TOWN COUNCIL
MEETING MINUTES
February 2, 2010

The Town Council met in regular session on Tuesday, February 2, 2010 at 7:30 P.M. at 500 S. State Hwy 5, Fairview, Texas. Those present were Mayor Sim Israeloff, Mayor Pro Tem Jim Cunningham, Council Members Ron Kasian, Anton Mattli, and Mary Price; Town Manager John Godwin; Assistant to the Town Manager, Matt Donnell; Community Development Manager, Ray Dunlap; Town Engineer, James Chancellor; Planning Director, Alan Efrüssy; Management Intern, Adam Wilbourn; Town Secretary, Michelle Lewis Sirianni and Town Attorney, Clark McCoy. Council members Carolyn Sommers and Michael Pezzulli were absent.

Mayor Israeloff called the meeting to order at 7:32 p.m. and declared a quorum was present and requested everyone to stand for the Pledge of Allegiance.

CONSENT AGENDA: All items listed under the Consent Agenda are considered routine and will be acted on by one motion, with no separate discussion of these items. If discussion is desired, an item may be removed from the consent agenda and considered separately. A) Approve minutes of the January 5, 2010 regular council meeting. B) Approve minutes of the January 12, 2010 special council meeting. C) Approve an ordinance calling the May 2010 general election. D) Accept the 2008 Audit. E) Approve resolution appointing town attorney. F) Award town hall planting bid to Hadden Landscaping. G) Approve deductive Change Order #2 for new town hall construction.

Councilman Kasian requested to pull items A and E.

Councilwoman Price made a motion to approve items B, C, D, F and G. Seconded by Councilman Mattli, with all in favor.

Councilman Kasian stated in regards to item A that the minutes seem to be reduced regarding the Fire station #2 Artwork discussion. Councilman Kasian stated that he recalls discussing the potential of Ms. Karnuta painting a mural inside of town hall where it would be visible to the public and feels that it should have been noted in the minutes. Councilwoman Price commented that she referenced the artist painting the panels in the new town hall council chambers, which was not noted in the minutes. Councilman Kasian asked if the minutes could reflect these comments.

Councilman Kasian requested that on page seven of the minutes under the section regarding security cameras in Hawkswood that the word 'nightfall' be changed to night time, as it has a different connotation.

Councilman Kasian made a motion to approve item A with additional language as referenced. Seconded by Mayor Pro Tem Cunningham, with all in favor.

Councilman Kasian stated in regards to item E, the resolution had the town secretary's name listed incorrectly. Ms. Lewis Sirianni responded that she has already made this change.

Councilman Kasian made a motion to approve item E. Seconded by Councilwoman Price, with all in favor.

CONDITIONAL USE PERMIT- 82 STONE HINDGE: Conduct a public hearing and take action regarding a Conditional Use Permit for an accessory building located at 82 Stone Hinge Drive, Fairview, TX 75069.

Mr. Efrussy introduced this item stating that the proposed accessory building will provide for additional storage for the applicant's vehicles and boat, which will therefore provide a better aesthetic view to the residence. Mr. Efrussy stated that the Planning and Zoning Commission unanimously recommended with condition upon adding saturation landscaping comprised of evergreen materials for the west side of the building.

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

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

Councilman Mattli made a motion to approve the Conditional Use Permit for an accessory building located at 82 Stone Hinge Drive with additional saturation landscaping comprised of evergreen materials for the west side of the building. Seconded by Councilman Kasian, with all in favor.

CONDITIONAL USE PERMIT – 1081 ELM CREEK DRIVE: Conduct a public hearing and take action regarding a Conditional Use Permit for an accessory building located at 1081 Elm Creek Drive, Fairview, TX 75069.

Mr. Efrussy introduced this item stating that the proposed accessory building will be used for additional storage. Mr. Efrussy stated that the HOA and surrounding neighbors support this proposal and the Planning and Zoning Commission unanimously recommend approval.

