

MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD BEGINNING AT NOON,
JULY 20, 2009, CITY COUNCIL CHAMBER, CITY HALL, 711 N. GALLOWAY.

Present: Mayor John Monaco and Councilmembers Greg Noschese, Al Forsythe, Bill Porter, Stan Pickett, Shirley Roberts 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 Regular Agenda and receive briefing on catalyst projects within the North Gus Thomasson Corridor.

It was Council consensus to utilize the services of Robin McCaffrey (on an hourly fee basis) to work with property owners within the North Gus Thomasson Corridor.

EXECUTIVE SESSION – CITY COUNCIL CONFERENCE ROOM – 12:32 P.M.

The City Council met in Executive Session pursuant to Section 551.071 of the Texas Government Code to consider pending and contemplated litigation subjects; whereupon, the City Council proceeded to meet in the City Council Conference Room. After the closed meeting ended at 12:52 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 Ron Ward, Pastor, The Church Without Walls, Mesquite, Texas.

The Pledge of Allegiance was led by Jesse Lay, Kaira Lay and Michaela Lay, participants in the Summer Reading Club at the Mesquite Public Library.

CITIZENS INPUT HEARINGS.

1. PUBLIC HEARING – RECEIVE INPUT FROM CITIZENS REGARDING THE PROPOSED 2009-10 CITY BUDGET – HELD.

A public hearing was held to receive input from citizens regarding the proposed 2009-10 City Budget.

No one appeared regarding the proposed 2009-10 City Budget. Mayor Monaco declared the public hearing closed.

2. PUBLIC HEARING – RECEIVE INPUT FROM CITIZENS REGARDING PROPOSED SERVICE CHANGES TO THE MESQUITE TRANSPORTATION FOR THE ELDERLY AND DISABLED (MTED) PROGRAM – HELD.

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Mr. Noschese thanked residents for their input prior to this public hearing. Due to the feedback received, a decision was made to continue the MTED program in its current capacity, assuming the budget remains stable.

A public hearing was held to receive input from citizens regarding proposed service changes to the Mesquite Transportation for the Elderly and Disabled (MTED) program.

Kathleen Kirby, Crescent Manor/Mesquite Gardens Service Coordinator, spoke in opposition to the proposed changes to the MTED program and thanked Council and staff for their support of MTED and for keeping the program in tact.

The following persons spoke in favor of continuing the MTED program in its current capacity: (1) Judy Beaty, 459 Dinalynn Drive; (2) Jena Tawater, 3614 Anthony Drive, #1-C; (3) Linda Harrell, 1413 Range Drive, #103; (4) Ernestine Bridges, 2202 Schirra Way; (5) Susan Pope, 1712 North Galloway Avenue, #211; (6) Charlotte Baughman, 3033 Abston Drive; (7) Bernice Loden, 1733 Potter Lane; (8) Rebecca Fox, 2250 Tradewind Drive, #20; (9) Roberta Cannon, 1504 Valley View Street; (10) Donnie Wiggins, 926 Courtney Drive and (11) Steve Thorne, 931 Carlsbad Drive.

The following persons submitted registration cards expressing opposition to the proposed changes but did not wish to speak: (1) Chester Anderson, 2517 Hidden Springs Drive; (2) Fayrene Winsett, 1416 Juanita Drive; (3) Gerry Bailey, 1523 Summit Street; (4) Randy Beaty, 459 Dinalynn Drive and (5) Joyce Lee, 316 Conger Drive.

No others appeared regarding the proposed service changes to the MTED program. Mayor Monaco declared the public hearing closed. He thanked everyone for attending and for expressing their support for the MTED program.

CONSENT AGENDA.

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

3. MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD JULY 6, 2009.
4. ORDINANCE NO. 4055 – AUTHORIZING REVISED NATURAL GAS RATES FOR ATMOS ENERGY CORP., MID-TEX DIVISION.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS ("CITY"), APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC" OR "STEERING COMMITTEE") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") REGARDING THE COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST

AND REASONABLE; APPROVING ATMOS' PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL. (Ordinance No. 4055 recorded on page of Ordinance Book No. 93.)

