

MINUTES OF WORK AND REGULAR CITY COUNCIL MEETING HELD BEGINNING AT NOON, JANUARY 20, 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 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) concept plans for City-owned property located in the Town East Retail and Restaurant Area (TERRA) and (2) proposed construction plans for the City Hall/Municipal Court project.

(1) It was Council consensus to proceed with construction plans and bidding process for the City Hall/Municipal Court project.

**EXECUTIVE SESSION – CITY COUNCIL CONFERENCE ROOM – 1:49 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 1:54 p.m., the City Council reconvened in Open Session.

No executive action was necessary.

**WORK SESSION – CITY COUNCIL CHAMBER – 1:20 P.M.**

A. **MONTHLY FINANCIAL REPORT FOR SEPTEMBER 2008 – RECEIVED.**

Don Simons, Director of Finance, presented the monthly financial report for September 2008.

B. **INVESTMENT REPORT FOR THE QUARTER ENDING DECEMBER 31, 2008 – RECEIVED.**

Don Simons, Director of Finance, presented the Investment Report for the quarter ending December 31, 2008.

The Work Session ended at 1:41 p.m.

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

Invocation was given by Bruce Archer, Pastor, At The Cross Church of Christ, Mesquite, Texas.

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

**SPECIAL ANNOUNCEMENT.**

Mayor Monaco recognized City Secretary Judy Womack for her 25 years of service to the City of Mesquite.

**CONSENT AGENDA.**

Item No. 4 was 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.

1. MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD JANUARY 5, 2009.
2. ORDINANCE NO. 4026 – AMENDING CHAPTER 5 OF THE CITY CODE REGARDING CERTAIN PERMIT FEE EXEMPTIONS FOR BUILDING CONSTRUCTION AND REMODELING.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE CODE OF THE CITY OF MESQUITE BY DELETING SECTIONS 5-20(F) AND 5-96 IN THEIR ENTIRETY AND ADDING A NEW SECTION 5-20(F) PERTAINING TO CERTAIN FEE EXEMPTIONS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE THEREOF. (Ordinance No. 4026 recorded on page                      of Ordinance Book No. 92.)

3. ORDINANCE NO. 4027 – AMENDING CHAPTER 11 OF THE CITY CODE REGARDING GRADING PERMITS, PERMIT FEES AND DEPOSITS.

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 11 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, BY DELETING SECTION 11-55 IN ITS ENTIRETY AND INSERTING A NEW SECTION 11-55 THEREBY CHANGING THE EXEMPTIONS TO THE GRADING PERMIT, PERMIT FEE AND DEPOSIT CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREOF. (Ordinance No. 4027 recorded on page                      of Ordinance Book No. 92.)

5. BID NO. 2009-040 – PURCHASE OF A MOBILE COMMUNICATIONS TRAILER – ALL BIDS REJECTED AND REBID AT A LATER DATE.
6. BID NO. 2009-064 – ANNUAL CONTRACT FOR COLD MILLING MACHINE WITH OPERATOR AND HELPER – AWARDED TO DUSTROL, INC., THROUGH AN INTERLOCAL COOPERATIVE PURCHASING AGREEMENT WITH TARRANT COUNTY, IN AN AMOUNT NOT TO EXCEED \$75,000.00.

7. BID NO. 2009-073 – NORTHRIDGE ADDITION SANITARY SEWER LINING UNDER IH 635 – CITY MANAGER AUTHORIZED TO EXECUTE A CONTRACT WITH INSITUFORM TECHNOLOGIES, INC., THROUGH BUYBOARD, SPONSORED BY THE TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE CONTRACT, IN THE AMOUNT OF \$63,133.60.
8. CITY MANAGER AUTHORIZED TO EXECUTE AMENDMENT NO. 2 TO CONTRACT NO. 27-7670 WITH FUGRO CONSULTANTS, INC., FOR CONSTRUCTION MATERIALS TESTING FOR THE MESQUITE POLICE BUILDING PROJECT IN THE AMOUNT OF \$5,284.00.
9. CHANGE ORDER REPORT RECEIVED FROM CITY MANAGER.  
(CE 27-7215, Art Center Parking Lot Expansion and Utility Relocation Project, Engineering Design Contract – \$1,092.12; CE 28-8480, Pioneer Road Acquisition Service – \$0.00; and CE 2008-028/28-8200, Annual Landscape Maintenance of Creek Crossing Medians and Landscape Areas – \$2,240.00.)