Mayor Israeloff opened the public hearing. 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 a Conditional Use Permit for an accessory building located at 1081 Elm Creek Drive. Seconded by Councilman Mattli, with all in favor.

CONDITIONAL USE PERMIT- 1091 ELM CREEK DRIVE: Conduct a public hearing and take action regarding a Conditional Use Permit for an accessory building located at 1091 Elm Creek Drive, Fairview, TX 75069.

Mr. Efrussy introduced this item stating that the proposed building will be used for the storing of one or two classic cars. Mr. Efrussy stated that the building will have a small encroachment into the setback, but will have minimal impact. Mr. Efrussy stated that the Planning and Zoning Commission recommended approval condition upon planting of evergreen materials to the west of the building.

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

Mayor Israeloff opened discussion to council members. Mayor Israeloff asked if the encroachment is an issue and will have any effect on the town. Mr. Efrussy responded that the applicant received approval from the HOA and the town is legally able to accommodate the request so there are no issues.

Councilman Mattli made a motion to approve a Conditional Use Permit for an accessory building located at 1091 Elm Creek Drive condition upon planting of evergreen materials to the west of the building. Seconded by Mayor Pro Tem Cunningham, with all in favor.

CONDITIONAL USE PERMIT- 711 MAPLE CREEK DRIVE: Conduct a public hearing and take action regarding a Conditional Use Permit for an accessory building located at 711 Maple Creek Drive, Fairview, TX 75069.

Mr. Donnell introduced this item stating that the proposed building will be an addition to the existing detached garage. Mr. Donnell stated that they find the impact to be of minimal impact, but staff has recommended the applicant plant additional evergreen materials on the north side of the building, one every 10 feet, ranging in height from 6-8 feet tall. Mr. Donnell stated that the Planning and Zoning Commission unanimously recommended approval and no negative feedback was received.

Mayor Israeloff opened the public hearing. 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 a Conditional Use Permit for an accessory building located at 711 Maple Creek Drive condition upon planting of evergreen materials to the north of the building, one every 10 feet, ranging in height from 6-8 feet tall. Seconded by Councilman Kasian, with all in favor.

ANNEXATION 4.5± ACRES ZAMPINO PROPERTY: Adopt an ordinance annexing 4.5± acres, known as the Zampino property at 590 Meandering Way, generally located east of Meandering Way, south of Sloan Creek, and northwest of North Creekwood Drive.

Mr. Efrussy introduced this item stating that two public hearings were conducted as part of the legal requirement. Mr. Efrussy stated at both public hearings no comments were made by citizens. Mr. Efrussy stated that the property owner has agreed to the initiation of the annexation; therefore, staff recommends approval.

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

Councilman Kasian made a motion to approve an ordinance annexing 4.5± acres, known as the Zampino property at 590 Meandering Way, generally located east of Meandering Way, south of Sloan Creek, and northwest of North Creekwood Drive. Seconded by Councilman Mattli, with all in favor.

ZONING 14± ACRES APPLE PROPERTY: Conduct a public hearing and take action regarding zoning for an area known as the Apple property, comprising 37± acres that are annexed, of which 23± acres are zoned Commercial Planned Development District (CPDD), Zone M and 14± acres are unzoned. Said public hearing shall be conducted regarding zoning the unzoned 14± acres to the Commercial Planned Development District, Zone M. This property is located south of Country Club Road (FM 1378), west of the DART tracks, and east of State Highway 5.

ABSTRACT A0791 SLOAN, SAMUEL, BLOCK 4, TRACT 25-9, ACRES 14.7500
ABSTRACT A0791 SLOAN, SAMUEL, BLOCK 4, TRACT 196, ACRES 10.0000
ABSTRACT A0791 SLOAN, SAMUEL, BLOCK 4, TRACT 25-1, ACRES 1.0000

Mr. Efrussy introduced this item stating that in 2006 it was suggested by the commission to zone the 14± acres to the Planned Center (PC) zone, but since that time town staff reviewed and believes that since the 37± acres represents one entity, that zoning the 14± acres to Zone M would provide one unified zoning district and would minimize zoning administration and land use coordination concerns. Mr. Efrussy stated that Mr. McKissick and Janet Cobbel, the real estate brokers for this property approve of the recommendation and are present if the council has any questions. Mr. Efrussy stated that the Planning and Zoning Commission unanimously recommended approval.

