TOWN COUNCIL MEETING
MINUTES
May 6, 2008

The Town Council met in regular session on Tuesday, May 6, 2008 at 6:30 P.M. at 500 S. State Hwy 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, Town Engineer James Chancellor, Planning Director Alan Efrussy, Economic Development Director Ron Clary 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 6:32 pm the council recessed into executive session to discuss: McKinney versus Fairview, Economic Development, and Real Estate.

At 7:48 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 April 1 regular council meeting. B) Accept the 2006-07 financial audit. C) Accept public park improvements (The Meadows) at Villas in the park. D) Approve a revised Collin County mutual aid agreement. E) Approve an ordinance amending the 2007-08 budget to account for fire department donations. F) Approve a lease agreement from TierOne for tower space. G) Approve and adopt resolution clarifying the intent of Resolution 2008-3-4H. H) Approve an ordinance annexing the Roger Lawler property consisting of 84.45± acres, generally located east of Highway 75, west of State Highway 5, and north of Stacy Road, as described in more detail as follows: ABS A0701 Phillips, George, Tract 20, 5.234 Acres; ABS A0701 Phillips, George, Tract 17, 9.0 Acres; ABS A0701 Phillips, George, Tract 16, 21.6184 Acres; ABS A0719 Phillips, Jonathan, Tract 26, 37.01 Acres; ABS A0275 Dixon, Joseph, Tract 4, 11.59 Acres.

Councilman Mattli requested to pull item B for further discussion.

Mayor Pro Tem Sommers made a motion to approve items A, C, D, E, F, G and H. Seconded by Councilman Kasian, with all in favor.

Councilman Mattli stated that in regards to item B that he is confused regarding the compliance letter written by the auditors. Councilman Mattli stated that the last sentence on page 48 conflicts with the next page. Councilman Mattli would like to see this corrected, explained or deleted from the letter. An auditor representing Gregg & Company stated that the sentence should not be there and they will correct and reissue a corrected letter.

Councilman Mattli made a motion to approve item B with the understanding that the last sentence on page 48 of the audit will be deleted and a new letter issued. Seconded by Councilwoman Price, with all in favor.

ZONING STODDARD PROPERTY: Conduct a public hearing and take action regarding zoning of the Stoddard property, consisting of 8.23± acres, generally located south of and adjacent to Country Club Road (FM 1378), east of Stoddard Road and west of Englenook Court, to the Three-Acre Ranch Estate Zone (RE-3).

Ms. Lewis Sirianni introduced this item stating that the Stoddard property consisting of the 8.23± acres is currently annexed, but unzoned. Ms. Lewis Sirianni stated that the Future Land Use Plan within the Comprehensive Plan indicates that this subject property is classified as Residential Estate. Ms. Lewis Sirianni noted that the property south consisting of 23.44 acres is contiguous to the subject property and has the same ownership. The 23.44 acres was annexed and zoned in October 2007. Ms. Lewis Sirianni commented that at the P&Z meeting on April 10th that no one spoke in favor or opposed to the zoning and the commission members unanimously approved the RE-3 zoning. Ms. Lewis Sirianni stated that town staff also recommends zoning this property to the RE-3 zoning district.

Mayor Israeloff opened discussion to the public. No comments were made and the public hearing was closed.

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

Councilwoman Price made a motion to approve the zoning of the Stoddard property, consisting of 8.23± acres, generally located south of and adjacent to Country Club Road (FM 1378), east of Stoddard Road and west of Englenook Court, to the Three-Acre Ranch Estate Zone (RE-3). Seconded by Mayor Pro Tem Sommers, with all in favor.

ZONING HUGHES PROPERTY: Conduct a public hearing and take action regarding zoning of the Hughes property, consisting of 1.0 acre, generally located west of and adjacent to Country Club Road (FM 1378), south of and partially adjacent to Stone Creek Drive, east of Maple Creek Drive, and west of Camino Real, to the One-Acre Ranch Estate Zone (RE-1).

Ms. Lewis Sirianni introduced this item stating that the Hughes property consisting of 1.0 acre is currently annexed, but unzoned. Ms. Lewis Sirianni stated that the Future Land Use Plan within the Comprehensive Plan indicates that this subject property is classified as Residential Estate. Ms. Lewis Sirianni commented that at the P&Z meeting on April 10th that no one spoke in favor or opposed to the zoning and the commission members unanimously approved the RE-1 zoning. Ms. Lewis Sirianni commented that at the P&Z meeting on April 10th that the commission members unanimously approved the RE-1 zoning. Ms. Lewis Sirianni stated that town staff also recommends to zoning this property to the RE-1 zoning district.

