

**TOWN COUNCIL MEETING
MINUTES
July 8, 2008**

The Town Council met in regular session on Tuesday, July 8, 2008 at 6:30 P.M. at 500 S. State Hwy 5, Fairview, Texas. Those present were Mayor Sim Israeloff, Mayor Pro Tem Mary Price, Council Members Jim Cunningham, Michael Pezzulli and Anton Mattli; Town Manager John Godwin; Economic Development Director, Ron Clary; Town Engineer, James Chancellor; Planning Director, Alan Efrussy; Special Projects Coordinator, Matt Donnell and Town Secretary Michelle Lewis Sirianni. Council members Carolyn Sommers and Ron Kasian were absent.

Mayor Israeloff called the meeting to order at 6:33 p.m. and declared a quorum was present.

FUTURE ANNEXATIONS: Conduct a public hearing and take action regarding amending the Code of Ordinance, Ch. 154: Zoning, Sect. 154.004: FUTURE ANNEXATIONS.

Mr. Efrussy introduced this item stating that the town has been zoning properties that have been annexed and unzoned. Mr. Efrussy stated that the current language in Chapter 154, Section 154.004 states that annexed property should be zoned, but does not state a precise zoning district whereby property annexed can be immediately zoned upon annexation. Mr. Efrussy stated that this type of situation provides a "time gap" whereby the town is unprotected by not having parcels zoned as soon as it is legally possible. Mr. Efrussy stated that the town would like to amend the language that has been approved by the town's annexation attorney to the following: "All territory hereafter annexed to the Town of Fairview, Texas shall be zoned; and said zoning classification shall be instituted simultaneously with the Town Council's annexation of all territory. Immediately upon said annexation, all properties that are between 1.0 and 1.99 acres in size shall be zoned RE-1; all properties that are between 2.0 and 2.99 acres in size shall be zoned RE-2; and all properties that are 3.0 acres in size and larger shall be zoned RE-3. The procedure for zoning on annexed territory shall conform to the procedure for zoning in accordance with the statutes of the State of Texas and the ordinances of the Town of Fairview. Said zoning shall be consistent with the Town of Fairview Comprehensive Plan." Mr. Efrussy stated that town staff recommends approval of the following language to amend Ch. 154, Section 154.004 in the Code of Ordinances.

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

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

Councilman Pezzulli made a motion to approve amending the Code of Ordinance, Ch. 154: Zoning, Sect. 154.004: FUTURE ANNEXATIONS. Seconded by Mayor Pro Tem Price, with all in favor.

REKIETA PROPERTY: Conduct a public hearing and take action regarding zoning the Rekieta property, consisting of 21.781 acres, generally located east of Sharon Road, and north of Red Oak Trail, to the Two-Acre Ranch Estate Zone (RE-2) and the Flood Hazard Zone (FH).

Ms. Lewis Sirianni introduced this item stating that this property is currently annexed but unzoned. Ms. Lewis Sirianni stated that of the 21.781 acres, 14.7± acres are located in the flood plain and the remaining 7± acres are classified in the Future Land Use Plan within the Comprehensive Plan as Residential Estate Country. Ms. Lewis Sirianni stated that at the June 12, Planning and Zoning meeting, the Commission unanimously recommended zoning the 14.7± acres to the Flood Hazard (FH) Zone and the 7± acres to the Two-Acre Ranch Estate Zone (RE-2). Ms. Lewis Sirianni stated that at that meeting, Mr. Rekieta, property owner, stated his wishes to zone this subject property to the One-Acre Ranch Zoning District (RE-1), which would be consistent with his other properties.

Mayor Israeloff opened discussion to the public. Tom Rekieta, 870 Sharon Road, stated that he has owned this property for about 36 years and thought it was already zoned to the One-Acre Ranch Estate Zone (RE-1). Mr. Rekieta stated that he would like to see the subject property zoned to the RE-1 district.

