

MINUTES OF REGULAR CITY COUNCIL MEETING HELD BEGINNING AT NOON, MARCH 2, 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 Regular Agenda and discuss: (1) General Fund budget status, (2) proposed Local Option Transportation Act and (3) receive update regarding Smoking Regulation Task Force findings.

(3) It was Council consensus to direct staff to place an item on a future agenda amending the City's current smoking ordinance to reflect the Smoking Regulation Task Force recommendations.

EXECUTIVE SESSION – CITY COUNCIL CONFERENCE ROOM – 1:05 P.M.

The City Council met in Executive Session pursuant to Section 551.071 of the Texas Government Code to discuss pending and contemplated litigation subjects or settlement offers (Liberty Legal Institute's January 22, 2009, letter asserting a notice of rights and claims under the Religious Land Use and Institutionalized Persons Act [RLUIPA]); whereupon, the City Council proceeded to meet in the City Council Conference Room. After the closed meeting ended at 1:30 p.m., the City Council reconvened in Open Session.

No executive action was necessary.

REGULAR CITY COUNCIL MEETING – CITY COUNCIL CHAMBER – 3:02 P.M.

Invocation was given by Rex Walker, Pastor, Family Cathedral of Praise, Mesquite, Texas.

The Pledge of Allegiance was led by Recreation After School Program participants from Thompson Elementary School.

SPECIAL RECOGNITION.

1. STUDENT GOVERNMENT DAY PARTICIPANTS FROM MESQUITE HIGH SCHOOL, NORTH MESQUITE HIGH SCHOOL, WEST MESQUITE HIGH SCHOOL, POTEET HIGH SCHOOL AND HORN HIGH SCHOOL.

Mayor Monaco recognized the Student Mayors, City Councils, City Managers and City Secretaries who will be participating in Student Government Day activities from Poteet High School and Horn High School on March 27, 2009, and from Mesquite High School, North Mesquite High School and West Mesquite High School on April 3, 2009.

APPOINTMENT FOR PERSONAL APPEARANCE.

2. APPOINTMENT – JEANN WISENBAKER, PRESIDENT, MESQUITE QUALITY OF LIFE CORPORATION.

Jeann Wisenbaker, President, Mesquite Quality of Life Corporation, presented the 2007-08 annual report for the Mesquite Quality of Life Corporation.

CONSENT AGENDA.

Item Nos. 6 and 11 were removed from the Consent Agenda to be considered separately. Mr. Pickett moved to approve the remaining items on the Consent Agenda, as follows. Motion was seconded by Mr. Tarpley and approved unanimously.

3. MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD FEBRUARY 16, 2009.
4. RESOLUTION NO. 06-2009 – AUTHORIZING THE MAYOR TO EXECUTE A JOINT ELECTION AGREEMENT AND ELECTION SERVICES CONTRACT IN CONNECTION WITH THE ANNUAL CITY ELECTION.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE A JOINT ELECTION AGREEMENT AND ELECTION SERVICES CONTRACT WITH DALLAS COUNTY ELECTIONS DEPARTMENT. (Resolution No. 06-2009 recorded on page _____ of Resolution Book No. 42.)

5. RESOLUTION NO. 07-2009 – APPOINTING A REPRESENTATIVE TO THE EARLY VOTING BALLOT BOARD FOR THE MAY 9, 2009, JOINT ELECTION.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPOINTING A REPRESENTATIVE TO SERVE ON THE EARLY VOTING BALLOT BOARD FOR THE MAY 9, 2009, JOINT ELECTION. (Resolution No. 07-2009 recorded on page _____ of Resolution Book No. 42.)

7. BID NO. 2009-066 – ANNUAL SUPPLY OF SAND AND LOAM – AWARDED TO LOW BIDDER DFW MATERIALS IN THE AMOUNT OF \$119,897.50.
8. BID NO. 2009-075 – PURCHASE AND IMPLEMENTATION OF A MOBILE WIRELESS COMMUNICATIONS TRAILER – AWARDED TO AT&T COMMUNICATIONS IN THE AMOUNT OF \$105,846.00.
9. BID NO. 2009-087 – PURCHASE OF TRAFFIC CONTROLLERS AND CABINET ASSEMBLIES – AWARDED TO SOLE SOURCE PROVIDER TEXAS HIGHWAY PRODUCTS, LTD., THROUGH SIEMENS ENERGY & AUTOMATION, INC., IN THE AMOUNT OF \$189,095.00.

10. CITY MANAGER AUTHORIZED TO EXECUTE AMENDMENT NO. 2 TO AN ENGINEERING DESIGN SERVICES CONTRACT WITH WILSON & COMPANY FOR ADDITIONAL ENGINEERING SERVICES IN CONJUNCTION WITH THE DRIFTWOOD DRIVE EXTENSION PROJECT IN THE AMOUNT OF \$12,107.70.

