

**TOWN COUNCIL
MEETING MINUTES
December 7, 2010**

The Town Council met in regular session on Tuesday, December 7, 2010, at 7:00 P.M. at 500 S. State Hwy 5, Fairview, Texas. Those present were Mayor Sim Israeloff, Council Members Carolyn Sommers Erickson, Jim Cunningham, Ron Kasian, Anton Mattli, Henry Lessner, and Mary Price. Town Manager John Godwin; Assistant to the Town Manager; Matt Donnell; Planning Director, Alan Efrussy; Community Development Manager, Ray Dunlap; Budget and Management Analyst, Adam Wilbourn; Town Secretary, Michelle Lewis Sirianni, and Town Attorney, Clark McCoy.

Mayor Israeloff called the meeting to order at 7:02 p.m. and declared a quorum was present. The council then adjourned into executive session.

At 7:35 p.m. Mayor Israeloff reconvened back into regular session 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 November 2, 2010 regular council meeting. B) Adopt a resolution to make Fairview Police a test site for a new TXDOT accident reporting system. C) Approve an inter-local agreement with the City of Allen to adjust extraterritorial jurisdiction boundaries for the annexation of certain LISD property into Fairview.

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

Council Mattli made a motion to approve item A. Seconded by Councilman Kasian, with Councilwoman Price abstaining from the vote. Motion passes 6-0

HERITAGE RANCH VERTICAL STRUCTURES: Conduct a public hearing and take action regarding amending the Heritage Ranch Planned Development District regarding vertical structures within setbacks with a maximum height of 20".

Mr. Donnell introduced this item stating that there is currently no clear definition allowing any vertical structures within the Heritage Ranch subdivision. Mr. Donnell stated that residents within this subdivision along with staff's recommendation would like to recommend an allowable limit of no larger than 20" in height for structures built within the setback(s). Mr. Donnell stated that this would allow for stone seating walls, planters etc. to be built and would also help protect residents from drop offs from their patios, which could potentially be a safety issue. Mr. Donnell stated that the planning and zoning commission unanimously recommended approval at their last commission meeting.

Mayor Israeloff asked if this item was addressing the residents' permission to build up to 20" of a structure within their setback. Mr. Donnell confirmed.

Mayor Israeloff opened the public hearing. Carol Gibson, 617 Pelican Hills asked if the existing structures were being grandfathered. Mr. Donnell replied that they are being grandfathered.

Mayor Israeloff closed the public hearing and opened discussion to council. Mayor Pro Tem Sommers Erickson stated that these structures are widely used already and believes it is a good idea bringing the remaining into compliance. Councilman Cunningham asked why 20" versus another number. Mr. Donnell replied that from what the town's building inspector and the Heritage Ranch HOA Architectural Committee have seen, a compromise was made on the height and 20" allows for protection, but will also not block neighbors' views.

Mayor Pro Tem Sommers Erickson made a motion to approve the amendment of the Heritage Ranch Planned Development District regarding vertical structures within setbacks with a maximum height of 20". Seconded by Councilman Cunningham, with all in favor.

RESTRICTING BICYCLES EAST STACY ROAD: Consider and ordinance restricting bicycles on East Stacy Road.

Mr. Godwin introduced this item stating that due to the construction on East Stacy Road, council should consider restricting bicycles from entering the construction area until completed.

Councilwoman Price asked if there would be a penalty. Mr. Godwin responded that the penalty would be up to \$200. Mayor Pro Tem Sommers Erickson requested that a sign be placed to stay off the road to alert cyclists. Councilman Cunningham added that the sign should be placed near FM 317 or the fruit stand so that cyclists would not have to turn around on Stacy Road. Councilman Kasian requested the sign to specify "from and to". Mr. McCoy responded that a sign could be placed on either end of the road where it is

applicable. Mayor Israeloff stated that the ordinance be amended to clarify to say "Orr Road and Country Club (FM 1378)."

Councilman Mattli made a motion to approve an ordinance restricting bicycles on East Stacy Road. Seconded by Councilwoman Price, with all in favor.

