TOWN COUNCIL MEETING
MINUTES
March 4, 2008

The Town Council met in regular session on Tuesday, March 4, 2008 at 6:30 P.M. at Town Hall, 500 S. State 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; Town Manager John Godwin, Special Projects Coordinator Matt Donnell, Town Engineer James Chancellor, Planning Director Alan Efrussy, and Town Secretary Michelle Lewis Sirianni.

Mayor Israeloff called the meeting to order at 6:30 p.m. and declared a quorum was present.

EXECUTIVE SESSION: At 6:33 pm the council recessed into executive session to discuss: McKinney versus Fairview, Economic Development, and Real Estate.

At 7:43 pm Mayor Israeloff reconvened into the regular session and requested everyone to stand for the Pledge of Allegiance.

CONSENT AGENDA: All items listed under the 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 February 5 regular council meeting. B) Adopt an ordinance calling the May 2008 general election. C) Adopt an ordinance declaring certain portions of FM 1378 to be within the town limits. D) Adopt an ordinance defining the town's water utility leak adjustment policy. E) Authorize the sale of Pilkington lot #2 to the highest bidder. F) Appoint Paul Westbrook chair of the parks and recreation advisory board. G) Authorize town's membership in Buy Board purchasing pool. H) Adopt an ordinance providing for payment, discharge, and redemption of the Town's General Obligation Refunding Bonds, Series 2003; and enacting other provisions relating to the subject. I) Adopt a resolution to authorize the law firm of Wolfe, Tidwell & McCoy, LLP to appear on its behalf in pending eminent domain suit against H. Roger Lawler. J) Adopt a resolution clarifying intent of resolution 2006-7-11-02, finding a public necessity for the acquisition of property under Chapter 314 of the Texas Transportation code.

Councilwoman Price made a motion to approve items A-J. Councilman Pezzulli seconded that motion, with all in favor.

DOUBLE EAGLE INVESTMENTS LLC ANNEXATION: Adopt an ordinance annexing 24.287± acres, known as the Double Eagle Investments LLC property, further described as Abstract A0691 of the George Pilant survey, Block 2, Tract 30, 3.06 acres; Abstract A0317 of the Robert Fitzhugh survey, Tract 11, 10 acres; Abstract A0317 of the Robert Fitzhugh survey, Tract 10, 7.727 acres; and Abstract A0791 of the Samuel Sloan survey, Block 2, Tract 97, 3.5 acres.

Mayor Israeloff opened discussion to council members. Councilman Mattli asked if the ordinance is approved, does the town run the risk on whether the zoning will remain the same. Mr. Godwin responded that the voluntary annexation gives the town more control once the property is annexed and the applicant is aware of any risks.

Councilman Cunningham made a motion to approve the ordinance annexing 24.287± acres, known as the Double Eagle Investments LLC property. Mayor Pro Tem Sommers seconded that motion, with all in favor.

REVISED CONCEPT PLAN SLOAN CREEK PHASE III: Conduct a public hearing and consider the Revised Concept Plan for the Sloan Creek Estates Subdivision, Phase III, within the Commercial Planned Development District (CPDD), Zone L, located east of State Highway 5 and north of Sloan Creek.

Mr. Efrussy introduced this item stating that the applicant has resubmitted a plan that contains 17 single-family lots as opposed to the council approved 7 lots at a minimum of 1.0 acre in size. Mr. Efrussy stated that this submittal does conform to the technical requirements within the CPDD for Concept Plans. Mr. Efrussy stated that staff still does not support this plan because of it not being consistent with the number of lots and minimum lot sizes that were approved by council in 2003 and due to the policy regarding single-family lot sizes. Mr. Efrussy stated at the February 14, 2008 meeting, the planning and zoning commission unanimously recommended denying without prejudice.

