TOWN COUNCIL
MEETING MINUTES
January 3, 2012

The Town Council met in regular session on Tuesday, January 3, 2012 at 6:30 P.M. at 372 Town Place, Fairview, Texas. Those present were Council Members Carolyn Sommers Erickson, Jim Cunningham, Henry Lessner, 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, Clark McCoy.

Mayor Israeloff called the meeting to order at 6:31 p.m. and declared a quorum was present. The council then adjourned into executive session.

At 7:52 p.m. Mayor Israeloff reconvened back into regular session and invited 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 December 1, 2011 special council meeting. B) Approve the minutes of the December 6, 2011 regular council meeting.

Councilman Lessner 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 provided an update stating that the week of Christmas, Councilman Lessner, the Town Manager, the Town Attorney, and himself met with the homeowners and the homeowner's attorney for a settlement discussion. Mayor Israeloff stated that the council still has not changed their position and are awaiting proposal from the homeowner.

Mayor Israeloff requested that this item be placed on the February agenda.

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

Mr. Wilbourn introduced this item stating that this item is a continuation from last month. Mr. Wilbourn stated that the Summer Hill Farms HOA wanted time to discuss options in regards to their concerns of the NTMWD water line. Mr. Wilbourn stated that due to NTMWD not releasing details of the start date of the project nor releasing the route, the HOA asked to have the item removed from the agenda until a decision could be made later.

Bruce Tiff, HOA President, stated that Mr. Wilbourn has accurately expressed their concerns.

Mayor Israeloff closed the public hearing and no action was taken.

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 staff has drafted five amendments based on the council's comments from the last meeting. Mr. Schmidt stated that the first amendment is to provide a definition for 'supermajority', which will be defined as five affirmative votes of the council. Mr. Schmidt stated that the second amendment is to require the council to achieve a supermajority in order to grant a variance, the third amendment is in order to apply the one thousand feet minimum separation distance to the one hundred year floodplain, the fourth amendment is in order to limit variances to the minimum protected use separation distance to seven hundred and fifty feet, which is equivalent to 25 percent of the minimum protected use separation distance of one thousand feet, and the fifth amendment is to limit variances to the minimum protected use separation distance to five hundred feet with consent from property owner and the town council.

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

Mayor Israeloff opened discussion to council. Councilman Cunningham thanked staff for being proactive on this issue.

Councilwoman Sommers Erickson stated that the issues that were raised last month were regarding the differences between the City of Southlake and Flower Mound ordinances. Councilwoman Sommers Erickson stated that she is concerned in the details of the town's ordinance and would feel secure knowing that the town's ordinance reflects details like the City of Southlake and Flower Mound have in their ordinances. Councilwoman Sommers Erickson commented that she would like to see a red line comparison between the City of South Lake's ordinance and the town's ordinance brought back to next month's meeting regarding the differences or similarities.

Councilman Culbertson asked how many potential locations are allowable within the town. Mr. Schmidt responded that the number of allowable locations with the drafted amendments went from 37 to 12.

Councilwoman Sommers Erickson stated that another area of concern was the zoning. Councilwoman Sommers Erickson stated that the Cities of Cedar Hill, Coppell, and Grapevine are the only cities that exclude residential areas. Councilwoman Sommers Erickson stated at the last meeting it was mentioned that the town cannot exclude residential areas, but it is unclear how some cities say 'no residential' and some cannot.

Councilman Lessner made a motion to approve the amendments of Article 14.04 (Oil and Gas Well Drilling and Production). Seconded by Councilwoman Sommers Erickson, with all in favor.

STORM WATER POLLUTION: Conduct a public hearing and take action regarding an ordinance regulating storm water pollution.

Mr. Chancellor introduced this item stating that the proposed ordinance has been amended based on the comments last month from council including defining illegal discharge. Mr. Chancellor stated that the town's environmental committee met to discuss and review the ordinance. Mr. Chancellor stated that the committee recommended approval of the ordinance and to make further improvements as necessary to the ordinance as more data is gathered. Mr. Chancellor stated the town staff recommends approved of the adoption of Article 9: Storm Water Quality Standards as amended.

Councilwoman Price asked for clarity on item #50 on page 6 and also item #8 on page 2 pertaining to gray water and addressing campers. Councilwoman Price asked to explain item #6 on page 9. Mr. Chancellor responded that this is an 'approved list' and is an affirmative defense to any enforcement action for violation.

