TOWN COUNCIL MEETING
MINUTES
October 2, 2007

The Town Council met in regular session on Tuesday, October 2, 2007 at 6:30 P.M. at Town Hall, 500 S. Highway 5, Fairview, Texas. Those present were Mayor Sim Israeloff, Mayor Pro Tem Carolyn Sommers, Council Members Jim Cunningham, Ron Kasian, Michael Pezzulli, Anton Mattli and Mary Price, and Town Manager John Godwin; Town Engineer James Chancellor; Planning Director Alan Efrussy; Special Projects Coordinator Matt Donnell; and Town Secretary Michelle Lewis Sirianni.

Mayor Israeloff called the meeting to order at 6:35 p.m. and declared a quorum was present.

EXECUTIVE SESSION: At 6:37 pm the council recessed into executive session to discuss: McKinney versus Fairview, Economic Development, and Real Estate.

At 7:58 pm Mayor Israeloff reconvened into the regular session and requested everyone to stand for the Pledge of Allegiance.

Mayor Israeloff stated that he apologized for the slight delay, but that council had finished with executive session and will not need to reconvene after finishing with the regular agenda items.

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 September 4, 2007 council meeting. B) Approve minutes of the August 7, 2007 council meeting. C) Approve minutes of the September 24, 2007 special council meeting. D) Approve a Resolution suspending an Atmos-requested rate increase. E) Authorize town manager to enter into an agreement with Grantham & Associates to provide engineering services for reconstructing a portion of Meandering Way. F) Approve a Resolution supporting the Collin County November bond election. G) Adopt an ordinance restricting on-street parking in the Villages of Fairview. H) Approve advertising for bids for construction of a new 16" water main along FM-1378 from Hart to Stacy Road. I) Approve amended plat for Creekwood United Methodist Church. J) Reappoint Bill Wells as chairman of the Planning and Zoning Commission.

Councilman Kasian requested to pull item G and item H for revisions. Councilman Cunningham requested to pull item F for further discussion.

A motion was made by Councilman Kasian to approve items A, B, C, D, E, I and J. The motion was seconded by Mayor Pro Tem Sommers, with all in favor.

Councilman Kasian asked that in regards to item G, should they eliminate the word 'stop' to the ordinance. Councilman Kasian questioned if this was a commonly used term. Mr. Godwin responded that "yes" it is a commonly used term and it is referencing a short period of time.

A motion was made by Councilman Kasian to approve item G. The motion was seconded by Councilman Cunningham, with all in favor.

Councilman Kasian asked in regards to item H what miscellaneous allowance for extra work is allotted for and what is the difference between using the miscellaneous versus the contingency percentage. Mr. Chancellor responded that the miscellaneous allowance for work prevents having to ask council for changes of quantities of items on change orders that pertain to valves, etc. and the contingency percentage allows for bid variations for the engineering firms. Mr. Chancellor stated that the percentage is not reflective of a typical variance, but depends on the project and is simply a tool used when bids are submitted.

A motion was made by Councilman Kasian to approve item H. The motion was seconded by Councilwoman Price, with all in favor.

Councilman Cunningham asked in regards to item F, the resolution supporting the Collin County bond election, if the town should pass this resolution. Councilman Cunningham expressed his concern that he didn't want it appear that the town was taking sides when the town has expressed a desire for continued support on other matters. Councilman Cunningham questioned if they should table this item for another thirty days. Mayor Israeloff responded that he had received a request from the Mayor of Melissa as well as other members of the County Bond Committee asking for town support. Mayor Israeloff stated that if the bond passes that it will include funding for roughly three and a half million dollars for road projects in the town. The mayor asked council members to consider whether or not it was a priority for the town.

Consensus of the Council was to table this item to a later date. No action was taken.

<u>ZONE N OF THE COMMERICAL PLANNED DEVELOPMENT DISTRICT:</u> Conduct a public hearing and take action regarding modifying permitted uses within Zone N of the Commercial Planned Development District.

