

**TOWN COUNCIL
MEETING MINUTES
March 3, 2009**

The Town Council met in regular session on Tuesday, March 3, 2009 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, Ron Kasian, Michael Pezzulli and Anton Mattli; Town Manager John Godwin; Planning Director, Alan Efrussy; Town Engineer, James Chancellor; Community Development Manager, Ray Dunlap and Town Secretary, Michelle Lewis Sirianni. Council member Carolyn Sommers was absent.

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

PRESENTATION SLOAN CREEK MIDDLE SCHOOL: Students of Sloan Creek Middle School made a presentation regarding their cleanup project at Lake Lavon and their involvement with the Army Corps of Engineers.

CONSENT AGENDA: All items under the Consent Agenda are considered routine and will be acted on by one motion, with no separate discussion on these items. If discussion is desired, an item may be removed from the consent agenda and considered separately. A) Approve minutes of the February 10, 2009 and February 25, 2009 meeting. B) Approve an amended plat for the Villas in the Park Subdivision.

Mayor Pro Tem Price made a motion to approve items A and B. Seconded by Councilman Kasian, with all in favor.

ZONING OAKS OF FAIRVIEW SUBDIVISION: Conduct a public hearing and take action regarding the zoning of the Oaks of Fairview Subdivision to the One-Acre Ranch Estate Zone (RE-1), that is currently annexed but unzoned, consisting of 16 lots and 19.917 acres, generally located west of Lakewood Drive, east of Ashwood Lane, south of Willow Court, and north of Old Stacy Road.

Mr. Efrussy introduced this item stating that the Oaks of Fairview is comprised of 16 single-family lots on 19.917 acres. Mr. Efrussy stated that the consensus of the Planning and Zoning commission was to recommend zoning to the One-Acre Ranch Estate Zone (RE-1). Mr. Efrussy stated that this is consistent with the Future Land Use Plan; therefore, town staff recommends zoning the Oaks of Fairview Subdivision to the RE-1 zoning district.

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

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

Councilman Mattli made a motion to approve the zoning of the Oaks of Fairview Subdivision to the One-Acre Ranch Estate Zone (RE-1). Seconded by Councilman Kasian, with all in favor.

SWIMMING POOL SETBACKS W/IN CPDD: Conduct a public hearing and take action regarding establishing swimming pool setbacks for single family subdivisions within the Commercial Planned Development District.

Ms. Lewis Sirianni introduced this item stating that town staff believes that the setbacks for pools within the Commercial Planned Development District should vary because of the varying lot sizes. Ms. Lewis Sirianni stated that the subdivisions included are the Villages of Fairview, Cypress Crossing and Sloan Creek Estates. Ms. Lewis Sirianni stated that a setback of three (3) feet from the property line for swimming pools, swimming pool decks, aprons and any other construction related to swimming pools has been recommended for the Villages of Fairview, the Planned Development (PD) within Cypress Crossing and Sloan Creek Estates Phase I and II. Ms. Lewis Sirianni stated that a thirty (30) foot setback for any property line has been recommended for Sloan Creek Estates, Phase III due to the lots being one acre in size, which is also consistent with the One-Acre Ranch Estate setback requirements. Ms. Lewis Sirianni stated that no citizens spoke in favor of or in opposition to the request at the Planning and Zoning commission meeting; therefore, town staff recommends approval.

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

Mayor Israeloff opened discussion to council members. Councilman Kasian asked why was three feet recommended. Mayor Israeloff asked if the deck was included and can the resident go up to the property line. Mr. Chancellor responded that most lots are 45 feet wide and if five feet was used it takes up more of the resident's yard and the three feet setback will get the resident as close to the property line as they can without affecting the drainage. Councilman Pezzulli asked if the three foot would adversely affect the water flow. Mr. Chancellor responded that it would not.

Councilman Pezzulli made a motion to approve the three (3) foot setback from any property line for swimming pools, swimming pool decks, aprons and any other construction related to for single family residential subdivision lots within the Commercial Planned Development District (CPDD). Seconded by Councilman Mattli, with all in favor.

SWIMMING POOL SETBACKS W/IN SLOAN CREEK ESTATES, PHASE III: Conduct a public hearing and take action regarding establishing swimming pool setbacks for Sloan Creek Estates, Phase III.

Ms. Lewis Sirianni introduced this item stating a thirty (30) foot setback for any property line has been recommended for Sloan Creek Estates, Phase III due to the lots being one acre in size, which is also consistent with the One-Acre Ranch Estate setback requirements. Ms. Lewis Sirianni stated that no citizens spoke in favor of or in opposition to the request at the Planning and Zoning commission meeting; therefore, town staff recommends approval.