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

Mayor Israeloff opened discussion to council. Mayor Israeloff asked what the linear length of the frontage of this property is. Mr. Donnell responded that it is 500-600 feet.

Councilman Kasian asked if there has been any medically oriented interest with the use to date on this property. Mr. Efrussy responded that there has been no specific interest or comment to this issue.

Councilman Mattli made a motion to approve the zoning of 14± acres to the Commercial Planned Development District, Zone M known as the Apple property. Seconded by Councilman Kasian, with all in favor.

2006 BUILDING CODE: Consider approval of an ordinance amending the Building Code and adopting the new 2006 Building Code, with amendments.

Mr. Chancellor introduced this item stating that the town has currently adopted the 2006 codes and they are in effect minus the International Building (IBC) and Fire Code (IFC). Mr. Chancellor stated that since that time, the state of Texas passed additional laws that affected under what conditions a municipality could require residential fire suppression systems. Mr. Chancellor stated that the proposed amendments to the IBC and IFC have been revised and reviewed by staff and the town attorney taking into account additional council discussion in November. Mr. Chancellor stated that town staff is recommending the adoption of the 2006 IBC and IFC with the proposed amendments.

Mayor Pro Tem Cunningham asked if $500 was the fee for the whole plan to be reviewed and if an application is denied, are they charged the $500 again or any additional fees. Jeff Bell, the town's fire marshal replied that there are reinspection fees. Mr. Godwin confirmed that there are no new fees charged if an applicant is asked to make changes on their plan. Mayor Pro Tem Cunningham asked if the review of the plans were done in-house. Mr. Godwin responded that the residential fire and building were done in-house and the Villages At Fairview were currently being done by Bureau Veritas.

Councilman Mattli asked if the item referencing Section 3002.4 (Elevator car to accommodate ambulance stretcher) of the International Building Code was referencing commercial or residential. Mr. Bell responded that it is commercial only. Mr. Mattli commented that some sections seem confusing as to whether the code is referencing commercial or residential. Mr. Bell replied that there is not one section that is only commercial or only residential that it is mixed throughout, but is commercial unless noted residential.

Councilman Mattli made a motion to approve the 2006 Building Code, with amendments. Seconded by Councilman Kasian, with all in favor.

2006 FIRE CODE: Consider approval of an ordinance amending the Fire Code and adopting the new 2006 Fire Code, with amendments.

Mr. Chancellor stated that same comments apply.

Mayor Pro Tem Cunningham asked in regards to section 106.2.1 what the fees were pertaining to inspection and re-inspection fees. Mr. Bell responded that they are listed within the Master Fee schedule. Mayor Pro Tem Cunningham requested that the language 'as fees outlined in the Master Fee schedule' be added anywhere in the ordinance where fees were referenced.

Mayor Pro Tem Cunningham asked in regards to section 503.1.2 referencing two points of access if there are any subdivisions not in compliance. Mr. Bell responded that if a subdivision is already built, the town cannot make them go back and change; they would be exempted. Mr. Bell stated that this also applies to new construction only.

Mayor Pro Tem Cunningham asked in regards to section 907.23 referencing the resetting of the fire alarm system if someone from the fire department was always present. Mr. Bell replied that someone from the fire department must be on-site to reset the alarm. Mayor Israeloff asked what happens in the case of a fire drill; do they still need someone from the fire department present? Mr. Bell responded that when a school conducts a fire drill, the alarm goes off but is not signaled to them since it is in test mode, so they do not have to be there to turn it off. However, if for example, the sprinklers were triggered and they were dispatched to location, then, yes the fire department is the one to turn off the alarm.