Mr. Donnell introduced this item by stating that staff and the Domain HOA representatives had discussed the permitted uses in Zone N. Mr. Donnell stated that this item was brought before the planning and zoning commission as a discussion item at its July 26, 2007 meeting, and the commission requested that staff meet with the representatives of the Domain again to discuss desired land uses. That meeting was held, and at the August 23, 2007 commission meeting, town staff, the Domain HOA representatives and the commission further discussed modifications to Zone N. At the September 13, 2007 planning and zoning meeting the public hearing was conducted and the following changes were unanimously approved. Mr. Donnell stated there are a total of 110 uses in Zone N with 55 permitted uses and 55 Special Use Permits. The following uses are recommended for removal from Zone N:

- Passenger bus station and terminal
- Retail food stores (grocery), greater than or equal to 20,000 square feet
- Liquor Store
- Fuel dispensing facility
- Service station
- Private stables

The following uses are recommended for Special Use Permit:

- Car wash
- Tool equipment and rental
- Job printing, lithographer, printing, or blueprinting plant
- Broadcasting studio
- Swimming pool sales and supply
- Feed store
- Garden shops, plant sales
- Retail food store
- Retail stores other than listed less than or equal to 20,000 square feet
- Farmers market

The following uses are recommended for Temporary Use Permit:

- Christmas tree sales
- Street fairs

The following uses are recommended from SUP to permitted use:

- Recording studio
- Taxidermist

The following uses are recommended to change from SUP to permitted use with hours of operation restrictions:

- Drugstore – 6:00 am to 11:00 pm
- Convenience store without fuel pumps – 6:00 am to 11:00 pm

Mayor Israeloff opened discussion to the public. Gina Smith, 601 Lakeridge Drive, stated that she lives in the Domain subdivision and is representing many of the other surrounding subdivisions. Ms. Smith presented council with pictures of how they would like to see projected businesses in Fairview along Hwy 5. Ms. Smith stated that the residents would like to see upscale business fronts with upscale signage. Ms. Smith commented that she understands the need for commercial properties to lower their tax base, but also doesn't want the businesses to sacrifice the look and feel of the town as well as the market value of their homes. Ms. Smith stated that she believes that the residents should have input.

Bob Hawkins, 700 Lakeridge and 460 Hwy 5, stated that he lives in Fairview as well as is a business owner. Mr. Hawkins stated that he did not know about the earlier discussions that the Domain HOA held. Mr. Hawkins stated that the residents should have investigated before moving in about the area. Mr. Hawkins expressed that the town should take out all proposed changes.

Bruce Huffman, 670 Lakeridge, stated that he moved here for the look of Fairview. Mr. Huffman stated that the businesses that are eventually built on either side of the Domain, should only have access off of Hwy 5 and not from inside one of the other surrounding public roads.

Sherry Richmond, 671 Lakeridge, stated that the Domain HOA meetings that were held through July that had the Zone N discussions was represented in their minutes that were published and put in the mail for the residents.

Walter Boyd, 590 Lakeridge, asked to keep Hwy 5 compatible to other neighborhoods.

Troy McGee, Frisco, Texas, stated he is a land owner in Fairview. Mr. McGee stated that he owns property next to Cotton Concrete. Mr. McGee stated that he bought his property about four to five years ago and is not a real estate developer. Mr. McGee commented that the town has a very thorough architectural and sign ordinance. Mr. McGee's concern is that changing some of the uses to SUP would limit or change the initial plans of development.

Sharon Feldt, 661 Countryside, stated that the Domain does want to eliminate some zone uses, but wants some changed to SUP's. Mrs. Feldt expressed that she does not want a car wash placed near the Domain. Mrs. Feldt stated that she would like to see nice businesses with limited traffic.

Mayor Israeloff opened discussion to council members. Mayor Israeloff stated that the Commercial Planned Development District has extraordinary standards to building that applicants must adhere to.

Councilman Cunningham understands the concerns of the residents. Councilman Cunningham stated that guidelines that the town have in place along with the commitment with the planning and zoning commission and town council, that the residents should rest assured that every proposal is looked at with great detail.