**CONSENT AGENDA ITEM CONSIDERED SEPARATELY.**

4. 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 – POSTPONED UNTIL THE FEBRUARY 2, 2009, CITY COUNCIL MEETING.

Mr. Forsythe moved to postpone 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 until the February 2, 2009, City Council meeting. Motion was seconded by Ms. Roberts and approved unanimously.

**END OF CONSENT AGENDA.**

**PUBLIC HEARINGS.**

10. PUBLIC HEARING – ZONING – APPLICATION NO. 1095-47A SUBMITTED BY GAMESTOP, INC., AND ORDINANCE NO. 4028 FOR A ZONING CHANGE FROM COMMERCIAL WITH TERRA OVERLAY TO COMMERCIAL WITH TERRA OVERLAY WITH A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF USED DVDS, VIDEOS, VIDEO GAMES AND VIDEO GAMING EQUIPMENT AT 2050 AND 2051 TOWN EAST MALL – APPROVED WITH CERTAIN STIPULATIONS.

A public hearing was held to consider Application No. 1095-47A submitted by Gamestop, Inc., for a zoning change from Commercial with TERRA overlay to Commercial with TERRA overlay with a Conditional Use Permit to allow the sale of used DVDs, videos, video games and video gaming equipment in an expanded lease space of 1,380 square feet. This property is further described as part of a 28-acre tract in Abstract 1095, Sheet 1, Tract 3, located at 2050 and 2051 Town East Mall.

Sverselerna Gipson, District Manager for Gamestop, Inc., requested an amendment to the existing Conditional Use Permit (CUP) to allow for an expansion of the existing CUP in the 1,380 square feet of lease space located at Town East Mall. The current CUP requires all used merchandise to be contained within 690 square feet of the retail store's space. If an amended CUP is approved, the used and new merchandise will be combined throughout the entire 1,380-square-foot space.

John Craddock, Store Manager for Gamestop, Inc., stated that the Town East Mall store contains approximately 10 percent of used merchandise and the amount of used merchandise will not be increased with the CUP's expansion. He stated that this location focuses mainly on new merchandise, unlike other Gamestop stores that focus strongly on the sale and trading of used merchandise.

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

Mr. Noschese moved to approve Application No. 1095-47A with stipulations recommended by the Planning and Zoning Commission, modifying Stipulation Nos. 3 and 12, as follows:

1. The Conditional Use Permit ("CUP") is jointly issued to Game Stop, Inc., and General Growth Properties who shall be jointly and separately responsible for complying with all stipulations.
2. The CUP may not be assigned, transferred or alienated.
3. The used merchandise shall be limited to video games and video game equipment. It shall not include the sale of any other used merchandise.
4. Merchandise display shall be orderly and similar in style and organization to typical displays at general merchandise and department stores.
5. No display of used merchandise shall be permitted outside the establishment.
6. All display merchandise shall be clean and operational. The display of severely damaged items is prohibited.
7. No signage advertising the buying or selling of used merchandise shall be visible from the outside of the establishment.
8. The CUP shall automatically terminate when Game Stop, Inc., vacates or for any reason no longer occupies the subject property lease space.
9. All used merchandise shall be in its original packaging and shrink-wrapped. Handwritten labels shall not be used or permitted.
10. Previously owned merchandise shall be marked as "pre-owned" or "pre-played."

11. 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.
12. One conviction for violation of this CUP during any 12-month period shall result in the automatic revocation of this CUP.

