TOWN COUNCIL
MEETING MINUTES
October 1, 2013

The Town Council met in regular session on Tuesday, October 1, 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; 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, real property, and economic development.

At 7:51 p.m. Mayor Culbertson reconvened back into regular session and invited everyone to stand for the Pledge of Allegiance.

ARBOR DAY PROCLAMATION:

Mayor Culbertson read the Arbor Day Proclamation proclaiming November 2, 2013 Arbor Day in the Town of Fairview and urging all citizens to plant and care for trees in order to nourish the soul and promote the well-being of this and future generations.

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 September 3, 2013 regular council meeting. B) Consider an ordinance renewing a franchise agreement with Oncor. C) Consider an ordinance adopting Atmos Mid-Tex natural gas rates.

Councilwoman Price requested to pull item A.

Councilman O'Reilly made a motion to approve items B and C. Mayor Pro Tem Lessner seconded that motion and the motion was unanimously approved.
Councilwoman Price requested to add to the budget public hearing item that she commented that the even though the worksession was held offsite, it was done at Noah's, which is located across the street from Town Hall.

Councilman Hendricks made a motion to approve item A as amended. Councilman Samuels seconded that motion and the motion was unanimously approved.

REPLAT VILLAGE AT FAIRVIEW - NORTH ADDITION: Conduct a public hearing, consider, and take any necessary action on a request to Replat an 8.480± acre tract of land that is zoned Commercial Planned Development District (CPDD), Zone K, and is generally located east of Convention Drive and north of Murray Farm Road, being Lot 2R, Block A, of the Village at Fairview – North Addition.

Mr. Schmidt stated that the applicant for this request is Mr. Ajay Desai. The purpose of the Replat application is to subdivide the existing lot into two lots in order to facilitate the sale of real property. Mr. Schmidt commented that this subject property is related to the land where the Concept Plan for the hotel was approved. Mr. Schmidt stated that when land is sold and subdivided in this manner, the plat will serve as the legal instrument in order to facilitate and carry out the transaction; therefore, staff recommends approval.

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 Replat for Lot 2R, Block A, North Addition. Councilman O'Reilly seconded that motion and the motion was unanimously approved.

REPLAT BLUE GRASS FARMS SUBDIVISION: Conduct a public hearing, consider, and take any necessary action on a request for approval of an amendment to the Blue Grass Farms Subdivision Zoning Development Plan and a Replat of Lot 17R of the Blue Grass Farms Subdivision, a 14.3516 ± acre property that is zoned Planned Center (PC), generally, to subdivide the property in order to create four single-family residential lots.

Mr. Schmidt stated that the applicant, Mr. Mark McGuire is applying on behalf of the property owners. The purpose of the Replat is to subdivide Lot 17R in order to create four single-family residential lots. Mr. Schmidt stated the subject property is undeveloped and contains a substantial amount of trees with approximately six acres of land within the FEMA floodplain, and eight acres of developable land. The applicant is proposing that each lot be at least two acres in size. Mr. Schmidt identified surrounding zoning and subdivisions to the subject property as well as providing an overview of the subdivision requirements for the Replat including the Park Board recommendation of accepting cash in lieu of land for the parkland conveyance. Mr. Schmidt stated that he received only one statement in opposition while the others received were all in favor of the request. The development conforms to the town's subdivision regulations and the zoning requirements, and the timing of the development will potentially allow NTMWD to route their waterline in a manner that minimizes tree removal; therefore, staff recommends approval.

Councilwoman Price asked if the letter of opposition stated why. Mr. Schmidt replied it was from a Heritage Ranch resident, but no reason was given.

Councilman Samuels asked if this property was located on the north side of Sloan Creek. Mr. Schmidt replied that the property line is north of Sloan Creek, but there is no development on the north side.

Councilman Cunningham asked who would be responsible to maintain Kentucky Lane if extended. Mr. Schmidt replied that the town will maintain since it will be public right-of-way.

Mayor Culbertson opened the public hearing. A question was asked if concrete or asphalt would be used. The applicant at this time is unsure which one will be used.

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

Councilwoman Price made a motion to approve an amendment to the Blue Grass Farms Subdivision Zoning Development Plan and a Replat of Lot 17R of the Blue Grass Farms Subdivision, a 14.3516 ± acre property that is zoned Planned Center (PC), generally, to subdivide the property in order to create four single-family residential lots. Mayor Pro Tem Lessner seconded that motion and the motion was unanimously approved.

