City of Grand Prairie

City Hall
317 College Street
Grand Prairie, Texas

Minutes - Final
City Council

Tuesday, November 20, 2012 | **4:30 PM** | **Council Chambers**

Call to Order

Mayor England called the meeting to order at 4:35 p.m.

Present 8 -
Mayor Charles England; Mayor Pro Tem Ron Jensen; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Tony Shotwell; Council Member Jim Swafford and Council Member Bill Thorn

Absent 1 -
Council Member Richard Fregoe

Staff Presentations

1 Public Safety Internship Program - Presented by Police Chief Steve Dye and Fire Chief Clif Nelson

Ms. Filicia Hernandez, City Manager's Intern, stated this program was designed to bridge the gap between high school and when students would be able to join the police force and fire department. She said that the city would be coordinating with Dubiski High School, the Grand Prairie High School Magnet School and students from the Explorer Program. Student interns will be provided with job training and development and will be provided with higher-level education asupport as well as tuition reimbursement. The Police Department will have four interns who will perform various duties that do not require peace officer authority and the Fire Department will have two interns working under the direction of an assigned supervisor throughout various divisions (i.e. EMS billing, survey data collection, administrative duties, etc.).

Council Member Hepworth asked if the program would be open to some Grand Prairie young men or women who are already 19-20. Chief Dye said the program would be open to anyone and will will take 9-12 months to get it into operation. He said there are already four good candidates who are seniors. Mr. Hepworth asked if he would consider anyone who has ties to the Grand Prairie community. Chief Dye said he had discussed this with Mr. Hart and the first choice would go to Grand Prairie students.

Council Member Giessner asked how many hours this program would save regular police officers. Chief Dye said it would save more than 80 hours a week. Mayor England asked if the interns would be in the field. Chief Dye said that on the police side they would be out in pickups (to carry cones and haul equipment, etc.), but fire department interns will be inside. The police interns can do some of the same duties that Citizens on Patrol are doing.

Council Member Swafford asked if the interns would be working in both fire and police. Chief Dye said they would stay in one department or the other. Mr. Hart commended Chief Dye for instituting the program. He said the departments will

already have information on these interns and they will be feeding into full-time positions.

Presented

Agenda Review

Mayor England asked to table Item 8 (Ordinance amending Chapter 18, "Parks and Recreation" of the Code of Ordinances). Council Member Hepworth asked if tabling this item would affect Item 19 (Official naming of Jeremy Wariner Train at Central Park). Mr. Postell said it would not.

Executive Session

Mayor England convened a closed session at 5:00 p.m. pursuant to Chapter 551, Section 551.071, "Consultation with Attorney," Subchapter D of the Government Code, V.T.C.A., to discuss Section 551.071 "Consultation with Attorney" City of Grand Prairie v. Winn Gjetley Cause No. CC-11-07832-E, DC-11-08305-J.

The executive session was adjourned at 5:30 p.m.

Recess Meeting

Mayor England recessed the meeting at 5:30 p.m.

6:30 PM Council Chambers

Mayor England reconvened the meeting at 6:31 p.m.

Glenn Cato, Police Volunteer Chaplain, gave the invocation. The Pledge of Allegiance to US Flag and to the Texas Flag was led by Council Member Jim Swafford.

Consent Agenda

Deputy Mayor Pro Tem Ruthe Jackson moved, seconded by Council Member Shotwell, to approve Items 2 through 7 on the Consent Agenda, postpone Item 8, and approve items 9 through 12. The motion carried unanimously.

2 Minutes of the November 6, 2012 Meeting

Approved on the Consent Agenda

3 Contract with Absolute, Inc. to migrate Lawson off Velocity to City of Grand Prairie's Data Center - Windows 2008 Platform in the amount of $72,000 for an estimated 360 hours.

