

**City of Lake Worth
Notice/Agenda for
Board of Adjustment (BOA)
Regular Meeting
Tuesday, November 1, 2016
6:30 PM ~ City Hall Conference Room
3805 Adam Grubb ~ Lake Worth, Texas**

- 1. Call to Order.**
- 2. Invocation and Pledge of Allegiance.**
- 3. Roll Call.**
- 4. Perform Oath of Office for appointed/reappointed Board of Adjustment Members for Place #2 and #4.**
- 5. Discussion/Action Items:**
 - a. Selection of a Board Chair.
 - b. Selection of a Board Vice-Chair.
 - c. Board Member Requirements.
 - d. Discuss Board of Adjustment Meeting Procedures.
- 6. Consent Agenda:**
 - a. Approval of minutes for the Board of Adjustment Regular Meeting on October 27, 2015.
- 7. Staff/Commission Reports:**
 - a. Announce Annual Employee Appreciation Banquet.
- 8. Adjourn.**

**City of Lake Worth
Board of Adjustment
Agenda Item Summary**

Agenda Item: 4

Originating Department: Planning & Zoning

Contact Person: Suzanne Meason

Meeting Date: November 1, 2016

Subject: Perform Oath of Office for appointed/reappointed Board of Adjustment Members for Place #2 and #4.

Item Summary: Staff will lead the newly appointed members in their oath of office. The members will then sign their oath of office form and the statement of appointed officer form. These forms will be notarized by myself and will then be retained by the City Secretary for the City's records. Only place numbers 2 and 4 will be performing this task. The documents will be presented to you at the meeting for signature. Please make sure to bring a picture id with you to the meeting.

Staff Recommendation: Staff recommends that the appropriate individuals take their oath of office and turn in the required documentation of such.

**City of Lake Worth
Board of Adjustment
Agenda Item Summary**

Agenda Item: 5a & 5b

Originating Department: Planning & Zoning

Contact Person: Suzanne Meason

Meeting Date: November 1, 2016

Subject: Selection of a Board Chair & Selection of a Board Vice-Chair.

Item Summary: You as members of the Board of Adjustment (BOA) will nominate and vote on a chair for the board and then vice chair of the board. The individual who is chosen for chair will conduct the BOA meetings for the next year and the individual who is chosen for vice chair will act in the capacity as chair should that person not be available. Attached you will find the nomination/motion/voting information for the selection of the chair and vice chair positions. Any regular member of the Board may be nominated to serve in either capacity. Nominations will be made (no seconds necessary) and no voting will occur until all nominations have ceased. Then voting will take place for each individual nominated. If you have any questions please don't hesitate to ask.

Staff Recommendation: Staff recommends that the board members nominate and vote on a board chair and then nominate and vote on a vice chair.

CHAIR/VICE CHAIR MOTION INFORMATION

Mr. Marks, will be the acting chair at this meeting, until the Board chooses a new chair. When we get to items 5a and 5b, please use the following format as far as nominations are concerned. A board member will make a nomination for the position of chair, more than one nomination may be made, but only regular board members may serve in that capacity. If only one nomination is made, then the vote will be all in favor of (Board Member Name) raise your hand, if more than one nomination is made then vote will be all in favor of (Board Member Name) and all in favor of (Board Member Name). Then the board chair will say by a vote of (Vote Count) to (Vote Count) board member (Board Member Name) was elected as Chair of the Board.

This applies for the position of Vice Chair also.

Selection of a chair and vice chair should be handled in this manner, verbatim.

Notes if you need them to tally votes:

a. Selection of a Commission Chair

Member _____ nominated _____ for Board Chair

Member _____ nominated _____ for Board Chair

Being no other nominations:

Circle those voting for nominee:

All those in favor of _____ Norman, Wharton, Marks, Scroggins, Davis

All those in favor of _____ Norman, Wharton, Marks, Scroggins, Davis

By a vote of _____ to _____, _____ was elected as Chair of the Board.

b. Selection of a Commission Vice-Chair

Member _____ nominated _____ for Board Chair

Member _____ nominated _____ for Board Chair

Being no other nominations:

Circle those voting for nominee:

All those in favor of _____ Norman, Wharton, Marks, Scroggins, Davis

All those in favor of _____ Norman, Wharton, Marks, Scroggins, Davis

By a vote of _____ to _____, _____ was elected as Vice Chair of the Board.

**City of Lake Worth
Board of Adjustment
Agenda Item Summary**

Agenda Item: 5c

Originating Department: Planning & Zoning

Contact Person: Suzanne Meason

Meeting Date: November 1, 2016

Subject: Board Member Requirements.