Mayor Israeloff opened discussion to the public. No comments were made and the public hearing was closed.

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

Councilman Pezzulli made a motion to approve the zoning of the Hughes property, consisting of 1.0 acre, generally located west of and adjacent to Country Club Road (FM 1378), south of and partially adjacent to Stone Creek Drive, east of Maple Creek Drive, and west of Camino Real, to the One-Acre Ranch Estate Zone (RE-1). Seconded by councilman Kasian, with all in favor.

SUP / CONCEPT PLAN PLEASANTVILLE: Conduct a public hearing and take action regarding a Special Use Permit to allow Senior Housing and Retirement Housing for a proposed Concept Plan for the Pleasantville retirement development, generally located west of and adjacent to state Highway 5, and north of and adjacent to the Ranchette Estates subdivision, comprising of 30.9± acres within the Commercial Planned Development District (CPDD), Zone D.

Mayor Israeloff stated that this item is being passed over and no action will be taken.

SITE PLAN PLEASANTVILLE: Conduct a public hearing and take action regarding a proposed Site Plan for the Pleasantville development.

Mayor Israeloff stated that this item is being passed over and no action will be taken.

PRELIMINARY PLAT PLEASANTVILLE: Consider a Preliminary Plat for the Pleasantville development.

Mayor Israeloff stated that this item is being passed over and no action will be taken.

ALTERNATE WORKING HOURS CPDD: Consider adopting an ordinance permitting alternative working hours under certain conditions.

Mr. Godwin introduced this item stating that this would only apply to the commercial project located within the CPDD zone. Mr. Godwin stated that the town cannot give specific exemptions to any single developer or builder. However, the ordinance can be amended to permit certain types of work in certain locations under certain conditions. Mr. Godwin stated that the proposed amendment would allow working seven days per week from 6:00 a.m. to 9:00 p.m. for any commercial project located within the CPDD zone and is a minimum of 1,000 feet from any occupied housing.

Councilman Kasian asked how the 1,000 feet was selected. Mr. Godwin responded that the 1,000 feet seemed reasonable and consistent with existing conditions. Councilwoman Price asked how many football fields was 1,000 feet. Mr. Godwin responded that is roughly three and a third football fields and that the nearest residential area is the Villas in the Park subdivision. Mayor Pro Tem Sommers asked if the hours were the same as the City of Allen. Gar Herring, MG Herring, responded that the hours are consistent if not more restrictive than surrounding cities. Mr. Herring stated that the City of Allen has only a 500 feet distance requirement. Mayor Israeloff commented that 1,000 feet is a good accommodation. Councilman Mattli stated that he is in agreement with the distance, but 6:00 a.m. seems early for a Sunday and possibly shortening this would be a concession for the residents. Councilman Cunningham stated that his concern would be the safety of the workers. Councilman Cunningham stated that he isn't thrilled with working on Sunday, but the extra day would allow them to finish the project sooner.

Estelle Jenkins, 368 Parkvillage, representing the HOA for the Villages of Fairview stated that she has met with several residents and they would like to strongly discourage any work on Sundays due to the noise and because of the hours requested. The residents of the Villages of Fairview feel that 6 a.m. is too early, especially for a Sunday. Becky Drew, 251 Latham, stated that she may be willing to make a concession if the hours were pushed back to possibly 9 a.m. versus 6 a.m. Mayor Israeloff asked the residents if the council amended the ordinance to say 9 a.m., would that be a sufficient compromise. Mayor Pro Tem Sommers stated that it seems that the longer hours are needed in order to complete the project and that her concern would be the weather extremities to the workers.

Mayor Israeloff asked what if they meet in the middle and propose 8:00 a.m. The residents and council were in agreement to modifying the ordinance to have Sunday working hours from 8:00 a.m. to 9:00 p.m.

Councilman Cunningham made a motion to approve an ordinance permitting alternative working hours under certain conditions. Seconded by councilman Kasian, with all in favor.

ALLIED WASTE-ANNUAL COST REQUEST: Consider the annual cost adjustment request from Allied Waste.