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 the setback for the RE-1 district was thirty (30) feet. Ms. Lewis Sirianni responded that that was correct.

Mayor Pro Tem Price made a motion to approve a thirty (30) foot setback for the Sloan Creek Estates, Phase III regarding swimming pools and any other construction related to swimming pools. Seconded by Councilman Cunningham, with all in favor.

AMEND ACCESSORY BUILDING ORDINANCE: Conduct a public hearing and take action regarding amending the accessory building ordinance, regarding size and permitted accessory uses.

Ms. Lewis introduced this item stating that town staff would like to amend the accessory building ordinance. Ms. Lewis Sirianni stated the Planning and Zoning commissioners had discussions regarding these items and at the public hearing came to the consensus on the following items: (1) remove tennis courts as an accessory building and any new construction would require a Conditional Use Permit; (2) remove swimming pools as an accessory building or structure and to not count them toward the total maximum accessory building square footage; (3) to add greenhouses as an accessory use and its square footage would not toward the total maximum allowed accessory building square footage, but must be approved through a Conditional Use Permit; (4) detached three car garages maximum square footage will be 900 sq. ft. and not counted toward the maximum accessory building square footage as long as it is used as the primary garage, and (5) the maximum height of an accessory building is fourteen (14) feet from finished floor to ceiling with the roof pitch matching the primary structure. Ms. Lewis Sirianni stated that no citizens spoke in favor of or in opposition to this request; therefore, town staff recommends approval.

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

Sim Israeloff opened discussion to the council members. Mayor Pro Tem Price stated that in her opinion, the fourteen feet floor to ceiling would not be tall enough, especially if the resident wanted to consider a barn with stalls and a loft. Mr. Efrussy responded that the Conditional Use Permit provides the resident with an opportunity to request additional height. Mr. Efrussy commented that a concern of the Planning and Zoning

Commission was that most homes are thirty feet high and they didn't want the accessory building looking like a residential use and as tall as the primary structure. Chairman Wells, Planning and Zoning Commission stated that there was no magic number and that 16 and 18 feet were also considered, but a major percentage of homes are single story homes and they didn't want the accessory building to be taller than some of the single story homes.

Mayor Israeloff asked if the Conditional Use Permit allowed a resident to request additional height to their accessory building. Mr. Efrussy responded that the resident by right can make the request to go higher through the CUP.

Councilman Pezzulli stated that he believes the 14 feet is plenty. Councilman Mattli responded that he agrees with the 14 feet and the resident can request additional height through the CUP if they need more. Councilman Kasian stated he agrees and likes the option to use the CUP if needed. Councilman Cunningham stated that his accessory building is 12 feet and has a loft, but he has to crawl around. Councilman Cunningham stated that 16 feet would give more standing room, but is fine with the 14 feet.

Councilman Mattli asked to define greenhouses. Mr. Efrussy responded that the definition is the same as defined by the Commercial Planned Development District and will add not for commercial use to the definition. Mayor Israeloff asked if the Conditional Use Permit will be required. Mr. Efrussy responded that the Conditional Use Permit will be used to ensure that the materials and aesthetically will meet the requirements.

Councilman Pezzulli made a motion to approve the removal of tennis courts as an accessory building and any new construction would require a Conditional Use Permit; (2) the removal of swimming pools as an accessory building or structure and to not count them toward the total maximum accessory building square footage; (3) to add greenhouses as an accessory use and its square footage would not toward the total maximum allowed accessory building square footage, but must be approved through a Conditional Use Permit; (4) detached three car garages maximum square footage will be 900 sq. ft. and not counted toward the maximum accessory building square footage as long as it is used as the primary garage, and (5) the maximum height of an accessory building is fourteen (14) feet from finished floor to ceiling with the roof pitch matching the primary structure. Seconded by Councilman Mattli. Mayor Pro Tem Price opposed. Motion passed 5-1.

SWIMMING POOL SETBACKS PLANNED CENTER (PC) PORTION OF CYPRESS CROSSING: Conduct a public hearing and take action regarding amending the Planned Center (PC) Ordinance for the Cypress Crossing Subdivision establishing 10' swimming pool setbacks from the property line.

