

MINUTES OF WORK AND REGULAR CITY COUNCIL MEETING HELD BEGINNING AT NOON, SEPTEMBER 2, 2008, 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 Judy Womack.

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 Work and Regular Agenda and discuss: (1) City Council goals, (2) proposed amendments to the Mesquite Zoning Ordinance regarding home occupations and (3) weed and grass billing and collections.

WORK SESSION – CITY COUNCIL CHAMBER – 1:07 P.M.

A. **ONCOR ELECTRIC DELIVERY'S UPCOMING TREE TRIMMING PROJECT – DISCUSSED.**

Terri Shatter, Area Manager for Oncor Electric Delivery, reviewed the upcoming tree trimming program for 11 distribution feeders in Mesquite. She stated the three major causes for power outages are trees, lightning and wildlife. Oncor must prune trees to minimize power outages, reduce fire hazards and maximize the reliability of electric service. She stated that Oncor maintains transmission lines, which deliver power from the power plants to the substations, and distribution lines, which carry power to homes and businesses. Tree trimming is a year-round Oncor program to increase electric service reliability and safety. Ms. Shatter stated that customers are notified with door tags at least five days in advance of planned tree trimming.

Ms. Shatter stated that Oncor has been a Tree Line USA Utility award recipient since 2001. Awards are presented by the National Arbor Day Foundation for high pruning and safety standards and for outstanding educational programs for consumers and employees. She stated that Oncor's vegetation management group is led by professionals and includes trained foresters and certified arborists. The tree trimming program promotes dual goals of dependable utility service and abundant healthy trees for America's communities.

Ms. Shatter stated that Oncor is currently promoting two programs - the Plan Before You Plant program which educates the community to avoid planting certain trees under power lines and the Know Before You Grow program which educates the community on what trees and vegetation are safe to plant in the vicinity of power lines.

Ms. Shatter explained that the cost to provide underground cable is approximately three times the cost of overhead facilities and, it is also more difficult to locate an underground cable fault when an outage occurs. Oncor will soon begin offering a program to cities to install underground cable service with an added surcharge to bury lines within new subdivisions.

The Work Session ended at 1:16 p.m.

EXECUTIVE SESSION – CITY COUNCIL CONFERENCE ROOM – 2:42 P.M.

Mr. Pickett abstained from discussion regarding this item and left the meeting.

Mayor Monaco announced that the City Council would meet in Executive Session pursuant to Section 551.087 of the Texas Government Code to consider commercial or financial information regarding business prospects or projects (Economic development incentives for a residential development near Cartwright Road and Lawson Road); whereupon, the City Council proceeded to meet in the City Council Conference Room. After the closed meeting ended at 2:51 p.m., the City Council reconvened in Open Session.

No executive action was necessary.

REGULAR CITY COUNCIL MEETING – CITY COUNCIL CHAMBER – 3:05 P.M.

Mr. Pickett returned to the meeting.

Invocation was given by Jim Burt, Pastor, Oates Drive Baptist Church, Mesquite, Texas.

The Pledge of Allegiance was led by Recreation After School Program participants from Goodbar Recreation Center.

CONSENT AGENDA.

Item Nos. 3 and 7 were removed from the Consent Agenda to be considered separately. Mr. Noschese moved to approve the remaining items on the Consent Agenda, as follows. Motion was seconded by Mr. Forsythe and approved unanimously.

1. MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD AUGUST 18, 2008.
2. ORDINANCE NO. 3982 – APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION, REGARDING THE COMPANY’S RATE REVIEW FILING; DECLARING EXISTING RATES TO BE UNREASONABLE AND ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT, EFFECTIVE OCTOBER 1, 2008.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION (“ATMOS MID-TEX” OR “THE COMPANY”), REGARDING THE COMPANY’S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE

UNREASONABLE; 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'S 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 LEGAL COUNSEL. (Ordinance No. 3982 recorded on page of Ordinance Book No. 91.)

4. RESOLUTION NO. 40-2008 – AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL COOPERATIVE PURCHASING AGREEMENT WITH THE HARRIS COUNTY DEPARTMENT OF EDUCATION ALLOWING THE PURCHASE OF GOODS AND SERVICES.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE HARRIS COUNTY DEPARTMENT OF EDUCATION TO ESTABLISH A COOPERATIVE PURCHASING PROGRAM BETWEEN THE TWO ENTITIES. (Resolution No. 40-2008 recorded on page of Resolution Book No. 41.)

