

**TOWN COUNCIL
MEETING MINUTES
December 6, 2011**

The Town Council met in regular session on Tuesday, December 6, 2011 at 6:30 P.M. at 372 Town Place, Fairview, Texas. Those present were Council Members Carolyn Sommers Erickson, Jim Cunningham, Ron Kasian, Henry Lessner (arrived at 9:54 pm), Darion Culbertson, and Mary Price. Town Manager John Godwin; Town Engineer, James Chancellor; Community Development Manager, Ray Dunlap; Budget and Management Analyst, Adam Wilbourn; Management Intern, John Skuta; Special Projects Intern, Ken Schmidt; Town Secretary, Michelle Lewis Sirianni and Town Attorney, David Overcash.

Mayor Israeloff called the meeting to order at 6:33 p.m. and declared a quorum was present. The council then adjourned into executive session.

At 7:30 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 6, 2011 special council meeting. B) Approve the minutes of the November 8, 2011 regular council meeting.

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

EMERGENCY ACCESS EASEMENT: Consider and take action regarding the emergency access easement between Meandering Way and Creekwood Drive North.

Mayor Israeloff introduced this item stating that he'd like to give some background history. Mayor Israeloff read the following statement:

Original Plat and Public Access

River Oaks was platted in 1978. The streets in this subdivision were dedicated in the form of "ingress and egress easements."

Creekwood Drive North was originally platted to go all the way through to Meandering Way, so the plat showed an easement for "ingress and egress" cutting across lots 83 and 84 ending at Meandering Way.

Some residents have historically walked across the easement to get to Meandering Way. But the street ended at Lot 83. Creekwood Drive North has remained a cul-de-sac street for over 30 years, stopping short of Lot 84, and the town understood that residents wanted the street to remain a cul-de-sac.

Amended Plat

In 2005, the then owners of Lot 84 asked the town to amend the plat to ensure that the street would never be built through to Meandering Way. The town agreed to abandon the original 50 foot wide easement across Lot 84 on the condition that an emergency access easement be retained.

In September 2005 the council voted unanimously to approve an amended plat, which was filed for record in March 2006. The amended plat dedicated additional ROW on the west side of the lot (on Meandering Way) and replaced the 50 foot wide "ingress and egress easement" with a 25 foot "private drive and emergency access easement" across the south side of Lot 84.

The amended plat was not intended to affect the rights of the public to continue walking across the easement. The town understands that residents continued to walk across the easement after the plat was amended without objection. Earlier this year, however, the attorney for the current owner asserted that the amended plat had unintended consequences because it changed the wording from "ingress and egress easement" to "private drive and emergency access easement."

Paving

In January 2009, the Parks Board voted to install a 6 foot wide concrete sidewalk in the emergency access easement. In May 2009, work was begun on the sidewalk and about 100 feet was built. Work was halted when some nearby residents complained.

During 2009 and into early 2010, the council discussed what to build and how. A consensus was reached to build a grasscrete base for emergency vehicles. The council also discussed whether to build a sidewalk as well, or whether people could walk across the easement on the grasscrete base.

At the time of the discussions, the question of whether the public had a legal right to use the easement for pedestrian traffic was not believed to be in question. The town believed that the public had a continuing right to walk across Lot 84 using the easement.

In May 2010, Lot 84 was sold to the current owner. The owner spoke to town officials on several occasions about the easement. At that time it was the town's understanding that the owner understood that the easement existed and that people would continue to walk across the easement to get to Meandering Way.

On August 3, 2010, the council authorized an expenditure of \$60,000 to build a grasscrete base and a concrete sidewalk on top of the grasscrete. The area was surveyed for elevations and the town did some tree removal and grading.

The owner advised the town that he needed to build his driveway first along a portion of the easement, and preferred that there not be a separate section of sidewalk alongside the driveway. The homeowner installed a concrete driveway meeting emergency access and ADA standards and removed the section of sidewalk that was previously built. Once the driveway was installed, the grasscrete base and sidewalk would only be needed from the end of the driveway to Creekwood Drive North. The town delayed installation of the grasscrete and sidewalk until the homeowner was largely done.

Current Disagreements and Status

In March 2011 the lot owner turned away residents attempting to walk across the easement. In April the lot owner's lawyer contacted the town's attorney and said the owner did not want people walking across the easement. The lawyer took the position that the public did not have a legal right to cross the easement under the language of the amended plat, but suggested that the owner might be willing to consider some kind of compromise that would allow pedestrian access. No proposal for pedestrian access was received.

