

MINUTES OF THE  
BLANCHARD MAYOR AND TOWN COUNCIL  
REGULAR MEETING – OCTOBER 11, 2011  
7:00 O'CLOCK

Present: Mayor Digilormo, Alderpersons Ashby, Jones, and Prewett, Atty. Arceneaux, Town Clerk Debra Smith, and various citizens.

Absent: Alderpersons Lee and Whittington, Chief Presswood, Dave Cherry, and David Yeates.

Pledge of Allegiance led by Town Clerk Smith.

Invocation given by Arceneaux.

Questions and Statements of Citizens: Mr. Ray Stahl expressed concern over the minimum water bill. After discussion, the Council was able to answer Mr. Stahl's concerns.

Motion by Prewett to accept minutes of the regular meeting of September 13, 2011. Second by Ashby. All voted yea.

OLD BUSINESS

Public Hearing Ordinance 8 of 2011 (FEMA)

The public hearing opened at 7:13 p.m. There being no discussion, the public hearing closed at 7:14 p.m.

Ordinance 8 of 2011

Ordinance 8 of 2011

An Ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas for the Town of Blanchard and its citizens and otherwise providing with respect thereto

ARTICLE 1—STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

Section A. STATUTORY AUTHORIZATION

The Legislature of the State of Louisiana has in statute LRS 38:84 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of Alderpersons for the Town of Blanchard ("Town"), Louisiana, does ordain as follows:

Section B. FINDINGS OF FACT

(1) The flood hazard areas of the Town are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Section C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

#### Section D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### ARTICLE 2—Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**Alluvial Fan Flooding** - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**APEX** - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**APPURTENANT STRUCTURE** – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

**AREA OF FUTURE CONDITIONS FLOOD HAZARD** – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

**AREA OF SHALLOW FLOODING** - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

**BASE FLOOD** - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION** – The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year – also called the Base Flood.

**BASEMENT** - means any area of the building having its floor subgrade (below ground level) on all sides.

**BREAKAWAY WALL** – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**CRITICAL FEATURE** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**DEVELOPMENT** - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**EXISTING CONSTRUCTION** - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD ELEVATION STUDY** – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**FLOOD INSURANCE RATE MAP (FIRM)** - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** – see Flood Elevation Study

**FLOODPLAIN OR FLOOD-PRONE AREA** - means any land area susceptible to being inundated by water from any source (see definition of flooding).

**FLOODPLAIN MANAGEMENT** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOOD PROTECTION SYSTEM** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** – see Regulatory Floodway

**FUNCTIONALLY DEPENDENT USE** - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior or;
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**LEVEE** - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**LEVEE SYSTEM** - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST FLOOR** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**MANUFACTURED HOME** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**RECREATIONAL VEHICLE** - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOODWAY** - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**RIVERINE** – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**SPECIAL FLOOD HAZARD AREA** – see Area of Special Flood Hazard

**START OF CONSTRUCTION** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not

part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**VARIANCE** – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

**VIOLATION** - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## ARTICLE 3—GENERAL PROVISIONS

### Section A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard with the jurisdiction of the Town.

### Section B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Caddo Parish, Louisiana and incorporated areas dated May 17, 2004, with accompanying Flood Insurance Rate Maps (FIRM) dated May 17, 2004, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

### Section C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

### Section D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

### Section E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### Section F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

Section G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

ARTICLE 4—ADMINISTRATION

Section A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Town Clerk is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

Section B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Department of Transportation and Development, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
- (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and

anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community **first** completes all of the provisions required by Section 65.12.

#### Section C. PERMIT PROCEDURES

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);

(d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(e) Maintain a record of all such information in accordance with Article 4, Section (B)(1);

(2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

(a) The danger to life and property due to flooding or erosion damage;

(b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(c) The danger that materials may be swept onto other lands to the injury of others;

(d) The compatibility of the proposed use with existing and anticipated development;

(e) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(h) The necessity to the facility of a waterfront location, where applicable;

(i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

#### Section D. VARIANCE PROCEDURES

(1) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.

(2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

(3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(10) Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon:

(i) showing a good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## ARTICLE 5—PROVISIONS FOR FLOOD HAZARD REDUCTION

### Section A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### Section B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

(1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.

(2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than 1 foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) **Manufactured Homes** -

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse,

or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the bottom of the longitudinal structural I beam of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

- (i) the bottom of the longitudinal structural I beam of the manufactured home is at or above the base flood elevation, or
- (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

#### Section C. STANDARDS FOR SUBDIVISION PROPOSALS

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### Section D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with

flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

(2) All new construction and substantial improvements of **non-residential** structures;

(a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

(b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C are satisfied.

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

#### Section E. SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

#### Section F. PENALTIES FOR NON COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 500.00 or imprisoned for not more than 60 (sixty) days or both, for each violation. Each day the violation continues shall be deemed a new violation. In addition, the violator shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

#### Section G. CERTIFICATION OF ADOPTION

(1) BE IT FURTHER ORDAINED if any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance that can be given effect without the invalid provisions, items or applications and to this end the provisions of this ordinance are hereby declared severable.

(2) BE IT FURTHER ORDAINED all ordinances or resolutions or parts hereof in conflict herewith are hereby repealed.

Motion made by Jones to adopt Ordinance 8 of 2011. Second by Prewett.

Roll Call Vote:

YEAS: Ashby, Jones, Prewett

NAYS: None

ABSTAINED: None

ABSENT: Lee, Whittington

And Ordinance 8 of 2011 was adopted this 11<sup>th</sup> day of October, 2011.

Public Hearing Ordinance 9 of 2011 (Cable franchise fee renewal)

The public hearing opened at 7:14 p.m. There being no discussion, the public hearing closed at 7:15 p.m.

Ordinance 9 of 2011

ORDINANCE 9 OF 2011

An Ordinance to amend and reenact chapter 9, Article D, Section 9.4 "CABLEVISION", to read as follows, and otherwise providing with respect thereto

BE IT ORDAINED by the Mayor and the Board of Alderpersons of the Town of Blanchard, Louisiana, in due, legal and regular session convened, as follows:

Section 1. Section 9.4 of the Code of Ordinances of the Town of Blanchard is hereby amended and reenacted to read as follows:

SECTION 9.4 CABLEVISION

Etan Industries, Inc. d/b/a CMA Communications

SECTION 1. DEFINITIONS

When used in this Chapter:

(1) "Cable service" means the one-way transmission to subscribers of video programming or other programming service and any subscriber interaction required for the selection or use of such video programming or other programming service, but shall not include any video programming provided by a commercial mobile service provider.

