

MINUTES OF THE WORK AND REGULAR CITY COUNCIL MEETING HELD BEGINNING AT NOON, MAY 4, 2009, CITY COUNCIL CHAMBER, CITY HALL, 711 N. GALLOWAY.

Present: Mayor John Monaco and Councilmembers Shirley Roberts, Greg Noschese, Al Forsythe, Stan Pickett and Dennis Tarpley, City Manager Ted Barron and City Secretary Sonja Land.

PRE-MEETING – CITY COUNCIL CONFERENCE ROOM – NOON.

The City Council met in the City Council Conference Room beginning at Noon to discuss the items on the Work and Regular Agenda and discuss: (1) 2009 CDBG Budget requests, (2) new park entrance signs and (3) pole sign provisions of the Sign Ordinance and (4) receive briefing regarding American Recovery and Reinvestment Act of 2009 grants and programs.

(1) It was Council consensus to direct staff to prepare funding scenarios and report back to the Council at a future meeting.

(3) It was Council consensus to direct staff to select criteria for allowing usage of pole signs for entertainment, restaurants and hotels located along major highways and report back to Council at a future meeting.

WORK SESSION – CITY COUNCIL CHAMBER – 1:05 P.M.

A. INVESTMENT REPORT FOR THE QUARTER ENDING MARCH 31, 2009 – RECEIVED.

Don Simons, Finance Director, presented the Investment Report for the quarter ending March 31, 2009.

B. MONTHLY FINANCIAL REPORT FOR MARCH 2009 – RECEIVED.

Don Simons, Finance Director, presented the monthly financial report for March 2009.

The Work Session ended at 1:24 p.m.

EXECUTIVE SESSION – CITY COUNCIL CONFERENCE ROOM – 1:37 P.M.

Mayor Monaco announced that the City Council would meet in Executive Session pursuant to Section 551.071 of the Texas Government Code to consider pending and contemplated litigation subjects (Charger Square Joint Venture v. City of Mesquite and Richard Gertson Individually); whereupon, the City Council proceeded to meet in the City Council Conference Room. After the closed meeting ended at 1:41 p.m., the City Council reconvened in Open Session.

No executive action was necessary.

REGULAR CITY COUNCIL MEETING – CITY COUNCIL CHAMBER – 3:00 P.M.

Invocation was given by Clyde Causey, Pastor, First Assembly of God, Mesquite, Texas.

The Pledge of Allegiance was led by Jonathan Vasquez, Angelice Adamez and Cailyn Thompkins, fourth grade students from McWhorter Elementary School.

SPECIAL ANNOUNCEMENT.

Ms. Roberts encouraged citizens to read the article in *Health Net* magazine regarding Fire Chief Mark Kerby's daughter.

CITIZENS FORUM.

(1) John Rys, 1036 Darnel Lane, expressed concern regarding recent flooding in his home. Mayor Monaco suggested Mr. Rys meet with Assistant City Manager Mark Hindman to further clarify his concerns.

(2) Terry Knudson, 323 Running Brook Lane, requested the Police Department focus more attention on crime prevention in his neighborhood. Mayor Monaco suggested Mr. Knudson meet with Deputy City Manager Carol Zolnerowich to further clarify his concerns.

(3) Le'Faye and Nathanael Warford, 1326 Powell Road, expressed appreciation to the City for providing additional police patrol and code enforcement in their neighborhood. However, they expressed concern regarding possible illegal activity being conducted at a convenience store located in Balch Springs which is adjacent to their neighborhood. Mayor Monaco suggested they meet with Public Works Director Tim Tumulty to further clarify her concerns.

APPOINTMENT FOR PERSONAL APPEARANCE.

1. APPOINTMENT – ALTON VAN ELAM, JR., 418 SOUTHERLAND AVENUE – DISCUSS ISSUES RELATED TO PARKING IN HIS NEIGHBORHOOD.

Alton Van Elam, Jr., 418 Southerland Avenue, requested the Council adopt an ordinance prohibiting anyone other than the property owner from parking on the street in front of their home. Mr. Noschese suggested Mr. Elam provide Council with suggestions for a possible ordinance. Mayor Monaco requested staff research surrounding cities for similar ordinances.