In July 2011, the lot owner's lawyer again contacted the town's attorney complaining about people crossing the property. He asserted that construction of a sidewalk by the Town would be considered an inverse condemnation for which the Town would have to pay damages. Work on the sidewalk was suspended pending a discussion with the town council and town attorney but construction of the grasscrete base continued.

At the August 2 council meeting, the council was notified that work on the sidewalk had been suspended due to legal concerns. The council requested a legal briefing, which took place in executive session at the September and October council meetings. After considering the legal advice, the council decided for the moment to complete only what was needed for emergency vehicle access and, pending further legal review and discussions with the owner, to take no position on whether the public had a legal right to walk across the easement as it is currently configured.

At the November council meeting, a number of residents asked about the sidewalk during the Citizen's Input session. The mayor gave a brief statement of specific factual information and the council agreed to put the issue on the agenda for public discussion in December.

At this time the town is still working with its legal counsel. It has accepted the lot owner's offer to set up a meeting with representatives of the town. Construction of the sidewalk will remain on hold until discussions can be held with the lot owner and his lawyer. Mayor Israeloff opened discussion to the public.

Ron Pruett, 840 Timberwood, questioned how the residents' concerns will be addressed and asked what position the town will take on the issue and how in turn the police will respond. Mr. Pruett stated that public safety is in question and questions whether or not citizens would be arrested for trespassing if the police were called. Mr. Pruett stated in his opinion the lot owner is contributing to the hostility. Mr. Pruett stated that his other concern and/or issue is the words on the plat and how that will be handled. Mayor Israeloff responded that the town's official vote was to build the sidewalk and a grasscrete drive, but is unsure of legal authority at this point.

Councilwoman Sommers Erickson stated that she is concerned for the public safety of the residents.

Mr. Overcash, town attorney, asked what plat Mr. Pruett was referencing. Mr. Pruett responded that it was the amended plat.

Tom Supan, 780 Creekwood Drive North, stated that he was relieved by the dissertation read by the mayor; however, the timeliness and fairness were unacceptable. Mr. Supan questions if there are other emergency accesses in town where residents are prohibited. Mayor Israeloff responded that Bridalgate, Bluebird and Thompson Springs all have closed public accesses. Police Chief, Tolliver, stated that there are emergency access easements in town that are prohibited to residents, but they cannot enforce pedestrian crossing and do not stop people. Chief Tolliver stated that most of these areas have chains across them.

Robert Doran, 790 Creekwood Drive North, stated that he moved in January to the town and is not sure of legal rights, but would prefer not to have citizens go through there and is sensitive to having people nearby. Mr. Doran asked if the lot owner knew he was buying a public easement, since there are liability issues with driveway, especially if there is an accident.

Mike Djamoos, 750 River Oaks, stated that he moved to the town three years ago and has walked or ridden their bikes along this area. Mr. Djamoos stated that unfortunately his oldest son is no longer able to ride due to an accident that has left him in a wheelchair. Mr. Djamoos stated that without the public easement, it would not be accessible to him and was unaware until recently about how the ADA compliance could be in question, which is a very huge concern for his family. Mr. Djamoos stated that he believes property values would be less without park accessibility.

Nancy Packard, 761 Creekwood Drive North, stated that for over 15 years she has walked through this easement and it saddens her that the neighbors have not taken time to get to know each other and it's the poor communication that has put the neighborhood against each other.

Joe Foster, 711 Creekwood Drive North, stated that he has lived adjacent to the path for 13 years and is not in agreement with having the trail. Mr. Foster stated that it is a good neighborhood and does understand and sees why the walkers want to enjoy the trail.

Matt Knappas, attorney representing the lot owner, stated that he looks forward to meeting with the town staff. Mr. Knappas stated that the history is affecting the perception of the owners and that the strip of land dedicated to pedestrian use was for a driveway and the

owners never thought people would be using it as a walking trail. Mr. Knappas stated that the owners questioned it from the beginning when they saw people on the property.

Carolyn Camp, 761 Timberwood, stated that she walks her dogs through the neighborhood and stopped when her neighbor had expressed trouble. Ms. Camp expressed that it is the owner's responsibility to look at all the plats and to know what is on and around their property and to ask questions before buying if unsure. Ms. Camp asked for the town to try their best to negotiate a mutually acceptable agreement with the homeowners.