RESTRICTING TRUCKS EAST STACY ROAD: Consider an ordinance restricting trucks on East Stacy Road.

Mr. Godwin introduced this item stating that meetings were set up with NTWMD to try to change the trucks routes on East Stacy Road. Mr. Godwin stated that the town needs a restriction on through trucks only, thereby allowing trucks that have a specific destination within the construction area to enter. Mr. Godwin stated that such restrictions can be difficult to craft and enforce, however, there is also concern of not providing NTMWD with advanced notice.

Councilman Kasian asked if there was limited routing and suggested Forest Grove and Orr Road. Councilman Lessner stated that they could enforce reducing the weight load of the trucks, which would mean more trips. Mr. Godwin added that the City of Lucas prohibits trucks by ordinance and the proposed ordinance would not prohibit them, but rather reroute the trucks until the road is completed.

Mayor Israeloff asked if it better to enact the ordinance and continue discussions with NTMWD. Councilman Mattli stated that it gives them reason to approach Lucas. Councilman Kasian stated that he is in favor of the ordinance, but asked how the town can enforce it. Mr. Godwin responded that North Texas Municipal Water District would re-direct the trucks. Mr. Godwin stated that he does not believe that they would ignore the town and continue to drive on the road. Councilman Cunningham agrees with the ordinance and suggested making it effective fifteen days from approval. Mayor Pro Tem Sommers Erickson suggested ten days.

Councilman Cunningham made a motion to approve an ordinance restricting trucks on East Stacy Road with an effective date fifteen days from passage and between Orr Road and Country Club Road (FM 1378). Seconded by Councilman Lessner, with all in favor.

SPEED LIMIT EAST STACY ROAD: Consider an ordinance reducing speed limit on East Stacy Road.

Mr. Godwin introduced this item stating that the proposed ordinance would reduce the construction speed limit to 20 mph versus the current speed limit of 30 mph. Mr. Godwin stated that the purpose is to promote safety until the road is completed.

Mayor Pro Tem Sommers Erickson stated the 30 mph is slow and there's no need to reduce it further. Councilman Cunningham stated that he would like to see the speed limit 20-25 mph. Councilman Kasian agreed with Mayor Pro Tem Sommers Erickson and that if someone sees a speed limit of 25 mph posted, they will drive faster anyway. Mayor Israeloff stated he likes 25 mph, which is slow but doable. Councilman Lessner agreed with Mayor Israeloff. Councilman Mattli stated that he likes 30 mph. Councilwoman Price stated that the proposed ordinance states 20 mph and asked if they are amending the ordinance. Councilman Cunningham responded that 30 mph is state mandated and would not need an ordinance if they decide to keep as is.

Councilwoman Price made a motion to approve an ordinance reducing the speed limit to 25 mph. Seconded by Councilman Lessner. Motion does not pass with a 2-5 vote.

EAST STACY ROAD/LACY CONSTRUCTION: Consider and take possible action regarding East Stacy Road/Lacy Construction.

Councilman Mattli stated that he had asked for this to be placed back on the agenda. Councilman Mattli stated that this issue is a continued frustration. Councilman Mattli stated that since last May, they have communicated activity that has not happened and also went a month without any work. Councilman Mattli stated that he suggests that the town meet with the owner of Lacy and discuss what they have not done correct and to enforce fixing the problems.

Mayor Israeloff stated that he met with Lacy and expressed how upset and frustrated the community was over the road. Mr. Godwin added that they are constructing and maintaining a temporary lane while finishing the asphalt. Mr. Godwin stated that they are meeting with the construction inspector every two weeks and are demanding more than just patching the road.

Mayor Israeloff inquired if there are penalties outlined within their contract. Mr. Godwin responded that they have twelve months to finish and should finish on time with the surface being completed by April and driving on a temporary lane. Councilman Mattli asked if the contract states temporary lane and is it a suitable travel lane. Mayor Pro Tem Sommers Erickson suggested that maybe they need to take legal action or suggests that there is someone on sight daily to monitor progress. Mayor Pro Tem Sommers Erickson stated that the only recourse it seems they have is to be a nuisance to them.