12. CITY MANAGER AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS IN ORDER TO ACQUIRE FOUR PARCELS OF LAND IN CONJUNCTION WITH THE U.S. HIGHWAY 80 AND NORTH GALLOWAY AVENUE PROJECT IN AN AMOUNT NOT TO EXCEED \$175,000.00.
 - A. CITY MANAGER AUTHORIZED TO EXECUTE A CONTRACT OF SALE BETWEEN THE CITY OF MESQUITE AND FALCON'S LAIR, LP, REGARDING 4.28 ACRES OF LAND NEAR MESQUITE METRO AIRPORT.

 - B. CITY MANAGER AUTHORIZED TO EXECUTE A CONTRACT OF SALE BETWEEN THE CITY OF MESQUITE AND THE ALPERT CAPITAL CORPORATION REGARDING 18.06 ACRES OF LAND NEAR MESQUITE METRO AIRPORT.

CONSENT AGENDA ITEMS CONSIDERED SEPARATELY.

6. CONSIDER A RESOLUTION APPROVING THE TERMS AND CONDITIONS OF A PROGRAM WITH CA 3000 SKYLINE DRIVE, LLC; PIONEER SKYLINE, LLC; CHAPMAN & WILSON, LLC; SORRENTO SKYLINE, INC.; AND WILSON PROPERTY HOLDINGS, LLC (CAPSTAR REAL ESTATE ADVISORS, INC.) TO PROMOTE ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN CONJUNCTION WITH DEVELOPMENT IN THE SKYLINE INDUSTRIAL DISTRICT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS – POSTPONED UNTIL THE MARCH 16, 2009, CITY COUNCIL MEETING.

Mr. Noschese moved to postpone consideration of a resolution approving the terms and conditions of a program with CA 3000 Skyline Drive, LLC; Pioneer Skyline, LLC; Chapman & Wilson, LLC; Sorrento Skyline, Inc.; and Wilson Property Holdings, LLC (CAPSTAR Real Estate Advisors, Inc.) to promote economic development and stimulate business and commercial activity in conjunction with development in the Skyline Industrial District until the March 16, 2009, City Council meeting. Motion was seconded by Mr. Pickett and approved unanimously.

11. CITY MANAGER AUTHORIZED TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES CONTRACT WITH FREESE & NICHOLS, INC., IN CONJUNCTION WITH THE DESIGN OF THE FORNEY ROAD RECONSTRUCTION PROJECT IN THE AMOUNT OF \$248,577.00 - APPROVED.

Mr. Noschese moved to authorize the City Manager to execute a professional engineering services contract with Freese & Nichols, Inc., in conjunction with the design of the Forney Road Reconstruction Project in the amount of \$248,577.00 and to amend Section 6.3 of the contract to read as follows, "It is understood and agreed that the CITY shall have complete control of the scope of services to be rendered, and that no work shall be done under this CONTRACT until the ENGINEER is instructed to proceed with the work." Motion was seconded by Ms. Roberts and approved unanimously.

END OF CONSENT AGENDA.

PUBLIC HEARINGS.

13. PUBLIC HEARING – ZONING TEXT AMENDMENT NO. 2009-2 AND ORDINANCE NO. 4036 AMENDING SECTION 3-600 OF THE MESQUITE ZONING ORDINANCE REMOVING THE TIRE RACK EXEMPTION FROM AN INCIDENTAL OUTDOOR DISPLAY IN CONJUNCTION WITH A SERVICE STATION OR AUTO REPAIR STORE – APPROVED WITH AMENDMENTS.

A public hearing was held to consider Zoning Text Amendment No. 2009-2 amending Section 3-600 of the Mesquite Zoning Ordinance removing the tire rack exemption from an incidental outdoor display in conjunction with a service station or auto repair store.

Richard Gertson, Director of Community Development, stated that the current Zoning Ordinance requires incidental outdoor display to be situated within five feet of the building. Auto repair stores are exempted from the requirement and are allowed to place tire racks anywhere on the site, subject to certain conditions. The proposed amendment would eliminate the tire rack exemption.

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

Mr. Tarpley moved to approve Zoning Text Amendment No. 2009-2 amending Section 3-600 of the Mesquite Zoning Ordinance, as recommended by the Planning and Zoning Commission, with amendments to remove Item No. 1 under Section A and change the effective date to September 1, 2009, and to approve Ordinance No. 4036, AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY PROVIDING CERTAIN DELETIONS UNDER SECTION 3-601(A) THEREBY REMOVING THE PUMP ISLAND AND TIRE RACK EXEMPTIONS FROM AN INCIDENTAL OUTDOOR DISPLAY IN CONJUNCTION WITH A SERVICE STATION OR AN AUTO REPAIR STORE; PROVIDING 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 EFFECTIVE DATE THEREOF. Motion was seconded by Mr. Noschese and approved by all voting "Aye." (Ordinance No. 4036 recorded on page _____ of Ordinance Book No. 92.)

