TOWN COUNCIL
MEETING MINUTES
July 2, 2013

The Town Council met in regular session on Tuesday, July 2, 2013 at 6:30 p.m. at 372 Town Place, Fairview, Texas. Those present were Mayor Darion Culbertson, Council Members Ron Samuels, Jim Cunningham, Frank O'Reilly, Henry Lessner, Paul Hendricks and Mary Price; Town Manager, Julie Couch; Town Engineer, James Chancellor; Engineer In Training, Danielle Gregory; Economic Development Manager, Ray Dunlap; Assistant to the Town Manager, Adam Wilbourn; Planning Manager, Ken Schmidt; Town Secretary, Michelle Lewis Sirianni; and Town Attorney, Clark McCoy.

Mayor Culbertson called the meeting to order at 6:30 p.m. and declared a quorum was present.

The council then adjourned into executive session at 6:31 p.m. to consult with legal counsel regarding pending or contemplated litigation, personnel, and real property.

At 7:52 p.m. Mayor Culbertson reconvened back into regular session and invited everyone to stand for the Pledge of Allegiance.

PRESENTATIONS: Lifesaving awards by the Fire Department

Chief Price and Assistant Chief Bell recognized the following individuals for a lifesaving call that they were respondents' to: Heather Hancock, Travis Green, Nathan White, Jason Ashmore, Shane Beach, Glenn Francisco, and Nick Lovren.

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 be considered separately. A) Approve minutes of the June 4, 2013 regular council meeting. B) Approve minutes of the June 18, 2013 special council meeting. C) Approve an ordinance adopting a tariff that authorizes the continuance of a rate review mechanism for any rate increases by Atmos Energy Corporation, Mid-Tex Division.

Councilman Samuels requested to pull item B.

Councilman Hendricks made a motion to approve items A and C. Councilwoman Price seconded that motion and the motion was unanimously approved.

Councilman Samuels stated that in regards to item B that Mayor Pro Tem Lessner was left off as being in attendance and to add his name.

Councilman Samuels made a motion to approve item B. Mayor Pro Tem Lessner seconded that motion and the motion was unanimously approved.

<u>CUP RELIGIOUS INSTITUTION:</u> Conduct a public hearing, consider, and take any necessary action on a request for approval of Conditional Use Permit (CU) Zoning in order to allow for a religious institution on a 5.818± acre property that is zoned One-Acre Ranch Estate (RE-1) and is generally located north of Stacy Road and 950 feet west of Meandering Way.

Mr. Schmidt stated that the applicant, Mr. Don Vandiver is applying on behalf of the Corporation of the Presiding Bishop of the Church of Jesus Christ of the Latter-Day Saints. The CUP application is to provide for a religious institution and a 19,400 SF meeting house that would provide for a 242 seat sanctuary, cultural center for recreational activities, classrooms, and office and storage space. Mr. Schmidt stated that the church organizes congregations by geographic region and each facility is designed to serve 2-3 congregations. The applicant is not proposing any educational, daycare, or other ancillary uses as part of the application. Activities will primarily take place at the church on Sundays, but the applicant also intends to use the building during the evenings for 1-2 days per week for youth auxiliary services and on weekday mornings for youth bible study.

Mr. Schmidt stated that the CUP process permits the applicant to develop the church use within a residential zoning district. The property would retain a base zoning of RE-1 and the CUP would act as an overlay zone that conditionally permits the proposed use on the subject property. Mr. Schmidt gave a brief background of the other religious institutions within the town and how they also used the CUP process.

Mr. Schmidt provided background regarding vehicle access, traffic impact, and right-of-way requirements with the project with emphasis that a traffic study will be done as part of the Final Plat and all being subject to TxDOT approval. Mr. Schmidt indicated that the applicant is pursuing to tie into Allen's sanitary sewer line on the south side of Stacy. If that request is denied, the applicant will install a low pressure dosing septic system that allows for the underground storage of treated effluent, a gradual release of treated effluent through a drip irrigation system. The Town Engineer will be reviewing all drainage requirements during the platting process. Mr. Schmidt indicated that parking, lighting and landscape requirements have also been met and conform to the town's requirements with more details at the Final Plat stage. A monument sign is also being proposed within the landscape setback adjacent to Stacy Road.

Mr. Schmidt stated that at the Planning and Zoning Commission meeting, there was substantial opposition communicated during the public hearing from residents within River Oaks and Bridalgate subdivisions; however, there was also substantial support from residents who are members of the LDS church. The Planning and Zoning Commission recommended approval with a 3-1-1 vote. Mr. Schmidt stated town staff recommends approval with conditions set forth in the proposed ordinance as submitted.

