

MINUTES OF WORK AND REGULAR CITY COUNCIL MEETING HELD BEGINNING AT 11:30 A.M., FEBRUARY 18, 2008, CITY COUNCIL CHAMBER, CITY HALL, 711 N. GALLOWAY.

Present: Mayor John Monaco and Councilmembers David Paschall, John Heiman, Dennis Tarpley, Stan Pickett and Shirley Roberts, City Manager Ted Barron and City Secretary Judy Womack.

**PRE-MEETING – CITY COUNCIL CONFERENCE ROOM – 11:30 A.M.**

The City Council met in the City Council Conference Room beginning at 11:30 a.m., to discuss the items on the Work and Regular Agenda and (1) discuss cost participation with Town of Sunnyvale regarding bridge replacement at U. S. Highway 80/State Highway 352 and receive: (2) Environmental Code Division overview and (3) update regarding Phase 2 of the Police Facility/City Hall expansion project.

(3) It was Council consensus to proceed with financing and constructing the building.

**WORK SESSION – CITY COUNCIL CHAMBER – 1:12 P.M.**

A. MONTHLY FINANCIAL REPORT FOR SEPTEMBER 2007 – RECEIVED.

Don Simons, Director of Finance, presented the monthly financial report for September 2007.

B. UPDATE REGARDING 2007-08 BUSINESS RETENTION ACTIVITY – RECEIVED.

Daren Watkins, Special Events/Economic Development Coordinator, stated in February 2006, the Economic Development Department launched an initiative to focus on a business retention and expansion program as a joint partnership with the Mesquite Chamber of Commerce. The purpose of the program is to establish closer relationships with major employers in the community, those with 60 or more employees. The program consists of a series of relationship-building activities including periodic visitations to discuss issues that may be impacting the City's major employers and their ability to accomplish their business objectives, to serve as a liaison at City Hall for plant managers and operations managers and to assist where needed in any expansion activity proposed or initiated by these major employers.

Mr. Watkins stated that to date more than 40 visitations have been conducted and relationships have been strengthened with several firms. Some of the highlights of the business retention program include: (1) assisting in plant expansions or planned plant expansions at Iris USA, Pepsi, Fritz Industries and Norkol Converting; (2) orchestrating a tour of the Mesquite UPS hub as part of their Founder's Day celebration; (3) helping to coordinate an expansion project at Baker Triangle; (4) using the relationship with Iris USA to arrange a visitation by City Councilmembers and key City staff during Iris USA's corporate quarterly meeting held in Mesquite and (5) delivering Certificates of

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Occupancy with follow-up questionnaires. Mr. Watkins added that recent visitations include Iris USA, Fritz Industries, Pepsi, Dallas Regional Medical Center and Women's Hospital and Eastfield College. Since health care is a thriving industry in Mesquite, Mr. Watkins stated he plans to include health care providers in future visitations.

Mr. Watkins introduced Greg Losher, Chairman of the Board for the Mesquite Chamber of Commerce and Administrator for the Health and Rehab Center at Christian Care Center, who will be assisting him on business retention visitations along with Terry McCullar, President of the Mesquite Chamber of Commerce. Mr. Losher stated he looks forward to working with the City's Economic Development Department in participating in 2008 business retention visitations.

Councilmembers expressed appreciation to Mr. Watkins and Mr. Losher for their work in scheduling and participating in the business retention activities.

The Work Session ended at 1:30 p.m.

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

Invocation was given by Jason Dyke, Associate Pastor, Sunnyvale First Baptist Church.

The Pledge of Allegiance was led by Briana Ruiz, Michael Thomas, Kevin Torres and Joanna Valdez, fourth grade students from Range Elementary School.

### **SPECIAL ANNOUNCEMENTS.**

(1) Ms. Roberts announced that she is serving as Chair of the 2008 Relay For Life fundraising event scheduled for May 2 at Berry Middle School.

