broadcast live on CGTV, Time Warner Cable Channel 16, and Verizon FIOS TV 44. Meetings are rebroadcast at 9:00 a.m. and 7:00 p.m. on Wednesday-Sunday and at 7:30 p.m. on Thursday. Live streaming and on-demand videos of the meetings are also available online at [www.garlandtx.gov](http://www.garlandtx.gov). Copies of the meetings can be purchased through the City Secretary's Office – audio CD's are \$1 each and DVD's are \$3 each.*

The City Council of the City of Garland convened in regular session at 7:00 p.m. on Tuesday, February 16, 2016, in the Goldie Locke Room at The Duckworth Building, 217 North Fifth Street, Garland, Texas, with the following members present:

**COUNCIL PRESENT:**

Mayor	Douglas Athas
Mayor Pro Tem	B. J. Williams
Deputy Mayor Pro Tem	Lori Dodson
Council Member	Marvin 'Tim' Campbell
Council Member	Anita Goebel
Council Member	Stephen Stanley
Council Member	Billy Mack Williams
Council Member	Scott LeMay
Council Member	James Cahill

**STAFF PRESENT:**

City Manager	Bryan L. Bradford
City Attorney	Brad Neighbor
City Secretary	Eloyce René Dowl

**CALL TO ORDER:**

The meeting was called to order by Mayor Douglas Athas. Council Member Stephen Stanley led the invocation and Pledge of Allegiance.

**CEREMONIALS:**

The Mayor proclaimed February 16<sup>th</sup> as Don't Die of Doubt Day and presented a proclamation to the Garland Fire Department and the American Heart Association.

Mayor Athas and Deputy Mayor Pro Tem Dodson presented a Special Recognition to Fireman Dalton Harris for extraordinary service.

Mayor Athas presented the Library Board with the 2015 Achievement of Library Excellence award.

**CONSENT AGENDA:**

All items marked with asterisks (\*\*) on the Consent Agenda were voted on at the beginning of the meeting. Mayor Athas read those items into the record. Motion was made by Council Member Stanley, seconded by Council Member Goebel, to approve items 1, 2a, 2b, 2c, 2d, 3, 4, 5, 6, 7, and 8. Motion carried, 9 ayes, 0 nays.

**1. APPROVED\*\***

Approval of the Minutes of the February 2, 2016 Regular Meeting.

2a. APPROVED\*\*

Bid No. 6159-16 to LD Kemp Excavating, Inc. in the amount of \$2,510,416.50 for Construction of Cell #7 at the Hinton Landfill.

This request is to construct Cell #7 for waste disposal at the Hinton Landfill. Cell #7 is a 17.2-acre cell that consists of an underdrain, 2 feet of compacted clay line, 60 mil geomembrane, drainage geocomposite, and 2 feet of protective cover soil.

2b. APPROVED\*\*

Bid No. 5954 to T&D Solutions, LLC in the amount of \$279,070.32 for the GP&L Distribution Line Crossing at I.H. 30 and Belt Line Road.

This request is to provide labor and equipment necessary for the 13.2 kV Distribution Line Crossing at I.H. 30 and Belt Line Road as part of GP&L's Overhead CIP Program.

2c. APPROVED\*\*

Bid No. 6144-16 to Techline, Inc. in the amount of \$180,285.70 with an optional contingency of \$18,000.000 for a total bid of \$198,285.70.

This request is to provide materials for the 138 kV Transmission Line Improvements related to the construction of the Lookout Substation. Due to the complex nature of the project, an optional contingency is included for any unforeseen additional materials that may be required.

2d. APPROVED\*\*

Bid No. 6258-16 to Sam Pack's Five Star Ford in the amount of \$684,264.35 and to Caldwell Country Ford in the amount of \$153,069.64 for a total bid of \$837,333.99.

This request is for the purchase of twenty-five Fleet Replacement Trucks, Vans, and SUV's to be used by various City departments in their daily operations.

3. APPROVED\*\*

Approval by minute action the amendment of the Kimley-Horn contract.

At the February 2, 2016 Work Session, Council was briefed on the additional invoice from Kimley-Horn due to a modified scope of services on The Eastern Hills Redevelopment Study. This invoice resulted from additional

work Council requested and was performed in September and October of 2015. The additional scope amount is \$4,750.00, resulting in a total contract of \$103,145.00 which required Council approval.

4. APPROVED\*\*

Approval by minute action an employment agreement with Bryan L. Bradford to continue his employment in the position of City Manager.

Council is requested to approve an employment agreement with Bryan L. Bradford to continue his employment in the position of City Manager.

