

MINUTES OF REGULAR CITY COUNCIL MEETING HELD BEGINNING AT 11:30 A.M.,  
SEPTEMBER 4, 2007, CITY COUNCIL CHAMBER, CITY HALL, 711 N. GALLOWAY.

Present: Mayor Pro Tem David Paschall and Councilmembers John Heiman, John Monaco, Dennis Tarpley, Stan Pickett and Shirley Roberts, City Manager Ted Barron and City Secretary Judy Womack.

**PRE-MEETING – CITY COUNCIL CONFERENCE ROOM – 11:30 A.M.**

The City Council met in the City Council Conference Room beginning at 11:30 a.m., to discuss the items on the Regular Agenda and discuss: (1) proposed amendments to Section 8-840 and Chapter 13 of the City Code; (2) request from Town of Talty for the release and exchange of extraterritorial jurisdiction; (3) design concept for Faithon P. Lucas, Sr., Boulevard and (4) fiscal year 2007-08 water and sewer rates.

(3) It was Council consensus to proceed with the proposed design plan for Faithon P. Lucas, Sr., Boulevard that includes a 4-lane divided boulevard with bike lanes in each direction and a landscaped median similar to that of Cartwright Road.

**EXECUTIVE SESSION – CITY COUNCIL CONFERENCE ROOM – 1:55 P.M.**

The City Council met in Executive Session pursuant to Section 551.087 of the Texas Government Code to consider commercial or financial information regarding a business prospect or project (prospect seeking to expand in the Town East Retail and Restaurant Area [TERRA]). After the closed meeting ended at 2:37 p.m., the City Council reconvened in Open Session.

No executive action was necessary.

**REGULAR CITY COUNCIL MEETING – CITY COUNCIL CHAMBER – 3:05 P.M.**

Invocation was given by Leslie Gregory, Pastor of Adult Ministries, Lake Pointe Church, Mesquite, Texas.

The Pledge of Allegiance was led by RASP [Recreation After School Program] participants from Dunford Recreation Center.

**CITIZENS FORUM.**

Deborah Goldstein-Cohen, 1523 Andrew Street, expressed concern regarding several topics including a lien placed on her property and possible identification theft.

**CONSENT AGENDA.**

Mr. Monaco moved to approve the items on the Consent Agenda, as follows. Motion was seconded by Mr. Pickett and approved unanimously.

1. MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD AUGUST 20, 2007.
2. ORDINANCE NO. 3883 – AUTHORIZING THE CITY MANAGER TO APPROVE CERTAIN CHANGE ORDERS ON CONSTRUCTION CONTRACTS.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO APPROVE CERTAIN CHANGE ORDERS ON CONSTRUCTION CONTRACTS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREOF. (Ordinance No. 3883 recorded on page                      of Ordinance Book No. 87.)

3. ORDINANCE NO. 3884 – AUTHORIZING THE CITY MANAGER TO APPROVE THE EXPENDITURE OF FUNDS FOR CONTRACTS, BIDS AND PROPOSALS AS ALLOWED BY CHAPTER 252 OF THE TEXAS LOCAL GOVERNMENT CODE.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO APPROVE THE EXPENDITURE OF FUNDS FOR CONTRACTS, GOODS AND SERVICES IN AMOUNTS LESS THAN THAT STATED IN SECTION 252.021 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREOF. (Ordinance No. 3884 recorded on page                      of Ordinance Book No. 87.)

4. A. ORDINANCE NO. 3885 – AMENDING CHAPTER 8 OF THE CITY CODE REGARDING SOLICITORS, VENDORS AND OUTDOOR SALES.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 8 OF THE CODE OF THE CITY OF MESQUITE BY DELETING SECTIONS 8-196, 8-211(a), 8-212 AND 8-227 IN THEIR ENTIRETY AND ADDING NEW SECTIONS 8-195, 8-196, 8-211(a), 8-211(d), 8-212, 8-214, 8-215 AND 8-227; THEREBY AMENDING REGULATIONS PERTAINING TO SOLICITORS, VENDORS AND OUTDOOR SALES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED (\$500.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF. (Ordinance No. 3885 recorded on page                      of Ordinance Book No. 87.)