(2) Mayor Monaco recognized Ida Swank who faithfully watches the City Council meetings from her home and is recovering from an illness. The Council sent its greetings.

### **CITIZENS FORUM.**

Brandy Ammons, representing the American Cancer Society (ACS), announced that she is serving as the ACS staff partner for the upcoming Relay For Life event. She presented an overview of the fundraiser and introduced members of the Mesquite Relay For Life team.

### **CONSENT AGENDA.**

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

1. MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD FEBRUARY 4, 2008.

2. RESOLUTION NO. 09-2008 – ESTABLISHING PRECINCTS AND THE LOCATION OF POLLING PLACES FOR THE ANNUAL CITY ELECTION.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ESTABLISHING PRECINCTS AND THE LOCATION OF POLLING PLACES FOR THE ANNUAL CITY ELECTION; AND DECLARING AN EFFECTIVE DATE. (Resolution No. 09-2008 recorded on page \_\_\_\_\_ of Resolution Book No. 41.)

3. RESOLUTION NO. 10-2008 – SUPPORTING AND ACKNOWLEDGING THE PARKS AND RECREATION DEPARTMENT, YOUTH SERVICES DIVISION'S, GRANT APPLICATION TO THE OFFICE OF THE GOVERNOR, CRIMINAL JUSTICE DIVISION, IN THE AMOUNT OF \$23,065.80 FOR THE FAMILY ASSISTANCE SUPPORT TEAM PROGRAM.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, SUPPORTING AND ACKNOWLEDGING THE PARKS AND RECREATION DEPARTMENT, YOUTH SERVICES DIVISION'S, GRANT APPLICATION TO THE OFFICE OF THE GOVERNOR, CRIMINAL JUSTICE DIVISION, IN THE AMOUNT OF \$23,065.80 FOR THE FAMILY ASSISTANCE SUPPORT TEAM PROGRAM; AND DESIGNATING THE CITY MANAGER AS THE AUTHORIZED OFFICER FOR THE PURPOSE OF SIGNING ALL SUBORDINATE DOCUMENTS ASSOCIATED WITH THIS GRANT. (Resolution No. 10-2008 recorded on page \_\_\_\_\_ of Resolution Book No. 41.)

4. BID NO. 2008-049 – ANNUAL SUPPLY OF PETROLEUM PRODUCTS – MOTOR OIL, AUTOMOTIVE GREASE, GEAR LUBRICANT, TRANSMISSION FLUID AND HYDRAULIC OILS – AWARDED TO LOW BIDDER PLEASANT OIL COMPANY, INC., IN THE AMOUNT OF \$63,915.25.
5. BID NO. 2008-058 – ANNUAL SUPPLY OF FORD OEM PARTS – AWARDED TO PARK CITIES FORD AT DEALER COST PLUS FOUR PERCENT MARKUP.
6. CHANGE ORDER REPORT RECEIVED FROM CITY MANAGER.  
(CE28-8160, OUTDOOR WARNING SIRENS, BID NO. 2008-056, PURCHASE AND INSTALLATION OF 15 OUTDOOR WARNING SIRENS AND OTHER EQUIPMENT - \$5,332.35.)

**END OF CONSENT AGENDA.**

**PUBLIC HEARINGS.**

7. A. PUBLIC HEARING – CONSIDER A PROGRAM WITH LANG AND COMPANY, LLC, TO PROMOTE ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN CONJUNCTION WITH DEVELOPMENT AT THE PEACHTREE TOWNE CENTER SITE – HELD.

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A public hearing was held to consider a program with Lang and Company, LLC, to promote economic development and stimulate business and commercial activity in conjunction with development at the Peachtree Towne Center site.

Tom Palmer, Manager of Economic Development, stated that development of the Peachtree Towne Center site will add significant taxable value to the City and will be a highly visible development along LBJ Freeway.