Michael Pezzulli, 880 Country Club, read a portion of an email that was sent to the mayor from the homeowner prior to the purchase of their property stating they were aware of the easement. Mr. Pezzulli stated that he would like to interface anywhere he can to help out to see if they can work out the situation for everyone. Mr. Pezzulli expressed his sympathy for the young man that needs the ADA compliance and stated that the town had an opportunity to put in a 50' concrete road when voted to reduce to 25' EAE. Mr. Pezzulli stated that the trail is needed and he never thought walkers would be turned away; therefore, they need to find a compromise.

Steve Howard, 492 Meandering Way, stated that he respects that ADA compliance, but feels that the worst place to put the exit is on Meandering Way due to traffic. Mr. Howard stated that he does feel that public should not have access to walk on someone else's property.

Joe Vastano, 496 Meandering Way, stated that the word 'sidewalk' was used in email because there was a piece of sidewalk on the property.

Tom Lacey, 761 Creekwood Drive North, questioned the intent of the town that the residents always have had access and feels that the homeowners did not handle the situation decently.

Michelle Vastano, 496 Meandering Way, stated that she'd like to address the comments that were made. Mrs. Vastano stated that men have threatened her son, which is upsetting to her. Mrs. Vastano stated that as the homeowner she was unaware of the access easement and that there was a time when she put up caution tape due to putting new seed down on her lawn. Mrs. Vastano stated that they respectfully asked the neighbors not to walk across it, but people continued to do so anyway. Mrs. Vastano stated that the neighbors have had no respect of using their yard and driveway and was told that no path would go through their property. Mrs. Vastano expressed how terribly she was treated and is very upset about the whole matter.

Mayor Israeloff stated again that at this time, the town is still working with its legal counsel. It has accepted the lot owner's offer to set up a meeting with representatives of the town and that construction of the sidewalk will remain on hold until discussions can be held with the lot owner and his lawyer, but that they would keep the public informed.

AMENDED PLAT SUMMER HILL FARMS: Conduct a public hearing and take action regarding amending the Site Plan for Summer Hill Farms.

Mr. Wilbourn introduced this item stating that the Summer Hill Farms Homeowners Association requested that the fence be removed since it was dilapidated beyond repair and there is a tree line that runs parallel with the fence. Mr. Wilbourn stated that removing the fence would have no adverse impact and aesthetically improve the area. Mr. Wilbourn reminded the commissioners that NTMWD at some point may put in a 54" water line that would adversely affect the location of the fence, but that there is no time frame upon when this may happen. Mr. Wilbourn added that the town's Public Works Manager volunteered to assist taking the fence down since he could use materials from the fence elsewhere.

Mayor Israeloff opened the public hearing. Craig Stephens, 241 Wyndham Court, stated that he is in favor of removing the fence. Mr. Stephens added that he sits on the HOA board, but is not speaking for everyone. Council asked Mr. Stephens if the homeowners voted or was done by the board only. Mr. Stephens replied that the board voted to remove the fence.

Councilman Cunningham asked who was paying to take down the fence. Mr. Godwin responded that the town's public works department offered to take it down since they can use the materials from the fence. Councilman Cunningham asked if the HOA was okay with the town taking it down. Mr. Godwin replied yes.

Councilwoman Price asked if the fence would be required to be put back up by North Texas Municipal Water District if they install a new water line and who would be responsible for the cost of repairs. Mr. Godwin responded that if NTMWD installs a new water line, then they are required to put it back incurring the cost to do so. Mr. Stephens added that he was unaware of the NTMWD situation and would like to take it back to the HOA board before asking council to approve removing the fence.

Mayor Israeloff left the public hearing open and no action was taken.

SPECIAL ENTERTAINMENT OVERLAY DISTRICT: Conduct a public hearing and take action regarding amending the Commercial Planned Development District (CPDD) by including a Special Entertainment Overlay Zoning District; said Overlay District comprising approximately 5.013± acres, and located within portions of subzone F: Western Office/Commercial Zone within the Commercial Planned Development District (CPDD).

Mr. Efrussy stated that the next three items are related. Mr. Efrussy introduced this item stating that establishing an overlay zoning district would indicate where to place as well as protect the town with any Sexually Oriented Business applicants. Mr. Efrussy stated that the size of the overlay district along with the requirements within the district

provides stringency, and first amendment rights. Mr. Efrussy stated the Planning and Zoning Commission along with town staff recommend approval.

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

Mayor Israeloff opened discussion to council. Councilman Culbertson asked if the area designated for the overlay district is eventually developed, does the town have to identify another location. Mr. Efrussy responded that the town does not have to identify another location. Mr. Overcash, Town Attorney, stated that the town is under no obligation as long as a space has been designated. Mr. Overcash added that if the land is developed, the town is not required to create a new district.

