

## **REGULAR CITY COUNCIL MEETING**

**MAY 6, 2008**

**7:00 P.M.**

A Regular Meeting of the Terrell City Council was held on Tuesday, May 6, 2008 at 7:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

**COUNCILMEMBER #1    HAL RICHARDS**  
**COUNCILMEMBER #2    TOMMY SPENCER**  
**COUNCILMEMBER #3    RICKY JORDAN**  
**COUNCILMEMBER #4    JACK JONES**  
**COUNCILMEMBER #5    DON THURMAN**

**1.     Call to order.**

Mayor Hal Richards called the meeting to order.

**2.     Invocation.**

Deputy Mayor Pro tem Jack Jones gave the opening prayer.

Mayor Hal Richards recognized Don Lindsey, former Mayor for attending the meeting.

**3.     Discuss and Consider Approval of Special City Council Meeting and Workshop Minutes of April 10, 2008 and Regular City Council Meeting Minutes of April, 15, 2008.**

Councilmember Don Thurman made a motion to approve Special City Council Meeting and Workshop Minutes of April 10, 2008 and Regular City Council Meeting Minutes of April 15, 2008. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Nays – none. Motion carried.

**4.     Hear Remarks from Visitors.**

None were made.

## PUBLIC HEARING

5.
  - a.) **Conduct a Public Hearing to receive public comment regarding the adoption of a major update and revisions to the Zoning Ordinance, regarding text revisions throughout the Ordinance to update and strengthen the zoning regulations and use tables, to resolve conflicts and improve its clarity in order to better implement the goals and strategies of the Comprehensive Plan and improve the health, safety and welfare of the citizens of Terrell. The proposed text revisions are to be applied city-wide and will not change any Zoning District Boundary or the Zoning Classification on any real property.**

Terry Capehart, Director of Municipal Development gave opening comments regarding the adoption of a major update and revisions to the Zoning Ordinance, regarding text revisions throughout the Ordinance to update and strengthen the zoning regulations and use tables, to resolve conflicts and improve its clarity in order to better implement the goals and strategies of the Comprehensive Plan and improve the health, safety and welfare of the citizens of Terrell. The proposed text revisions are to be applied city-wide and will not change any Zoning District Boundary or the Zoning Classification on any real property. Mayor Hal Richards opened a Public Hearing to receive public comment regarding the adoption of a major update and revisions to the Zoning Ordinance, regarding text revisions throughout the Ordinance to update and strengthen the zoning regulations and use tables, to resolve conflicts and improve its clarity in order to better implement the goals and strategies of the Comprehensive Plan and improve the health, safety and welfare of the citizens of Terrell. The proposed text revisions are to be applied city-wide and will not change any Zoning District Boundary or the Zoning Classification on any real property. Karen Jones spoke for the Adoption of a major update and revision to the Zoning Ordinance. No one spoke against the Zoning Ordinance. Mayor Hal Richards closed the Public Hearing.

- b.) **Discuss and Consider Approval of Ordinance No. 2371 - Adopting a New Comprehensive Zoning Ordinance.**

Councilmember Don Thurman made a motion to approve Ordinance No. 2371 – Adopting a New Comprehensive Zoning Ordinance on first reading. The motion was seconded by Deputy Mayor Pro tem Jack Jones. Ayes – all; Nays – none. Motion carried.

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, REPEALING THE COMPREHENSIVE ZONING ORDINANCE (CHAPTER 13) OF THE CITY OF TERRELL, ADOPTED ON THE 14<sup>TH</sup> DAY OF NOVEMBER 1961, TOGETHER WITH ALL AMENDMENTS THERETO; ESTABLISHING AND PROVIDING ZONING REGULATIONS; CREATING USE DISTRICTS IN ACCORDANCE WITH THE COMPREHENSIVE PLAN APPROVED BY THE CITY COUNCIL; REGULATING WITHIN SUCH DISTRICTS THE HEIGHT OF BUILDINGS AND STRUCTURES, THE SIZE OF YARDS COURTS AND OPEN SPACES, AND THE HEIGHT, BULK, EXTERIOR ELEVATIONS AND USE OF BUILDINGS AND

