

MINUTES OF REGULAR CITY COUNCIL MEETING HELD BEGINNING AT NOON,  
FEBRUARY 2, 2009, CITY COUNCIL CHAMBER, CITY HALL, 711 N. GALLOWAY.

Present: Mayor John Monaco and Councilmembers Shirley Roberts, Stan Pickett, Dennis Tarpley, Greg Noschese and Al Forsythe, 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) completed Master Fire Station Location Plan, (2) Employee Medical Plan Update and (3) Construction of a hangar/maintenance facility at Mesquite Metro Airport for Barr Air Patrol.

(3) It was Council consensus to direct staff to work with the company to construct a facility to meet its needs.

**EXECUTIVE SESSION – CITY COUNCIL CONFERENCE ROOM – 1:17 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 1:28 p.m., the City Council reconvened in Open Session.

No executive action was necessary.

**EXECUTIVE SESSION – CITY COUNCIL CONFERENCE ROOM – 1:30 P.M.**

The City Council met in Executive Session pursuant to Section 551.087 of the Texas Government Code to discuss commercial or financial information regarding business prospects or projects (prospect seeking to locate in the Town East Retail and Restaurant Area [TERRA]); whereupon, the City Council proceeded to meet in the City Council Conference Room. After the closed meeting ended at 1:38 p.m., the City Council reconvened in Open Session.

No executive action was necessary.

**EXECUTIVE SESSION – CITY COUNCIL CONFERENCE ROOM – 1:39 P.M.**

The City Council met in Executive Session pursuant to Section 551.072 of the Texas Government Code to discuss the purchase, exchange, lease or value of real property (acquisition of property near the Mesquite Metro Airport); whereupon, the City Council proceeded to meet in the City Council Conference Room. After the closed meeting ended at 2:23 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 Councilmember Stan Pickett.

The Pledge of Allegiance was led by Asia Clark, Matthew Villegas, Chioma Ogbuehi and Nicole Wynn, fourth grade students from Thompson Elementary School.

**SPECIAL ANNOUNCEMENT.**

Mayor presented City Manager Ted Barron with a proclamation recognizing his receipt of the 2008 Joy Sansom Mentorship Award. This award is presented by the Urban Management Assistants of North Texas to a local public administrator who serves as a mentor, exemplifies the concept of leadership and is committed to the continued development of the Urban Management Assistants of North Texas and aspiring public administrators.

**CONSENT AGENDA.**

Item No. 6 was removed from the Consent Agenda to be considered separately. Mr. Tarpley moved to approve the remaining items on the Consent Agenda, as follows. Motion was seconded by Mr. Noschese and approved unanimously.

1. MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD JANUARY 20, 2009.
2. ORDINANCE NO. 4031 – AUTHORIZING THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS TO ACQUIRE A PARCEL NEEDED FOR THE US 80 AND NORTH GALLOWAY AVENUE RIGHT-TURN LANE PROJECT.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF A RIGHT-OF-WAY PARCEL (1,377 SQUARE FEET) LOCATED IN THE WILLIAM FOREMAN SURVEY, ABSTRACT NO. 486, CITY OF MESQUITE, DALLAS COUNTY, TEXAS, LOT 1, BLOCK A, LAWLER OFFICE PARK AS DESCRIBED IN VOLUME 73095, PAGE 1458 FOR THE CONSTRUCTION OF ROADWAY AND UTILITY IMPROVEMENTS FOR THE US-80 AND NORTH GALLOWAY AVENUE RIGHT-TURN LANE PROJECT; AUTHORIZING THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF. (Ordinance No. 4031 recorded on page                      of Ordinance Book No. 92.)

3. RESOLUTION NO. 02-2009 – CALLING THE ANNUAL CITY ELECTION TO BE HELD ON MAY 9, 2009.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, CALLING THE ANNUAL CITY ELECTION. (Resolution No. 02-2009 recorded on page of Resolution Book No. 42.)

4. RESOLUTION NO. 03-2009 – SUPPORTING THE RAIL NORTH TEXAS INITIATIVE.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, SUPPORTING A LEGISLATIVE POSITION ON THE RAIL NORTH TEXAS INITIATIVE. (Resolution No. 03-2009 recorded on page of Resolution Book No. 42.)

5. RESOLUTION NO. 04-2009 – ADOPTING THE NORTH TEXAS CRIME COMMISSION 2009 LEGISLATIVE PROGRAM.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ADOPTING THE NORTH TEXAS CRIME COMMISSION 2009 LEGISLATIVE PROGRAM. (Resolution No. 04-2009 recorded on page of Resolution Book No. 42.)