Item Summary: When an individual is appointed to service on a City Board/Commission they are required to submit certain forms/documentation and also complete certain training. As a member of the Board of Adjustment you are required to fill out a Public Access Form, a CIS Form (conflicts disclosure statement, if applicable), a Conflicts Disclosure Acknowledgement Form, an Oath of Office Form, and a Statement of Appointed Officer Form. In addition to the forms you are required to complete Open Government Training through the Office of the Attorney General. You must complete the Open Meetings training and the Public Information training sessions and print a certificate of completion from each course. Most of the commission members probably have these items completed already, but I will be verifying with the City Secretary and if you have any requirements missing you will be informed of such at the meeting.

Staff Recommendation: No action is necessary at this time. If you are missing any of the above items you will be notified at the meeting of such.

**City of Lake Worth
Board of Adjustment
Agenda Item Summary**

Agenda Item: 5d

Originating Department: Planning & Zoning

Contact Person: Suzanne Meason

Meeting Date: November 1, 2016

Subject: Discuss Board of Adjustment Meeting Procedures.

Item Summary: As members of the Board of Adjustment you have certain obligations. Attached for your review is the section out of the Code of Ordinance pertaining to the Board of Adjustment. Please read and familiarize yourself with this information. Attached also for your review is the adopted Board of Adjustment Rules of Procedure and the Meeting Procedures. We will go over these documents more in detail and answer any questions you may have during the meeting.

Staff Recommendation: No action is necessary this item is just for review purposes.

**THE BOARD OF ADJUSTMENT
OF THE CITY OF LAKE WORTH**

RULES OF PROCEDURE

Adopted March 31, 2008
Amended October 4, 2011

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BOARD OF ADJUSTMENT

RULES OF PROCEDURE

SECTION 1. ORGANIZATION AND OFFICERS

1.1 Organization

The Lake Worth Board of Adjustment ("Board") shall consist of members appointed by the City Council and shall be organized under the laws of the State of Texas and the Zoning Ordinance of the City of Lake Worth ("City").

1.2 Officers

A Chair and Vice-Chair shall be elected from among the Board's membership at such times as these offices may become vacant. The City Manager shall designate a representative to serve the Board as Secretary.

1.3 Duties

a. The Chair, or in his absence the Vice-Chair, shall preside at all meetings, shall decide all points of order or procedure, and shall swear in witnesses and, when necessary, compel their attendance.

b. The Secretary shall be custodian of the minutes and other official records, shall attend to the correspondence of the Board, and shall cause notices to be given as are required and in the manner prescribed by law.

1.4 Rules of Order

Robert's Rules of Order Newly Revised shall be the Board's final authority on all questions of procedures and parliamentary law not covered by these Rules of Procedure. A failure to strictly adhere to the procedures set forth in Robert's Rules of Order shall not constitute grounds for the invalidation of any motion or order made by the Board.

SECTION 2. MEETINGS

2.1 Quorum

A quorum shall consist of four (4) members.

2.2 Agenda

An agenda shall be prepared by the Secretary for each meeting of the Board. The agenda shall include appeals and other matters scheduled for consideration by the Board. There shall be attached to the agenda a list of matters pending action by the Board.

2.3 Board Meetings

Board meeting for any purpose may be held (1) on the first Tuesday of each month, (2) on the call of the Chair, or in his absence, the Vice-Chair, or (3) as may be scheduled by a majority of the Board at any previous meeting.

2.4 Public Meetings

All meetings shall be held in full compliance with the provisions of state law, the Zoning Ordinance of the City and these Rules of Procedure.

2.5 The Board and Alternates

The Board is comprised of five (5) members to be appointed for a term of two (2) years. Two (2) alternate members are also appointed by the City Council to serve in the absence of one or more regular members when requested to do so. Alternate members should be designated as Alternate Place Six (6) and Alternate Place Seven (7). All alternate members are encouraged to attend all meetings to be aware of the business before the Board.

In the event fewer than five (5) regular members are present at the call to order, the Chair shall designate the alternate member(s) to deliberate and vote on all items of the agenda. Alternate members shall serve on a rotating as needed basis as determined by the Chair. In the event that there are less than five (5) regular members available to vote on any specific agenda items due to recusal, the Chair may designate an alternate to take the place of the member and they may deliberate and vote only on the agenda items for which there are not five (5) regular members to vote. Alternates shall only participate in the deliberation of an agenda item when they have been called by the Chair to vote.

