

**MINUTES
CITY OF GAINESVILLE
CITY COUNCIL MEETING
200 South Rusk
Gainesville, Texas 76240
December 16, 2008**

The City Council of the City of Gainesville, Texas met in regular session on December 16, 2008 at 6:30 p.m. with the following persons in attendance:

MEMBERS PRESENT: Mayor Glenn Loch
Council Members Charles Draper, Jim Goldsworthy, Carolyn Hendricks, Ray Nichols, Vince Rippy, Beverly Snuggs

STAFF PRESENT: Barry Sullivan, City Manager; Kay Lunnon, City Secretary; Bill Harris, City Attorney; Dan Parker, Finance Director; Steven Fleming, Police Chief; Steve Boone, Fire Chief; John Noblitt; Planning Technician

OTHERS PRESENT: Kit Chase, Stephen Monahan, Natalia Jones, Rod Tyler, Larry and Rita Covington, Karen Fletcher, Angela Hinchman, Robert A. Davis, Jr., Carla Fleeks.

CALL TO ORDER

Mayor Loch called the meeting to order at 6:30 p.m. with all members present.

INVOCATION & PLEDGE OF ALLEGIANCE

Reverend Mark Loewen, First Christian Church, gave the invocation. Mayor Loch led the pledge to the flag.

CITIZEN COMMENTS

Carla Fleeks, 512 North Culberson, stated her opposition to proposed commercial zoning of Culberson Street, between Scott Street and Highway 82. She said most residents in the area do not want commercial structures next to residential.

Angela Hinchman, Whaley Street, spoke in opposition to the proposed area of commercial zoning on Whaley Street in the new zoning ordinance.

Larry Covington, 1405 South Radio Hill Road, requested Council consideration for residential zoning, instead of commercial zoning, in the area south of Chalmers School on Radio Hill Road.

Bob Davis said he has thirteen mobile homes in the Eldridge and Taylor Street area and he does not want these mobile homes to be grandfathered into the new zoning ordinance because he will not be able replace them under the new ordinance. He said much of the area is in the flood zone. Davis requested that zoning not be changed under the new ordinance because if the homes were removed or destroyed the land could not be used because it is in the flood zone.

CONSENT AGENDA

MINUTES OF DECEMBER 2, 2008 REGULAR COUNCIL MEETING

Council reviewed the Minutes of the City Council Meeting of December 2, 2008 and approved them as written.

RESOLUTION NO. 12-16-2008 – APPOINTMENT TO MEDAL OF HONOR BOARD

Don Pettigrew was appointed to represent the City on the Medal of Honor Host City Board of Directors for a two-year term expiring December 2010.

Councilmember Draper moved to **approve the Consent Agenda**, and was seconded by Councilmember Snuggs. Motion carried by vote of 7 Ayes, 0 Nays.

RESOLUTION NO. 12-16-2008 A – AWARD OF BANK DEPOSITORY CONTRACT

A RESOLUTION AWARDING THE BANK DEPOSITORY CONTRACT.

First State Bank was awarded a contract to serve as the City depository for three years effective January 1, 2009. Three proposals were received in response to the advertised request for bids. First State Bank was recommended because they meet all requirements of the bid request with low charges for services. City Manager Sullivan added that FSB provides third party safekeeping in accordance with the City's investment policy.

Councilmember Nichols moved to **approve the resolution**, and was seconded by Councilmember Goldsworthy. Motion carried by vote of 6 Ayes, 0 Nays, 1 Abstention (Draper).

RESOLUTION NO. 12-16-2008 B – ACCEPT HOMELAND SECURITY 2008 GRANT

A RESOLUTION ACCEPTING SUB-RECIPIENT AWARD OF FUNDS FROM THE GOVERNORS DIVISION OF EMERGENCY MANAGEMENT, 2008 HOMELAND SECURITY GRANT PROGRAM AND AUTHORIZING EXPENDITURE OF FUNDS IN ACCORDANCE WITH THE 2008 TEXAS HOMELAND SECURITY GRANT PROGRAM GUIDELINES.

Fire Chief Steve Boone recommended acceptance of a sub-recipient award of funds in the amount of \$87,422.68 from the Homeland Security 2008 Grant Program from the Governors Division of Emergency Management. The resolution gives staff authorization to spend the funds, which Boone said would be used to continue replacement and updating of communications equipment in Police and Fire Departments.

Councilmember Hendricks moved to **approve the resolution**, and was seconded by Councilmember Goldsworthy. Motion carried by vote of 7 Ayes, 0 Nays.

CITIZENS COMMENT

At the request of Councilmember Snuggs, Stephen Koch was allowed at this time to make his Citizens Comment to City Council. Mr. Koch had submitted his request to speak prior to the meeting, but arrived late to the meeting due to heavy traffic from the Dallas area. Koch requested Council's consideration in the proposed zoning ordinance for multi-family zoning designation of a vacant lot at the corner of Dixon and Haight Street. Koch said he intends to build a duplex on the location.