5. APPROVED\*\*

Approval by minute action an employment agreement with Brad Neighbor to continue his employment in the position of City Attorney.

Council is requested to approve an employment agreement with Brad Neighbor to continue his employment in the position of City Attorney.

6. APPROVED\*\*

Approval by minute action an employment agreement with Jedson Johnson in the position of City Auditor.

Council is requested to approve an employment agreement with Jedson Johnson to continue his employment in the position of City Auditor.

7. APPROVED\*\*

Ordinance No. 6822 appointing Robert J. Beasley as Chief Judge and Sonja H. Galbraith as Judge of the Municipal Court.

Council is requested to consider the appointment of Robert J. Beasley as Chief Judge and Sonja H. Galbraith as Judge of the Municipal Court for a term of two years commencing January 1, 2016.

8. APPROVED\*\*

Adoption of the 2016 Rules of Order and Procedure and City Council Policies.

The Administrative Services Committee has completed its review of council polices and recommends that the attached rules and policies be adopted. The City Council has been briefed on this matter on several occasions and members of the City Council were provided a draft. No comments on the draft have been received since that time. It should be noted that the attached draft contains one change from the last draft provided. That change is found (red-highlighted) in Article II, Division 1, Section 4(E) relating to Council membership in third-party organizations. It should also be noted that the Administrative Services Committee is currently considering a revision to the City's financial policies. A draft of the proposed revision will be submitted by the Administrative Services Committee in the near future.

9. APPROVED

Resolution No. 10236 for Palladium Group regarding a Tax Credit Application.

The Palladium Group is considering submitting an application for a 9% housing tax credit project to the Texas Department of Housing and Community Affairs. Approval would permit a multi-family housing development of approximately 160 units on a 9-acre site located on the south side of 1-30 in close proximity to Northwest Drive. The applicant is requesting formal support from the City of Garland for the proposed development. This item was presented to Council at the February 2, 2016 Work Session.

Mayor Athas opened the discussion at 7:17 p.m. The speaker on this item was Ryan Combs, for Palladium. Motion was made by Mayor Pro Tem B. J. Williams to approve the request for City support of the project seconded by Council Member Stanley. Motion carried 7 ayes, 2 nays (Mayor Athas, Council Member Campbell)

10. HEARING HELD

Hold a public hearing to receive comment on the 2016 Proposed Capital Improvement Program (CIP).

A public hearing will be held on the 2016 Proposed Capital Improvement Program (CIP). At the public hearing, all interested persons will be given the opportunity to be heard for or against the proposed program. The 2016 Proposed CIP has been available for public inspection in the City's libraries, in the City Secretary's Office, and on the City's website since January 20, 2016.

Mayor Athas opened the hearing at 7:21 p.m. There were no speakers on this item.

11. APPROVED

Ordinance No. 6833 approving the 2016 Capital Improvement Program.

On January 19, 2016 Council was presented with the Proposed Capital Improvement Program (CIP) for 2016. The following day, copies of the Proposed CIP were made available for public inspection at the City libraries, at the City Secretary's Office, and on the City's website. The City Council held a Special Budget Work Session on January 23, 2016 to review the proposed program. In addition, a Public Hearing on the proposed CIP was held on February 2, 2016.

Mayor Athas opened the Public Hearing at 7:22 p.m. Motion was made by Council Member Goebel to adopt the 2016 CIP seconded by Council Member Campbell to close the hearing at 7:24 p.m. Motion carried 9 ayes, 0 nays.

12. APPOINTED:

A vote was cast and the motion carried 9 ayes, 0 nays as the following name was placed in nomination:

Council Member Tim Campbell

- Eric Barron, Community Multicultural Commission

RECOGNITION:

Mayor Athas recognized a scout from Troop 435.

13. CITIZEN COMMENTS: George Nolan

Mayor Pro Tem B. J. Williams recognized former Council Member Jackie Feagin for receiving the 2016 Tall Texan Award.

14. ADJOURN:

There being no further business to come before the City Council, Mayor Athas adjourned the meeting at 7:29 p.m.

CITY OF GARLAND, TEXAS

/s/Douglas Athas, Mayor

/s/ Eloyce, René Dowl, City Secretary



**Purchasing Report**

**ROWLETT CREEK INTERCEPTOR BYPASS AT RCWWTP  
OPEN MARKET**

**PURCHASE JUSTIFICATION:**

The purpose of this contract is to provide for the open-cut construction of approximately 1,085 linear feet of 54-inch centrifugally-cast fiberglass sanitary sewer pipe. This project includes removal of existing sanitary sewer pipes, manholes, vaults, and all incidentals. Funding for this project was approved in the 2016 Capital Improvement Program.