Mr. Douglas, applicant, stated that he has taken into consideration the concerns from the residents of Sloan Creek as well as the commission members and town staff. Mr. Douglas stated that additional open space has been added and the side yards have been widened. Mr. Douglas presented to town council a new concept plan. Mr. Douglas stated that this new concept plan has not been seen by town staff or the planning and zoning commission. Mr. Douglas stated this new concept plan consists of 14 versus the 17 lots and are a half acre or larger in size. Mr. Douglas stated that in his opinion this concept plan addresses the concerns of the residents and staff.

Mayor Israeloff opened discussion to the public. Mike VanNatta, 5141 Stream Crest Way, stated that in his opinion this concept plan is more appealing and will provide additional funding to the homeowners association.

Mayor Israeloff opened discussion to the council. Councilman Kasian asked if this was the first time the plat was being seen by staff. Mr. Douglas responded 'yes' it is the first time the plan is being seen, but he is willing to resubmit back through staff and the planning and zoning commission. Mr. Godwin added that if the council has an interest in this plan, he recommends that the plan be sent to staff for review, denial, or sent back to the planning and zoning commission for review.

Mayor Pro Tem Sommers stated that the initial approval of the one acre lots was to provide a buffer and create larger density. Mayor Pro Tem Sommers commented that the idea has not changed. Mayor Pro Tem Sommers stated that the large lots that were agreed upon are not being seen in the new plan and the new plan is not in line with what the council initially approved. Councilman Cunningham asked if the neighboring property owner is concerned with the access. Mr. Douglas responded that he has not had any feedback from the neighboring property owner.

Councilman Mattli stated that he recommends that the plan be sent back to the planning and zoning commission to get their opinions. Councilman Mattli stated that he would also like to have feedback from the residents who live on Pond Bluff and/or Pond View.

Councilman Pezzulli stated that he is not willing to change from the initially approved plan. Mayor Israeloff agreed with councilman Pezzulli.

Councilwoman Price asked what the purpose was to reconfigure the lots and if these lots are different in size, and would new model homes be built or available for these lots. Mr. Douglas responded that at this time, he does not know if a new model would be available or built.

Councilman Kasian stated that he recommends denial and is not willing to entertain the new plan.

Councilman Pezzulli made a motion to deny the Revised Concept Plan for the Sloan Creek Estates Subdivision, Phase III. Mayor Pro Tem Sommers seconded that motion, with all in favor.

REVISED SITE PLAN SLOAN CREEK: Conduct a public hearing and consider the Revised Site Plan for the Sloan Creek Estates Subdivision, Phase III, within the CPDD, located east of State Highway 5 and north of Sloan Creek.

Mr. Efrussy stated the same comments apply as with the Concept Plan.

Mayor Israeloff opened discussion to the public. Michael VanNatta, 5141 Streams Crest, requested council to consider a straw vote to see what the residents of Sloan Creek would like to have in their subdivision. Mr. VanNatta stated that in his opinion council is denying the chance for their neighborhood to be completed.

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

Councilman Kasian made a motion to deny the Revised Site Plan for the Sloan Creek Estates Subdivision, Phase III. Mayor Pro Tem Sommers seconded that motion, with all in favor.

REVISED PRELIMINARY PLAT SLOAN CREEK: Consider a Revised Preliminary Plat for the Sloan Creek Estates Subdivision, Phase III, within the CPDD, located east of State Highway 5 and north of Sloan Creek.

Mr. Efrussy introduced this item stating that although this preliminary plat has met the technical requirements of the Subdivision Ordinance, staff still recommends denial and same comments apply.

Councilman Mattli made a motion to deny the Revised Preliminary Plat for the Sloan Creek Estates Subdivision, Phase III. Mayor Pro Tem Sommers seconded that motion, with all in favor.

RE-ZONING 13.9 ACRE TRACT TO GB: Conduct a public hearing and consider re-zoning a 13.9 acre tract at the northwest corner of Stacy Road and Meandering Way, from One-Acre Ranch Estate Zone (RE-1) to the General Business Zone (GB).

Mr. Efrussy introduced this item stating that at the February 28, 2008 planning and zoning meeting, a public hearing was held. At that meeting, staff stated that since the Future Land Use Plan recommends single-family residential use on this property, the GB re-zoning request would be incompatible with the Comprehensive Plan. Mr. Efrussy stated staff therefore did not support the applicant's request and recommended denial. Mr. Efrussy noted that Mr. Newton, an attorney representing an applicant, was not in attendance due to a conflict and expressed his wishes for council to pass or table the item.

