

**MINUTES
CITY OF GAINESVILLE
CITY COUNCIL MEETING
200 South Rusk
Gainesville, Texas 76240
April 16, 2013**

The City Council of the City of Gainesville, Texas met in regular session on April 16, 2013 at 6:30 p.m. with the following persons in attendance.

MEMBERS PRESENT: Mayor Jim Goldsworthy
Keith Clegg, Carolyn Hendricks, Ken Keeler, Ray Nichols, Vince Rippy, Beverly Snuggs

STAFF PRESENT: Barry Sullivan, City Manager; Kay Lunnon, City Secretary; Dan Parker, Finance Director; John Noblitt, Community Development Director; Ron Sellman, Public Services Director; Lynette Pettigrew, Main Street Director; Tony Dresser, Videographer

OTHERS PRESENT: Gregg Russell, Tiffany Robledo, Barney Gilbreath, Wray Westbrook, Robert Martinson, Heather Neighbors, Tommy and Paula Moore, M. D. Allison, Dick and Patty Haayen, Andrew Ploeger, Cherilyn Pollard, Shannon Best, Tom Carson, Dennis Kretzschmar, Shane Morrow, Shane Hamrick, Norman and Perlene Newton, Rev. Robert Kelley, Scott and Jennie Richardson, Leslie Nichols

CALL TO ORDER

Mayor Goldsworthy called the meeting to order at 6:30 p.m. All Council members were present.

INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Jim Goldsworthy gave the invocation and led in the pledge to the flag.

RECOGNITIONS/PROCLAMATIONS

City Employee of the Month, April 2013

Belva McClinton, Gainesville Police Department, was named the April 2013 Employee of the Month. City Manager Barry Sullivan read and presented the certificate to Belva in recognition for her work with the upgrade of the department's records management system, testing all aspects of the system and working with the system engineer to correct deficiencies, and assistance in training patrolmen and others on the update. Sullivan added that Belva is appreciated for her positive attitude, and she can always be counted on when needed. As Employee of the Month, McClinton also receives one additional day of paid vacation.

National Public Safety Telecommunications Week, April 07 – 13, 2013

Mayor Goldsworthy read a proclamation declaring the week of April 7 – 13, 2013 as National Public Safety Telecommunications Week in Gainesville in honor of the men and women who work in public safety communications centers. Gainesville PD Dispatch Communications staff present to receive the proclamation included Captain Mark Brazelton, Kim Heon, Sarah Payton, Bill Johnson, Heather Neighbors, Cynthia Walker, Janet Simpson, Raichelle Reed.

Recognition of Tom Carson, Cooke County Historical Commission and Hughes Tune VFW Post 1922

Local historian Tom Carson, the Cooke County Historical Commission, and the Hughes Tune VFW Post 1922 were recognized by proclamation of appreciation for their efforts in the research that resulted in the addition of the names of five veterans of Cooke County being added to the

Leonard Park War Memorial monument. Receiving the proclamation were Tom Carson, Dennis Kretzschmar, Commander of VFW Post 1922, and Michael Allison.

CITIZEN COMMENTS

Michael Allison, business owner at 1010 North Grand Avenue, spoke in opposition to the proposed smoking ordinance, and stated the ordinance commands rather than serves the citizens. He said the law will make law abiding citizens criminals. Allison requested the Council to reconsider this ordinance.

Cherilyn Pollard, business owner, local resident and cancer survivor, thanked Council for the proposed smoking ordinance, and stated that smoking is detrimental not only to the health of the smoker, but to others as well through second hand smoke. Pollard said she hopes to be able to announce adoption of this ordinance during annual Gainesville Relay for Life events scheduled for May 3-4, 2013.

Scott Richardson, Gainesville resident and chemist, spoke in favor of the smoking ordinance. Richardson said smoke contains known carcinogens that can be measured and quantified chemically. He said he is happy the City Council is considering smoking regulations.

Tommy Moore, Gainesville native, said non-smoking in public places is nationwide and he appreciates Council's proposed ordinance and he hopes for its passage and adoption.

Robert Martinson, Gainesville business owner, spoke in favor of the proposed smoking ordinance, and told of his brother who died from cancer caused by smoking.

Wray Westbrook, owner of the Grand Avenue Animal Clinic, spoke in favor of passage of the smoking ordinance. His experience is that visitors to Gainesville are amazed that smoking in public is still allowed. Westbrook said eating facilities should be smoke free whether or not they have a bar. He looks forward to passage of the ordinance and requested Council to consider adding e-cigarettes and smokeless tobacco to the ordinance.