Mayor Israeloff opened discussion to the council members. Mayor Israeloff asked how the road access would affect the property if a road was placed through this subject property for access to the potential house(s) that could eventually be built. Mr. Chancellor responded that it would depend on the length of the road. Mr. Chancellor stated that if Mr. Rekieta had a plan for the property, town staff would have better knowledge and give more feedback concerning the plan, which would include the road access. Councilman Cunningham asked how much acreage would have to be taken out for the road access. Mr. Chancellor responded on a public access it is 50 feet, which would cause Mr. Rekieta to lose about an acre. Councilman Pezzulli stated that his concern is that if the subject property is zoned to the RE-2 district, Mr. Rekieta can possibly build three houses. Councilman Pezzulli stated that if the subject property is zoned to the RE-1 district, Mr. Rekieta can possibly build six houses. Councilman Pezzulli suggested amending the zoning to the One and One-Half Acre Ranch Estate (RE-1.5).

The council was in agreement to amend the zoning to the One and One-Half Acre Ranch Estate Zoning. Mayor Israeloff stated since the zoning recommendation is being lowered, a new public hearing will need to take place; therefore, no action is being taken.

GROSSCUP PROPERTY: Conduct a public hearing and take action regarding zoning property that is annexed but unzoned, known as the Grosscup property, consisting of 9.925± acres, generally located north of Red Oak Trail, and east of Sharon Road, to the Flood Hazard Zone (FH).

Mr. Donnell introduced this item stating that all of this subject property lies within the flood plain. Mr. Donnell stated that the Future Land Use Plan within the Comprehensive Plan indicates this property is classified as Flood Plain; therefore, the Planning and Zoning Commission, as well as town staff are recommending to zone to the Flood Hazard Zone.

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

Mayor Israeloff opened discussion to the council members. Mayor Pro Tem Price asked if there were any structures on the property. Mr. Donnell responded that there are no structures on this property. Councilman Cunningham asked if this was a recent flood plain map and would the property owner be able to do anything with this property? Mr. Chancellor responded that the property owner cannot have any structures habitable by humans or animals within the flood plain.

Councilman Pezzulli made a motion to approve the zoning of property that is annexed but unzoned, known as the Grosscup property, consisting of 9.925± acres, generally located north of Red Oak Trail, and east of Sharon Road, to the Flood Hazard Zone (FH). Councilman Mattli seconded that motion, with all in favor.

SUP W/IN CPDD FOR MANUFACTURING SOAPS, DETERGENTS AND CLEANERS: Conduct a public hearing and take action regarding a three-year extension of an existing Special Use Permit for the manufacturing of soaps, detergents and cleaners, within the Commercial Planned Development District (CPDD), located at 990 S. State Highway 5, suites 100 and 101.

Mr. Efrussy introduced this item stating that Mr. Jennings, the owner of the BlendTechs, L.L.C, is requesting that instead of a three year Special Use Permit re-application, that the town staff conducts an administrative review every three years, with staff having the final approval/denial authority. Mr. Efrussy stated that Mr. Jennings desires this procedure because he believes it will save all concerned time and effort. Mr. Efrussy stated that Mr. Jennings' re-application would be in 2011 and that the following would need to be in compliance by Mr. Jennings.

- Only soaps, detergents and cleaners shall be manufactured on this property;
- The SUP shall be granted only to Mr. Jennings as the owner and operator of this facility;

- This SUP shall be granted in three year increments, subject after each three years to review and recommendation by town staff and the planning and zoning commission, with the final approval by the town council;
- Mr. Jennings requested variation for the sign requirements in the CPDD shall be re-approved; said sign variation is reflected by the attached sign graphic which shall be made an exhibit to the ordinance;
- Mr. Jennings shall undergo an annual fire inspection (which is required for all businesses in Fairview) and resubmit his request for a special use permit in three years to correspond to the then current Fire Department requirements. For this new period (2011), the Fairview Fire Department will also require that the building BlendTechs currently uses must be in compliance with the fire code which is in effect on the date of his SUP re-application. This will include the requirement that he has installed a working, certified fire sprinkler suppression system, provided that utilities will be available to support the system, before his new application for the SUP will be approved by the fire department.