Councilwoman Sommers Erickson stated that within their work sessions the land size was 32.5± acres and not 5.0 ±. Mr. Efrussy responded that the concern raised at that time, was that the 32.5± was too large, so it was reduced and has met all legal requirements. Councilwoman Sommers Erickson asked if this item was dependent on approving an additional location. Mr. Efrussy responded that it is not dependent and is a separate zoning item. Councilwoman Price asked if the 5.0± acres satisfy the requirements. Mr. Efrussy responded yes.

Councilman Culbertson made a motion to approve amending the Commercial Planned Development District (CPDD) by including a Special Entertainment Overlay Zoning District; said Overlay District comprising approximately 5.013± acres, and located within portions of subzone F: Western Office/Commercial Zone within the Commercial Planned Development District (CPDD). Seconded by Councilwoman Sommers Erickson, with all in favor.

GOVERNMENT/INDUSTRIAL ZONING: Conduct a public hearing and take action regarding amending the Code of Ordinances, Chapter 14: Zoning, whereby the Governmental Zoning District (G) is changed to the Government/Industrial Zoning District (G/I).

Mr. Efrussy introduced this item stating that the town currently has property zoned to the Government Zone (G), which is owned by the Army Corp of Engineers. Mr. Efrussy stated that the proposed item is to change the Governmental Zoning District to a Governmental/Industrial Zoning District (G/I). Mr. Efrussy stated this would provide opportunity for land uses that could be compatible if the currently allowed governmental uses are wholly or partly eliminated and would allow for additional protection regarding the sale of the governmental property to private developers.

Mayor Israeloff asked if there was a benefit to changing the zoning and if the Army Corp of Engineers ever sells the property, do they have unlimited rights. Mr. Efrussy responded that it does show that the town is in good faith providing additional locations if

the zoning is changed. Mr. Godwin added that unless the town wants industrial uses in this subject area, then they shouldn't approve the proposed zoning change. Mr. Godwin stated that the area would remain Government Zoning.

Councilman Culbertson stated that he was opposed to the idea when he was on the Planning and Zoning Commission and remains opposed and would like it to remain zoned government only.

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

Mayor Israeloff opened discussion to council. Councilman Cunningham asked to clarify what would happen with the zoning if the property is ever sold. Mr. Efrussy responded that it remains Governmental zoning and selling it would not change the zoning of the property. Councilman Cunningham commented that he is opposed to changing the zoning. Councilwoman Sommers Erickson agreed with Councilman Cunningham.

Councilwoman Price made a motion to **deny** the amending the Code of Ordinances, Chapter 14: Zoning, whereby the Governmental Zoning District (G) is changed to the Government/Industrial Zoning District (G/I). Seconded by Councilman Culbertson, with all in favor.

SEXUALLY ORIENTED BUSINESSES: Conduct a public hearing and take action regarding updating and amending the Code of Ordinances, Chapter 4: business Regulations, Article 4.04 Sexually Oriented Businesses, with further restrictions and prohibitions and otherwise regulating sexually oriented businesses.

Mr. Efrussy introduced this item stating that the council had several work sessions to discuss this item in detail. Mr. Efrussy stated as a preamble to the ordinance, there were numerous lists and documents relating to sexually oriented businesses that are referenced in the ordinance. Mr. Efrussy stated that these were made available and held in the town secretary's office for anyone who wished to view them. Mr. Efrussy stated the proposed ordinance provides protection to the town as well as first amendment rights and therefore the planning and zoning commission along with town staff recommend approval.

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

Mayor Israeloff opened discussion to council. Commissioner Culbertson complimented staff for time and thought put into preparing this item.

Mayor Pro Tem Kasian made a motion to approve an ordinance updating and amending the Code of Ordinances, Chapter 4: business Regulations, Article 4.04 Sexually Oriented Businesses, with further restrictions and prohibitions and otherwise regulating sexually

oriented businesses with the deletion of any references to the Governmental/Industrial Zoning within the ordinance. Seconded by Councilman Cunningham, with all in favor.

OIL AND GAS WELL DRILLING AND PRODUCTION: Conduct a public hearing and take action amending the code of Ordinances, Chapter 14: Zoning, Article 14.02, Division 11 Conditional Use Permit District, to establish a new Article 14.04 Oil and Gas Well Drilling and Production, and to establish a new Article A6.000 Oil and Gas Drilling and Production Fees, all related to oil and gas well drilling, production, and pipelines.

