

**MINUTES
CITY OF GAINESVILLE
CITY COUNCIL MEETING
200 South Rusk
Gainesville, Texas 76240
April 17, 2007
6:30 P.M.**

The City Council of the City of Gainesville, Texas met in regular session on April 17, 2007 at 6:30 p.m. with the following persons in attendance:

MEMBERS PRESENT: Mayor Glenn Loch
Council Members Charles Draper, Jim Goldsworthy, Carolyn Hendricks, Vince Rippey, Beverly Snuggs, Woody Williams

STAFF PRESENT: Mike Land, City Manager; Kay Lunnon, City Secretary; Bill Harris, City Attorney; Dan Parker, Finance Director; Ron Sellman, Public Services Director, John Noblitt, Planning Technician; Kent Sharp, GEDC Director

VISITORS PRESENT: Kathy Floyd, Andy Hogue, Rod Tyler, A. C. Copling, Kathryn Cooper, Tom Hall, Jeremy Sieger, Kaye Campbell

CALL TO ORDER

Mayor Loch called the meeting to order with a quorum of members present.

INVOCATION & PLEDGE OF ALLEGIANCE

City Manager Mike Land gave the invocation. Mayor Loch led in the pledge to the flag.

CITIZENS COMMENTS

Kathryn Cooper told Council that noise is a quality of life issue and it is important that the noise ordinance be enforced seriously. Saying she has had no sanctuary in her own home for years because of noise in her neighborhood, Cooper wants Council to put “teeth and backbone” into the new ordinance so it can be enforced. She said she is at the mercy of her neighbors’ amplifiers and has complained to the City staff and officials numerous times. Cooper said when a police officer responds to a noise complaint, someone at that address should be held responsible.

CONSENT AGENDA

Council reviewed the Minutes of the April 3, 2007 Regular City Council Meeting and approved them as written.

BOARD APPOINTMENTS:

RESOLUTION NO. 04-17-2007 –APPOINTMENTS TO THE BOARD OF ZONING APPEALS

CONSIDERATION OF AND ACTION ON A RESOLUTION APPROVING APPOINTMENTS TO THE ZONING APPEALS BOARD.

Merle Currie and Terry Herrmann were re-appointed, and Marcus Parkhill was appointed to replace Mike Allison on the Board of Zoning Appeals to two-year terms expiring February 2009.

With no further discussion, Councilmember Goldsworthy **moved for approval of the Consent Agenda**, and was seconded by Councilmember Snuggs. The motion was approved unanimously. Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippey, Snuggs, Williams. Nays: None.

RESOLUTION NO. 04-17-2007A - BID AWARD TO PERSONNEL SOLUTIONS CORPORATION FOR TEMPORARY PERSONNEL SERVICES

CONSIDERATION OF AND ACTION ON A RESOLUTION AWARDED BID NO. 2007-4 TO GAINESVILLE PERSONNEL SOLUTIONS CORPORATION FOR TEMPORARY PERSONNEL SERVICES.

Mike Land said the City has utilized temporary personnel for several years. Personnel Solutions Corporation submitted the only bid in response to Bid No. 2007-4 and is recommended for the contract. Personnel Solutions will provide temporary workers as requested in the areas of receptionist, secretary, light industrial worker, maintenance worker, meter reader, parks maintenance worker, equipment operator, heavy equipment operator, and sanitation worker.

Councilmember Snuggs **moved for approval**, and was seconded by Councilmember Williams. The motion was approved unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippey, Snuggs, Williams. Nays: None.

RESOLUTION NO. 04-17-2007 B – AGREEMENT WITH TXDOT FOR ACQUISITION OF ROW FROM HIGHWAY FM 51 TO IH 35 FRONTAGE ROAD

CONSIDERATION OF AND ACTION ON A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF GAINESVILLE, TEXAS, TO ENTER INTO AN AGREEMENT WITH TXDOT TO CONTRIBUTE LOCAL GOVERNMENT FUNDS FOR THE ACQUISITION OF RIGHT OF WAY FROM HIGHWAY FM 51 TO IH 35 FRONTAGE ROAD.

The agreement with TXDOT is for ROW acquisition to realign FM 1306 and FM 51 as necessitated by the construction of the new high school to create a safe controlled access intersection. The City will acquire necessary ROW and donate to the State approximately 2.43 acres. TXDOT will convey to the City approximately 2.81 acres of existing TXDOT ROW to provide access between FM 1306, Black's Hill Drive and Tuscany Ridge.

