

**MINUTES
CITY OF GAINESVILLE
CITY COUNCIL MEETING
200 South Rusk
Gainesville, Texas 76240
March 2, 2010**

The City Council of the City of Gainesville, Texas met in regular session on March 2, 2010 at 6:30 p.m. in accordance with the posted agenda and with the following persons in attendance:

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

MEMBERS ABSENT: Charles Draper

STAFF PRESENT: Barry Sullivan, City Manager; Kay Lunnon, City Secretary; Dan Parker, Finance Director; Steven Fleming, Police Chief; John Noblitt, Planning Director; Ron Sellman, Public Services Director

OTHERS PRESENT: Kit Chase, Delania Trigg, Earl Williams, Tom Schalk, Judy Smith, Richard and Terry Evans, Loyd Jackson.

CALL TO ORDER

Mayor Loch called the meeting to order at 6:30 p.m. The absence of Councilman Draper was noted.

INVOCATION & PLEDGE OF ALLEGIANCE

Reverend Duke Dowling, Southside Baptist Church, gave the invocation. Mayor Loch led the pledge to the flag.

RECOGNITIONS

Richard Evans was recognized as February 2010 City Employee of the Month and was presented a Certificate for his efforts in repairing an eight inch water main during adverse weather conditions, in thirty degree temperatures, spending approximately two hours waist deep in water. The City Manager noted Evans' efforts, and presented him a redeemable certificate good for one day off with pay.

CONSENT AGENDA

MINUTES OF FEBRUARY 16, 2010

Council reviewed the Minutes of the Regular City Council Meeting of February 16, 2010, and approved them as written.

Councilmember Snuggs moved to **approve the Consent Agenda**, and was seconded by Councilmember Goldsworthy. Motion carried by vote of 6 Ayes, 0 Nays, 1 absent (Draper).

RESOLUTION NO. 03-02-2010 - ACCEPT AUDIT FOR FISCAL YEAR ENDING SEPTEMBER 30, 2009

A RESOLUTION ACCEPTING THE AUDIT, FINANCIAL STATEMENT AND OPINION FOR FISCAL YEAR ENDING SEPTEMBER 30, 2009, AS PREPARED BY SCHALK & SMITH, CERTIFIED PUBLIC ACCOUNTANTS, AND AUTHORIZING THE CITY SECRETARY TO FILE THE AUDIT IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 1023A, VERNON'S ANNOTATED CIVIL STATUTES.

Council received and accepted the annual audit, financial statement and opinion for fiscal year ending September 30, 2009, prepared by Schalk & Smith, Certified Public Accountants. Auditor Tom Schalk reviewed the audit document with Council stating the City receives a "clean opinion", with no audit findings reported for the fiscal year. Schalk commended the City Manager and staff for good internal controls, decreasing long-term debt and increasing cash assets. Mayor Loch pointed out that the audit does not include management letter this year, and Schalk responded there were no areas of administrative or management weaknesses to point out. Councilman Nichols requested the auditors add a statement or footnote that the level of the City's contributions to the employee retirement fund is adequate to fund its actuarial liability. Schalk and Smith agreed to add that information.

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

RESOLUTION NO. 03-02-2010 A - SHARED POLLING LOCATION AGREEMENT WITH GISD, NCTC, AND NTMC ON MAY 8, 2010 AT CIVIC CENTER

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE GAINESVILLE INDEPENDENT SCHOOL DISTRICT (GISD), THE NORTH CENTRAL TEXAS MEDICAL ENTER (NTMC), AND THE NORTH CENTRAL TEXAS COLLEGE (NCTC) TO SHARE A POLLING LOCATION IN CERTAIN VOTING PRECINCTS FOR THE GENERAL ELECTION ON MAY 8, 2010.

An agreement was authorized for the City of Gainesville to share the Civic Center as a polling location for the May 8, 2010 Election with the Gainesville Independent School District (GISD), North Central Texas College (NCTC) and the North Texas Medical Center (NTMC) with no charge for rent. Each entity will be responsible for all aspects of their individual election process. The shared location is a convenience to Gainesville citizens to be able to vote on Election Day at the one polling location.

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

RESOLUTION NO. 03-02-2010 B - AGREEMENT WITH COOKE COUNTY FOR VOTING MACHINE(S) FOR THE MAY 2010 GENERAL ELECTION.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, AUTHORIZING AN AGREEMENT WITH COOKE COUNTY TO PROVIDE VOTING MACHINE(S) FOR THE MAY 2010 GENERAL ELECTION AND SPECIAL ELECTION.

An agreement with Cooke County was approved to provide voting machines to the City for early voting and Election Day voting for the City's May 2010 General Election and Special Election. The Help America Vote Act (HAVA) requires the City to provide an electronic voting machine for voters. Cooke County Commissioners previously approved the City's use of the voting machines at no charge, however the City will pay for ballots and programming charges for the machines.

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

PUBLIC HEARING ON JUVENILE CURFEW

Police Chief Steven Fleming explained the origin and purpose of the juvenile curfew in Gainesville. Mayor Loch opened the Public Hearing at 6:50 p.m. and called for public comment regarding the Juvenile Curfew Ordinance.