Mr. Schmidt introduced this item stating that although oil and gas is not expected to be found in Collin County, the town is best protected if it adopts an ordinance restricting its activities. Mr. Schmidt stated that adopting the ordinance would create a permitting process that would impose site plan review requirements, performance standards, substantial administrative fees, and public hearing requirements upon any potential applicant. Mr. Schmidt stated that he used the City of Southlake and Flower Mound ordinances as models since they have had extensive issues with this and developed stringent regulations within their ordinances. Mr. Schmidt stated that the planning and zoning commission along with town staff recommend approval to amend the code of Ordinances, Chapter 14: Zoning, Article 14.02, Division 11 Conditional Use Permit District, to establish a new Article 14.04 Oil and Gas Well Drilling and Production, and to establish a new Article A6.000 Oil and Gas Drilling and Production Fees, all related to oil and gas well drilling, production, and pipelines.

Councilman Cunningham asked if drilling in a flood plain is allowed. Mr. Schmidt responded yes.

Mayor Israeloff opened the public hearing. Carolyn Camp, 761 Timberwood Lane, asked if it would require the resident's approval for drilling to occur and would be concerned if this occurred within the town.

David Adams, Southlake Texas, stated that he is moving to Fairview from Southlake, due to gas and oil drilling that is occurring in that area. Mr. Adams stated that he has experienced this problem first hand and commends staff and Mr. Schmidt for being proactive in establishing regulations.

Mayor Israeloff closed the public hearing and opened discussion to the council.

Councilwoman Sommers Erickson asked if the staff looked at different ordinances and if so, which cities. Mr. Schmidt responded that he used the City of Southlake and Flower Mound, which were among the two strictest ordinances. Councilwoman Sommers Erickson asked if the ordinance would allow for salt water injections. Mr. Schmidt replied no. Councilwoman Sommers Erickson stated that she got a copy of the Southlake ordinance and they are not as strict in certain areas, many variance requests were given, and they allow in all zoning districts minus the Flood Hazard (FH) Zone as to where Flower Mound does not allow it in residential areas. Councilwoman Sommers Erickson

also noted that in the City of Southlake it takes a super majority of council to grant a request compared to the town's proposed ordinance states a simple majority. Mr. Schmidt explained that the ordinance cannot eliminate the residential areas since the town is majority residential and eliminating it could bring a legal challenge. Mr. Schmidt stated that the town would establish a 1,000 ft from a habitable structure regulation, which would pretty much eliminate drilling near residential areas and would allow it within essentially one area of town within the Commercial Planned Development District (CPDD). Councilwoman Sommers Erickson asked if the town would be at risk using 1,500 ft versus the 1,000 ft. and stated that she feels like this ordinance is too much for one person to do and needs more work on it.

Mayor Israeloff stated that his concern is that there's no ordinance on the books and it's more important to have something and make amendments as needed at a later date. Councilwoman Sommers Erickson stated that her concern is seeing possible locations.

Councilman Cunningham asked if the Zoning Board of Adjustment (BOA) can override their decision. Mr. Overcash replied the BOA cannot grant a variance or override the council's decision. Mr. Schmidt added that there is language in the ordinance that states that a variance request must go to council. Councilwoman Sommers Erickson stated that she believes that it should be by a super majority of council and variances be 25% if granted by council. Mr. Overcash commented that the council would need to clarify a super majority in the clause within the ordinance. Mr. Overcash recommended that the council adopt as proposed or come back with another ordinance. Mayor Israeloff stated that council call a vote and amend the ordinance next month regarding having a super majority vote, a 25% variance, and address whether or not to allow in residential zoning.

Councilman Culbertson made a motion to approve amending the code of Ordinances, Chapter 14: Zoning, Article 14.02, Division 11 Conditional Use Permit District, to establish a new Article 14.04 Oil and Gas Well Drilling and Production, and to establish a new Article A6.000 Oil and Gas Drilling and Production Fees, all related to oil and gas well drilling, production, and pipelines. Seconded by Councilwoman Price, with all in favor.

SOUND ATTENUATION FIRE STATION #2: Consider and take action regarding water conservation implementation and enforcement.

Mr. Willbourn introduced this item stating that the town hired Mike Fann, sound expert, to do a noise study at Fire Station #2.

Mike Fann, Mike Fann & Associates, stated that he is a consultant with thirty years experience in this area and ten years within other areas. Mr. Fann stated that he evaluated the noise levels to the north and south of Fire Station #2. Mr. Fann stated that after measuring the existing noise levels it was determined that an 8' cedar fence that is tilted 3° will reduce the sound levels.