Approved on the Consent Agenda

4 Contract with LandWorks for landscape maintenance for $120,292 in Forum Estates PID (Council District 4)

Approved on the Consent Agenda

5 Contract with LandWorks for landscape maintenance for $82,531 in High Hawk PID (City Council District 6)

Approved on the Consent Agenda

6 Engineering services contract with Kimley-Horn and Associates, Inc. in the amount of $94,500, for the design of traffic signals at Dickey Road at SH 161 NBFR, SW 14th Street at SH 161 SBFR, January Lane at SH 161 SBFR, Hill Street at SH 161 NBFR, Brady Lane at Pioneer Pkwy, S. Carrier Pkwy at Desco Lane, MacArthur Blvd at City Landfill, and MacArthur Blvd at Industrial Driveway

Approved on the Consent Agenda

7 Purchase of 47 handheld ticket writers from Tyler Technologies in the amount of $199,261

Approved on the Consent Agenda

8 Ordinance amending the Code of Ordinance, Chapter 18, "Parks and Recreation," Section 18-29.1 "Naming parklands, park roads, major improvements and facilities" to includ recognition of Grand Prairie citizens who have attained prominence in their field of endeavor

Postpone

9 Ordinance amending the FY 2012/2013 Street Sales Tax Maintenance Capital Projects Budget in order to complete the Annual Street Maintenance Program - Grand Prairie Streets, Alleys and Pavement Leveling, utilizing approved Price Agreements and Service Contracts

Adopted

10 Ordinance authorizing the abandonment of an unneeded utility easement at 4948 Eyrie Court in High Hawk at Martin's Meadow

Adopted

11 Ordinance amending the FY 2012/2013 Capital Improvement Projects Budget for $400,000 to provide funding to repair utility cuts

Adopted

12 Resolution authorizing local bid preference; and award bids for the purchase

of four (4) Chevrolet Pickups, forty (40)Tahoes, and one (1) Suburban to Graff Chevrolet in the amount of $1,227,446, and award bid to Grapevine Dodge for ten (10) mid-size sedans in the amount of $171,880

Adopted

Public Hearing Consent Agenda

13 SU111102A - Specific Use Permit Renewal - 3055 Kingswood Boulevard (City Council District 6). Approval of the renewal of a Specific Use Permit for a general automotive shop on 0.5820 acres that also includes the following activities: indoor tire sales, oil/lube and tune service, engine/major component repair, state inspection services, and muffler repair. The subject property is zoned Planned Development 178 (PD-178) District and is located east of the intersection of Kingswood Boulevard and State Highway 360. The subject property is located within the State Highway 360 (SH-360) Corridor Overlay District. The owner/applicant is Diab M. Alia. (On November 26, 2012, the Planning and Zoning Commission recommended approval of this request by a vote of 8-0.)

Mayor Pro Tem Jensen moved, seconded by Council Member Thorn, to close the public hearing and table Case SU111102A. The motion carried unanimously.

Ayes: 8 - Mayor Charles England; Mayor Pro Tem Ron Jensen; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Tony Shotwell; Council Member Jim Swafford and Council Member Bill Thorn

Public Hearing on Zoning Applications

14 S121102 - Site Plan - 247 Gilbert Circle (City Council District 1). Approval of a Site Plan for office and warehouse uses on 2.888 acres. The subject property is zoned Light Industrial (LI) District and is within the State Highway-161 Overlay District. The property is generally located south of W. Rock Island Road on the eastern side of Gilbert Circle. The owner/applicant is Larry Causey and the agent is Walter Nelson. (On November 5, 2012, the Planning and Zoning Commission recommended approval of this request by a vote of 9-0.)

Mr. Crolley noted an email from an adjacent homeowner, Monique Henley, opposing this case. He said there may be some confusion as to what is actually part of this request. He said staff verified that the applicant is the owner of this site according to the tax rolls. The site plan is for a warehouse and north of this property is a sign company in Light Industrial (LI) and to the south is a residential structure but it is zoned LI. He said there will be two spec warehouses; one will be 12,000 sq. ft. and the other will be 4,000 sq. ft. There is one access off of Gilbert. The applicant did not request any appeals.

Walter Nelson, 1812 Carla Avenue, Arlington, TX, said the applicant was not asking

for appeals, but there is a discrepancy in ownership. This was originally three lots and this is the third lot. There was a court-ordered separation of the property. The discrepancy comes from where Mr. Causey had purchased this lot and the part that is disputed is not part of this property.

Council Member Swafford asked what the plans were when the dispute is settled. Mr. Nelson said he understood that Mr. Causey owns 2/3 of that tract and he is trying to find a land swap for the other third. It may just sit there as a park and Mr. Causey has agreed to maintain that portion. Mr. Swafford said it appeared from the site plan it would become part of the parking. Mr. Nelson said the applicant would like a cross access to the other property and a driveway off of Gilbert and he may come back and ask for a cross access.