CONSENT AGENDA.

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

2. MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD APRIL 20, 2009.

3. ORDINANCE NO. 4044 – REDUCING THE NUMBER OF POSITIONS IN THE FIRE DEPARTMENT IN THE CLASSIFICATION OF CAPTAIN FROM 28 TO 25; INCREASING THE NUMBER OF POSITIONS IN THE CLASSIFICATION OF LIEUTENANT FROM 20 TO 22; AND INCREASING THE NUMBER OF POSITIONS IN THE CLASSIFICATION OF FIREFIGHTER FROM 110 TO 111.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, REDUCING THE NUMBER OF POSITIONS IN THE FIRE DEPARTMENT IN THE CLASSIFICATION OF CAPTAIN FROM 28 TO 25; INCREASING THE NUMBER OF POSITIONS IN THE FIRE DEPARTMENT IN THE CLASSIFICATION OF LIEUTENANT FROM 20 TO 22 AND INCREASING THE NUMBER OF POSITIONS IN THE FIRE DEPARTMENT IN THE CLASSIFICATION OF FIREFIGHTER FROM 110 TO 111; PROVIDING A REPEALER CLAUSE; AND PROVIDING A SEVERABILITY CLAUSE. (Ordinance No. 4044 recorded on page of Ordinance Book No. 92.)

4. RESOLUTION NO. 18-2009 – AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL COOPERATIVE PURCHASING AGREEMENT WITH THE CITY OF ROWLETT TO ALLOW THE PURCHASE OF GOODS AND SERVICES.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE CITY OF ROWLETT TO ESTABLISH A COOPERATIVE PURCHASING PROGRAM BETWEEN THE TWO CITIES. (Resolution No. 18-2009 recorded on page of Resolution Book No. 42.)

5. BID NO. 2009-041 – CONCRETE STREET, STREET LIGHTS AND WATER MAIN REHABILITATION PROJECT (TOWN EAST BOULEVARD), PHASES 1 AND 2 – ALL BIDS REJECTED AND REBID AT A LATER DATE.
6. CITY MANAGER AUTHORIZED TO EXECUTE AMENDMENT NO. 1 WITH FREEMAN-MILLICAN, INC., FOR ADDITIONAL ENGINEERING SERVICES IN CONJUNCTION WITH THE WATER SYSTEM MASTER PLAN IN THE AMOUNT OF \$18,000.00.
7. PETITION REQUEST APPROVED FOR THE INSTALLATION OF SPEED BUMPS IN THE ALLEY BETWEEN 921 DUNNING DRIVE AND 1028 FIELD TRAIL DRIVE, AND FROM 901 FIELD TRAIL DRIVE TO 1025 DUNNING DRIVE.
8. AUTHORIZED THE ADOPTION OF AN IDENTITY THEFT PREVENTION PROGRAM.

END OF CONSENT AGENDA.

PUBLIC HEARINGS.

9. PUBLIC HEARING – ZONING – APPLICATION NO. PG-2A-2009 AND ORDINANCE NO. 4045 SUBMITTED BY STEPHEN ABRAHAM FOR A ZONING CHANGE TO AMEND PLANNED DEVELOPMENT NO. 1424 TO ALLOW ADDITIONAL USES BEYOND THOSE CURRENTLY PERMITTED IN THE OFFICE ZONING DISTRICT ON PROPERTY PRESENTLY ZONED PLANNED

DEVELOPMENT-COMMERCIAL LOCATED AT 502 W. KEARNEY –
APPROVED WITH CERTAIN STIPULATIONS.

A public hearing was held to consider Application No. PG-2A-2009 submitted by Stephen Abraham for a zoning change to amend Planned Development No. 1424 to allow additional uses beyond those currently permitted in the Office zoning district on property presently zoned Planned Development-Commercial. This property is further described as a 5.1-acre tract located at 502 W. Kearney. This item was tabled at the April 20, 2009, City Council meeting.