Mayor Israeloff suggested the item proceed since it was advertised.

Mayor Israeloff opened discussion to the public. Brian Gelles, 680 Forest Oaks, stated that he strongly agrees to keep this area residential.

Kenneth Combs, 710 Forest Oaks, stated that he would like to see this area kept open. Mr. Combs stated that commercial areas are nice to look at, but that many businesses come and go and is not something he'd like to see in Fairview on this property.

Phillip Walden, 381 Oakridge Drive, requested the town to stay with its Master Plan. Mr. Walden stated he supports the towns plan as currently written.

Kelley Seymore, 1160 Sloan Crossing, stated that he supports the denial of placing a business on this subject property. Mr. Seymore stated that he doesn't want to see commercial in a residential district.

Wayne Johnson, 631 Forest Oaks, stated the town is seeing development while maintaining its country surroundings and beautiful homes. Mr. Johnson stated that he would be opposed to this proposed development.

Paul Myers, 741 Timberwood Lane, stated that he is with keeping Fairview country and would not like to see this zoning changed.

Bob Hughes, 710 Oakdale, stated that at the last public hearing there was no one in favor of this re-zoning and would like to see council deny this request.

Mayor Israeloff opened discussion to council. Councilman Kasian stated that this re-zoning request has been denied twice by the planning and zoning commission and his opinion has not changed.

Councilwoman Price made a motion to deny the re-zoning of a 13.9 acre tract at the northwest corner of Stacy Road and Meandering Way, from One-Acre Ranch Estate Zone (RE-1) to the General Business Zone (GB). Councilman Pezzulli seconded that motion, with all in favor.

DOUBLE EAGLE INVESTMENTS 24.2± ACRE ZONING: Conduct a public hearing and consider zoning un-annexed and unzoned property consisting of 24.2± acres commonly known as the Double Eagle Investments Inc. property, generally located east of Country Club Road (FM 1378), south of Sloan Creek, north of Farmstead Rd., and west of Kentucky Lane, to the Planned Center Zoning District (PC).

Mr. Godwin recommended this item be passed over until further review was completed by staff.

Mayor Israeloff passed over the item.

DOUBLE EAGLE INVESTMENTS 21.6± ACRE ZONING: Conduct a public hearing and consider zoning annexed but unzoned property consisting of 21.6± acres commonly known as the Double Eagle Investments Inc. property, generally located east of and adjacent to Country Club Road (FM 1378), south of Sloan Creek, north of Farmstead Rd., and west of Kentucky Lane to the Planned Center Zoning District (PC).

Mr. Godwin recommended this item be passed over until further review was completed by staff.

Mayor Israeloff passed over the item.

HARPER PROPERTY 27.87± ACRES: Conduct a public hearing and consider re-zoning 27.87± acres commonly known as the Harper property, generally located east of and adjacent to Farmstead Rd., north of Stacy Rd., west of Kentucky Lane, and south of Sloan Creek, from the Agricultural Zoning District (AG) to the Planned Center Zoning District (PC).

Mr. Godwin recommended this item be passed over until further review was completed by staff.

Mayor Israeloff passed over the item.

LOVEJOY ELEMENTARY PLAYGROUND RELOCATION: Conduct a public hearing and consider amending an approved Site Plan for the approved Conditional Use Permit for the Lovejoy Independent School District's Elementary School located at the northwest corner of Hart Road and Stoddard Road, to re-locate the playground and playground equipment from the north side of the school to the east side of the school (Zoned RE-3).

Ms. Lewis Sirianni introduced this item stating that the Lovejoy Elementary School, which is currently under construction at the northeast corner of Hart Road and Stoddard Road, is requesting relocation of the playground and its associated equipment. Ms. Lewis Sirianni stated that the relocation will provide an open field for children to play, is closer proximity to the cafeteria, courtyard, and gymnasium, and is further away from the northern property line and neighboring property owners. Ms. Lewis Sirianni stated that town staff has reviewed all documents and supports their request. Representatives from Lovejoy ISD were in attendance.

