

MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD BEGINNING AT NOON,
JANUARY 19, 2010, CITY COUNCIL CHAMBER, CITY HALL, 711 N. GALLOWAY.

Present: Mayor John Monaco and Councilmembers 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 discuss options for growth management in the I-20 Corridor of the City's Extraterritorial Jurisdiction.

Councilmembers expressed interest in exploring areas for growth along the I-20 corridor. Staff will prepare additional information for future discussion on this topic.

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

Invocation was given by Rod Brewer, Associate Pastor, Family Cathedral of Praise, Mesquite, Texas.

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

SPECIAL ANNOUNCEMENTS.

Mr. Tarpley announced the recent grand opening of Cheddar's Restaurant located at 1320 N. Peachtree Road. He recognized City staff and expressed appreciation for their dedication while working with the restaurant during the development process. Mayor Monaco stated that the opening of Cheddar's Restaurant has created 150 jobs with a \$1 million payroll.

CONSENT AGENDA.

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

1. MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD JANUARY 4, 2010.
2. BID NO. 2010-008 – ANNUAL SUPPLY OF FIRE PROTECTIVE CLOTHING – AWARDED TO LOW BIDDER CASCO INDUSTRIES, INC., IN THE AMOUNT OF \$77,928.84.
3. CHANGE ORDER REPORT RECEIVED FROM CITY MANAGER.
(CE 1054-2009, ANNUAL SUPPLY OF EMERGENCY MEDICAL DRUGS – \$416.70.)

END OF CONSENT AGENDA.

PUBLIC HEARINGS.

4. PUBLIC HEARING – ZONING – ZONING TEXT AMENDMENT NO. 2009-05 AMENDING SECTIONS 2-600 AND 6-100 OF THE MESQUITE ZONING ORDINANCE PERTAINING TO THE MODIFICATION AND CREATION OF NEW REGULATIONS GOVERNING CONSTRUCTION STANDARDS FOR FRONT CARPORTS – COUNCIL REFERRED BACK TO THE PLANNING AND ZONING COMMISSION AND POSTPONED UNTIL THE FEBRUARY 15, 2010, CITY COUNCIL MEETING.

A public hearing was scheduled to be held to consider Zoning Text Amendment No. 2009-05 amending Sections 2-600 and 6-100 of the Mesquite Zoning Ordinance pertaining to the modification and creation of new regulations governing construction standards for front carports. This item was postponed at the December 7, 2009, City Council meeting.

Mr. Tarpley moved to remand this application back to the Planning and Zoning Commission for modifications to the proposed ordinance and to postpone consideration of Zoning Text Amendment No. 2009-05 amending Sections 2-600 and 6-100 of the Mesquite Zoning Ordinance until the February 15, 2010, City Council meeting. Motion was seconded by Mr. Pickett and approved unanimously.

5. PUBLIC HEARING – ZONING – APPLICATION NO. 1095-51-2009 SUBMITTED BY MATT CARBY OF ENTERTAINMART TOWN EAST, LLC, AND ORDINANCE NO. 4074 FOR A ZONING CHANGE FROM COMMERCIAL WITH TERRA OVERLAY TO COMMERCIAL WITH TERRA OVERLAY WITH A CONDITIONAL USE PERMIT TO ALLOW FOR THE SALE OF USED MERCHANDISE TO INCLUDE IPODS, DVDS, CDS, VIDEO GAMES AND VIDEO GAME CONSOLES LOCATED AT 2063 TOWN EAST MALL – APPROVED WITH CERTAIN STIPULATIONS.

A public hearing was held to consider Application No. 1095-51-2009 submitted by Matt Carby of Entertainmart Town East, LLC, for a zoning change from Commercial with TERRA Overlay to Commercial with TERRA Overlay with a Conditional Use Permit to allow for the sale of used merchandise to include iPods, mobile phones, DVDs, CDs, video games and video game consoles. This property is further described as a 4,313-square-foot lease space located at 2063 Town East Mall. This item was postponed at the January 4, 2010, City Council meeting.

Applicant Matt Carby stated that each buy/sell transaction requires a government issued ID with a visual check of merchandise by staff to ensure the items are in working condition. The Town East Mall location will only issue store credit for items being sold or traded. He stated that mobile phones currently make up approximately one to two percent of store business in other locations and is willing to remove the request for mobile phones for the Town East Mall location. In its two mall locations, Entertainmart sells approximately 20 percent of new product in every category. Mall locations contain an average of 7,000 square feet. The Vista Ridge Mall location has been in operation for

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six months and contains approximately 14,000-square feet and Collin Creek Mall's location has been open for three months and contains 5,900 square feet.