Mayor Culbertson opened the public hearing.

Don Vandiver, applicant, stated that they have worked with town staff. The plans have been reviewed by the town and they meet or exceed the requirements; therefore, if approved they would look forward to continuing the process.

Wes Balakian, 431 Oakridge Drive, expressed many concerns against this request including commercial east of Hwy 5, that the council not change the zoning until an agreement is reached whereby the subject property is connected to nearby existing sewer facilities, and a traffic safety report is completed by TxDOT.

John Funk, 200 Horseshoe Bend, stated as a member of the church, it is used primarily on Sundays with the meetings staggered so that people are not coming and going at the same time. Mr. Funk added that the facilities are not used during business hours.

Greg Smith, 751 Timerwood Lane, stated he would welcome the church in a commercial area only, but not residential.

Scott Ballard, 130 Horseshoe Bend, stated he does not want in a residential area. He commented that he understands the government restrictions, but don't put under burden when there is plenty of other land available.

Mary Johnson, 510 Country Club Road, stated she does not see where religious institutions devalue property values. She supports the request.

Jay Jones, 360 Collinwood, stated that the church would be a positive addition to the town.

Mike Burkhart, 620 Forest Oaks, stated that precedence is being set and is in opposition to the request.

Kerry Johnson, 530 Cottonwood, stated that the biggest issue brought up with the Planning and Zoning Commission was traffic. Mr. Johnson commented that Stacy Road is a public road which equals public use and the church would be located off a thoroughfare; therefore, is in favor of the request.

Debbie Flood, 431 Forest Oaks Drive, stated that as a Planning and Zoning Commissioner, they were told to approve. She commented that she abstained from the vote. She stated that the traffic and turn lanes have not been addressed, as well as the blind spot on the hill needs to be considered prior to TxDOT widening. She feels the safety of the citizens need to be considered and requests the item go back to the Planning and Zoning Commission for further consideration.

Joanna Harkins, 411 Oakridge, stated that Stacy Road cannot handle the traffic and main concern is not the church, but the septic system.

John Harkins, 411 Oakridge, stated main concern is traffic and the septic/sewer issue. Mr. Harkins disagrees with the zoning change.

Tony Pavia, 740 Creekwood Drive South, requested that the town look at other options for the property such as the town purchasing and turning into a park.

Howard Rouse, 71 Seattle Slew, stated he is in favor and believes it is a positive influence and an asset to the community.

Jerry James, 840 Quail Rise, stated he is in favor. He believes it brings opportunity to residents to serve in the community where they live.

Devika Dandona, 411 Palomino Way, stated her concern is location and traffic. She believes it will set precedence and does not agree with the rezoning.

Helen Dunham, 151 Horseshoe Bend, stated her concerns are traffic and the location. She believes the traffic will be a dangerous situation. She is opposed to the request.

Gordon Wright stated he is an Allen resident, but is in favor of the request.

Feza Buyukdura, 150 Horseshoe Bend, prefers to have the church on the west side of Hwy 5 with other concerns being traffic safety. He is opposed to the request.

Carolyn Camp, 761 Timberwood Lane, commented that she does not want Stacy to become a six lane road.

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

Mayor Pro Tem Lessner asked if there was a height limit on the steeple and if it will be lit, as well if the applicant could provide an update on trying to obtain city sewer from the City of Allen. Mr. Schmidt replied that there is flexibility on the height within a CUP. Mr. Vandiver responded that there will be no lighting and they are going through the process with the City of Allen and going through with NTMWD and TxDOT to get approved. Mr. Vandiver stated if they do not receive the approval, then they will use a low dosage aerobic system with no affluent dispensed above grade; it is pumped through drain fields.

Councilman O'Reilly asked how many people per congregation and about the size of the water line. Mr. Schmidt responded that they are tying into a 16" water line and there are 250 people per congregation.

Councilman Hendricks asked in regards to traffic what the state policy is and at what stages the surveys, traffic studies, etc. are done. Mr. Chancellor gave council a briefing on what is actually done within a traffic study that the town receives and the study would need to be done prior to receiving the construction drawings from the applicant.

Councilman Cunningham asked for confirmation from town staff that if the request is approved, that there are additional steps that must be undertaken. Mr. Schmidt replied that is correct. They will still be going through the plat application process and council would see this item again.

Councilman Samuels asked if there was a drainage concern. Mr. Chancellor replied that the applicant will be required to detain storm water and that the Town would have the opportunity to review those plans.

Councilwoman Price asked if there were challenges with septic systems and any requirements to keep records. Mr. Chancellor responded that whatever company they use will keep maintenance records to ensure its being maintained.

