

**REGULAR CALLED CITY COUNCIL MEETING
October 16, 2014**

MINUTES OF THE REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS THAT WAS HELD ON **OCTOBER 16, 2014** AT 7:00 PM IN THE COUNCIL CHAMBER, CITY HALL, 1200 SOUTH COMMERCE, OVERTON, TEXAS.

PRESENT:

C. R. Evans Jr., Mayor
John Ed Welch, Mayor Pro-Tem
Pat Beets
Philip Cox
Jerry Clark

ABSENT:

John Posey

Also in attendance were, Charles Cunningham, City Manager, Rachél Gafford, City Secretary, Pam Raney, Finance Director and Clyde Carter, Police Chief representing staff, Stan Holden, Mike Adams, Arnie Spiers, Dennis Roach and Richard Ellis representing Champion EMS, James Baughman, Lawrence Davis and Dudley Hickman, representing the public.

ITEM I: CALL TO ORDER - Mayor Evans called the meeting to order at 7:01 P.M.

1. Invocation given by Councilman Beets
2. Pledge of Allegiance lead by Mayor Pro Tem Welch

ITEM II: CONSENT AGENDA

1. Council to review and make possible corrections to minutes of the Special Called City Council meeting held on September 9, 2014.
2. Council to review and make possible corrections to minutes of the Special Called City Council meeting held on September 22, 2014.
- 3.
4. Council to review and make possible corrections to minutes of the Regular Called City Council meeting held on September 25, 2014.

Mayor Pro Tem Welch made a motion to approve the consent agenda items with corrections to the Minutes for September 22, 2014. Councilman Cox seconded the Motion. Motion carried 4 – 0, Councilman Posey absent.

ITEM III: CITIZEN FORUM

None

ITEM IV: CITY ADMINISTRATION'S MONTHLY REPORTS

1. Fire Department
2. Police Department
3. Department of Finance

4. City Manager

City Manager Cunningham presented the monthly departmental reports to the council.

Mayor Evans asked if the Fire Department Fiscal Year and Quarterly Reports were the same as the City's Fiscal Year Calendar.

Finance Manager Raney stated that she was not sure, that we would need to ask Fire Chief Wall and respond to this question at the next meeting. City Manager Cunningham stated that based on the sequence of dates appearing on the report, the report must be reported on a calendar year basis.

Mayor Evans asked Chief Carter if the Police Department lost any revenue collections due to community service workers.

Chief Carter responded no.

City Manager Cunningham presented a summary of the Carter Equipment payments to date as made on the Lift Station repairs. He further stated that the City would need to anticipate repairs and or replacement of pumps in the lift stations every year as the JR May Lift Station is over taxed and basically runs 24/7 to keep up with the amount of sewage running through that lift station.

City Manager Cunningham then presented and explained the revised monthly finance reports followed by the City Manager's Monthly Report.

ITEM V: LD BUSINESS**1. PRESENT REVISED MEETING SCHEDULE FOR THE CITY COUNCIL AND PLANNING ZONING COMMISSION AS UPDATED OCTOBER 16TH, 2014.**

City Manager Cunningham presented and discussed the changes made to the revised and updated meeting calendar for the remainder of 2014. No action required.

2. HEAR AND/OR CONSIDER ACTION ON PROPOSAL FROM CHAMPION EMS FOR RENEWAL OF CONTRACT FOR AMBULANCE SERVICES.

Stan Holden, CEO for Champion EMS, addressed Council covering the reasons for the proposed changes to the contract for ambulance services for the City of Overton. Holden stated that for the past five (5) years the Overton facility (along with many other facilities) have operated at a loss with Good Shepard and Trinity Health Systems covering the loss for the area stations. The hospitals are proposing that the City now participate in covering some of the annual loss to operate and maintain a facility in the City of Overton. Holden stated that he had been charged by Corporation to propose that all the City's serviced by Champion EMS services help in picking up one-third (1/3) of the loss associated with having a facility in their community.

Councilman Clark asked if the \$48 per year per household membership fee would be increased.

Mr. Holden stated that the membership fee would remain the same.