5. CITY MANAGER AUTHORIZED TO EXECUTE A CONTRACT WITH BINKLEY & BARFIELD CONSULTING SERVICE FOR ENGINEERING SERVICES IN CONJUNCTION WITH THE CONCRETE STREET REHABILITATION PROJECT (GUS THOMASSON ROAD FROM INTERSTATE 30 TO US HIGHWAY 80) IN THE AMOUNT OF \$84,200.00.
6. CITY MANAGER AUTHORIZED TO EXECUTE CHANGE ORDER NO. 5 TO CITY CONTRACT NO. 2007-004 WITH REBCON, INC., FOR VARIOUS CONSTRUCTION COSTS IN CONJUNCTION WITH THE TRIPP ROAD PAVING, DRAINAGE, WATER, SANITARY SEWER AND AESTHETIC ENHANCEMENT PROJECT IN THE AMOUNT OF \$148,901.72.

END OF CONSENT AGENDA.

CONSIDERATION OF AN AGREEMENT.

7. APPROVE THE TERMS AND CONDITIONS OF A PROGRAM WITH BIB PARTNERS, LP, DBA MESQUITE CROSSING, TO PROMOTE ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT IN CONJUNCTION WITH PROPERTY LOCATED WITHIN THE TOWNE CENTRE TAX INCREMENT FINANCE REINVESTMENT ZONE NO. TWO – APPROVED WITH MODIFICATIONS.

This item was postponed at the July 6, 2009, City Council meeting.

Tom Palmer, Manager of Economic Development, stated that staff has worked with the developer to resolve some of the Council's concerns from the July 6, 2009, City Council meeting. The development is an age-restricted community for senior adults 55 years of age and older and the proposed funding for the development is a HUD grantor, not a subsidy program.

Mr. Palmer introduced Skip Leake, part-owner in the project, who stated that the agreement requires the entire development to be completed before any TIF reimbursements can be awarded. The development team is concerned that HUD will require the project to be completed in two phases. However, all of the expenditures for the infrastructure will be spent in the first phase of the project. He requested the Council modify the agreement to allow 100 percent reimbursement at the conclusion of Phase One if HUD requires a phased development.

Councilmembers expressed concern regarding the phasing of the proposed development in conjunction with the TIF reimbursements and the timeline of the project.

Mr. Leake stated that the development team's intention is to build the entire project in one phase. The project would only be phased if required by HUD. The feasibility study and final financing applications will be submitted to HUD as one phase. The consultants that have worked on similar projects have indicated to the development team that HUD's recent trend has been to phase financing due to the tight capital markets. Once Phase One of the development reaches 90 percent occupancy for 12 months, HUD should release funds for the second phase. The preliminary feasibility study that has been conducted revealed that this 225 unit facility should be 100 percent occupied. The TIF reimbursement is considered as equity capital by HUD. Without the equity capital and the proposed agreement approved, the project would not be considered economically viable by HUD. The project is estimated to be in excess of \$30 million worth of development. The proposed timeline is to submit the HUD application within the next 30 days and receive an answer from HUD to begin the project within one year, at which time construction would begin. The construction of Phase One is estimated at 12-18 months with completion in late 2011.

Mr. Porter made a motion to approve the terms and conditions of a program with BIB Partners, LP, dba Mesquite Crossing, to promote economic development and stimulate business and commercial activity in conjunction with property located within the Towne Centre Tax Increment Finance Reinvestment Zone No. Two and to modify the agreement to release TIF funding upon completion of Phase One of the project only under the condition that HUD requires the project to be phased and authorize the City Manager to execute the agreement. Motion was seconded by Mr. Tarpley. On call for a vote on the motion, the following votes were cast:

Ayes: Porter, Tarpley, Monaco, Noschese, Forsythe, Roberts
Nays: Pickett
Abstentions: None

Motion carried.

PUBLIC HEARINGS.

8. A. PUBLIC HEARING – CONSIDER THE FILING OF GRANT APPLICATIONS WITH THE FEDERAL TRANSIT ADMINISTRATION UNDER THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA-LU) AND THE TEXAS DEPARTMENT OF TRANSPORTATION FOR ELDERLY AND DISABLED TRANSPORTATION CAPITAL AND OPERATING ASSISTANCE – HELD.