Dick Haayen, resident and small business owner in Gainesville, stated that smoking is not just an individual decision, it affects non-smokers as well. He said Gainesville needs to get up to date with the rest of the world. He urged Council to move forward and to pass the ordinance regulating smoking in public places.

CONSENT AGENDA

Council reviewed the Minutes of the City Council, Planning and Zoning Commission, and Board of Appeals workshop meeting of April 2, 2013, and the Minutes of the regular City Council meeting of April 2, 2013 and approved them as written.

RESOLUTION 04-16-2013 - APPOINTMENT TO TEXOMA COUNCIL OF GOVERNMENTS BOARD OF DIRECTORS

A RESOLUTION MAKING APPOINTMENT TO THE GOVERNING BODY OF THE TEXOMA COUNCIL OF GOVERNMENTS

Councilman Keith Clegg was appointed to represent the City of Gainesville on the Texoma Council of Governments Board of Directors.

RESOLUTION 04-16-2013 A – APPOINTMENT TO MEALS ON WHEELS BOARD OF DIRECTORS

Councilman Keith Clegg was appointed to represent the City of Gainesville on the Board of Directors of Meals on Wheels of Texoma.

RESOLUTION 04-16-2013 B – NAMING AUTHORIZED REPRESENTATIVES FOR INVESTMENT TRANSACTIONS WITH TEXPOOL

Barry Sullivan, City Manager; Dan Parker, Finance Director; and Karen Dixon, Controller, were named as authorized signatories to TexPool/TexPool Prime accounts on behalf of City of Gainesville.

Councilmember Snuggs **moved for approval of all items on the Consent Agenda**, and was seconded by Councilmember Clegg. Motion carried by vote of 7 Ayes, 0 Nays.

RESOLUTION 04-16-2013 C – APPROVING ADDITION OF FIVE VETERAN NAMES TO LEONARD PARK WAR MONUMENT

A RESOLUTION AUTHORIZING ADDITION OF FIVE NAMES OF COOKE COUNTY VETERANS TO THE LEONARD PARK WAR MEMORIAL AND PAYMENT THEREFOR.

Council approved the addition of five names of Cooke County veterans to the granite monument at Leonard Park War Memorial and authorized sharing the cost with VFW Post 1922 as requested for engraving the names on the monument. The City's portion of the cost is \$375. Research by local historian Tom Carson documented five local veterans of WWI who were not included on the monument. VFW Post 1922 confirmed the data and requested permission from the City to add the names on the monument. Names to be added are Frank B. Keel, George W. Caldwell, McKinley Brisco, Albert Waddell, and Oscar J. Spraggins.

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

RESOLUTION 04-16-2013 D - APPROVE MAIN STREET PROGRAM SALE OF ALCOHOL IN 100 BLOCK OF SOUTH COMMERCE STREET DURING SUMMER SOUNDS 2013 CONCERT SERIES

A RESOLUTION OF THE CITY COUNCIL APPROVING THE SALE OF ALCOHOL IN THE 100 BLOCK OF SOUTH COMMERCE STREET BY THE CITY OF GAINESVILLE MAIN STREET PROGRAM DURING SUMMER SOUNDS CONCERT SERIES MAY 31, JUNE 28, AND JULY 26, 2013.

Gainesville Main Street Program received approval to sell alcohol between 5 p.m. and midnight in the 100 block of South Commerce Street during the 2013 Summer Sounds Concert Series on May 31, June 28, and July 26. In its fourth year, Summer Sounds Concerts include live music, concession type food and alcohol sales for the enjoyment of historic downtown Gainesville.

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

PUBLIC HEARING ON AN ORDINANCE TO REZONE 1219, 1221, AND 1223 SOUTH CLEMENTS STREET FROM RESTRICTED COMMERCIAL (C-1) TO SINGLE-FAMILY TWO (SF-2)

PUBLIC HEARING ON AN ORDINANCE TO REZONE FROM RESTRICTED COMMERCIAL (C-1) TO SINGLE-FAMILY TWO (SF-2) THE ENTIRETY OF THE PROPERTIES IDENTIFIED AS 1219, 1221, AND 1223 SOUTH CLEMENTS STREET.

Mayor Goldsworthy read the ordinance caption and called for public comment at 7:14 p.m. Barney Gilbreath, applicant property owner, requested Council to pass (adopt) the ordinance in one reading. Gilbreath said he intends to sell these properties and requested the rezoning to allow for residential housing. No others came forward to speak either for or against the proposed ordinance.

With no further discussion, Councilmember Clegg **moved to close the Public Hearing**, seconded by Councilmember Nichols. Motion carried by vote of 7 Ayes, 0 Nays. The Public Hearing was closed at 7:16 p.m.