SECTION 3. OFFICIAL RECORDS

3.1 Definition

The official records shall include these Rules of Procedure, and the minutes of the Board together with all findings, decisions, and other official actions. Stenographic notes of the Secretary and tape recordings of proceedings and discussions shall not constitute the official record of the Board.

3.2 Recording of Vote

The minutes of the Board's proceedings shall show the vote of each member on each decision of the Board, or if absent or failing to vote shall indicate that fact.

3.3 Public Records

All requests and other matters coming before the Board shall be filed in the City's records and be available for public inspection during normal business hours. Original papers of all appeals shall be retained along with other special matters as the Secretary deems essential for permanent record.

3.4 Board Office

The Office of the Planning and Zoning Department shall be designated as the Board's office.

3.5 Written Decision

All decisions of the Board shall be in writing, shall indicate the decision of the Board and shall be filed in the Board's Office no later than the following business day after such decision has been made. However, the failure to timely file the decision in the Board's Office shall not have any effect on the validity of the decision.

SECTION 4. APPLICATION PROCEDURES

4.1 Types of Requests

The Board shall only consider requests authorized under section 211.009 of the Texas Local Government Code, as amended, and under the Zoning Ordinance.

4.2 Application Required

Every request for action of the Board shall be filed in the Board's Office on the application forms provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing. The application shall bear the signature of the owner of the property which is the subject of the request or shall be accompanied by a letter of authorization from such owner. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to appeal, and shall not be considered or acted upon by the Board.

4.3 Guidelines for Application and Decision

Every application shall include a letter and site plan or other graphics explaining the applicant's request, along with the required non-refundable application fee. Where two or more different types of requests are included in the same application, each set of regulations established by the Zoning Ordinance shall apply to the consideration of the requests.

4.4 Notice

The Board of Adjustment shall hold a public hearing on all requests made to it and written notice of such public hearing shall be sent in accordance with the provisions of state law and the Zoning Ordinance.

4.5 Consideration of Evidence

Decisions of the Board may be based on any credible evidence, including a member's own familiarity with a site. However, members of the Board should refrain from conducting independent investigations into any application and should consider only the evidence and testimony introduced at the meeting through the public hearing process and the background information presented by City staff through the information packet. Where deemed necessary, the Board may request City staff to obtain any additional relevant information for the Board's consideration.

4.6 Withdrawal of Request

Any request may be withdrawn by an applicant upon written notice to the Secretary, but no request shall be withdrawn after public notice has been given without formal consent of the Board.

SECTION 5. HEARINGS AND DECISIONS

5.1 Public Hearings

Hearings on all matters on which a decision of the Board is required by law shall be open to the public. Any party in interest may appear on his own behalf or be represented by legal counsel or agent.

5.2 Order of Business

The Chair shall call the meeting to order, and the Secretary shall record the members present and absent. The Chair shall publicly advise those present of the procedures followed in the hearing and disposition of cases. Unless the Board suspends the rules pertaining to the order of business, the Chair shall call each case in the order listed on the agenda.

5.3 Procedures for Hearing

- a. After opening the public hearing, the Chair shall first call upon the applicant, if present, to present the applicant's case and all evidence supporting the applicant's request. A true and correct copy of all written evidence, documents, photographs, and audio or videographic evidence presented at the hearing shall be included in the record of the case.
- b. The Chair shall then call upon those members of the public who wish to express their support for the granting of the applicant's request. The Chair shall next call on those members of the public who wish to express their opposition to the granting of the applicant's request. Each person who wishes to speak shall state their name and address for the record. Each person who is called on to speak shall first swear that the testimony the person shall give shall be the whole truth and

nothing but the truth. The Chair may establish reasonable timelimits for the members of the public as deemed necessary by the Chair.

- c. The applicant shall then be given the opportunity to rebut the arguments presented by those in opposition.
- d. Each person speaking shall proceed without interruption by any other person, and all arguments and pleadings shall be addressed to the Board. No questioning or arguments between individuals will be permitted. During the hearing, no member shall argue an issue with the applicant, nor indicate the member's final vote on the applicant's request until such time as the vote is called. Nothing herein shall be construed to prohibit a member from expressing his or her opinion as to the merits of the applicant's request or as to the existence of any hardship.
- e. Following the applicant's rebuttal, the Chair shall order the public hearing closed. After the hearing is closed, the members may deliberate regarding the merits of the applicant's request and may vote on a motion made and seconded with respect to the disposition of the request.
- f. The Board may act on any request for which the applicant fails to appear after conducting the pre-scheduled public hearing.