Councilmember Draper **moved for approval**, and was seconded by Councilmember Goldsworthy. The motion carried unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippey, Snuggs, Williams. Nays:

RESOLUTION NO. 04-17-2007 C – LEASE PURCHASE FROM PROFESSIONAL TURF PRODUCTS FOR LANDSCAPING EQUIPMENT FOR THE MUNICIPAL GOLF COURSE

CONSIDERATION OF AND ACTION ON A RESOLUTION AUTHORIZING EXPENDITURE TO PROFESSIONAL TURF PRODUCTS FOR LEASE PURCHASE OF LANDSCAPING EQUIPMENT FOR THE MUNICIPAL GOLF COURSE.

Staff recommended a three-year lease purchase of landscaping equipment for the Golf Course from Professional Turf Products through the state cooperative purchasing program. Tom Hall, Golf Course Supervisor described the equipment and said it essential to maintaining the greens and quality of the golf course. Mike Land said the funds for this purchase are budgeted in the Golf Course Fund.

Councilmember Goldsworthy **moved for approval**, and was seconded by Councilmember Williams. The motion carried unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams.

Nays: None.

RESOLUTION NO. 04-17-2007 D – APPROVAL OF GEDC & CHAMBER OF COMMERCE CONTRACT FOR PROFESSIONAL SERVICES

CONSIDERATION OF AND ACTION ON A RESOLUTION APPROVING ACTIONS OF THE GAINESVILLE ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF GAINESVILLE IN AUTHORIZING A CONTRACT BETWEEN THE GAINESVILLE ECONOMIC DEVELOPMENT CORPORATION AND THE GAINESVILLE AREA CHAMBER OF COMMERCE FOR PROFESSIONAL SERVICES.

Under the GEDC agreement with the Gainesville Area Chamber of Commerce, the GEDC will provide professional services to the Chamber, for the efficiency and effectiveness of both organizations. Kent Sharp, GEDC Executive Director, said the GEDC and Chamber Boards have met and agreed on a work plan of performance objectives. Sharp will manage both organizations, with the Chamber reimbursing GEDC for personnel costs. Sharp will hire a Chamber Director to handle specific duties. The contract includes a hold harmless clause, added by Texas Municipal League, for the protection of each entity. The Chamber will pay GEDC \$5000.00 annually for GEDC Executive Director and actual personnel expenses incurred for the Chamber Director and personnel. Land stated the contract would have no impact on the City budget.

Councilmember Rippy **moved for approval**, and was seconded by Councilmember Hendricks. The motion carried unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams.

Nays: None.

RESOLUTION NO. 04-17-2007 E – COUNCIL RESPONSE TO TCEQ PRIORITY GROUNDWATER MANAGEMENT STUDY AREA FOR NORTH CENTRAL TEXAS

CONSIDERATION OF AND ACTION ON A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF GAINESVILLE IN RESPONSE TO A DRAFT REPORT ISSUED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RELATING TO AN UPDATED EVALUATION OF THE TRINITY AND WOODBINE AQUIFERS AND A PRIORITY GROUNDWATER MANAGEMENT STUDY AREA FOR NORTH CENTRAL TEXAS.

The City received the draft report from TCEQ at the end of December and filed comments through Environmental Attorney, Jim Mathews, prior to the January 31 deadline. Subsequently, TCEQ extended the comment period through April 30. Land said the purpose of this resolution is to state publicly the City's position. Land said the City has identified ten areas in the draft plan that has either interpreted data incorrectly or has actual errors in place. The City of Gainesville requests to be removed from the Priority Groundwater Management study Area (PGMA), and to be provided opportunity to submit additional information that will update the

TCEQ on groundwater use and conditions in Gainesville and Cooke County. The City is taking proactive actions to develop and implement surface water supplies to reduce reliance on groundwater supplies, and groundwater tables have stabilized since the City began using Moss Lake surface water. Land said if the City is unsuccessful in getting removed from the PGMA, the State will require us to form a groundwater control district. The City does not want to be included in a groundwater district with other counties as presented in the draft plan. Land stated through the legal process and hearings involved, it will probably be 2008 before the State issues its determination, and then two additional years to comply with the determination, thus there is plenty of time to formulate a strategy that is right for Cooke County and the North Texas area.

Councilmember Draper **moved for approval of the resolution**, and was seconded by Councilmember Goldsworthy. The motion carried unanimously.
Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams.
Nays: None.

PUBLIC HEARING ON RENEWING A SPECIFIC USE PERMIT FOR SOUTHSIDE BAPTIST DAYCARE CENTER AT 1316 SOUTH CLEMENTS STREET

The Mayor announced the public hearing at 7:13 p.m. and called for comments for or against the permit.