Councilman Cox asked what would happen if the City decided not to agree to the contract terms.

Mr. Holden stated that the EMS Station would be closed, the staff and equipment would be assigned to other stations and staffing would be reduced through attrition.

Councilman Clark asked who provides the ambulance services and pays for the New London and Arp area.

Mr. Holden stated that Arp and New London operate under a contract with the Rusk County for Champion to provide ambulance service to those areas.

Councilman Cox asked who would provide ambulance service to Overton if they did not agree to the proposed contract.

Mr. Holden stated the City would have to fall back on the County to provide Ambulance Service and the City would have to negotiate a contract or inter-local agreement with the County. An ambulance would then be dispatched from Kilgore or Henderson.

Mayor Pro Tem Welch asked what how long term would be for the proposed new contract.

Mr. Holden stated that the proposed new contract was for five years.

Councilman Beets asked if Champion could provide a response time standard for cities serviced under the County contract.

Mr. Holden stated that Champion does not have a response time standard for a county.

Councilman Beets stated that the proposed rate increase as listed in the contract plus \$1,100 a month to cover the cost of the station, is asking a City which was paying \$0.00 per month to now pay \$3,000 per month. This type of increase would be hard for any small organization to swallow. Councilman Beets then asked how long the City had before they had to make a final decision as to whether to sign the contract or not.

Mr. Holden stated that the decision and the contract had to be signed prior to the last day of December 2014.

Councilman Clark asked if the City decides to accept the terms of the contract where would the money come from since the City had not budgeted for this increase.

City Manager Cunningham stated that there would be a proposed rate increase in the Water and Sewer rates in January 2015; a budget amendment would have to be done as part of the long range financial plan to fund the increase.

City Manager Cunningham asked Holden if Champion EMS may extend the existing contract for two or three months to allow the City to complete the major restructuring of the City's finances and allow time for the City to adopt the new water and sewer rates to help offset the increase in costs.

Mayor Pro Tem Welch asked if there was a possibility of a lesser contract in terms of years.

Mr. Holden replied that he would have to consult with his Board prior to responding to the possibility of an extension to the existing and a change in the term of the proposed contract.

Councilman Beets stated that he knew of some cities that collected the required subsidy to Champion EMS by adding essentially a surcharge of a few dollars each month to the water bills of each water customer.

Councilman Beets requested that staff talk to Champion EMS about the possibility of having the City collect the annual forty-eight dollar (\$48) family membership fee per household in the water bill in twelve installments. Would Champion EMS would accept the payment for all customers and treat them as association members with the same rights as the individual members of the association. Staff was to report back to the Council on this possibility at the next Council meeting. r. Holden stated that he would have to check into that as an option.

City Manager stated that he would have to check with other Cities to verify how this may be done.

ITEM V: NEW BUSINESS (CONSIDER AND/OR ACTION)

1. HEAR AND/OR CONSIDER ACTION ON RESOLUTION NO. 2014-10-16; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS DESIGNATING THE HENDERSON DAILY NEWS AS THE OFFICIAL NEWSPAPER FOR THE CITY OF OVERTON, TEXAS AND THE KILGORE NEWS HERALD AS THE OFFICIAL SUPPORT NEWSPAPER OF THE CITY OF OVERTON, TEXAS ; PROVIDING FOR AN EFFECTIVE DATE HEREOF.

Councilman Cox made a motion to approve the RESOLUTION NO. 2014-10-16. Mayor Pro Tem Welch seconded the motion. Motion carried 4-0, Councilman Posey absent. (EXHIBIT A)

2. HEAR AND/OR CONSIDER ACTION ON STATUS OF THE AUDITS OF THE CITY OF OVERTON FOR THE FOLLOWING FISCAL YEARS:
 - Fiscal Year End – 2010 – 2011
 - Fiscal Year End – 2011 – 2012

City Manager Cunningham presented the update on behalf of the accounting firm concerning the status of the audits with an anticipated date of completion of the audits currently being conducted.