5.4 Board Review

The Chair may direct any question to the applicant or any persons speaking in order to bring out all relevant facts, circumstances and conditions affecting the request, and may call for questions from other members of the Board and from the City staff. At any time prior to the time a vote is called for, the Board may call back any applicant or speaker or staff member for clarification of fact presented by him in the hearing or to answer one or more questions of the members of the Board.

5.5 Suspension of Rules

Any provision of these rules not governed by other law may be temporarily suspended by the affirmative votes of four members or by unanimous consent.

5.6 Disposition of Cases

The Board may unconditionally grant, conditionally grant, or deny an applicant's request. The Board may also defer action on any request in response to the applicant's request for deferral of the action or whenever it concludes that additional evidence is needed or that alternate solutions need further study. An applicant's request may be dismissed when the Board finds that the request has been improperly filed or, upon notification

by the City, that permits have been issued for a conforming use or development of the property.

5.7 Participation of the Chair in Deliberations

The Chair may participate in any deliberations and vote on any item of business that comes before the Board.

5.8 Vote Required

The concurring vote of four members shall be necessary to grant, or to grant conditionally, any request made to the Board. When a motion to approve a request fails to receive four affirmative votes, the request is denied. A motion to deny a request shall pass on the vote of a simple majority of the members. Should a motion to deny fail to receive a majority vote, another motion must be made (ex. "motion to approve", "motion to postpone", etc.) to dispose of the case. A simple majority vote of the members shall be required to approve any motion other than a motion to approve a request. All motions must receive a second to be considered by the Board.

SECTION 6. REAPPLICATION

6.1 Reapplication for Denied Request

No application for a request which has been denied shall be again filed earlier than one year from the date of original denial unless other property in the immediate vicinity has, within the one year period, been changed or acted on by the Board or City Council so as to alter the facts and conditions on which the previous Board action was based. Such change of circumstances shall permit the rehearing of a request by the Board prior to the expiration of one (1) year period, but such conditions shall in no way have any force in law to compel the Board, after a hearing, to grant an applicant's subsequent request. Such subsequent request shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the request is brought.

SECTION 7. EXPIRATION OF GRANTED REQUEST

7.1 Expiration of Granted Request

Any special exception or variance granted or authorized by the Board shall authorize the issuance of a building permit and/or a Certificate of Occupancy, as the case may be, for a period of one year from the date of the favorable action of the Board unless said Board shall have in its action approved a different period of time and has so shown such specific period of time in the minutes of its action. If the building permit and/or Certificate of Occupancy shall not have been applied for within said one year period or such extended period as the Board may have specifically granted, then the special exception or variance shall be deemed to have been waived.

and all rights thereunder terminated. All applications for a request which have been denied shall be deemed to be denied with prejudice unless stated otherwise in the Board's written decision.

SECTION 8. CERTIFICATION AND AMENDMENTS

8.1 Certified Copy

A certified copy of these Rules of Procedure and of any amendments thereto will be placed on record in the office of the City Secretary within ten days following their date of adoption.

8.2 Repealing Clause

All previously adopted Rules of Procedure of the Board shall be and the same are hereby expressly repealed.

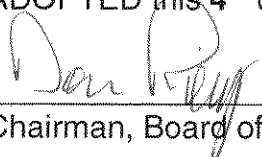
8.3 Amendment Procedure

Amendments to these Rules of Procedure may be made by the Board at any meeting upon the affirmative vote of four members, provided any such amendment is proposed at a preceding meeting and recorded on the minutes of such meeting. By unanimous consent of five members present, amendments may be adopted at the meeting at which they are introduced but such amendments shall not become effective until the next regular meeting.

8.4 Informal Advice

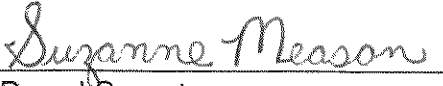
The Board or its individual members shall not consider a request (formal or informal) for advice on theoretical or actual situations that potentially may come before the Board in the future as an appeal or application.

ADOPTED this 4th day of **October, 2011.**



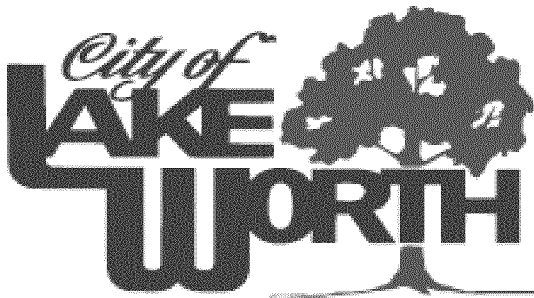
Chairman, Board of Adjustment

ATTESTED:



Board Secretary

Filed in the Office of the City Secretary this 5th day of October, 2011.
Linda Rhodes, City Secretary, City of Lake Worth, Texas



Planning & Zoning Department
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Lake Worth, Texas 76135-3509
Phone: 817-237-1211 x 111
Fax: 817-237-1333
Website: www.lakeworthtx.org
Email: smeason@lakeworthtx.org

Board of Adjustment Meeting Procedures

Calling meeting to order: Chair/Vice Chair will need to make a statement: We will now call the meeting of the Board of Adjustment to order at _____ p.m.