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

Mayor Israeloff opened discussion to the council. Councilman Culbertson asked if once the ordinance was implemented, if the staff was ready to begin testing and if the penalties assessed by the town aligned with the state fees. Mr. Chancellor responded yes they would be able to begin testing and will test in house or send off to a lab depending on the test. Mr. Chancellor stated that the state fees are higher and the purpose of the fee(s) is to help prevent violations, but that the town would send out a written notice before a ticket was given.

Councilwoman Sommers Erickson stated that she'd like to delete item #10 on page 11. Councilman Cunningham requested to have the ordinance mirror the zoning ordinance in regards to this item based on number of livestock and acreage.

Councilman Cunningham made a motion to approve the adoption of Article 9: Storm Water Quality Standards with corrections stated within the discussion. Seconded by Councilman Culbertson, with all in favor.

TXDOT WIDENING FM 1378: Consider and take action regarding TXDOT's planned widening of FM 1378 (Stacy Road).

Mr. Chancellor introduced this item stating that most of the town's issues have been addressed in regards to this project including no six lanes between Meandering Way and Country Club, and turn lanes at Oakwood and Old Stacy. Mr. Chancellor stated that TXDOT did design a median opening that can serve both corners in Fairview and Allen, but that it requires moving the existing drive near the vet clinic over to the west about 100 feet. Mr. Chancellor stated that the owner of the vet clinic requested that his exiting drive be left in place. However, according to TXDOT, they will not adhere to the owner's request, but TXDOT did provide other options. Mr. Chancellor stated that staff is looking for council's feedback since they have reached an impasse.

Councilman Culbertson asked what the reasoning was that the property owner did not want to give up the driveway. Mr. Chancellor responded that he doesn't want customers driving over someone else's property and would like to maintain the property line ownership.

Councilwoman Sommers Erickson asked why TXDOT won't agree to build it and if right-of-way is yet to be acquired. Councilwoman Sommers Erickson stated that she'd like to go back to the beginning and ask for four lanes divided with an easement versus a six lane road with easements.

Councilman Cunningham agreed that there not be six lanes between Meandering Way and Country Club and asked about the request for the cut thru at the FM 1378 and Stacy Road by the church. Mr. Chancellor replied that the church agreed to pay for the left turn lane.

Councilman Culbertson asked if there was an option to move the vet clinic's driveway farther east to align with the Firestone. Mr. Chancellor responded that the second drive by the water tanks would have a better chance with TXDOT.

Mayor Israeloff stated that he believes in supporting the owner's request and to see what TXDOT can do.

Councilman Lessner requested to see TXDOT's entire plans from Highway 5 to Country Club at the next council meeting.

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

Mr. Chancellor introduced this item stating that due to the southern half of the intersection not having street lights and it not being as well lit as the north side, barricades were moved back to the end of the pavement and temporarily coned off the intersection. Mr. Chancellor stated that this has helped with the safety issues and improves the look, but there are still concerns that drivers cannot turn around without driving on the wrong side of the road. Mr. Chancellor stated that staff is seeking ideas or direction on how to improve the intersection.

Mayor Israeloff suggested temporarily moving barricades back unless there is another alternative. Council agreed with his suggestion.

STACY ROAD TREES: Consider and take action regarding tree substitutions on Stacy Road.

Mr. Chancellor introduced this item stating that due to the drought, the town did not plant some of the trees along Stacy Road yet. Mr. Chancellor stated after talking to the contractor, he notified staff that the yaupon hollies he had in stock were of poor quality and suggested substituting vitex trees instead since they are more drought resistant. Mr. Chancellor stated that the contractor still plans to install all 229 trees; however, council will need to approve or disapprove the substitution.

Councilman Cunningham asked if the park board was asked to take a look at the trees. Mr. Chancellor responded that John Brown, park board chair, did review the plantings and inspected the street and saw no issues with the species.

Councilwoman Sommers Erickson asked why the vitex trees were not suggested initially and if the landscaper has to buy additional yaupon hollies, then she would rather have the yaupon hollies since they were the town's first choice.

Mayor Israeloff stated that he is neutral since the trees are similar.

Commissioner Culbertson asked if they have heard from the park board regarding this item. Mr. Godwin responded that they can place this item on the upcoming joint meeting if they prefer.