No Action Taken

3. HEAR AND/OR CONSIDER ACTION ON ORDINANCE NUMBER 2014-10-16A; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS, RELATING TO THE ESTABLISHMENT OF CURFEW HOURS FOR MINORS, CREATING OFFENSES FOR MINORS AND PARENTS OF MINORS; PROVIDING AFFIRMATIVE DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

City Secretary Gafford presented Ordinance Number 2014-10-16A to Council stating that the original curfew ordinance adopted in 2008 had expired.

According to Local Government Code Section 370.02(a) Before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality, home-rule municipality or an order

of a county commissioners court, and every third year thereafter, the governing body of the general-law municipality, home-rule municipality or an order of a county commissioners court of the county shall:

1. Review the ordinance or order's effects on the community and on problems the ordinance or order was intended to remedy;
2. Conduct public hearings on the need to continue the ordinance or order; and
3. Abolish, continue, or modify the ordinance or order.

According to Local Government Code Section 370.02(b); Failure to act in accordance with Subsections (a) (1) – (3) shall cause the ordinance or order to expire.

Mayor Pro Tem Welch made a motion to approve the ORDINANCE NO. 2014-10-16A. Councilman Cox seconded the motion. Motion carried 4-0, Councilman Posey absent. (EXHIBIT B)

4. HEAR AND/OR CONSIDER ACTION ON REAPPOINTMENT OF MEMBERS TO THE PLANNING AND ZONING COMMISSION.

Councilman Beets made a motion to re-appoint Kim Cox, Lawrence Davis and Robert Raney to the Planning and Zoning Commission with terms to expire September 30, 2016. Councilman Clark seconded the motion. Motion carried 3-0, Councilman Cox abstained and Councilman Posey absent.

5. HEAR AND/OR CONSIDER ACTION ON RECONSTITUTING THE OVERTON ECONOMIC DEVELOPMENT CORPORATION BOARD AND THE NOMINATION OF NEW PROSPECTIVE MEMBERS.

Councilman Beets made a motion to re-constitute and re-appoint the following members to the Overton Economic Development Corporation with the following term expiration dates: Jim Hamblin & Todd Meadows, Term Expiration 09/30/2015; Charles Long & Philip Cox, Term Expiration 09/30/2016; Mathew Prosser, Term Expiration 09/30/2017. Councilman Clark seconded the motion. Motion carried 3-0, Councilman Cox abstained and Councilman Posey absent.

6. HEAR AND/OR CONSIDER ACTION ON RECONSTITUTING THE OVERTON MUNICIPAL DEVELOPMENT DISTRICT BOARD AND THE NOMINATION OF NEW PROSPECTIVE MEMBERS:

Councilman Beets made a motion to re-constitute and re-appoint the following members to the Overton Municipal Development Corporation with the following term expiration dates: Bob Heath & Joel Kirby, Term Expiration 09/30/2015; David Stone & Jimmy Jennings, Term Expiration 09/30/2016; Mike Piercy, Term Expiration 09/30/2017. Councilman Clark seconded the motion. Motion carried 4-0, Councilman Posey absent.

7. REVIEW AND CONSIDER ACTION TO DIRECT STAFF ON AN ORDINANCE OUTLINING CITY REQUIREMENTS FOR THE SALE OF BEER & WINE FOR OFF PREMISE CONSUMPTION ONLY IN ANTICIPATION OF THE OUTCOME OF PROPOSITION #1 ON THE BALLOT FOR THE NOVEMBER 4, 2014 ELECTION.

City Secretary Gafford presented sample ordinances to Council for review concerning types of permits and restrictions that may be needed to be put in place if the Local Option Election for the Legal Sale of Beer and Wine for Off Premise Consumption passed on the November 4, 2014 election.

No Action Taken

8. HEAR AND/OR CONSIDER ACTION ON ORDINANCE NUMBER 2014-10-16B; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS, DECLARING THE BOUNDARIES OF THE CITY LIMITS AT THE TIME OF THE LOCAL OPTION ELECTION; PROVIDING A SEVERABILITY CLAUSE; AND EFFECTIVE DATE.

