TOWN COUNCIL
MEETING MINUTES
May 5, 2009

The Town Council met in regular session on Tuesday, May 5, 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 Carolyn Sommers, Jim Cunningham, Ron Kasian, Michael Pezzulli and Anton Mattli; Town Manager John Godwin; Assistant to the Town Manager, Matt Donnell, Planning Director, Alan Efrussy; Town Engineer, James Chancellor; Community Development Manager, Ray Dunlap; Management Intern, Shane Pettit 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 6:31 p.m. the council recessed into executive session to discuss: real estate, McKinney v. Fairview, economic development and Fairview v Lawler.

At 7:37 p.m. Mayor Israeloff reconvened back into regular session and requested everyone to stand for the Pledge of Allegiance.

PRESENTATION SLOAN CREEK MIDDLE SCHOOL: Presentation by Sloan Creek Middle School students.

Students were recognized for their efforts to design a cartoon type character to be used as a logo for the Environmental Management Committee. The first place winners will have a tree planted in their honor and second and third place winners will receive plaques.

ENVIRONMENTAL ENGINEERING WINNERS: Recognize winners of the environmental engineering contest.

Students from Sloan Creek Middle School were recognized for their achievement in winning an "Excellence in Engineering" award.

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 the minutes of the April 7, 2009 meeting. B) Approve the minutes of the March 9, 2009 meeting. C) Approve the minutes of the March 12, 2009 meeting. D)

Approve an ordinance abandoning right-of-way on Weston Drive. E) Approve an ordinance regulating the theft of water. F) Approve an ordinance regulating the management of trees on town property. G) Approve an ordinance amending the fee schedule to provide for certain new planning and development review fees. H) Enter into an agreement with Dannenbaum Engineering Company to provide engineering services for improvements to Ranchette Estates utilities. I) Consider adoption of an ordinance authorizing the issuance of Town of Fairview, Texas, General Obligation Refunding Bonds; establishing procedures for the sale and delivery of the bonds; levying an annual ad valorem tax for the payment of said bonds; providing an effective date; and enacting other provision relating to the subject. J) Approve an amended plat for The Village At Fairview.

Mr. Godwin requested to pull item I. Mayor Pro Tem Price requested to pull item F. Councilman Cunningham requested to pull item G.

Councilman Pezzulli made a motion to approve items A, B, C, D, E, H and J. Seconded by Councilman Cunningham, with all in favor. Councilman Mattli abstained from item D.

Mayor Pro Tem Price asked in regards to item F why the Planning and Zoning board was specified in the ordinance and commented that she preferred a different board. Mr. Godwin responded that it has been a duty of the Planning and Zoning Commission by previous ordinance.

Mayor Pro Tem Price made a motion to approve item F. Seconded by Councilman Mattli, with all in favor.

Councilman Cunningham asked in regards to item G if there has been an inspection fee on water heaters. Mr. Godwin responded that there have been to ensure they are installed properly and the permit fee is per installation. Councilwoman Sommers asked what happens in case of emergencies. Mr. Godwin responded that it should be a licensed plumber and they would be responsible for notifying if a repair was done after hours.

Councilman Cunningham made a motion to approve item G. Seconded by Councilman Pezzulli, with all in favor.

Mr. Godwin stated in regards to item I that due to the bond rates fluctuating within today's market that the ordinance has allowed the town some flexibility on when to lock into a rate and therefore a rate has not been specified within the ordinance. Mr. Godwin stated that it will still provide a net savings over time.

Councilman Kasian made a motion to approve item I. Seconded by Councilman Pezzulli, with all in favor.

CONDITIONAL USE PERMIT/100 SEATTLE SLEW: Conduct a public hearing and take action regarding a Conditional Use Permit (CUP) for the development of a proposed accessory building to be located at 100 Seattle Slew.

Mr. Donnell introduced this item stating that the proposed accessory building will exceed the minimum of two accessory buildings per lot, however the subject property is approximately 3.63 acres in size and the proposed accessory building is replacing the existing building in the same location.

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

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

Councilman Cunningham made a motion to approve the Conditional Use Permit for the development of a proposed accessory building to be located at 100 Seattle Slew. Seconded by Mayor Pro Tem Price, with all in favor.

CONDITIONAL USE PERMIT/ 636 MERLOT COURT: Conduct a public hearing and take action regarding a Conditional Use Permit (CUP) for the development of a proposed accessory building to be located at 636 Merlot Court.

Mr. Donnell introduced this item stating the proposed accessory building is 240 square feet and is the third accessory building on the subject property to be located on two acres. Mr. Donnell stated that the accessory building will be used for additional storage and will have minimal impact on the neighboring properties.