Councilman Cunningham suggested that they could add both trees for a mixture. Councilwoman Sommers Erickson asked to see a plan and suggested that they would get more benefit by placing them on the south side of the street.

Council appointed Councilman Cunningham and Councilwoman Sommers Erickson to a sub-committee to work with staff on tree placement and relocation.

EMJ RETAINAGE: Consider and take action regarding the release of town hall retainage to EMJ.

Mr. Godwin introduced this item stating that the contract with EMJ called for the project to reach completion by mid-November. However, completion did not occur until mid-December. Mr. Godwin stated as a result, the town is claiming liquidated damages of $300 per day for fifty days, or a total of $15,000, to be deducted from the final payment. Mr. Godwin stated that they are asking to approve the final release of retainage to EMJ minus the $15,000.

Councilwoman Sommers Erickson made a motion to approve the release in the amount of $326,918.88. Seconded by Councilman Lessner, with all in favor.

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 based on comments made at the last meeting, staff revised the proposed ordinance regulating signage and banners with a major planned mixed use development. Mr. Dunlap stated that the revisions included year round banners that promoted facilities, events and sponsors, but not amenities, off premise signage in backlit bollards, electronic signs through the conditional use permit process and signs within the interior of the beach volleyball area that advertised only businesses within the development. Mr. Dunlap added that a definition for the word 'stage' has been added to the ordinance as well.

Mayor Israeloff asked if the off premise signs were limited to the bollards. Mr. Dunlap replied yes.

Councilman Cunningham asked if there was a time frame on the electronic sign. Mr. Dunlap responded that he was not sure, but it would require a pre-application meeting, brought forward to the planning and zoning commission and final approval by town council. Mr. Dunlap stated that nothing has been brought forward at this time.

Norine Bowen, General Manager for the Village, stated that they are hoping to have something within the next 30-60 days to present to town staff.

Councilman Cunningham made a motion to approve the amendments to the sign ordinance. Seconded by Councilman Lessner, with all in favor.

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

Mr. Dunlap introduced this item stating that the town's current ordinance requires hotels to collect and pay to the town a 7% tax on all stays of less than a certain number of days. Mr. Dunlap stated with the online reservations being used more by a larger percentage of people, the town attorney amended the ordinance to specifically include online services in the tax. Mr. Dunlap stated that the staff is also suggesting that remittances be made monthly instead of quarterly for easier enforcement.

Councilman Lessner asked if the City of McKinney operated the same. Mr. McCoy, town attorney, responded that many cities are amending their ordinances to reflect the same due to the change in online services.

Councilwoman Price made a motion to approve the amendment to the hotel occupancy tax ordinance. Seconded by Councilman Culbertson, with all in favor.

SPORTS COURTS: Consider and take action regarding sports courts and similar structures.

Mr. Dunlap introduced this item stating that he had opportunity to meet with both parties and there has still been no resolution. Mr. Dunlap stated that staff is preparing a draft ordinance to present at the February meeting, but in the meantime, there is still a moratorium on this item.

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

Mr. Wilbourn introduced this item stating that after meeting with the Technology Advisory Committee and bringing their suggestion to the Planning and Zoning Commission, the consensus was to move forward with identifying specific site locations for new towers in a future plan for an addition to the Comprehensive Plan. Mr. Wilbourn stated that they will be site specific so that they protect the town from the towers being built in less desirable areas. Mr. Wilbourn stated that the Planning and Zoning Commission asked to avoid placing the towers in residential areas and also the Heard Museum when considering locations. Mr. Wilbourn stated that the town staff is requesting feedback on whether or not to pursue the item with the Technology Advisory Committee, which would ultimately be adopted by Town Council as part of the Comprehensive Plan.

Councilwoman Sommers Erickson stated that there was an ordinance on the books already pertaining to telecommunication towers and thought no towers were to be placed in residential areas and would like to have the original ordinance brought back for council to review.

Mr. McCoy commented that the current ordinance could be improved so that legal review would not have to be done every time a tower location request was made.

John Adler, Technology Advisory Committee Chairman, stated that the current ordinance is good, but not great and that they still have stops and checks. Neal Pappion, Technology Advisory committee member, commented that it gives the town more leverage to be proactive.

Mayor Israeloff requested staff to work with the Technology Committee to approve an ordinance and bring back to council.