(2) "Cable service provider" means any person or entity that provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such system.

(3) "Cable system" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community but does not include the following facilities or systems:

(a) A facility that serves only to retransmit the television signals of one or more television broadcast stations.

(b) A facility that serves subscribers without using any public right of way.

(c) A facility of a common carrier which is subject, in whole or in part, to common carrier regulation, except that such facility shall be considered a cable system to the extent the facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services.

(d) An open video system to the extent the system is deemed under federal law not to be a cable system.

(e) Any facilities of an electric utility used solely for operating its electric system.

(4) "Certificate" means the certificate of franchise authority issued by the secretary of state to a person or entity to provide cable service or video service in this state.

(5) "Commercial mobile service provider" means an interconnected radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, provided for profit and to the public or to a substantial portion of the public.

(6) "Franchise" means an initial authorization, or renewal of an authorization, issued by a franchising authority regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable system, or other wireline facilities used to distribute video programming services, in the public rights of way.

(7) "Franchise authority" means any governmental entity empowered by federal, state, or local law to grant a franchise for cable service or video service.

(8) "Gross revenues" means all revenues received from subscribers for the provision of cable service or video service, including franchise fees and all revenues received from non-subscribers for advertising disseminated through cable service or video service and home shopping services. Gross revenues shall not include all of the following items:

(a) Amounts billed and collected from subscribers to recover any tax, surcharge, or governmental fee.

(b) Any revenue not actually received, even if billed, such as bad debt.

(c) Any revenue received by any affiliate or any other person in exchange for supplying goods or services to the cable service provider or video service provider.

(d) Any amounts attributable to refunds, rebates, or discounts.

(e) Any revenues from late fees, returned check fees, or interest.

(f) Any revenues from sales or rental of property, except such property the subscriber is required to buy or rent exclusively from the cable service provider or video service provider to receive cable service or video service.

(g) Any revenues from services provided over the cable system or other wireline facilities used to distribute video programming services that are not classified as cable services or video services including without limitation revenue received from telecommunications services, information services but not excluding cable services or video services, Internet access services, and directory or Internet advertising revenues, including but not limited to yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any non-cable service or non-video service is bundled with the sale of one or more cable services or video services and sold for a single non itemized price, the term "gross revenues" shall include only those revenues that are attributable to cable services or video services based on the provider's books and records.

(h) Any revenues from sales for resale with respect to which the purchaser is required to pay a franchise fee, provided the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect thereto.

(i) Any amounts attributable to a reimbursement of costs, including but not limited to the reimbursements by programmers of marketing costs incurred for the promotion or introduction of video programming.

(j) Any revenues from providing or maintaining inside wiring.

(9) "Incumbent service provider" means any cable service provider or video service provider providing cable service or video service in a particular municipality or unincorporated area of a parish on August 15, 2008.

(10) "Local governmental subdivision" means any parish or municipality.

(11) "Predecessor" shall include but not be limited to any entity that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a person receiving, obtaining, or operating under a municipal or parish cable franchise through merger, sale, assignment, restructuring, or any other type of transaction.

(12) "Public right of way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or waterway.

(13) "Town" refers to the Town of Blanchard.

(14) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(15) "Video service" means video programming services provided through wireline facilities located at least in part in the public rights of way without regard to delivery technology, including Internet protocol technology. "Video service" shall not include any video programming provided by a commercial mobile service provider as defined in this Section or video programming provided as part of a service that enables users to access content, information, e-mail, or other services offered over the public Internet.

(16) "Video service provider" means any entity providing video service. "Video service provider" shall not include a cable service provider or any affiliate, successor, or assign of a cable service provider operating under a franchise agreement with a local governmental subdivision in this state on August 15, 2008.

## SECTION 2. CERTIFICATE ISSUED BY THE STATE: ELIGIBILITY.

A. Any person or entity seeking to provide cable service or video service in this state after August 15, 2008, shall file an application for a state franchise with the secretary of state as required by this Section and shall provide a copy of such application simultaneously to each local governmental subdivision listed in Paragraph (B)(2) of this Section.

B. The secretary of state shall issue a certificate authorizing the applicant to offer cable service or video service in this state within thirty days of receipt of an application, which shall consist of an affidavit submitted by the applicant and signed by an officer or general partner of the applicant affirming all of the following items:

(1) The applicant agrees to comply with all applicable federal and state laws and regulations.

(2) A list of municipalities and parishes to be served, in whole or part, by the applicant, which list shall be updated by the applicant prior to the provision of cable service or video service to an area within a previously undesignated local governmental subdivision.

(3) The location of the principal place of business and the names of the principal executive officers of the applicant.

(4) The applicant agrees to maintain insurance in an amount not less than one million dollars either through a policy of public liability insurance or through self-insurance.

C. The certificate issued by the secretary of state shall be effective thirty days after issuance and shall contain all of the following:

(1) A grant of authority to provide cable service or video service as requested in the application.

(2)(a) A grant of authority to construct facilities along and over the public roads or public works or public rights of way and along and parallel to any of the railroads and

waters in the state whether owned, maintained, or provided by a local governmental subdivision or the state in the delivery of that service, subject to the laws of this state, including the lawful exercise of police powers of the local governmental subdivisions in which the service is delivered.

(b) With respect to any area that is privately owned, the grant in this Chapter provides the holder of a state-issued certificate of franchise authority with the same, but no greater, rights for the placement of facilities pursuant to this Chapter as those rights currently existing pursuant to Louisiana Revised Statutes for the placement of facilities for any company formed for the purpose of transmitting intelligence by telephone or telegraph or other system of transmitting intelligence.

(3) A statement that the franchise is for a term of fifteen years, is renewable, and is nonexclusive.

D. The certificate issued by the secretary of state is fully transferable to any successor in interest to the applicant to which it is initially granted. A notice of transfer shall be promptly filed with the secretary of state within ten days of the completion of the transfer.

E. The certificate issued pursuant to this Chapter may be terminated by the cable service provider or video service provider by submitting written notice of the termination to the secretary of state.

F. A holder of a certificate who seeks to amend its current certificate to include additional areas to be served shall file an amended application which reflects the new service area to be served and shall provide a copy of such amended application simultaneously to any affected local governmental subdivision within the new service area.