- B. ORDINANCE NO. 3886 – AMENDING CHAPTER 10 OF THE CITY CODE REGARDING HANDBILLS.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF MESQUITE BY DELETING SECTION 10-46 IN ITS ENTIRETY AND ADDING NEW SECTIONS 10-40 THROUGH 10-46 AND 10-51 THROUGH 10-57; THEREBY AMENDING REGULATIONS PERTAINING TO HANDBILLS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED (\$500.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF. (Ordinance No. 3886 recorded on page of Ordinance Book No. 87.)

5. ORDINANCE NO. 3887 – ZONING – APPLICATION NO. 1-38 SUBMITTED BY DOWDEY ANDERSON & ASSOCIATES.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, SO AS TO APPROVE A CHANGE OF ZONING FROM AGRICULTURAL TO PLANNED DEVELOPMENT – SINGLE FAMILY SUBJECT TO CERTAIN STIPULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY. (Ordinance No. 3887 recorded on page of Ordinance Book No. 87.)

6. A. RECEIVED CERTIFICATION FROM THE CITY SECRETARY VERIFYING SIGNATURES ON TWO LOCAL OPTION ELECTION PETITIONS RECEIVED ON AUGUST 1, 2007, REQUIRING THAT A SPECIAL ELECTION/LOCAL OPTION ELECTION BE CALLED IF A SUFFICIENT NUMBER OF VALID SIGNATURES ARE VERIFIED, THE PURPOSE OF THAT ELECTION TO DETERMINE WHETHER TO LEGALIZE THE FOLLOWING ISSUES: (1) THE LEGAL SALE OF MIXED BEVERAGES IN RESTAURANTS BY FOOD AND BEVERAGE CERTIFICATE HOLDERS ONLY AND (2) THE LEGAL SALE OF BEER AND WINE FOR OFF-PREMISE CONSUMPTION ONLY.
- B. RESOLUTION NO. 34-2007 – CALLING A SPECIAL ELECTION /LOCAL OPTION ELECTION TO BE HELD NOVEMBER 6, 2007, FOR THE PURPOSE OF DETERMINING WHETHER TO LEGALIZE THE FOLLOWING LOCAL OPTION ELECTION ISSUES: (1) THE LEGAL SALE OF MIXED BEVERAGES IN RESTAURANTS BY FOOD AND BEVERAGE CERTIFICATE HOLDERS ONLY AND (2) THE LEGAL SALE OF BEER AND WINE FOR OFF-PREMISE CONSUMPTION ONLY.

Section 501.033 of the Texas Election Code requires the names of signers of a petition for a local option election be entered into the minutes of the governing body. As an acceptable alternative provided by the Secretary of State's office and approved by the City of Mesquite's City Attorney, compliance with this section can be accomplished by reference to the petition in the minutes.

The City Secretary's office received two local option election petitions on August 1, 2007. The petitions were dated June 8, 2007, with sequential page numbers from 00001 to 01893. The petitions, on legal-size paper (8 1/2" x 14"), were for two specific local option election issues: (1) the legal sale of mixed beverages in restaurants by food and beverage certificate holders only and (2) the legal sale of beer and wine for off-premise consumption only. The petitions will remain on file in the City Secretary's office in compliance with the retention schedule required by the Texas State Library for minutes for City Council meetings.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, CALLING A SPECIAL ELECTION/LOCAL OPTION ELECTION TO BE HELD NOVEMBER 6, 2007, SAID DATE BEING A UNIFORM ELECTION DATE, FOR THE PURPOSE OF DETERMINING WHETHER TO LEGALIZE THE FOLLOWING LOCAL OPTION ELECTION ISSUES: (1) THE LEGAL SALE OF MIXED BEVERAGES IN RESTAURANTS BY FOOD AND BEVERAGE CERTIFICATE HOLDERS ONLY AND (2) THE LEGAL SALE OF BEER AND WINE FOR OFF-PREMISE CONSUMPTION ONLY, AND DECLARING AN EFFECTIVE DATE. (Resolution No. 34-2007 recorded on page of Resolution Book No. 40.)

7. RESOLUTION NO. 35-2007 – DENYING THE REQUEST OF ATMOS ENERGY CORPORATION, MID-TEX DIVISION, FOR AN ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM (GRIP) RATE INCREASE IN THE CITY, AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY DISTRIBUTION SYSTEM; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC; AND PROVIDING FOR NOTICE OF THIS RESOLUTION TO ATMOS ENERGY CORPORATION, MID-TEX DIVISION.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, DENYING THE REQUEST OF ATMOS ENERGY CORPORATION, MID-TEX DIVISION, FOR AN ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM (GRIP) RATE INCREASE IN THIS MUNICIPALITY, AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY DISTRIBUTION SYSTEM; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC; AND PROVIDING FOR NOTICE OF THIS RESOLUTION TO ATMOS ENERGY CORPORATION, MID-TEX DIVISION. (Resolution No. 35-2007 recorded on page of Resolution Book No. 40.)