Mr. Godwin introduced this item stating that by contract, Allied Waste may receive an annual increase each May equal to the consumer price index for the DFW area. Mr. Godwin stated that they are also entitled to pass through any landfill increases which they may be faced. Mr. Godwin stated that in addition to the increases which they are contractually entitled, Allied has also asked the council to consider a fuel cost adjustment of 5%. Mr. Godwin stated that if approved, the increase would add another $0.58 per customer per month. Mr. Godwin commented that this seemed reasonable to give a portion of this requested increase considering the services they offer and how much they pick up with the Bulk/Brush pick up.

Councilman Kasian stated that he is frugal, cheap and a dinosaur and after comparing costs, it seems to be quite a bargain.

Councilman Kasian made a motion to approve the $1.34 per family increase to Allied Waste. Seconded by Councilwoman Price, with all in favor.

GARBAGE COLLECTION DAY: Discuss and consider moving garbage collection day to take advantage of cleaner trash vehicles.

Councilman Mattli stated that on his recent visit to the Allied Waste facility, he had the opportunity to talk to Brenda Lalonde, Business Development Manager and Reid Donaldson, General Manager. Councilman Mattli commented that Allied waste has newer, cleaner vehicles that could possibly service the town and be more environmentally friendly. Councilman Mattli added the day that these trucks are available is on Mondays.

Ms. Lalonde stated that the company did purchase new trucks that are available on Mondays. Ms. Lalonde commented that the company purchases new trucks every year and can keep them up to eight to ten years. Ms. Lalonde stated that the state is applying stricter regulations to their emission standards, which is in turn increasing the cost of the usage of trucks. Ms. Lalonde stated that three trucks currently service the town for trash collection.

Mayor Israeloff asked if it was possible to put the town's name on a list for a newer truck in the contract or request one when available. Councilwoman Price asked if they did change their service day to Monday, would that also include the recycling. Mayor Pro Tem Sommers added that she also likes the newer trucks and also asked if the town did change a service day to Monday, how would that affect recycling. Mayor Pro Tem Sommers asked how often and when new trucks are are ordered and when do they arrive.

Ms. Lalonde commented that she would try to have to talk with their operations department to see if it would be possible to service routes so that the town could use the new trucks. Ms. Lalonde noted that she would coordinate this so that the recycling would stay the same as trash collection. Ms. Lalonde stated that once she was able to compile this information, she would communicate it with the town.

Mayor Israeloff suggested that they roll this topic to next month when the town can collect more information about recycling and brush. Councilman Mattli commented that he would like the trash and recycling day to stay the same. Councilman Mattli stated that if the service day was changed to Monday, then Heritage Ranch would stay on Tuesday and would not change their trash collection.

ENVIRONMENTAL ADVISORY COMMITTEE: Discuss the activities of the environmental management advisory committee.

Councilman Pezzulli stated that the town has a very active advisory committee. Councilman Pezzulli stated that he wanted to share some ideas thus far generated by the committee.

- Set up a "Green Column" in the monthly newsletter that would discuss energy/water savings tips for the community. Councilman Pezzulli stated that if there was room each month that they'd like to add little tips for the residents to conserve or make their residences more environmentally friendly. Mayor Israeloff stated that he is supportive of adding the column if there is room.
- Conduct and energy audit for the town that will give us a baseline on energy usage by the town as well as helping provide recommendations for going forward in energy conservation policies. Mayor Israeloff asked if there was a fee to do the audit. Councilman Pezzulli responded that he knows someone that is willing to do it gratis.
- Conduct a "Water Trendline" to show citizens the amount of water being used in Fairview and compare it with water usage nationally to encourage water conversation. Mayor Israeloff stated that this is a good idea, but wouldn't want to publish anything negative. Councilman Mattli suggested comparing with similar towns.
- Have the town contract with a Hazmat contractor to set up a collection station for paints, gasoline, diesel, etc. so that we can safely collect these items and discourage citizens from simply pouring them onto the ground. Brenda Lalonde, Allied Waste, commented that as an example, most recently a city had a day for residents to drop off hazardous waste. Ms. Lalonde stated that approximately1600 cars passed through and was strictly a one day event and the fee was $120,000. Ms. Lalonde stated similarly the City of Parker recently had an event and they had 900 residents and was also a one day event and the cost was $20-25,000.00. Ms. Lalonde stated that residents may also drop off their waste at the facility located on Plano Road and the fee is $95 and is based on pounds. Mr. Godwin commented that handling hazardous waste is a big deal and there are certain procedures that must be followed. Mayor Pro Tem Sommers asked if the town would be willing to pay the cost or have the cost subsidized. Mayor Israeloff

suggested that the town explore bids and acquire some quotes on having a place for residents to drop off their hazardous materials.