Councilman Culbertson asked what would be considered an acceptable noise level. Mr. Fann responded that the engine is idle at 51.7 dBA, which can be slightly annoying. Mr. Fann stated a reasonable number is between 45-50 dBA. Mr. Fann stated with the fence it would be within 2 dBA of target range.

Councilman Culbertson asked if there was a way to make the fence less obtrusive. Councilwoman Sommers Erickson asked if there were any other ways to abate noise and if using plants to absorb the sound was an option. Mr. Fann responded that plantings/shrubs don't work and that they actually disrupt noise. Mr. Fann stated that you would need 50 feet of dense underbrush to be beneficial and it would have to extend 8 ft tall.

Councilwoman Price asked what an acceptable amount of sound is and how many feet of sound is from Fire Station #2 to Stafford Court since that seems to be where the closest residence is located from the Fire Station and if the sound could have a tunnel affect. Mr. Fann responded no and that the houses to the north are farther away and closer to Stacy Road. Councilwoman Price asked how the noise levels compared with items such as lawn mowers, weed whackers, and chainsaws that are only used once to twice a month versus daily.

Councilman Cunningham stated that he would not be thrilled about a wood fence and it would eventually need to be replaced.

Mayor Pro Tem Kasian asked if there were measurements taken for both driveways. Mr. Fann replied that it was done on the east side. Mayor Pro Tem Kasian asked what would happen if the west side was tested. Mr. Fann replied that it would not make a difference on the sound reflections and the problem is still to the south. Chief Price added that the residents on the west are closer and the driveway was designed that way so that if a thoroughfare ever comes through, it would be able to connect to it.

Mayor Israeloff stated that according to town ordinance, wood fences are not allowed within the town; therefore, if a fence is not feasible, he questions what sound levels are obtrusive and it becomes a question of policy and balance.

Councilman Culbertson and Mayor Pro Tem Kasian were in agreement that no further activity be done. Councilman Cunningham added that they have done a lot already and not sure they can do anything else.

Mayor Israeloff recommended declaring that they are done with the landscape. Mr. Godwin reminded council that the berm by the fence near the water tower is still not complete and the fence still has no trees as well as replacing the dead ones. Councilwoman Sommers Erickson asked if the sprinkler system was being extended. Mr. Godwin replied yes.

The consensus of the council was to take no further action except to complete current landscape by the new water tower that has already been approved.

WATER CONSERVATION: Consider and take action regarding water conservation implementation and enforcement.

Mr. Godwin introduced this item stating that the town is currently in Stage 3 water restrictions. Mr. Godwin stated that if the town remains in Stage 3 by April, 2011 then they may need to assign days to residents. However, currently surrounding cities are using signs in various locations to notify residents. Mr. Godwin asked council for their direction on how to notify and/or provide knowledge to the residents.

Councilman Cunningham stated that he believes that signage has been the best tool. Councilman Cunningham stated that people see and read them. Councilman Culbertson agreed. Councilman Lessner suggested placing in the town newsletter as well.

Council agreed to place some signs up within town as well as notifying in the town newsletter.

ONLINE WATER BILL PAYMENT: Consider and take action regarding online water bill payment.

Mr. Dunlap introduced this item stating that a survey was done where a total of 142 persons responded and of those there were 138 that voted for electronic bills and 4 people against it. Mr. Dunlap stated that the initial cost to convert would be \$12,000-14,000 and this cost would include a software update, setting up billing system, updating credit card processing, and related work. Mr. Dunlap stated that if fewer than 25% of customers convert, the system will be more expensive than the town's current one. However, if 50% convert, the town will save \$700 per month over what's currently being spent. Mr. Dunlap stated the savings will depend on how many convert. Mr. Dunlap requested from council to explore another company pricing, etc., that recently contacted him.

Councilwoman Price asked how many water bills are being sent each month. Mr. Dunlap responded that the town sends out 3,000 ± per month at .51¢ per bill, including postage.

Councilman Cunningham stated that he doesn't mind giving residents the option, but questions if it'll be cost effective for the town. Councilman asked if they could campaign to see if people are interested. Councilman Cunningham stated that he would like to see statistical history. Mayor Pro Tem Kasian asked how many were involved in the poll. Mr. Dunlap responded there were 142 participants in the survey and was done online. Councilman Cunningham asked if there was a way to poll directly or place on billing statement.