Mr. Palmer introduced, Jim Lang, Lang and Company, LLC, who introduced his staff and expressed appreciation to City staff for their assistance in making this development possible. Mr. Lang stated the development plans include a four-star, multi-story hotel with more than 250 rooms and an adjoining 10,000-square-foot conference center, four restaurant pad sites, a mid-rise office building, a specialty office or medical building and three retail/commercial buildings forming a "Main Street" development. A bridge will also be constructed over South Mesquite Creek to provide access from Peachtree Road to the hotel and restaurant sites to be constructed along a new frontage road off of the Gross Road entrance to IH 635.

Mr. Lang explained that a revenue analysis is being prepared that will project the economic impact of the project on the City. He confirmed that he has agreed with the City's request to retain mineral rights on the 60 acres being donated for the project and understands additional documents are being prepared to reflect the City's ownership of these mineral rights.

No one appeared regarding the Chapter 380 Agreement with Lang and Company, LLC., to promote economic development and stimulate business and commercial activity in conjunction with development at the Peachtree Towne Center site. Mayor Monaco declared the public hearing closed.

B. RESOLUTION NO. 11-2008 – APPROVING THE TERMS AND CONDITIONS OF A PROGRAM WITH LANG AND COMPANY, LLC., TO PROMOTE ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN CONJUNCTION WITH DEVELOPMENT AT THE PEACHTREE TOWNE CENTER SITE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS – APPROVED.

Mr. Paschall moved to approve Resolution No. 11-2008 including amendments to the Contract of Sale that adequately preserve, in the opinion of the City Attorney, the City's interest in any mineral rights on this property, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A PROGRAM TO PROMOTE ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN THE CITY; AUTHORIZING THE CITY MANAGER TO EXECUTE CERTAIN AGREEMENTS WITH LANG AND COMPANY, LLC., FOR SUCH PURPOSES; AND PROVIDING AN EFFECTIVE DATE. Motion was seconded by Mr. Heiman and approved by all voting "Aye." (Resolution No. 11-2008 recorded on page of Resolution Book No. 41.)

8. PUBLIC HEARING – ZONING TEXT AMENDMENT NO. 2008-1 AND ORDINANCE NO. 3932 AMENDING SECTIONS 3-200, 3-500 AND 6-100 OF THE MESQUITE ZONING ORDINANCE REGARDING REGULATIONS ON THE LOCATION, SPACING, APPEARANCE AND SITE DESIGN OF CHECK CASHING, PAYDAY LOAN AND SIMILAR ESTABLISHMENTS – APPROVED.

A public hearing was held to consider Zoning Text Amendment No. 2008-1 and an ordinance amending Sections 3-200, 3-500 and 6-100 of the Mesquite Zoning Ordinance regarding regulations on the location, spacing, appearance and site design of check cashing, payday loan and similar establishments.

Richard Gertson, Director of Community Development, stated that as requested by Council, staff has reviewed options regarding strengthening zoning regulations for check cashing, payday loan establishments, etc. Staff has gathered information from other cities regarding their policies for check cashing, payday loan and similar establishments.

Mr. Gertson stated the proposed amendments to the Mesquite Zoning Ordinance would restrict the number of zoning districts where these types of businesses would be allowed and would require all similar establishments to receive a Conditional Use Permit (CUP) regardless of the zoning district in which they are allowed to operate. If the CUP is granted, the establishment must meet a number of conditions in order to operate within that district: (1) They must be separated by at least 1,000 feet from lot line to lot line from any other similar establishment; (2) They must be separated by at least 200 feet from a residential zoning district or a residential use; (3) These types of establishments will not be permitted within 500 feet of the rights-of-way of major interstates and corridors where the City's image and appearance are so important; (4) They will not be allowed to locate within the City's major overlay zoning districts such as the Town East Retail and Restaurant Area (TERRA), Mesquite Arena-Rodeo Entertainment (MARE) Overlay District and the Military Parkway/Scyene Road Overlay District and (5) Any new business of this type must be located within free-standing buildings. Business owners will not be allowed to operate in storefronts of strip shopping centers.