8. RESOLUTION NO. 36-2007 – ENDORSING A GRANT FOR THE SPEED SELECTIVE TRAFFIC ENFORCEMENT PROJECT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$74,111.40 TO BE SUPPLEMENTED BY CITY FUNDS IN THE AMOUNT OF \$18,323.88 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ENDORSING THE GRANT FOR THE SPEED SELECTIVE TRAFFIC ENFORCEMENT PROJECT; AND DESIGNATING A RESPONSIBLE OFFICER AND A FISCAL OFFICER TO SERVE THE CITY OF MESQUITE BY ENTERING INTO A CONTRACT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THIS PROJECT. (Resolution No. 36-2007 recorded on page                      of Resolution Book No. 40.)

9. BID NO. 2007-090 – ANNUAL CONTRACT FOR TEMPORARY PERSONNEL SERVICES FOR SOLID WASTE – ALL BIDS REJECTED AND REBID AT A LATER DATE.
10. CITY MANAGER AUTHORIZED TO EXECUTE AN AGREEMENT FOR STREET LIGHTING SERVICES WITH ONCOR ELECTRIC DELIVERY.
11. CITY MANAGER AUTHORIZED TO EXECUTE AN ENGINEERING DESIGN SERVICES CONTRACT WITH BINKLEY & BARFIELD, INC., FOR THE 2007-08 ASPHALT STREET RECONSTRUCTION AND OVERLAY PROJECT IN THE AMOUNT OF \$52,500.00.
12. CITY MANAGER AUTHORIZED TO EXECUTE AN AMENDMENT TO AN ENGINEERING DESIGN SERVICES CONTRACT WITH APM & ASSOCIATES, INC., IN CONJUNCTION WITH THE PIONEER ROAD PAVING, DRAINAGE AND UTILITIES PROJECT IN THE AMOUNT OF \$29,872.00.
13. AUTHORIZED 50-PERCENT PARTICIPATION BY THE CITY OF MESQUITE WITH LANG AND COMPANY, LLC, TO PROVIDE SURVEYING AND MISCELLANEOUS ENGINEERING SERVICES ON CITY-OWNED PROPERTY LOCATED NEAR IH 635 AND PEACHTREE ROAD IN AN AMOUNT NOT TO EXCEED \$41,500.00.
14. CITY MANAGER AUTHORIZED TO EXECUTE A CHANGE ORDER TO CITY CONTRACT NO. 2007-004, TRIPP ROAD PAVING, DRAINAGE, WATER, SANITARY SEWER AND AESTHETIC ENHANCEMENT PROJECT WITH REBCON, INC., FOR SANITARY SEWER LINE REPLACEMENT IN THE AMOUNT OF \$43,660.00.

**END OF CONSENT AGENDA.**

**PUBLIC HEARINGS.**

15. A. PUBLIC HEARING – CONSIDER A PROGRAM WITH OJEDA INVESTMENTS, L.L.C., DBA FRITZ-PAK CORPORATION TO PROMOTE ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY – HELD.

A public hearing was held to consider a program with Ojeda Investments, L.L.C., dba Fritz-Pak Corporation to promote economic development and stimulate business and commercial activity.

Tom Palmer, Manager of Economic Development, introduced Gabriel and Jane Ojeda, owners of Ojeda Investments, L.L.C. and Fritz-Pak Corporation. Ms. Ojeda stated that Fritz-Pak Corporation, once a division of Fritz Industries, manufactures powdered additives for concrete. The business has been located in lease space in Dallas for the past nine years. She stated that Fritz-Pak Corporation is a small but growing company with 16 employees. She explained that property has been purchased in the Commerce East Business Park for the construction of a 30,000-square-foot facility which will contain a warehouse and offices.

No one appeared regarding a program with Ojeda Investments, L.L.C., dba Fritz-Pak Corporation to promote economic development and stimulate business and commercial activity. Mayor Pro Tem Paschall declared the public hearing closed.