No one came forward to speak either for or against the curfew. With no further discussion, Councilmember Goldsworthy **moved to close the Public Hearing**, and was seconded by Councilmember Snuggs. Motion carried by vote of 6 Ayes, 0 Nays, 1 absent. The Public Hearing was closed at 6:53 p.m.

ORDINANCE NO. 1240-03-2010 – RE-ADOPTING AND RE-ENACTING THE JUVENILE CURFEW

FIRST READING OF AN ORDINANCE REVIEWING SECTION 13-56 OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE, THE JUVENILE CURFEW ORDINANCE, AND REENACTING SAID SECTION AS A NEW ARTICLE III, ENTITLED JUVENILE CURFEW, PROVIDING DEFINITIONS; MAKING IT AN OFFENSE FOR PERSONS UNDER THE AGE OF 17 YEARS TO REMAIN IN A PUBLIC PLACE OR AN ESTABLISHMENT BETWEEN 11:01 P.M. ON SUNDAYS, MONDAYS, TUESDAYS, WEDNESDAYS AND THURSDAYS AND 6:00 A.M. THE FOLLOWING DAY OR BETWEEN 12:01 A.M. AND 6:00 A.M. ON SATURDAYS AND SUNDAYS; PROVIDING DEFENSES; PROVIDING A PENALTY OF UP TO \$500 FOR EACH VIOLATION; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; MAKING AN OPEN MEETING FINDING; AND PROVIDING FOR SUSPENSION OF THE CHARTER REQUIREMENT OF READING ON THREE SEPARATE DAYS.

Police Chief Steven Fleming presented a report of juvenile arrest data for 2007 through 2009 indicating the need for the curfew. Fleming stated the curfew was first enacted in the City of Gainesville in 1995 and is a valuable tool in preventing teens from becoming involved in crimes or becoming victims. Fleming recommended continuance of the curfew, stating he is confident it is an effective deterrent.

Councilmember Nichols **moved to suspend the Charter requirement of three readings**, seconded by Councilmember Goldsworthy, the motion carried by vote of 6 Ayes, 0 Nays, 1 absent (Draper).

Councilmember Rippy **moved to adopt the ordinance**. The motion was seconded by Councilmember Snuggs and carried by vote of 6 Ayes, 0 Nays, 1 absent (Draper).

ORDINANCE NO. 1241-03-2010 - REZONE 1410 O'NEAL AND 1016 RITCHEY FROM SINGLE FAMILY TWO (SF-2) TO RESTRICTED COMMERCIAL (C1)

SECOND 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 SINGLE FAMILY TWO (SF-2) TO RESTRICTED COMMERCIAL (C1) 5.47 ACRES IN THE T. TOBY SURVEY ABSTRACT 1059, CITY OF GAINESVILLE, COOKE COUNTY, TEXAS; 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.

In presenting second reading of the rezoning request, Sullivan said the Restricted Commercial (C1) zoning is the most restrictive and the most appropriate code that will protect the surrounding neighborhood from larger retail uses and heavy traffic. The developer proposes uses for the property located at 1410 O'Neal and 1016 Ritchey that meet restricted commercial zoning requirements. The location is the former Gainesville Memorial Hospital. Sullivan said the City has received no public comments or input for or against the rezoning since the first reading of the ordinance. Councilwoman Snuggs said she has received only positive comments from area residents regarding the rezoning. She said residents want the building to be occupied and are concerned about the building being vacant. The rezoning is compliant with the City's comprehensive land use plan and was recommended for approval by the Planning and Zoning Commission.

Councilmember Snuggs **moved to suspend the Charter requirement of three readings**, and was seconded by Councilmember Goldsworthy. The motion carried by vote of 6 Ayes, 0 Nays, 1 absent (Draper).

Councilmember Snuggs **moved to adopt the ordinance**. The motion was seconded by Councilmember Goldsworthy and carried by vote of 6 Ayes, 0 Nays, 1 absent (Draper).

ORDINANCE NO. 1242-03-2010 - REZONE 205 SOUTH MORRIS FROM SINGLE FAMILY TWO (SF-2) TO GENERAL COMMERCIAL (C2)

SECOND 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 SINGLE FAMILY TWO (SF-2) TO GENERAL COMMERCIAL (C2) THE PROPERTY IDENTIFIED AS 205 SOUTH MORRIS 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.

Sullivan said this property at 205 South Morris abuts other general commercial zoning, and the rezoning request is in compliance with the comprehensive land use plan. The zoning district change was recommended for approval by the Planning and Zoning Commission.

Councilmember Nichols **moved to suspend the Charter requirement of three readings**, and was seconded by Councilmember Goldsworthy. The motion carried by vote of 6 Ayes, 0 Nays, 1 absent (Draper).

Councilmember Nichols **moved to adopt the ordinance**. The motion was seconded by Councilmember Goldsworthy and carried by vote of 6 Ayes, 0 Nays, 1 absent (Draper).

ORDINANCE NO. 1243-03-2010 - REZONE 2700 EAST HIGHWAY 82 FROM GENERAL COMMERCIAL (C2) TO OUTDOOR COMMERCIAL (C3)

SECOND 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 (C2) TO OUTDOOR COMMERCIAL (C3) THE PROPERTY IDENTIFIED AS 2700 EAST HIGHWAY 82; 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.