**AWARD RECOMMENDATION:**

<u>Vendor</u>	<u>Item</u>	<u>Amount</u>
S.J. Lewis Construction of Texas, Ltd.	All	\$1,200,373.00
	<b>TOTAL:</b>	<b>\$1,200,373.00</b>

**BASIS FOR AWARD:**

**Lowest Responsible Bid**

Submitted by:

Reviewed by:

Gary L. Holcomb, CPPO, C.P.M.  
 Director of Procurement

Bryan L. Bradford  
 City Manager

Date: 02/17/16

Date: 02/22/16

<b><u>FINANCIAL SUMMARY:</u></b>			
Total Project/Account: \$	1,200,373	Operating Budget: <input type="checkbox"/>	CIP: <input checked="" type="checkbox"/> Year: <u>2016</u>
Expended/Encumbered to Date:	-0-	Document Location: <u>pp. WW03, WW05, WW14, WW17</u>	
Balance: \$	1,200,373	Account #:	237-4149-3214700-9301 \$ 81,000
This Item:	1,200,373		237-4149-3218400-7111 552,246
Proposed Balance: \$	-0-		236-4149-3218400-7111 141,305
			237-4149-3214900-9305 350,180
			230-4149-3214900-9305 69,817
			235-4229-3302900-9007 5,825
		<b>Fund/Agency/Project – Description:</b>	
		Wastewater / Sewer Collection Mains - Manholes; Collection Mains; Rowlett Interceptor Rehab; Rowlett Creek WWTP Replacements/Mods.	
		<b>Comments:</b>	
Matt Watson	02/19/16		
Budget Analyst	Date		
Ron Young	02/19/16		
Budget Director	Date		







# **GARLAND**

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## **PURCHASING**

### **Executive Summary** **Bid 6094-16** **Rowlett Creek Interceptor Bypass at RCWWTP**

**Recommended Vendor:**

S.J. Lewis Construction of Texas, Ltd.

**Total Recommended Award:**

\$1,200,373.00

**Basis for Award:**

Lowest Responsible Bid

**Purpose:**

The purpose of this contract is to provide for the open-cut construction of approximately 1,085 linear feet of 54 inch centrifugally cast fiberglass sanitary sewer pipe. This project includes removal of existing sanitary sewer pipes, manholes, vaults, and all incidentals.

**Evaluation:**

Requests for bids were issued in accordance with Purchasing procedures. Eleven (11) bids were received and evaluated. S.J. Lewis Construction of Texas, Ltd. Submitted the lowest overall bid.

**Recommendation:**

Staff recommends awarding the contract to S.J. Lewis Construction of Texas, Ltd.

**Funding Information:**

237-4149-3214700-9301, 237-4149-3218400-7111, 236-4149-3218400-7111,  
237-4149-3214900-9305, 230-4149-3214900-9305, 235-4229-3302900-9007

**Department Director:**

Michael C. Polocek, P.E., Director of Engineering, 972-205-2178



## Purchasing Report

### FAIRWAYS AT FIREWHEEL FENCE REPLACEMENT OPEN MARKET

**PURCHASE JUSTIFICATION:**

The purpose of this contract is to replace wrought iron fences at The Bridges Golf Course. Fences separating several holes from the adjacent homeowners' properties have suffered severe deterioration and are in need of replacement. Seventeen (17) of the homeowners leveraged the City's pricing to purchase fencing and/or gates that will be installed at their expense. Their combined purchase of \$26,445.00 is included in the overall project total.

**AWARD RECOMMENDATION:**

<u>Vendor</u>	<u>Item</u>	<u>Amount</u>
Concord Commercial Services, Inc.	All	\$203,184.00
<b>TOTAL:</b>		<u>\$203,184.00</u>

**BASIS FOR AWARD:**

**Cooperative Purchase**

Submitted by:  
  
 Gary L. Holcomb, CPPO, C.P.M.  
 \_\_\_\_\_  
 Director of Procurement

Reviewed by:  
  
 Bryan L. Bradford  
 \_\_\_\_\_  
 City Manager

Date: 02/19/16

Date: 02/22/16

<b><u>FINANCIAL SUMMARY:</u></b>	
Total Project/Account: \$	5,398,038
Expended/Encumbered to Date:	2,082,108
Balance: \$	<u>3,315,930</u>
This Item:	<u>203,184</u>
Proposed Balance: \$	<u>3,112,746</u>
Budget Analyst	Date
Ron Young	02/19/16
Budget Director	Date
Operating Budget: <input checked="" type="checkbox"/> CIP: <input type="checkbox"/> Year: <u>2015-16</u> Document Location: <u>Page 186</u> Account #: 431-4721-7111 Fund/Agency/Project – Description: Facilities Management – Firewheel Fence Replacement Comments: The available funding includes \$150,000 from the FY 2014-15 Revised Budget for the Firewheel fence to be rolled forward into FY 2015-16 on Budget Amendment No. 1 and the \$26,445 to be paid by homeowners adjacent to the Golf Course.	