- B. RESOLUTION NO. 37-2007 – APPROVING THE TERMS AND CONDITIONS OF A PROGRAM WITH OJEDA INVESTMENTS, L.L.C., DBA FRITZ-PAK CORPORATION TO PROMOTE ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT – APPROVED.

Mr. Monaco moved to approve Resolution No. 37-2007, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A PROGRAM TO PROMOTE ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN THE CITY; AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH OJEDA INVESTMENTS, L.L.C., DOING BUSINESS AS FRITZ-PAK CORPORATION, FOR SUCH PURPOSES; AND PROVIDING AN EFFECTIVE DATE. Motion was seconded by Mr. Tarpley and approved by all voting “Aye.” (Resolution No. 37-2007 recorded on page of Resolution Book No. 40.)

16. A. PUBLIC HEARING – RECEIVE INPUT FROM CITIZENS REGARDING THE PROPOSED 2007-08 CITY BUDGET - HELD.

**Minutes of regular City Council meeting held September 4, 2007**

**Page 7**

A public hearing was held regarding the proposed 2007-08 City budget. Mayor Pro Tem Paschall explained that Council and staff have been working on the budget for several months.

No one appeared regarding the proposed 2007-08 City budget. Mayor Pro Tem Paschall declared the public hearing closed.

- B. CONSIDER AN ORDINANCE APPROVING THE BUDGET FOR FISCAL YEAR 2007-08 AND APPROPRIATING THE NECESSARY FUNDS FOR THE MAINTENANCE AND OPERATION OF THE CITY AND FOR ACTIVITIES AND IMPROVEMENTS AS SET FORTH IN THE BUDGET – POSTPONED UNTIL THE SEPTEMBER 18, 2007, CITY COUNCIL MEETING.

Mr. Monaco moved to postpone consideration of an ordinance approving the budget for fiscal year 2007-08 and appropriating the necessary funds for the maintenance and operation of the City and for activities and improvements as set forth in the budget until the September 18, 2007, City Council meeting. Motion was seconded by Mr. Pickett and approved unanimously.

- C. CONSIDER AN ORDINANCE RATIFYING THE INCREASE IN PROPERTY TAX REVENUE REFLECTED IN THE FISCAL YEAR 2007-08 BUDGET – POSTPONED UNTIL THE SEPTEMBER 18, 2007, CITY COUNCIL MEETING.

Mr. Pickett moved to postpone consideration of an ordinance ratifying the increase in property tax revenue reflected in the fiscal year 2007-08 budget until the September 18, 2007, City Council meeting. Motion was seconded by Mr. Heiman and approved unanimously.

17. PUBLIC HEARING REGARDING THE PROPOSED 2007-08 AD VALOREM TAX RATE OF \$.64 PER \$100 VALUATION – HELD.

A public hearing was held regarding the proposed 2007-08 ad valorem tax rate of \$.64 per \$100 valuation.

No one appeared regarding the proposed 2007-08 ad valorem tax rate. Mayor Pro Tem Paschall declared the public hearing closed.

Mayor Pro Tem Paschall stated that the Council will be voting on the budget and proposed ad valorem tax rate at the regular City Council meeting to be held Tuesday, September 18, 2007, at 3:00 p.m.

**APPOINTMENTS TO BOARDS AND COMMISSIONS.**

18. APPOINTMENT OF ONE ALTERNATE MEMBER TO THE MUNICIPAL LIBRARY ADVISORY BOARD FOR A TERM TO EXPIRE DECEMBER 4, 2008.

Mr. Pickett moved to appoint Sonya Hervey as an alternate member of the Municipal Library Advisory Board for a term to expire December 4, 2008. Motion was seconded by Mr. Heiman and approved unanimously.

19. APPOINTMENT OF ONE MEMBER TO THE PERSONNEL/TRIAL BOARD FOR A TERM TO EXPIRE NOVEMBER 7, 2007, WHO WILL ALSO SERVE ON THE CIVIL SERVICE COMMISSION.

Mr. Pickett moved to appoint Ray Stuart to the Personnel/Trial Board for a term to expire November 7, 2007, who will also serve on the Civil Service Commission by appointment of the City Manager. Motion was seconded by Mr. Tarpley and approved unanimously.

Mr. Monaco moved to adjourn the meeting. Motion was seconded by Ms. Roberts and approved unanimously. The meeting adjourned at 3:25 p.m.

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Judy Womack  
City Secretary

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David Paschall  
Mayor Pro Tem