TOWN COUNCIL
MEETING MINUTES
JUNE 2, 2015

The Town Council met in regular session on Tuesday, June 2, 2015 at 6:00 p.m. at 372 Town Place, Fairview, Texas. Those present were Mayor Darion Culbertson, Council Members Ron Samuels, John Adler, Frank O'Reilly, Henry Lessner, Paul Hendricks and Renee Powell; Town Manager, Julie Couch; Town Engineer, James Chancellor; Engineer in Training, Danielle Gregory; Economic Development Manager, Ray Dunlap; Assistant to the Town Manager, Adam Wilbourn; Planning Manager, Ken Schmidt; Chief Financial Officer, Jason Weeks; Sherry Jackson, Interim Town Secretary, and Town Attorney, Clark McCoy.

Mayor Culbertson called the meeting to order at 6:00 p.m. and declared a quorum was present.

The council then adjourned into executive session at 6:01 p.m. to consult with legal counsel regarding pending or contemplated litigation, personnel, and economic development.

At 7:35 p.m. Mayor Culbertson reconvened back into regular session and invited everyone to stand for the Pledge of Allegiance.

ADMINISTER OATHS OF OFFICE: Assistant to the Town Manager Adam Wilbourn introduced and swore in Re-elected Mayor Darion Culbertson. Mr. Wilbourn introduced and swore in Re-elected Councilmembers Ron Samuels, Frank O'Reilly and Paul Hendricks, Seats One, Three, and Five respectively.

All items listed under the Consent Agenda are considered routine and are acted on by one motion, with no separate discussion of these items. If discussion is desired, an item may be removed from the consent agenda and be considered separately. A) Approve minutes of the March 26, 2015 council meeting B) Approve minutes of the May 5, 2015 special council meeting C) Approve minutes of the May 18, 2015 special council meeting D) Approve minutes of the May 17, 2014 special council meeting E) Approve a resolution ratifying an appointment to the position of town secretary F) Approve reconsideration of Parkland Fee Dedication for Campbell/Knight Place G) Approve an ordinance approving a negotiated settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division, and H) Approve a resolution authorizing continued participation with the Atmos Cities Steering Committee and payment of assessed dues for 2015.

Councilmember Frank O'Reilly made a motion to approve the consent agenda, seconded by Councilmember Paul Hendricks and the motion was unanimously approved.

ZONING CHANGE FOR THE FORMER HARPER AND STARFISH INVESTMENTS PROPERTY: Continue public hearing, consider, and take any necessary action on a request by M. Christopher Custom Homes for a zoning change for six tracts of land comprised of 72.959±

acres and generally located east of Country Club Road (FM 1378) and 1,600' north of Stacy Road. The subject properties are currently zoned Agriculture (AG), Two-Acre Ranch Estate (RE-2), and the Open Space and Flood Hazard (FH) zones. The requested zoning change is for the Planned Center (PC) Zoning District, specifically, to provide for single-family residential uses. **(ZA2015-03)**.

Mr. Schmidt stated the council elected to table this item at its May 5, 2015 meeting in order to allow the applicant to address concerns regarding density and the maintenance of the 100-year floodplain. He stated since that meeting, the applicant has taken the following actions in an effort to address the council's concerns: 1) Reduced the number of lots from 31 to 30 by removing one lot from the area north of the proposed Harper's Way Street; 2) Inserted language into the proposed zoning ordinance prohibiting the placement of structures or storage of personal property within the 100-year floodplain; 3) Inserted language into the proposed zoning ordinance assigning maintenance of the 100-year floodplain to the HOA; and 4) Inserted language into the proposed zoning ordinance requiring the provision of a landscape buffer in the form of ornamental fencing and landscaping.

Mr. Schmidt stated that there is approximately 32 acres of FEMA 100-year floodplain on the former Starfish Investments tract and the applicant is requesting to reclaim roughly half of this area for residential use. He stated that consistent with past submittals, the applicant prepared a flood study that models the impact of the requested floodplain development. He stated this model indicates that the applicant's proposal will not cause the water surface elevation of the FEMA 100-year floodplain to increase and it would actually result in a small decrease of the water surface elevation of the 100-year floodplain.