Role Call: Chair/Vice Chair will need to state, Let the minutes reflect the following board members present (state each board member who is in attendance) and then board members being absent (state each board member who is absent).

MAKING MOTIONS (for items requiring a motion): A motion must be made by a board member; a motion must be seconded by another board member; and then a vote will be taken in reference to the motion. A member may vote for a motion, vote in opposition of a motion, or abstain from the motion. **The Chair/Vice Chair will need to repeat the motion with which board member made the motion, which member seconded the motion, and then who voted how.** (Example: Board Member Parsley made a motion to approve the consent agenda. Seconded by Member Davis. If all vote for the motion, you may say all voting for motion. Motion passes or motion approved. If board members vote differently it would go like this: Board Member Riley made a motion to approve the consent agenda. Seconded by Member Bailey. Voting for the motion are members: Bailey, Riley, and Parsley. Voting in opposition is member: Davis. Motion passes.)

Consent Agenda: Chair/Vice Chair will need to entertain a motion for approval of the consent agenda (any changes to the consent agenda will need to be reflected in the motion).

Public Hearing/Action Items:

- a. The Chair/Vice Chair will need to state this is public hearing/action item, such and such (example: Item 4a. BOA Case #07-01, the request of Hentzen Construction, for a variance to etc. (you may just read the agenda item straight from the agenda).
- b. The Chair/Vice Chair will then open the public hearing at whatever time it is.
- c. After opening the public hearing, the Chair shall first call upon the applicant, if present, to present the applicant's case and all evidence supporting the applicant's request. The applicant will need to be sworn in by the chair (to tell the truth, the whole truth, and nothing but the truth). A true and correct copy of all written evidence, documents, photographs, and audio or video graphic evidence presented at the hearing shall be included in the record of the case.
- d. The Chair shall then call upon those members of the public who wish to express their support for the granting of the applicant's request. The Chair shall next call on those members of the public who wish to express their opposition to the granting of the applicant's request. Each person who wishes to speak shall state their name and address for the record (they must also sign the public hearing sign in sheet located on the podium). **Each person who is called on to speak shall first swear (or affirm) that the testimony the person shall give shall be the whole truth and nothing but the truth.** The Chair may establish reasonable time limits for the members of the public as deemed necessary by the Chair.
- e. The applicant shall then be given the opportunity to rebut the arguments presented by those in opposition.
- f. Each person speaking shall proceed without interruption by any other person, and all arguments and pleadings shall be addressed to the Board. No questioning or arguments between

individuals will be permitted. During the hearing, no member shall argue an issue with the applicant, nor indicate the member's final vote on the applicant's request until such time as the vote is called. Nothing herein shall be construed to prohibit a member from expressing his or her opinion as to the merits of the applicant's request or as to the existence of any hardship.

- g. The Board may act on any request for which the applicant fails to appear after conducting the pre-scheduled public hearing.
- h. The Chair may direct any question to the applicant or any persons speaking in order to bring out all relevant facts, circumstances and conditions affecting the request, and may call for questions from other members of the Board and from the City staff. At any time prior to the time a vote is called for, the Board may call back any applicant or speaker or staff member for clarification of fact presented by him in the hearing or to answer one or more questions of the members of the Board.
- i. This will be done for each public hearing/action item.

Staff Reports/Commission Reports: Since the Attorney General's ruling of posting staff/board report descriptions on the agenda, no item that was not posted in this section can be discussed or mentioned at the meeting. Should you have an item that needs to be placed on the agenda, you will need to inform me by 5:00 pm on the Thursday before the scheduled meeting is to take place as it must be put on the agenda prior to posting.

Adjourn: When there is no further business to be discussed the Chair/Vice Chair will adjourn the meeting. Statement: There being no further business to discuss this meeting is being adjourned at _____ p.m.

IMPORTANT REMINDERS

NO BUSINESS MAY BE DISCUSSED THAT IS NOT ON THE AGENDA!

PLEASE MAKE SURE THAT YOU TURN YOUR MICROPHONE ON WHEN YOU SPEAK.