G. The failure of the secretary of state to notify the applicant of the incompleteness of the applicant's affidavit or issue a certificate before the thirtieth day after receipt of a completed affidavit shall constitute issuance of the certificate applied for without further action on behalf of the applicant.

H. A cable service provider is deemed to have or have had a franchise to provide cable service in a specific local governmental subdivision on August 15, 2008, if any predecessor of the cable service provider had a cable franchise agreement granted by that specific local governmental subdivision on that date.

I. Notwithstanding any other provision of law to the contrary, the secretary of state shall have no regulatory authority over any cable service provider or video service provider.

### SECTION 3. STATE FRANCHISE: EFFECT ON EXISTING LOCAL FRANCHISE AGREEMENT.

A. Any incumbent service provider providing cable service or video service in this state on August 15, 2008, under a franchise previously granted by a local governmental subdivision is not subject to nor may it avail itself of the state-issued certificate of franchise authority provisions of this Chapter with respect to that local governmental subdivision until such franchise expires or as provided in this Section. Notwithstanding any other provision of law to the contrary, any such cable service provider or video service provider may offer cable service or video service under a state-issued certificate of franchise authority in accordance with the provisions of this Chapter upon meeting one of the following circumstances:

(1) Offering service in local governmental subdivisions where it currently does not have an existing franchise.

(2) The filing of a statement of termination in the form of an affidavit with the secretary of state setting forth a mutually agreed upon date to terminate the existing

franchise set by both the local governmental subdivision issuing the existing franchise and the incumbent service provider subject to the existing franchise.

(3) The expiration, prior to renewal or extension, of its existing franchise.

(4) Termination of its existing franchise, as provided in Subsection B of this Section.

B. Any incumbent service provider shall have the option to terminate an existing franchise previously issued by a local governmental subdivision and may instead offer cable service or video service in such local governmental subdivision under a certificate of state franchise issued by the secretary of state in accordance with the provisions of R.S. 45:1364, provided the following requirements are satisfied by any such incumbent service provider:

(1) An incumbent service provider exercising its termination option shall file a statement of termination with the secretary of state in the form of an affidavit containing the information required by R.S. 45:1364(B) and submit copies of such filing with any affected local governmental subdivision. Termination of existing franchises is effective immediately upon the effective date of the certificate of state franchise issued by the secretary of state.

(2) An incumbent service provider shall remain, under the terms and conditions of the terminated franchise, subject to and obligated for any indebtedness, liability, or obligation that is accrued, due, and owing to a local governmental subdivision at the time the incumbent service provider terminates the existing franchise previously issued by said local governmental subdivision. Nothing in this Chapter shall be construed to release an incumbent service provider exercising the option to terminate from any such accrued, due and owing indebtedness, liability, or obligation.

(3) An incumbent service provider that elects to terminate its existing franchise for a local governmental subdivision shall remain subject to the contractual rights, duties, and obligations incurred by the incumbent service provider under the terms and conditions of the terminated local franchise that are owed to any private person, including a subscriber.

#### SECTION 4. FRANCHISE FEE.

A. The holder of a certificate may be required, pursuant to an ordinance adopted by the local governmental subdivision, to pay a franchise fee equal to a specified percentage of such holder's gross revenues received from the provision of cable service or video service to subscribers located within the municipality or unincorporated areas of the parish and from advertising disseminated through cable service or video service and home shopping services as allocated under Subsection D of this Section. The fee shall not exceed five percent of the holder's gross revenues. The fee shall be uniformly applied to all holders of a state-issued certificate of franchise authority within the local governmental subdivision. The local governmental subdivision shall provide a copy of the enabling ordinance to the holder of a certificate as a condition to receiving any franchise fee payments. As a condition precedent to a certificate holder's obligation to pay a franchise fee established or changed pursuant to this Section, the local governmental subdivision shall provide each certificate holder with a copy of each rate change notification at least forty-five days in advance of the effective date of the rate change.

B. The holder of a certificate shall pay to the local governmental subdivision quarterly the aggregate amount of the franchise fees payable under this Section. Each payment shall be made within forty-five days after the end of the preceding quarter for which payment is being

made and shall be accompanied by a statement showing the certificate holder's gross revenues attributable to the local governmental subdivision for that quarter.

C. Any supporting statements shall be confidential and exempt from disclosure as proprietary and trade secret information under any provision of state law.

D. The amount of a cable service provider's or video service provider's non-subscriber revenues from advertising disseminated through cable service or video service and home shopping services that is allocable to a local governmental subdivision is equal to the total amount of the cable service provider's or video service provider's revenue received from such advertising and home shopping services multiplied by the ratio of the number of subscribers in such municipality or in the unincorporated area of such parish on the preceding January first to the total number of subscribers receiving cable service or video service from the cable service provider or video service provider on that date.

E. The holder of a certificate may designate that portion of a subscriber's bill attributable to any franchise fee imposed pursuant to this Chapter and recover such amount from the subscriber as a separate line item on the bill.

F. No local governmental subdivision shall levy any tax, license, fee, or other assessment on a cable service provider or video service provider for or in connection with the use of public rights of way other than the franchise fee authorized by this Section or fee authorized by R.S. 45:1370 or a cable franchise fee or other fee imposed upon a cable service provider or video service provider in an existing franchise prior to August 15, 2008. No local governmental subdivision shall levy any other tax, license, fee, or other assessment on a cable service provider or video service provider or its subscribers, which is not generally imposed and applicable to a majority of all other businesses. Nothing in this Subsection shall restrict the right of any local governmental subdivision to impose ad valorem taxes, service fees, sales taxes, or other taxes and fees lawfully imposed on other businesses within such local governmental subdivision.

G. The certificate franchise fee authorized by this Section shall be in lieu of any permit fee, encroachment fee, degradation fee, inspection fee, or other fee assessed by a local governmental subdivision on a certificate holder for occupation of or work within its public rights of way.

#### SECTION 5. \_\_\_\_\_ FRANCHISE FEE AUDITS AND DISPUTE RESOLUTION.

A. The Town, upon reasonable written request, may review the business records of a cable service provider or video service provider to the extent necessary to ensure payment of the franchise fee in accordance with R.S. 45:1366.