No one came forward to speak either for or against the permit.

With no further discussion, Councilmember Snuggs **moved to close the Public Hearing**, and was seconded by Councilmember Williams. The Public Hearing was closed at approximately 7:14 p.m. by the following votes:
Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams
Nays: None.

ORDINANCE NO. 1172-04-2007 – SPECIFIC USE PERMIT FOR SOUTHSIDE BAPTIST DAYCARE CENTER AT 1316 SOUTH CLEMENTS STREET

CONSIDERATION OF AND ACTION ON FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NO. 25-2-71; 101A-8-76; 154-12-79; THE ZONING ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS, AUTHORIZING THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, TO RENEW A SPECIFIC USE PERMIT, AS REQUESTED BY SOUTHSIDE BAPTIST DAYCARE CENTER INCORPORATED FOR A CHILD CARE FACILITY LOCATED AT 1316 SOUTH CLEMENTS STREET; MAKING FINDINGS OF FACT; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF GAINESVILLE; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR TERM OF PERMIT; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SUSPENSION OF THE CITY CHARTER REQUIREMENT OF READING ON THREE SEPARATE OCCASIONS.

The ordinance renews the Specific Use Permit as requested by Southside Baptist Daycare Center Incorporated for a childcare facility located at 1316 South Clements Street. The SUP is recommended to continue in full force and effect for the life of the operation of the daycare by Southside Baptist Daycare Center at this location, and is non-transferable to any new location or new ownership.

Councilmember Goldsworthy **moved to suspend the Charter**, and was seconded by Councilmember Williams. The motion was approved unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams.

Nays: None.

Councilmember Goldsworthy **moved for adoption of the ordinance**, and was seconded by Councilmember Snuggs. The motion was approved unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams.

Nays: None.

PUBLIC HEARING ON ORDINANCE TO RE-ZONE THE PROPERTY LOCATED AT 3707 IH-35 NORTH FROM AGRICULTURE (A) TO COMMERCIAL (C)

The Mayor announced the public hearing at 7:15 p.m. and called for comments for or against the re-zoning.

No one came forward to speak either for or against the rezoning.

With no further discussion, Councilmember Draper **moved to close the Public Hearing**, seconded by Councilmember Snuggs. The Public Hearing was closed at approximately 7:16 p.m. by the following votes:

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams

Nays: None.

ORDINANCE NO. 1173-04-2007 - REZONING 3707 IH-35 NORTH FROM AGRICULTURE (A) TO COMMERCIAL (C)

CONSIDERATION OF AND ACTION ON FIRST READING OF AN ORDINANCE AMENDING ORDINANCE 25-2-71; 101A-8-76;154-12-79; THE ZONING ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS AUTHORIZING THE CITY COUNCIL TO REZONE FROM AGRICULTURE (A) TO COMMERCIAL (C), PROPERTY LOCATED AT 3707 IH-35 NORTH; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF GAINESVILLE; PROVIDING FOR STIPULATIONS; PROVIDING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; MAKING AN OPEN MEETING FINDING; PROVIDING FOR SUSPENSION OF THE CHARTER REQUIREMENT OF READING THE ORDINANCE ON THREE SEPARATE OCCASIONS.

Land said the property was not re-zoned when it was annexed into the City and needs to be re-zoned from Agricultural (A) to Commercial (C) to bring the existing property use into compliance with the City Zoning Code. The location is the Hitchin Post.

Councilmember Goldsworthy **moved to suspend the Charter**, and was seconded by Councilmember Williams. The motion was approved unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams.

Nays: None.

Councilmember Williams **moved for adoption of the ordinance**, and was seconded by Councilmember Draper. The motion was approved unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams.
Nays: None.

FIRST READING ON ORDINANCE ADDING NOISE CONTROL TO THE CODE OF ORDINANCES

CONSIDERATION OF AND ACTION ON FIRST READING OF AN ORDINANCE OF THE CITY OF GAINESVILLE AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE; ADDING ARTICLE V. NOISE CONTROL; ESTABLISHING REGULATIONS AND DEFINITIONS; PROVIDING FINDINGS OF FACTS; PROVIDING PURPOSE AND INTENT; PROVIDING FOR INTERPRETATION; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; PROVIDING PENALTIES UP TO \$2000 FOR VIOLATION; PROVIDING FOR PUBLICATION; PROVIDING AN OPEN MEETING FINDING; AND PROVIDING FOR SUSPENSION OF THE CHARTER REQUIREMENT OF READING THE ORDINANCE ON THREE SEPARATE OCCASIONS.