Mayor Culbertson with the Town Attorney's advisement, provided council with options on if the request is approved, denied, and/or if the item would be returned back to the P&Z Commission.

Mayor Culbertson read the conditions within the proposed ordinance to council that is being considered as part of the request for approval.

Mayor Pro Tem Lessner made a motion to approve the Conditional Use Permit application as submitted. Councilman Samuels seconded that motion and the motion was unanimously approved.

BOARDS/COMMISSIONS: Discuss Boards and Commission and take any necessary action.

Mayor Culbertson stated based on the review of applicants by the sub-committee; the following recommendations are being made for each board/commission as follows:

Board of Adjustments:

Gene Harrington, Joe Barton King (Alternate), Glenn Messner (Alternate), and Donna Cunningham to two year terms expiring in 2015, and Ed Hayes moving from alternate to permanent with a one year term expiring in 2014.

Economic Development:

Warren Westburg, Virginia Fisher, and John Adler to two year terms expiring in 2015.

Environmental Committee:

Rick Zampino, Steven Peacock, and William Lynd to two year terms expiring in 2015, and adding Gary Carter and Roger Taylor with a one year term expiring in 2014.

Parks and Recreation Board:

Andrea Faulkner, Donna Pekarek, and John Brown to two year terms expiring in 2015 and Carol Sutton to a one year term expiring in 2014.

Planning and Zoning Commission:

Renee Powell, Brad Northcutt, and Matthew Faulkner to two year terms expiring in 2015, and adding Heather Hager to a one year term expiring in 2014. Council electing Brad Northcutt as Chairman.

Public Arts Committee:

Joyce Bryan to a two year term expiring in 2015.

Technology Committee:

Stephen Davis, Bill Baxter, and Gil Stevens to two year terms expiring in 2015, and Paul Myers to a one year term expiring in 2014.

Councilman O'Reilly made a motion to approve these nominations. Councilwoman Price seconded the motion and the motion was unanimously approved.

AMENDED CONCEPT PLAN-DAVIS DEVELOPMENT: Conduct a public hearing, consider, and take any necessary action on a request for approval of an Amended Concept Plan for a proposed multi-family residential development on a 24.40± acre tract of land that is situated in the Joseph Dixon Survey, Abstract No. 275, zoned Commercial Planned Development District (CPDD), Zone D, and is generally located west of SH 5 and north of Meandering Way.

Mr. Schmidt stated that the applicant is Mr. Fred Hazel, Vice President of Davis Development, which had previously developed the Colonial Grand apartment complex in Fairview. The purpose of this amended concept plan is to provide for the development of a 267 unit multi-family development. Mr. Schmidt stated that the applicant is requesting two variances which include the minimum dwelling size be 660 SF, and ¾ split buildings are permitted as indicated on the Concept Plan. Mr. Schmidt provided history on the property and the current approved concept plan that is retained on this subject property, as well as vehicle access, traffic impact, right-of-way requirements, utilities, parking, and parkland. The developer has proposed to construct a trail that is part of the town's master trail plan, as well as a bridge linking property to the west side of Sloan Creek, with a picnic area overlooking Bush Springs Dam, which is a historical landmark for the town.

Mr. Schmidt indicated that at the May Planning and Zoning Commission meeting, there was substantial opposition to this project by residents. The commission voted to recommend denial without prejudice based on traffic impact concerns, lack of children's play areas, lack of visitor parking adjacent to the trail, disapproval of variation requests for unit size reduction, ¾ split buildings, SH 5 building setback, and trash compactor setbacks. Mr. Schmidt stated as a result of this vote, council will require a supermajority to approve the plan.

Mr. Schmidt commented since that time, the applicant has adjusted the plan to conform to the town's setback requirements from SH 5, and they have also re-positioned their compactor and recycling facilities in order to meet the setback requirements. The applicant has also addressed the traffic impact concerns. Town staff recommends approval of the Amended Concept Plan for the Davis Development multi-family development.

Mayor Culbertson opened the public hearing.

Mr. Hazel, Vice President of Davis Development, stated that since the Planning and Zoning Commission meeting, they met with two groups of residents to address their concerns that were raised at that meeting. Mr. Hazel stated that changes were made to the plan based on these meetings and they feel like they are working with the residents within their limits to be as accommodating as possible to their concerns. Mr. Hazel stated based on the variety of units, the market, and what people want, they felt it necessary to ask for the variance on the dwelling size. Mr. Hazel added that they will provide a berm along SH 5 along with additional landscaping with staff's guidance.

Frank Moore, 412 Plumwood, stated his concern is the additional traffic and pollution caused by adding more people. He is opposed.