REZONING MOLODOW/TOLLE PROPERTIES: Conduct a public hearing, consider, and take any necessary action on a request to adopt an ordinance amending the land use designation and zoning for three tracts of land comprised of 57.018± acres and situated in the Robert Fitzhugh Survey, Abstract No. 317, and generally located north of Stacy Road and 450' west of Kentucky Lane, which are currently zoned Agriculture (AG) and categorized as Residential Estate Country (REC) on the Future Land Use Plan, to the Residential Estate (RE) land use designation and the Planned Center (PC) Zoning District, generally, in order to initiate a development comprised of thirty-four (34) single-family residential lots.

Mr. Schmidt stated the applicant for this request is Mr. Michael Dewers and is applying on behalf of the property owners. The purpose of this zoning change application is to amend the land use designation and zoning for three tracts of land comprised of 57.018± acres, which are currently zoned Agricultural (AG) and categorized as Residential Estate Country on the Future Land Use Plan, to the Residential Estate land use designation and the Planned Center Zoning District (PC), generally, in order to initiate a development comprised of thirty-four single-family residential lots. Mr. Schmidt stated that of the proposed 57.018± acres, a 27.874 acre tract and a 1.065 acres tract are owned by Mrs. Tolle, and a 28.065 acre tract owned by Mr. Molodow. The proposed development would provide for lots that are at least 1.5 acres in size or greater, with a landscaped common area at the subdivision entryway. The proposed development would also provide for 50' of public ROW, extending north from Stacy Road and west to Farmstead Road. Mr. Schmidt indicated the surrounding properties and zonings and added that if the town were to approve this application, it would require an amendment to the Future Land Use Plan and would reduce the side yard setbacks from 50' to 25'. Mr. Schmidt also discussed vehicle access, right-of-way requirements, utilities, landscaping, associated with this development. Mr. Schmidt stated that the Park Board recommended a land dedication of 1.0 acres, but the concern by staff is what to do with one acre of land. The town staff has received opposition from the Countryside and Blue Grass Farms subdivisions regarding the connection of Farmstead to the new road and the size of lots including the setbacks. Mr. Schmidt indicated that there were policy questions for the Council related to the access to Farmstead, the Park and Recreation Board recommendation on land dedication, and their recommendation on this zoning change application.

Councilman Samuels asked if the NTMWD east easements have been granted. Mr. Schmidt replied currently they have not, but will be.

Councilwoman Price asked about potential right-of-way from Kentucky to Lot 8. Mr. Schmidt stated that this was a private driveway, therefore, would not be an option.

Mayor Culbertson asked if the Park and Recreation Board have an intention for the land dedication. Mr. Schmidt replied that they would use the one acre for a potential neighborhood park facility.

Councilman Cunningham asked if two acre lots were considered or using a two acre average density. Councilman Cunningham stated his concern is that the Master Plan calls for RE-2 zoning and the size of the setbacks. He also commented that a one acre lot for a park is too small.

Mayor Pro Tem Lessner asked if there was any flood plain and if the applicant did have two acre lots, how many would there be versus the thirty four 1.5 acre lots. Mr. Schmidt replied that there is no flood plain and if the lots were two acres in size, it would yield 25-27 two acre lots.

Councilman O'Reilly stated that he does have concern with Farmstead being considered as a thru road due to traffic. He prefers an emergency access or gated access and believes council needs more information regarding this issue.

Mayor Culbertson opened the public hearing.

Jim Reilly with K. Hovnanian Homes stated that they are proposed 34 lots with 35' front yard setbacks and 25' side yard setbacks. The homes will range from 3400 SF to 5000 SF

And will have an average price of $700,000. Mr. Reilly stated that they met with the Farmstead home owners and are not opposed to an access gate and added that the construction traffic will use Stacy Road.

Mayor Culbertson asked why they did not consider two acre lots. Mr. Reilly responded that the economics do not work.

Mike Weaver, 481 Homeplace, stated that Countryside would like to see two acre properties on the subject property. He is not opposed to an emergency access exit with a Knox box and is all for safety, but the more traffic put onto Country Club, the more dangerous it is.