And to approve Ordinance No. 4028, 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 WITH TERRA OVERLAY THEREBY ALLOWING 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 DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY. Motion was seconded by Mr. Pickett and approved by all voting "Aye." (Ordinance No. 4028 recorded on page of Ordinance Book No. 92.)

11. PUBLIC HEARING – ZONING – APPLICATION NO. 1462-263 SUBMITTED BY CAROLYN MILLER AND ORDINANCE NO. 4029 FOR A ZONING CHANGE FROM GENERAL RETAIL TO PLANNED DEVELOPMENT – GENERAL RETAIL TO ALLOW THE PROPERTY TO BE USED FOR A HEATING AND AIR CONDITIONING BUSINESS AT 1320 E. US HIGHWAY 80 – APPROVED WITH CERTAIN STIPULATIONS.

A public hearing was held to consider Application No. 1462-263 submitted by Carolyn Miller for a zoning change from General Retail to Planned Development – General Retail to allow the property to be used for a heating and air conditioning business. This property is further described as part of the Miles Smith Survey, Block A, Lot 15, located at 1320 E. US Highway 80.

Carolyn Miller, 920 Lakeland Drive, stated that the potential buyer is proposing to use the property for a heating and air conditioning business.

Stan Coker, potential buyer of the property, stated that he plans to install security cameras at this location to help secure the property.

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

Mr. Pickett moved to approve Application No. 1462-263 with stipulations recommended by the Planning and Zoning Commission as follows:

1. Only uses that are classified under the following Standard Industrial Classification (SIC) codes shall be permitted:  
Construction: 171 Plumbing, Heating, Air Conditioning

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
Finance, Insurance, Real Estate:	5995	Optical Goods Stores
	60-67	Depository Institutions, Security & Commodity Services, Insurance Carriers, Agents & Brokers, Real Estate, Holding Companies Except 60a, Alternative Financial Establishments, 61, Nondepository Institutions
	722	Photographic, Portrait Studios
	7291	Tax Preparation Services
	7299	Tanning Salon Only
Services:	7334	Photocopying, Duplicating Services
	80	Health Services
	81	Legal Services
	82	Educational Services
	83	Social Services
	87	Engineering, Accounting, Research, Management Services

2. Removal of the existing pole sign located on the site.
3. The existing structure shall comply with the Community Appearance Manual.
4. Outdoor storage shall be prohibited with the exception of three one-ton service vehicles.
5. The location of the three service vehicles shall be located to the rear of the parking lot and shall be screened placing two large shade trees at the northwest corner of the lot screening the storage of the vehicles from the freeway.
6. Two large shade trees shall be placed in front of the building east of the driveway.
7. The fencing along the frontage of the property shall consist of wrought iron.
8. A masonry screening wall shall be installed with a tree buffer line along the rear of the property adjacent to residential properties.

And to approve Ordinance No. 4029, 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 GENERAL RETAIL TO PLANNED DEVELOPMENT – GENERAL RETAIL THEREBY ALLOWING A HEATING AND AIR CONDITIONING BUSINESS 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 Ms. Roberts and approved by all voting “Aye.” (Ordinance No. 4029 recorded on page                      of Ordinance Book No. 92.)

12. PUBLIC HEARING – ZONING – APPLICATION NO. 944-1 SUBMITTED BY TOMMY MANN AND KIRK WILLIAMS, WINSTEAD, PC, AND ORDINANCE NO. 4030 FOR A ZONING CHANGE FROM R-1 SINGLE FAMILY AND AGRICULTURAL TO PLANNED DEVELOPMENT – MIXED USE ON TRACT 1 AND FROM AGRICULTURAL TO PLANNED DEVELOPMENT – MIXED USE ON TRACT II AT THE NORTHWEST CORNER OF GREENBELT PARKWAY AND IH 30 – APPROVED WITH CERTAIN STIPULATIONS.