# **GARLAND**

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## **PURCHASING**

### **Executive Summary** **Bid 6314-16** **Fairways at Firewheel Fence Replacement**

**Recommended Vendor:**

Concord Commercial Services

**Total Recommended Award:**

\$203,184.00

**Basis for Award:**

Cooperative Purchase

**Purpose:**

The purpose of this contract is to replace wrought iron fences at The Bridges Golf Course. Fences separating several holes from the adjacent homeowners' properties have suffered severe deterioration and are in need of replacement. Seventeen of the homeowners leveraged the City's pricing to purchase fencing and/or gates that will be installed at their expense. Their combined purchase of \$26,445.00 is included in the overall project total.

**Evaluation:**

The fence replacement project is being facilitated by Concord Commercial Services through the City of Mesquite's contract #2015-17.

**Recommendation:**

Staff recommends awarding this contract to Concord Commercial Services.

**Funding Information:**

431-4721-7111

**Department Director:**

Ginny Holliday, Facilities Management Director, 972-205-4080



## Purchasing Report

### GP&L WYLIE SWITCHYARD CIVIL SITE CONSTRUCTION OPEN MARKET

**PURCHASE JUSTIFICATION:**

The purpose of this contract is to provide civil site improvements in conjunction with the Wylie Switchyard CIP project. This contract will include all necessary clearing, demolition, site work, grading, drainage, grounding, sub-grading, paving, materials, incidentals, and labor. Due to the complex nature of the project, an Optional Contingency is included for any unforeseen work that may be required. Funding for this project was approved in the 2016 Capital Improvement Program.

**AWARD RECOMMENDATION:**

<u>Vendor</u>	<u>Item</u>	<u>Amount</u>
Kwest Group, LLC	All	\$537,086.50
Optional Contingency		53,708.65
	<b>TOTAL:</b>	<u>\$590,795.15</u>

**BASIS FOR AWARD:**

**Best Value**

Submitted by:

Reviewed by:

Gary L. Holcomb, CPPO, C.P.M.  
Director of Procurement

Bryan L. Bradford  
City Manager

Date: 02/17/16

Date: 02/23/16

<b><u>FINANCIAL SUMMARY:</u></b>	
Total Project/Account: \$	<u>6,134,000</u>
Expended/Encumbered to Date:	<u>4,449,148</u>
Balance: \$	<u>1,684,852</u>
This Item:	<u>590,795</u>
Proposed Balance: \$	<u>1,094,057</u>
Trent Schulze	<u>02/22/16</u>
Budget Analyst	Date
Ron Young	<u>02/23/16</u>
Budget Director	Date
Operating Budget: <input type="checkbox"/> CIP: <input checked="" type="checkbox"/> Year: <u>2016</u> Document Location: <u>Page E10</u> Account #: <u>210-3799-3174701-6051</u> <u>(EC-S0747-001-1-6051)</u> Fund/Agency/Project – Description: <u>Electric CIP / Substations Upgrades</u> Comments:	

<b>CITY OF GARLAND - BID RECAP SHEET</b> OPENED: 01/19/16 REQ. NO. PR 35538 BID NO. 6099-16 PAGE: 1 of 1 BUYER: T. Smith			Kwest Group, LLC	Tri-Con Services		
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ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	Lt.	Bid Price for Evaluation	\$537,086.50	\$537,086.50	\$836,000.00	\$836,000.00				
			Evaluation Criteria:								
			Price	Maximum = 30	30.00		13.30				
			Experience	Maximum = 20	20.00		20.00				
			Qualifications	Maximum = 20	10.00		16.00				
			Safety	Maximum = 20	20.00		20.00				
			Equipment	Maximum = 10	1.00		10.00				
			Total Score:	Maximum = 100	81.00		79.30				

TOTAL GROSS PRICE			\$537,086.50	\$836,000.00		
CASH DISCOUNT						
TOTAL NET PRICE			\$537,086.50	\$836,000.00		
F.O.B.			DELIVERED	DELIVERED	DELIVERED	DELIVERED
DELIVERY						