Consensus of the council was for town staff to conduct more research and bring back to council.

THE MEADOWS AND CYPRESS PARK IMPROVEMENTS: Consider and take action to award a bid for construction of park improvements at The Meadows and at Cypress Park.

Mr. Schmidt introduced this item stating that the bid received by Parkscape Construction, Inc., the lowest bidder, will include two pavilions that are identical to Beaver Run Park, upon which the stone pattern will match what is present around each neighborhood. Mr. Schmidt stated that the bid also includes reinforced concrete stonework, two drinking fountains, reinforced concrete trails with a two year maintenance bond. Mr. Schmidt stated that the site amenities will be purchased and installed in the spring and are not part of the bid. Mr. Schmidt stated that the landscaping for The Meadows Park has already been funded and the staff is waiting for better weather to complete. Mr. Schmidt added that other park related news includes that staff will be fixing the tripping hazard at the Meadows Park and Grenadier Homes is requesting a connecting sidewalk for a trail.

Councilwoman Price asked the location of the wall seating and picnic tables. Mr. Schmidt responded that the wall seating will be positioned around the pavilion at the Meadows Park and the picnic tables will be inside the pavilion.

Councilwoman Price made a motion to approve Parkscape Construction as the lowest responsible bidder and advise staff to proceed with the Notice of Award for the park improvements bid. Seconded by Councilman Culbertson, with all in favor.

STACY ROAD LANDSCAPING: Consider and take action regarding east Stacy Road landscaping.

No action was taken. Item passed over by council.

LEFT TURN LANE HIGHWAY 5: Consider and take action to authorize advertising and receiving bids for construction of a continuous turn left lane on a portion of state highway 5 near The Villages of Fairview.

Mr. Godwin introduced this item stating that staff initially requested TXDOT to place a dual-left turning median from Bluebird Lane north to Meandering Way. Mr. Godwin stated that TXDOT recently approved the plan of work and agrees that the dual-left turning lane is warranted, with minor design changes. Mr. Godwin asked council if they were still in agreement to continue this project and if so, town staff would need authorization to advertise for bids for this project.

Councilman Cunningham and Councilwoman Price asked how much the project will cost and how early TXDOT will can start. Mr. Godwin responded that the project will cost approximately \$50,000, which will come from budgetary surplus and hoping for early January. Councilman Lessner asked if the speed limit will be lowered. Mr. Godwin responded no.

Consensus of the council was that they are still in favor of this project and to continue by acquiring bids.

RAMP REVERSALS ON US 75 AND RIDGEVIEW ROAD: Consider and take action regarding ramp reversals on US 75 at Ridgeview Road.

Mr. Godwin introduced this item stating that council had approved a resolution to TXDOT requesting ramp reversals and TXDOT is designing a widening of U.S. 75 to add one through lane each on the north and south travel lanes. Mr. Godwin stated that TXDOT is suggesting that they will include the ramp reversals if the town still wants them and will hopefully be no cost to the town.

Consensus of the council was that they are still in favor of the ramp reversals.

AMENDMENT TO SIGN ORDINANCE: Consider and take action regarding an amendment to the Sign Ordinance regulating signage and banners in large multi-use master-planned developments.

Mr. Dunlap introduced this item stating that in order to accommodate signage within the mixed use development, MG Herring has requested that a section of the sign ordinance be amended to allow for various signage. Mr. Dunlap stated that the proposed ordinance would allow for off premise advertising only in existing sign bollards and no larger than 50 inches by 70 inches, banners to be up year round and promote businesses, sponsors and events, the ability to have sponsors for events and amenities within a MPMD and signage for those sponsors within the MPMD and specific to The Village at Fairview, signs along the interior fence of The Village Beach advertising only tenants of The Village at Fairview. Mr. Dunlap stated that it is town staff's along with the town attorney's recommendation that electronic signs be allowed only be establishing a conditional use district and would require a conditional use permit so that the design aspects can be controlled by council and also to still be subject to same fees as a conditional use permit.

Mayor Israeloff stated that he dislikes off-premise advertisements as well as sponsors for events. Mayor Israeloff stated that he would like the advertising be for the businesses within the Village.

Councilman Cunningham stated that he is okay with sponsorships and that they can oftentimes help pay for an event.

Councilwoman Price stated that she is okay with outside businesses advertising and believes council should give the Herrings authority to find good marketing. Councilwoman Price asked if the banners would have store names on them and be uniform. Norine Bowen, General Manager of the Village at Allen/Fairview, stated that the banners will identify where stores are located and that they will all have similar designs.