Ms. Lewis Sirianni introduced this item stating that town staff is recommending a ten foot setback from the property line for swimming pools and any construction related to swimming pools for the lots within the Cypress Crossing subdivision zoned Planned Center (PC). Ms. Lewis Sirianni stated that the recommendation is derived from what has already been permitted thus far and also the consideration of privacy with the more open lots. Ms. Lewis Sirianni stated that the Planning and Zoning commission unanimously recommended and no citizens spoke in favor of or in opposition to; therefore, staff recommends approval.

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

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

Councilman Cunningham made a motion to approve a ten foot setback from the property line for swimming pools and any construction related to swimming pools for the lots within the Cypress Crossing subdivision that is zoned Planned Center. Seconded by Councilman Kasian, with all in favor.

FLOODING ISSUES: Discuss recurring flooding issues at various locations in Fairview

Mr. Godwin introduced this item stating that water levels and floodplains have risen significantly over the last several years causing flooding concerns to grow. Mr. Godwin stated that Mr. Barr has asked to speak to council regarding his concerns on his property.

Mike Barr, 1310 Camino Real, stated that he lives in Montecito Estates on 1.83 acres and has had increased flooding in his house over the past few years and is seeking help from the town council. Mr. Barr stated that he thanks town staff, specifically Mr. Godwin and Mr. Chancellor for educating him on flood plain versus flood way and making him more aware of the situation.

Mayor Israeloff asked Mr. Barr if he was aware that he had bought in the flood plain and asked staff if there was any pending project that had looked at the flood plain in this area. Mr. Chancellor responded that there was a potential project that had looked at some flood plain prevention in that area, but there is no project on the table at this time. Mr. Barr responded that he was aware that he purchased in the flood plain and at the time purchased flood insurance, but due to the numerous flooding, companies will only provide insurance for certain periods of time. Mr. Barr stated that due to the continuous flooding, that he lives primarily on the second floor of his two story home due to the water damage on the first floor. Mr. Barr expressed that his major concern was that his house is not in a state to sell and had talked to the town about the possibility of buying his property for a neighborhood park. Mr. Barr asked if the council had any other feedback or suggestions.

Mayor Pro Tem Price asked if the town has looked at the downstream effects and if there was any debris that would contribute to the flooding. Mr. Chancellor responded that there is some debris, but nothing that is building a damn and there are no major obstructions in the creek. Mr. Chancellor stated that there are more problems upstream and the impervious surface is the cause for most of these issues.

Mayor Israeloff thanked Mr. Barr for bringing his issue to council's attention, but unfortunately there was nothing the town could do at this point in time.

PRESENTATION ON TELECOMMUNICATIONS COMMITTEE: Receive presentation on the telecommunications committee and take any actions necessary.

Mr. Adler, Chairman for the Telecom committee, introduced this item stating that the committee has met numerous times, but is still considered an ad hoc committee. Mr. Adler stated that due to the continuous rise of technology and change that they would like to change the initial resolution from an ad hoc committee that was temporary to a permanent change for technology. Mr. Adler stated that they could use more volunteers and that currently there are five active members and two openings.

Commissioner Mattli stated that he is very supportive of re-forming the committee.

Councilman Kasian made a motion to approve the creation of a technology advisory committee. Seconded by Councilman Pezzulli, with all in favor.

PRESENTATION TOWN HALL ARCHITECT: Receive presentation from town hall architect.

Architect Ron Hobbs presented the progress of the new town hall. Mr. Hobbs stated that the town hall will be four stories with an underground parking garage for security vehicles, plus a sally port for the transporting of prisoners. Mr. Hobbs showed graphically aspects of the building exteriorly and interiorly. Mr. Hobbs stated that he is continuing to make the building functional and environmentally friendly and council members are welcome to add any feedback.

Mayor Pro Tem Price commented in regards to the exterior walls is there a way to break up the stone even if it was with a different colored stone and/or with windows. Mr. Hobbs responded that they will take a look at the exterior walls and bring back other options.

AWARD BID CONSTRUCTION FOR NEW WATER STORAGE TANK: Consider award of bid for construction of the new eastern 1.5 million gallon elevated water storage tank.