RESOLUTION TO RESCHEDULE OR CANCEL CITY COUNCIL MEETING OF JANUARY 6, 2009

Mayor Loch moved this item to last on the agenda for Council's discussion and consideration just prior to Executive Session.

ORDINANCE NO. 1218-12-2008 – REPEAL NO PARKING IN 900 BLOCK OF SOUTH RUSK STREET

FIRST READING OF AN ORDINANCE REPEALING DESIGNATED AREAS OF A PUBLIC STREET WHERE THE PARKING OF VEHICLES WILL BE PROHIBITED; PROVIDING FOR

THE REMOVAL OF SIGNS; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND MAKING AN OPEN MEETING FINDING.

Sullivan stated that residents in the 900 block of South Rusk Street have requested removal of the no parking restriction, and Councilman Nichols said he had received requests as well. The purpose of the original ordinance established no parking to alleviate congested traffic when high school students parked on both sides of the street during school hours. Now, the Gainesville High School is located off I-35, and residents on South Rusk have requested that the no parking ordinance be repealed. This ordinance repeals the no parking ordinance for the 900 block of South Rusk Street, between Gordon Street and Hird Street.

Councilmember Nichols **moved to suspend the Charter requirement of readings on three separate occasions**, and was seconded by Councilmember Goldsworthy. The motion carried by vote of 7 Ayes, 0 Nays.

Councilmember Nichols **moved to adopt the ordinance**. Motion was seconded by Councilmember Goldsworthy and carried by vote of 7 Ayes, 0 Nays.

FIRST READING APPROVAL OF ORDINANCE TO ESTABLISH FOUR-WAY STOP INTERSECTIONS ON WINE STREET AT CHERRY AND WINE STREET AT GARNETT

FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, DESIGNATING THE INTERSECTIONS OF WINE STREET AND CHERRY STREET AND WINE AND GARNETT STREET IN THE CITY OF GAINESVILLE, TEXAS, AS MULTI-WAY STOP INTERSECTIONS, TO BE CONTROLLED BY STOP SIGNS; AUTHORIZING THE ERECTION OF SIGNS AT THE INTERSECTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND MAKING AN OPEN MEETING FINDING.

Police Chief Fleming said the Police Department has received numerous citizen complaints regarding “near miss” traffic accidents at the intersections of Wine Street and Cherry Street and at Wine Street and Garnett Street. PD has reviewed the locations and recommends that both locations be established as multi-stop intersections. Sullivan added there are visibility issues at both intersections, the roadway is narrow, and trees obscure driver’s view east and west. A tree that protrudes into the roadway at the northeast corner of the Wine and Cherry intersection is recommended to be removed due to its obscuring the drivers’ view. Councilmember Goldsworthy commented that the City should bear the cost of removing the tree. Councilmember Snuggs suggested additional time before adopting the ordinance for the City to contact area residents regarding removal of the tree. Second reading of the ordinance will be considered on January 20, 2009.

Councilmember Snuggs **moved to approve first reading of the ordinance**. The motion was seconded by Councilmember Draper and carried by vote of 7 Ayes, 0 Nays.

THIRD READING DISAPPROVAL OF ORDINANCE TO REZONE 15.912 ACRES IN E. YEAMAN SURVEY FROM TWO FAMILY (2F) TO MULTIPLE FAMILY (MF2)

SECOND 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 OF GAINESVILLE, TEXAS, TO REZONE FROM TWO FAMILY (2F) TO MULTIPLE-FAMILY 2 (MF-2), 15.912 ACRES IN THE E. YEAMAN SURVEY, ABSTRACT 1173, COOKE COUNTY, TEXAS; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF GAINESVILLE;

PROVIDING FOR STIPULATIONS; PROVIDING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; CONTAINING A SEVERABILITY CLAUSE AND MAKING AN OPEN MEETING FINDING.

Sullivan reported the developer proposes to construct 120 apartment units on the subject 15.912 acres located across from the North Central Texas College, off Blacks Hill Drive, and that water planning studies and traffic studies indicate the area can adequately handle the proposed multi-family apartment project. However, Sullivan recommended that Council disapprove the rezoning request in order to let the new zoning ordinance handle the zoning change. He stated that approval of the re-zoning at this time would allow for construction under old ordinance requirements. Under the new zoning ordinance, the subject property is located in a district zoned to allow for development as requested. Prior to voting, Councilmembers stated clearly that their disapproval of this zoning request in no way expresses disapproval of the multi-family project as proposed by Parker Yarbrough.

Councilmember Snuggs **moved to disapprove the ordinance on third reading.** The motion was seconded by Councilmember Goldsworthy and carried by vote of 7 Ayes, 0 Nays.