<b>NEXT LOW: \$836,000.00</b> <b>LOW: \$537,086.50</b> <b>SAVINGS: \$298,913.50</b>	166 # IonWave Notifications # IonWave HUBS 2 # Direct Contact HUBS 1 # HUBS Responded	All bids submitted for the designated project are reflected on this bid tab sheet. However, the listing of a bid on this sheet should not be construed as a comment on the responsiveness of such bid or as any indication that the city accepts such bid as responsive. <u>The City will notify the successful bidder upon award of the contract and, according to the law, all bids received will be available for inspection at that time.</u>
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# **GARLAND**

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## **PURCHASING**

### Executive Summary Bid 6099-16 GP&L Wylie Switchyard Civil Site Construction

**Recommended Vendor:**

Kwest Group, LLC

**Total Recommended Award:**

\$590,795.00

**Basis for Award:**

Best Value

**Purpose:**

The purpose of this contract is to provide civil site improvements in conjunction with the Wylie Switchyard CIP project. This contract will include all necessary clearing, demolition, site work, grading, drainage, grounding, sub grading, paving, materials, incidentals, and labor.

**Evaluation:**

Requests for bids were issued in accordance with Purchasing procedures. Two (2) bids were received and evaluated based on the published criteria of: price; experience; qualifications; equipment; safety. Kwest Group, LLC submitted the lowest overall bid and received the highest evaluated score, offering the best value to the City.

**Recommendation:**

Staff recommends awarding the contract to Kwest Group, LLC as the vendor offering the best value to the City.

**Funding Information:**

210-3799-3174701-6051 (EC-S0747-001-1-6051)

**Department Director:**

Ross Owen, Transmission & Distribution Director, 972-205-3532



# City Council Item Summary Sheet

Work Session

Date: March 1, 2016

Agenda Item

## Ordinance Canceling the May 7, 2016 Election for City Council Districts 1, 2, 4, and 5

### Summary of Request/Problem

Council is requested to accept the Certification of Unopposed Candidates and approve an ordinance canceling the election for May 7, 2016 for Council Districts 1, 2, 4, and 5 in accordance with the Charter of the City of Garland and the laws of the State of Texas.

### Recommendation/Action Requested and Justification

It is recommended that the Council accept the Certification and approve the ordinance to cancel the election for Council Districts 1, 2, 4, and 5.

#### Submitted By

**Eloyce René Dowl**  
City Secretary:

#### Approved By:

**Bryan L. Bradford**  
City Manager

**ORDINANCE NO.**

**AN ORDINANCE CANCELING THE ELECTION TO BE HELD MAY 7, 2016 FOR UNOPPOSED CANDIDATES FOR COUNCIL MEMBERS FOR DISTRICTS 1, 2, 4, AND 5; DECLARING EACH OF THE UNOPPOSED CANDIDATES FOR COUNCIL MEMBERS WITHIN THOSE RESPECTIVE DISTRICTS ELECTED TO OFFICE; ORDERING THE CITY SECRETARY TO POST A COPY OF THIS ORDINANCE AT EACH POLLING PLACE THAT WOULD HAVE BEEN USED IN THE ELECTION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on February 2, 2016, the City Council ordered an election to be held on May 7, 2016 for the purpose of electing Councilmembers for Districts 1, 2, 4, and 5;

**WHEREAS**, the election is for officers of the City in which write-in votes may be counted only for names appearing on a list of write-in candidates and in which each candidate whose name is to appear on the ballot is unopposed, and no proposition is to appear on the ballot;

**WHEREAS**, the filing deadlines for placement on the ballot and for declaration of write-in candidacy have passed;

**WHEREAS**, the Mayor and the City Council have received the City Secretary's written certification that each of the candidates for Councilmember for Districts 1, 2, 4, and 5 are unopposed, a copy of which certification is attached hereto;

**WHEREAS**, in these circumstances, Chapter 2, Subchapter C of the Texas Election Code authorizes a governing body to declare each unopposed candidate elected to office and to cancel the election, thereby avoiding unnecessary expense; and

**WHEREAS**, Article XII, Section 1 of the Garland City Charter mandates that elections in such circumstances must be cancelled;

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

**Section 1**

That the general election for the purpose of electing Councilmembers for Districts 1, 2, 4, and 5 is hereby cancelled.

**Section 2**

That the following candidates, who are unopposed for the May 7, 2016 general election are, pursuant to Texas Elections Code Section 2.053, hereby declared elected to the respective office described below, subject to the issuance of a certificate of election and subject to their taking the oath of office for the position and for the term to which they are hereby declared to be elected:

Councilmember, District 1: David Gibbons

Councilmember, District 2: Anita Goebel

Councilmember, District 4: B.J. Williams

Councilmember, District 5: Richard Aubin

**Section 3**

That the City Secretary shall post a copy of this Ordinance at City Hall and at each polling place that would have been used in the election.