Planning Technician John Noblitt explained the intent of the ordinance, which has passed through Planning and Zoning, and stated it gives the Police Department more options to enforce noise violations. The ordinance adds decibel levels to various zoning districts; addresses audio noise from vehicles and air braking of large trucks traveling on IH-35 and Hwy 82; and contains a Disturbance of the Peace section that allows for enforcement of violations without the requirement of decibel level measurement. Violation penalties are appropriate to the cause of the noise, and the penalty amount will be as determined by the Municipal Judge. Decibel levels in the ordinance were approved after a live demonstration of proposed levels and a sound survey completed by the Gainesville PD. Enforcement and penalty procedures are defined. City staff is working with the State to get signage on I-35 and Hwy 82 informing of the prohibition of air braking.

Land added that language will be included in next reading of the ordinance for clarification regarding recorded or amplified bells, marching bands, and amplified music in the home to meet zoning decibel levels.

Councilmember Snuggs **moved for approval of First Reading of the ordinance**, and was seconded by Councilmember Draper. The motion was approved unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippy, Snuggs, Williams.

Nays: None.

FIRST READING ON ORDINANCE AMENDING THE 2006 SIGN CODE

CONSIDERATION OF AND ACTION ON FIRST READING OF AN ORDINANCE AMENDING THE 2006 GAINESVILLE SIGN CODE; PROVIDING REGULATIONS AND SPECIFICATIONS OF ALL SIGNS WITHIN THE CITY OF GAINESVILLE, IN ORDER TO PROMOTE AND SECURE THE SAFETY, HEALTH AND WELFARE OF ALL THE CITIZENS OF THE CITY OF GAINESVILLE; ACHIEVING A MORE DESIRABLE LIVING ENVIRONMENT; PROTECTING AND ENHANCING THE AESTHETICS OF THE CITY WITH BETTER SIGN USAGE; PROVIDING FOR REDUCTION OF NONCONFORMING SIGNS; MAKING FINDINGS OF FACT; PROVIDING FOR PUBLICATION; PROVIDING PENALTIES UP TO \$5000 FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SUSPENSION OF THE

CHARTER REQUIREMENT OF READING THE ORDINANCE ON THREE SEPARATE OCCASIONS.

This ordinance addresses issues regarding non-conforming billboards and prohibited signage to take a tougher stance on code enforcement and amortization of non-conforming uses. Land said the Supreme Court has supported cities in their beautification efforts and amortization schedules for removal of non-conforming billboards. Under this ordinance, billboards on Broadway, California, and Grand Avenue located in areas where billboards are not allowed will be amortized and removed within five years from the effective date of the ordinance. All billboards on I-35 and Hwy 82 that are non-conforming due to zoning issues will be re-zoned to the proper zoning or amortized and removed within five years from the effective date of this ordinance.

The ordinance prohibits signs using curse words or vulgar language, or any sign that is handpainted by an individual and not consistent with professional workmanship. Signs depicting sex or sex related issues, vulgar language, or signs that may be construed as being in bad taste require approval by the Planning and Zoning Commission prior to being issued a permit. Council questioned Section 5-169 allowing special permit approval by Planning and Zoning for signs depicting sex, sex related issues, vulgar language, or signs construed to be in bad taste, when such signage is prohibited in Section 5-170. City Attorney Harris responded the special permit is there for any difference of opinion regarding language. Building Official Roy Lewis commented he will consult with the City Attorney for any revisions to that section prior to the next meeting.

In further discussion regarding amortization of non-conforming billboards, Council noted five years is a long time and, in most cases, three years should be ample. Land responded he will provide them a summary of the Supreme Court rulings, and said the City needs to have a legitimate basis for making the determination, in reference to the length of amortization.

Councilmember Snuggs **moved for approval of first reading of the ordinance**, and was seconded by Councilmember Draper. The motion was approved unanimously.

Ayes: Draper, Goldsworthy, Hendricks, Loch, Rippey, Snuggs, Williams.

Nays: None.

EXECUTIVE SESSION

The City Council did not convene into executive session.

CITY MANAGER'S COMMENTS

Mike Land reported the clean-up attempted by Keep Gainesville Beautiful last Saturday was shorter than planned, due to the weather, and will be re-scheduled.

Land reminded about the Hazardous Waste Collection Event to be held Saturday, May 5.

A copy of the resolution regarding the TCEQ Priority Groundwater Management Area will be sent to the Cooke County Commissioners. Land said the County Commissioners will consider a recommendation by their groundwater committee at the commission meeting next Monday morning. Land and Ron Sellman, Public Services Director, will attend and may make a presentation to the commission.

MAYOR'S COMMENTS