Mayor Israeloff opened discussion to the public. No comments were made.

Mayor Israeloff opened discussion to the council. Mayor Pro Tem Sommers stated that she likes the idea of relocating the playground.

Councilwoman Price made a motion to approve the relocation of the Lovejoy Elementary playground and its associated equipment. Councilman Mattli seconded that motion, with all in favor.

RICCARDI PROPERTY 8.93± ACRES: Conduct a public hearing and consider zoning property that is annexed but unzoned, known as the Riccardi property, consisting of 8.93± acres, generally located north of and partially adjacent to Meandering Way, east of State Highway 5, and south of the Sloan Creek Estates Subdivision, to the Two-Acre Ranch Estate Zone (RE-2).

Mr. Donnell introduced this item stating that the Future Land Use Plan indicates Residential Estate for single family detached houses on large lots from one to 1.99 acres. Mr. Donnell stated that the zoning in this immediate area is RE-2 and a portion of this subject property is already zoned RE-2. Mr. Donnell stated that the Future Land Use

Plan can be amended at a later date to reflect the changes made in zoning and that the RE-2 zoning will further provide zoning consistency.

Mayor Israeloff opened discussion to the public. No comments were made.

Mayor Israeloff opened discussion to the council. Councilwoman Price asked if there were any improvement plans for Meandering Way. Mr. Godwin responded that there are not any in the Capital Improvement Plan at this time.

Councilman Cunningham made a motion to approve the zoning of property that is annexed but unzoned, known as the Riccardi property, consisting of 8.93± acres, generally located north of and partially adjacent to Meandering Way, east of State Highway 5, and south of the Sloan Creek Estates Subdivision, to the Two-Acre Ranch Estate Zone (RE-2). Councilman Kasian seconded that motion, with all in favor.

TILLINGHAST PROPERTY 15.0170 ACRES: Conduct a public hearing and consider zoning property that is annexed but un-zoned, known as the Tillinghast property, consisting of 15.0170 acres, generally located north of and adjacent to Meandering Way, east of State Highway 5, and south of Sloan Creek Estates Subdivision, to the Two-Acre Ranch Estate Zone (RE-2).

Mr. Donnell introduced this item stating that the Future Land Use Plan indicates Residential Estate for this property for Single-Family large country lots on one to 1.99 acres. Mr. Donnell stated the current zoning in the immediate area is RE-2. Mr. Donnell stated that the Future Land Use Plan can be amended at a later date to reflect the changes made in zoning and that the RE-2 zoning will further provide zoning consistency.

Mayor Israeloff opened discussion to the public. No comments were made.

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

Councilwoman Price made a motion to approve the zoning of property that is annexed but un-zoned, known as the Tillinghast property, consisting of 15.0170 acres, generally located north of and adjacent to Meandering Way, east of State Highway 5, and south of Sloan Creek Estates Subdivision, to the Two-Acre Ranch Estate Zone (RE-2). Councilman Kasian seconded that motion, with all in favor.

TELECOMMUNICATIONS PRESENTATION: Presentation by telecommunications advisory committee.

Mr. Adler and Mr. Pappion, members of the telecom committee, highlighted on the following based on 346 responses received by a survey that was completed to provide feedback on the town's current telecommunications:

- Voice Service Providers: 43% AT&T; 46% Grande Communications
- TV/Video Providers: 35% Grande Communications; 30% DirecTV
- Internet Providers: 42% AT&T; 44% Grande Communications
- Satisfaction: TV- 55%, Internet 45%, Landline Service 49 %, Overall Telecom Services 42%
- Online Usage
  - Use of Town website – 65% said "Sometimes"
  - Use of Allenonline.com – 79% have "Never" used this site
  - Would utilize Pod-casts of Town business – 56% would "Probably" use as a resource
  - Member of online discussion group – 18% "Yes", 66% "No"

- Computer Usage: 66% 1-2 per household
- Results:
  - Residents want more choices, especially in Heritage Ranch where Grande is only option.
  - Price was driven by the high number of comments calling for competition to impact price.
  - Quality/Reliability received high ranking of importance
  - Improved satisfaction overall

- Improvements:
  - "Mini" surveys
  - Dedicate telecom page on town website
  - Provide aggregate results to service providers to enable service and offering improvements

AWARD BID FOR IMPROVEMENTS TO STODDARD ROAD: consider awarding the low bid for construction of improvements to Stoddard Road.