Council Member Hepworth moved, seconded by Mayor Pro Tem Jensen, to close the public hearing and approve Case S121102. The motion carried unanimously.

Ayes: 8 -
Mayor Charles England; Mayor Pro Tem Ron Jensen; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Tony Shotwell; Council Member Jim Swafford and Council Member Bill Thorn

15 S121103 - Site Plan - 1510 Shady Grove Road (City Council District 1). Approval of a site plan for an office warehouse and light manufacturing facility on 6.122 acres. The subject property is zoned Light Industrial (LI) District and is within the State Highway-161 Overlay District. The property is generally located east of Roy Orr Boulevard on the north side of W. Shady Grove Road. The owner is Texas Dugan LP, Jeff Thornton, c/o Duke Realty Corp., the applicant is David R Lithe, and the agent is Christopher Barboza. (On November 5, 2012, the Planning and Zoning Commission recommended approval of this request by a vote of 9-0.)

Mr. Crolley said this case was a site plan for a warehouse in the SH161 Overlay District. He said the Planning and Zoning Commission recommended approval of the case. He said there will be one warehouse which will be 70,000 sq. ft. and it will have office and storage in the back of the property. There is an easement at the rear of this property. The area not paved with concrete will not have any outside storage.

Christopher Barbosa, 6621 Fairfield Street, Houston, TX, was present to answer questions.

Council Member Hepworth moved, seconded by Council Member Giessner, to close the public hearing and approve Case S121103. The motion carried unanimously.

Ayes: 8 -
Mayor Charles England; Mayor Pro Tem Ron Jensen; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Tony Shotwell; Council Member Jim Swafford and Council Member Bill Thorn

16 SU121101 - Specific Use Permit - 135 S.E. 16th Street (City Council District 5). Approval of a Specific Use Permit for an auto body shop with paint booths on .559 acres. The subject property is zoned Light Industrial (LI) District and is located within Central Business District 3 (CBD-3) Overlay

District. The property is generally located south of E. Main Street and east of S.E. 14th Street. The owner/applicant is Juan Barbosa and the agent is E.D. Hill. (On November 5, 2012, the Planning and Zoning Commission recommended approval of this request by a vote of 9-0.)

Mr. Crolley stated this SUP is for an auto body shop with paint booth and is located just south of Main Street where there are many auto-related businesses. He said when the building was built there was some confusion as to whether masonry was required off 16th Street. All buildings in the area are metal and staff supports this request for metal in lieu of masonry.

E. D. Hill, 1810 Plum creek, Midlothian, TX, was present to answer questions.

Council Member Hepworth moved, seconded by Council Member Giessner, to close the public hearing and approve Case SU121101. The motion carried unanimously.

Ayes: 8 -

Mayor Charles England; Mayor Pro Tem Ron Jensen; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Tony Shotwell; Council Member Jim Swafford and Council Member Bill Thorn

17 Z121101/CP121101 - Zoning Change/Concept Plan - Berkshire Park Phase 2 (City Council District 2). Approval of a Zoning Change from Planned Development 299 (PD-299) District for Zero Lot Line (ZLL) uses to a Planned Development District for Single Family Detached Residential Use and a Concept Plan for 60 single family residential lots and one common area on 10 acres. The subject property is zoned Planned Development 299 (PD-299) District and is within the State Highway-161 Overlay District. The property is generally located on the north side of Arkansas Lane between Robinson Road and South Carrier Parkway. The Owner is M R Development Corp. and the applicant is Bruce French. (On November 5, 2012, the Planning and Zoning Commission recommended approval of this request by a vote of 9-0.)

Mr. Crolley said this tract was previously put in a Planned Development for attached housing. The first phase was built but the second phase was never built. The developer has asked for 60 single family residential lots to be center loaded on the lot.

Bruce French, 9001 Airport Freeway, #400, N. Richland Hills, TX, was present to answer questions.

Council Member Swafford moved, seconded by Mayor Pro Tem Jensen, to close the public hearing and approve Case Z121101/CP121101 as recommended by the Planning and Zoning Commission. The motion carried unanimously.