Chris Price, 5224 Runnin River, Plano, presented the zoning application on behalf of the applicant. Mr. Price stated that the exterior of the building has been remodeled with approximately 35 percent of the building being leased at this time.

As for Stipulation No. 18, Mr. Price stated that the applicant proposes to utilize the rear portion of the front building for climate controlled self storage with rear access only.

No one appeared regarding the proposed zoning change. Mayor Monaco declared the public hearing closed.

Councilmembers expressed opposition regarding utilizing the building fronting on Kearney for self storage.

Mr. Noschese moved to approve Application No. PG-2A-2009 with stipulations recommended by the Planning and Zoning Commission, deleting Stipulation No. 18 a, b and c, as follows:

1. The previous stipulations adopted in 1978 with the passage of Ordinance No. 1424 are repealed, except as modified or provided herein.
2. Uses of the site shall be limited to those permitted by right in the Office zoning district, as provided in the Mesquite Zoning Ordinance as well as the following use categories:
 - a. SIC 07b Grooming, Household Pets
 - b. SIC 171 Plumbing, Heating, Air Conditioning Contractors
 - c. SIC 172 Painting, Paper Hanging, Decorating Contractors
 - d. SIC 173 Electrical Contractors
 - e. SIC 174 Masonry, Tile Setting, Plastering Contractors
 - f. SIC 175 Carpentering, Flooring Contractors
 - g. SIC 523 Paint, Glass, Wallpaper Stores
 - h. SIC 54 Food Stores
 - i. SIC 56 Apparel, Accessory Stores
 - j. SIC 57 Furniture, Home Furnishings
 - k. SIC 58 Eating, Drinking Places
 - l. SIC 591 Drug, Proprietary Stores
 - m. SIC 594 Miscellaneous Shopping Goods, Except Novelty Shops

- n. SIC 5992 Florists
- o. SIC 5995 Optical Goods Stores
- p. SIC 722 Photographic, Portrait Studios
- q. SIC 7299 Miscellaneous Personal Services, Except:
 - Car Title and Tag Service
 - Coin-Operated Service Machine Operation
 - Comfort Station Operation
 - Dating Service
 - Escort Service
 - Locker Rental, Except Cold Storage
 - Unlicensed Massage Parlors
 - Porter Service
 - Rest Room Operation
 - Steam Baths
 - Tattoo Parlors
 - Turkish Baths
 - Valet Parking
 - Wedding Chapels
- r. SIC 723 Beauty Shops
- s. SIC 724 Barber Shops
- t. SIC 7334 Photocopying, Duplicating Services
- u. SIC 7335 Commercial Photography
- v. SIC 7336 Commercial Art, Graphics Design
- w. SIC 7352 Medical Equipment Rental
- x. SIC 737a Computer Equipment Repair
- y. SIC 737b Computer Sales/Rental
- z. SIC 7382 Security System Services
- aa. SIC 7384 Photofinishing Laboratories
- bb. SIC 79 Dance Studios, Except Dancehalls, Ballrooms
- cc. SIC 7991 Physical Fitness Facilities
- dd. SIC 8299 Schools, Educational Services Not Elsewhere Classified

- 3. No more than 30 percent of the structure fronting on Kearney Street shall be occupied by uses classified in SIC categories 171-175 as permitted above.
- 4. No trucks with greater than two axles may access the site to make deliveries or pick-ups of business-related products.
- 5. Any accessory service trucks for any business, organization or entity occupying any part of the structure fronting on Kearney Street shall be parked behind the building and not be visible from public view.
- 6. Lessees and employees of any lessees shall park behind the structure fronting on Kearney Street.
- 7. Check cashing, payday lending, car title lending and money transfers shall be prohibited accessory uses on the subject property.
- 8. Outdoor storage or display of any kind shall be prohibited.
- 9. The sale of any type of used merchandise shall be prohibited.
- 10. Window signs shall not cover greater than 30 percent of the north elevation window space of each suite/occupancy within the structure