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

Councilmembers expressed support for the zoning text change.

Mr. Pickett moved to approve Zoning Text Amendment No. 2008-1 amending Sections 3-200, 3-500 and 6-100 of the Mesquite Zoning Ordinance, as recommended by the Planning and Zoning Commission, and to approve Ordinance No. 3932, 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 ADDITIONS AND DELETIONS UNDER SECTIONS 3-200, 3-500 AND 6-100 THEREBY CREATING REGULATIONS ON THE LOCATION, SPACING, APPEARANCE AND SITE DESIGN OF CHECK CASHING, PAYDAY LOAN AND SIMILAR ESTABLISHMENTS; 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. Paschall and approved by all voting "Aye." (Ordinance No. 3932 recorded on page of Ordinance Book No. 89.)

9. PUBLIC HEARING – ZONING – APPLICATION NO. 261-31 SUBMITTED BY KENT JONES, INC., AND ORDINANCE NO. 3933 FOR A ZONING CHANGE FROM COMMERCIAL AND PLANNED DEVELOPMENT – MULTI-FAMILY TO PLANNED DEVELOPMENT – COMMERCIAL ON AN 89.75-ACRE TRACT FORMERLY OCCUPIED BY BIG TOWN MALL – APPROVED.

A public hearing was held to consider Application No. 261-31 submitted by Kent Jones, Inc., and an ordinance for a zoning change from Commercial and Planned Development-Multi-Family to Planned Development – Commercial in the Big Town Addition. This property is further described as an 89.75-acre tract formerly occupied by Big Town Mall located at the southwest corner of U.S. Highway 80 and Big Town Boulevard. This item was postponed at the December 17, 2007, and January 7, 2008, City Council meetings.

Omar Washington, representing Kent Jones, Inc., stated that a major recreation and entertainment facility is being proposed for this site consisting of 10 baseball fields of various sizes, three football/soccer fields, a 200,000- to 250,000-square-foot indoor athletic and training facility with 12 to 14 basketball courts, two indoor soccer fields, an indoor baseball field, track and weights. The site will also include restaurants, a hotel and possibly an amphitheater or ice hockey rink. Mr. Washington stated they have had discussions with some minor league baseball teams hoping to encourage them to relocate in Mesquite. The developers see the proposed facility as a national athletic venue similar to Disney's Wide World of Sports.

Councilmembers expressed support for the proposed sports facility which will be located at one of the City's gateways.

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

Mr. Heiman moved to approve Application No. 261-31 for a zoning change from Commercial and Planned Development-Multi-Family to Planned Development – Commercial, as recommended by the Planning and Zoning Commission, with the following stipulations, revising Stipulation No. 15:

1. Uses in the Planned Development ("PD") shall be limited to the following. All listed uses will be permitted by right:
  - a. SIC Group 56: Retail Apparel and Accessory Stores
  - b. SIC Group 58: Eating and Drinking Places
  - c. SIC Group 594: Miscellaneous Shopping Goods Stores
  - d. SIC Code 701a: General Service Hotel/Motel
  - e. SIC Code 702: Rooming and Boarding Houses
  - f. SIC Group 704: Hotel/Lodging (Membership) – must be associated with development within this Planned Development