Mayor Pro Tem Sommers stated that the initial commercial zoning did not extend as far east as it does now. It is now butting up next to adjoining neighborhoods. Mayor Pro Tem Sommers stated that many years ago council had discussed the need for commercial and it seems that today it is now causing problems. The initial vision of the town was to have mom and pop shops along Highway 5. Mayor Pro Tem Sommers stated that the town is stricter today on town building regulations and if an applicant applies for a SUP, the town with justification can deny the request.

Councilman Kasian recognized the difference of opinions between the residents. Councilman Kasian stated that this is definitely taking a step forward, but expressed thoughts that more refinement may be needed and by possibly not taking action will provide better assurance.

Councilman Pezzulli stated that if council should table there is always the possibility that an applicant could come forward the next day and request for something that at that point could not be turned away. Councilman Pezzulli commented that in his opinion, he does not want a car wash under a SUP. Councilman Pezzulli expressed that it is a good idea to move forward to have some protection.

Bill Wells, Chairman for the Planning and Zoning Commission, commented on the meeting regarding Zone N at the September 27, 2007, planning and zoning meeting. Mr. Wells stated that the commissioners looked at the definitions of the uses in Zone N and noted how some definitions have changed. Chairman Wells stated that they moved some uses to SUP's to further protect and also went through and reviewed each zoning use(s).

Councilman Mattli questioned why drugstore and convenience store without fuel pumps were changed to a SUP with restricted hours. Councilman Mattli recommended keeping these two uses as Special Use Permits without restricted hours.

Mayor Israeloff stated that it his thinking that by passing this ordinance, it will allow the town to move forward and it is certainly an improvement. Mayor Israeloff noted that there are more restrictions to date and that even the SUP's does not guarantee approval. The guidelines set forth by the town are to help regulate and manage growth, not hurt it.

A request was made by town council to the planning and zoning commission to re-discuss the problematic land uses in Zone N, which included drive-thru restaurant, beer and wine package sales, and car wash.

Councilman Cunningham made a motion to approve the modifications as listed, with exceptions to changing Drugstore and Convenience store without fuel pumps back to a Special Use Permit. Councilman Mattli seconded that motion, with all in favor.

REVISED CONCEPT PLAN FOR SLOAN CREEK ESTATES: Conduct a public hearing and take action regarding a Revised Concept Plan for the Sloan Creek Estates subdivision, within the Commercial Planned Development District, located east of SH5 and north of Sloan Creek.

Mr. Efrussy introduced this item by stating that this subdivision comprises three phases, and that phases I and II have been approved and substantial development has occurred within these phases. This subdivision consists of single-family uses only, and the developer of this subdivision is Mr. Jim Douglas, of Douglas Properties.

Mr. Efrussy stated that the purpose for the item tonight is to address Mr. Douglas' current request for approval of a modification to the originally approved Phase III; the first step in this process within the CPDD is to revise the overall Concept Plan for this subdivision. Mr. Efrussy stated that the new proposal is for 17 single-family lots as opposed to the previous 22 lots submitted in June, 2007, as well as other modifications. The applicant has not completed all the submissions requirements for this Concept Plan. Mr. Efrussy stated that staff does not support this request because the town supports the original one-acre minimum lot size for all of Phase III, as originally approved by council.

Mayor Israeloff opened discussion to the public. Jim Douglas, developer of Sloan Creek Estates, stated that initially there were 24 lots, which was too dense and distorted the integrity of the neighbor hood. Mr. Douglas commented that the initial CPDD zoning line was moved further east, which took it to the creek. Mr. Douglas stated that he has taken suggestions from the homeowners so that the last section will be more compatible. Some of the suggestions from the homeowners were to add a park area, keep the lots larger to half acre lots, and ensure that phase III blended with the rest of the development.

Brian Lingle, landowner of ten acres behind this subject property has been trying to work with Mr. Douglas to have access and develop his acreage. Mr. Lingle noted that he is willing to work with Mr. Douglas in this regard.