LAND FOR NONRESIDENTIAL, RESIDENTIAL AND OTHER PURPOSES; PROVIDING FOR SPECIFIC USE PERMITS (SUP); REPEALING THE FOLLOWING ABANDONED OR DISCONTINUED SUP ORDINANCES: 1377, 1418, 1424, 1474, 1688, 1713, 1720, 1842, 1857, 1941, 1977, 1996, 2033, 2090, 2173, 2181; SPECIFYING MINIMUM REQUIREMENTS FOR OFF-STREET PARKING OF MOTOR VEHICLES AND OFF-STREET LOADING AREAS; PROVIDING MINIMUM REQUIRED FLOOR AREAS FOR DWELLING UNITS AND THE TYPE OF EXTERIOR CONSTRUCTION WITHIN CERTAIN ZONING DISTRICTS; REGULATING THE DENSITY OF DWELLINGS AND OTHER STRUCTURES AND THE PERCENTAGE OF EACH LOT THAT MAY BE OCCUPIED BY STRUCTURES; ADOPTING PERFORMANCE STANDARDS FOR NONRESIDENTIAL USES; ESTABLISHING THE BASIS FOR CREATING A BUILDING SITE; PROVIDING FOR APPROPRIATE PLAN APPROVALS; PROVIDING FENCE AND WALL REGULATIONS; PROVIDING SPECIAL ACCESS STANDARDS; ADOPTING A ZONING DISTRICT MAP AND MAKING IT A PART OF THIS ORDINANCE, TOGETHER WITH ALL SYMBOLS, MARKINGS AND TABLES APPEARING ON SAID MAP AND WITHIN THE ORDINANCE; CREATING A ZONING BOARD OF ADJUSTMENT AND DEFINING ITS POWERS AND DUTIES; CREATING A PLANNING AND ZONING COMMISSION AND DEFINING ITS POWERS AND DUTIES; PROVIDING FOR NON-CONFORMING USES AND A METHOD OF DISCONTINUANCE THEREOF; DEFINING CERTAIN TERMS AS USED WITHIN THIS ORDINANCE; PROVIDING FOR A CERTIFICATE OF OCCUPANCY AND COMPLIANCE; PROVIDING FOR ALL REFERENCES TO ZONING DISTRICTS IN THE CITY CODE OF ORDINANCES AND OTHER CITY ORDINANCES TO BE SUPERSEDED BY THOSE DISTRICTS LISTED HEREIN; AUTHORIZING PUBLICATION OF THE DESCRIPTIVE CAPTION AND PENALTY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH AND EVERY OFFENSE; PROVIDING A SAVINGS CLAUSE AND A REPEALER CLAUSE; AND PRESERVING RIGHTS IN PENDING LITIGATION REGARDING VIOLATIONS UNDER THE EXISTING ORDINANCE.

### **NEW BUSINESS**

**6. Discuss and Consider Approval of Agreement Between City of Terrell and Terrell Volunteer Fire Department.**

Jim Harper, Fire Chief and Don Lindsey Sr. representing Terrell Volunteer Fire Department presented to Council for discussion and consideration Agreement Between City of Terrell and Terrell Volunteer Fire Department. Deputy Mayor Pro tem Jack Jones made a motion to approve Agreement Between City of Terrell and Terrell Volunteer Fire Department. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Nays – none. Motion carried.

**7. Discuss and Consider Approval of Resolution No. 603 - Canceling the Election for May 10, 2008 for Council District No. 5 and Declaring Un-Opposed Candidate Elected to Office.**

Councilmember Tommy Spencer made a motion to approve Resolution No. 603 – Canceling the Election for May 10, 2008 for Council District No. 5 and Declaring Un-Opposed Candidate Elected to Office. The motion was seconded by Deputy Mayor Pro tem Jack Jones. Ayes - Tommy Spencer, Jack Jones, Hal Richards, Ricky Jordan. Nayses – none. Councilmember Don Thurman did not vote.

RESOLUTION NO. 603

A RESOLUTION OF THE CITY OF TERRELL, TEXAS CERTIFYING CANDIDATE UNOPPOSED ON BALLOT OF GENERAL MUNICIPAL ELECTION FOR THE CITY OF TERRELL SET FOR SATURDAY, MAY 10, 2008; FOR ELECTION OF COUNCIL MEMBER IN DISTRICT NO. 5; DECLARING UNOPPOSED CANDIDATE ELECTED TO OFFICE; AUTHORIZING COPY OF RESOLUTION POSTED ON ELECTION DATE AT EACH POLLING PLACE TO BE USED IN ELECTION; AND PROVIDING THAT IT SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