B. Any suit with respect to a dispute arising out of or relating to the amount of the franchise fee due to a local governmental subdivision under R.S. 45:1366 shall be filed either by the local governmental subdivision seeking to recover an additional amount alleged to be due, or by the certificate holder seeking a refund of an alleged overpayment, in a state or federal court of competent jurisdiction within three years following the end of the month to which the disputed amount relates; however, this time period may be extended by written agreement between the certificate holder and the local governmental subdivision.

C. Prior to filing suit, the local governmental subdivision or certificate holder shall give the other party written notice of any dispute not resolved in the normal course of business. Representatives of both parties, with authority to settle the dispute, shall meet within thirty calendar days after receipt of the notice, and thereafter as often as reasonably deemed necessary, to exchange relevant information and attempt to resolve the dispute. If the dispute is

not resolved within sixty calendar days after receipt of the notice, either the local governmental subdivision or certificate holder may initiate nonbinding mediation. Good faith participation in and completion of the negotiation and mediation procedures set forth in this Subsection shall be a condition precedent to proceeding with the suit beyond its filing to interrupt the prescriptive period set forth in this Section.

D. A local governmental subdivision may contract with a third-party administrator for the collection of the franchise fees and enforcement of the provisions of this Chapter.

E. Each party shall bear its own costs and attorney fees incurred in connection with any and all of the activities and procedures set forth in this Section.

#### SECTION 6. PROHIBITION AGAINST BUILD-OUT REQUIREMENTS

No franchising authority, state agency, or political subdivision of the state shall impose any build-out requirements for construction of a cable system or wireline facilities used to distribute video programming services or for cable service or video service deployment on a holder of a certificate, subject to the provisions of Title 48 of the Louisiana Revised Statutes of 1950.

#### SECTION 7. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS PROGRAMMING STREAMS OR CHANNELS.

A. Not later than one hundred twenty days after a request by a local governmental subdivision, the holder of a certificate shall provide the local governmental subdivision in which it provides cable service or video service with capacity in its network to allow public, educational, and governmental (PEG) access programming streams or channels for noncommercial programming consistent with this Section.

B. 1) The holder of a certificate shall designate a sufficient amount of capability on its cable system or wireline facilities used to distribute video programming services to allow for the provision of a comparable number of PEG access programming streams or channels a local governmental subdivision has activated under the franchise agreement of the incumbent service provider with the most subscribers in such local governmental subdivision as of August 15, 2008.

(2) If a local governmental subdivision did not have PEG access programming streams or channels as of August 15, 2008, the cable service provider or video service provider shall furnish, upon written request, capability sufficient to support up to three PEG access programming streams or channels for a local governmental subdivision with a population of at least fifty thousand and up to two PEG access programming streams or channels for a local governmental subdivision with a population of less than fifty thousand. However, the holder may require all local governmental subdivisions served by a single headend or similar facility and requesting PEG access programming streams or channels under this Subsection to jointly use the PEG access programming streams or channels provided in this Subsection. For the purpose of applying the limits in this Subsection, the populations of all such local governmental subdivisions shall be aggregated.

(3) The holder of a certificate may be required by a local governmental subdivision to provide one PEG access programming stream or channel in the basic subscription service package or tier offered by the provider. All other PEG access programming streams or channels required by this Section may be located in any subscription package or tier subscribed to by fifty percent or more of customers of a cable service provider or video service provider.

The holder may provide any PEG access programming stream required by this Section in either digital or analog format.

C. A local governmental subdivision may use one PEG access programming stream or channel without restrictions relating to repeat programming provided in this Section. To qualify for any additional PEG accessing programming stream or channel authorized by this Section, a local governmental subdivision shall certify that the additional PEG access programming stream or channel, upon activation, will be utilized for at least eight continuous hours of non-repeating content per day. If a local governmental subdivision fails to utilize any additional PEG access programming stream or channel for at least eight continuous hours of non-repeating content per day, such PEG access programming stream or channel shall no longer be made available to the local governmental subdivision and may be programmed at the discretion of the cable service provider or video service provider. At such time as the local governmental subdivision can certify to the cable service provider or video service provider a schedule for at least eight continuous hours of non-repeating daily programming, the cable service provider or video service provider shall restore the previously lost programming stream or channel on any tier of service at the certificate holder's sole discretion.

D. The operation of any PEG access programming stream or channel provided pursuant to this Section shall be the responsibility of the municipality or the parish receiving the benefit of such programming stream or channel and holder of a certificate bears only the responsibility for the transmission of such programming stream or channel.

E. The local governmental subdivision shall ensure that all transmissions of content and programming provided by or arranged by them to be transmitted over a PEG access programming stream or channel by a holder of a certificate are provided and submitted to the cable service provider or video service provider in a manner or form that is capable of being accepted and transmitted by the provider over its network without further alteration or change in the content or transmission signal and which is compatible with the technology or protocol utilized by the cable service provider or video service provider to deliver its cable service or video service.

F. Where technically feasible, the incumbent service provider shall, upon receipt of a written request of a holder of a certificate, negotiate in good faith to interconnect its cable system or wireline facilities used to distribute video programming services with the cable system or wireline facilities used to distribute video programming services of such certificate holder on mutually acceptable and reasonable terms in order to enable such certificate holder to gain access to PEG programming. Interconnection may be accomplished by direct cable microwave link, satellite, or other reasonable method of connection. No incumbent service provider shall withhold interconnection with another cable service provider or video service provider.

G. A holder of a certificate is not required to interconnect for, or otherwise to transmit, PEG content that is branded with the logo, name, or other identifying marks of another cable service provider or video service provider, and a municipality or parish may require a cable service provider or video service provider to remove its logo, name, or other identifying marks from PEG content that is to be made available to another provider.

**SECTION 8. IN-KIND CONTRIBUTIONS; PEG ACCESS SUPPORT.**

A. Local governmental subdivisions are prohibited from imposing in-kind compensations and grants.

B. Notwithstanding any other provision of law to the contrary, a local governmental subdivision may require all holders of a state-issued certificate of franchise authority, pursuant

to an ordinance adopted by the local governmental subdivision, to pay PEG access support in an amount up to one-half percent of gross revenues. No payments shall be due pursuant to this Section until the local governmental subdivision notifies the holder of a state-issued certificate of franchise authority, in writing, of the amount owed. The fee shall be uniformly applied to all holders of a state-issued certificate of franchise authority within the local governmental subdivision.

C. Payments under this Section shall be made in the same manner as a part of the certificate holder's payment of franchise fees pursuant to R.S. 45:1366, and all definitions, exemptions, and administrative provisions applicable to franchise fees shall apply to such payments.