- g. SIC Group 79: Amusement and Recreation Services as modified below:
    - No distance separations from residential zoning shall be required
    - Bingo Parlors shall not be allowed
    - Sports Instruction may be indoor or outdoor
  - h. SIC Code 829: Schools and Educational Services
  - i. SIC Code 841: Museums, Art Galleries
  - j. Accessory and Incidental Uses related to the above uses
  - k. Sales of alcohol where permitted by the Texas Alcohol Beverage Commission
2. Pole signs shall be prohibited except that the existing Big Town Mall sign may be preserved, and may be modified in accordance with the policies of Historic Mesquite, Inc. It may be left in place or relocated to meet the needs of the development. If the sign is to be removed from the site, the City of Mesquite and Historic Mesquite, Inc., shall be notified prior to its removal. If requested by either entity that the sign be donated to an identified agency or organization, the property owner shall make such donation at the time of removal.
  3. One group monument sign may be installed along U.S. Highway 80 to identify the name of the facility and other uses within the Planned Development, the design to be agreed upon between the developer and the City of Mesquite Planning staff. The sign may include an Electronic Display Screen subject to such conditions as the Council may establish. An additional monument sign may be located along U.S. Highway 80 to identify an anchor tenant such as a sports team or other special attraction.
  4. Restaurant and retail signage may include monument signs and wall signs as allowed in the Mesquite Sign Regulations. However, the design of such signs, including height and area, may be negotiated and approved by Planning staff.
  5. The City of Mesquite above ground water storage facility existing within the PD may be enhanced to include decorative or themed lighting and display of the name of one sponsor of the athletic facilities/activities within the PD. Any such sponsor name must be removed and no longer displayed immediately upon termination of sponsorship of facilities/activities within the PD. Other text shall also be permitted identifying the facility.
  6. Advertising signs may be placed on walls and fences interior to the athletic fields. No more than one temporary sign may be placed on the exterior of an athletic field wall or fence that may identify an event or team using that field and a sponsor of that event or team. Such signs may be in place only for the duration of the time in which the team or event is using the facility.
  7. Landscaping that includes:
    - a. One shade tree per 30 feet along the Samuell Boulevard and U.S. Highway 80 rights-of-way excluding the drive aisles. This requirement will also apply to Big Town Boulevard at such time as new building construction takes place on the Exhibition Hall site. Where athletic fields are adjacent to Samuell Boulevard, no street trees shall be required along Samuell Boulevard abutting such fields.
    - b. Decorative plantings and/or landscaping around monument signs.

- c. A four-foot parking screen shall be provided along the perimeter of any parking area within 50 feet of a public street.
- d. Parking lot landscaping (parking contained within a parking structure shall not be subject to this subsection d):
  - i. Parking lot trees will be required at a rate of one tree per five surface-parking spaces. However, trees may be grouped as long as there is at least one tree island a maximum of every 20 surface-parking spaces.
  - ii. Each tree shall be placed in a landscaped area no smaller than nine feet by 18 feet.
- e. Foundation landscaping shall be provided around all buildings.
- f. Driveway medians shall be landscaped.
- g. Enhanced landscaping at all driveways going to or from public streets that at a minimum shall consist of the following:
  - i. Bushes or hedges.
  - ii. Flowerbeds and/or low ground plantings.
- 8. Dumpsters shall be screened in a manner that provides an appearance consistent with the surrounding area or nearby building(s).
- 9. Outdoor storage shall be prohibited, except that sport-related equipment may be stored in areas adjacent to athletic fields and facilities.
- 10. Fencing must be masonry, wrought iron or a combination of the two, except when associated with an athletic field, where other fencing materials typical to athletic fields may be used.
- 11. An eight-foot sidewalk shall be provided along the Samuell Boulevard right-of-way.
- 12. Pedestrian facilities shall be provided throughout the development that link the various uses and parcels within the PD.
- 13. Hotel may be a maximum of 12 stories.
- 14. No building permits for restaurant or retail uses shall be issued in the PD until either:
  - a. A Certificate of Occupancy has been issued for the indoor athletic facility; or
  - b. Two or more baseball fields are complete and ready for commercial use.
- 15. Thirty-six months from the date of this ordinance, if there is no building permit for the indoor athletic facility or if at least one baseball field is not complete and ready for commercial use, the Director of Community Development shall initiate rezoning of the PD to a zoning classification consistent with the Comprehensive Plan.