Mr. Schmidt stated staff notified 66 adjacent property owners (and Lovejoy ISD) within 500' of the subject properties associated with the 73 acre scenario, in accordance with local and state requirements and, thus far, has received seven letters of opposition and two letters of support. Staff has also received one letter of opposition from a citizen who lives outside of the notice area.

Mr. Schmidt stated there are many interconnected issues that impact the ultimate disposition of this land, floodplain reclamation and neighborhood configuration.

Mr. Schmidt stated Planning and Zoning Commission recommended approval of this request.

Town Attorney Clark McCoy addressed questions asked by Councilmember Samuels regarding HOA maintenance requirements.

Councilmember Lessner asked staff about FEMA process to accommodate the floodplain reclamation; whether there will be above ground or below ground drainage. Engineer Chancellor explained how flood studies use cross sections to identify the best model for drainage impact.

Mayor Culbertson continued the public hearing for planning and zoning case ZA2015-03.

Jerome Crews, 1460 Meandro Ria Lane, stated his opposition specifically regarding flooding, managing growth, NTMWD, and notification of citizens.

Patrick Rees, 1161 Farmstead, stated his concern regarding emergency access and flooding.

Trent Ballew, 531 Kentucky Lane, stated his concern regarding flooding and drainage.

Jeff Marlow, 1270 Camino Real, stated his concern regarding flooding.

Ken Hardison 1280 Camino Real, stated his concern regarding flooding.

Glen Lauter, 717 Elmbrook Drive, stated his concern regarding flooding.

Steve Prins 1420 Meandro Ria Lane, stated his concern regarding flooding. He suggested an independent study be done by the Town of Fairview to evaluate flood plain reclamation.

Bryon Reid, on behalf of M. Christopher Custom Homes, addressed the reputation of the engineering staff and study.

Leslie Knight, 841 Beechwood Lane, stated her concerns regarding downstream flooding and safety.

Wynne Allen, 1021 Hart Lane, stated her opposition to reclaiming floodplain and spoke to the visions and goals of Fairview.

Nicholas Powell, 91 Affirmed Lane, stated his concern regarding flooding.

Ashley Aleman, 1160 Kempton Park Lane, stated her concern regarding flooding and traffic congestion.

Chris Owens, 1290 Camino Real, stated his concern regarding Town of Fairview managing growth, keeping it country and flooding.

Mayor Culbertson closed the public hearing.

Mayor and councilmembers stated their concern of building in the floodplain and their opposition to the request for a zoning change for six tracts of land comprised of 72.959± acres from Agriculture (AG), Two-Acre Ranch Estate (RE-2) and the Open Space and Flood Hazard (FH) zones to Planning Center (PC) Zoning District.

Councilmember O'Reilly made a motion to deny the request to rezone the subject property with prejudice. Councilmember Adler seconded the motion, and the motion was unanimously approved.

ZONING CHANGE FOR THE FORMER HARPER PROPERTY: Conduct a public hearing, consider, and take any necessary action on a request by M. Christopher Custom Homes for a zoning change for a tract of land comprised of 28.935± acres and that is generally located east of Farmstead Road and 1,600' north of Stacy Road. The subject property is currently zoned Agriculture (AG), and the requested zoning change is for the Two-Acre Ranch Estate (RE-2) Zoning District. **(ZA2015-04).**

Mr. Schmidt stated the current zoning for the subject project is the Agricultural (AG) zone and the proposed zoning change is a request to rezone to the Two-Acre Ranch Estate (RE-2) zone.

Mr. Schmidt stated the request conforms to the Town's Comprehensive Plan. He stated applying RE-2 zoning to the subject property would likely yield thirteen lots, depending upon the configuration of the site. Mr. Schmidt reviewed the conceptual layout and landscape character with Council.