7. BID NO. 2009-025 – CASA VIEW HEIGHTS SIDEWALK REPAIR PROJECT – CITY MANAGER AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS WITH TRI-CON SERVICES, INC., IN THE AMOUNT OF \$155,200.00.
8. BID NO. 2009-062 – ANNUAL MOWING MAINTENANCE OF CITY PARKS AND SPECIAL AREAS – CITY MANAGER AUTHORIZED TO EXECUTE A CONTRACT WITH LOW BIDDER GOOD EARTH, INC., IN THE AMOUNT OF \$131,795.75.
9. BID NO. 2009-063 – ANNUAL MOWING OF CITY RIGHTS-OF-WAY – CITY MANAGER AUTHORIZED TO EXECUTE A CONTRACT WITH LOW BIDDER GOOD EARTH, INC., IN THE AMOUNT OF \$108,084.98.
10. CITY MANAGER AUTHORIZED TO EXECUTE AN AMENDMENT TO THE SOLID WASTE DISPOSAL AGREEMENT WITH WASTE MANAGEMENT OF TEXAS.
11. CITY MANAGER AUTHORIZED TO EXECUTE AMENDMENT NO. 3 TO THE CITY HALL/MUNICIPAL COURT PROJECT CONTRACT WITH BRINKLEY SARGENT ARCHITECTS FOR ADDITIONAL DESIGN SERVICES IN THE AMOUNT OF \$28,125.00.
12. MAYOR AUTHORIZED TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE CITY OF UNIVERSITY PARK TO PROVIDE COMPOSTING SERVICES IN ACCORDANCE WITH ORDINANCE NO. 3391.

**CONSENT AGENDA ITEM CONSIDERED SEPARATELY.**

6. A RESOLUTION APPROVING THE TERMS AND CONDITIONS OF A PROGRAM WITH 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 – TABLED.

Mr. Pickett moved to table consideration of a resolution approving the terms and conditions of a program with CAPSTAR Real Estate Advisors, Inc., to promote economic development and stimulate business and commercial activity in conjunction with development in the Skyline Industrial District. Motion was seconded by Ms. Roberts and approved unanimously.

**END OF CONSENT AGENDA.**

**PUBLIC HEARINGS.**

13. A. PUBLIC HEARING – PARKS AND RECREATION DEPARTMENT YOUTH PROGRAMS STANDARDS OF CARE – HELD.

A public hearing was held to consider the Parks and Recreation Department Youth Programs Standards of Care.

Oscar Martinez, Manager of Recreation Services, explained that State law allows municipalities to adopt a Standards of Care policy providing for self-regulation of after school and summer youth programs. A Standards of Care policy is adopted by ordinance and reviewed annually, after holding a public hearing. He stated that programs such as the Recreation After School Program (RASP) and day camp programs are offered at the City's recreation centers.

No one appeared regarding the Parks and Recreation Department Youth Programs Standards of Care. Mayor Monaco declared the public hearing closed.

- B. ORDINANCE NO. 4032 – ADOPTING THE PARKS AND RECREATION DEPARTMENT YOUTH PROGRAMS STANDARDS OF CARE – APPROVED.

Mr. Pickett moved to approve Ordinance No. 4032, AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, ADOPTING YOUTH PROGRAMS STANDARDS OF CARE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY. Motion was seconded by Mr. Forsythe and approved by all voting "Aye." (Ordinance No. 4032 recorded on page 92.) of Ordinance Book No.

14. PUBLIC HEARING – ZONING – APPLICATION NO. 74-20 SUBMITTED BY BOBBY GAJERA FOR A ZONING CHANGE FROM SERVICE STATION TO PLANNED DEVELOPMENT – GENERAL RETAIL TO ALLOW FOR ALL USES PERMITTED IN GENERAL RETAIL DISTRICTS. THIS PROPERTY IS FURTHER DESCRIBED AS VALLEY VIEW HEIGHTS, BLOCK C, PART OF LOT 26, LOCATED AT 901 RODEO CENTER BOULEVARD – TABLED INDEFINITELY.

Ms. Roberts abstained from discussion regarding this item and left the meeting.

A public hearing was held to consider Application No. 74-20 submitted by Bobby Gajera for a zoning change from Service Station to Planned Development – General Retail to allow for all uses permitted in General Retail Districts. This property is further described as Valley View Heights, Block C, part of Lot 26, located at 901 Rodeo Center Boulevard.

Applicant Bobby Gajera stated that he owns the property which was previously utilized as a service station. He has had several retail clients, as well as churches, inquire about leasing the property. However, no end-user has been obtained at this time. Mr. Gajera stated that the exterior of the building will be improved including the required landscaping.

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

Councilmembers expressed concern that no specific end-user has been determined and would prefer the applicant become more familiar with the Planning and Zoning Commission requirements, specifically the Community Appearance Manual.

Mr. Pickett moved to table indefinitely consideration of Application No. 74-20. Motion was seconded by Mr. Noschese. On call for a vote on the motion, the following votes were cast:

Ayes:	Pickett, Noschese, Monaco, Forsythe, Tarpley
Nays:	None
Abstention:	Roberts

Motion carried.