Mr. Efrussy stated that the Planning and Zoning commission along with town staff support; these recommendations for the extension of the Special Use Permit.

Mayor Israeloff opened discussion to the public. Mr. Jennings, owner, commented that he is in agreement with town staff regarding these requirements and would be happy to answer any questions council may have.

Mayor Israeloff opened discussion to the council members. Councilman Pezzulli asked what the impact is regarding certain materials used. Councilman Mattli asked what is used to manufacture the materials and/or ingredients used to make the chemicals. Mr. Jennings responded that all his materials and/or ingredients used are outlined in the notebook submitted, and he would not alter these contents unless he sought approval to change them through the town. Mayor Pro Tem Price asked who is responsible for the inspection of the chemicals and are the chemicals labeled. Mr. Jennings responded that the fire marshal inspects the chemicals and all of them are labeled.

Mayor Pro Tem Price made a motion to approve the three-year extension of an existing Special Use Permit for the manufacturing of soaps, detergents and cleaners, within the Commercial Planned Development District (CPDD) including the requirements listed above and to approve the project notebook as submitted and any variation to that would require approval by the fire chief or marshal or be in compliance with the current International Fire Code, located at 990 S. State Highway 5, suites 100 and 101. Seconded by Councilman Cunningham, with all in favor.

AMEND CPDD ORDINANCE, LAND USE MATRIX, ZONES A,D,E,H AND K:
MULTI-FAMILY UNITS: Conduct a public hearing and take action regarding amending the Commercial Planned Development District (CPDD) Ordinance, Exhibit C, Land Use Matrix, for zones A, D, E, H and K, regarding multi-family uses.

Mr. Godwin stated that this item will be passed over.

AMEND CPDD ORDINANCE, MAX NUMBER OF MULTI-FAMILY UNITS:

Conduct a public hearing and take action regarding amending the Commercial Planned Development District (CPDD) Ordinance, Exhibit C, that includes a maximum number of multi-family units within the CPDD.

Mr. Godwin introduced this item stating that planned development zoning is different than straight zoning. Mr. Godwin stated that at this time, 2,995 apartments stand approved in one form or another. This figure includes Fairview Center (1,999 concept planned units), the Skorburg red barn site (320 concept planned units), and The Village at Fairview (676 site planned units, including 116 above retail). Mr. Godwin stated that the ordinance would not change these numbers nor does it affect their vested rights or require a Special Use Permit. Mr. Godwin stated that it also has nothing to do with townhomes, as by definition townhomes are different than multi-family units. Mr. Godwin stated that an approved plan would not become a legal non-conforming use if the ordinance is approved. Mr. Godwin stated that the ordinance would simply state that no more apartments would be approved beyond those already approved as of the date of adoption of the amendment. Mr. Godwin stated that staff is recommending approval.

Mayor Israeloff opened discussion to the public. Doug Hurst, representing Sloan Creek and the Pete Fish family stated that his concern is that the ordinance would hurt commercial and/or office development. Mr. Hurst asked what would happen if a modification was done. Mr. Hurst expressed that if a change to a concept or site plan is done and there is no flexibility to move within the different land use zones, then it reduces the kinds of uses that are permitted within that zone. Mr. Hurst stated that in his opinion, he thinks the town should allocate the number of allowable units to each zone.

Jonathan Vinson, representing CW Kendall, stated that he is opposed to the Special Use Permit. Mr. Vinson stated that the language within the ordinance is confusing and in his opinion is putting limitations on the multi-family permissible uses. Mr. Vinson asked what would happen if any damage or destruction occurred on the property. Mr. Vinson asked if the developer would be able to rebuild on the property and if this occurred would that allow the concept plan to be amended.

Barry Knight asked what the process is when approving a concept plan. Mr. Knight asked if it is the same process as a zoning change and if the multi-family uses are constructed with the current planned development standards within the land use matrix.