D. The holder of a state-issued certificate of franchise authority may designate that portion of a subscriber's bill attributable to any payments required by this Section and recover the amount from the subscriber as a separate line-item on the bill.

E. All payments made to a local governmental subdivision under this Section are paid in accordance with 47 U.S.C. 531, 541(a)(4)(B), and 542(g)(2)(C) and shall be used by the local governmental subdivision as allowed by federal law only to support the capital costs incurred for the construction and operation of PEG access programming stream or channel content and facilities.

F. No franchise fees as required in R.S. 45:1366 shall apply to payments made pursuant to this Section.

#### SECTION 9. CUSTOMER SERVICE STANDARDS.

Any holder of a state-issued certificate of franchise authority shall comply with 47 CFR 76.309(c). No franchising authority or local governmental subdivision shall have the power to require a holder of a state-issued certificate of franchise authority to comply with any customer service standards other than those set forth in this Section.

#### SECTION 10. EMERGENCY ALERT SERVICES.

A holder of a state-issued certificate of franchise authority shall comply with the federal Emergency Alert System regulations, as applied by the Federal Communications Commission.

#### SECTION 11. INDEMNIFICATION.

A holder of a certificate of statewide franchise authority shall indemnify, defend and hold harmless a local governmental subdivision, its officers, agents, and employees from and against any liability for damages and for any liability or claims resulting from tangible property damage or bodily injury, including accidental death, to the extent proximately caused by the holder's negligent construction, operation, or maintenance of its cable system or wireline facilities used to distribute video programming services, provided that the local governmental subdivision shall give the holder written notice of its obligation to indemnify the local governmental subdivision within one hundred eighty days of receipt of a claim or action pursuant to this Section and provided that the holder shall have the right to select counsel of the holder's choice to defend the claim. Notwithstanding the foregoing, the holder shall not indemnify the local governmental subdivision for any damages, liability, or claims resulting from the negligence or willful misconduct of the local governmental subdivision, its officers, agents, employees, attorneys, consultants, independent contractors or third parties or for any activity or function conducted by any person or entity other than the holder in connection with PEG programming.

#### SECTION 12. LOCAL GOVERNMENTAL AUTHORITY

A. A local governmental subdivision's authority to regulate the holder of a certificate is limited to the following items:

(1) A requirement that the holder of a certificate which is providing cable service or video service within the local governmental subdivision register with the local governmental subdivision and maintain a current point of contact.

(2) The establishment of reasonable guidelines regarding the use of PEG access programming streams or channels.

B. A local governmental subdivision shall allow the holder of a certificate to install, construct, and maintain a network within public rights of way and shall provide the holder of a certificate with open, comparable, nondiscriminatory, and competitively neutral access to the public rights of way. If during the installation, construction, or maintenance of said network, the holder disturbs any public right of way, the holder shall replace and restore the public right of way to a condition reasonably comparable to the condition of the public right of way existing immediately prior to such disturbance. All use of public rights of way by the holder of a certificate is nonexclusive, and a local governmental subdivision may not discriminate against the holder of a certificate regarding any of the following items:

(1) The authorization or placement of a network in public rights of way.

(2) Access to a building or other property.

(3) Utility pole attachment terms.

C. Nothing contained in this Chapter shall impair the lawful exercise of existing police powers of the local governmental subdivisions in which cable service or video service is delivered, including but not limited to the right to require construction permits and utility pole attachment agreements.

#### SECTION 13. DISCRIMINATION PROHIBITED.

A. A cable service provider or video service provider that has been granted a certificate shall not deny access to service to any group of potential residential subscribers based on the race or income of the residents in the local area in which such group resides.

B. For purposes of determining whether a cable service provider or video service provider has violated the provisions of Subsection A of this Section, cost, density, distance, and technological or commercial limitations shall be taken into account. The inability to serve an end user because a holder is prohibited from placing its own facilities in a building or property shall not be found to be a violation of Subsection A of this Section. Use of an alternative technology that provides a comparable content, service, and functionality shall not be considered a violation of Subsection A of this Section. This Section may not be construed as authorizing any general construction or deployment requirements on a cable service provider or video service provider in contravention of R.S. 45:1368.

#### SECTION 14. COMPLIANCE

If the holder of a certificate is found by a court of competent jurisdiction to be in noncompliance with the requirements of this Chapter, the court shall order the holder of the certificate, within a specified reasonable period of time, to cure the noncompliance. If the holder fails to cure in accordance with the court's order, the court may remedy such noncompliance.

#### SECTION 15. APPLICABILITY OF OTHER LAWS.

A. Nothing in this Chapter shall apply to a local governmental subdivision which has a home rule charter existing or adopted when the Constitution of Louisiana was adopted on April 20, 1974, and which is governed by Article VI, Section 4 of the Constitution of Louisiana.

However, a local governmental subdivision operating pursuant to such a home rule charter provision may by ordinance elect to be governed by the provisions of this Chapter.

B. With respect to local governmental subdivisions which have home rule charters adopted after the Constitution of Louisiana was adopted on April 20, 1974, and which are governed by Article VI, Section 5 of the Constitution of Louisiana and with respect to other local governmental subdivisions without home rule charters, such local governmental subdivisions are denied the authority to adopt ordinances that are inconsistent with the provisions of this Chapter.

C. Nothing in this Chapter is intended to alter existing law regarding expropriation of property by a cable service provider or video service provider.

SECTION 16. CONFORMING AMENDMENTS.

Except as provided in Title 48 of the Louisiana Revised Statutes of 1950, the provisions of this Chapter supersede any inconsistent provisions of state law, including but not limited to the following:

- (1) R.S. 9:1253.
- (2) R.S. 33:4361, 4401, and 4405.
- (3) R.S. 38:2869, 3087.37, 3087.57, 3087.97, 3087.117, 3087.227, and 3087.265.
- (4) R.S. 45:781(B).

SECTION 17. If any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items or applications and to this end the provisions of this ordinance are hereby declared severable.

SECTION 18. All ordinances or resolutions or parts thereof in conflict herewith are hereby replaced.

SECTION 19. This ordinance shall become effective on October 11, 2011.

Motion made by Prewett to adopt Ordinance 9 of 2011. Second by Jones.