Mr. Schmidt stated staff notified twenty-three (23) adjacent property owners (and Lovejoy ISD) within 500' of the subject property; staff received eight (8) letters of opposition and one (1) letter of support.

Mr. Schmidt stated the Planning & Zoning Commission at its April 9, 2015 meeting, tabled this application by a 4-3 vote. He stated the Commission at its May 14, 2015 meeting, made a motion to approve this application, however, the motion failed as a result of a 2-2 vote. Mr. Schmidt stated that since the Commission did not achieve a majority to either recommend approval or denial of the application, their recommendation should be considered neutral and as such, a supermajority of the Council is not required to approve this application. Mr. Schmidt stated staff recommends approval of the request as submitted.

Mayor Culbertson opened the public hearing.

Patrick Rees, 1161 Farmstead, stated his concern regarding traffic on Farmstead Road.

Wynne Allen, 1021 Hart Road, asked for clarification regarding any involvement of Planning & Zoning Commissioner Doi with this application. Mr. Schmidt stated that Commissioner Doi is not employed by the applicant.

Chris Smith, 470 Country Club Road, stated his concern regarding Town of Fairview managing growth, keeping it country and flooding.

No other comments were made.

Mayor Culbertson closed the public hearing.

Councilmember Powell made a motion to approve the request for a zoning change from the Agriculture (AG) Zoning District to the Two-Acre Ranch Estate (RE-2) Zoning District, for a tract of land comprised of 28.935± acres and that is generally located east of Farmstead Road

and 1,600' north of Stacy Road. Councilmember Samuels seconded the motion, and the motion was unanimously approved.

ANNEXATION OF THE 16.484± ACRE F.O. BIRMINGHAM MEMORIAL LIVING TRUST TRACT: Conduct the first public hearing, consider, and discuss a request to annex a 16.484± acres tract of land situated in the Samuel Sloan Survey – Abstract No. 791, and that is generally located north of Country Club Road and west of Rowley Mile. **(A2015-01).**

Mr. Schmidt stated in November, 2014, the Town Council approved a pre-annexation development agreement with the owners of the 16.484± acres F.O. Birmingham Memorial Living Trust Tract in order to set the conditions for an ETJ boundary adjustment agreement with the City of McKinney and the future development, annexation, and zoning of the subject property. Mr. Schmidt introduced this item stating that two public hearings and providing public notice in accordance with town and state requirements is necessary in order to proceed with an annexation; this is the first public hearing.

Mayor Culbertson opened the public hearing.

David Yerkes, 1160 Kempton Park Place, requested additional information in regard to what services Fairview will be providing if the property is annexed and raised questions about the notification process for this item.

Stephen DiNapoli, 1601 Long Drive, Plano, Texas is the developer of subject property. Mr. DiNapoli gave a presentation on the proposed plan for the subject property.

Mayor Culbertson closed the first public hearing.

ANNEXATION OF THE 16.484± ACRE F.O. BIRMINGHAM MEMORIAL LIVING TRUST TRACT: Conduct a second public hearing, consider, and discuss a request to annex a 16.484± acres tract of land situated in the Samuel Sloan Survey – Abstract No. 791, and that is generally located north of Country Club Road and west of Rowley Mile. **(A2015-01).**

Mayor Culbertson opened the second public hearing.

Wynne Allen, 1021 Hart Road, raised questions concerning who was responsible for financing infrastructure for the newly annexed area.

No further comments were made and the public hearing was closed.

No further action was taken.

CONDITIONAL USE PERMIT (CUP) FOR A TEMPORARY BATCH PLANT AT PARKSIDE AT FAIRVIEW: Conduct a public hearing, consider, and take any necessary action on a request by GM Construction TX for approval of a Conditional Use Permit in order to

allow for the use of a temporary concrete batching plant to facilitate the installation of public infrastructure for the Parkside at Fairview Addition, a subdivision that is zoned Planned Center (PC) and is generally located south of Stacy Road and 1,300' west of Orr Road. **(ZA2015-07)**.