Greg Custer, 5134 Pond Crest Drive, stated that he is opposed to the higher density and prefers lots that are RE-1 or higher.

Mayor Israeloff opened discussion to council members. Mayor Pro Tem Sommers stated that the one-acre size lots is important as well as the compatibility. Mayor Pro Tem Sommers stated that in her opinion she would not like to see less than one-acre lots and the idea of an open field and/ or green space is very appealing.

Mayor Israeloff stated that the consensus seems to be that the submittal isn't ready.

A motion was made by Councilman Kasian to deny the Revised Concept Plan for the Sloan Creek Estates subdivision, within the Commercial Planned Development District, located east of SH5 and north of Sloan Creek. The motion was seconded by Mayor Pro Tem Sommers, with all in favor.

FINAL SITE PLAN FOR PHASE III IN SLOAN CREEK ESTATES: Conduct a public hearing and take action regarding a Final Site Plan for Phase III, within the Sloan Creek Estates subdivision.

Mr. Efrussy introduced this item stating that staff needs additional information to adequately evaluate the concept plan and site plan and that information and evaluation will relate to the evaluation of this preliminary plat. Mr. Efrussy stated that town staff is recommending denial of the preliminary plat.

Mayor Israeloff opened discussion to the public. Richard Hovas from Tipton Engineering stated that the items not represented on the plat were minor and didn't affect the concept plan. Mr. Efrussy disagreed.

A motion was made by Mayor Pro Tem Sommers to deny the Final Site Plan for Phase III, within the Sloan Creek Estates subdivision. The motion was seconded by Councilman Pezzulli, with all in favor.

REVISED PRELIMINARY PLAT FOR THE SLOAN CREEK ESTATES SUBDIVISION: Conduct and take action regarding a Revised Preliminary Plat for the Sloan Creek Estates subdivision.

Mr. Efrussy stated that staff has recommended denial of the Revised Concept Plan for this project. Mr. Efrussy stated that staff needs additional information to adequately evaluate the site plan and thus request to deny without prejudice.

A motion was made by Councilwoman Price to deny without prejudice the Revised Preliminary Plat for the Sloan Creek Estates subdivision. The motion was seconded by Councilman Mattli, with all in favor.

FAIRVIEW PARKWAY LIGHTING DESIGN: Conduct a public hearing and take action regarding the revision of the Fairview Parkway lighting design criteria as described in the CPDD ordinance.

Mr. Chancellor stated that the ordinance states the street lighting should be placed within the medians. With approval of the pedestrian lighting being placed behind the curb(s), an efficient layout for the street lighting would be to place them with the pedestrian lighting. This allows the lighting engineer to design a continuously lit area with few dark spots taking advantage of both pedestrian and street lights in combination. It is also less expensive since it eliminates the electrical conduit that would have to be laid in the median.

Mayor Israeloff opened discussion to the public. There were no comments made.

Mayor Israeloff opened discussion to council members. No comments were made.

A motion was made by Councilman Pezzulli to approve the revision of the Fairview Parkway lighting design criteria as described in the CPDD ordinance. Councilman Kasian seconded that motion, with all in favor.

SH 5 AT BLUEBIRD LANE: Discussion of possible left turn lane for southbound SH5 at Bluebird Lane.

Mr. Godwin introduced this item by stating that Grenadier constructed a left turn lane on northbound SH 5. All costs were borne by the developer. The design was strictly TXDOT's, with no input or direction from the town. Mr. Godwin commented that by not requiring a southbound turn lane, TXDOT had created an unusual and cumbersome turning motion. Southbound traffic must either block traffic behind them when turning left onto Bluebird, or use the painted median as a turn lane. TXDOT has agreed they would allow the town to paint in a turn lane, but all costs would be the town's responsibility, even though it is a state highway.

Mayor Israeloff stated that he has received many complaints on this issue and the southbound lane is a safety issue and the queuing line is a concern going northbound.

