

REGULAR CITY COUNCIL MEETING

AUGUST 3, 2010

7:00 P.M.

A Regular Meeting of the Terrell City Council was held on Tuesday, August 3, 2010 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 – ABSENT (EXCUSED)
COUNCILMEMBER #2 SANDRA WILSON
COUNCILMEMBER #3 RICKY JORDAN
COUNCILMEMBER #4 JACK JONES
COUNCILMEMBER #5 DON THURMAN

1. Call to order.

Mayor Pro tem Jack Jones called the meeting to order.

2. Invocation.

Greg Shumpert, Assistant City Attorney gave the opening prayer.

3. Discuss and Consider Approval of Special City Council Meeting and Retreat Minutes of July 8-9, 2010, Special City Council Meeting and Workshop Minutes of July 15, 2010 and Regular City Council Meeting Minutes of July 20, 2010.

Councilmember Don Thurman made a motion to approve the Special City Council Meeting and Retreat Minutes of July 8-9, 2010, Special City Council Meeting and Workshop Minutes of July 15, 2010 and Regular City Council Meeting Minutes of July 20, 2010. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

4. Hear Remarks from Visitors.

Sue Lawson – 509 Estate Lane, Terrell, Texas 75160 expressed her opposition to a dance floor at Fast Eddies.

Glenn Beasley – 309 Grace Lane, Terrell Texas 75160 expressed his opposition to a dance floor at Fast Eddies.

Denny Rohe – 109 Stoney Creek, Terrell, Texas 75160 expressed his support for the dance floor at Fast Eddies.

NEW BUSINESS

5. Discuss Request for Exemption from Locational Restrictions Submitted by Fast Eddies Sports Bar and Grill.

Terry Capehart, Director of Municipal Development presented to Council background information regarding a Request for Exemption from Locational Restrictions Submitted by Fast Eddies Sports Bar and Grill. Councilmember Don Thurman made a motion to deny a Request for Exemption from Locational Restrictions Submitted by Fast Eddies Sports Bar and Grill. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

6. Discuss Resale of Properties Described as:
a.) Lot 5, Block 2, Dewberry 1st – 509 Thomas Street.
b.) Lot 3A, Block 21, Terrell Original – 407 S. Adelaide
c.) Lots 21-28, Block 1, Phagan Addition – St Luke Street.

Councilmember Sandra Wilson made a motion to approve Resale of Property for a.) Lot 5, Block 2, Dewberry 1st – 509 Thomas Street and b.) Lot 3A, Block 21, Terrell Original – 407 S. Adelaide and reject resale of c.) Lots 21-28, Block 1, Phagan Addition – St Luke Street. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

7. Discuss and Consider Approval of Resolution No. 661 – Setting Dates, Times and Places for Public Hearings on the Proposed Annexation of Certain Property by the City of Terrell, Texas and Authorizing and Directing the City Secretary to Publish Notice of Such Public Meetings.

Greg Shumpert, Assistant City Attorney presented to Council for discussion and consideration Resolution No. 661 – Setting Dates, Times and Places for Public Hearings on the Proposed Annexation of Certain Property by the City of Terrell, Texas and Authorizing and Directing the City Secretary to Publish Notice of Such Public Meetings. Councilmember Sandra Wilson made a motion to approve Resolution No. 661 – Setting Dates, Times and Places for Public Hearings on the Proposed Annexation of Certain Property by the City of Terrell, Texas and Authorizing and Directing the City Secretary to Publish Notice of Such Public Meetings with change of September 8, 2010 to 12:00 p.m. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

CONSENT AGENDA

Councilmember Don Thurman made a motion to adopt Ordinance No. 2458, Ordinance No. 2458, Ordinance No. 2459, Ordinance No. 2460 and Ordinance No. 2461 on second reading on CONSENT AGENDA. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

8. Discuss and Consider Adoption on Second Reading of Ordinance No. 2458 - Budget Amendment.

ORDINANCE NO. 2458

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE ANNUAL BUDGET FOR THE YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010, AS PASSED AND ADOPTED ON SEPTEMBER 15, 2009 TO PROVIDE FOR INCREASES IN CERTAIN ACCOUNTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION I.

The following funds are amended to reflect the following in the budget:

<u>GENERAL FUND</u>	BUDGETED	AMOUNT	AMENDED
<u>REVENUES</u>			
010-00-3722 Transfer In- Utility Debt Obligation Refund.	-0-	\$421,177.00	\$421,177.00
<u>UTILITY FUND</u>	BUDGETED	AMOUNT	AMENDED
<u>EXPENDITURES</u>			
<u>Debt Service</u>			
020-90-4492 Transfer Out- Utility Debt Obligation Refund	-0-	\$ 421,177.00	\$421,177.00
<u>EQUIPMENT REPLACEMENT FUND</u>			
<u>EXPENDITURES</u>			
025-25-4504 D32 (2) Patrol Vehicles	\$23,000.00	\$ 59,192.00	\$ 82,192.00
<u>CAPITAL IMPROVEMENT FUND</u>			
<u>EXPENDITURES</u>			
026-00-4413 Traffic Study (RR)	-0-	\$15,000.00	\$15,000.00

SECTION II.

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

SECTION 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 unconstitutionally 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 of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION IV.

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

Passed and Approved on this the 20th day of July, 2010.

Passed and Adopted on this the 3rd day of August, 2010.