15. PUBLIC HEARING – ZONING – APPLICATION NO. 486-17 SUBMITTED BY KEVIN BURNS AND RICKY ESCOHEA, HOLLYWOOD EXTREME, AND ORDINANCE NO. 4033 FOR A ZONING CHANGE FROM COMMERCIAL TO COMMERCIAL WITH CONDITIONAL USE PERMITS TO ALLOW THE PROPERTY TO BE USED FOR THE SALE OF USED DVDS, VIDEOS, VIDEO GAMES AND VIDEO GAME EQUIPMENT AND USE AS AN INDOOR RECREATION FACILITY IN ADDITION TO OTHER USES ALLOWED IN COMMERCIAL DISTRICTS. THIS PROPERTY IS FURTHER DESCRIBED AS GALLOWAY CROSSING, LOT 2, LOCATED AT 2210 NORTH GALLOWAY – APPROVED WITH CERTAIN STIPULATIONS.

Ms. Roberts re-entered the meeting.

A public hearing was held to consider Application No. 486-17 submitted by Kevin Burns and Ricky Escohea, Hollywood Extreme, for a zoning change from Commercial to Commercial with Conditional Use Permits to allow the property to be used for the sale of used DVDs, videos, video games and video game equipment and use as an indoor recreation facility in addition to other uses allowed in Commercial Districts. This property is further described as Galloway Crossing, Lot 2, located at 2210 North Galloway.

Rickey Escohea, 1524 Big Lake Drive, stated that Hollywood Extreme is a family-owned retail store that rents DVDs and video games as well as sells DVDs, video games, video game systems and video game accessories. Two Conditional Use Permits (CUP) are being requested. One CUP will allow the sale of used merchandise such as DVDs, videos, video games and video game equipment and will allow customers to trade for store credit. The second CUP will allow for an indoor recreation facility to allow customers to pay to play video games in a designated gaming area which includes nine terminals with 42-inch flat screen televisions.

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

Mr. Escohea stated that the interior and exterior of the store as well as the parking lot will be under constant video surveillance. Gaming tournaments will occur only during regular business hours.

Mr. Noschese moved to approve Application No. 486-17 with stipulations recommended by the Planning and Zoning Commission, modifying Stipulation Nos. 4 and 9, and adding Stipulation Nos. 11, 12 and 13, as follows:

1. The used merchandise shall be limited to DVDs, videos, video games and video game equipment. It shall not include the sale of any other used merchandise.
2. Merchandise display shall be orderly and similar in style and organization to typical displays at general merchandise and department stores.
3. No display of used merchandise shall be permitted outside the establishment.

4. All display merchandise shall be clean and operational. The display of damaged items is prohibited.
5. No signage advertising the buying of used merchandise shall be visible from outside the establishment.
6. All used merchandise shall be in its original packaging and shrink-wrapped. Handwritten labels shall not be used or permitted.
7. Previously owned merchandise shall be marked as "pre-owned" or "pre-played."
8. Compensation to customers for all previously owned merchandise received shall be in the form of store credit only. No cash shall be paid for previously owned merchandise.
9. One conviction for violation of this Conditional Use Permit ("CUP") during any 12-month period shall result in the automatic revocation of this CUP.
10. Prizes awarded to customers in organized game tournaments or other similar events shall be in the form of store merchandise or store credit. No cash shall be awarded.
11. All coin-operated amusement devices shall be prohibited.
12. This facility shall be non-smoking.
13. The CUP shall be granted for a period of one year from the date of issuance of the Certificate-of-Occupancy and shall be reviewed by the City Council for compliance with the stipulations herein. If the City Council finds that the premises are in compliance, the Council shall renew the CUP for successive periods of one or more years.

And to approve Ordinance No. 4033, 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 TO COMMERCIAL WITH A CONDITIONAL USE PERMIT FOR USED MERCHANDISE SALES AND A CONDITIONAL USE PERMIT FOR AN INDOOR RECREATION FACILITY 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 (\$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. 4033 recorded on page of Ordinance Book No. 92.)

**RECEIPT OF RESIGNATION AND APPOINTMENT TO BOARDS AND COMMISSIONS.**

16. **RESIGNATION RECEIVED FROM ERNESTINE BRIDGES AS A MEMBER OF THE KEEP MESQUITE BEAUTIFUL, INC., BOARD OF DIRECTORS.**

Ms. Roberts moved to accept the resignation of Ernestine Bridges as a member of the Keep Mesquite Beautiful, Inc., Board of Directors. Motion was seconded by Mr. Forsythe and approved unanimously.

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17. APPOINTMENT OF ONE MEMBER TO THE KEEP MESQUITE BEAUTIFUL, INC., BOARD OF DIRECTORS FOR A TERM TO EXPIRE DECEMBER 31, 2009.

Mr. Pickett moved to appoint James Weaver as a member of the Keep Mesquite Beautiful, Inc., Board of Directors for a term to expire December 31, 2009. Motion was seconded by Mr. Forsythe and approved unanimously.

Ms. Roberts moved to adjourn the meeting. Motion was seconded by Mr. Noschese and approved unanimously. The meeting adjourned at 3:40 p.m.

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Sonja Land  
City Secretary

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John Monaco  
Mayor