And to approve Ordinance No. 3933, 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 AND PLANNED DEVELOPMENT – MULTI-FAMILY TO PLANNED DEVELOPMENT – COMMERCIAL SUBJECT TO CERTAIN STIPULATIONS; 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 Ms. Roberts and approved by all voting “Aye.” (Ordinance No. 3933 recorded on page \_\_\_\_\_ of Ordinance Book No. 89.)



10. PUBLIC HEARING – ZONING – APPLICATION NO. TCV4-9 SUBMITTED BY MARC POULAIN FOR FEC MESQUITE, L.P., DBA INCREDIBLE PIZZA AND ORDINANCE NO. 3934 FOR A ZONING CHANGE FROM COMMERCIAL AND TERRA OVERLAY TO COMMERCIAL AND TERRA OVERLAY WITH A CONDITIONAL USE PERMIT TO ALLOW THE PROPERTY TO BE USED FOR INDOOR RECREATION AT 1330 NORTH TOWN EAST BOULEVARD – APPROVED.

A public hearing was held to consider Application No. TCV4-9 submitted by Marc Poulain for FEC Mesquite, L.P., dba Incredible Pizza, and an ordinance for a zoning change from Commercial and TERRA Overlay to Commercial and TERRA Overlay with a Conditional Use Permit to allow the property to be used for indoor recreation in Towne Centre Village No. 4 Addition, Block C, Lot 1BR. This property is further described as a 49,000-square-foot lease space located at 1330 North Town East Boulevard.

Marc Poulain, representing FEC Mesquite, L.P., dba Incredible Pizza, stated his business is a Christian-based company and all of the facilities are smoke-free and alcohol-free. This facility will occupy the former Home Depot store on Town East Boulevard. He stated that Incredible Pizza appeals to the 5- to 21-year-old customers. In comparison, Chuck E. Cheese's is designed to appeal to the 5-year-old and younger group and Dave and Buster's appeals to customers who are over 21 years of age.

Mr. Poulain stated that Incredible Pizza is a franchise business, based in the Houston area. They currently have seven stores in operation – three in Houston, one in Oklahoma City, Euless, Lafayette, Louisiana and El Paso. He explained that Incredible Pizza is a 50s-themed family entertainment center with four themed dining rooms and eight private party rooms. The buffet includes pizza, pasta and salad. The amusement center includes an indoor go-cart racing track, electric bumper cars, nine-hole miniature glow golf and mini-bowling along with a prize redemption counter and video games that are safe for all ages.

Mr. Poulain stated that there will be 36 digital video cameras located inside and outside the facility. Video from these cameras will be held for 90 days before being destroyed. During peak hours such as Friday night, Saturday and Sunday, three uniformed, off-duty police officers or Highway Patrol officers will be located around the facility – one at the front door, one in the game room and one to patrol the parking lot in a golf cart. To ensure no loitering, customers must pay as they enter the building. There is also a dress code posted at the front door. Mr. Poulain stated that Incredible Pizza strives to partner with the community through schools, churches, local sports teams, etc. and offers them a place to come that is family-friendly and safe. He stated that this facility plans to hire 200 to 225 employees with a payroll of \$2.5 million. It is projected that the Mesquite site will generate \$7 million in sales annually. Opening day is anticipated to be May 20, 2008.

Councilmembers expressed support for the proposed Incredible Pizza facility with its family-oriented attractions.

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

Mr. Heiman moved to approve Application No. TCV4-9 for a zoning change from Commercial and TERRA Overlay to Commercial and TERRA Overlay with a Conditional Use Permit to allow the property to be used for indoor recreation, as recommended by the Planning and Zoning Commission, with the following stipulations:

1. The Conditional Use Permit is limited to Incredible Pizza franchise.
2. Permits up to 100 game machines excluding eight-liners or any other devices that simulate gambling.
3. No new pole or monument signs shall be permitted.

And to approve Ordinance No. 3934, 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 AND TERRA OVERLAY TO COMMERCIAL AND TERRA OVERLAY WITH A CONDITIONAL USE PERMIT THEREBY ALLOWING INDOOR RECREATION 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. 3934 recorded on page of Ordinance Book No. 89.)