WHEREAS, On January 22, 2008, the City Council of the City of Terrell adopted Resolution No. 598 - Calling the General Municipal Election for the City of Terrell, Texas, for the election of Council Member from District No. 5 with such election to be held on Saturday, May 10, 2008; and

WHEREAS, the candidate whose name is to appear on the ballot is unopposed and there is no proposition appearing on the ballot; and

WHEREAS, the City Secretary has certified in writing that the candidate is unopposed for election;

WHEREAS, the filing deadline for placement on the ballot and declaration of write-in candidacy has passed; and

WHEREAS, in these circumstances Subchapter C of Chapter 2 of the Election Code authorizes a governing body to declare the unopposed candidate elected to office and cancel the Election for Council District No. 5.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, THAT:

SECTION I.

The General Election for the City of Terrell scheduled for Saturday, May 10, 2008 for the election of Councilmember District No. 5, shall not be held in accordance with Section 2.051 of the Election Code and it is hereby declared that the unopposed candidate is hereby elected to the office as follows:

In District No. 5

Councilmember..... Don Thurman

SECTION II.

A copy of this Resolution shall be posted on election day at each polling place that would have been used in the election and a Certificate of Election issued to the candidate.

SECTION III.

This resolution shall be cumulative of all provisions of resolution of the City of Terrell, Texas, except where the provisions of this resolution are in direct conflict with the provisions of such resolutions, in which event the conflicting provisions of such resolution are hereby repealed.

SECTION IV.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this resolution are severable, and if any phrase, clause, sentence, paragraph or section of this resolution shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this resolution, since the same would have been enacted by the city council without the incorporation in this resolution of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION V.

This resolution shall be in full force and effect from and after its passage, and it is so ordained.

Passed and Approved on this the 6<sup>th</sup> day of May, 2008.

**8. Discuss and Consider Approval of Ordinance No. 2370 – Amending Chapter 2, Administration, by the Addition of Section 11: Providing for the Creation of the Terrell Youth Advisory Board.**

Lynette Nadeau, Marketing Coordinator and Greg Shumpert, Assistant City Attorney presented to Council for discussion and consideration Ordinance No. 2370 – Amending Chapter 2, Administration, by the Addition of Section 11: Providing for the Creation of the Terrell Youth Advisory Board. Deputy Mayor Pro tem Jack Jones made a motion to approve Ordinance No. 2370 – Amending Chapter 2, Administration, by the Addition of Section 11: Providing for the Creation of the Terrell Youth Advisory Board. The motion was seconded by Councilmember Don Thurman. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2370

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING CHAPTER 2, ADMINISTRATION, BY THE ADDITION OF SECTION 11 PROVIDING FOR THE CREATION OF THE TERRELL YOUTH ADVISORY BOARD, TERRELL CITY CODE REVISED; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**CONSENT AGENDA**

Councilmember Don Thurman made a motion to adopt Ordinance No. 2367 and Ordinance No. 2368 second reading on CONSENT AGENDA. The motion was seconded by Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

**9. Consider Adoption on Second Reading of Ordinance No. 2367 - approving an Amendment to the Comprehensive Plan and Future Land Use Map to change the current land use designation from Low Density Residential Uses to Commercial Uses for property located at 607 W. Nash St., described as Lot 1, Block 112, Western Addition Tilton Resub Life Est of E. M. Robinson, City of Terrell, Kaufman County, Texas.**

ORDINANCE No. 2367

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE COMPREHENSIVE PLAN AND FUTURE LAND USE MAP CHANGING THE USE FROM LOW DENSITY RESIDENTIAL TO COMMERCIAL FOR A TRACT OF LAND LOCATED AT 607 W. NASH ST., DESCRIBED AS LOT 1, BLOCK 112, WESTERN ADDITION, TILTON RESUB LIFE ESTATE OF E.M. ROBINSON, CITY OF TERRELL, KAUFMAN COUNTY, TEXAS.

ARTICLE I.

WHEREAS, the Planning and Zoning Commission of the City of Terrell, Texas, and the governing body of the City of Terrell, Texas, in compliance with the Charter of the City of Terrell, Texas and the State law with reference to granting of changes to the Comprehensive Plan and Future Land Use Map, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally, and to the persons interested and situated in the affected area and in the vicinity thereof, the governing body of the City of Terrell, Texas, is of the opinion that said establishments of such land uses should be made Commercial for a certain tract of land located at 607 W. Nash St., described as Lot R, Block 112, Western Addition, Tilton Resub Life Estate of E.M. Robinson, City of Terrell, Kaufman County, Texas.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Terrell, Texas:

THAT the Comprehensive Plan, Ordinance No. 2118, of the City of Terrell, Texas, be, and the same is hereby amended by amending the Future Land Use Map, so as to depict changes for property thereon, hereinafter provided.