Mayor Israeloff directed the town attorney to start looking at documents and whether the town has rights other than the current timeframe to complete the project.

Ron Seifert, 339 Pine Valley, stated it is the town's responsibility and that there was notice given in November to start construction, one notice in the newsletter and one from

Mr. Chancellor, the town's engineer, but no one has followed it. Mr. Seifert expressed that his concern is that no one is taking responsibility.

Guy Wormald, 926 Medinah Drive, stated that he has worked road construction and no date is ever certain, but can give milestones. Mr. Wormald stated that they need to hold them accountable.

Doyle Peterson, 454 Scenic Ranch, asked if they can do something about the temporary lane whether it's legal action or town council initiating with the contractor, but the road needs fixed.

Mike Tinghitella, 962 Winged Foot, stated that the community is frustrated and seems like the project has been longer than twelve months. Mr. Tinghitella stated that there is never anyone onsite and is concerned about the unexpected deterioration of the road, potholes, etc. Mr. Tinghitella expressed his concern of being updated with what's happening and asked if the town can re-bid or go somewhere else for non-compliance with current contractor.

Bruce Huot, 900 Sycamore, stated that his concern is putting the safety vehicles in jeopardy and that people cannot even make it down the road to make it to functions held at the country club since they do not want to travel down the road.

Councilman Mattli suggested meeting with the owner of Lacy and allowing them to see the road and hope that the owner will care enough to fix it. Councilman Cunningham added that Mr. Godwin has gone out of his way in trying to find an alternate solution and meeting with Lacy to try to reconcile the town's concerns.

REZONING HICKEY PROPERTY TO RE-1.5: Conduct a public hearing and take action regarding the rezoning of three acres commonly known as the Hickey property located south of Hart Road, north of Country Trail, west of Elm Creek Drive and east of St. James Drive from the Two Acre Residential Estate Zone (RE-2) to the One and One-half Acre Residential Ranch Estate Zone (RE-1.5).

Mr. Donnell introduced this item stating that the applicant is requesting a re-zoning of his property so that two houses can be accommodated on his land. Mr. Donnell stated that Mr. Hickey has received letters of support from his neighbors and that at the last planning and zoning commission meeting, the commissioners unanimously approved his request. Mr. Donnell stated that staff recommends the re-zoning of Mr. Hickey's property from RE-2 to RE-1.5.

Mayor Israeloff opened the public hearing. Pat Hickey, 1036 Hart Road, stated that he is the property owner and when he moved to Fairview, his property was unannexed and was not ready to build an additional home. Mr. Hickey stated since that time, his daughter is

moving back and re-zoning the property would allow him to build a house for her, which would share the same driveway off Hart Road.

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

Councilwoman Price made a motion to approve the rezoning of three acres commonly known as the Hickey property located south of Hart Road, north of Country Trail, west of Elm Creek Drive and east of St. James Drive from the Two Acre Residential Estate Zone (RE-2) to the One and One-half Acre Residential Ranch Estate Zone (RE-1.5). Seconded by Councilmen Lessner, with all in favor.

BOARDS/COMMISSIONS: Consider the appointment of individuals to serve on the Board of Adjustments and Public Arts Committee.

Councilwoman Price nominated Matt Faulkner to the Board of Adjustments. Seconded by Councilman Lessner, with all in favor.

Councilman Cunningham nominated Debbie Flood to the Public Arts Committee. Seconded by Councilman Kasian, with all in favor.

Councilman Mattli nominated Karen Karnuta to the Public Arts Committee. Seconded by Councilwoman Price, with all in favor.

BUSINESS SECURITY POLICE DEPARTMENT: Consider regulating business security and disclosure to the Police Department.