Mark Molodow, 431 Kentucky Lane, does not see an issue with one and one-half acre lots and is in favor of the request. Mr. Molodow commented that the town is changing.

Guy Wormald, 926 Medina Drive, stated that he serves as Vice Chairman on the Park and Recreation Board. Mr. Wormald stated that the reasoning behind their vote was that they wanted the proposed neighborhood to have a park. Mayor Pro Tem Lessner asked if the Board had identified the area. Mr. Wormald replied no they had not. Councilwoman Price commented that she does not know of any parks that are just one acre in size.

Edward McGee, 520 Homeplace, stated that he borders the proposed development and would like to see two acre lots. Mr. McGee admires the town's long-range plan. He added that an emergency access gate would be sufficient on Farmstead.

Kirsh Smith, 470 Country Club Road, stated that his concern is traffic, safety, and tree preservation.

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

The council agreed that they would like to have additional research on the emergency access easement as well as park land clarification from the Park and Recreation Board.

Councilman O'Reilly made a motion to continue the public hearing to the November 5th council meeting

Councilman Samuels requested that the developer look at the plan to see if there was any other way to reconfigure the land use. Mayor Pro Tem Lessner requested to have the park area depicted on the plan. Councilman Hendricks added to include the Park and Recreation Boards intentions for the land as well as the town's additional research on the emergency access easement.

Mayor Pro Tem seconded that motion including the requests listed above. Motion passes with a 4-3 vote. Council members Price, Cunningham, and Samuels were opposed.

SITE PLAN DAVIS DEVELOPMENT: Conduct a public hearing, consider, and take any necessary action on a request for approval of a Site 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 (CPDD) District, Zone D, and is generally located west of SH 5 and north of Meandering Way.

Mr. Schmidt stated that the applicant for this request is Mr. Fred Hazel, Vice President of Davis Development. The proposed Site Plan contains 267 multi-family units on a 24.40 acre development. The plan provides for nearly 11 acres of open space, with just over 4.5 acres within the FEMA 100-year floodplain. The proposed development would consist of 10 buildings, four of which are two stories and front SH 5, two three story buildings which are situated in the middle of the development, and four ¾ split buildings bordering the west side of the proposed development. Mr. Schmidt stated that the development would contain a wide array of amenities including a clubhouse with a gym, game room, and other common areas along with a swimming pool and playground. Mr. Schmidt commented on the land use and zoning of the surrounding properties, as well as requirements pertaining to the Site Plan including utilities, right-of-way, parking, parkland, open space, and landscaping. The applicant is seeking a variance from the town's requirements that all buildings within the CPDD provide for facades that are comprised of 90% masonry. The Site Plan submitted provides for 75% masonry with over 20% being comprised of stone. Mr. Schmidt stated that the applicant is requesting this variance because they feel that the design would look more appealing than a conforming design.

At the September Planning and Zoning Commission meeting, the commission recommended conditional approval of this application. The commission requested the following: the two-story building must conform to the 90% masonry requirement while all other residential buildings must generally provide for at least 75% masonry on all facades; continue to work with staff to identify modifications to the façade plan that would provide additional architectural relief and enhanced features that will make this a more unique product with emphasis on the 4-story of the ¾ split building; work with the town engineer to identify any trees that could be preserved that are currently projected to be removed to accommodate development; and, upsize proposed tree planting at SH 5 streetscape, project entryway, and the southern property boundary. Based on these recommendations, the developer provided for increased sizes in canopy trees; additional architectural relief with modifications made including overhangs and roof features. Mr. Schmidt stated that this Site Plan submittal and associated documents conforms to the recommendations of the commission and staff; therefore, recommend approval of the Site Plan and variances requested.

Council briefly discussed the masonry requirements, buildings related to and location of these buildings. Mayor Pro Tem asked if there would be a berm along SH 5. Mr. Schmidt replied yes there is a berm along SH 5. Councilman Cunningham asked about street parking and if the plans have been reviewed for the bridge. Mr. Schmidt replied that there will be no street parking and the bridge will be a pedestrian style bridge that will not be for vehicle use, but bicycles will be able to cross with the width being consistent with the trail as well as ADA compliant.

Mayor Culbertson opened the public hearing. Fred Hazel, VP of Davis Development addressed the council with changes made on the Site Plan at the Planning and Zoning Commissioners request.