A public hearing was held to consider Application No. 944-1 submitted by Tommy Mann and Kirk Williams, Winstead PC, for a zoning change from R-1 Single Family and Agricultural to Planned Development – Mixed Use on Tract 1 and from Agricultural to Planned Development – Mixed Use on Tract II in the E.T. Myers Survey, Abstract 944. This property is further described as a 12.79-acre tract located at the northwest corner of Greenbelt Parkway and IH 30. This item was postponed at the November 3, 2008, December 1, 2008 and December 15, 2008, City Council meetings.

Kirk Williams, Winstead PC, stated that since the December 15, 2008, City Council meeting, the application has once again been presented to the Planning and Zoning Commission and he has worked with staff to acquire a workable plan. This Planned Development meets the I-30 Gateway Corridor requirements and includes an International House of Pancakes (IHOP) and Discount Tire Center. He stated that a 9.58-acre tract out of the 12.79 acres will be conveyed to the City of Mesquite to be utilized for extension of the trail system from IH 30 to the trailhead on Greenbelt Parkway. In addition to the plaza and street trees, the site will contain extensive landscaping at the edges, civic space and parking islands.

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

Councilmembers expressed appreciation to Mr. Williams for his flexibility and willingness to work with staff to meet the City's objectives regarding the I-30 Gateway Corridor and Community Appearance Manual standards.

Mr. Pickett moved to approve Application No. 944-1 with stipulations recommended by the Planning and Zoning Commission as follows:

1. Concept Plan – The Planned Development (“PD”) shall be developed consistent with the Concept Plan in Exhibit “A” of the ordinance. Where the Concept Plan and PD ordinance text are in conflict, the ordinance text shall govern.
2. The uses permitted with the PD may include and shall be limited to the following:
  - a. SIC Group 54 Food Stores, Except SIC 549: Miscellaneous Food Stores
  - b. SIC Code 5812 Eating, Drinking Places, Except SIC 5812a: Drive-In Restaurants
  - c. SIC Code 5992 Florists

- d. SIC Group 64 Insurance Agents, Brokers
  - e. SIC Group 72 Personal Services, Except SIC 721: Laundry, Cleaning, Garment Services and SIC 7299: Miscellaneous Personal Services
  - f. SIC Group 73 Business Services, Except SIC 734-738
  - g. SIC Code 753a Minor Automotive Repair, Services, provided that such use shall be limited to one in number and approved by a non-transferable Conditional Use Permit. A Conditional Use Permit is hereby granted to Discount Tire Center and its corporate successors.
  - h. SIC Group 80 Health Services, Except SIC 806: Hospitals
  - i. SIC Group 81 Legal Services
  - j. SIC Group 87 Engineering, Accounting, Research, Management Services
3. Used merchandise sales, including used tires, shall be prohibited. All minor automotive repair and services shall be performed within a building.
4. Signage
- a. One monument sign shall be permitted within the PD. The sign may be used to advertise any use permitted and operating within the PD, regardless of individual lot lines, and shall be considered on-premises signage. Except as provided herein, said sign shall conform to the standards of the Sign Ordinance.
  - b. The height of the sign shall not exceed 15 feet from grade. The monument width shall not exceed 10 feet.
  - c. The sign face shall not exceed 80 square feet.
5. Landscaping shall include:
- a. All trees and landscape planting materials shall consist of heat and drought-tolerant plants as identified in Exhibit "B" of the ordinance: Xeriscape – North Texas.
  - b. One large shade tree at a maximum of every 30 feet measured on center along IH 30, Greenbelt Parkway and sidewalks adjacent to the buildings.
  - c. All trees planted along the street and within the sidewalk tree wells shall consist of large shade trees with an "oval" or "ball" form tree as identified in Exhibit "B" of the ordinance.
  - d. All parking islands shall be landscaped with grasses, perennials and shrubs.
  - e. Parking screens shall be provided as follows:
    - i. Along IH 30 consisting of woody annuals, perennial and annual native plants along with shrubs. The shrubs shall be installed with a minimum height of three feet and maintained at a minimum height of four feet at maturity.
    - ii. Along Greenbelt Parkway consisting of zebra grass with a minimum height of four feet.
6. Fences and Screening – The requirement for masonry screening walls from residential zoned properties shall not apply for the PD.
7. Outdoor Display and/or Storage shall be prohibited.
8. Pedestrian Facilities