Councilman Cox made a motion to approve the ORDINANCE NO. 2014-10-16B. Mayor Pro Tem Welch seconded the motion. Motion carried 4-0, Councilman Posey absent. (EXHIBIT C)

9. HEAR AND/OR CONSIDER ACTION ON PROPOSED GIS CONSULTANT SERVICES THAT WOULD INSTALL A BASIC GIS SYSTEM FOR THE CITY.

City Manager Cunningham presented the quote from the GIS Consultant to create base line existing maps and install an open source GIS system on the City's computer system. GIS Consultant would also train staff how to maintain and use the QGIS system.

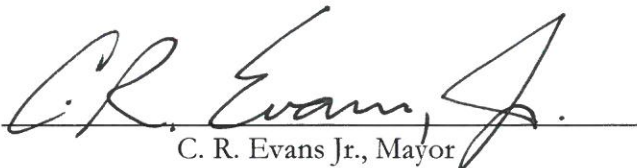
Mayor Pro Tem Welch Councilman Cox made a motion to move forward with the proposal from the GIS Consultant. Councilman Clark seconded the motion. Motion carried 4-0, Councilman Posey absent.

ITEM VI: ADJOURNMENT

Councilman Cox made a motion that the meeting be adjourned. Mayor Pro Tem Welch seconded the Motion. Motion carried 4 – 0, Councilman Posey absent.

With no further business, the meeting was adjourned at 9:30 P. M.

Minutes approved and submitted and/or corrected this 20th day of November, 2014.


C. R. Evans Jr., Mayor

Attested by:

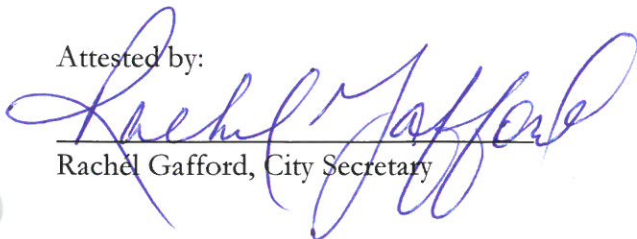

Rachel Gafford, City Secretary



EXHIBIT A

RESOLUTION NO: 2014-10-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS DESIGNATING THE HENDERSON DAILY NEWS AS THE OFFICIAL NEWSPAPER FOR THE CITY OF OVERTON, TEXAS AND THE KILGORE NEWS HERALD AS THE OFFICIAL SUPPORT NEWSPAPER OF THE CITY OF OVERTON, TEXAS ; PROVIDED FOR AN EFFECTIVE DATE HEREOF.

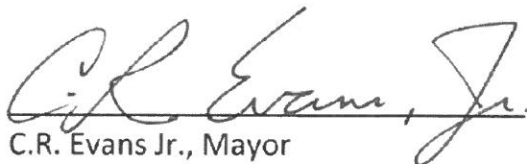
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS:

SECTION 1: The City Council of the City of Overton, Texas hereby designates the Henderson Daily News as the official newspaper of the City of Overton, Texas.

SECTION 2: In the event of a deadline, the notices may be published in the Kilgore News Herald as the official support newspaper of the City of Overton, Texas.

SECTION 3: The Resolution shall become effective immediately upon its passage and execution.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS ON THIS 16TH DAY OF OCTOBER, 2014.


C.R. Evans Jr., Mayor

ATTEST:

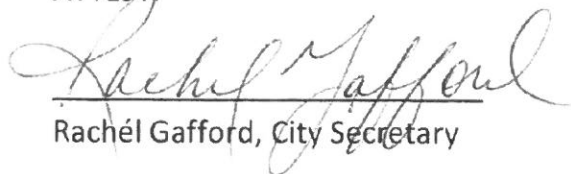

Rachel Gafford, City Secretary



EXHIBIT B

ORDINANCE NO. 2014-10-16A
CHAPTER 95: CURFEW HOURS FOR MINORS

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS, RELATING TO THE ESTABLISHMENT OF CURFEW HOURS FOR MINORS, CREATING OFFENSES FOR MINORS AND PARENTS OF MINORS; PROVIDING AFFIRMATIVE DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