Roll Call Vote:

YEAS: Ashby, Jones, Prewett

NAYS: None

ABSTAINED: None

ABSENT: Lee, Whittington

And Ordinance 9 of 2011 was adopted this 11<sup>th</sup> day of October, 2011.

Public Hearing Ordinance 10 of 2011 (Water conservation)

The public hearing opened at 7:15 p.m. There being no discussion, the public hearing closed at 7:16 p.m.

Ordinance 10 of 2011

Motion by Prewett, second by Jones to amend a portion of Ordinance 10 of 2011 to read as follows:

Stage 3, Outdoor Watering, even number shall water on Tuesdays **ONLY**, and odd number shall water on Fridays **ONLY**.

Ordinance 10 of 2011

An Ordinance to amend Chapter 15 of the Code of Ordinances for the Town of Blanchard, Caddo Parish, Louisiana, establishing Water Restrictions during times of extreme drought or emergencies as declared by the Mayor or Board of

Alderspersons for the Town of Blanchard, Louisiana and otherwise providing with respect thereto

BE IT ORDAINED by the Mayor and Board of Alderspersons of the Town of Blanchard, Louisiana, in due, legal, and regular session convened, as follows:

Section 1. Section 15.3 through Section 15.6 of the Code of Ordinances of the Town of Blanchard are hereby added to read as follows:

Section 15.3 Definitions

For the purpose of this article the following terms, phrases, words, and their derivations shall have the meaning given herein. When not consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and note merely directory.

**“Extreme Drought”** means, but not limited to, Caddo Lake’s depth dropping below 167” and/or the water plant exceeds its normal production for more than seven (7) days.

**“Mayor”** is the Mayor of the Town of Blanchard.

**“Person”** is any person, firm, partnership, association, corporation, company, or organization of any kind.

**“Sewer Commissioner”** means the appointed alderperson over the sewer department.

**“Town”** is the Town of Blanchard.

**“Town Council/Board of Alderspersons”** are the five (5) elected officials of the Town of Blanchard.

**“Water”** is water supplied by Blanchard Utilities of the Town of Blanchard either directly or indirectly by the Council through another entity.

**“Water Commissioner”** means the appointed alderperson over the water department.

Section 15.4 Effective upon declaration of emergency by the Mayor.

Whenever, the Mayor of the Town of Blanchard has consulted with the Water Commissioner for his/her recommendation and met with both the Water Commissioner and the Sewer Commissioner, the Mayor of the Town determines that a water service emergency exists in the Town of Blanchard, and that such emergency requires that certain uses of water not essential to the health, welfare, and safety of the citizens of the Town be restricted and the Mayor issues and publishes a declaration of such findings in a newspaper of general circulation within the Town for a period of three (3) consecutive days, the provisions of this article shall become immediately effective and applicable to all persons living within the Town, its police jurisdiction, and its water district.

Section 15.5 Prohibited uses.

The use and withdrawal of water by any person shall be restricted to the following uses upon the declaration of the Mayor of a water emergency as set forth in Section 15.4.

**WATER EMERGENCY STAGES**

**Stage 1. Water Alert:**

The Water Alert Stage will be implemented when water shortages are predicted as reported by the Water Commissioner. Public notices and press releases will be provided to notify citizens and businesses on Blanchard Utilities water system of the water shortage situation. The public will be given notice that the Town of Blanchard Water Conservation and Water Emergency Stages have been initiated and that the following **voluntary** conservation measures, which apply to both residential and commercial properties, be enacted:

1. The watering of established lawns and landscaping should be limited to the hours of 10 p.m. and 2 a.m. on each allowable watering day:

- a. Addresses ending in an even number should water established lawns and landscaping on Tuesday, Thursday, and Saturday.
  - b. Addresses ending in an odd number should water on Monday, Wednesday, and Friday.
  - c. **NO** Watering is permitted on Sundays.
2. New lawns and landscaping are exempt from the day of the week restrictions for the first thirty (30) days of installation. However, such watering shall be limited to the minimum necessary. Watering should be conducted between the hours of 10 p.m. and 2 a.m. Documentation to verify the date of planting shall be made available upon request. Hand watering, using hoses with shut-off valves or nozzles, is not restricted but should be limited to the minimum amount necessary.
3. Watering for the purpose of applying insecticides, fungicides, and herbicides where such watering is required by the manufacturer, lawn care service companies or by federal, state, or local law shall not be restricted by days of the week. However, such watering shall be limited to the minimum necessary. Documentation to verify the data of application shall be made available upon request.
4. The washing of personal/commercial motor vehicles or equipment shall be permitted by means of a “bucket” and “sponge” and a hose with a shut off nozzle. Commercial car washes using recycled water may continue normal operation.
5. The use of fire hydrants for any purpose except firefighting or flushing sewers for health protection shall be suspended.
6. Hosing down of porches, sidewalks, driveways, and other hard surfaces, except for health and safety reasons should be suspended unless performed by a commercial pressure washer.
7. Golf courses should water the first nine holes on Mondays and Thursdays, and the bottom nine holes should be watered on Tuesdays and Fridays.
8. Newly constructed or existing public and private swimming pools, which include outdoor hot tubs, spas, and Jacuzzis, may be filled once upon completion. One-time draining and subsequent re-filling of swimming pools is allowed **only for repairs** if conditions threaten the integrity of the pool and/or its supporting infrastructure.
9. Commercial nurseries are exempt from day of the week watering but shall restrict water use to the minimum.

## **WATER RESTRICTIONS**

### **Stage 2. Water Warning:**

The Water Warning Stage shall be implemented when “severe” water shortage conditions are reported by the Water Commissioner and the voluntary conservation measures described in **Stage 1: Water Alert** have not sufficiently reduced system demands. At this stage, the **Town Ordinance for a Water Warning** will be implemented with a declaration by the Mayor.

