

**TOWN COUNCIL SPECIAL MEETING
MINUTES
May 22, 2007**

The Town Council met in special session on Thursday, May 22, 2007 at 6:30 P.M. at Town Hall, 500 S. Highway 5, Fairview, Texas. Those present were Mayor 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 6:37 p.m., declared a quorum was present, and requested everyone to stand for the Pledge of Allegiance.

CANVASS RETURNS AND DECLARE RESULTS OF BOND ELECTION: Mayor Israeloff read the following results from the bond election:

Votes	Proposition
1019 Votes For	The issuance of \$2,830,500 Tax
205 Votes Against	Bonds For Constructing, Improving, And Equipping Fire Stations

A motion was made by Councilwoman Price to approve the canvassing of the bond election as stated above. The motion was seconded by Councilman Pezzulli, with all in favor.

CANVASS RETURNS AND DECLARE RESULTS OF GENERAL ELECTION: Mayor Israeloff stated the following results for the general election. The following persons receiving the highest votes were Sim Israeloff for Mayor, Carolyn Sommers for Seat one, Ron Kasian for Seat three and Anton Mattli for Seat five.

A motion was made by Councilman Pezzulli to approve the canvassing of the general election as stated above. The motion was seconded by Councilman Cunningham, with all in favor.

OATH OF OFFICE: Interim Town Secretary, Michelle Rinehart gave the oath of office to Carolyn Sommers, Anton Mattli and Sim Israeloff and issued Certificates of Election.

APPOINT MAYOR PRO TEM: Mayor Israeloff asked for nominations for Mayor Pro Tem. Councilman Pezzulli nominates Carolyn Sommers as Mayor Pro Tem.

A motion was made by Councilman Cunningham to appoint Councilwoman Sommers as Mayor Pro Tem. The motion was seconded by Councilman Mattli, with all in favor.

AMEND PLAT TO ADJUST COMMON LOT LINE ON LOTS 80 AND 86 IN THE RIVER OAKS SUBDIVISION: Mr. Efrussy, Planning Director, introduced this item stating that the owner of this property wished to move the lot line closer to the existing driveway while maintaining the minimum 150' lot width at the front building line.

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

Mayor Israeloff opened discussion to council members. Councilwoman Sommers asked if the amendment met requirements and the subdivision ordinance. Mr. Efrussy stated that the lots have met all town requirements and the subdivision ordinance and is zoned RE-1.

A motion was made by Councilwoman Sommers to amend the plat to adjust the common lot line on lots 80 and 86 in the River Oaks Subdivision. The motion was seconded by Councilwoman Price, with all in favor.

CONDITIONAL USE PERMIT (CUP) FOR THE LOVEJOY ISD ELEMENTARY SCHOOL: Mr. Efrussy introduced this item by stating that the town staff has had several meetings with LISD representatives, and their consultants. The LISD officials have stated that they wish to comply with the town CUP requirements. The Planning and Zoning Commission unanimously recommended approval of this CUP and site plan and associated documents on April 26, 2007. Mr. Efrussy stated that Mr. Clary reviewed the lighting plan and it meets the town's requirements and Mr. Chancellor reviewed the Traffic Impact Analysis regarding the effect that the elementary school will have on the roadways and recommended the following: widening of Stoddard Road, provide two-lane approach on the Parent/Staff entry drive, opening the "emergency only" drive on Hart Road, provide a "20 MPH Reduced Speed Zone", install informational signs, and the need for left turn lane on FM 1378 at Stoddard Road.

Mr. Efrussy explained a conditional use permit to provide further information for the Mayor and Council members. Mr. Efrussy stated that in RE-3 schools are required to receive approval through a conditional use permit, which includes a site plan and other supportive documents. However, public schools in Texas have certain rights which limit the application of some of the town's CUP requirements.

Mayor Israeloff requested any public discussion. Mr. Bruce Kelly, 800 Country Club Drive, stated that his property backs up to this proposed elementary school. Mr. Kelly stated that he has spent time with the LISD school officials regarding several issues. Mr. Kelly requested that the council deny the CUP permit and give this project back to the Planning and Zoning Commission to discuss further. Mr. Kelly expressed that his primary concerns are the playground locations and the landscaping. He had asked LISD officials initially that the playgrounds be moved to the east side of the school site to be close to the city park, which would eliminate noise along his property and to provide more trees to buffer along the schools northern fence line. He also raised the question to see if the school was complying with all town ordinances. Mr. Godwin, Town Manager,

stated that town staff will continue to work with the LISD officials all the way through even the permitting stages and will watch them closely to help ensure that they follow through with the agreements that have been made.