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

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

Councilman Pezzulli made a motion to approve the Conditional Use Permit for the development of a proposed accessory building to be located at 636 Merlot Court. Seconded by Councilwoman Sommers, with all in favor.

SITE PLAN BOY SCOUTS OF AMERICA: Conduct a public hearing and take action regarding a Site Plan for the Boy Scouts of America facility comprising a general office, meeting space, and light retail uses, within The Village At Fairview development, generally located on the south side of the intersection of Fairview Village Drive (formerly Murray Road) and the frontage road of Central Expressway (US 75), within the Commercial Planned Development District (CPDD), Zone K.

Mr. Donnell introduced this item stating that the initial Site Plan was approved with conditions that have now been fulfilled. Mr. Donnell stated all the elements of the Site Plan meet town requirements and the town staff recommends approval.

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

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

Councilman Mattli made a motion to approve the Site Plan for the Boy Scouts of America facility. Seconded by Councilman Kasian, with all in favor.

REVISED CONCEPT PLAN VILLAGE AT FAIRVIEW: Conduct a public hearing and take action regarding a Revised Concept Plan for The Village At Fairview, located north of Stacy Road, east of US 75, west of State Highway 5, and south of Ridgeview Drive, within the Commercial Planned Development District (CPDD), Zone K.

Mr. Efrussy introduced this item stating that revisions to the Concept Plan include reducing the parking deck from 501 to 228 spaces, modifications to the size and shape of the retail buildings and minor adjustments to the building footprints. Mr. Efrussy stated that the Planning and Zoning Commission unanimously approved and Mr. Gallo was present to answer any additional questions.

Matt Gallo, project manager for the MG Herring Group, stated that Mr. Efrussy highlighted all the revisions, but the downsized parking deck and few modified footprints to the buildings were the major changes.

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

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

Councilman Mattli made a motion to approve the Revised Concept Plan for The Village At Fairview. Seconded by Mayor Pro Tem Price, with all in favor.

REVISED SITE PLAT VILLAGE AT FAIRVIEW: Conduct a public hearing and take action regarding a Revised Site Plan for The Village At Fairview, located north of Stacy Road, east of US 75, west of State Highway 5, and south of Ridgeview Drive, within the Commercial Planned Development District (CPDD), Zone K.

Mr. Efrussy introduced this item stating that the revisions to the Site Plan include reducing the parking deck from 501 to 228 spaces, slight modifications to the sizes and shape of retail buildings and a request to utilize temporary asphalt paving in the location of buildings 700 and 800. Mr. Efrussy stated that town staff has reviewed and recommends approval.

Mr. Gallo stated that with the Site Plan being more detailed the key difference is the temporary asphalt at buildings 700 and 800, which will solve a need for parking. Mr. Gallo stated that the asphalt will be striped, curbed and built to normal specifications.

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

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

Councilman Cunningham made a motion to approve the Site Plan for The Village At Fairview. Seconded by Councilman Pezzulli, with all in favor.

CONCEPT PLAN SOUTHEAST DEVELOPMENT VAF: Conduct a public hearing and take action regarding a Concept Plan for the southeast development of the Village At Fairview, that includes a town hall and related parking, in addition to future conceptual retail/office/restaurant buildings, and related parking; generally located west of State Highway 5, north of Stacy Road, east of the planned Waterfront Way, and south of the planned Indian Springs Road.

Mr. Donnell introduced this item stating that this Concept Plan includes a town hall building on a five acre site. Mr. Donnell stated that the plan has met all requirements and town staff recommends approval.

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

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

Councilman Pezzulli made a motion to approve a Concept Plan for the southeast development of the Village At Fairview. Seconded by Councilman Mattli, with all in favor.

SITE PLAN SOUTHEAST DEVELOPMENT VAF: Conduct a public hearing and take action regarding a Site Plan for the southeast development of the Village At Fairview, that includes a town hall and related parking, in addition to future conceptual retail/office/restaurant buildings, and related parking; generally located west of State Highway 5, north of Stacy Road, east of the planned Waterfront Way, and south of the planned Indian Springs Road.

Mr. Donnell introduced this item stating that the Site Plan includes a new town hall and illustrates future buildings for retail, office or restaurant space. Mr. Donnell stated that the plan has met all requirements and the elevations, landscape and lighting plans will be submitted at a later date, reason being that town staff and town council are still working to finalize the design for the town hall building.

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

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

Mayor Pro Tem Price made a motion to approve a Site Plan for the southeast development of the Village At Fairview. Seconded by Councilman Kasian, with all in favor.

RE-PLAT SOUTHEAST DEVELOPMENT VAF: Conduct a public hearing and take action regarding a re-plat for the southeast development of The Village At Fairview, which includes a town hall and related parking, generally located west of State Highway 5, north of Stacy Road, east of the planned Waterfront Way, and south of the planned Indian Springs Road.