Error

April 8, 2009

John Baumgartner, PE
City Engineer
City of Allen
305 Century Parkway
Allen, TX. 75013

Dear Mr. Baumgartner,

This letter serves to address several issues along Stacy Rd and FM2786 that affect both cities. You and I met on April 1, 2009 to discuss these issues. First, Fairview agrees that the maintenance costs on Stacy Rd from SH5 to US75 be shared in the following ways:

1. Electricity bill – 50/50 split (Fairview receive bill and bill Allen monthly)
2. Water bill – 50/50 split (Fairview to be billed half of the NTMWD rate cost)
3. Fairview to maintain the medians (plants, irrigation system, mowing, trash cleanup)
4. Trash cleanup – Fairview to clean it's side, Allen theirs
5. Traffic lights – Allen to maintain (except in the case of a knockdown 50/50 split)
6. Street lights – Allen to maintain (except in the case of a knockdown 50/50 split)
7. Pavement/storm sewer maintenance – Allen their side, Fairview theirs

FM2786 (Stacy Rd from SH5 to FM1378)

1. Maintenance costs to be worked out at a future date
2. Fairview agrees to a median opening just to the west of the Veterinary clinic if a new drive is constructed at no cost to Fairview or its residence.
3. Fairview requests a new median opening near the west side of the United Methodist Church near FM1378 for their master plan to serve church and Lovejoy ISD traffic (approx. 500' east of the median opening on the TxDOT schematic)
4. Fairview requests the removal of the raised median from Oakwood Drive to Old Stacy Rd and use painted turning lanes to allow southbound traffic leaving Oakwood Drive to turn left for school drop off to the two Lovejoy ISD schools along FM1378.
5. All the other median openings shown serve both municipalities well.

Sincerely,

James Chancellor, PE
Town Engineer

Mr. Chancellor introduced this item stating that Landmark Structures was the lowest bidder for this project. Mr. Chancellor stated that they are the same company that constructed the existing town hall elevated water tower and are the industry leader in the construction of composite elevated water tanks. Mr. Chancellor stated that the bid came in as \$2,248,000 and staff recommends awarding this bid to Landmark.

Councilman Kasian made a motion to approve bid for construction of the new eastern 1.5 million gallon elevated water storage tank for \$2,248,000.00. Seconded by Mayor Pro Tem Price, with all in favor.

RESTRICTED PARKING W/IN CYPRESS CROSSING: Consider an ordinance restricting parking in Cypress Crossing Subdivision.

Mr. Godwin introduced this item stating that staff contacted the developer and there was no interest in giving or selling lot(s) for parking areas. Mr. Godwin stated that the subdivision is at half build out and would be easier to approve now so that residents would know what to expect.

Mayor Israeloff stated that it could be a rising problem as the subdivision is built out and would make sense to go ahead and approve now so that residents would be aware. Councilman Mattli agreed.

Mayor Pro Tem Price made a motion to approve an ordinance restricting parking in Cypress Crossing Subdivision. Seconded by Councilman Mattli, with all in favor.

ALLIED WASTE: Discuss service provided by Allied Waste.

Mr. Godwin introduced this item stating that the numbers of resident complaints are down, but there continues to be inconsistency. Mr. Godwin stated that an option could be to survey the residents with a poll through the website. Mr. Godwin stated that he is seeking feedback on council with any suggestions.

Mayor Israeloff stated that council could ask Allied to provide them with an update through a presentation at the April or May meeting. Councilman Mattli agreed and stated that this could ruffle a few feathers.

ANNUAL PLANNING DEPARTMENT REPORT: Receive annual planning department report.

Mr. Efrussy presented his annual department report and highlighted on the following:

- Fees Collected totaled \$46,947.00
- Year One Annexations – 38 properties totaling 242± acres

- Year Two Annexations – 6 properties totaling 315.81± acres
- Zoning Cases
- Village At Fairview project
- Board of Adjustments
- Various other projects and discussions

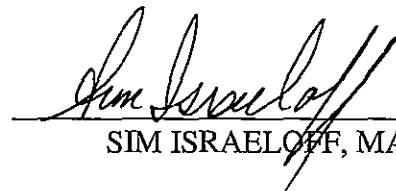
EXECUTIVE SESSION: Take action on matters discussed in executive session, if necessary.

No action taken.

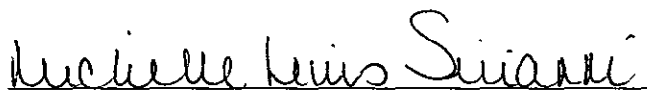
CITIZEN'S INPUT:

Bill Wells, 571 Bluebonnet stated that over the past thirteen years he has talked to other towns/cities and people and appreciates what Mr. Efrussy and Mr. Godwin have done for the town and the implementations that have taken place in being at the forefront of happenings and being able to establish policy before something becomes an issue.

There being no other items for discussion, Mayor Israeloff adjourned the meeting at 10:08 p.m.


SIM ISRAELOFF, MAYOR

ATTEST:


Michelle Lewis Sirianni, Town Secretary