A public hearing was held to allow input by citizens regarding the filing of grant applications with the Federal Transit Administration under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and the Texas Department of Transportation for Elderly and Disabled Transportation

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Capital and Operating Assistance.

No one appeared regarding the filing of grant applications with the Federal Transit Administration under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and the Texas Department of Transportation for Elderly and Disabled Transportation Capital and Operating Assistance. Mayor Monaco declared the public hearing closed.

- B. RESOLUTION NO. 24-2009 – AUTHORIZING SUBMISSION OF GRANT APPLICATIONS WITH THE FEDERAL TRANSIT ADMINISTRATION UNDER THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA-LU) AND THE TEXAS DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPLICATIONS – APPROVED.

Mr. Pickett moved to approve Resolution No. 24-2009, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AND FILE AN APPLICATION AND RELATED DOCUMENTS WITH THE FEDERAL TRANSIT ADMINISTRATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA-LU), AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND FILE AN APPLICATION WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR STATE ASSISTANCE FOR TRANSIT PROJECTS. Motion was seconded by Mr. Tarpley and approved by all voting “Aye.” (Resolution No. 24-2009 recorded on page of Resolution Book No. 43.)

9. PUBLIC HEARING – ZONING – APPLICATION NO. 342-14A-2009 AND ORDINANCE NO. 4056 SUBMITTED BY JAMES BELT FOR A ZONING CHANGE FROM COMMERCIAL – MILITARY PARKWAY/SCYENE CORRIDOR OVERLAY TO COMMERCIAL MILITARY PARKWAY/SCYENE CORRIDOR OVERLAY WITH A CONDITIONAL USE PERMIT TO ALLOW THE PROPERTY TO BE USED FOR AN INDOOR SPORTS INSTRUCTION FACILITY LOCATED AT 1210 WEST SCYENE ROAD, SUITE A – APPROVED WITH CERTAIN STIPULATIONS.

A public hearing was held to consider Application No. 342-14A-2009 submitted by James Belt for a zoning change from Commercial – Military Parkway/Scyene Corridor Overlay to Commercial Military Parkway/Scyene Corridor Overlay with a Conditional Use Permit to allow the property to be used for an indoor sports instruction facility. This property is further described as an 11,000-square-foot lease space located at 1210 West Scyene Road, Suite A.

James Belt, 1875 Larkspur Drive, Arlington, stated that the proposed Conditional Use Permit would allow sports instruction and includes six batting cages without pitching machines, three pitching mounds, a small physical fitness area, conference room and storage room. There will be no arcade games and no birthday

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parties will be held at the facility. Batting and pitching instruction will be provided on an individual basis and will be conducted by former and current professional baseball players. High school baseball teams will be allowed to use the facility during inclement weather. Girls softball training will not be provided; however, softball players will be allowed to use the facility. The applicant expects the facility to accommodate users from all areas of the Metroplex, including as far away as Plano and Wills Point. A monument sign will be constructed and any pole signs removed. Staff will be instructing participants, ranging from six years of age to college age, in hitting, pitching, catching and fielding. He stated that conducting background checks and screenings for coaches would be considered.

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

Mr. Noschese moved to approve Application No. 342-14A-2009, as recommended by the Planning and Zoning Commission, with the following stipulation:

1. All pole signs on the property shall be removed prior to issuance of a Certificate of Occupancy.

And to approve Ordinance No. 4056, 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 A CHANGE OF ZONING FROM COMMERCIAL MP-SC TO COMMERCIAL MP-SC WITH A CONDITIONAL USE PERMIT FOR AN INDOOR SPORTS INSTRUCTION FACILITY SUBJECT TO A CERTAIN STIPULATION; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING 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. Roberts and approved by all voting "Aye." (Ordinance No. 4056 recorded on page _____ of Ordinance Book No. 93.)

Mr. Pickett moved to adjourn the meeting. Motion was seconded by Ms. Roberts and approved unanimously. The meeting adjourned at 4:14 p.m.

Sonja Land
City Secretary

John Monaco
Mayor