5. RESOLUTION NO. 41-2008 – AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE INTERLOCAL AGREEMENT WITH DALLAS COUNTY IN CONJUNCTION WITH THE DALLAS AREA HOUSEHOLD HAZARDOUS WASTE NETWORK FOR FISCAL YEAR 2008-09 IN AN AMOUNT NOT TO EXCEED \$78,500.00.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE DALLAS AREA HOUSEHOLD HAZARDOUS WASTE NETWORK INTERLOCAL AGREEMENT WITH DALLAS COUNTY FOR FISCAL YEAR 2008-09 FOR AN AMOUNT NOT TO EXCEED \$78,500.00; AND PROVIDING AN EFFECTIVE DATE THEREOF. (Resolution No. 41-2008 recorded on page of Resolution Book No. 41.)

6. BID NO. 2009-018 – MESQUITE POLICE FACILITY SPACESAVER SHELVING – AWARDED TO SOUTHWEST SOLUTIONS GROUP, ADDISON, TX, THROUGH AN INTERLOCAL COOPERATIVE PURCHASING AGREEMENT WITH U.S. COMMUNITIES IN THE TOTAL AMOUNT OF \$286,747.23.
8. CITY MANAGER AUTHORIZED TO EXECUTE A CHANGE ORDER TO CITY CONTRACT NO. 2008-009, ANNUAL MISCELLANEOUS CONCRETE REPAIRS AND ASPHALTIC CONCRETE REPAIRS AT VARIOUS LOCATIONS FOR FISCAL YEAR 2007-08, WITH B&B CONCRETE SAWING, INC., IN THE AMOUNT OF \$73,150.00.

9. CITY MANAGER AUTHORIZED TO EXECUTE A CHANGE ORDER TO AMENDMENT NO. 1, CITY CONTRACT NO. 2005-087, MESQUITE POLICE BUILDING PROJECT, WITH LEE LEWIS CONSTRUCTION, INC., FOR TWO RESTROOM FACILITIES AT CITY LAKE PARK IN AN AMOUNT NOT TO EXCEED \$547,757.00.
10. APPOINTMENT OF DR. JESSIE DOYAL AS THE COORDINATING PHYSICIAN FOR THE MESQUITE PUBLIC HEALTH CLINIC FOR A ONE-YEAR TERM TO EXPIRE SEPTEMBER 30, 2009.

CONSENT AGENDA ITEMS CONSIDERED SEPARATELY.

3. ORDINANCE NO. 3983 – AMENDING CHAPTER 9 OF THE CITY CODE PROHIBITING THE USE OF HANDHELD MOBILE TELEPHONES IN SCHOOL ZONES EFFECTIVE OCTOBER 1, 2008 – APPROVED.

Mr. Pickett expressed support for the proposed ordinance and stated that many communities have adopted similar ordinances as a safety measure.

Mayor Monaco stated that the City and the Mesquite Independent School District will work together to notify citizens of the approval of this ordinance which shall take effect October 1, 2008.

Mr. Pickett moved to approve Ordinance No. 3983, AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 9 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, BY ADDING A NEW SECTION 9-147(3) THEREBY PROHIBITING THE USE OF HANDHELD MOBILE TELEPHONES IN SCHOOL ZONES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE THEREOF. Motion was seconded by Ms. Roberts and approved by all voting “Aye.” (Ordinance No. 3983 recorded on page of Ordinance Book No. 91.)

7. BID NO. 2009-019 – PURCHASE OF SENTINEL SKY-WATCH UNIT WITH SOUND COMMANDER PUBLIC ADDRESS SYSTEM – AWARDED TO SOLE SOURCE PROVIDER ICX TACTICAL PLATFORMS IN THE AMOUNT OF \$85,696.00 – APPROVED.

Mr. Tarpley expressed support for the proposed ordinance and stated that the purchase of an additional sky-watch unit, utilizing funds from the police confiscated trust fund, will help to maintain and improve public safety for citizens.

Mr. Tarpley moved to award Bid No. 2009-019 – Purchase of Sentinel Sky-Watch Unit with Sound Commander Public Address System to sole source provider ICx Tactical Platforms in the amount of \$85,696.00. Motion was seconded by Mr. Pickett and approved unanimously.

END OF CONSENT AGENDA.

PUBLIC HEARINGS.

11. PUBLIC HEARING – ZONING – ZONING TEXT AMENDMENT NO. 2008-5 AND ORDINANCE NO. 3984 ADOPTING THE KAUFMAN-INTERSTATE 20 INTERIM DEVELOPMENT CODE THEREBY CONTROLLING THE USES, SITE DEVELOPMENT AND FORM OF BUILDINGS FOR ALL LAND, PUBLIC AND PRIVATE, WITHIN THE KAUFMAN-INTERSTATE 20 DISTRICT – APPROVED.