WHEREAS, it is the intent of the City Council of the City of Overton to protect the public health, safety, and welfare, and to protect juveniles in particular; and

WHEREAS, a limited curfew for minors can help to reduce the number of gang-related and juvenile crimes within the City; and

WHEREAS, a goal of this ordinance is to remove minors from the city streets between the hours when many crimes occur; and

WHEREAS, it is necessary to protect the rights of minors who, for legitimate reasons, are out during specified curfew hours and to use the least restrictive means to implement a curfew for minors; and

WHEREAS, it is important that parents act responsibly with regard to their minor children; and

WHEREAS, the parent shall retain the right to make decisions regarding his or her child in all other areas;

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

PART 1: That the Code of Ordinances, City of Overton, Texas, is hereby amended by adding a new entitled "Curfew Hours for Minors", to read as follows:

"Curfew Hours for Minors"

a. Definitions. In this section:

1. Chief of Police means the chief of Police of the City of Overton or a designated representative.
2. Curfew hours means:
 - (a) 11:00 p.m. to 6:00 a.m. any day except Friday or Saturday; and
 - (b) 12:00 midnight to 6:00 a.m. Friday and Saturday.

3. Emergency means, but is not limited to, a fire, a natural disaster, and automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
4. 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.
5. Holding Location means a place designated according to law, by the chief of police to which a minor taken into custody for a violation of the section will be delivered to await pick up by a parent or juvenile authorities.
6. Minor means any person under seventeen (17) years of age.
7. Parent means a person who is:
 - (a) a natural or adoptive parent of a minor.
 - (b) a court-appointed guardian of a minor; or
 - (c) at least eighteen (18) years of age and authorized by a parent or court-appointed guardian to have the care and custody of a minor.
8. Public Place means any street, alley, highway, sidewalk, playground, park, plaza, building, or other place used by or open to the public.
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.

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 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.

c. Defenses It is a defenses to prosecution under Subsection (b) that the minor was:

1. Accompanied by the minor's parents.
2. On an errand or other legitimate business at the direction of the minor's parent;
3. In a motor vehicle involved in interstate or intrastate travel;
4. Engaged in an employment activity, including but not limited to newspaper delivery;
5. Involved in an emergency

6. 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;
7. Attending an official school or religious activity or returning home from an official school or religious activity;
8. Exercising First Amendment rights protected by the United States Constitution, such as free exercise of religion, freedom of speech, and the right of assembly, or
9. Married or had been married or has disabilities of minority removed in accordance with Chapter 13 of the Texas Family Code.

d. Enforcement.

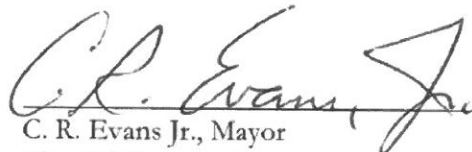
1. A police officer, upon finding a minor in violation of Subsection (b) (1), shall ascertain the name and address of the minor and shall inquire into the reasons for the minor being in a public place. If the police officer reasonably believes that the minor has violated the ordinance and that no defenses apply, a citation may be issued to the minor, and the police officer may order the minor to go promptly home by a direct route or may take the minor into custody and deliver the minor to a holding location.
2. When a minor is taken into custody under this subsection, the police department shall immediately notify a parent to pick up the minor at the holding location. After a parent arrives at the holding location and provides the information required by the chief of police to file an incident report, the minor shall be released into the custody of the parent. If a parent cannot be located or fails to take charge of the minor, the minor shall be released to the juvenile authorities,
3. If a minor is not taken into custody for a violation of Subsection (b) (1), the police department shall notify a parent of the minor that the minor has violated Subsection (b) (2) and may issue a citation to the minor's parent if reasonable grounds exist to believe that the parent has violated Subsection (b) (2) of this section.
4. A police officer shall, within 24 hours after finding a minor in violation of Subsection (b) (1), file a written report on the incident.

e. Penalties.