Buddy Herring, president of MG Herring, stated that he fully agrees with the town and is not opposed to the recommendation by staff.

Mayor Israeloff opened discussion to the council members. Councilman Cunningham stated that he does not believe the town should set limits within zones. Councilman

Cunningham stated that he does agree to the 3500 units and that the market conditions will predict what the final outcome will be. Mayor Israeloff stated that it is preferable to adopt the ordinance and then support as amended. Mayor Israeloff stated that the town would always treat any developer equally with any request that would be made to amend a plan and since that the area is already lawfully zoned, nothing would be considered a non-conforming use.

Councilman Pezzulli made a motion to approve an ordinance amending the Commercial Planned Development District (CPDD) Ordinance, Exhibit C, that includes a maximum number of multi-family units within the CPDD. Seconded by Mayor Pro Tem Price, with all in favor.

ARCHITECT COMMITTEE: NEW TOWN HALL: Consider the appointment of individuals to serve on a committee to review architectural services for the construction of a new town hall facility.

Mr. Godwin introduced this item stating that council had requested at the last meeting to bring this item back for consideration of a committee to review architectural plans for the new town hall. Mr. Godwin stated that at this time, he followed up with the top three initial choices and they have agreed to meet with the committee.

Mayor Israeloff stated that Mayor Pro Tem Price and Councilman Kasian have already volunteered to be on the committee. Councilman Pezzulli asked if the Police Chief should be on the committee. Mr. Godwin responded that Chief Tolliver would be a good choice. Councilman Pezzulli also asked if Mr. Godwin would be on the committee. Mr. Godwin responded that he would also sit in with the committee and their discussions with the architects. Councilmen Mattli and Councilman Pezzulli also agreed to be on the committee.

Mayor Pro Tem Price made a motion to establish a committee to review architectural services for the construction of a new town hall. Seconded by Councilman Mattli, with all in favor.

SEPTIC MANAGEMENT ORDINANCE: Consider an ordinance revising local septic management requirements.

Mr. Godwin introduced this item stating that the town's current requirements are more stringent than the state's requirements. Mr. Godwin stated that any changes to town ordinances that are more stringent must be approved by the Texas Commission on Environmental Quality (TCEQ). Mr. Godwin stated that the amending ordinance would address the automated systems, requiring residents to permit systems with the town, requiring a professional to maintain all systems, increasing size requirements, and more inspections for commercial systems.

Councilman Pezzulli asked how the town gets the residents to maintain their systems. Councilman Cunningham asked if the town keeps a master list of the residents whom are on a system. Mr. Godwin responded that the residents must turn in their annual maintenance contracts and the town will send out letters if the contracts are not being submitted, as well as code enforcement following up with their inspections. Councilman Pezzulli commented that this is critical and important and the town needs to be stricter by requiring more inspections.

Councilman Pezzulli made a motion to approve an ordinance revising local septic management requirements. Seconded by Mayor Pro Tem Price, with all in favor.

APPOINTMENT OF INDIVIDUALS TO BOARDS/COMMISSIONS: Consider the appointment of individuals to serve on various boards and commissions.

Mayor Pro Tem Price asked if the council would consider postponing this item. Mayor Pro Tem Price suggested that the council create a review process where they have time to sit down and interview applicants.

Mayor Israeloff asked council to generate some suggestions and return them to Mayor Pro Tem Price.

No action was taken.

TRAFFIC SIGNAL SH 5 AND FM 1378: Discuss the need for a traffic signal at the intersection of SH 5 and FM 1378.

Councilman Pezzulli introduced this item stating that he would like to discuss and request to TXDOT the need for a traffic light at FM 1378 and SH 5. Councilman Pezzulli stated that with the new school opening and a new subdivision in McKinney that the traffic will increasingly get worse. Mr. Godwin stated that the council can request a warrant study from TXDOT, but the study does not guarantee approval.