9. **Discuss and Consider Adoption on Second Reading of Ordinance No. 2459 – Approving Amendments to the Comprehensive Zoning Ordinance No. 2444 Regarding Texas Revisions to Sections 32, 33, 38, 40 and 44 in Order to Clarify Ambiguous or Conflicting Language, Amend or Revise Use Tables in Regards to Temporary Use Permits, Revise Parking Standards for Certain Uses, Revise Lighting and Glare Standards to Include “Dark Sky” Provisions and Add Definitions for New Uses.**

**ZONING ORDINANCE
City of Terrell, Texas
Ordinance No. 2459**

I. ENACTING PROVISIONS

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE (CHAPTER 13) OF THE REVISED CODE OF ORDINANCES, CITY OF TERRELL, ADOPTED ON THE 3rd DAY OF AUGUST 2010, TOGETHER WITH ALL AMENDMENTS THERETO; REVISING AND UPDATING PORTIONS OF SECTIONS 32, 33, 38, 40 AND 44 IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE PLANNING AND ZONING COMMISSION; 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; 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.

PASSED AND APPROVED by the City Council of the City of Terrell, Texas on the 20th day of July, 2010.

PASSED AND ADOPTED by the City Council of the City of Terrell, Texas on the 3rd day of August, 2010.

10. Discuss and Consider Adoption on Second Reading of Ordinance No. 2460 – Approving a Request for a Zone Change from Single-Family Residential -7.5 (SF-7.5) to Neighborhood Services (NS) on Property Located at 107 E. Brin, Described as Lot 2, Block 46, Terrell Original, Conveyed to First Christian Church as Recorded in Volume 1868, Page 128, Deed of Records of Kaufman County, Texas. (ZC-10-03)

ORDINANCE NO. 2460

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, CHANGING THE ZONING FROM SINGLE-FAMILY RESIDENTIAL-7.5 (SF-7.5) TO NEIGHBORHOOD SERVICES (NS) ON PROPERTY LOCATED AT 107 E. BRIN STREET, DESCRIBED AS LOT 2, BLOCK 46, TERRELL ORIGINAL, CONVEYED TO FRIST CHRISTIAN CHURCH AS RECORDED IN VOLUME 1868, PAGE 128, DEED OF RECORDS OF 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 June 28, 2010 on a request to change the zoning from Single-Family Residential-7.5 (SF-7.5) to Neighborhood Services (NS) on property located at 107 E. Brin Street, described as Lot 2, Block 46, Terrell Original, conveyed to First Christian Church as recorded in Volume 1868, Page 128, Deed of Records of Kaufman County, Texas.; and

WHEREAS, the City Council of the City of Terrell, Texas held a public hearing on July 20, 2010 and has determined that it would be in the best interest of the citizens of Terrell to change the zoning from Single-Family Residential-7.5 (SF-7.5) to Neighborhood Services (NS), 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 State Law.

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 Single-Family Residential-7.5 (SF-7.5) to Neighborhood Services (NS) on property located at 107 E. Brin Street, described as Lot 2, Block 46, Terrell Original, conveyed to First Christian Church as recorded in Volume 1868, Page 128, Deed of Records of 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 Single-Family Residential-7.5 (SF-7.5) to Neighborhood Services (NS), thereon. All future development shall be in substantial conformance to the attached Exhibit A, Zoning Concept Plan.

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 20th day of July, 2010.

PASSED AND ADOPTED this the 3rd day of August, 2010.

11. Discuss and Consider Adoption on Second Reading of Ordinance No. 2461 – Approving a Request for a Zone Change from Townhouse Residential -12 (TH-12) to Retail (R) on Property Located at 803 W. Nash Street Described as Lot 1A, Block 116, Western Addition, City of Terrell, Kaufman County, Texas.

ORDINANCE NO. 2461

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, CHANGING THE ZONING FROM TOWNHOUSE RESIDENTIAL-12 (TH-12) TO RETAIL (R) ON PROPERTY LOCATED AT 803 W. NASH STREET, DESCRIBED AS LOT 1A, BLOCK 116, WESTERN ADDITION, 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 June 28, 2010 on a request to change the zoning from Townhouse Residential-12 (TH-12) to Retail (R) on property located at 803 W. Nash Street, described as Lot 1A, Block 116, Western Addition, City of Terrell, Kaufman County, Texas; and

WHEREAS, the City Council of the City of Terrell, Texas held a public hearing on July 20, 2010 and has determined that it would be in the best interest of the citizens of Terrell to change the zoning from Townhouse Residential-12 (TH-12) to Retail (R) on property located at 803 W. Nash Street, described as Lot 1A, Block 116, Western Addition, 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 State Law.

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 Townhouse Residential-12 (TH-12) to Retail (R) on property located at 803 W. Nash Street, described as Lot 1A, Block 116, Western Addition, 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 Townhouse Residential-12 (TH-12) to Retail (R), thereon. All future development shall be in substantial conformance to the attached Exhibit A, Zoning Concept Plan.

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 20th day of July, 2010.

PASSED AND ADOPTED this the 3rd day of August, 2010.

END OF CONSENT AGENDA

12. Receive City Manager's Reports and Correspondence: Budget Process Calendar.

City Manager Torry Edwards presented Reports and Correspondence to Council.

13. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government Code to Discuss Section 551.071 – Consultation with Attorney.

This item was passed.

14. Reconvene into Regular Session and Consider Action, if any, on Item Discussed in Executive Session.

This item was passed.

15. Adjourn.

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

Hal Richards, Mayor

Attest:

John Rounsavall, City Secretary