Mr. Chancellor introduced this item stating that this re-plat is to create a five acre tract for the new town hall and to leave the remaining acreage for future retail uses. Mr. Chancellor stated that the re-plat meets the subdivision requirements and town staff recommends approval.

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

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

Councilman Cunningham made a motion to approve the re-plat for the southeast development of the Village At Fairview. Seconded by Councilman Kasian, with all in favor.

ZONING OF THE PEZZULLI PROPERTY: Conduct a public hearing and take action regarding the zoning of property that is annexed, but unzoned commonly known as the Pezzulli property, consisting of 1.98 acres, generally located south of and adjacent to Country Club Road (FM 1378), east of Stoddard Road, west of Beachwood Lane, and north of Hart Road, to the One-Acre Ranch Estate Zone.

Mr. Efrussy introduced this item stating that this subject property consists of 1.98 acres. Mr. Efrussy stated that the Future Land Use Plan with the Comprehensive Plan and surrounding property is zoned to the One-Acre Ranch Estate Zone (RE-1). Mr. Efrussy stated that the Planning and Zoning Commission unanimously recommended approval and town staff supports their recommendation.

Mayor Israeloff opened discussion to the public. Michael Pezzulli, 880 Country Club, stated that he thanks town staff for bringing to his attention that this portion of his property was unzoned. Mayor Israeloff commented that he was surprised this parcel was not already zoned. Mr. Chancellor responded that this area was part of the town's initial annexation and was missed due to the initial taxing lines.

Councilman Pezzulli stepped out of council chambers.

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

Councilman Mattli made a motion to approve the zoning of property known as the Pezzulli property to the One-Acre Ranch Estate Zone (RE-1). Seconded by Councilman Kasian, with all in favor. Councilman Pezzulli abstained from the vote.

Councilman Pezzulli returned to the council chambers.

2006 INTERNATIONAL BUILDING CODES: Consider adopting the 2006 International Building Codes.

Mr. Chancellor introduced this item stating that the town is currently under the 2003 building codes and are updating to a later version. Mr. Chancellor stated that the North Central Texas Council of Governments (NCTCOG) sent out recommendations to adopt these codes with some amendments. Mr. Chancellor stated that the only exception is that the Fire Department is going with their amendments in lieu of the NCTCOG recommendations.

Mayor Israeloff asked if there are any significant changes. Mr. Godwin stated the biggest change is the new fire suppression requirements for sprinkling.

Chief Price stated that he recommends the sprinkler code. Chief Price stated that the cost is $1.00 to $1.25 per square feet, which would equal an additional $4500 ± for a new home. Chief Price stated this is consistent with some surrounding cities and it is a life safety issue.

Councilman Mattli stated that the new construction shouldn't be an issue but could see the residents who would like to add on to their house becoming a concern.

Jim Houser, 1304 Shinnecock Court, stated that he would like to see this delayed to be able to discuss it further. Mr. Houser stated as a builder who does additions to homes, would like an opportunity to discuss materials.

Councilwoman Sommers stated that the Building Code talks about residential sprinkler systems and asked if it was possible to see the previous code versus what's being recommended. Mr. Chancellor responded that the International Building Code (IBC) does reference amendments to the International Fire Code (IFC) and recommends that if the IFC is not approved then the council should also not approve the IBC. Mr. Godwin added that the codes are written by experts in the field and they are going on their expertise and recommendations for the updates. Councilman Cunningham asked if it would be more work for staff if there was a grace period where the town could notify or sit down with the builders so that they would know about updating the codes. Mr. Godwin responded that they could make 60 days from effective date clause or as many days as they wish.

Councilman Pezzulli made a motion to approve the 2006 International Energy, Fuel and Gas, Mechanical, Plumbing and Residential Code with an effective date of 75 days after publication. Seconded by Councilman Kasian, with all in favor.

No action was taken on the 2006 International Building and Fire Code.

FIRE ENGINE: Consider authorizing the purchase of a new fire engine.

Mr. Godwin introduced this item stating that the fire engine has been included in the five year Capital Improvement Budget with an estimated cost of $715, 254.00. Mr. Godwin stated that it would take six to nine months before it is delivered to the town; therefore, the town will not be paying on it until 2010.

Councilman Pezzulli stated that he would like to have more information and/or details regarding fire equipment. Councilman Pezzulli asked if it was necessary to have two pumpers for a small town. Chief Price responded that new engine will be for the new station and the quint will be staying at town hall. Chief Price commented that the risk of not purchasing the new engine would be having two stations running on one piece of equipment.

Councilwoman Sommers stated that the price seems to be on target with the budget and is not questioning the need for the engine since it has been in the long term budget. Councilman Mattli commented that in his opinion that the council is asking to be informed and knowledgeable of investments.