Mr. Godwin introduced this item stating that the town received a bid from Gilco Construction Company in the amount of $823,469.50. Mr. Godwin stated that the company has demonstrated its qualifications to construct municipal paving and drainage projects. Mr. Godwin recommended awarding the bid to Gilco Construction Company.

Councilwoman Price asked if the school board was seeking assistance with this improvement. Mr. Godwin commented 'yes' that the school is seeking assistance and the town had communicated sharing cost on the turn lane, but the superintendent was not in favor.

Councilman Kasian made a motion to award the bid to Gilco Construction Company for the improvements to Stoddard Road. Councilman Pezzulli seconded that motion, with all in favor.

MONARCH PARK IMPROVEMENTS: Consider approval and authorize procurement of improvements to Monarch Park.

Mr. Godwin introduced this item stating that the park board has discussed with staff as well as met with staff and residents of Summerhill Farms to recommend improvements to Monarch Park. Mr. Godwin stated that the recommended improvements include a large play facility, more swings, a trashcan, a grill and a second climbing "rock" feature. Mr. Godwin stated that the costs include a new pad site for the additional swings and all installation costs. The project was not bid by the town, but available through the Buy Board purchasing cooperative. Mr. Godwin recommended awarding a contract for construction of a playground to LSI in an amount not to exceed $91,000.00.

Councilwoman Price made a motion to approve awarding a contract for the construction of a playground to LSI in an amount not to exceed $91,000.00 for Monarch Park. Councilman Mattli seconded that motion, with all in favor.

TOWN'S INVESTMENT POLICY: Consider revision to the town's investment policy.

Mr. Godwin introduced this item stating that municipalities are required by law to have an investment policy and to send one employee to periodic investment practices training. Mr. Godwin noted that he had previously attended the training, but the Accounting Manager, Teresa Ramirez has done so more recently. Mr. Godwin stated that due to fund size, in-house expertise, and staffing levels, we do not actively manage most of our investments and place a bulk of our inactive monies into governmental pools, which is common for most small cities.

Councilman Mattli expressed that since the town has investments in three pools, he would like to possibly see the town place the monies in other investments to retrieve better returns. Councilman Pezzulli asked if there was a set return on the current investments. Ms. Ramirez responded that on average the return is 3.37%. Ms. Ramirez commented that the town could self direct some funds, but at this point in time, time and expertise are factors. Ms. Ramirez stated that the town in currently investing 80-82% in pools. The town currently is using TexPool, TexStar, and Lone Star. Mayor Israeloff asked if these were used for different purposes and if there is a maximum amount to invest in a pool. Ms. Ramirez responded that the pools allow for easier access and are evenly used by the town.

DEVELOPMENT PROJECTS & ORDINANCES: Receive town manager's monthly report on development and ordinances.

Mr. Godwin highlighted the following developments in the town:

- Pleasantville: The retirement housing plan to P&Z for discussion in December, action in March; possibly to council in May. There has been little movement.
- Rickman/Harper: Request present to P&Z in February, tabled to March 13.

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.

Kevin McCarthy, 480 Homeplace, commented that he appreciates council's timely responses by email, especially due to their busy schedules.

Kerschield Smith, 470 Country Club Road, commented that he had concerns regarding the drainage, traffic, and density issues related to Farmstead Road. Mr. Smith stated that he appreciates the town's efforts and how they have addressed each issue.

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 Lewis Sirianni, Town Secretary

TOWN OF FAIRVIEW