Councilman Kasian questioned if reducing the speed limit was an option. Mr. Godwin responded that TXDOT has actually approved a speed limit increase. Mr. Godwin noted that the speed limit increase concern has been expressed to TXDOT. Mr. Chancellor commented that Gus from TXDOT is willing to work with the town in regards to shortening the queuing line, but would not be sure on what the length would be at this point.

The consensus of the town council is to pursue this matter further.

ENVIRONMENTAL ADVISORY COMMITTEE: Consider appointment of individuals to serve on the environmental management advisory committee.

A motion was made by Councilwoman Price to appoint Lee Berryman-Tedman to the Environmental Advisory Committee. Councilman Mattli seconded that motion, with all in favor.

PLANNING ANNUAL REPORT: Receive annual planning department report.

Mr. Efrussy presented the annual planning department report. Mr. Efrussy stated that he has been very appreciative and pleased with the cooperation of the commission, boards and council along with the support of the town staff.

Mr. Efrussy highlighted the following items in the planning department:

- Serves as liaison to the planning and zoning commission and board of adjustment meetings.
- Development analysis of various on-going projects –

- Villas in the Park
- Hawks Wood subdivision, Phase II
- Harper's Addition
- Fairview Parkway
- Village at Fairview
- Lovejoy Independent School District
- LISD Middle School
- Fairview Country Day School
- Oakwood Estates, Phases I and II
- Comprehensive Plan
- Sloan Creek Estates subdivision
- Willow Point Estates
- Amendment to the Sign Ordinance

- Zoning properties within the 100 year flood plain.
- The potential of eliminating the preliminary plat and minor plat requirements when a project site plan is required.
- Town-initiated zoning cases:
  - Zonings of properties that were annexed but unzoned: 39
  - Zonings of properties that are unannexed and unzoned: 37 (October 2007)
- Geographic Information System (GIS)

Mayor Israeloff thanked Mr. Efrussy for his presentation. Mayor Israeloff commented that he is greatly appreciative for the diligence in the planning department. Mayor Israeloff noted that Mr. Efrussy is a highly respected planner across the state as well as in many other states and displays a high level of competence with the town.

DEVELOPMENT PROJECTS & ORDINANCES: Town Manager's monthly report on development and ordinances. Mr. Godwin highlighted a few of the developments within the town:

- Annexation zonings – P&Z is beginning the process of zoning areas that will be annexed on October 16, so that they can be zoned immediately after annexation.

- Meandering at Stacy Road – Met with new owner about possible development in December 2006; site appears to be for sale.

CITIZENS INPUT: Mayor Israeloff 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.

Joe Schirard, 990 Briardale, complimented town council and staff on the commercial project.

Brenda Lalonde from Allied Waste introduced herself and stated that town council is welcome to contact her with any concerns regarding the trash and recycling services.

ACTION NECESSARY FROM EXECUTIVE SESSION:

A motion was made by Councilman Pezzulli to file a petition of review for the environmental assessment report issue on the McKinney airport. Councilwoman Price seconded that motion, with all in favor.

A motion was made by Mayor Pro Tem Sommers to appoint a sub committee to act on behalf of the town council to discuss architectural and minor landscape items with developers of the Village at Fairview project; town council selected Ron Clary, Bill Wells, and Mary Price with alternates being Sim Israeloff and Brayton Campbell. Councilman Pezzulli seconded that motion, with all in favor. Mayor Israeloff and Councilwoman Price abstained from the vote.

A motion was made by Councilman Pezzulli to approve the land sale(s) of Lot 1 to Mike and Pennie Beauchamp and Lot 3 to James K Martin. Councilman Cunningham seconded that motion, with all in favor. Councilwoman Price abstained from the vote.

There being no other items for discussion, Mayor Israeloff adjourned the meeting at 10:02 p.m.

Sim Israeloff

SIM ISRAELOFF, MAYOR

ATTEST:

Michelle Lewis Sirianni

Michelle Lewis Sirianni, Town Secretary

TOWN OF FAIRVIEW