EMPLOYEE PTO POLICY: Discuss a personal time off policy for town employees.

Mr. Godwin introduced this item stating that the current town policy provides employees ten days per year for sick leave and ten or more days (depending on seniority) for vacation leave. Mr. Godwin stated that in order to encourage equity among employees, the town is investigating a personal time off policy in which sick and vacation leave would be combined. Mr. Godwin stated in this way, every employee would get the same number of days each year regardless of how often he or she was ill. Mr. Godwin stated that the same total number of days off would remain unchanged. The change would come for those who took all of their sick days. They would get fewer days off in the future and those who used no or very little sick time would get more time off. Mr. Godwin stated that the staff is seeking feedback from the council on this proposed policy.

Councilman Cunningham stated that his current employer only allows forty hours maximum, which includes vacation and if more than 64 hours are taken, then they are terminated.

Councilwoman Price stated that her concern is for single parents. Councilwoman Price stated that she didn't want to see single parents are penalized and if an employee did not use their time, could extra compensation in the form of a bonus or merit increase be implemented.

Councilman Pezzulli commented that he likes the idea and the town should adopt it.

Councilman Mattli asked what happens when the employee exceeds their allotted time. Mr. Godwin responded that the employee would take time off without pay and if it becomes excessive than the town can demote and eventually terminate. Mr. Godwin added that the town has recently acquired added long term disability and employees may purchase short-term disability.

Mayor Pro Tem Sommers asked how many hours can the employee accrue. Mr. Godwin responded up to 240 hours and they are required to take at least half within the calendar year or they will start losing hours. Mayor Pro Tem Sommers commented that studies have shown that vacations are necessary for the employees or often time's companies require them. Mr. Godwin responded that when they employee resigns the sick time is not paid out, but the vacation time is.

The consensus of the council was that they are in favor of the policy and to explore it further.

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

Mr. Godwin introduced this item and stated that Councilman Mattli has created the language in Section D regarding certain authorized investments: 5) Repurchase agreements collateralized with U.S. Treasury securities, 6) SEC-registered, no-load money market mutual funds; and 7) state or local investment pools organized under the Interlocal Cooperation Act and authorized by Town Council. Mr. Godwin stated that the town has made changes based on Councilman Mattli's suggestions for types 5 and 6 and in regards to type 7; the town suggests setting a cap of 55% of funds in pools, with no more than 25% in any one pool. This will increase the town's reliance on CDs, since it currently has about 70% of funds in three pools.

Councilman Mattli commented that the percentage of investments has a lower threshold, but the 25% is fair and does limit the risk. Councilman Pezzulli asked if the town has assets security. Mr. Godwin responded that the town does not have assets security.

Councilman Pezzulli made a motion to approve revised investment policies. Seconded by Councilman Mattli, with all in favor.

WATER TOWER TELECOMMUNICATION LEASES: Consider the sale of certain town's water tower telecommunications use leases.

Mr. Godwin introduced this item stating that the town has been collecting lease payments of about $36,000 per year from Cingular and Verizon. Mr. Godwin stated that another company, Communications Capital Group has contacted the town and offered to purchase these leases for a lump sum of $321,000. Mr. Godwin stated that by accepting the offer, the town would have a large unanticipated amount to spend or invest. On the other hand, the total twenty-year value of the leases, if they reach maturity, would be $991,182. Mr. Godwin stated there is no recommendation from the staff, but rather something to consider.

Mr. Clary commented that the payments are close to present day value. Councilman Pezzulli asked what was the discount rate he used. Mr. Clary responded that he does not recall the rate of return. Councilman Mattli stated that in his opinion, it is a gamble and the town could possibly lose control over the leases since there is no guarantee on what could happen and would not be able to renegotiate. Councilman Cunningham commented that if the town does not know what will happen down the road, then he's not sure they should change anything. Mayor Israeloff stated that he is not keen on the idea. Mayor Israeloff responded that if the town was in dire straits than he'd maybe reconsider, but at this time, his opinion is to let the leases run their course. Councilman Kasian agreed.