Ayes: 8 -

Mayor Charles England; Mayor Pro Tem Ron Jensen; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Tony Shotwell; Council Member Jim Swafford and Council Member Bill Thorn

18 TA121101 - Text Amendment - Article 14, “Drainage”, of the Unified Development Code - Approval of a Text Amendment to Article 14, “Drainage,” of the Unified Development Code (UDC) to amend the UDC language to be consistent with recently approved Environmental Protection Agency changes and proposed changes to the Drainage Design Manual to be incorporated into the revised 2012 Drainage Design Manual. The owner is the City of Grand Prairie and the applicant is Chris Agnew, Engineering Department. (On November 5, 2012, the Planning and Zoning Commission recommended approval of this request by a vote of 9-0.)

Mr. Crolley said this text amendment was to comply with new EPA rulings regarding drainage.

Council Member Shotwell moved, seconded by Deputy Mayor Pro Tem Jackson, to close the public hearing and approve Case TA121101. The motion carried unanimously.

Ayes: 8 -
Mayor Charles England; Mayor Pro Tem Ron Jensen; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Tony Shotwell; Council Member Jim Swafford and Council Member Bill Thorn

Items for Individual Consideration

19 Official naming of Jeremy Wariner Trail at Central Park

Mayor England stated that Jeremy Wariner had grown up in Grand Prairie and excelled at track at Lamar High School and at Baylor University and later at the Olympics.

Council Member Hepworth added that Mr. Wariner has won four Olympic Medals.

Council Member Hepworth moved, seconded by Deputy Mayor Pro Tem to name the trail in Central Park as the "Jeremy Wariner Trail." The motion carried unanimously.

Ayes: 8 -
Mayor Charles England; Mayor Pro Tem Ron Jensen; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Tony Shotwell; Council Member Jim Swafford and Council Member Bill Thorn

20 Public Hearing and Ordinance levying paving assessments for improvements to Sara Jane Parkway

Mayor England opened a public hearing and introduced Romin Khavari, City Engineer. Mr. Khavari stated that this public hearing is to consider testimony for the levying of assessments for improvements to Sara Jane Parkway from the east dead end to Forum Drive. As per State Law, the assessment is based on the lower value of the adjusted construction costs for the enhancement to the property. On May 15, 2012 City Council approved a contract with Ed Bell Construction Company for construction of the roadway. The total assessment is based on the total assessable cost divided by the front footage which works out to $472.57 per front foot. State law

allows for the levying of 90% of the front foot construction cost and the city policy is to assess for 45' which works out to be a commercial driveway for the property and that calculates to an adjusted construction cost of $375.28 per front foot. There are two property owners, Mr. Tommy Winn and Mr. Leland Gjetley who own one of the tracts, and Bob Smith Management Company owns the other. The adjusted construction cost for the Winn-Gjetley property based on the front footage is $1,809,385.31. The Bob Smith Management Company negotiated with the city and the needed land was dedicated in lieu of the assessment. Since the assessment is based on the lower value of the adjusted construction cost or the enhancement to the property, the city hired the firm of Integra Realty Resources to perform this enhancement study. Mr. Khavari noted that Mr. Daulton Vann from Integra was present to answer any questions the council may have. Mr. Khavari said the assessment for the Winn-Gjetley property worked out to be based on the enhancement value rather than the construction cost for the property. He recognized Right-of-Way Agent, Dwayne Tyner and Assistant City Attorney, Steve Alcorn, to make a presentation.

Mr. Tyner said on this particular paving assessment there are two tracts that are under consideration. One of them is a smaller tract that is currently owned by Mr. Gjetley and it has, after the acquisition, approximately 25 acres. The larger tract, which was acquired in 1993 by both Mr. Winn and Mr. Gjetley, has approximately 103 acres. The city start acquiring right-of-way in 2010, and in 2012 the property in Tract 1 was split and the deed was filed in 2012. The city hired Integra Realty Resources to do the enhancement study and they came up with two values, one for Tract 1 and one for Tract 2. The recommended assessment according to the information in the Council packet on the assessment roll is based on the situation detailed in Tract 2, which was the property jointly owned by Mr. Winn and Mr. Gjetley. The recommendation on the assessment roll is for $1,174,198.

Mr. Alcorn stated the enhancement study was provided to the City Secretary. He stated that the entire time the city negotiated for Sara Jane and also for Forum, the property was owned by both Mr. Winn and Mr. Gjetley. Mr. Alcorn said as we went into the hearing on the eminent domain part for Sara Jane, we were informed there had been a transfer of ownership so Integra was instructed to look at the enhancement both ways. Both figures are there for Council consideration, but it is staff's recommendation that we make the assessment against both Mr. Winn and Mr. Gjetley and that the amount be the lager amount of $1,174,198. Mr. Alcorn said if there are any questions of staff or Mr. Vann, they were present to answer questions.