Ms. Gregory, gave a presentation on this request for a Conditional Use Permit (CUP) for a temporary batch plant. She showed the site plan and explained the process of operations. Ms. Gregory stated regional practices permit this process by right and are typically approved as a temporary building permit. Ms. Gregory further described the recommended approach.

Ms. Gregory stated staff has notified 137 adjacent property owners within 500' of the subject property. She stated staff received two (2) statements of support and eight (8) statements of opposition. She further stated two (2) additional letters of opposition from residents outside the notice area had been received.

Ms. Gregory stated staff recommends approval of the application with the following conditions: 1) Batch plant operating hours on Saturdays shall be 9:00 AM – 5:00 PM, other construction related activities – to include sawing of freshly poured concrete – can occur during the regular construction work hours of 7:00 AM – 7:00 PM; 2) Batch plant operations shall not exceed 21 working days, with a working day defined as any day where the plant is in operation for six (6) or more hours; and 3) Batch plant configuration and material delivery route shall be consistent with the submitted site plan and route map.

Ms. Gregory stated, at the May 14, 2015 Planning and Zoning Commission meeting, the commission voted unanimously to approve this application by a 3-0 vote.

Mayor Culbertson opened the public hearing.

Toll Brothers representative, Mike Boswell, gave a presentation and asked if there were further questions or concerns.

No other comments were made.

Mayor Culbertson closed the public hearing.

Councilmember Samuels made a motion to approve the request with staff's recommendations for a Conditional Use Permit (CUP) for a temporary batch plant at Parkside at Fairview. Councilmember Adler seconded the motion, and the motion was unanimously approved.

PRELIMINARY PLAT FOR CHAMBERLAIN PLACE – PHASES 1 AND 2: Consider, discuss and take any necessary action on a request by Chamberlain Place, LP for approval of a Preliminary Plat for Phases 1 and 2 of the Chamberlain Place Addition, a proposed residential neighborhood comprised of 58 single-family residential lots and 5 common area lots on a 76.2± acre tract of land comprised of a 55.5± acre segment of land situated in the Samuel Sloan Survey – Abstract No. 791, a 17.5± acre segment of Lot 1, Block A, Ward Addition, and a 3.2± acre segment of Lots 2 and 3, Jackson Estates Addition, and that is generally located west of Stoddard

Road and north of Sloan Creek. The subject properties are zoned One-Acre Ranch Estate (RE-1). (PP2015-02).

Mr. Schmidt gave a presentation regarding a preliminary plat for Chamberlain Place – Phases 1 and 2 in order to identify potential dedications of right-of-way and the provision of landscape buffers, common areas, as well as trail, utility and drainage easements.

Mr. Schmidt outlined the ministerial review process related to plats. He also reviewed the elements of the proposed plan. He stated the ordinances of the Town permit the town to require the dedication of parkland to support the development of parks within the interior or within a walkable distance to new residential neighborhoods. In circumstances where a park is not provided for in the town's Parks, Open Space, and Trails Plan, or the proposed land dedication is insufficient in size, the town may accept a cash dedication in lieu of land to allow the town to dedicate funds towards the improvement of existing or future park facilities that are nearby. Mr. Schmidt stated, in this case, the Parks Plan depicts a generalized location for a park straddling the northern section of this proposed development, DART ROW, and the Apple Property. Mr. Schmidt stated that due to the likelihood of public open space being provided in the future on the Apple property, staff recommends that the town requires cash-in-lieu of land dedication.

Mr. Schmidt explained the Trail Plan depicts a trail extending from Sloan Creek Estates across the creek, and then extending east towards Tranquility Farms while branching off to the north towards Hart Road along the common boundary of this property and Tranquility Farms. He stated the construction of trails within easements in the Tranquility Farms neighborhood would be very difficult due to their Sloan Creek adjacency and the configuration of existing homes within that neighborhood. Additionally, the residents of Tranquility Farms appear to be very opposed to the implementation of that trail. As such, Mr. Schmidt stated staff directed the applicant to deviate from the trail plan by providing an alternate configuration that would ultimately put the town's desired greenbelt trail to the south side of Sloan Creek.