It is directed that the Official Future Land Use Map of the City of Terrell, Texas, be changed to reflect the land uses established by this Ordinance.

That the above described tract of land shall be used only in the manner and for the purposes allowed by the Future Land Use Map as amended heretofore, and as amended herein.

That is any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged to be unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion or part thereof other than that portion so decided to be invalid or unconstitutional.

That the previous land use classification hereby be amended as indicated.

WHEREAS, it has been found that there has been a change in the conditions in the above described property, it is now necessary that it be given the above land use classification in order to permit its proper development and in order to protect the public interest, comfort, and general welfare, public health, and safety of the City of Terrell, Texas, and requires that this ordinance shall take effect from and after its adoption.

## ARTICLE II

All ordinances or part of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

## ARTICLE III

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause,

sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

#### ARTICLE IV

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such case provides.

PASSED AND APPROVED this the 15<sup>th</sup> day of April, 2008.

PASSED AND ADOPTED this the 6<sup>th</sup> day of May, 2008.

- 10. Consider Adoption on Second Reading Ordinance No. 2368 - approving a Zone Change from Two-Family (2F) to Commercial (C) on property located at 607 W. Nash St., described as Lot 1, Block 112, Western Addition Tilton Resub Life Est of E. M. Robinson, City of Terrell, Kaufman County, Texas.**

#### ORDINANCE NO. 2368

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, CHANGING THE ZONING FROM TWO-FAMILY (2F) TO COMMERCIAL (C) ON PROPERTY LOCATED AT 607 W. NASH ST., DESCRIBED AS LOT 1, BLOCK 112, WESTERN ADDITION, TILTON RESUB LIFE ESTATE OF E.M. ROBINSON, CITY OF TERRELL, KAUFMAN COUNTY, TEXAS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

#### ARTICLE I.

WHEREAS, the Planning and Zoning Commission of the City of Terrell, Texas, held a public hearing on March 24, 2008 on a request to change the zoning from Two-Family (2F) to Commercial (C) on property located at 607 W. Nash St., described as Lot R, Block 112, Western Addition, Tilton Resub Life Estate of E.M. Robinson, City of Terrell, Kaufman County, Texas; and

WHEREAS, the City Council of the City of Terrell, Texas held a public hearing on April 15, 2008, on a request to change the zoning from Two-Family (2F) to Commercial (C) on property located at 607 W. Nash St., described as Lot R, Block 112, Western Addition, Tilton Resub Life Estate of E.M. Robinson, City of Terrell, Kaufman County, Texas; and

WHEREAS, the City Council has determined that all notice requirements have been given in compliance with the laws and ordinances of the City of Terrell; and

WHEREAS, the City Council of the City of Terrell, Texas has determined that it would be in the best interest of the citizens of Terrell to change the zoning from Two-Family (2F)

to Commercial (C) on property located at 607 W. Nash St., described as Lot R, Block 112, Western Addition, Tilton Resub Life Estate of E.M. Robinson, City of Terrell, Kaufman County, Texas.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Terrell, Texas:

THAT the zoning classification be and is hereby changed from Two-Family (2F) to Commercial (C) on property located at 607 W. Nash St., described as Lot R, Block 112, Western Addition, Tilton Resub Life Estate of E.M. Robinson, City of Terrell, Kaufman County, Texas.

#### ARTICLE II

All ordinances or part of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

#### ARTICLE III

That operation will be in conformance with requirements of the zoning ordinance. In addition, the official Zoning Map of the City of Terrell, Texas shall be annotated to show the change in zoning status from Two-Family District (2-F) to Commercial (C), thereon.

#### ARTICLE IV

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

#### ARTICLE V

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such case provides.

PASSED AND APPROVED this the 15<sup>th</sup> day of April, 2008.

PASSED AND ADOPTED this the 6<sup>th</sup> day of May, 2008.

**END OF CONSENT AGENDA**

**11. Adjourn.**

There were no other matters discussed or acted on at this meeting. There being no further business the meeting was adjourned.

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Hal Richards, Mayor

Attest:

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John Rounsavall, City Secretary