FIRST READING APPROVAL OF ORDINANCE TO REZONE 1219, 1221, AND 1223 SOUTH CLEMENTS STREET FROM RESTRICTED COMMERCIAL (C-1) TO SINGLE-FAMILY TWO (SF-2)

FIRST READING OF AN ORDINANCE AMENDING ORDINANCE 1219-12-2008; THE ZONING ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS AUTHORIZING THE CITY OF GAINESVILLE, TEXAS, TO REZONE FROM RESTRICTED COMMERCIAL (C-1) TO SINGLE-FAMILY TWO (SF-2) THE ENTIRETY OF THE PROPERTIES IDENTIFIED AS 1219, 1221, AND 1223 SOUTH CLEMENTS STREET; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF GAINESVILLE; PROVIDING FOR AN EFFECTIVE DATE; CONTAINING A SEVERABILITY CLAUSE AND MAKING AN OPEN MEETING FINDING.

First reading was approved for an ordinance to rezone the properties identified as 1219, 1221, and 1223 South Clements Street from Restricted Commercial (C-1) to Single-family Two (SF-2). These properties are abutted to the north, south, and west by Restricted Commercial (C1) and by Single-Family Two (SF-2) to the east. On March 19, 2013, the Planning and Zoning Commission voted unanimous approval of the zoning district change. City Manager Sullivan stated there are no legal issues with the zoning district change, but reminded that when Council adopted the current zoning district in 2008, the long term plan for this district was to allow commercial use. He said this re-zoning would change the idea for this entire block from moving toward commercial and away from residential. Second reading of the proposed zoning district change will be held at the next regular meeting of the City Council on May 7, 2013.

Councilmember Nichols **moved for approval of first reading of the Ordinance**, and was seconded by Councilmember Rippy, and the motion carried by vote of 6 Ayes, 1 Nay (Snuggs).

PUBLIC HEARING ON AN ORDINANCE TO REZONE 1427 THROCKMORTON STREET FROM GENERAL COMMERCIAL (C-2) TO MULTI-FAMILY LOW DENSITY (MF-1)

PUBLIC HEARING ON AN ORDINANCE TO REZONE FROM GENERAL COMMERCIAL (C-2) TO MULTI-FAMILY LOW DENSITY (MF-1) THE PROPERTY IDENTIFIED AS 1427 THROCKMORTON STREET.

Mayor Goldsworthy read the ordinance caption and called for public comment at 7:19 p.m. No one came forward to speak either for or against the proposed ordinance, and with no further discussion, Councilmember Clegg moved to close the Public Hearing, seconded by Councilmember Snuggs. Motion carried by vote of 7 Ayes, 0 Nays. The Public Hearing was closed at 7:20 p.m.

FIRST READING APPROVAL OF ORDINANCE TO REZONE 1427 THROCKMORTON STREET FROM GENERAL COMMERCIAL (C-2) TO MULTI-FAMILY LOW DENSITY (MF-1)

FIRST READING OF AN ORDINANCE AMENDING ORDINANCE 1219-12-2008; THE ZONING ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS AUTHORIZING THE CITY OF GAINESVILLE, TEXAS, TO REZONE FROM GENERAL COMMERCIAL (C-2) TO MULTI-FAMILY LOW DENSITY (MF-1) THE PROPERTY IDENTIFIED AS 1427 THROCKMORTON STREET; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF GAINESVILLE; PROVIDING FOR AN EFFECTIVE DATE; CONTAINING A SEVERABILITY CLAUSE AND MAKING AN OPEN MEETING FINDING.

First reading of an ordinance was approved to rezone the property identified as 1427 Throckmorton Street from General Commercial (C-2) to Multi-family Low Density (MF-1). This property is currently abutted on all sides by General Commercial (C2) Zoning. On March 19, 2013, the Planning and Zoning Commission unanimously recommended for Council approval of the re-zoning. Sullivan said the property is totally surrounded by commercial use and expressed a staff concern that the re-zoning could be viewed as spot zoning because of the limited size of the zoning change, and because it is in the middle of a General Commercial Zone.

City Attorney Bill Harris expressed his opinion that it would not be spot zoning because the requested use is moving in the same direction of the current use. The Multi-Family Low Density (MF-1) Zoning classification was created to serve as a buffer between commercial uses and single family residential districts. Low Density Zoning Districts allow for 2-4 unit buildings. Second reading of the proposed zoning district change will be held at the next regular meeting of the City Council on May 7, 2013.

Councilmember Nichols **moved for approval of first reading of the Ordinance**, and was seconded by Councilmember Rippy, and the motion carried by vote of 6 Ayes, 0 Nays, 1 Abstention (Clegg). Councilman Clegg announced a financial interest and abstained from discussion and vote.