Mayor Pro Tem Kasian stated that he is in favor of advertising to help development and asked how they can advertise more for the interior section of the center. Ms. Bowen responded that they can use banners at the Village Beach or the electronic sign. Mayor Pro Tem Kasian asked if there was a need for off-premise signs. Ms. Bowen responded that they are typically the revenue generating signs that help fund the advertising.

Consensus of council regarding the various signage was as follows:

- Electronic Signs- In favor
- Interior Signs at Village Beach – In favor
- Banner Signs year round – In favor
- Sponsors/Special events – In favor (5-2)
- Sponsorship of Amenities- Would like additional information

Council requested town staff to revise the proposed ordinance based on their consensus. Councilwoman Price also requested visuals with the proposed signage.

FAIRVIEW PARKWAY: Consider and take action regarding the temporary dead-end on Fairview Parkway.

No action was taken. Item was passed over by council.

TOWN'S OLD WATER TOWER: Consider and take action regarding repainting the town's old water tower.

Mr. Godwin introduced this item stating that the Public Art Committee agreed with keeping the tower and recommended to add the town logo in black, but primary concern was to keep it simple. Mr. Godwin stated based on the cost to demolish the wineglass water tower, it would likely cost about \$20,000 to \$25,000 and painting would cost almost \$100,000.

Councilman Cunningham stated that his concern is the cost and that the amount it takes to refurbish is ½ of a new brush truck.

Councilman Culbertson asked if the funding was from the EDC Corporation. Mr. Godwin responded that the funding would come from the surplus of CDC monies. Mr. Godwin suggested that if the council wanted to pursue this project, the staff could bid out the project to see how much it would actually cost and could acquire actual cost amounts for the project.

Consensus of the council was to allow staff to bid out project to gain actual costs.

HOTEL OCCUPANCY TAX: Consider and take action regarding an amendment to the Hotel Occupancy Tax.

No action was taken. Item was passed over by council.

SPORTS COURTS: Consider and take action regarding sports courts.

Mr. Godwin introduced this item stating that this item will be going to the Planning and Zoning Commission's upcoming meeting where staff will be seeking additional information.

Councilman Cunningham made a motion to impose a moratorium on construction of sports courts until further review and action by council. Seconded by Mayor Pro Tem Kasian, with all in favor.

TELECOMMUNICATION TOWER LOCATIONS: Discussion regarding a plan to control possible future telecommunication tower locations.

No action taken. Item passed over by council.

MCKINNEY (CCR) AIRPORT: Receive and discuss report on the McKinney (CCR) airport.

No action taken. Item passed over by council.

CITIZENS INPUT:

John Johnson, 441 Palomino Way, stated that he has expressed concern via email with the town manager regarding his neighbor trying to put in a tennis court. Mr. Johnson stated that he is frustrated that the town is just trying to cover up the issue. Mr. Johnson stated that he feels that there are ordinances in place that were disregarded and is concerned that allowing his neighbor to pave over their septic system is and could be problematic later on to his property. Mr. Johnson stated that the town ordinance specifies that it can only be 25% of impervious surface and he feels that it has surpassed this amount. Mr. Johnson stated that he would like to appeal get the support of town council and the town ordinances.

Councilwoman Sommers Erickson stated her concern is if the septic system violates state law, how the town can approve it. Mr. Godwin replied that TCEQ and Code Enforcement felt it was not an issue. Mr. Godwin stated that the Public Works Manager and Code Enforcement did talk to a person at the state office, who agreed with local authority to grant a variance.

Mayor Israeloff responded that the lights and fence were not approved and the town has received no further application regarding these two items. Mr. Godwin commented that the staff can re-do the calculations in regards to the impervious surface, but initial calculations were done after the last council meeting and the Code Enforcement Officer measured 23-24%. Councilwoman Sommers Erickson stated that no one is perfect and mistakes can happen and would like the staff to consider another opinion. Mr. Godwin responded that since the last meeting the staff did look at the measurements and ordinances along with TCEQ guidelines and the biggest issue is that no permit is required, but they will re-do calculations.

Mayor Israeloff asked staff to research issues and report back at the next council meeting.

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

Mr. Efrussy stated that he'd like to recognize the anniversary of Pearl Harbor.

Mayor Israeloff adjourned the meeting at 12:00 a.m.

ATTEST:

Michelle Lewis Sirianni
Michelle Lewis Sirianni, Town Secretary

Sim Israeloff
SIM ISRAELOF, MAYOR