ORDINANCE NO. 1219-12-2008 – ADOPTING NEW ZONING ORDINANCE

THIRD READING OF AN ORDINANCE REPEALING IN ITS ENTIRETY THE ZONING ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS, AS PASSED AND APPROVED BY THE CITY COUNCIL FEBRUARY 2, 1971, TOGETHER WITH ALL AMENDMENTS THERETO AND ESTABLISHING APPENDIX A ZONING TO THE CITY OF GAINESVILLE'S MUNICIPAL CODE AND ADOPTING AS SAID APPENDIX AN ORDINANCE ESTABLISHING AND PROVIDING FOR ZONING REGULATIONS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR PENALTIES; AND PROVIDING A SAVINGS CLAUSE.

Sullivan stated that changes in the ordinance have been made pursuant to Council's previous discussions and are reflected on the zoning map. John Noblitt, Planning Technician, worked the proposed zoning district map, as Council reviewed and discussed each section thoroughly. Each request for zoning considerations, in the areas of Culberson Street, Whaley Street, Radio Hill Road south of Chalmers Elementary School, Eldridge and Taylor Street, and Dixon and Haight Street, was given individual consideration. Councilmember Hendricks requested on behalf of residents in the area that Culberson Street retain single-family zoning, with the exception of the Booker T. Washington School and gymnasium which received restricted commercial (C1) zoning designation. The area running within 300 feet parallel to Highway 82 on the south side, from Hillcrest Blvd. extending east to Hillside was designated Commercial zoning. Radio Hill Road south of Chalmers Elementary School retained commercial zoning (C2) as proposed. Eldridge and Taylor Street area retained zoning as proposed and the mobile homes were grandfathered. The Dixon and Haight Street vacant lot was zoned multi-family (MF1). Gainesville Housing Authority developments in the O'Neal and Lawrence Street area and the Walnut Lane and Frasher Street area were zoned multi-family (MF1). Council adopted the zoning map with specific changes to be platted and incorporated into the new map for signature approval by the Mayor.

At Council's direction the following changes were incorporated into the ordinance and approved:

- existing primary structures are excluded from lot visibility requirements and are adopted as existing nonconforming structures;
- existing barbed wire fencing will be granted non-conforming status;
- contiguous lots under single ownership may be considered as a single lot;
- an affirmative vote of a simple majority of City Council members is required to overrule a recommendation of disapproval by the Planning and Zoning Commission;

- mobile homes with current existing specific use permits are “grandfathered” into the new ordinance as legal non-conforming structures. They will no longer be subject to specific use permits.
- Setbacks for apartment buildings will be determined by City Building and Fire Codes.
- fences abutting public streets must be setback fifteen (15) feet;
- 80% masonry is required on all sides for structures located in Central Area (CA), restricted commercial (C1) and general commercial (C2) districts;
- 50% masonry is required on all sides for structures located in outdoor commercial (C3) districts.

Adoption of the new zoning ordinance repeals and replaces the current zoning ordinances and all amendments in their entirety. The new ordinance establishes a Board of Appeals to hear and decide appeals and zoning variances. The Planning and Zoning Commission will consider site plans, plats, zoning district changes for recommendation to the City Council. Sullivan stated the ordinance adopts requirements for developers that are more stringent and provide more control by the City for quality development. The ordinance and zoning map will be posted on the city website www.gainesville.tx.us.

Councilmember Rippy **moved to approve and adopt the ordinance.** The motion was seconded by Councilmember Snuggs. Council discussed whether to review the zoning map with changes before adopting the ordinance, but decided there was no need to review it again before passage of the ordinance. Motion carried by vote of 7 Ayes, 0 Nays.

RESOLUTION NO. 12-16-2008 C – CANCEL CITY COUNCIL MEETING OF JANUARY 6, 2009

CONSIDERATION OF AND ACTION ON A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS TO RESCHEDULE OR CANCEL THE REGULAR COUNCIL MEETING OF JANUARY 6, 2009.

The City Manager requested Council’s consideration to reschedule or cancel the regular Council meeting scheduled for January 6, 2009, because staff does not expect not have any items for the agenda.

Councilmember Snuggs moved to **cancel the regular meeting of January 6, 2009**, and was seconded by Councilmember Draper. Motion carried by vote of 7 Ayes, 0 Nays.

EXECUTIVE SESSION

Mayor Loch announced at 8:56 p.m. that Council would convene into Executive Session under Government Code §551.074 Personnel – City Manager’s Evaluation.

RECONVENE INTO OPEN SESSION

Council reconvened into open session at 10:28 p.m.

RESOLUTION NO. 12-16-2008 D – EXTEND CITY MANAGER EMPLOYMENT CONTRACT ONE YEAR

CONSIDERATION OF AND ACTION ON A RESOLUTION AUTHORIZING THE MAYOR TO EXTEND THE CONTRACT OF EMPLOYMENT OF BARRY SULLIVAN AS CITY MANAGER.

The employment contract of City Manager Barry Sullivan was extended an additional twelve months effective January 7, 2009 through January 7, 2010, and included a four percent increase in fixed base salary for a total amount of One hundred eleven thousand two hundred eighty dollars (\$111,280.00) per year.