PLEASE BE ADVISED THAT THERE ARE NOW CAMERAS IN THE COUNCIL CHAMBERS.

PLEASE REMOVE ANY HATS AND TURN OFF ANY CELL PHONES OR PAGERS PRIOR TO ENTERING THE COUNCIL CHAMBERS.

Sec. 14.702 Board of Adjustment

(a) Appointment. There is hereby created a board of adjustment consisting of five (5) members who shall be appointed by the city council. In addition, the city council shall appoint two (2) alternate members who shall serve in the absence of one (1) or more regular members. It is the declared policy of the city council that it will consider and appoint only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, understanding of zoning and planning and availability to prepare for and attend meetings. In addition, all appointees shall have resided in the city for at least two (2) years prior to appointment. A member of the board of adjustment shall not serve simultaneously as a member of the planning and zoning commission. Regular members shall be appointed to places numbered one (1) through five (5) and alternate members shall be appointed to places numbered six (6) and seven (7). The terms of office of said members shall be two (2) years beginning on October 1st of the year of appointment. The odd-numbered places shall expire in the odd-numbered years and the even-numbered places shall expire in the even-numbered years. Board members may be appointed to succeed themselves. (Ordinance 953, sec. 2, adopted 12/14/10)

(b) Removal and Vacancies. Members and alternates of the board of adjustment may be removed from office by the city council for cause upon written charges and after public hearing. After initial appointment of the regular members and alternates, all vacancies occurring on the board shall be filled by the city council for the unexpired term.

(c) Proceedings of the Board.

(1) The board of adjustment shall hold an organizational meeting in October of each year. The members of the board of adjustment, including alternative members, shall elect a chairperson and vice-chairperson from among its members. The board of adjustment shall adopt rules of procedure to govern its proceedings; provided, however, that such rules are not inconsistent with this article or state statute. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson may administer oaths and compel the attendance of witnesses.

(2) All cases before the board of adjustment shall be heard by a minimum of four (4) members. All meetings of the board of adjustment shall be open to the public and shall be held in compliance with the Texas Open Meetings Act. The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact and shall keep records of its decisions and other official actions, all of which shall be filed in the office of the city manager or his/her designee and kept as a public record.

(3) The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, or to grant any variance or special exception to this article or to decide in favor of the applicant on any other matter upon which the board is required to pass under this article.

(d) Notice and Hearing.

(1) The board of adjustment shall fix a reasonable time for the hearing of any appeal, variance, special exception, or other matter which the board of adjustment is authorized to review hereunder, give public notice thereof, as well as due notice to the parties in interest, and shall decide the same within a reasonable time. At the hearing, any party may appear in person or by attorney or agent. The notice provided in this article shall be given by publication in the official city newspaper stating the time and place of such hearing, which shall not be earlier than ten (10) days from the day of the publication, and in addition thereto, the board of adjustment shall mail notices of the hearing to the

petitioner and, the owners of the property lying within two hundred feet (200') of any point of the lot or portion thereof for which a variance, exception or other action relating only to a specific property is proposed, and to all other persons deemed by the board of adjustment to be affected by the appeal. Such owners and persons shall be determined according to the current tax rolls of the city and substantial compliance therewith shall be deemed sufficient; provided, however, that the deposition of such written notice in the mail by the board of adjustment shall be deemed sufficient compliance with this requirement.

(2) Any special exceptions approved by the board of adjustment, under the provisions of this section shall authorize the issuance of a building permit for a period of ninety (90) days from the date of the favorable action of the board, unless the board in its minutes shall at the time grant a longer period or unless an extension is granted by the board. If a building permit shall not have been issued within the ninety (90) days or any other period as the board of adjustment may specifically grant, the special exception shall be deemed waived and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal to the board of adjustment in accordance with the rules and regulations regarding appeals.

(3) The same appeal to the board of adjustment shall not be allowed on the same piece of property prior to the expiration of one (1) year from a denial by the board of adjustment of any appeal unless the denial was made without prejudice or unless other property in the same zoned areas shall have, within such one (1) year period, been altered or changed by ruling of the board of adjustment, in which case such change of circumstance shall permit the filing of a subsequent appeal, but such appeal shall be considered on its own merits as in all other cases.

