

**TOWN COUNCIL
MINUTES
May 1, 2007**

The Town Council met in regular session on Tuesday, May 1, 2007 at 6:30 P.M. at Town Hall, 500 S. Highway 5, Fairview, Texas. Those present were Major Sim Israeloff, Mayor Pro Tem John Fraser, Council Members Carolyn Sommers, Jim Cunningham, Michael Pezzulli and Mary Price and Town Manager John Godwin and Interim Town Secretary Michelle Rinehart.

Mayor Israeloff called the meeting to order at 6:33, declared a quorum was present, and recessed into executive session.

EXECUTIVE SESSION: At 6:35 pm the council recessed into executive session to discuss: McKinney v. Fairview, Economic development, and Real Estate.

At 7:44 pm Mayor Israeloff convened into the regular meeting and requested everyone to stand for the Pledge of Allegiance.

CONSENT AGENDA: All items listed under Consent Agenda are considered to be routine by the Council and will be acted on by one motion. The following items were on the consent agenda: A) Approve minutes of the April 3, 2007 council meeting. B) Approve an agreement with McRoberts & Associates to advertise and sell certain town-owned real estate. C) Adopt an Ordinance extending a franchise agreement with Atmos Energy.

A motion was made by Carolyn Sommers to approve Items A-C. The motion was seconded by Jim Cunningham with all in favor.

AFFIRMED LANE DRAINAGE: James Chancellor introduced this item by stating that in pursuant to a solution regarding the drainage on Affirmed lane, town staff had an opportunity to mark ditches per new design by the resident's engineer. The biggest problem found is that normal room from the roadway is 45 ft. In this particular situation, there is only 30 ft from the roadway to stay within the easements. The ditch designs were compared with the 25 year storm. Under the new design, there would likely be problems getting water into the ditch on the upstream side since it will be extremely flat. Without adequate change in elevation from south to north, stagnant water would result. Some of the residents removed one of the three culverts he called for under four driveways. They asked the engineer to seal their revisions, but he added a disclaimer to protect him since their changes reduced the design below the requirements of the town's drainage ordinance. An estimate acquired for the adjusted two pipe system is as follows: Culverts \$15,640, Driveways \$8,100, Ditches \$5,000, Erosion blanket \$5,000 totally \$33,740. This would go out for re-bid. To date, the town has spent \$37,000 ± on this project that

are at this point in time only affecting five households. Due to the proposed new ditch being wider than the current one, each property owner must execute a legally binding easement agreement with the town. Without that agreement, we cannot legally spend public money on private property. At this time, we have received no written confirmations from property owners expressing any specific position.

Mayor Israeloff requested any public discussion. Joanie Power, 90 Affirmed Lane, commented that she was unable to attend the very first meeting regarding the repairs, but had asked to speak with town and neighbors and town council regarding the situation and doesn't feel she received a response within adequate time. Mr. Pezzulli responded that as soon as he was made aware, he walked every part of the ditch after the initial construction. Steve Powell at 91 Affirmed Lane, asked if the town was allowed to spend money on private property. Charles Marx, 81 Affirmed Lane commented that mowing is still an issue and his phone line is above ground, which presents a problem at this time. All residents were present that reside on the side with the ditch.

Mayor Israeloff turned discussion over to council. Carolyn Sommers noted that this project needs a stamp from an engineer. She also questioned the funding involved to date regarding the drainage repairs. John Fraser and Mary Price shared concerns that other projects are being delayed due to time spent on this project and the budgeted funding that could be spent on many other needed repairs. Mayor Israeloff commented that there was miscommunication between the residents and town staff and council and for this he expressed his apologies. However, the main concern is to resolve this situation. The ditch must stay within existing easements, meet the town's ordinance and have a stamp of approval from an engineer. The biggest problem is that there is simply not enough space within existing easement. At this time, Mayor Israeloff has asked James Chancellor to price a four to one based on the number of residents that agree to have their lot feathered. The price would include the ditch work, seeding and other pricing that would be involved to possibly grant on a per resident basis if they would like their lot feathered. All council members were in agreement, but no action taken at this time.

OAKWOOD ESTATES REPLAT: Alan Efrussy, Director of Planning, introduced this item by stating the applicant of this property, Mr. Luce, wishes to replat this property for the purpose of creating two lots out of the one lot. The two replatted lots meet the requirements for the RE-1 district as well as the subdivision requirements. The Planning and Zoning commission unanimously recommended approval of this replat.

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. Councilwoman Carolyn Sommers noted of Mr. Luce backyard commonly being used as a ball field for the area children. A motion was made by Mike Pezzulli to approve the replat of the Oakwood Estates property. The motion was seconded by Carolyn Sommers with all in favor. For the record, John Fraser abstained from the vote due to joining the Luce's property line.