SECOND READING APPROVAL OF SMOKING ORDINANCE

SECOND READING OF AN ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES, ESTABLISHING ARTICLE IV SMOKING REGULATIONS; PROVIDING FOR CONTROL AND REGULATION OF SMOKING IN PUBLIC PLACES; PROVIDING FOR PENALTY NOT TO EXCEED \$2000 FOR EACH OFFENSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS FINDING.

The Ordinance to prohibit smoking in public places within the City limits received second reading approval. The proposed ordinance bans smoking in most indoor public places as well as in city parks and facilities. Council members reported they had received additional input from citizens since their last meeting, and said they received more comments in favor of the smoking ban than against it. During the Citizens Comments portion of the agenda, seven citizens spoke to Council regarding the proposed ordinance. Of these seven speakers, six spoke in favor of the ordinance and requested Council adoption of the smoking ban; one person spoke against the smoking ban. Mayor Goldsworthy expressed his appreciation for all the citizen input. Council reviewed and discussed the ordinance and instructed the City Manager to make these changes for the third reading of the ordinance: 1) reduction of the penalty amount for first violation, with escalated penalty amounts for multiple violations; 2) addition of electronic cigarettes (e-cigarettes) to the ordinance; and 3) allowance for display of ashtrays in private offices and display cases. The changes will be presented in the third reading of the ordinance. The proposed ordinance for smoking regulations is posted on the city website www.gainesville.tx.us under City Code, Proposed Ordinances. Third reading of the smoking ordinance will be held at the City Council meeting on May 7, 2013.

Councilmember Snuggs **moved for approval of second reading of the Ordinance**, and was seconded by Councilmember Keeler, and the motion carried by vote of 7 Ayes, 0 Nays.

ORDINANCE NO. 1312-04-2013 - AMENDING BUILDING CODE TO ALLOW FOR MOVING BUILDINGS

SECOND READING OF AN ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS AMENDING CHAPTER 5- BUILDINGS AND BUILDING REGULATIONS ARTICLE I - BUILDING STANDARDS OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE, PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR AN EFFECTIVE DATE, AND FINDING THE MEETING WAS OPEN TO THE PUBLIC.

Ordinance was adopted on second reading to amend current building codes to allow buildings to be moved into and within the city. The new ordinance allows a structure to be moved into and inside the City with a permit issued by the City. The owner must provide basic information and base level insurance to get the permit. A building permit is also required before the structure is moved, and building plans for the engineered foundation must be turned in with the request for the building permit. The foundation must be approved by an engineer prior to the City issuing a Certificate of Occupancy, but the foundation does not have to be in place prior to the structure

being moved. The ordinance requires the buildings to be moved at night, between the hours of 7 p.m. and 7 a.m., in order to reduce issues with traffic, and the building mover must provide a front and rear escort with flashing light, flags and wide load signs.

Councilmember Clegg **moved to Suspend the Charter requirement of three readings**, and was seconded by Councilmember Keeler, the motion carried by vote of 7 Ayes, 0 Nays.

Councilmember Clegg **moved to adopt the Ordinance**, and was seconded by Councilmember Rippy, and the motion carried by vote of 7 Ayes, 0 Nays.

TABLED RESOLUTION AUTHORIZING ISSUANCE OF DRILLING LICENSE TO TEXAS CES, INC. FOR A NON PRODUCTION WELL INSIDE THE CITY LIMITS

A RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY GAINESVILLE TO ISSUE TO TEXAS CES, INC. A LICENSE TO DRILL A NON PRODUCTION WELL FOR TRAINING PURPOSES WITHIN THE CITY LIMITS OF GAINESVILLE.

Mayor announced consideration of this resolution was pending receipt of information from Texas CES, and for staff review. The item may be presented at the City Council meeting on May 7, 2013.

Councilmember Snuggs **moved to table the Resolution**, and was seconded by Councilmember Clegg. Motion carried by vote of 7 Ayes, 0 Nays.

EXECUTIVE SESSION

At 7:40 p.m. Mayor Goldsworthy announced that Council would convene into Executive Session in compliance with Vernon's Texas Codes Annotated, Government Code, Chapter 551 (Open Meetings Act), to discuss the following:

- Under Government Code §551.071 Attorney Client Matters
- Under Government Code §551.072 Real Property

RECONVENE INTO OPEN SESSION

Council reconvened into open session at 8:12 p.m. Mayor Goldsworthy announced no action was taken during executive session.

ADJOURN

With no further business to come before the City Council, the meeting was adjourned at 8:12 p.m.

Respectfully submitted,

/S/
Kay Lunnon, City Secretary

/S/
Jim Goldsworthy, Mayor