11. PUBLIC HEARING – ZONING – APPLICATION NO. 1461-143 SUBMITTED BY JAMES SNEED FOR A ZONING CHANGE FROM COMMERCIAL TO COMMERCIAL WITH A CONDITIONAL USE PERMIT TO ALLOW THE PROPERTY TO BE USED FOR AN INDOOR RECREATION FACILITY/INDOOR GUN RANGE AT 2400 IH 30 EAST – DENIED.

A public hearing was held to consider Application No. 1461-143 submitted by James Sneed for a zoning change from Commercial to Commercial with a Conditional Use Permit to allow the property to be used for an indoor recreation facility/indoor gun range in T. Thomas Abstract 1461. This property is located approximately 360 feet west from the intersection of Ashwood Drive and the north service road of IH 30, at 2400 IH 30 East.

Applicant James Sneed, 4527 Harbinger Drive, stated that he has owned a plumbing business for 20 years in East Dallas which has included a gun store/indoor gun range for the past six years. He stated that since he lives in Mesquite, he would like to move both businesses to the proposed site. The gun range is regulated by the National Rifle Association (NRA) and all employees must be NRA-approved and certified.

Juan Mercado, 2744 Rosewood Drive, and Marti Jennings, 2507 Mesquite Valley Road, spoke in opposition to the application, specifically in opposition to the gun store/indoor gun range.

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

Richard Gertson, Director of Community Development, stated that if this application is approved, a screening wall would be required between the business and the adjacent residential property.

Mr. Sneed stated that gun sales are regulated by the Bureau of Alcohol, Tobacco and Firearms. Therefore, anyone purchasing a firearm must pass a background check. He stated the proposed 12,000-square-foot building will be constructed of all steel walls, steel ceiling and steel back plate which will prevent bullets from exiting the building. Approximately 2,400 square feet of the building will be utilized for an indoor gun range which is not regulated by the state due to its small size. Gun safety classes will be offered at this location. The warehouse portion of the building will be utilized for inside parking of 10 plumbing trucks. Mr. Sneed stated that if the gun range is not approved, he still plans to relocate the plumbing business to this site and may use the remainder of the building as lease space.

Mayor Monaco, Mr. Heiman and Mr. Paschall expressed concern regarding allowing this type of business in close proximity to a residential neighborhood. They supported the business if located in an industrial or other appropriate area.

Mr. Paschall moved to deny Application No. 1461-143 for a zoning change from Commercial to Commercial with a Conditional Use Permit to allow the property to be used for an indoor recreation facility/indoor gun range. Motion was seconded by Mr. Heiman. On call for a vote on the motion, the following votes were cast:

Ayes:	Paschall, Heiman, Monaco, Roberts, Pickett
Nays:	Tarpley

Motion passed.

12. PUBLIC HEARING – ZONING - APPLICATION NO. EDE-23 SUBMITTED BY POGUE ENGINEERING ON BEHALF OF BAKER DRYWALL FOR A ZONING CHANGE FROM COMMERCIAL WITH A CONDITIONAL USE PERMIT NO. 1601 TO PLANNED DEVELOPMENT – COMMERCIAL TO ALLOW THE PROPERTY TO BE USED FOR OFFICE-WAREHOUSING AT 415 U.S. HIGHWAY 80 – DENIED.

A public hearing was held to consider Application No. EDE-23 submitted by Pogue Engineering on behalf of Baker Drywall for a zoning change from Commercial with a Conditional Use Permit No. 1601 to Planned Development – Commercial to allow the property to be used for office-warehousing at East Dallas Estates, Block 1, Lot 4R. This property is further described as a 4.72-acre tract located at 415 U. S. Highway 80. This item was postponed at the February 4, 2008, City Council meeting.