(e) Powers. The board of adjustment shall have the following powers:

(1) Variances. The board of adjustment may authorize a variance from the height and area regulations and other development regulations in this article when, in its opinion, undue hardship or practical difficulty will result from requiring strict compliance. In granting a variance, the board shall prescribe only conditions that it deems necessary or desirable to protect the public interest and property in the vicinity. No variance shall be granted unless the board finds:

(A) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article deprive the applicant of reasonable use of his land;

(B) The special circumstances or conditions do not result from the actions of the applicant;

(C) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

(D) The granting of the variance will not be detrimental to the public health, safety, or injurious to other property in the vicinity; and

(E) The granting of the variance will not have the effect of preventing the orderly development of other land in the vicinity in accordance with the provisions of this article.

Such findings of the board, together with the specific facts upon which they are based, shall be incorporated into the official minutes of the board of adjustment meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship. In making its findings, the board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and the probable effect such variance will have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

(2) Special Exception. The board of adjustment may permit a special exception when such use or development is specifically authorized by this article in reaching its decision, the board of adjustment shall not approve a special exception unless it shall determine that the requested exception will establish only those uses permitted under this article; that the location of the proposed activities and improvements are clearly defined on a site plan filed by the applicant, and that the exception will be wholly compatible with the use and permitted development of adjacent properties either as filed or subject to such requirements and conditions as the board of adjustment finds to be necessary to protect and maintain the stability of adjacent properties.

(3) Appeals of Decisions of Zoning Administrator.

(A) All questions of interpretation, enforcement or applicability of this article shall first be presented to the zoning administrator and such questions shall be presented to the board of adjustment only on appeal from the decision of the zoning administrator. Appeals to the board of adjustment may be taken by any person aggrieved by any decision or action of the zoning administrator regarding the interpretation, enforcement or applicability of this article. Such appeal shall be taken within sixty (60) days after the decision has been rendered, by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of adjustment with the papers constituting the record upon which action appealed from was taken.

(B) An appeal shall stay all proceeding of the action appealed from unless the zoning administrator certifies to the board of adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by restraining order which may be granted by the board of adjustment or by a court of record on application, after notice to the zoning administrator, for due cause shown.

(C) In exercising its power under this provision, the board of adjustment may in conformity with the provisions of Chapter 211, Texas Local Government Code, revise or reform, wholly or partly, or may modify the order, requirement, decision or determination as sought to be made and shall have all the powers of the officer from whom the appeal is taken, and may require such conditions and safeguards as the board finds necessary to preserve the spirit and intent of this article.

(4) Nonconforming Uses. After a public hearing, the board of adjustment may require the discontinuance of nonconforming uses under any plan whereby the full value of the structure or use can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this article.

(f) Classification of New and Unlisted Uses.

(1) It is recognized that new types of land may develop and forms of land uses not anticipated herein or clearly covered herein may be the basis of a request for zoning in the city.

(2) In order to provide for such changes and contingencies, an interpretation of the article as to which zoning district such uses are permitted in and under what conditions shall first be made by the zoning administrator. In rendering his interpretation, the zoning administrator shall consider the nature and characteristics of the proposed use and its compatibility with the uses permitted in the various zoning districts, and determine in his opinion which zoning district or districts such use should be listed in.

(3) The decision of the zoning administrator may be appealed to the board of adjustment under the provisions of subsection (e)(3) above.

(g) Waiver of Mandatory Yard and Setback Requirements. The board of adjustment may approve a waiver of up to fifteen (15) percent of any required yard area or setback without following the notice and hearing requirements of subsection (d) above. The board of adjustment may in its discretion delegate to the zoning administrator its authority under this provision for all or a portion of the fifteen (15) percent area or setback waiver when such a waiver is necessary due to a surveying or construction error in the placement of the original foundation or site improvement. The zoning administrator shall not be authorized to approve a waiver under this section until the board of adjustment shall have issued a written decision outlining the terms and conditions under which these waivers may be granted.

(h) Termination of Approval. Any variance or special exception shall terminate automatically when the specified period of the variance or special exception has expired or the use has been abandoned. In addition where any condition under which a variance or special exception has been granted appears to have been violated, the board of adjustment may hold a public hearing to determine whether or not the approval previously granted should be terminated.

(1987 Code of Ordinances, Chapter 11, Section 7B; Ordinance 707 adopted 6/10/03)

(i) [Reserved for Future Use.] (Ordinance 860, sec. 1, adopted 5/8/07)

(j) Limitations on Power. The listed conditions required to exist on any matter on which the board of adjustment is authorized to consider under this article shall be construed as limitations on the powers of the board to act. Nothing herein shall be construed to empower the board of adjustment to effect changes in the zoning districts established by this article or the uses permitted therein.

(k) Grievances. Any person or persons jointly or separately, aggrieved by any decision of the board of adjustment, or any taxpayer or any of officer, department or board of the city may present to a court of record, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of such illegality. Such petition shall be presented to the court within ten (10) days of the questioned decision of the board of adjustment, and not thereafter, and shall comply in all respects with the requirements set forth in Section 211.011 of the Texas Local Government Code.