Mayor Pro Tem Cunningham made a motion to approve the 2006 Fire Code Ordinance and amendments with the additional language 'as fees outlined in the Master Fee schedule' as stated above. Seconded by Councilman Mattli, with all in favor.

ACCESS EASEMENT CREEKWOOD DR/MEANDERING WAY: Consider emergency access easement between Creekwood Drive and Meandering Way.

Mr. Chancellor introduced this item stating that the council had requested a safety study be completed and to bring back recommendations. Mr. Chancellor stated that Larry Cervenka, engineer was hired and visited the site the week of January 18th. Mr. Cervenka provided a list of recommendations.

Mayor Israeloff asked if there is a proposed crosswalk between the connector and questioned using the word 'trail' on the pedestrian crossing sign. Councilman Kasian agreed and also questioned the use of the word 'trail'.

Mayor Israeloff stated that council has received legal advice on ADA compliance and how the project can be done safely. Mayor Israeloff stated that council has also been given information on policy and safety. Mayor Israeloff polled council on how they would like to see staff proceed or is the issue too complicated and not to proceed at this time.

Mayor Pro Tem Cunningham suggested policy direction and stated that he likes the concept of signs, but questioned how to make a more feasible barrier for kids who may be going down the hill at a fast pace. Mr. Cervenka responded that if it is on Meandering Way coming down the hill, the trails will have a bend to help slow them down or get their attention. Mr. Cervenka added that a sign will also be posted to help warn them. Councilman Kasian commented that in his opinion, it will also be based on the discipline of the people and can't protect everyone 100%.

Mayor Israeloff asked council if they should proceed or defer topic until they have a full council present.

Councilman Kasian asked if there was consensus on the emergency access easement.

Councilwoman Price asked if the portion of the sidewalk that is sloped can meet the ADA requirements and how will that affect the crossing at Meandering Way. Mr. Cervenka replied yes it can be done and would have to build ramps to the road. Mr. Cervenka stated that it's better to do with concrete as it will last longer, but would have to back it up enough so isn't a speed bump.

Councilman Kasian made a motion to direct staff to bring back a preliminary design to include the emergency access easement with the trail component with Mr. Cervenka's recommendations along with full ADA compliance and pricing. Seconded by Councilman Mattli, with all in favor.

PERMIT HELICOPTER LANDING: Consider request for authorization of special permit for a helicopter landing.

Mr. Godwin introduced this item stating that a couple is having their wedding reception at Heritage Ranch and they are requesting a helicopter to pick them up following their reception which requires town approval.

Councilwoman Price asked if safety measures are being used and how do they enforce them. Councilman Mattli stated that debris could be a potential problem. Mayor Israeloff stated that they should give safety precautions to the fire marshal and/or fire chief.

Mayor Pro Tem Cunningham stated that if they show proof of liability insurance and they get approval from the Homeowners Association, then seems okay.

Councilwoman Price made a motion to approve conditioned upon the area is free of debris and safety plan is approved by the fire chief and proof of insurance is shown.

Clark McCoy, town attorney, said that the insurance is required and is one to two million per occurrence. Mr. McCoy stated that he can draft an addendum that addresses the hold harmless agreement.

Seconded by Councilman Mattli, with all in favor.

EAST STACY ROAD PROGRESS: Receive briefing on East Stacy Road progress, and take action thereon.

Mr. Chancellor introduced this item stating that all the utility companies have been notified and still working and should be complete by the end of February. Mr. Chancellor stated that he's hoping to bid out in March and receive approval in April, but will not see any real construction until May if stays on track.

Councilman Mattli asked if some utilities will stay on poles. Mr. Chancellor responded that yes and not all will go underground.

Mr. Godwin showed various pictures to council regarding views of sidewalks and different options for East Stacy Road. Councilman Mattli asked who would maintain the grass on the side of the road. Mr. Godwin responded that the town would maintain these areas.

Mayor Israeloff stated that he likes the serpentine shape with hardy low maintenance trees. Councilman Mattli agrees. Mayor Israeloff suggested proceeding with the sidewalk and determining if they have extra monies for landscaping at a later date.