PHILLIPS PROPERTY: The zoning of property that is annexed but un-zoned, commonly known as the Phillips property, consisting of .534 acres, generally located west of and adjacent to Country Club Rd. (FM 1378), north of Wynford Chace subdivision, and south of Hart Rd., to the One-Acre Ranch Estate Zone (RE-1).

Mr. Efrussy stated that this property along with the next twelve agenda items are part of a series of zoning properties that are annexed but un-zoned. All of the zoning properties have gone before the Planning and Zoning Commission and have all passed with no objections. The Phillips property has been recommended zoning of RE-1.

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by Mary Price to approve the zoning of the Phillips property to RE-1. The motion was seconded by Jim Cunningham with all in favor.

JOHNSON PROPERTY: The zoning of property that is annexed but un-zoned, commonly known as the Johnson property, consisting of 1.0 acres, generally located west of and adjacent to Country Club Rd. (FM 1378), north of the Wynford Chace subdivision, and south of Hart Rd., to the One-Acre Ranch Estate Zone (RE-1).

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by John Fraser to approve the zoning of the Johnson property to RE-1. The motion was seconded by Mike Pezzulli with all in favor.

NELSON PROPERTY: The zoning of property that is annexed but un-zoned, commonly known as the Nelson property, consisting of 1.0 acres, generally located west of and adjacent to Country Club Road (FM 1378), north of the Wynford Chace subdivision and south of Hart Road, to the One-Acre Ranch Estate Zone (RE-1).

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by John Fraser to approve the zoning of the Nelson property to RE-1. The motion was seconded by Carolyn Sommers with all in favor.

JOHNSON PROPERTY: The zoning of property that is annexed, but un-zoned, commonly known as the Johnson property consisting of 2.0 acres, generally located west

of Country Club Road (FM 1378), north of the Wynford Chace subdivision, and south of and adjacent to Hart Road, to the One-Acre Ranch Estate Zone (RE-1.5).

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by Carolyn Sommers to approve the zoning of the Johnson property to RE-1.5. The motion was seconded by John Fraser with all in favor.

NELSON & JOHNSON PROPERTY: The zoning of property that is annexed, but un-zoned, commonly known as the Nelson and Johnson property consisting of .55 acres, generally located west of Country Club Rd. (FM 1378), north of the Wynford Chace subdivision, east of Oakwood Estates #3, and south of and adjacent to Hart Rd., to the One-Acre Ranch Estate Zone (RE-1).

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by Mary Price to approve the zoning of the Nelson & Johnson property to RE-1. The motion was seconded by Mike Pezzulli with all in favor.

ALVAREZ PROPERTY: The zoning of property that is annexed, but un-zoned, commonly known as the Alvarez property consisting of 0.5 acres, generally located west of Country Club Rd. (FM 1378), north of the Wynford Chace subdivision, east of the Oakwood Estates #3 subdivision, and south of and adjacent to Hart Rd., to the One-Acre Ranch Estate Zone (RE-1).

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by Jim Cunningham to approve the zoning of the Alvarez property to RE-1. The motion was seconded by John Fraser with all in favor.

SECONDINE PROPERTY: The zoning of property that is annexed but un-zoned, commonly known as the Secondine property consisting of 0.6± acres, generally located west of Country Club Rd. (FM 1378), north of Wynford Chace subdivision, east of the Oakwood Estates #3 subdivision, and south of and adjacent to Hart Rd., to the One-Acre Ranch Estate Zone (RE-1).

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by John Fraser to approve the zoning of the Secondine property to RE-1. The motion was seconded by Carolyn Sommers with all in favor.

SECONDINE PROPERTY: The zoning of property that is annexed but un-zoned, commonly known as the Secondine property consisting of 1.0 acre, generally located west of Country Club Rd. (FM 1378), north of the Wynford Chace subdivision, east of the Oakwood Estates #3 subdivision, and south of and adjacent to Hart Rd., to the One-Acre Ranch Estate Zone (RE-1).

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by Mary Price to approve the zoning of the Secondine property to RE-1. The motion was seconded by Mike Pezzulli with all in favor.

BARRETT PROPERTY: The zoning of property that is annexed but un-zoned, commonly known as the Barrett property consisting of 1.0 acre, generally located west of and adjacent to Stoddard Rd., south of Country Club Rd. (FM 1378), and east of the Sloan Creek Estates #2 subdivision, to the One-Acre Ranch Estate Zone (RE-1).

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussions over to council. No comments were made.

A motion was made by Mike Pezzulli to approve the zoning of the Barrett property to RE-1. The motion was seconded by Mary Price with all in favor.