(1987 Code of Ordinances, Chapter 11, Section 7B; Ordinance 707 adopted 6/10/03)

**City of Lake Worth
Board of Adjustment
Agenda Item Summary**

Agenda Item: 6a

Originating Department: Planning & Zoning

Contact Person: Suzanne Meason

Meeting Date: November 1, 2016

Subject: Consent Agenda – Approval of minutes for the Board of Adjustment Regular Meeting on October 27, 2015.

Item Summary: The consent agenda does not typically have an agenda item summary sheet, but one has been prepared this time to inform the new members of the procedure for the consent agenda. The minutes from the last meeting are prepared by the P & Z Administrator and are then given to the board members to review for accuracy. Should there be any corrections to the meeting minutes; those changes should be made as part of the motion for approval. If you have any questions please let me know. From time to time there may be other items listed under the consent agenda, if so all items included in the consent agenda will be approved as one motion.

Staff Recommendation: Staff recommends that the members review the meeting minutes from October 27, 2015 and recommends approval.

CITY OF LAKE WORTH
Minutes for
Board of Adjustment (BOA)
Regular Meeting
Tuesday, October 27, 2015
6:30 PM ~ City Council Chambers
3801 Adam Grubb ~ Lake Worth, Texas

1. Call to Order.

The Board of Adjustment meeting was called to order at 6:31 p.m. by current Chair Patricia Davis.

2. Pledge of Allegiance.

Attendees recited the pledge of allegiance.

3. Roll Call.

Members present were Judy Norman, Gloria Canchola, William Marks, Jr., Brenda Welch (arrived at 6:31 pm, right after the pledge of allegiance had been recited), and Chair Patricia Davis. Alternate Place 6 and Alternate Place 7 are vacant.

City staff present were Brett McGuire, City Manager and Suzanne Meason, Planning and Zoning Administrator.

4. Perform Oath of Office for appointed/reappointed Board of Adjustment members for place(s) 1, 3, and 5.

Mrs. Meason led the newly appointed board members in their oath of office.

5. Discussion/Action Items:

a. Selection of a Board Chair.

Brenda Welch made a motion, to nominate Patricia Davis as Board Chair, there was no second on the motion and Ms. Davis respectfully declined the nomination. Patricia Davis made a motion, seconded by Brenda Welch to nominate Williams Marks, Jr. as Board Chair. Being no other nominations the Board entertained a vote. All members present voting for; by a vote of five (5) to zero (0), William Marks was elected as Chair of the Board.

b. Selection of a Board Vice-Chair.

Patricia Davis made a motion, seconded by Judy Norman to nominate Gloria Canchola as Board Vice-Chair. Being no other nominations the Board entertained a vote. All voting for; by a vote of five (5) to zero (0), Gloria Canchola was elected as Vice Chair of the Board.

Mr. Marks took over the meeting as the new Board Chair.

c. Discuss Board Member Requirements.

Suzanne Meason went over with all the members the different forms and trainings that are required of an appointed member and verified that everyone on

the board had completed everything they needed to. Mr. McGuire mentioned that if any of the members had questions about filling out the public access form to wait until after the meeting and staff would help them.

d. Discuss Board of Adjustment Meeting Procedures.

Mrs. Meason went over the BOA Rules and Procedures and the BOA Meeting Procedures with the Board and answered any questions. Brett McGuire briefly talked to the Board about their duties/powers, the do's and don'ts of being on the board, and the criteria that has to be used with determining decisions. He went over emails between board members and staff and such. He advised the members not to visit the property site in question before a hearing, or to have any discussions before the open meeting.

6. Consent Agenda

a. Approval of minutes for the Board of Adjustment Special Meeting on December 16, 2014.

Patricia Davis made a motion, seconded by Brenda Welch, to approve the minutes of the December 16, 2014 special meeting. All members present voting for; motion approved.

7. Staff/Commission Reports:

a. Announce Annual Employee Appreciation Banquet.

The banquet will be held on Friday, December 11, 2015 with doors opening 7:00 pm at the Radisson Fossil Creek off of Meacham. Admission is a non-perishable item for the Fellowship Church Food Bank of Lake Worth.

8. Adjourn:

There being no further discussion, Board Chair William Marks, Jr. adjourned the meeting at 6:56 p.m.

APPROVED:

Board of Adjustment Chair

ATTEST:

Suzanne Meason
Planning & Zoning Administrator