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

Councilman Samuels made a motion to approve a Site Plan for a multi-family residential development. Councilwoman Price seconded that motion and the motion was unanimously approved.

CERTIFICATES OF OBLIGATION, SERIES 2013: Consider an ordinance authorizing the issuance and sale of Town of Fairview, Texas, Combination Tax and Limited Surplus Revenue Certificates Of Obligation, Series 2013; levying an annual ad valorem tax and providing for the security for and payment of said certificates; approving an official statement; authorizing the execution of purchase agreement; providing an effective date; and enacting other provisions relating to the subject.

Mrs. Couch stated that the town has received an upgrade on their rating from Moody's from AA- to AA+, which is a two level increase. Mrs. Couch introduced Mr. Boyd London with First Southwest to discuss the bonds and rating.

Mr. London discussed with council the town's ratings over the past few years. The town has seen a low of 3.27% with an average of 4.53%. Mr. London added to Mrs. Couch comment on the ratings upgrade and stated that very few towns/cities have this occur; therefore, is a very good reflection on the town. Mr. London briefed council on the two bonds that will be issued and their savings based on the new rating.

Councilman Samuels made a motion to approve an ordinance authorizing the issuance and sale of Town of Fairview, Texas, Combination Tax and Limited Surplus Revenue Certificates Of Obligation, Series 2013; levying an annual ad valorem tax and providing for the security for and payment of said certificates; approving an official statement; authorizing the execution of purchase agreement; providing an effective date; and enacting other provisions relating to the subject. Councilman O'Reilly seconded that motion and the motion was unanimously approved.

GENERAL OBLIGATION REFUNDING BONDS, SERIES 2013: Consider an ordinance authorizing the issuance of Town of Fairview, Texas, General Obligation Refunding Bonds, Series 2013; levying an annual ad valorem tax and providing for the security for and payment of said bonds; approving an official statement; authorizing the execution of purchase agreement and escrow agreement; providing an effective date; and enacting other provisions relating to the subject.

Mayor Pro Tem Lessner made a motion to approve an ordinance authorizing the issuance of Town of Fairview, Texas, General Obligation Refunding Bonds, Series 2013; levying an annual ad valorem tax and providing for the security for and payment of said bonds; approving an official statement; authorizing the execution of purchase agreement and escrow agreement; providing an effective date; and enacting other provisions relating to the subject. Councilwoman Price seconded that motion and the motion was unanimously approved.

AWARD BID TO PEACHTREE CONSTRUCTION: Discuss and consider awarding bid to Peachtree Construction for the 2013 residential street improvements, and take any necessary action.

Mr. Chancellor stated the engineering staff prepared a bid package and advertised for a publicly held, sealed-bid opening. Peachtree Construction was the low bid at $2,009,795.00. They have performed past work experience and demonstrated their capability to complete this type and scope of paving work. Mr. Chancellor added that they are also a prequalified contractor by TxDOT to work on state projects.

Councilman Samuels made a motion to award the bid on the 2013 residential street paving project to Peachtree Construction in the amount of $2,009,795.00. Councilman O'Reilly seconded that motion and the motion unanimously passes with a 6-0 vote. Mayor Pro Tem Lessner had left the room when the vote was made.

NTMWD WATER MAIN EASEMENTS: Discuss and consider approving water main easements to NTMWD for distribution lines on town owned properties, and take any necessary action.

Mrs. Couch stated that town staff recommends approval subject to legal form by the town attorney.

Mayor Pro Tem Lessner made a motion to approve water main easements to NTMWD, subject to approval of legal form by the town attorney. Councilman Hendricks seconded that motion and the motion was unanimously approved.

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

Mayor Pro Tem Lessner made a nomination and motion to appoint Hal Bryan, Robert Herrema, Chris Hendricks, and Pennie Beauchamp to the Destination Fairview Ad Hoc Committee. Councilwoman Price seconded that motion and the motion was unanimously approved.

CREDIT CARD PROCESSING FEES- UTILITIES: Discuss and consider an ordinance establishing credit card processing fees to utility accounts, and take any necessary action.