Mayor Israeloff opened discussion to council members. Councilman Pezzulli responded by asking if the school is in compliance with the dark sky's ordinance and stated that in regard to the left turn lane on Stoddard Road that the middle lane that will be added provide sufficient right of way. Mr. Efrussy stated that the dark sky requirements have been met, per Mr. Clary's review. Councilman Pezzulli also asked council to note that the City of McKinney discussed the addition of approximately 73 homes built by Goodman Homes located near McKinney Country Club. This will have a major impact on traffic in that area.

Councilwoman Price asked to clarify the "emergency only" drive on Hart Road listed in the traffic analysis, if the playground is fenced and who is providing the playground equipment. Councilwoman Price also asked if there were any limitations on the city to when the playground closes, if there will be signs posted regarding times "to close" and asked about the pond located on the plans. Mr. Godwin commented that the "emergency only" drive is a dedicated drive way and will be gated with a knox box. If traffic backs up on Stoddard Rd, then the gate will be opened. Mayor Israeloff asked for the school district to coordinate with the town on a posted time "to close" the playground area. The pond located on the plans is a retention pond. It will only have water in it when there is a storm and should not have standing water in it. It is designed to accumulate and release the water.

Councilwoman Sommers asked about the additional landscaping and if the fence outlined on the plans was adequate for the schools needs. Councilwoman Sommers commented that if the LISD has met their requirements, than anything else would be in addition to the submitted plans.

Councilman Cunningham asked Mr. Kelly what type of fence is on his property. Mr. Kelly responded that he has a wire fence on his property. Mr. Kelly's concern wasn't just with the fence, but was in fact due to a lake that is currently located on his property. Mr. Kelly asked if the playground had a fence around it. Mr. Kelly expressed that he is willing to share the cost of any additional fencing and landscaping he has requested to help buffer his property.

Councilman Mattli asked about the security lighting. The lighting will be set on a controller, but has not been set at this point in time by the LISD officials. It was noted that the security lights will not affect Mr. Kelly's property.

Councilman Fraser commented that he is surprised by this polarized discussion. The discussion of what is "required to do" by the LISD officials and the arguing of the minor details surrounding this project should not be the major issue. He expressed his support for the school and the kids who will be attending the school. He also stated that the town has worked on several long term projects and have been able to put them together

properly. Councilwoman Sommers added that Lovejoy ISD has been built with the reputation of going the extra mile. Councilwoman Sommers stated that she believes the additional landscaping would be good for the students and the teachers. She understands that LISD must meet certain requirements, but has been upset with the attitude of the LISD representatives expressed this evening.

Dennis Womack, the LISD official, commented that he believes that the school district has gone above and beyond the requirements and it was not their intention regarding this discussion to project any ill will communications on there part. The LISD officials are willing to meet with town staff to make changes as the project progresses as well as ensure the town that all agreements are being met. Councilman Pezzulli added that he is willing to meet with Mr. Kelly and the LISD official(s) to discuss this situation and reach an agreement by both.

Mr. Efrussy commented that the town staff has worked closely with the schools consultants and believes that what was submitted and approved will be done. There were several sheets submitted due to the fact that all data can't fit on the site plan, which is one single sheet. The site plan is a basic analysis of where the building(s), other structures, and access will be located. One CUP plan sheet does not take precedence over another due to the fact that the lighting, landscaping, and fencing are on different plan sheets. All sheets are of the same relevance, and the CUP approval includes approving the site plan and all associated documents.

Mr. Pezzulli stated that a fence is shown on the landscape plan, but not on the site plan. Mr. Efrussy commented that only so much data can be put on any one CUP requirement sheet, or else it becomes ineligible. Mr. Efrussy stated that the consultants told him that they will do everything indicated on all plan sheets, regardless of what CUP document they are included in. Mr. Womack told the council that LISD will put the fence in as shown on the plans, and also that the district will do all items shown on all plan documents. Mr. Godwin added that the council will be approving all documents submitted and the LISD agrees to all plans as provided.

A motion was made by Councilwoman Sommers to accept from the Lovejoy ISD for a conditional use permit for construction of an elementary school and all associated documents. That motion was seconded by Councilwoman Price, with all in favor.

CONFERENCE CENTER LEASE AGREEMENT: Consider approval of a Conference Center Lease Agreement with John Q. Hammons Revocable Trust.