- a. The sidewalks adjacent to the buildings along IH 30 and Greenbelt Parkway shall be 10 feet wide with five foot by five foot tree wells with grates located every 30 feet on center at the outside edge of the sidewalk.
  - b. The pedestrian plaza located between the two buildings shall consist of the following:
    - i. A pedestrian linkage from the parking lot to the south and to the parking to the north.
    - ii. The pedestrian plaza shall be screened from the northern parking area with a solid living landscape screen consisting of shrubs, woody annuals, perennial and annual native plants at a minimum height of six feet.
    - iii. No more than 50 percent of the pedestrian plaza shall be hardscaped.
    - iv. Pedestrian furniture.
    - v. Bike rack.
9. Civic Space and Trails
- a. The unimproved area located at the northeast corner of the PD shall be identified as a Civic Space with the following:
    - i. One large shade tree at a maximum of every 30 feet measured on center along Greenbelt Parkway and the northern boundary line.
    - ii. The adjacent parking area shall be visually screened from the Civic Space with ornamental trees placed every 25 feet on center, shrubs and woody annuals at a minimum height of five feet.
  - b. The City shall have the right, but not the obligation, to use a portion of the Civic Space on the Concept Plan as a trailhead for the Mesquite Parks and Trails System, and may install and maintain trailhead improvements at its expense within the Civic Space.
  - c. At the time of platting, the applicant shall dedicate to the City for public use the 9.58-acre tract which may be used for an extension of the City's Master Trail System connecting the southwest corner of the subject property to the trailhead area located within the Civic Space.
10. Building Appearance and Form Standards
- a. Maximum height – none.
  - b. There shall be no building setback requirements in the PD except as provided herein. Buildings shall align and be located as shown in the Concept Plan.
  - c. Buildings and site design shall comply with the Community Appearance Manual. All facades shall include 100 percent unitized masonry excluding architectural features required by the Manual. Façade elevations for the Discount Tire Center shall conform substantially to Exhibit "C" of the ordinance, and subject to final approval per the Community Appearance Manual. The building closest to the intersection of IH 30 and Greenbelt Parkway shall include a corner tower as a massing element that is at least 20 percent taller than the adjacent façade cap.
11. Parking
- a. Parking shall be provided as generally shown on the Concept Plan.
  - b. All parking rows shall be bounded by a landscaped area or a landscaped parking island.

- c. All parking spaces within the PD shall be shared between all uses regardless of individual lot lines.
- d. The parking area adjacent to the Civic Space shall be accessible to and may be used by the general public for access to the trailhead.

And to approve Ordinance No. 4030, 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 R-1 SINGLE FAMILY AND AGRICULTURAL TO PLANNED DEVELOPMENT – MIXED USE ON TRACT I AND FROM AGRICULTURAL TO PLANNED DEVELOPMENT – MIXED USE ON TRACT II 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 Mr. Tarpley and approved by all voting “Aye.” (Ordinance No. 4030 recorded on page \_\_\_\_\_ of Ordinance Book No. 92.)

**APPOINTMENT TO BOARDS AND COMMISSIONS.**

- 13     APPOINTMENT OF ONE MEMBER TO THE MESQUITE INDUSTRIAL DEVELOPMENT CORPORATION FOR A TERM TO EXPIRE JANUARY 28, 2012.

Mr. Pickett moved to reappoint Shirley Roberts as a member of the Mesquite Industrial Development Corporation for a term to expire January 28, 2012. Motion was seconded by Mr. Tarpley and approved unanimously.

Ms. Roberts moved to adjourn the meeting. Motion was seconded by Mr. Noschese and approved unanimously. The meeting adjourned at 3:48 p.m.

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Judy Womack  
City Secretary

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John Monaco  
Mayor