Mrs. Couch stated that the town does not charge a fee to use a credit card in utility billing and permits. The town is essentially losing revenue because of the cost incurred for customer convenience and those credit card customers are being subsidized by those who pay by cash and check. Mrs. Couch recommended council approve the ordinance which would authorize the town to recover cost by adding a 3% processing fee.

Councilman O'Reilly made a motion to approve an ordinance authorizing the town to assess a processing fee of three percent. Mayor Pro Tem Lessner seconded that motion and the motion was unanimously approved.

RESIDENCE INN HOTEL AGREEMENT: Discuss and consider an agreement with Lowen Fairview, LP regarding the Residence Inn Hotel.

Mrs. Couch stated that hotel occupancy tax (HOT) money is rebated to Lowen over the 11 years of the agreement. The HOT is restricted in how it can be used, therefore, the town would have to spend the money in the same manner as Lowen. Mrs. Couch stated that there are accountability standards and a reporting process in the agreement. Mrs. Couch stated the council will need to take two actions on this item. The first action would be to approve the HOT agreement between the town and Lowen and the second one would be to authorize EDC to enter into an agreement with Lowen.

Councilman Samuels made a motion to approve the hotel development agreement with Lowen Fairview, LP. Councilman O'Reilly seconded that motion and the motion was unanimously approved.

Mayor Pro Tem Lessner made a motion to authorize the Economic Development Committee to enter into an incentive grant performance agreement with Lowen Fairview, LP. Councilman O'Reilly seconded that motion and the motion was unanimously approved.

INTER-LOCAL AGREEMENT WITH CITY OF WYLIE - DISPATCH SERVICES: Discuss and consider an inter-local agreement with the City of Wylie regarding dispatch services with the town, and take any necessary action.

Mrs. Couch stated the town is moving forward with coordinating dispatch services with the City of Wylie as part of the budget process. The inter-local agreements will allow the Fire Department to be dispatched by the City of Wylie and since Wylie is on the City of Plano's radio system, an inter-local agreement must be established between the town and the Cities of Plano and Allen. The contract with Allen and Plano will begin in October to allow the town to begin the transition to their system and the contract with Wylie would begin in December in order for them to staff up for the January startup date. Mrs. Couch recommended approval of these agreements subject to final legal form and review by the town council.

Mayor Pro Tem Lessner made a motion to authorize the Town Manager to enter into an inter-local agreement with the City of Wylie for dispatch services subject to final legal form and review by the Town counsel. Councilwoman Price seconded that motion and the motion was unanimously approved.

INTER-LOCAL AGREETMENT WITH CITY OF ALLEN & PLANO – DISPATCH SERVICES: Discuss and consider an inter-local agreement with the City of Allen and Plano regarding dispatch services with the town, and take any necessary action.

Mrs. Couch stated same comments apply.

Councilman Samuels made a motion to authorize the Town Manager to enter into and inter-local agreement with the City of Allen and Plano for communication services. Councilman O'Reilly seconded that motion and the motion was unanimously approved.

CITIZENS INPUT:

No comments were made.

REPORTS FROM STAFF: Receive reports from Staff, including any updates on Stage 3 watering and/or water conservation, project tracking reports, and an update on roadway construction schedules.

Mrs. Couch stated that since the town has been in Stage 3 watering, there has been a reduction of 10% in usage, but more information will be provided once the town receives additional information.

Mr. Chancellor provided updates on the Hwy 5 and Stacy Road project.

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

Mrs. Couch stated Jason Weeks, the towns newly hired Finance Director will be starting on October 21st, and the town recently held their employee appreciation at Splitsville, which had very good attendance.

Town Hall meetings will be held on October 22nd and 30th.

Town Council will be holding a joint session with the Planning and Zoning Commission on October 24th.

A meet and greet with the town's churches will be held on October 3rd.

Pancake Breakfast at Fire Station #1 will be October 5th from 9:00-12:00 pm.

The Fairview Showdown Half Marathon will be October 12th.

Day of Service/Clean Up Day to occur on October 26th.

Mr. Wilbourn stated the Mr. Stephen Davis resigned from the Technology Committee.

October is Breast Cancer Awareness month.

At 11:12 p.m. Mayor Culbertson adjourned the meeting.

DARION CULBERTSON, MAYOR

ATTEST:

Michelle Lewis Sirianni, Town Secretary

TOWN OF FAIRVIEW