14. A. PUBLIC HEARING – ORDINANCE NO. 4037 AMENDING THE MESQUITE COMPREHENSIVE PLAN BY ADDING A NEW SECTION IN PART IV THAT ESTABLISHES POLICIES FOR THE USE OF CERTAIN SMARTCODE® COMMUNITY TYPES AND MODIFYING THE COMMUNITY BUSINESS AND NEIGHBORHOOD RELATED MAPS TO DESIGNATE CERTAIN AREAS AS APPROPRIATE FOR THE DEVELOPMENT OR RETROFIT OF NEIGHBORHOODS IN ACCORDANCE WITH THE SMARTCODE® STANDARDS OF THE K20 CLASSIFICATION – APPROVED.

A public hearing was held to consider amending the Mesquite Comprehensive Plan by adding a new section in Part IV that establishes policies for the use of certain Smartcode® community types and modifying the community business and neighborhood related maps to designate certain areas as appropriate for the development or retrofit of neighborhoods in accordance with the Smartcode® standards of the K20 classification.

Richard Gertson, Director of Community Development, stated that the proposed amendment would create policies for designating K20 Smartcode® communities that use the K20 zoning classification standards and identify the first new areas for development of SmartCode® communities other than in Kaufman County.

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

Mr. Pickett moved to approve amending the Mesquite Comprehensive Plan, as recommended by the Planning and Zoning Commission, and to approve Ordinance No. 4037, AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE COMPREHENSIVE PLAN BY ADDING A NEW SECTION IN PART IV THAT ESTABLISHES POLICIES FOR THE USE OF CERTAIN SMARTCODE® COMMUNITY TYPES AND MODIFYING THE COMMUNITY BUSINESS AND NEIGHBORHOOD RELATED MAPS TO DESIGNATE CERTAIN AREAS AS APPROPRIATE FOR THE DEVELOPMENT OR RETROFIT OF NEIGHBORHOODS IN ACCORDANCE WITH THE SMARTCODE® STANDARDS OF THE K20 CLASSIFICATION; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY. Motion was seconded by Mr. Tarpley and approved by all voting “Aye.” (Ordinance No. 4037 recorded on page of Ordinance Book No. 92.)

- B. PUBLIC HEARING – APPLICATION NO. 1189-3-2009 AND ORDINANCE NO. 4038 AMENDING PLANNED DEVELOPMENT ORDINANCE NO. 3287 TO CLARIFY THE LIMITS OF DEVELOPMENT AUTHORIZED WITHIN THE AIRPORT RUNWAY PROTECTION ZONE AND TO REQUIRE EITHER (A) THE TRADITIONAL NEIGHBORHOOD DEVELOPMENT OR CLUSTERED LAND DEVELOPMENT STANDARDS OF THE K20 ZONING DISTRICT OR (B) ELIMINATION OF MULTI-FAMILY HOUSING AS A PERMITTED USE FOR PARCEL 4 OF THE

FALCON'S LAIR PLANNED DEVELOPMENT DISTRICT LOCATED
GENERALLY SOUTHEAST OF LAWSON ROAD FROM CLAY-MATHIS
ROAD TO THE CITY LIMITS OF MESQUITE - APPROVED.

A public hearing was held to consider amending Planned Development Ordinance No. 3287 to clarify the limits of development authorized within the Airport Runway Protection Zone and to require either (a) the Traditional Neighborhood Development or Clustered Land Development standards of the K20 zoning district or (b) elimination of multi-family housing as a permitted use for Parcel 4 of the Falcon's Lair Planned Development District located generally southeast of Lawson Road from Clay-Mathis Road to the city limits of Mesquite.

Richard Gertson, Director of Community Development, stated that the proposed amendment to Ordinance No. 3287 would designate Parcel 4 of the Falcon's Lair Planned Development District as being appropriate for Traditional Neighborhood Development (TND) or Clustered Land Development and eliminate the traditional apartment housing. Also, the proposed amendment clarifies that the Federal Aviation Administration (FAA) and the City of Mesquite must approve any proposed development in the Runway Protection Zone (RPZ).

Mr. David Greene, 3644 Bluejay Boulevard, asked for clarification on the floodplain area and whether development could occur behind his home.

Mr. Gertson stated since the area behind Mr. Greene's home is located within the floodplain, it cannot be developed.

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

Mr. Pickett moved to approve Application No. 1189-3-2009 amending Planned Development Ordinance No. 3287, as recommended by the Planning and Zoning Commission, and to approve Ordinance No. 4038, 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 THE PLANNED DEVELOPMENT DISTRICT KNOWN AS FALCON'S LAIR AND APPROVED BY ORDINANCE NO. 3287 THEREBY ADDING A PROVISION TO AIRPORT PROTECTION AND AMENDING THE DEVELOPMENT STANDARDS; 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. Motion was seconded by Mr. Tarpley and approved by all voting "Aye." (Ordinance No. 4038 recorded on page _____ of Ordinance Book No. 92.)

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Mr. Pickett moved to adjourn the meeting. Motion was seconded by Mr. Forsythe and approved unanimously. The meeting adjourned at 3:32 p.m.

Sonja Land
City Secretary

John Monaco
Mayor