Holly Breland, Group Business Development Representative for General Growth Properties, stated that General Growth feels confident that Entertainmart will be an asset to Town East Mall and the City of Mesquite by creating a variety of product offered at the mall. The agreement with the mall will be a one-year license agreement with the mall reassessing the agreement at the end of the term. Without the Council's approval, General Growth anticipates this space to remain dark or house an apparel store.

Ron Cornwell, Operations Manager for Town East Mall, stated that there have been no problems with Gamestop with the sale of used products. Sam Goody's previously occupied the location being considered, which Entertainmart will update and freshen the space.

Giancarlo Carriero, Group Business Development Representative for General Growth Properties, stated that Entertainmart's displays are high quality and a step above a temporary space. Entertainmart originally considered a larger location; however, General Growth felt that the Sam Goody's location would serve Entertainmart better with a higher profile location and a glass store front.

Mayor Monaco declared the public hearing closed.

Councilmembers expressed concern regarding the sale of used merchandise at Town East Mall and that this location contains less square footage than Entertainmart's other mall locations.

Mr. Pickett moved to approve Application No. 1095-51-2009, as recommended by the Planning and Zoning Commission, with the following stipulations:

1. The used merchandise shall be limited to DVDs, CDs, iPods, video games and video game consoles. 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 severely damaged items is prohibited.
5. No signage advertising the sale of used merchandise shall be visible from outside the establishment.
6. 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. Three convictions for violation of this CUP during any 12-month period shall result in the automatic revocation of this CUP.
10. This CUP is approved exclusively to the applicant, Entertainmart, and may not be transferred or assigned.
11. This CUP is granted for a period of one year from the date of issuance of the Certificate-of-Occupancy and shall be subject to renewal upon review by the City Council for compliance with stipulations 1 through 8.

And to approve Ordinance No. 4074, 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 CONDITIONAL USE PERMIT ON PROPERTY ZONED COMMERCIAL WITHIN THE TOWN EAST RETAIL AND RESTAURANT AREA (TERRA) OVERLAY DISTRICT THEREBY ALLOWING FOR THE SALE OF USED MERCHANDISE 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. Porter and approved by all voting “Aye.” (Ordinance No. 4074 recorded on page of Ordinance Book No. 94.)

APPOINTMENTS TO BOARDS AND COMMISSIONS.

6. APPOINTMENT OF ONE ALTERNATE MEMBER TO THE BOARD OF ADJUSTMENT FOR A TERM TO EXPIRE JANUARY 1, 2012.

Mr. Pickett moved to appoint David Fitzgerald, Jr., as an alternate member to the Board of Adjustment for a term to expire January 1, 2012. Motion was seconded by Ms. Roberts and approved unanimously.

7. APPOINTMENT OF TWO MEMBERS TO THE AUTOMATED TRAFFIC SIGNAL ENFORCEMENT ADVISORY COMMITTEE FOR TERMS TO EXPIRE JANUARY 1, 2012.

Ms. Roberts moved to reappoint Duddly Hargrove, by designation of Councilmember Al Forsythe, as a member of the Automated Traffic Signal Enforcement Advisory Committee and David Fitzgerald, Jr., was appointed, by designation of Mayor John Monaco, both for terms to expire January 1, 2012. Motion was seconded by Mr. Pickett and approved unanimously.

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8. APPOINTMENT OF ONE ALTERNATE MEMBER TO THE PLANNING AND ZONING COMMISSION/CAPITAL IMPROVEMENTS ADVISORY COMMITTEE FOR A TERM TO EXPIRE JANUARY 19, 2012.

Mr. Porter moved to appoint Donna Adams as an alternate member to the Planning and Zoning Commission/Capital Improvements Advisory Committee for a term to expire January 19, 2012. Motion was seconded by Ms. Roberts and approved unanimously.

Ms. Roberts moved to adjourn the meeting. Motion was seconded by Mr. Pickett and approved unanimously. The meeting adjourned at 3:37 p.m.

Sonja Land
City Secretary

John Monaco
Mayor