The consensus of the council was at this time was to not proceed with the proposal from Communications Capital Group.

INTENT TO ISSUE CERTIFICATES OF OBLIGATION: Consider an ordinance amending the gas franchise between Fairview and Atmos Engergy Corporation to increase the discretionary franchise fee.

Mr. Godwin introduced this item stating that on an annual basis, the town sells certificates of obligation to fund various projects included in its capital improvements program. Mr. Godwin stated that these approved projects for 2008-09 include engineering for Stacy Road, a new town hall, and unspecified park land/improvements. Mr. Godwin stated that the total debt to be sold will be $3,500,000.

Councilman Kasian made a motion to approve a resolution directing publication of notice of intention to issue certificates of obligation and resolving other matters relating to the subject. Seconded by councilman Pezzulli, with all in favor.

RECONSTRUCTION MEANDERING WAY: Authorize advertising for bids for reconstruction of a portion of Meandering Way.

Mr. Godwin introduced this item stating that due to the growth of available roadway impact fee revenues and the better than expected cost estimate, the town is requesting to start the advertising of bids for the paving and drainage projects on both south and north Meandering Way. Mr. Godwin stated that the project will widen Meandering Way and also add a left-turn lane at its connection to Stacy Road, and includes an asphalt overlay north to the sharp curve to the west.

Councilman Kasian asked why add a left turn lane versus a right turn lane and thru lane. Mr. Chancellor responded that the plan has not been striped on the documents and that more traffic studies will be conducted before the final plan is submitted.

Councilwoman Price made a motion to approve the advertising for bids for reconstruction of a portion of Meandering Way. Seconded by councilman Mattli, with all in favor.

AMEND GAS FRANCHISE WITH ATMOS: Consider an ordinance amending the gas franchise between Fairview and Atmos Energy Corporation to increase the discretionary franchise fee.

Mr. Godwin introduced this item stating that pursuant to the recent Settlement Agreement, Atmos will approve the execution of or amendment to the franchise agreement to increase franchise fee payments to the individual municipality. Mr. Godwin stated the agreement, which caps the increase at a maximum of five percent of gross revenue for gas sold within town limits is effective for franchise payments made on May

1, 2008 or the effective date of the amendment changing the franchise agreement, whichever is later. Mr. Godwin stated that individual gas bills would go up about an average of $0.50.

Councilman Cunningham made a motion to approve an ordinance amending the gas franchise between Fairview and Atmos Energy Corporation to increase the discretionary franchise fee. Seconded by councilman Pezzulli, with all in favor.

MULTI-FAMILY UNITS IN CPDD: Discuss reducing the number and location of multi-family units allowed in the CPDD.

Mr. Godwin introduced this item stating that the town has recently discussed the possibility of decreasing some densities, especially for multi-family units. Mr. Godwin stated that at this time, 3,039 apartments have been approved in one form or another. Mr. Godwin stated that once a project is approved, the town cannot take them away from a developer because once approved, they have vested rights within the town. Mr. Godwin stated the council might consider ordinance changes that would legally restrict the number and/or location of additional apartment units and at such time should refer this issue back to the planning and zoning commission for their work recommendation.

Councilman Cunningham asked if the town has discussed this with the Herring group. Mr. Godwin responded that they will not need that many apartments and they have no concern at this time with the reduction of units. Mayor Pro Tem Sommers stated that she likes the idea of reducing this number.

The consensus of the council was that they were in favor of further discussion of the reduction of the number of multi-family units.

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

Mr. Godwin highlighted the following developments in the town:

- Pleasantville - Approved by Planning and Zoning on April 24th; possibly to council on June 3rd.
- Rickman/Harper – Delayed until at least June; not ready to move forward at the time.

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.

No additional comments were made.

At 9:26 p.m. town council recessed back into executive session.

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

There being no other items for discussion, Mayor Israeloff adjourned the meeting at 9:56 p.m.

Sim Israeloff
SIM ISRAELOFF, MAYOR

ATTEST:

Michelle Lewis Sirianni
Michelle Lewis Sirianni, Town Secretary

TOWN OF FAIRVIEW