Ralph Thompson, 420 Windmill Lane, does not agree in having a four story building and feels the slope of the land has no significance.

Chris Williams, 409 Braddock, stated his concerns are traffic, property values, and the gas line that exists on the property. Mr. Williams opposes the plan and the requested variances.

Keith Lovelace, 441 Horseshoe Trail, stated that the town failed to look at changing town requirements within the CPDD when major changes took place; therefore, opposes the variance requests and the plan. Mr. Lovelace handed the major a petition of 34 signatures all in opposition to the plan.

Paul Palmer, 5139 Stream Crest Way, asked about access to park and stated unless there is parking, it will be considered private and not public.

Mike Vannatta, 5141 Stream Crest Way, stated that his concerns include traffic, public safety, and access to the trail.

Chris Fry, 420 Horseshoe Bend, stated he is opposed and feels SH 5 is not a ceremonial road like Fairview Parkway.

Rod Towns, 5136 Stream Crest Way, is opposed to the variances being requested and stated that a public space in a gated community is not public.

Chris Whiteley, 428 Sloan Creek Pkwy, stated that his concern is the impact on property values, and questioned if there are any other type of plans for this property.

Charles Cheek, 406 Rosemont Lane, is opposed to the variance on the dwelling unit size.

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

Mayor Culbertson asked the developer to address the access to the trail. Mr. Hazel responded that the trail will outside of the properties fencing with multiple access points so that the public as well as the residents of the complex will have access to the trail.

Mayor Pro Tem Lessner asked if they had an idea of the unit rent levels. Mr. Hazel stated that they inquired with the adjacent property next to town hall and units 660 SF are $900-1,050, units 768 SF are $980-1,125, two bedrooms starting at $1,285, and three bedrooms starting at $1,580.

Councilman Samuels stated they are comparing a plan consisting of a proposed 267 units versus the current approved plan with 281 units with the traffic being the main concern. Between the two plans he questions why the town would want the plan with more units if this was the primary concern.

Councilman Cunningham asked if they deny the plan they can build the 281 units at 850 SF.

Councilman Hendricks asked what the long term plans were for ownership of the property. Mr. Hazel stated they intend to own for many years before selling. The maintenance of the property is a priority, especially if they desire to be successful.

Mayor Culbertson asked about the slope on the property and if they considered reducing the number of units to have the increased size in SF. Mr. Hazel responded that the topography is not always felt just by walking it, but it is definitely a factor on this parcel.

Councilman Cunningham asked who owned the additional six acres that was previously approved. Mr. Schmidt responded CW Kendall is the owner.

Councilman Hendricks made a motion to approve the amended Concept Plan for the Davis Development multi-family development with the following variations: a minimum dwelling unit size shall be 660 SF; and ¾ split buildings are permitted as indicated on the Concept Plan. Councilman O'Reilly seconded that motion. The motion passes with a 6-1 vote. Councilman Cunningham opposed based on the current ordinance requiring the minimum dwelling unit size at 850 SF, but did indicate he likes their plan.

BLUE GRASS FARMS AMENDING ORD. #2005-62: Conduct a public hearing, consider, and take any necessary action on an ordinance amending Ordinance #2005-62, the Planned Center District for the Blue Grass Farms Subdivision, in order to amend the planned center zoning regulations that govern this subdivision.

Mr. Schmidt stated that staff initially recommended that the minimum lot size for future lots be 1.92 acres (the size of the smallest existing lot), and that the impervious lot coverage should remain at a maximum of 25%. The council had made a recommendation to establish the minimum lot size for future lots at 2.0 acres with the maximum impervious lot coverage to be 25%, but asked for staff to analyze the impact on the property owners with the smaller lot sizes before making a final approval. Mr. Schmidt stated the outcome showed no negative impact on either scenario. Therefore, recommends establishing a minimum lot size at 2.0 acres with a 25% maximum impervious lot coverage, as well as removing all references to deed restriction in the ordinance.

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

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

Councilman Samuels made a motion to approve the amendment to Ordinance 2005-62 as stated above. Councilwoman Price seconded that motion and the motion was unanimously approved.

EXPIRATION OF CONCEPT & PRELIMINARY PLANS: Conduct a public hearing, consider, and take any necessary action on an ordinance amending Chapter 14 (Zoning), Article 14.02 in order to reduce the expiration timeframe for the preliminary plan in the Planned Center Zone and the concept plan in the Planned Development and Commercial Planned Development District Zones.