Mr. Schmidt stated staff notified fifty-five (55) adjacent property owners as well as McKinney ISD in accordance with town requirements. With this review process being a ministerial process, the purpose of this notice is informational only, as this preliminary plat application review process does not provide for a public hearing.

Mr. Schmidt stated that the Planning & Zoning Commission at its May 14, 2015 meeting unanimously recommended approval of this application (with staff's recommendations for parkland dedication and trail planning) by a 4-0 vote.

Councilmember Lessner made a motion to approve the Preliminary Plat for Phases 1 and 2 of the Chamberlain Place Addition, accepting staff's recommended cash-in-lieu of parkland dedication and deviation from the town's trail plan. Councilmember Powell seconded the motion, and the motion was unanimously approved.

CONSIDER APPROVING AN ENGINEERING STUDY OF ALTERNATIVE WATER SUPPLIES IN ADDITION TO THE TREATED DOMESTIC WATER FROM NTMWD:

Discuss and consider approving an engineering study of alternative water supplies in addition to the treated domestic water from NTMWD.

Mr. Chancellor gave a summary of the proposal from Harkins Engineering (HEI), an engineering firm out of Austin, who deals a lot with small municipalities that utilize well water and/or treated water in combination. He gave the credentials of the President of Harkins, as well as several examples of relevant projects they have undertaken. Mr. Chancellor stated the cost of professional consultation services for the investigation of alternative water sources and associated costs is $19,000 and the scope of work is proposed in four (4) phases: 1) initial due diligence phase, acquisition of data as it relates to the availability of alternate sources; 2) assessment of preliminary costs with potential water well development, production and distribution; 3) assessment to determine the implications of blending the Town's current surface water supply with groundwater; and 4) assessment of long term costs.

Councilmember Samuels made a motion to authorize the Town Manager to enter into an agreement for an engineering study of alternative water supplies based on the four step phase. Councilmember O'Reilly seconded the motion, and the motion was unanimously approved.

TURF IN MONARCH PARK: Discuss and consider approving a contract for the installation of turf grass in Monarch Park.

Mr. Dunlap stated staff advertised for bids to convert the wood fiber fall zone on the playground to turf. He stated this process involves removing the existing wood fiber, installing proper drainage and installing the turf. Mr. Dunlap stated staff included stringent standards in the bid to insure the Town received the highest quality of product. He stated there was only one (1) bid received, Child's Play of Dallas. He stated their bid includes inspection of the turf and necessary repairs twice a year.

Mr. Dunlap stated Child's Play bid came in at $60,784, which is $10,784 over the budgeted amount. He stated that funds are available in the park dedication fund to cover the extra amount.

The Council discussed concerns with only one (1) vendor submitting a bid. Mr. Dunlap and Mrs. Couch reviewed the bid process and outlined the options should the Council wish to rebid the bid.

After additional discussion Councilmember Hendricks made a motion to approve the contract for the installation of turf grass to Child's Play of Dallas in Monarch Park. Councilmember Powell seconded the motion, and the motion was unanimously approved.

BOARDS/COMMISSIONS: Discuss boards and commissions and take any necessary action.

No action was taken. Appointments will be considered at the July 7, 2015 meeting.

CITIZEN'S INPUT:

Mary Price asked about an abandoned creek or trail easement along Sloan Creek. Councilmember Samuels asked for a report from staff at a future meeting detailing if there are instances of trail easement violations or issues. It was mentioned that this would be considered with the update of the park and trail plan.

Mike VanNatta suggested the town to take over Sloan Creek trail.

REPORTS FROM STAFF:

a) Council was given documents regarding the monthly financial report for the period ending April 30, 2015.
b) Town Manager Couch gave an update on the status of the County regional dispatch system.

Mayor Culbertson adjourned the meeting at 11:05 p.m.

DARION CULBERTSON, MAYOR

Adam Wilbourn, Assistant to the Town Manager

TOWN OF FAIRVIEW