**Section 4**

That this Ordinance shall be and become effective upon its passage and approval.

**PASSED AND APPROVED** this the \_\_\_\_\_ day of March, 2016.

**CITY OF GARLAND, TEXAS**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary



# City Council Item Summary Sheet

Work Session

Date: March 1, 2016

Agenda Item

## Juvenile Curfew Ordinance

### Summary of Request/Problem

Section 370.002 of the Texas Local Government Code requires that after a city adopts a juvenile curfew ordinance, the city must review and readopt the ordinance every three years. The ordinance was last reviewed and readopted on March 5, 2013.

### Recommendation/Action Requested and Justification

Adopt an ordinance continuing Section 26.10 entitled "Curfew Hours for Minors," of Chapter 26 of the Code of Ordinances of the City of Garland.

**Submitted By:**

**Mitch Bates**  
Chief of Police

**Approved By:**

**Bryan L. Bradford**  
City Manager

**Sec. 26.10 Curfew hours for minors**

(A) Definitions. In this section:

(1) Curfew hours means:

(a) 11:00 p.m. until 6:00 a.m. of the following day, on any Sunday, Monday, Tuesday, Wednesday, or Thursday; and

(b) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(2) Emergency means, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury, loss of life, or damage to property.

(3) Establishment means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to any place of amusement or entertainment.

(4) Guardian means:

(a) A person who, under court order, is the guardian of the person of a minor; or

(b) A public or private agency with whom a minor has been placed by a court.

(5) Minor means any person under 17 years of age.

(6) Operator means any individual, firm, association, partnership or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(7) Parent means a person who is:

(a) A natural or adoptive parent or another person;

(b) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(9) Remain means to:

(a) Linger or stay unnecessarily; or

(b) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(10) *Serious bodily injury* means bodily injury that creates a substantial risk of death or causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(B) Offenses.

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.

(2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

(3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) Defenses.

(1) It is a defense to prosecution under subsection (B) that the minor was:

(a) Accompanied by the minor's parent or guardian;

(b) On an errand at the direction of the minor's parent or guardian without detour or stop;

(c) In a motor vehicle involved in interstate travel;

(d) Engaged in lawful employment activity, or going to or returning home from an employment activity, without any detour or stop;

(e) Involved in an emergency;

(f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police officer about the minor's presence;

(g) Attending an official school or religious activity or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without detour or stop, an official school or religious activity or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor;

(h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(i) Married or had been married or had disabilities of minority removed in accordance with chapter 31 of the Texas Family Code.

(2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section until the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense under subsection (C) is present.

(E) Penalties.

(1) A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by fine not to exceed \$500.00.

(2) When required by [section 51.08](#) of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates subsection (B)(1) of this section and shall refer the minor to juvenile court.

(Ordinance 4789, sec. 1, adopted 7/19/94; Ordinance 5735, sec. 1, adopted 6/3/03; Ordinance 6116, sec. 1, adopted 4/3/07; Ordinance 6380, sec. 1, adopted 2/16/10; Ordinance 6595, sec. 1, adopted 3/5/13)

**State law references**—Review of juvenile curfew order or ordinance, V.T.C.A., Local Government Code, sec. 370.002; children taken into custody for violation of juvenile curfew or order, Tex. Code Crim. Proc., art. 45.059.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CONTINUING SECTION 26.10, ENTITLED "CURFEW HOURS FOR MINORS," OF CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has reviewed the juvenile curfew ordinance and its effects on the community and the problems the ordinance was intended to remedy; and

WHEREAS, the City Council has conducted public hearings on the need to continue the ordinance, and determined that it should be continued.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

**Section 1**

That Section 26.10 of the Code of Ordinances of the City of Garland, as amended, is hereby continued and shall remain in full force and effect.

**Section 2**

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF GARLAND, TEXAS

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary



# Planning Report

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**Uddhav Chandra Wagle**

**2433 Parkcrest Drive**

## **REQUEST**

Variance to reduce the minimum separation requirement between an establishment that sells alcoholic beverages and a church.

## **OWNER**

Bobbys Corp.