Mr. Schmidt stated at the May council meeting, council approved a reduction in the expiration timeframe from five to three years. It was recommend by Mr. Rushing to consider a one year expiration. Upon further discussion, council decided that a two year expiration timeframe with an option to request a one year extension would be the most appropriate action. Mr. Schmidt stated the Planning and Zoning Commission unanimously approved this item; therefore, staff is also recommending approval.

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

Mayor Culbertson opened discussion to council.

Councilwoman Price asked what the process would be to request the one year extension. Mr. Schmidt replied the applicant would go through the public hearing process through the Planning and Zoning Commission and to the Town Council for final approval.

Councilman Samuels made a motion to approve an amendment to reduce the Concept Plan and Preliminary Plan expiration timeframe to two years with an option for a one year extension. Councilwoman Price seconded that motion and the motion was unanimously approved.

ALLIED WASTE RATE ADJUSTMENT: Discuss and consider approval of an annual rate adjustment by Allied Waste.

Mr. Dunlap stated that the annual CPI rate adjustment has a net increase of 1.27%. The increase would equal an average increase of $0.18 per month per home for trash and recycling. There were no additional requests for diesel fuel and landfill use for consideration. Mr. Dunlap stated that Mr. Reid Donaldson with Allied Waste was in attendance to answer any questions and provide an annual overview.

Reid Donaldson, Allied Waste, provided an overview from the past year regarding trash pickup, recycling, bulk trash pickup including the town's annual trash off, and customer service calls.

Councilman Cunningham made a motion to approve the rate adjustment as requested. Councilman Samuels seconded that motion and the motion was unanimously approved.

STREET IMPROVEMENT PROGRAM: Discuss and consider the town's street improvement program, and take any necessary action.

Mr. Chancellor stated that 13 miles of asphalt streets were identified for repairs and maintenance. These streets are either showing signs of subgrade problems due to wet weather and/or drought conditions, or the age of the asphalt itself is causing a significant amount of cracking. Mr. Chancellor stated since the initial estimate in February 2012, the cost was just over $3,000,000. The initial plan was to complete this work over the period of three years. The first year has been completed and came in under budget. Since that time, a more detailed analysis of the remaining streets has been done along with associated costs. Estimated costs have gone up and the costs to complete all the remaining streets, including the widening of Stacy Road are $3,670,000.00. Mr. Chancellor presented council with three bid package options for council to review and identify based on their priority, location, and construction costs.

Mayor Culbertson commented that he would like to see the town get as many done as soon as possible with prioritizing the streets with those in the worst condition to be done first.

Mayor Pro Tem Lessner suggested bringing this item to the budget work session if didn't delay any further. Council all agreed.

2013-2014 ANNUAL BUDGET: Discuss 2013-2014 annual budget and take any necessary action.

Mrs. Couch proposed Thursday, August 1st in the morning at Noah's for a council budget work session with the regular council meeting being Tuesday, August 6th. Council agreed with this day and time.

CCART UPDATE: Receive an update regarding CCART and take any necessary action.

Mr. Wilbourn stated that CCART now focuses mainly on their Meals-On-Wheels Program and the CCART transporation users will now be served by a company called TAPS. TAPS will provide residents with curb-to-curb rides when scheduled at least 24 hours in advance. They will pick people up, take them to their destination, and take them home. NCTCOG has agreed to fully fund the TAPS program through the remainder of the current fiscal year, but is seeking funding through the next two years. The NCTCOG does not think it would be fair to expect communities to immediately absorb costs associated with TAPS when they have never incurred these cost before. Mr. Wilbourn stated if the town would ever have to contribute; it would be minimal based on what has been discussed in transportation meetings and not until FY 2016-17.

Council requested to place information regarding TAPS into the upcoming newsletter to notify residents.

TOWN HALL MEETING: Discuss process of establishing a Town Hall meeting and take any necessary action.

Mayor Culbertson stated that he wanted to discuss the possibility of having some Town Hall meetings. Council discussed possible locations such as Heritage Ranch, Sloan Creek Middle School, and Noah's of Fairview. Council asked staff to check dates with possible locations to narrow down options.

CITIZENS INPUT:

No comments were made.

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

Mayor Pro Tem Lessner stated that there is a Rotary meeting in the morning at 7 a.m. and on July 24th with County Commissioner Chris Hill as a speaker.

Mrs. Couch commented that since breaking the town into four quadrants for Stage 3 watering restrictions, the town has had to divide Heritage Ranch into two sections due to the amount of water demand. Otherwise, the town has had no other issues.

Mayor Culbertson adjourned the meeting at 12:42 a.m.

DARION CULBERTSON, MAYOR

ATTEST:

Michelle Lewis Sirianni

Michelle Lewis Sirianni, Town Secretary

TOWN OF FAIRVIEW