Mayor Pro Tem Cunningham stated that he could show pictures and talk to neighbors regarding the sidewalk to get feedback.

SIDEWALK/TRAILS ON STACY ROAD: Consider construction of sidewalks and trails on Stacy Road between SH 5 and FM 1378.

Mr. Chancellor introduced this item stating that it appears unlikely that TXDOT will have enough money or desire to pay for construction of the wide trail on the north side of Stacy when improvements are made. Mr. Chancellor stated that the sidewalk on the south side is much smaller, but also unfunded and will not connect to FM 1378 until improvements are completed, which is several years out. Mr. Chancellor stated that he spoke with a local area engineer with TXDOT about designing 8 ft sidewalk, but will not be able to meander the sidewalk and in some places will be 6 feet wide. Mr. Chancellor stated that options for the town at this point are to pay for the trail now, not build at all or have TXDOT complete the design of the trail, but build it at a later date.

Councilwoman Price asked if the equestrian use was still a possibility and how can the town discourage from having six lanes. Mayor Israeloff suggested that they ask TXDOT to design in the sidewalk, but defer the cost. Councilwoman Price asked if the town could try to receive funding from the county. Mr. Godwin responded that the town cannot argue with state roadways and that North Central Texas Council of Governments (NCTCOG) took our side with only wanting four lanes versus six.

The council agreed to ask TXDOT to design the sidewalk.

GRANT EMERGENCY OPERATIONS CENTER: Consider submission of a state matching grant for construction and equipping of an emergency operations center.

Mr. Godwin introduced this item stating that Mr. Donnell with assistance from Chief Price slightly modified the original grant application from a year ago and was resubmitted. Mr. Godwin stated that staff is asking council to approve the submittal or withdraw it.

Councilman Mattli made a motion to approve the emergency operations center grant. Seconded by Councilman Kasian, with all in favor.

SALES TAX COLLECTIONS: Discuss sales tax collections, including concern of proper allocation to the town.

Mr. Dunlap introduced this item stating that the town is currently in a three year agreement with Muni Services to insure tax revenues are properly allocated. Mr. Dunlap stated that the town meets with a sales representative twice a year. Mr. Dunlap stated that there is an analyst who is assigned to the area that works with the state comptroller to make sure businesses' taxes are properly allocated to the town. Mr. Dunlap said there is no charge unless something is found and since they've been contracted, there has only been one business found and has been corrected for future payments and is currently working with the comptroller's office to see if there is any back money owed.

Mr. Godwin stated that Mr. Donnell will also be doing quarterly reports on revenue and will be able to report to council.

Councilman Kasian asked about the 7-11 business. Councilman Kasian stated that the credit card receipts say McKinney when it should say Fairview.

Councilman Mattli asked how often they review. Mr. Dunlap responded that there are monthly reports as well as quarterly reports, but the reports are not public information.

Councilman Kasian asked if the percentage that is paid back to them is negotiable. Mr. Dunlap stated that the agreement was approved prior to his time and was done at the time of the contract approval, but is not currently able to change it.

TOWN HALL FURNITURE: Discuss Town Hall furniture.

Mr. Godwin introduced this item stating that the architect recommended chairs that are cloth and stackable that the town would like to purchase now for the council chambers since they are in need of new chairs, but will go to the new town hall when complete. Mr. Godwin stated that they will also look to purchase desks, shelves, etc and asking council if they would like to see the items prior to ordering or just certain items that will be purchased for the new town hall.

Mayor Israeloff stated that he would rather see the people who will actually be using the furniture pick it out within budget reason, but for council to review the furniture that will be in the public areas. Councilwoman Price asked if the designer was helping with color choices. Mr. Godwin responded yes and will coordinate with the rooms since flooring etc has already been chosen.

Councilman Mattli asked if any audio/visual has been considered. Mr. Godwin responded they are still working on it and is under design.

FIRE EQUIPMENT: Discuss and take action regarding fire equipment, specifically control/mitigation and commercial structures.