Councilwoman Sommers made a motion to approve the purchase of a new fire engine. Seconded by Councilman Kasian, with all in favor.

AGREEMENT MG HERRING GROUP-MEDIAN ART: Consider approval of an agreement with the MG Herring Group regarding Stacy Road.

Council discussed this item in executive session.

AGREEMENT MG HERRING GROUP- LAND TRANSFER: Consider approval of an agreement with the MG Herring Group transferring land to the town for construction of a town hall.

Council discussed this item in executive session.

AGREEMENT MG HERRING GROUP- LEASE: Consider approval of an agreement with the MG Herring Group for the lease of five acres for the keeping of police horses.

Council discussed this item in executive session.

SIGNAGE ON OLD WATER TOWER & THEATRE: Consider approval of signage related to the old water tower and the theater building at The Village At Fairview.

Council discussed logo on the water tower and LED signage within the Village At Fairview.

Council approved signage related to the old water tower and the theater building at The Village At.Fairview.

TEMPORARY SIGN PROGRAM VAF: Consider approval of temporary sign program for The Village At Fairview.

Council discussed signage and location of the temporary signs.

Council approved the temporary sign program for The Village At Fairview.

ALLIED WASTE: Consider the annual rate increase by Allied Waste.

Mr. Godwin stated that Allied Waste is asking for a rate increase based on landfill costs and the local CPI. Mr. Godwin stated the net increase would be $0.34 per customer.

Brenda Lalonde, Allied Waste stated that the landfills have increased their costs by 5-6% to maintain the volume and therefore is asking council to increase the rates slightly to help absorb these costs.

Councilman Pezzulli asked about the prices regarding extra trash carts and replacement carts. Ms. Lalonde commented on the prices of extra carts and stated that residents may have has many recycling carts as they wish and a resident is only charged for a replacement cart if it disappears and not if Allied has to replace a cart due to damage by the driver.

Councilman Pezzulli made a motion to approve the net increase of $0.34 per customer. Seconded by Councilman Cunningham, with all in favor.

NEW TOWN HALL: Discuss design of the new town hall.

Council discussed and viewed different elevations based on continuing recommendations by council regarding the exterior of the building.

FAIRVIEW V. LAWLER: Consider and take possible action on resolution to Fairview v. Lawler condemnation suit.

Mr. Godwin stated that a resolution was submitted by the town attorney with documentation signed by Mr. Lawler.

Councilman Kasian recommends approval as submitted. Seconded by Councilwoman Sommers, with all in favor.

INFLUENZA OUTBREAK: Discuss current influenza outbreak.

Councilman Pezzulli suggested to town staff to consider purchasing appropriate equipment. Councilman Pezzulli stated that he would like to see the town buy 25 full face masks that would include hoods that would be allocated for law enforcement and public works in case of an outbreak. He would like to see the town prepared.

Chief Price stated that he has enlisted support with the medical control officer to acquire knowledge in the medical field to be able to stay aware and be prepared. Chief Price stated that they have taken precautionary measures with masks.

Chief Tolliver stated that he plans to acquire as the town grows, but it is not in the budget at this time.

FORECLOSED PROPERTIES: Discuss how the town should handle maintenance issues of foreclosed properties.

Councilman Mattli stated that there are a handful of vacant properties due to foreclosures. Councilman Mattli stated that he would like the town to adopt an ordinance to ensure that these properties are maintained.

Mayor Pro Tem Price asked how the ordinance would be enforced. Councilman Mattli responded that his suggestion would be to have Code Enforcement place fines/liens or bring to court.

Councilman Mattli brought a similar ordinance from another city as an example and asked town staff to look into the possibility of creating a similar ordinance for the town.

CITIZENS INPUT: No comments were made.

EXECUTIVE SESSION: At 10:41 p.m. the council recessed back into executive session to finish discussion.

At 11:30 p.m. Mayor Israeloff reconvened back into regular session.

Council took action on the following items:

- Agreement MG Herring Group-Median Art: Mayor Pro Tem Price made a motion to approve subject to adding right of first refusal to purchase. Seconded by Councilman Kasian, with all in favor.
- Agreement MG Herring Group- Land Transfer: Councilwoman Sommers made a motion to approve with four changes. Seconded by Councilman Pezzulli, with all in favor.
- Agreement MG Herring Group- Lease: Mayor Pro Tem Price made a motion to approve the lease. Seconded by Councilman Kasian, with all in favor.

There being no other items for discussion, Mayor Israeloff adjourned the meeting at 11:40 p.m.

Sim Israeloff

SIM ISRAELOFF, MAYOR

ATTEST:

TOWN OF FAIRVIEW

Michelle Lewis Sirianni

Michelle Lewis Sirianni, Town Secretary