1. The watering of established lawns and landscaping is limited to the hours of 10 p.m. and 2 a.m. on the allowable watering day:
  - a. Addresses ending in an **even** number should water established lawns and landscaping on Tuesday and Saturday.
  - b. Addresses ending in an **odd** number should water on Monday and Friday.
  - c. **NO** Watering is permitted on Sundays.
2. New lawns and landscaping are exempt from the day of the week restrictions for the first thirty (30) days of installation. Water shall be limited to the

- minimum necessary and can be conducted between the hours of 10 p.m. and 2 a.m. After the first thirty days (30), watering is restricted to three days per week on the even/odd address days and times listed in # 1 above.
3. The washing of personal/commercial motor vehicles or equipment shall be suspended. Commercial car washing shall be suspended unless recycled water is used.
  4. The use of fire hydrants for any purpose except firefighting or flushing sewers for health protection shall be suspended.
  5. The watering of any portion of Golf courses, except for tees and greens, shall be suspended. The watering of tees and greens is allowed on Mondays, Wednesdays, and Fridays between the hours of 1 a.m. and 5 a.m. Hand misting is permitted on other days of the week.
  6. Commercial nurseries shall restrict watering to the minimum amount necessary to maintain plants.
  7. Newly constructed or existing public and private swimming pools, which include outdoor hot tubs, spas, and Jacuzzis, may be filled once upon completion. One-time draining and subsequent re-filling of swimming pools is allowed **only for repairs** if conditions threaten the integrity of the pool or its supporting infrastructure.
  8. Watering from private lakes, streams, wells, or ponds must post visible signs if deviating from the schedule set for the above.

## **WATER RESTRICTIONS**

### **Stage 3. Water Emergency:**

The Water Emergency Stage will be implemented when “**extreme drought**” conditions exist. The Mayor shall have the authority to declare a “Water Emergency” when public health, safety, and sanitary standards are at risk. This “Water Emergency” Stage **shall ban all non-essential outdoor water usage.**

The use and withdrawal of water by any person for the following purposes shall be prohibited unless expressly permitted by the Ordinance.

1. **Outdoor Watering.** The watering or irrigation of lawns and landscaping shall only be allowed on weekends.
  - a. Addresses ending on an even number shall water on Tuesdays **ONLY** between 10 p.m. and 2 a.m.
  - b. Addresses ending in an odd number shall water on Fridays **ONLY** between 10 p.m. and 2 a.m.
  - c. Commercial nurseries shall restrict watering to the **minimum** amount necessary to maintain plants.
2. **Washing Mobile Equipment.** The washing of automobiles, trucks, trailers, trailer houses, railroad cars, or any other type of mobile equipment is **prohibited.**
3. **Cleaning Outdoor Surfaces.** The washing of sidewalks, driveways, gas stations aprons, porches, and other outdoor surfaces is **prohibited.**
4. **Cleaning Buildings, Equipment, and Machinery.** The washing of the outside dwellings and commercial buildings, and the cleaning of equipment and machinery is **prohibited.**
5. **Ornamental Fountains.** The operations of any ornamental fountains or other structures making similar use of water is **prohibited.**
6. **Golf Courses and Athletic Fields.** Except for the hand watering of greens on golf courses, the watering of golf courses, and athletic fields is **prohibited.**
7. Watering from private lakes, streams, wells, or ponds **MUST** post visible signs if deviating from the restrictions set forth.

The Mayor or Parish Health Department Officer shall have the authority to permit reasonable use of water to maintain public health, safety, and sanitary standards. However, this reasonable use shall not include any of the restrictions in this section.

**Stage 4. Water System Failure:**

This stage could result from extreme drought intensity or other unrelated causes for the potable water supply system failure. In this stage, a significant or total failure of a water distribution system will have a disastrous effect on the Town and Blanchard Utilities customers. At this juncture, notification of the Federal and State agencies for assistance would be required. Emergency Operation Center (EOC) would be opened for the duration of the event. Priority will be placed on public safety and public health.

Section 15.6 Enforcement and Penalties

None of the following offenses will be waived by any person without the unanimous written prior approval of the Town Council. Upon implementation of the provisions of this article as provided in Section 15.5, any person who shall violate any provisions of this article shall, upon conviction thereof, be punished as follows:

**First offense:** Written warning will be issued.

**Second offense:** Two Hundred Fifty (\$250) dollars fine.

**Third offense:** Three hundred Fifty (\$350) dollars fine and publication of name in the Town's official journal.

**Fourth offense:** Four hundred Fifty (\$450) dollars fine and publication of name in the Town's official journal.

**Fifth offense:** One Thousand (\$1000) dollars fine and publication of name in the Town's official journal.

Fines will be cumulative, added to the offender's water bill, and stay on record for three (3) years. Enforcement will be by Blanchard Utilities water operations personnel. Each day on which a violation occurs shall be deemed to be a separate offense.

Section 2. BE IT FURTHER ORDAINED if any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance that can be given effect without the invalid provisions, items or applications and to this end the provisions of this ordinance are hereby declared severable.

Section 3. BE IT FURTHER ORDAINED all ordinances or resolutions or parts hereof in conflict herewith are hereby repealed.

Motion made by Prewett to adopt Ordinance 10 of 2011 as amended. Second by Ashby.

Roll Call Vote:

YEAS: Ashby, Jones, Prewett

NAYS: None

ABSTAINED: None

ABSENT: Lee and Whittington

And Ordinance 10 of 2011 was adopted this 11<sup>th</sup> day of October 2011.

Public Hearing Ordinance 11 of 2011 (Tucker scrap metal re: old tanks south of town)

The public hearing opened at 7:18 p.m. There being no discussion, the public hearing closed at 7:19 p.m.

Ordinance 11 of 2011

ORDINANCE 11 of 2011

An Ordinance declaring the water tanks and associated metal appurtenances located at the water storage tanks site South of Town on Highway 173 no longer needed for public purposes, providing the means of disposal for such surplus property, and otherwise providing with respect thereto

WHEREAS, the Town of Blanchard, Louisiana ("Town") has removed from service the water tanks and other associated metal materials, including without limitation water lines, located at the Water Storage Tanks site South of Town on Highway 173 (the "Water Tanks and Appurtenances"); and

WHEREAS, the Town has no use for the Water Tanks and Appurtenances; and

WHEREAS, the Town wishes to declare the Water Tanks and Appurtenances no longer needed for public purposes, and wishes to dispose of such property pursuant to La. R.S. 33:4712 and other applicable law;

WHEREAS, Tucker's Scrap Material, a sole proprietorship located at 6956 N. Lakeshore Drive, Shreveport, Louisiana, desires to dismantle, load, and haul away the Water Tanks and Appurtenances for scrap material purposes, and has further proposed to remove any and all debris resulting from the removal of the Water Tanks and Appurtenances, and remediate the Water Tower Plant site area to the existing condition prior to the removal of the Water Tanks and Appurtenances.

NOW, THEREFORE, BE IT ORDAINED by the Board of Alderpersons of the Town of Blanchard in due, legal and regular session convened, as follows:

Section 1. The Water Tanks and Appurtenances are hereby declared no longer needed for public purposes.