Councilman Mattli introduced this item stating that he had requested to discuss the next few topics, which were brought on by a series of events. Councilman Mattli stated that recently his fire sprinkler pipes burst inside of his home. Councilman Mattli stated after the incident he had the fire marshal come out and inspect them and found out that they were was not properly installed. Councilman Mattli stated his concern is that when the incident occurred, only one truck came out and did not have a water pump and once they did arrive, it only had a small vacuum, which ultimately had significant impact on the house with severe monetary damage. Councilman Mattli believes some of it could have been rectified and thinks it's important to recognize that that the inspection of his system was not done properly and would like assurance that the inspectors will follow through moving forward.

Mr. Godwin stated that the town has identified the number of homes that may not have been properly inspected. Mr. Godwin stated that he has no concerns with Jeff Bell, current fire marshal, but prior to that the inspections were done by someone with less experience and is not certain why it happened but trying to find out which companies were affected and identify property owners by to mail so that they can ask for their home to be checked for any problems, which the town is offering at no charge. Councilman Mattli added that the residents need to be educated so that they know how to check their system and where it is so that they are well informed.

Councilman Mattli asked if there was a fire vehicle or a smaller unit that could go out on calls such as these. Jeff Bell, fire marshal, stated that he is not familiar with other cities providing this service and would require additional equipment.

Mayor Israeloff asked what type of equipment is used in colder climates and/or are there alternative approaches. Mr. Bell responded if the house has the correct installation, then there should be no problems.

No action taken.

DISPATCH RULES OF ENGINES: Discuss and take action regarding dispatch rules of engines.

Councilman Mattli stated that currently EMS is dispatched then Fire. Councilman Mattli stated that he was surprised of the order since EMS was not necessary for his call. Mr. Bell commented that it is typical that 'all hands' respond, but is in the process of re-writing on whom to send out on what kind of call, so that if there is an overlap in calls, that they have people available to respond. Mr. Bell stated that a typical crew is four people; three full-time and one volunteer and at night there are also four people, so all four respond plus EMS to a call.

Mayor Israeloff stated that he would be interested in looking at a modest level vehicle that would allow for cleanup of water damage as long as it is feasible and practical and what that would entail for the fire department until they were needed to respond to another call. Councilman Kasian responded that he would not be in favor of this. Councilman Mattli added that maybe he has a different view of emergency management, but seems that extracting water is small and would like to see more damage control.

Mayor Pro Tem Cunningham stated that it could become a liability and either the town does it right or not at all. Councilwoman Price agreed with Mayor Pro Tem Cunningham.

No action taken.

FIRE SPRINKLER INSPECTION/CODE ENFORCEMENT: Discuss and take action regarding fire sprinkler inspection/code enforcement.

See discussions above.

No action taken.

PUBLIC OFFICIALS: Discuss duties, authority, and responsibilities of elected public officials.

Councilman Mattli stated that he believes that the town charter does not go into enough detail regarding public officials. Councilman Mattli suggested the town creating a manual outlining duties. Councilman Mattli stated that within the charter the ethics portion needs to be expanded stating what is allowable and what is not with also providing examples.

Mayor Israeloff stated that it's an education aspect and asked the town attorney what is required under current state law and how do other cities and/or committee's handle this. Mr. McCoy responded that some cities will do an orientation when a new member is elected. Mr. McCoy stated that he could look into a handbook that deals with codes of ethics and state law if council wishes. Mr. Godwin stated that all newly appointed board and commission members are required to take the public information training. Mr. Godwin stated that a refresher and expectations are important and could add this to the annual retreat or could have a work session and bring in a neutral party.

Mayor Israeloff asked town staff to put together a session and once a year to conduct refreshers.

CITIZENS INPUT:

There being no other items for discussion, Mayor Israeloff adjourned the meeting at 10:17 p.m.

Sim Israeloff

SIM ISRAELOFF, MAYOR

ATTEST:

Michelle Lewis Sirianni

Michelle Lewis Sirianni, Town Secretary

TOWN OF FAIRVIEW