Mayor England recognized Mr. Stephen Haynes, 309 N. Fisk, Brownwood, Texas, who submitted a speaker card in opposition to this item. Mr. Haynes stated he was an attorney representing Mr. Winn and Mr. Gjetley and had represented Mr. Winn in numerous matters. He said he was representing them not only in this case but also the Forum Drive case. Mr. Haynes said there were some legal arguments he would like Council to understand. He stated the Council was a fact finder and a judge making decisions on the legality of this assessment. He said in the prior presentation, Council was informed this is actually a second proceeding involving the parties involving this Sara Jane extension. The first one was the condemnation proceeding. Under the Texas Property Code, the Commissioners who heard that condemnation case were required to make certain fact-finding determinations. One of those fact-finding determinations was that they were required to determine what benefit the property owners would receive to this remainder of their land. In making that determination, they actually have the ability to offset or diminish the condemnation award and this is important to this proceeding. When the Commissioners heard the prior testimony about the benefit to the surrounding land, they already took into consideration the benefit to my clients in making a reduced condemnation award. Mr. Haynes said the reason that becomes important is that his

clients have already paid for the road once in the form of a reduced condemnation award. The second argument is that this property is in a Tax Increment Finance Zone which means that the increment of the tax increase is going to be used to pay for this road and Mr. Winn and Mr. Gjetley are paying those taxes. The city has entered into an agreement with various governmental entities to collect those taxes and to reimburse the city for the cost of the road. This is the second time Mr. Winn and Mr. Gjetley have paid for the road. After the condemnation, they paid for the road once and after the TIF tax levy, they have paid twice. Now the city is asking to assess the property owners for the cost of building the road and that is the third time they are being asked to pay for the road improvements. Mr. Haynes said that is not legal and that Texas law prohibits the city from charging the same cost three different times. There is a "One Satisfaction Rule" which states that the city may have a right to recover the cost of the road, and no one disputes that. The reality is the city can only recover the cost one time. Article 1, Section 17 of the Texas Constitution and Article 5 of the United States Constitution are pretty clear. There is a very basic premise that is laid out in those two constitutional tenants and those arguments are that government cannot take land without paying for it--no taking without just compensation. In the condemnation case on Sara Jane, the landowners were given $979,000 for the condemnation and now they are being assessed $1.174 million. So what the city is saying is that the landowners are going to pay the city $200,000 for the benefit of having their land taken away. Mr. Haynes said he did not see any way that this passes constitutional muster. He said his clients should not have to pay to have their land taken away from them. Mr. Haynes said he would be happy to answer any questions the Council may have.

Council Member Swafford moved, seconded by Mayor England, to close the public hearing and approve an ordinance levying an assessment against Tommy Winn and Leland Gjetley in the amount of $1,174,198, which is found to be the enhanced value of their property for the improvement of Sara Jane Parkway across their property from the boundary with the Smith Tract at its intersection with Forum Drive, under the terms and conditions authorized by law and to be set out in the ordinance. The motion carried.

Ayes: 7 -

Mayor Charles England; Mayor Pro Tem Ron Jensen; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Mark Hepworth; Council Member Tony Shotwell; Council Member Jim Swafford and Council Member Bill Thorn

Nayes: 1 -

Council Member Greg Giessner

Citizen Comments

Rosemary Reed, 277 Donnie Lane, addressed Council regarding pipeline construction on Camp Wisdom Road. She stated that she had called Brent O'Neal in the Engineering Department about having seeing a sound wall at this site and asked what it was. Ms. Reed said Mr. O'Neal indicated he was not sure but the sound screen had been erected to protect those in the vicinity from the noise. Ms. Reed questioned why Environmental Services was not involved in this process and why there was not an SUP required for this process. She expressed concern about the lack of an inspection process in place.

Adjournment

Mayor England wished everyone a Happy Thanksgiving and said we are blessed for our great country and everything we have to be thankful for. Mr. Hart said he had

previewed Prairie Lights and that it is the best light show ever. He said that over 80% of the displays were new and the new live show featuring performers from the Texas Family Musicals is outstanding.

Mayor England adjourned the meeting at 7:20 p.m.

The foregoing minutes were approved at the December 11, 2012 meeting.

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Catherine DiMaggio, City Secretary