- fronting on Kearney Street.
11. A minimum of 40 parking spaces open to the general public in addition to 20 parking spaces open to tenants and employees of tenants for a total of 60 shall be provided on the site.
 12. Parking spaces along the Kearney Street right-of-way may be set back nine feet from the back of the street curb, but in no case may they be set within the right-of-way outside of the area contained by the subject property's boundaries.
 13. At least 10 percent of the site area bounded by the Kearney Street right-of-way (approximately 7,300 square feet) and a 15-foot utility easement traversing the center of the property shall be retained as open space, and there shall be a minimum of 14 shade or evergreen trees or 20 ornamental trees, as defined in the Mesquite Zoning Ordinance, retained or planted and maintained on the site. Any landscaping required by the Planned Development shall be irrigated.
 14. The landscape hedge in an area of pervious coverage along the wrought iron fence on the west side of the mini-warehouse buildings fronting on Carmack Street shall be continued on those portions of the frontage along the west side of the buildings where pervious ground cover exists to form a solid screen.
 15. No lighting for the site shall be directed toward any residentially-zoned or -used property.
 16. The solid screening masonry wall separating the mini-warehouse portion of the property from abutting residential properties shall remain or be updated to comply with current development standards as prescribed in the Mesquite Zoning Ordinance.
 17. The site's dumpster shall be properly located and screened in accordance with the Mesquite Zoning Ordinance and dumpster pad access and building standards administered by the City of Mesquite Engineering Division.

And to approve Ordinance No. 4045, AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, SO AS TO APPROVE AMENDMENTS TO ORDINANCE NO. 1424 THEREBY ALLOWING ADDITIONAL USES BEYOND THOSE CURRENTLY PERMITTED IN THE OFFICE ZONING DISTRICT; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY. Motion was seconded by Mr. Pickett and approved by all voting "Aye." (Ordinance No. 4045 recorded on page _____ of Ordinance Book No. 92.)

10. PUBLIC HEARING – ZONING – ZONING TEXT AMENDMENT NO. 2009-03 AMENDING SECTIONS 3-200, 3-203 OR 3-500 OF THE MESQUITE ZONING ORDINANCE PERTAINING TO RESTRICTIONS ON THE USE, LOCATION AND APPEARANCE OF DONATION AND COLLECTION BOXES OR SIMILAR FACILITIES – POSTPONED UNTIL THE JUNE 15, 2009, CITY COUNCIL MEETING.

Minutes of regular City Council meeting held May 4, 2009

Page 7

A public hearing was scheduled to be held to consider Zoning Text Amendment No. 2009-03 amending Sections 3-200, 3-203 or 3-500 of the Mesquite Zoning Ordinance pertaining to restrictions on the use, location and appearance of donation and collection boxes or similar facilities.

Mr. Pickett moved to table consideration of Zoning Text Amendment No. 2009-03 amending Sections 3-200, 3-203 or 3-500 of the Mesquite Zoning Ordinance. Motion was seconded by Mr. Forsythe and approved unanimously.

Mr. Pickett withdrew his motion. Mr. Forsythe withdrew his second.

Mr. Pickett moved to postpone consideration of Zoning Text Amendment No. 2009-03 amending Sections 3-200, 3-203 or 3-500 of the Mesquite Zoning Ordinance until the June 15, 2009, City Council meeting. Motion was seconded by Mr. Forsythe and approved unanimously.

OTHER BUSINESS.

11. CITY MANAGER AUTHORIZED TO EXECUTE DOCUMENTS APPROVING A CHANGE OF OWNERSHIP FROM SOUTHWEST RODEO, L.P., TO CAMELOT SPORTS & ENTERTAINMENT, L.L.C., FOR THE EXHIBIT HALL LEASE AGREEMENT – APPROVED.

Mr. Pickett moved to authorize the City Manager to execute documents approving a change of ownership from Southwest Rodeo, L.P. to Camelot Sports & Entertainment, L.L.C., for the Exhibit Hall lease agreement. Motion was seconded by Ms. Roberts and approved unanimously.

Ms. Roberts moved to adjourn the meeting. Motion was seconded by Mr. Noschese and approved unanimously. The meeting adjourned at 4:00 p.m.

Sonja Land
City Secretary

John Monaco
Mayor