MCCROSKY PROPERTY: The zoning of property that is annexed but un-zoned, commonly known as the McCrosky property consisting of 1.0 acre, generally located west of and adjacent to Stoddard Rd., south of Country Club Rd. (FM 1378), and east of the Sloan Creek Estates #2 subdivision, to the One-Acre Ranch Estate Zone. (RE-1)

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussions over to council. No comments were made.

A motion was made by John Fraser to approve the zoning of the McCrosky property to RE-1. The motion was seconded by Carolyn Sommers with all in favor.

TREVINO PROPERTY: The zoning of property that is annexed but un-zoned, commonly known as the Trevino property consisting of 1.0 acre, generally located west of and adjacent to Stoddard Rd., south of Country Club Rd. (FM 1378), and east of the Sloan Creek Estates #2 subdivision, to the One-Acre Ranch Estate Zone (RE-1).

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. Mary Price asked about the L-shaped property located behind the Trevino property. There was no number marked on the property map. Mr. Efrussy responded that the L-shaped property is currently a property that is not annexed and un-zoned. The property currently has no house on it, which in turn is why no number has been assigned.

A motion was made by Jim Cunningham to approve the zoning of the Trevino property to RE-1. The motion was seconded by Mike Pezzulli with all in favor.

FAIRVIEW COUNTRY DAY SCHOOL: The zoning of property that is annexed but un-zoned, commonly known as the Fairview Country Day School, on property generally located north of and adjacent to Hart Rd., south of Country Club Rd., and east of Stoddard Rd., to the Planned Center (PC) District.

Councilman Mike Pezzulli was not present during the discussion of this property due to his involvement on this project.

Mr. Efrussy introduced this item by stating that Mr. Pezzulli, the applicant of the property wishes to continue development and it has been designed in three phases. Phase I is an existing one-story building, with two support buildings. Phase II is a proposed one-story building, with classrooms within 5,000 to 7,500 sq. ft. and Phase III is a proposed one-story building with classrooms and auditorium within 10,000 to 15,000 sq. ft. Mr. Pezzulli's consultant, Carol Feldman is present to answer any questions the council may have. This plan has been reviewed and approved by town staff; the Development Plan has also met the requirements of the PC district.

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. Carolyn Sommers questioned the process and implications of the property and project should Mr. Pezzulli sell or relinquish his involvement in the property. Mr. Efrussy responded that the plan will remain in tact. The district travels with the property. If any changes are made, the new applicant must have a public hearing and the town council has to approve and/or deny any changes in the development. Mr. Godwin noted that each PC is its own. Each one is unique with its site plan and in this particular case; the property would be limited to be a school property.

John Fraser raised concerns of the gravel driveway. Mr. Chancellor commented that a spec had been given for review and as long as the driveway supports the weight of emergency vehicles then it is in compliance. It based more on performance. Carolyn

Sommers asked if the lighting is in compliance with the ordinance and per town staff it is in compliance with the lighting ordinance.

A motion was made by Mary Price to approve the zoning of the Fairview Country Day School to the PC district and the associated Development Plan. The motion was seconded by Mike Pezzulli with all in favor.

LISD PROPERTY: The zoning of 19.2953 acres located on the northeast corner of Hart Rd. and Stoddard Rd. owned by the Lovejoy ISD, to the Three-Acre Ranch Estate Zone (RE-3).

Mr. Efrussy introduced this item by stating that the Future Land Use Plan indicates a Future School at this site, thereby supporting the town's official recommendation for a school at this location. This zoning action is primarily an administrative zoning action. The Code of Ordinances requires that property zoned for a CUP shall be given a basic zoning classification. The recommended zoning is RE-3.

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. Carolyn Sommers questioned the zoning of this property. Mr. Efrussy commented that this zoning needs to be approved in order to provide a base zoning classification for the property and those schools in Fairview require approval through the CUP in all districts except the Open Space and Flood Hazard Zone.

A motion was made by Carolyn Sommers to approve the zoning of the 19.2953 acres owned by the Lovejoy ISD to RE-3. The motion was seconded by Mike Pezzulli with all in favor.

MASTER THOROUGHFARE PLAN: Amending the Master Thoroughfare Plan.

Mr. Chancellor introduced this item by stating the proposed revisions to the Transportation Plan as approved by the Planning and Zoning Commission are as follows: To add a two lane connection to Medical Center Drive in McKinney to the north; To add a four lane connector known as Murray Road from US75 to Fairview Parkway and change the official name for "Murray Road" to "unnamed street"; To add a two lane public road within the Lifestyle Center to match the approved Site Plan; and to delete the Meandering Way connection to the Town Center district.

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by John Fraser to approve the revisions to the Master Thoroughfare Plan. The motion was seconded by Carolyn Sommers with all in favor.