Mr. Godwin stated at this time due to an issue brought forward by Mr. Hammons that council may want to consider delaying approval until next council meeting. Mr. Godwin stated that Mr. Hammons wants to have the right to purchase the conference center at the end of the lease. However, under state law you can not sell public property. The conference center will be owned by the town and leased out. The agreement currently states that it is a thirty year lease with the option to extend, which would make it difficult

to determine the value of the property thirty plus years from today. The conference center and the hotel is a package deal. They won't build one without the other. Mr. Godwin suggested that it doesn't hurt to approve the lease agreement. The worse case scenario being that the lease agreement is presented again back to council at a later date. Mr. Godwin stated "hysterically" meaning historically speaking; the town leases these centers in order to get the hotel in order to bring additional revenues to the town and to relieve the town's responsibility in managing these properties.

Mayor Israeloff recommended placing additional language in to help protect or discourage Mr. Hammons from pursuing any further.

Mayor Israeloff suggested adding the following language: "to the extent permitted by state law Mr. Hammons will have the option to purchase at then fair market value only after the end of the primary lease term and all its options".

Councilman Pezzulli made a motion to approve the Conference Center Lease Agreement with John Q. Hammons Revocable Trust with the language stated above by Mayor Israeloff. The motion was seconded by Councilman Fraser, with all in favor.

DISCUSSION OF ZONING AND ANNEXATIONS: Councilwoman Sommers wanted the opportunity to discuss the development of the 20 acres south of and adjacent to Hart Rd. that is not in the town incorporated limits and is a similar situation to the Tranquility Farms subdivision where this subdivision developed outside our incorporated limits, but within our E.T.J. Councilwoman Sommers raised the question as to whether the town would be able to collect building permit fees and are the developers required to meet the subdivision requirements listed in the town's ordinance. Mr. Efrussy stated that building inspections are done by the county, but that this development has to meet the town's subdivision ordinance. Mr. Godwin commented that in the fall of 2004 the town adopted a three year annexation plan. In October 2007, the town will begin a series of annexations related to this annexation plan. The town can only annex a certain amount of property at a time based on state statute. Once a property is annexed and zoned, the town is protected. It is considered a value to be annexed in Fairview. It is the town's option to not annex property. Councilwoman Price stated that in some cases a smaller property is the subject and are there ever any options to negotiate. Mr. Godwin stated the town can not negotiate, but can discuss options with an applicant within reason. It is also possible to amend the three year annexation plan. The council will always see the plan and have the opportunity to discuss a particular piece of property and/or lot. The town has to give people a three year notice if the town changes its annexation plan different from what the current three year plan states (adopted, October 2004). Councilwoman Price asked what the process is when a property is un-annexed and homes are built on that property. She questioned if that property owner and/or developer is bound to the subdivision requirements and would that enforce structure of roofs and sprinklers. Mr. Efrussy commented that roofs and building heights are zoning elements. Easements, fire codes, flood plains, park dedications and roadways are all subdivision elements. Mr. Efrussy stated that if a property is unannexed, and within the town's boundary on E.T.J., our subdivision regulations apply, but not zoning. Mr. Efrussy stated that building codes will

be reviewed by the county if property is unannexed. If property is outside of town limits, then building codes are enforced by the county requirements and county inspector(s). The town at that point can not enforce the fire code unless the subdivision ordinance is amended. Mr. Godwin also noted that a newly annexed property must meet current requirements, but once a piece of property is issued a final CO, then the town cannot go back and enforce requirements.

Mayor Israeloff asked if there was any progress or any communication with the City of Lucas in regard to the property that was annexed several years ago. Mr. Godwin stated that letters were sent about a year ago and no response was received. Mr. Godwin commented that he met with the Lucas city manager about five months ago and they did not really have any or new information since they were not there at the time of the annexation. The Town of Fairview lost several documents which included minutes in regards to this annexation due to water damage that had further information of what took place at that time. The mayor and council members have suggested starting to directly request for a voluntary annexation of this property back into Fairview from the City of Lucas.

RECOGNITION OF OUT-GOING COUNCIL MEMBER JOHN FRASER: Mayor Israeloff presented Councilman Fraser with a plaque and read the proclamation that was engraved on it. Mr. Fraser accepted with a short speech of his appreciation in serving and being a part of the town.

EXECUTIVE SESSION: At 8:25 pm the council recessed into executive session to discuss: Economic development and Real Estate.

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

There being no other items for discussion, Mayor Israeloff adjourned the meeting at 9:30 p.m.



Sim Israeloff
SIM ISRAELOFF, MAYOR

ATTEST:

Michelle Rinehart
Michelle Rinehart, Interim Town Secretary