Councilman Mattli asked if the town requests the study to be done and TXDOT says 'no', then how quickly the town can request for a new study to be conducted. Mr. Godwin responded that the town would have to wait roughly a year to request a new study. Mr. Godwin suggested that the council wait until the new school opens, which is only in a few weeks, and that he would start the process by submitting a letter to TXDOT in August.

Council was in agreement to submit a letter to TXDOT to begin the process to warrant a traffic study to be done at SH 5 and FM 1378.

WIND ENERGY: Discuss wind energy in Fairview and consider certain related possible expenditures.

Councilman Pezzulli introduced this item stating that he would like to discuss the possibility for the town to consider putting up a met tower. Councilman Pezzulli stated that the cost could range from \$20-25,000 to put up the tower. Councilman Pezzulli stated that a met tower would need to be in place for a year, but would help determine and generate weather data as well as supplying energy. Councilman Pezzulli stated it could be used long term for weather information, which could then have the potential to be streamed online.

Mayor Pro Tem Price asked where the tower would be placed. Mayor Israeloff asked if it could be placed on the water tower. Councilman Pezzulli responded that placing it on the water tower may alter the wind data, but the decision would be up to the town on where it would ultimately be placed. Councilman Mattli stated that would depend on the cost, but needs to be considered to observe and conserve on energy.

Mayor Israeloff asked Councilman Pezzulli and Mr. Godwin to check prices and use for consideration of the tower.

SERVING ALCOHOL AFTER HOURS: Consider an ordinance defining the hours of operation for restaurants serving alcoholic beverages.

Mr. Godwin introduced this item stating that as the commercial district continues to develop, the town will acquire more fine dining establishments. Mr. Godwin stated that in order for these establishments to operate and serve liquor, beer and wine with or after their meals, state law permits local jurisdictions to extend hours of operation by ordinance. Mr. Godwin stated that the town believes this is a reasonable request and recommends approving the extended hour's ordinance.

Councilman Cunningham stated that he is not wild about the idea. Councilman Cunningham stated that he checked some local surrounding restaurants in Allen just for comparison and there was only one that stayed open later. Mayor Israeloff stated that he thought that it was already allowed and has no problem with the idea of extending the hours. Councilman Pezzulli and Mattli were also in agreement as well as Mayor Pro Tem Price.

Mayor Pro Tem Price made a motion to approve an ordinance defining the hours of operation for restaurants serving alcoholic beverages. Seconded by Councilman Pezzulli, with a 4-0 approval. Councilman Cunningham abstained from the vote.

ACTION NECESSARY FROM EXECUTIVE SESSION:

Mr. Godwin recommended approval of the economic agreement pending a letter agreement from the Herring Group regarding apartments. Mr. Godwin stated that the second amendment as discussed in executive session was reviewed by legal counsel, Mr. Stan Lowry.

Councilman Mattli made a motion to approve the agreement. Councilman Cunningham seconded that motion, with all in favor.

2008-09 BUDGET: Discuss the 2008-09 budget.

Mr. Godwin stated that work session dates are scheduled to discuss the upcoming budget. Mr. Godwin stated that the dates in September need to stay as indicated to ensure compliance with state law and publication requirements. Mr. Godwin stated a couple of items to keep in mind that will reflect on the budget are as follows:

- The furnishings for the fire station will show in the operating budget.
- The purchase of a back up engine for the fire department will show in the operating budget.
- Tax rates:
 - Debt service – will be reduced
 - Operations/Maintenance – all revenues are down, especially in building permits. The 2008-09 will operate on a tighter schedule and are looking to add one to two police officers, but no other changes within the other departments.

Mr. Godwin stated that the overall tax rate is suggested to be reduced by .05¢.

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.

A resident expressed that the light located on Fm 1378 and Red Oak Trail was out again and asked for the town to replace the light.

There being no other items for discussion, Mayor Israeloff adjourned the meeting at 9:37 p.m.


SIM ISRAELOFF, MAYOR

ATTEST:


Michelle Lewis Sirianni, Town Secretary