Chief Tolliver introduced this item stating that he has worked with the town attorney on this proposed ordinance. Chief Tolliver stated that now that the mall is up and operational, many stores have hired security/peace officers. Chief Tolliver stated that this ordinance would regulate the use of peace officers to ensure the town is aware of who is working and will allow them to coordinate services with them. Chief Tolliver stated the reasons for this include, being able to know what's going on, who's working where, if they are carrying a weapon, and safety concerns that will allow them to stay in contact with them. Chief Tolliver added that Collin County is on board with the town and believes it's a good idea.

Mayor Israeloff asked if there are other communities doing this and what is or is not preempted by the state with peace officers. Chief Tolliver responded that the Cities of Plano and McKinney have something similar and the requirement with the state is that

businesses should disclose information and that this ordinance would be specific and give fair notice.

Councilman Lessner stated that it makes sense to do, but how do you make them aware. Chief Tolliver stated that you educate them, but also put it on them to follow through.

Councilman Kasian made a motion to approve an ordinance regulating business security and disclosure to the Police Department. Seconded by Councilman Lessner, with all in favor.

Mrs. Foreman, 77 Stonehinge, asked how the town can dictate who businesses can hire. Mrs. Foreman stated that she agrees with letting the town know who is working there, but questions if they are limiting candidates this way. Mr. McCoy responded that the town cannot dictate who businesses hire privately to protect them, but can require businesses and/or owners to contact the Chief of Police and employ or obtain permission from him. Mr. McCoy stated that the ordinance does not state which individuals, but the town does have the right of refusal.

ADMINISTRATION TOWN COUNCIL & BOARD/COMMISSION MEETINGS:

Consider and take possible action regarding the administration of town council and board/commission meetings.

Councilman Mattli stated that there are currently many administrative software systems that help in administering and/or preparation of meetings. Councilman Mattli stated that many of these help in the distribution of minutes and can allow for the town to place on the website. Councilman Mattli stated that many cities video tape their meetings and allows for transparency. Councilman Mattli stated that minutes cannot describe mood or every statement that is made. Councilman Mattli stated that everyone may not be liked, but gives the public opportunity to view meetings and gives residents a tool.

Mayor Pro Tem Sommers Erickson stated that she likes the idea of transparency/accuracy and would be interested in researching.

Mayor Israeloff stated that in regards to videotaping the meetings, that there are positives and negatives and usually people like to play to the camera, especially on public comments.

Mr. Godwin stated that paperless agendas are a good idea and saves time. Mr. Godwin added that the new town hall will have monitors at their places and can be changed to laptops. Mr. Godwin stated that typically videotaping meetings will make them longer since people will tend to talk more.

Mayor Israeloff asked if there were packages available. Councilman Mattli responded that there are packages for local governments. Mayor Israeloff directed staff to explore what's available.

MISD/LISD BOUNDARIES: Discuss MISD/LISD boundaries.

Councilman Cunningham stated that there are currently school buses that take children from Fairview to McKinney for just a few houses. Councilman Cunningham suggested that the town consider a resolution reconsidering the boundary lines.

Mr. Moore stated that he petitioned in 2007 and took a petition with 99% of residents signing it to the school board asking them to expand their boundaries. Mr. Moore stated they did not want to change boundary lines.

Councilman Lessner stated that Lovejoy does not want any more schools within their boundaries. Councilman Mattli asked if the town drafts a support letter and the consequences of that area and that other neighborhoods are asking for the same what they could do next. Councilwoman Price stated that the town should ask McKinney to put a school in Fairview. The town would benefit from taxes and could help serve the east side of town.

Residents expressed their concerns about the time and location in McKinney that it takes to transport their children daily. Residents expressed the need of having another school located in the town.

CITIZENS INPUT:

No comments were made.

REPORTS FROM STAFF/TOWN COUNCIL: Receive reports from Staff or the Town Council about items of community interest.

- Pearl Harbor Day
- Town's Holiday Parade is Saturday, December 11th at 10:30 am with a town hall dedication at 9:30 am and open house with tours of the building after the parade.

Mayor Israeloff adjourned the meeting at 9:56 p.m.

ATTEST:

Michelle Lewis Sirianni
Michelle Lewis Sirianni, Town Secretary

Sim Israeloff
SIM ISRAELOFF, MAYOR