ECONOMIC DEVELOPMENT AGREEMENT: Consider approval of an amendment to the Economic Development Agreement with the Village at Fairview, L.P.

Mr. Godwin introduced this item by stating that it had been discussed in executive session. The town acquired land from the McHerring group to build an Embassy Suites Hotel and Conference Center. The hotel has been approved by the Economic Development Committee and the Telecommunications Advisory Committee.

A motion was made by Carolyn Sommers to approve the amendment to the Economic Development Agreement with the Village at Fairview, L.P. The motion was seconded by Mike Pezzulli with all in favor.

MASTER DEVELOPMENT AGREEMENT: Consider approval of a Master Development Agreement between the Town of Fairview, John Q. Hammons Revocable Trust, and The Village at Fairview, L.P. for development of a hotel and conference center site.

John introduced this item by stating it is a three party agreement and it is to establish the hotel and conference center and it recommended for approval.

Mayor Israeloff requested any public discussion. No comments were made.

Mayor Israeloff turned discussion over to council. No comments were made.

A motion was made by Jim Cunningham to approve the Master Development Agreement between the Town of Fairview, John Q. Hammons Revocable Trust, and The Village at Fairview, L.P. for development of a hotel and conference center site. The motion was seconded by Carolyn Sommers with all in favor.

CONFERENCE CENTER LEASE AGREEMENT: Consider approval of a Conference Center Lease Agreement with John Q. Hammons Revocable Trust. Mr. Godwin noted this item will be passed at this time. No action taken.

WATER PRESSURE: Discuss possible water conservation measures relating to high water pressure.

John Godwin introduced this item by stating that there are areas of Heritage Ranch that have levels of water pressure due to being at a lower elevation. Several discussions have taken place by town staff to address this problem. The high water pressure can damage pipes or even certain appliances. The high levels of water pressure can cause over-spray and misting from sprinkler systems that contribute to wasteful evaporation. Each individual property is different. In trying to conserve water, town is looking at a possible rebate program and/or an option for the resident to install a pressure reducer with partial reimbursement. Mr. Chancellor stated that a pressure reducer valve and expansion tank may be placed on the system to allow for a more controlled water pressure. The cost quotes acquired to install the pressure valve has been estimated at \$400.00 to \$425.00 for

labor and materials. He also noted that water pressure over 80 psi is recommended or needs an expansion tank per the plumbing code. It is the obligation of the plumber to check the installation of these on new construction homes. A normal pressure for operational purposes is 20 psi, but typically 35 psi in the minimum requirement. The main concern for the town is to conserve water and avoid water heaters blowing and or miss-use of water.

Mayor Israeloff questioned why there is such a big difference in water pressure throughout the town. Mr. Chancellor used the bath tub as a visualization of town stating that there is low pressure in the middle and high pressure around the sides. Mayor Israeloff commented that a rebate could be a possibility if the resident qualified for it depending on their current water pressure. John Fraser noted that their no down side to installing the pressure valve. Carolyn Sommers asked if the town staff could develop a program and bring back to present to council. No action taken at this time.

DEVELOPMENT PROJECTS: John Godwin commented on a few of the ongoing projects and developments throughout the town. There have been several meetings in the past regarding the Fairview Center, however no activity now appears likely. The LISD middle school construction is on-going and the elementary school plan has been submitted and construction should start in June. Acreage on south side of Hart Road, near FM 1378 proposed residential development likely to be constructed in unincorporated county under county guidelines without zoning.

Carolyn Sommers questioned why people are starting their zoning earlier versus discussing the project and then move forward. Mr. Godwin stated that in this particular case the applicant does not want to take a chance on losing the zoning. The development into a subdivision will enforce the subdivision ordinance and developer could pay fees involved if a park is placed in the development. They are aware of the land conveyance.

Mr. Pezzulli commented on the Meandering @ Stacy project. He stated that this is not a commercial property and is zoned residential by the Planning and Zoning Committee. The homeowner trying to take out a building permit at Stoddard Road for commercial establishment on un-zoned acreage met the deadline to file the requested permit.

Remote reads for the utility meters is almost done and finalizing those that need re-programmed or re-read.

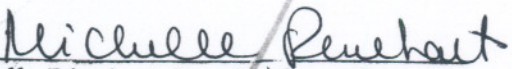
CITIZEN'S INPUT: Mayor stated that anyone wishing to speak at this time to state their name and address for the record and to remember that no formal discussion or action may be taken on these items at this meeting. No comments were made.

ACTION NECESSARY FROM EXECUTIVE SESSION: No action required or taken.

There being no other items for discussion, Mayor Israeloff adjourned the meeting at 9:35 p.m.


SIM ISRAELOFF, MAYOR

ATTEST:


Michelle Rinehart, Interim Town Secretary