## **BACKGROUND**

Chapter 2, Article 5, Section 2.55(A) of the Garland Development Code (GDC) states that an establishment that sells or serves alcoholic beverages may not be located nearer than 300 feet of a church, public school or public hospital. The applicant proposes to sell beer and wine at an existing convenience store on the subject property. The convenience store, which has previously sold beer and wine, has recently changed ownership and undergone a business name change from "O Kay Grocery" to "Your Stop." There is an existing church, "Jesus is Lord Holiness Church", within the same multi-tenant building as "Your Stop" and is located approximately 220 feet away, per the GDC and the Texas Alcoholic Beverage Commission (TABC) measurement guidelines. According to the applicant and current business owner, the off-premise wine and beer retailer's permit from the TABC expired under the previous owner. In order to renew the permit through the TABC to continue to sell beer and wine, the City of Garland must first give approval.

## **SITE DATA**

The subject property contains approximately 0.53 acres fronting approximately 175 feet along Parkcrest Drive, east of South Shiloh Road. The subject property is zoned Community Retail (CR).

## **SURROUNDING ZONING AND LAND USES**

The properties surrounding the subject property are zoned Community Retail (CR) and Single-Family-7 (SF-7) Districts, and are developed with an automobile repair business to the west, a church to the north, and single-family residential development to the east and south of the property. The church that is within 300 feet of the alcohol-selling business occupies a tenant space within the same building. The church to the north of the subject property falls outside of the 300-foot measurement.

## CONSIDERATIONS

1. The subject property is currently developed as a nonresidential strip center with a convenience store and a place of worship occupying the building. The applicant representing the convenience store use is in the process of renewing the off-premise wine and beer retailer's permit with the Texas Alcoholic Beverage Commission (TABC) and is proposing to continue the convenience store use with sales of beer and wine. Currently "Your Stop" is open for business but is not currently selling beer and wine until approvals are granted by the TABC and the City of Garland. It should be noted that the convenience store use originally opened and operated business selling beer and wine prior to the church use moving into the building, and while the church has co-existed at this location.
2. As mentioned above, Chapter 2, Article 5, Section 2.55(A) of the Garland Development Code (GDC) states that an establishment that sells or serves alcoholic beverages may not be located nearer than 300 feet to a church, public school or public hospital. The measurement of the distance between the establishment where alcoholic beverages are sold and the church shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measured distance, according to these rules, between the alcohol-selling use and the tenant space occupied by the church is approximately 220 feet.
3. Chapter 2, Article 5, Section 2.55(C) of the Garland Development Code (GDC) states that "The City Council may grant a variance to the distance regulations provided by this Section if the City Council determines that enforcement of those regulations in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the City Council, after consideration of the health, safety and welfare of the public and the equities of the situation, determines is in the best interest of the community."

Prepared By:

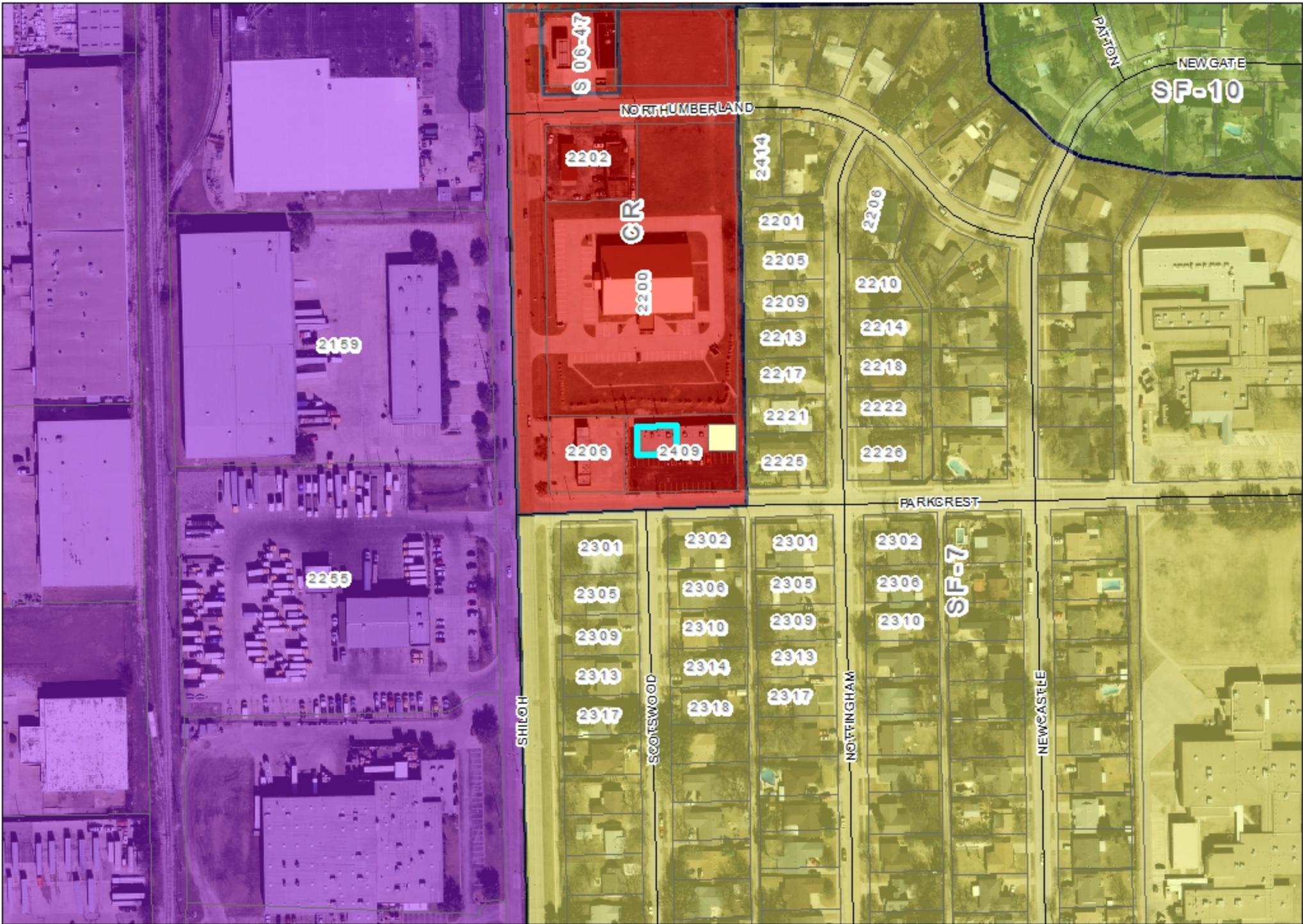
Will Guerin, AICP  
Director of Planning