SOCIAL NETWORKING: Discussion regarding social networking.

Mr. Wilbourn introduced this item stating that Neal Pappion from the Technology Advisory Committee will be making a presentation regarding social networking.

Mr. Pappion provided a brief presentation regarding social networking and how the town could become integrated. Mr. Pappion stated that the idea is to develop a strategy with a phased approach by setting up an official Facebook page for the town, creating a viral market, and other social networks. Mr. Pappion provided examples by showing Facebook pages for the City of Allen, McKinney, and Murphy, as well as how the City of Plano has set up through their website a page on how it's socially connected. Mr. Pappion recommended that phase one could be a dynamic newsletter, phase two could be viral marketing, and stage three could be adding social applications.

Councilman Culbertson asked about maintaining the pages information. Mr. Pappion responded that they would need to consider content, but that the page should have various content including the boards and commissions and eventually even the various departments.

Mayor Israeloff asked what steps they would need to take to get started. Mr. Pappion replied that town staff would need to identify a person to set up and maintain.

Mr. Godwin commented that his initial reaction was not positive towards having a page, but now believes that it is a good idea and there is no down side especially with it being set up with a one-way communication wall.

Mr. Pappion commented that he'd like to see the website redesigned also. He believes the website is very busy and difficult to navigate from a functional standpoint.

Consensus of council was to bring this item back to a future regular scheduled meeting and would like to see an example of the town's official Facebook page before it goes live.

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

Mr. Wilbourn introduced this item stating that he has been attending the airport meetings and to date, the meetings have mainly consisted of updates in the areas of finance, marketing, economic development, and updates from the executive director of the McKinney Airport Development Corporation. Mr. Wilbourn stated that within the meetings they have been talking mainly about projects at the airport and programs with the Collin County Community College. Mr. Wilbourn stated that main project they have been discussing is the three phase runway project. Mr. Wilbourn stated that phase one and two have been completed, which created 6,000' of runway and phase three, which has not begun, but will be the completion of an additional 1,000' of runway to be completed by July 2012.

Mayor Israeloff stated that by attending the meetings, if a discussion is ever had regarding the airport having two active runways, to report to council immediately. Councilman Lessner expressed an interest in attending the meetings. Councilman Cunningham asked if they can ask questions at the meetings. Mr. Wilbourn replied that they have an open discussion portion at the end where attendees can speak.

Councilwoman Sommers Erickson stated that if passenger airlines are ever brought up in a meeting that an environmental assessment would be required and that is important to know for the town also.

Mr. Wilbourn stated that they have also been discussing the twenty-year plan for the airport. They are currently in the early stages of conceptualization, which includes growth forecasting and future facilities, but the plan will ultimately be taken to the City of McKinney's city council. Mr. Wilbourn stated that a draft form has been sent to the state for comments before it is presented back to council.

Mayor Israeloff commented that he would like to see the draft ordinance for review. Councilwoman Sommers Erickson agreed.

POLICE BARN: Receive and discuss an update on the police barn.

Chief Tolliver introduced this item stating that he has been in talks with MG Herring about the possibility of reconfiguring the area of land where the barn would sit. Chief Tolliver stated that he met with Gar Herring and their staff seemed receptive to the idea. Chief Tolliver stated that they are trying to square the land off for easier building, but that it is still in the early planning phase.

Mayor Israeloff stated that of the diagrams given, he prefers the first option where the horse barn is at the top and the back of the stalls face Indian Springs.

Silva Stapleton, 421 Forest Oaks Drive, asked if they need horses and a barn. Chief Tolliver responded that the horses would be used to develop a horse mounted patrol within the commercial area as well as to be used for ceremonial purposes. Chief Tolliver stated that his thought is to build a stall where the horses could all be together, which would also be open to the public for viewing and give children the opportunity to visit with them.

Cindy Turek, 420 Forest Oaks, asked if the taxpayers would be paying for this project and who will maintain the facility. Chief Tolliver responded that they will look to use commercial development funds to build or another idea was to have sponsored horses and/or stalls that will help defer the cost.

Lauren Balakin, 431 Oak Ridge, stated that she chose not to live in a livestock neighborhood and doesn't like the idea of putting a barn within the commercial area.

Carolyn Johnson, 631 Forest Oaks, stated that she lived on a ranch with horses for many years and commented that they are mighty expensive to maintain and that this is not a cheap project.