A public hearing was held to consider Zoning Text Amendment No. 2008-5 adopting the Kaufman-Interstate 20 Interim Development Code thereby controlling the uses, site development and form of buildings for all land, public and private, within the Kaufman-Interstate 20 District.

Richard Gertson, Director of Community Development, stated that the Mesquite Comprehensive Plan was recently amended to include an element for the Extraterritorial Jurisdiction (ETJ). The proposed amendment creates a new zoning district to be known as the Kaufman-Interstate 20 (K20) District and will govern development within the 2.2 square miles of annexed area located in Kaufman County. The K20 District is a floating zone and will attach to property upon approval of a regulating plan. Although the K20 District is primarily intended for application in the newly annexed area of Kaufman County, it can also be helpful for stand-alone New Urbanist developments in other parts of the city or as a plug-in code for development agreements in the ETJ.

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

Mr. Tarpley moved to approve Zoning Text Amendment No. 2008-5, as recommended by the Planning and Zoning Commission, and Ordinance No. 3984, 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 4-100 AND 4-1100 THEREBY CREATING A NEW ZONING CLASSIFICATION TO BE KNOWN AS THE KAUFMAN-INTERSTATE 20 FORM-BASED DISTRICT; ADOPTING THE KAUFMAN-INTERSTATE 20 INTERIM DEVELOPMENT CODE THEREBY CONTROLLING THE USES, SITE DEVELOPMENT AND FORM OF BUILDINGS FOR ALL LAND, PUBLIC AND PRIVATE, WITHIN THE KAUFMAN-INTERSTATE 20 DISTRICT; 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 Ms. Roberts and approved by all voting "Aye." (Ordinance No. 3984 recorded on page of Ordinance Book No. 91.)

12. PUBLIC HEARING – ZONING – APPLICATION NO. KAUFMAN-1 AND ORDINANCE NO. 3985 DESIGNATING AND CLASSIFYING ALL PROPERTIES WITHIN THE CITY OF MESQUITE LOCATED EAST OF THE EAST FORK OF THE TRINITY RIVER AS SUBJECT TO THE APPLICATION OF THE NEW KAUFMAN-INTERSTATE 20 DISTRICT FLOATING ZONE CLASSIFICATION AT SUCH TIME AS PROPERTIES ARE DEVELOPED – APPROVED.

A public hearing was held to consider Application No. Kaufman-1 designating and classifying all properties within the City of Mesquite located east of the East Fork of the Trinity River as subject to the application of the new Kaufman-Interstate 20 floating zone classification at such time as properties are developed.

Richard Gertson, Director of Community Development, stated the proposed ordinance does not rezone property within the Kaufman-Interstate 20 District until and unless the property develops in the future.

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

Mr. Noschese moved to approve Application No. Kaufman-1, as recommended by the Planning and Zoning Commission, and Ordinance No. 3985, 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 DESIGNATE AND CLASSIFY ALL PROPERTIES WITHIN THE CITY OF MESQUITE LOCATED EAST OF THE EAST FORK OF THE TRINITY RIVER AS SUBJECT TO THE APPLICATION OF THE NEW KAUFMAN-INTERSTATE 20 DISTRICT FLOATING ZONE CLASSIFICATION AT SUCH TIME AS PROPERTY IS DEVELOPED; 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. Forsythe and approved by all voting “Aye.” (Ordinance No. 3985 recorded on page of Ordinance Book No. 91.)

13. PUBLIC HEARING – ZONING – APPLICATION NO. 190-9 AND ORDINANCE NO. 3986 AMENDING PD NO. 3873 PLANNED DEVELOPMENT – GENERAL RETAIL TO MODIFY THE CONCEPT PLAN AND CHANGE THE PROPERTY DESCRIPTION ON A 0.93-ACRE TRACT LOCATED ON THE NORTH SIDE OF CARTWRIGHT ROAD AND APPROXIMATELY 400 FEET WEST OF BELT LINE ROAD – APPROVED WITH CERTAIN STIPULATIONS.

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A public hearing was held to consider Application No. 190-9 submitted by Marc Bentley, P.E., amending PD No. 3873 Planned Development – General Retail to modify the concept plan and change the property description. This property is further described as a 0.93-acre tract located on the north side of Cartwright Road and approximately 400 feet west of Belt Line Road.