Section 2. The Water Tanks and Appurtenances shall be removed by Tucker's Scrap Material for scrap material purposes, and Tucker's Scrap Material shall remove any and all debris resulting from the removal of the Water Tanks and Appurtenances, all as described in more detail in the Recycling Hold Harmless Agreement attached hereto as Exhibit A.

Section 3. Johnny V. Digilormo, in his capacity as Mayor of the Town ("Mayor"), is authorized to execute the Recycling Hold Harmless Agreement, in substantially the same form as is attached hereto as Exhibit A with minor changes approved by the Town Attorney, upon passage of this ordinance and upon receipt of a certificate of insurance showing coverages in amounts deemed to be appropriate by the Town and its attorneys, and further to take any action necessary to effectuate the completion of this project.

Section 4. If any provision or item of the ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items or applications and to this end the provisions of this ordinance are hereby declared severable.

Section 5. All ordinances or resolutions or parts thereof in conflict herewith are hereby repealed.

Motion made by Jones to adopt Ordinance 11 of 2011. Second by Ashby.

Roll Call Vote:

YEAS: Ashby, Jones, Prewett

NAYS: None

ABSTAINED: None

ABSENT: Lee and Whittington

And Ordinance 11 of 2011 was adopted this 11<sup>th</sup> day of October 2011.

#### Resolution 21 of 2011(FEMA)

#### Resolution 21 of 2011

A resolution of intent by the Town of Blanchard to Participate in the National Flood Program, commit to recognize flood hazards, and carry out the objectives of the program and otherwise providing with respect thereto

WHEREAS, certain areas of the Town of Blanchard ("Town"), are subject to periodic flooding, causing serious damages to properties within these areas; and

WHEREAS, it is the intent of this Board to require the recognition and evaluation of flood hazards in all official actions relating to land use in areas having these hazards; and

WHEREAS, this body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Louisiana R. S. 38:84.

NOW, THEREFORE, BE IT RESOLVED that this Board of Alderpersons hereby:

Section 1. Assures the Federal Emergency Management Agency that it will enact as necessary, and maintain in force, in those areas having flood hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 60 of the National Flood Insurance Program Regulations; and

Section 2. Vests the town clerk with the responsibility, authority and means to:

- A) Assist the Administrator, at his/her request, in the delineation of the limits of the area having special flood hazards.
- B) Provide such information concerning present uses and occupancy of the floodplain, mudslide (i.e., mudflow) or flood-related erosion areas as the Administrator may request.
- C) Maintain for public inspection and furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a Flood Hazard Boundary Map ("FHBM") or Flood Insurance Rate Map ("FIRM"), any certificates of floodproofing, and information on the elevation (in relation to mean sea level) of the level of the lowest flood (including basement) of all new construction or substantially improved structures, and include whether or not such structures contain a basement, and if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed.
- D) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map and identify floodplain, mudslide (i.e., mudflow) or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain, mudslide, (i.e., mudflow) and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
- E) Upon occurrence, notify the Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that all FHBM's and FIRM's accurately represent the community's boundaries, include within such notification a copy of the map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

- F) Submit an annual report to the Administrator concerning the community's participation in the program, including, but not limited to the development and implementation of floodplain management measures.
- Section 3. Appoints the town clerk with the responsibility, authority, and means to implement the commitments as outlined in this Resolution.
- Section 4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the adopted floodplain management measures.
- Section 5. If any provision or item of this resolution or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of the resolution that can be given effect without the invalid provisions, items, or applications and to this end the provision of this resolution are hereby declared severable.
- Section 6. All resolutions or parts thereof in conflict herewith are hereby repealed.

Motion to accept Resolution 21 of 2011 made by Jones, second by Ashby. All voted yea. And Resolution 21 of 2011 was adopted on this 11<sup>th</sup> day of October 2011.

### NEW BUSINESS

#### Louisiana Spartans

Mr. Johnathan Collins spoke on behalf of the Louisiana Spartans Minor Professional Football Team. The team originated in the Blanchard area and has approximately 100 players on the team. For more info: [www.laspartansfootball.com](http://www.laspartansfootball.com).

#### Resolution 23 of 2011(Hazard Mitigation Plan)

#### Resolution 23 of 2011

#### A RESOLUTION ADOPTING THE PARISH-WIDE HAZARD MITIGATION PLAN

WHEREAS, the Caddo Parish Commission has received grant funds from the Federal Emergency Management Agency, through the Governor's Office of Homeland Security and Emergency Preparedness for the update of a hazard mitigation plan, and;

WHEREAS, the Town of Blanchard has participated in the process to update a DMA compliant Hazard Mitigation Plan based on the FEMA guidance available in the How to Guides; and,

WHEREAS, the Town of Blanchard wishes to participate in the Hazard Mitigation Plan Update prepared by the Caddo Parish governing authority under the oversight of a Steering Committee comprised of Parish-wide representatives; and,

WHEREAS, Caddo Parish and local representatives and governments have participated in the mitigation planning process; and,

WHEREAS, appropriate opportunity for input by public and community officials has been provided through press releases, open meetings, and availability of draft documents; and,

WHEREAS, the updated Plan is required prior to further consideration for FEMA funding under the following programs:

- Pre-Disaster Mitigation
- Hazard Mitigation Grant Program
- Flood Mitigation Assistance Program

Now, THEREFORE, BE IT RESOLVED, that the Town of Blanchard, through its governing authority, the Town Council, hereby adopts the Caddo Parish Hazard Mitigation Plan Update on this the 11<sup>th</sup> day of October, 2011.

Motion to accept Resolution 23 of 2011 by Jones, second by Prewett. All voted yea.

And Resolution 23 of 2011 was adopted this 11<sup>th</sup> day of October 2011.

Report of Departments:

Building and Grounds—Whittington absent. Prewett asked for estimates regarding the cracks on Town Hall.

Streets and Rights of Way—Jones stated nothing to report.

Water Dept.—Prewett stated everything good.

Sewer Dept.—Ashby stated everything good.

Police Dept.—Chief absent.

Treasurer Report—Lee absent.

Comments by the Mayor

None. Motion by Ashby to adjourn, second by Jones. All voted yea. Meeting adjourned 7:49 p.m.

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Johnny Digilormo, Mayor

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Debra Smith, Town Clerk