Councilman Culbertson stated that he recognizes the issues are cost and maintenance. Councilman Culbertson stated that the idea seems to be to have a partnership between the MG Herring Group and the town and done in a way that makes sense to the town.

Mary Beth Henderson, 380 Forest Oaks, stated that she is in favor of horses, but they have no place within a retail section. Ms. Henderson stated that there are plenty of available stalls within the town and believes that horses do not belong within a parking lot.

Dale Quenzer, 390 Forest Oaks, asked how many other cities have this within a shopping area and questions the benefit of having it. Councilman Cunningham asked if the officers are trained in search and rescue. Chief Tolliver responded that the town does have trained officers in this and the training is used to search for people and often times they are asked to help with events to do crowd control and other uses other than just local patrol.

CITIZENS INPUT:

Bruce Tiff, 530 Stafford Court, stated that he was unable to come to the last meeting and asked where council was on the noise with Fire Station #2. Mayor Israeloff responded that the town staff did have a sound expert test the area and his recommendation was to build an 8 ft tall fence to reflect the sound. Mayor Israeloff stated that the council decided not to take any further action other than planting the remaining landscaping that has not been completed yet. Mayor Israeloff stated that the engineer had no other options other than extensive landscaping, which would not be practical. Councilman Culbertson commented that the design of the fence was also not aesthetically pleasing. Mayor Israeloff stated that there was nothing more feasible to do and have the best buffer possible. Mr. Tiff stated that he still believes there are three to four homes adversely impacted by the sound.

Bill Stapleton, 421 Forest Oaks Drive, stated that the main entryway to River Oaks II has tar on the road and pot holes. Mr. Stapleton questioned who maintains these roads. Mr. Godwin responded it's a town road.

John Singel, 621 Forest Oaks Drive, stated that the repair was done with the black asphalt on top of the gray asphalt which makes the surface look like varicose veins.

Jon Balakian, 431 Forest Oaks Drive, stated that his concern is the liability since he drives a motorcycle and that when the tar gets hot; it turns into tar balls where the seams and cracks are making it very hazardous.

Richard Rackley, 430 Oakridge Drive, showed pictures to council of the streets in the neighborhood and stated what a sloppy mess it is.

Garrett Lacara, 380 Forest Oaks Drive, stated that the street is deteriorated beyond repair especially when that much tar was used to fix it. Mr. Lacara asked for the Town Engineer for a directive to report a solution and/or repair by the next meeting and to be fixed by August or May, 2012. Mr. Godwin replied that there is a bond issue planned to repave various roads and this was not a permanent solution.

Lance Dowd, 640 Forest Oaks Drive, asks who authorizes to send out people for these kinds of repairs. Mr. Dowd stated that it's hard to sell homes and is very unsightly.

Mary Beth Henderson, 380 Forest Oaks, stated that it is reflective off the road and difficult to navigate.

Angela Poen, 421 Oakridge Drive, stated she is concerned by the road and how the work was approved, how the company was selected, and why someone from the town didn't complete it.

Richard Riccardi, 661 Forest Oaks, stated that he agrees with the other statements and asked how will the community follow up and see progress on the road.

Mayor Israeloff asked to place this item on the next meeting agenda.

John Thompson, 441 Palomino Way, stated that the size of the impervious surface was reevaluated and is over 25%. Mr. Thompson questioned that if it is out of variance, why isn't the town enforcing the ordinance and why is he being asked to negotiate with his neighbor. Mr. Godwin stated a notice of violation has been sent to Mr. Dandona.

Neal Dandona, 411 Palomino, stated that he started this project in January and kept the town and HOA abreast of the situation. Mr. Dandona stated that if this is enforced on him, then it should be enforced on everyone. Mr. Dandona stated that he has done everything in good faith and has been very patient through it all, but he is also expending his financial resources. Mr. Dandana stated that he feels for the amount of time and effort being put into this issue that it is all based on a technicality. Mr. Dandona doesn't want his position to be forgotten.

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

Mayor Israeloff adjourned the meeting at 10:22 p.m.

Sim Israeloff

SIM ISRAELOF, MAYOR

ATTEST:

Michelle Lewis Sirianni

Michelle Lewis Sirianni, Town Secretary

TOWN OF FAIRVIEW