Date: February 19, 2016

Reviewed By:

Bryan L. Bradford  
City Manager

Date: February 24, 2016



0 100 200 Feet  
 1 inch = 200 feet

**BEER & WINE DISTANCE VARIANCE BW 16-01**

 Subject Property  
 Church Property



**AW BUSINESS, INC.  
D/B/A YOUR STOP  
2433 PARKCREST DRIVE  
GARLAND, TEXAS 75041**

February 8, 2016

City of Garland  
Planning & Development  
Josue De La Vega  
Development Planner  
800 Main Street, 2<sup>nd</sup> Floor  
Garland, Texas 75040

Josue De La Vega:

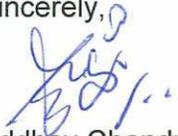
I purchased the O Kay Grocery Deli convenience store, located at 2433 Parkcrest Drive, Garland, Texas 75041, on October 2, 2015. The name of the convenience store has been changed to Your Stop. I currently do not sell beer and wine at the location due to the church being within 300 feet of my store. The church and my store are located in the same shopping strip. According to the landlord, the church is leasing their space on a temporary basis. The prior owners failed to renew their wine and beer retailer's off-premise permit which expired on April 1, 2015. This location has had wine and beer retailer's off-premise permits since November 2005.

I am requesting a variance to sell beer and wine, at the location. Business, at the convenience store is extremely slow due to no beer and wine being available to the customers. Jesus is Lord Holiness Church, located at 2409 Parkcrest Drive, is at the other end of the shopping strip. I measured the distance from my front door to the church front door, in a straight line, using the walkway by the stores. The measurement was approximately 113 feet. If I measured as stated in the Texas Alcoholic Beverage Code, the distance would have been further. Under the Texas Alcoholic Beverage Commission Code, the measurement of the distance between the establishment where alcoholic beverages are sold and church shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

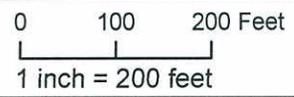
The landlord and I have spoken with K. L. Greene, Pastor of Jesus is Lord Holiness Church. Pastor Green has no objection with us selling beer and wine at the location. I have also spoken with the Texas Alcoholic Beverage Commission and they have no objection with me selling beer and wine as long as the city grants us permission and signs off on the TABC application and I notify the church, in writing.

If you have any questions regarding this matter, please call me at (214) 783-2949 or Warren Cohen, my licensing agent at (214) 244-1947. My licensing agent can also be reached thru his email address at [wscohencc@yahoo.com](mailto:wscohencc@yahoo.com)

Sincerely,



Uddhav Chandra Wagle  
President/Secretary



**BEER & WINE  
DISTANCE VARIANCE BW 16-01**

- Subject Property
- Church Property

We did not receive any replies for this case.