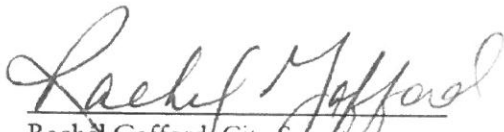
1. Any minor who violates Subsection (b) (1) of this section is guilty of a misdemeanor and upon conviction, shall be punishable by a fine as provided for class C misdemeanor offenses by the State of Texas.
2. A parent of a minor who violates Subsection (b) (2) of this section is guilty of a misdemeanor and, upon conviction, shall be punishable by a fine as provided for class C misdemeanor offenses by the State of Texas.

- PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or section of this ordinance, which shall remain in full force and effect.
- PART 3: That any person, firm, or corporation violating any of the provisions of this chapter, unless otherwise stated in Subsection (e) (1) and (2), shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided for class C misdemeanor offenses by the State of Texas. Each day such violation shall continue, or be permitted to continue, shall be deemed as a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by law.

APPROVED AND ADOPTED THIS 16th DAY OF October, 2014


C. R. Evans Jr., Mayor
City Of Overton, Texas

ATTEST:


Rachel Gafford, City Secretary

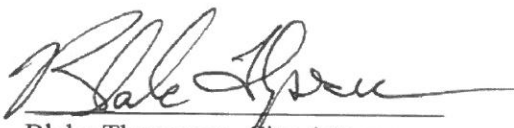

Blake Thompson, City Attorney

EXHIBIT C

ORDINANCE #2014-10-16B

AN ORDINANCE AMENDING CODE OF ORDINANCE OF THE CITY OF OVERTON, BY ADDING EXHIBIT "A", AN ILLUSTRATED MAP DEFINING BOUNDARIES OF THE CORPORATE CITY LIMITS OF THE CITY OF OVERTON, TEXAS AND DECLARING THAT SUCH MAP IS THE CURRENT OFFICIAL CITY LIMIT BOUNDARY MAP OF OVERTON, TEXAS

WHEREAS, the City Council of the City of Overton, Texas does find that defining the existing city limit boundaries are in the public interest;

WHEREAS, the current corporate city limits boundaries as known to be correct as of October 16, 2014 is illustrated in a map depicted in the attached Exhibit "A";

WHEREAS, the proposed illustrated map depicting such boundaries has been reviewed by City Council, and it appears that such map accurately depicts all parts of the City which has been annexed or which have been treated as part of the City for over twenty years;

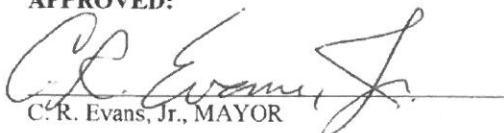
WHEREAS, Section 43.901 of the Texas Local Government Code provide for validation of ordinances defining boundaries;

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

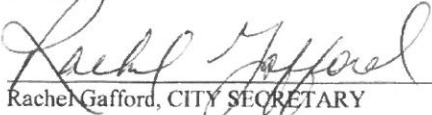
- SECTION 1: THAT the Code of Ordinances of the City of Overton, Texas, is, and the same is hereby amended and changed to add properties described upon the attached Exhibit "A" illustrated map as the current corporate city limits of the City of Overton, Texas.
- SECTION 2: THAT Chapter 11 of the Code of Ordinances of the City of Overton is amended to add Exhibit A, as an illustration of the declared corporate city limit boundaries of the City of Overton as of October 16, 2014.
- SECTION 3: The City Secretary is hereby authorized and directed to cause the publication of the descriptive caption and penalty clauses of this ordinance as an alternative method of publication provided by law.

PRESENTED AND APPROVED THIS 16TH DAY OF OCTOBER, 2014 BY A VOTE OF 4 AYES, 0 NAYS, 0 ABSTENTIONS, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS.

APPROVED:

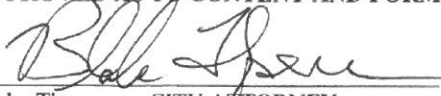

C.R. Evans, Jr., MAYOR

ATTEST:



Rachel Gafford, CITY SECRETARY

APPROVED AS TO CONTENT AND FORM:



Blake Thompson, CITY ATTORNEY

Exhibit "A"