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Randy Pogue, Pogue Engineering, on behalf of Baker Drywall, stated that four buildings are proposed for the site to be utilized for an expansion to provide office and warehouse uses. Hanby Drive currently ends approximately 220 feet east of the subject tract. However, the Fire Department and Planning Division require the extension of Hanby Drive behind the property to ensure two points of access. If Hanby Drive is extended, drainage and flooding issues should be alleviated along with existing cut-through traffic via the adjacent alley. He stated that installation of deflecting shields on the lights near the residential neighborhood is acceptable. Also, the existing dilapidated screening wall will be removed and replaced with an eight-foot screening wall along the entire property line. The permit for the screening wall is awaiting approval at this time. Mr. Pogue added that his client agrees with the stipulations proposed by the Planning and Zoning Commission. He stated that the office space will be developed even if the warehouse use is not allowed.

The following persons spoke in opposition to the application: (1) Faye Price, 410 Southerland Avenue; (2) Van Elam, 418 Southerland Avenue; (3) Mike Turner, 230 Southerland Avenue; (4) Howard Price, 410 Southerland Avenue and expressed concern if Hanby Drive is extended regarding potential traffic problems created by vehicles utilizing their alley as a thru-street to Belt Line Road. Lisa Turner, 230 Southerland Avenue and Billye Hamilton, 4413 Ocean Reef, submitted response cards in opposition to the proposed amendment but did not wish to speak.

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

A brief recess was taken.

Mr. Pogue stated the developer originally proposed the screening wall be placed on the north side of the alley to aid in alleviating the cut-through traffic to the adjacent neighborhood but it was opposed by the homeowners because it might limit their ability to maneuver out of their driveways.

Richard Gertson, Director of Community Development, stated that in a commercially zoned district, any type of retail or office establishment is allowed. Other uses including warehouse use would require a Conditional Use Permit. Mr. Gertson added that if the applicant proposed a use that was allowed under the commercial zoning, he could develop and extend Hanby Drive without Council approval. He confirmed that as this site is developed, a screening wall will be required at the rear of the property.

Mayor Monaco and Mr. Heiman expressed concern regarding allowing warehouse-type use to develop on prime commercial property adjacent to a residential neighborhood.

Mr. Heiman moved to deny Application No. EDE-23 for a zoning change from Commercial with a Conditional Use Permit No. 1601 to Planned Development – Commercial to allow the property to be used for office-warehousing. Motion was seconded by Ms. Roberts. On call for a vote on the motion, the following votes were cast:

Ayes:	Heiman, Roberts, Monaco, Paschall, Pickett
Nays:	Tarpley

Motion passed.

**RECEIPT OF RESIGNATIONS.**

13. RESIGNATION RECEIVED FROM OLEN RICH, JR., AS A MEMBER OF THE BUILDING STANDARDS BOARD.

Mr. Heiman moved to accept the resignation of Olen Rich, Jr., as a member of the Mesquite Youth Services, Inc., Board of Directors. Motion was seconded by Mr. Paschall and approved unanimously.

14. RESIGNATION RECEIVED FROM GREG NOSCHESI AS A MEMBER OF THE MESQUITE QUALITY OF LIFE CORPORATION BOARD OF DIRECTORS.

Mr. Paschall moved to accept the resignation of Greg Noschese as a member of the Mesquite Quality of Life Corporation Board of Directors. Motion was seconded by Ms. Roberts and approved unanimously.

15. RESIGNATION RECEIVED FROM RACHEL LOPEZ AS A MEMBER OF THE PARKS AND RECREATION ADVISORY BOARD AND TREE BOARD.

Ms. Roberts moved to accept the resignation of Rachel Lopez as a member of the Parks and Recreation Advisory Board and Tree Board. Motion was seconded by Mr. Pickett and approved unanimously.

Ms. Roberts moved to adjourn the meeting. Motion was seconded by Mr. Heiman and approved unanimously. The meeting adjourned at 5:05 p.m.

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Judy Womack  
City Secretary

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John Monaco  
Mayor