Doug Galbraith, MPI Architects, stated that the project consists of a 3,850-square-foot bank building located on Cartwright Road. The requested amendment is a result of a modification in the proposed development which shifts the building 20 feet to the west and relocates the driveway entrance.

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

Mr. Pickett moved to approve Application No. 190-9, as recommended by the Planning and Zoning Commission, with the following stipulations:

1. Development of the site shall conform generally to the concept plan and subject to the City's environmental and site development regulations.
2. Only uses that are classified under the following SIC codes shall be permitted:

Retail:	56	Apparel, Accessory Stores	
	57	Furniture, Home Furnishings	
	58	Eating, Drinking Places	
	594	Miscellaneous Shopping Goods Stores	Except 5947, Gift, Souvenir Shops
	5992	Florists	
	5995	Optical Goods Stores	
Finance, Insurance, Real Estate:	60-67	Depository Institutions, Security & Commodity Services, Insurance Carriers, Agents, Brokers, Real Estate, Holding Companies	Except 61, Nondepository Institutions
Services:	722	Photographic, Portrait Studios	
	7291	Tax Preparation Services	
	7299	Tanning Salon only	
	7334	Photocopying, Duplicating Services	
	80	Health Services	
	81	Legal Services	
	82	Educational Services	
	83	Social Services	
	87	Engineering, Accounting, Research, Management Services	
3. Architectural design, landscaping, and screening shall be consistent with the proposed Community Appearance Manual.
4. The interior side yard setback shall be five feet.

And to approve Ordinance No. 3986, 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 ALLOW FOR CHANGES IN THE CONCEPT PLAN AND THE PROPERTY DESCRIPTION ON PROPERTY CURRENTLY ZONED PLANNED DEVELOPMENT – GENERAL RETAIL SUBJECT TO CERTAIN STIPULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; 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. 3986 recorded on page _____ of Ordinance Book No. 91.)

14. A. PUBLIC HEARING – RECEIVE INPUT FROM CITIZENS REGARDING THE PROPOSED 2008-09 CITY BUDGET – HELD.

A public hearing was held regarding the proposed 2008-09 City budget.

No one appeared regarding the proposed 2008-09 City budget. Mayor Monaco declared the public hearing closed.

- B. CONSIDER AN ORDINANCE APPROVING THE BUDGET FOR FISCAL YEAR 2008-09 AND APPROPRIATING THE NECESSARY FUNDS FOR THE MAINTENANCE AND OPERATION OF THE CITY AND FOR ACTIVITIES AND IMPROVEMENTS AS SET FORTH IN THE BUDGET – POSTPONED UNTIL THE SEPTEMBER 15, 2008, CITY COUNCIL MEETING.

Mr. Pickett moved to postpone consideration of an ordinance approving the budget for fiscal year 2008-09 and appropriating the necessary funds for the maintenance and operation of the City and for activities and improvements as set forth in the budget until the September 15, 2008, City Council meeting. Motion was seconded by Mr. Tarpley and approved unanimously.

RECEIPT OF RESIGNATION AND APPOINTMENTS TO BOARDS AND COMMISSIONS.

15. RESIGNATION RECEIVED FROM JACK AKIN AS A MEMBER OF THE BOARD OF ADJUSTMENT AND AUTOMATED TRAFFIC SIGNAL ENFORCEMENT ADVISORY COMMITTEE.

Ms. Roberts moved to accept the resignation of Jack Akin as a member of the Board of Adjustment and Automated Traffic Signal Enforcement Advisory Committee. Motion was seconded by Mr. Pickett and approved unanimously.

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16. APPOINTMENT OF FIVE MEMBERS TO THE ANIMAL CONTROL ADVISORY COMMITTEE FOR TERMS TO EXPIRE SEPTEMBER 8, 2010.

Mr. Pickett moved to reappoint Andy Wise, Cliff Keheley, Karen McLeod-Ellis, Dr. Michelle Quinn and Jimmy Stephens as members of the Animal Control Advisory Committee for terms to expire September 8, 2010. Motion was seconded by Mr. Noschese and approved unanimously.

17. APPOINTMENT OF ONE MEMBER TO THE KEEP MESQUITE BEAUTIFUL, INC., BOARD OF DIRECTORS FOR A TERM TO EXPIRE DECEMBER 31, 2010.

Mr. Forsythe moved to appoint Susie Court as a member of the Keep Mesquite Beautiful, Inc., Board of Directors for a term to expire December 31, 2010. Motion was seconded by Mr. Noschese and approved unanimously.

The meeting adjourned at 3:25 p.m.

Judy Womack
City Secretary

John Monaco
Mayor