

**City of Dripping Springs
City Council**

**Regular Meeting Minutes
Tuesday, June 9, 2009
7:00 p.m.**

511 Mercer Street, Dripping Springs, Texas

I. CALL TO ORDER AND ROLL CALL

Mayor & City Council Members

Mayor Todd Purcell

Council Member Santos Alba

Council Member Joe Volpe

Mayor Pro Tem Bill Foulds

Council Member Doug Phillip

Council Member H.A. "Spider" Williams

City Staff/Appointed Officials

City Administrator Michelle Fischer

Deputy City Administrator Ginger Faught

Development Coordinator Jon Thompson

Planning & Zoning Commission Chair Craig Koenig

City Treasurer Gina Gillis

City Secretary Jo Ann Touchstone

City Attorney Alan Bojorquez

Special Counsel Susan Zachos

Mayor Purcell calls the meeting to order at 7:04 p.m. All present except Councilman Williams, Rick Coneway, and Susan Zachos.

II. PLEDGE OF ALLEGIANCE

A. Pledge of Allegiance – leads the pledge.

Jon Thompson leads the pledge.

III. PRESENTATIONS BY CITIZENS

Floor open to discussion on any subject. No action may be taken by law. Citizens wishing to speak shall do so after being recognized by the Mayor. The Mayor and City Council may establish a time limit as necessary.

A. Update from Tim Nance with Pedernales Electric Cooperative – Tim Nance gives update.

IV. CONSENT ITEMS

The following items may be acted upon in one motion. No separate discussion or action is necessary unless requested by a Council Member or citizen, in which event those items will be pulled from the consent agenda for separate consideration.

- A. Approval of Special and Regular Meeting Minutes, May 12, 2009
- B. Approval of Special and Regular Meeting Minutes, May 19, 2009
- C. Approval of Treasurer's Report May for 2009
- D. Resolution No. 2009-19 – A Resolution of the City of Dripping Springs Acknowledging and Waiving Potential Conflicts Disclosed by a Specific City Contractor as Required by Ordinance 1010.1
- E. Appointment of Parks & Recreation Commissioners, Terms to Expire June 2011: Alan Atwood (DSISD), Santos Alba (City), Brad Thomas (City), Scott Davis (DSYSA)
- F. Appointment of Historic Preservation Commissioners, Terms to Expire June

2011: Ted Lehr (Planning and Zoning Commissioner), H.C. Carter (District Property Owner)

- G. Resolution No. 2009-22 - A Resolution of The City of Dripping Springs Authorizing Execution of a Funding Agreement Between the City and the Chamber of Commerce for Economic Development, Tourism, and Visitors Services Funded by the Hotel Occupancy Tax -
- H. Resolution No. 2009-23 - A Resolution of The City of Dripping Springs Authorizing Execution of a Funding Agreement Between the City and the Friends of the Pound House Foundation for Economic Development, Tourism, and Visitors Services Funded by the Hotel Occupancy Tax –

Councilman Phillip motions to approve items A,B,C,D,F,G, and H. Item E approved with exception of approving Santos Alba and instead appointing Councilman Volpe. Mayor Pro Tem Bill Foulds seconds. Motion passes, 4-0.

V. SITE DEVELOPMENTS/SUBDIVISIONS/ZONING/ON SITE SEWAGE FACILITIES/SIGNS/VARIANCES/WAIVERS/SPECIAL EXCEPTIONS/ALTERNATE STANDARDS/ANNEXATIONS

Consideration and Possible Action on:

- A. Ordinance No. 1803.62 - An Ordinance of the City of Dripping Spring Annexing the following property into the City of Dripping Springs Corporate City Limits:

55.72 Acre Tract of Land Being a Portion of Lot 2, Block C, Poundhouse Hills, Section Two, *Stephen Smith, Owner, Morningstar Development, L.L.C*

- 1. Public Hearing – No one speaks.
- 2. Ordinance No. 1830.62 – Councilman Alba motions to approve. Mayor Pro Tem Foulds seconds. Motion passes, 4-0.

- B. Roger Hanks Apartments Site Development Permit extension request, Roger Hanks Park Subdivision, Lots 13 through 17, *Whit Hanks, Owner*

- 1. Presentation – Mr. Whit Hanks states request for extension due to economic hardships.
- 2. Development Coordinator’s Report – Development Coordinator Jon Thompson, report on file. Staff recommends approval.
- 3. Planning & Zoning Commission Report – Commissioner Koenig states Commission voted to approve. Commission wanted to note economic hardship so as not to set a precedent.
- 4. Public Hearing – No one speaks.
- 5. Approval of Extension – Councilman Volpe motions to approve. Councilman Alba seconds. Motion passes, 3-0-1. Councilman Phillip abstains.

- C. Dripping Springs Independent School District (New High School) Package 4 Site Development Plan, 940 Hwy 290W, *Mard Herrick, Ph.D., Superintendent*

- 1. Presentation – Sean Friend, Cunningham Allen, Civil Engineers. Report on file.
- 2. Development Coordinator’s Report – Development Coordinator Jon Thompson, report on file. Staff recommends approval.
- 3. Planning & Zoning Commission Report – Commissioner Koenig states Commission approved.
- 4. Public Hearing – No one speaks.
- 5. Site Plan – Councilman Phillip motions to approve. Councilman Volpe seconds. Motion passes, 3-0-1. Councilman Alba abstains.

- D. Ordinance No. 1220.46 – Ordinance of the City of Dripping Springs Changing the Zoning Classification of the following property located in the City of Dripping Springs City Limits, Hays County, Texas: Peabody Plaza, Section 1, Lot 5 from AG – Agricultural to CS – Commercial, (*Gateway Medical Center, 2250 US Hwy 290, Mark J. Lander, Owner*)

- 1. Presentation – Mark Lander, states request and history.

2. Development Coordinator's Report – Development Coordinator Jon Thompson, report on file. Staff recommends GR with Office overlay.
3. Planning & Zoning Commission Report – Commissioner Koenig states Commission approved with no restrictions.
4. Public Hearing – No one speaks.
5. Ordinance No. 1220.46 – Councilman Phillip motions to approve ordinance with GR zoning and Office overlay with no restrictions. Councilman Volpe seconds. Motion passes, 4-0.

E. First Baptist Church, 203 W. US Hwy 290 – Special Exception from Zoning Ordinance 1220.01, Section 5.29, requirements for an increase to the building setback lines to the front, sides, and rear by one foot horizontally for every one foot the building exceeds the height limitation vertically due to hardship, *Charlie Haydon, Building Committee Chairman*

1. Presentation – Charlie Haydon and Ben Heimsath. Mr. Haydon gives history of building and steeple.
2. Development Coordinator's Report – Development Coordinator Jon Thompson, report on file. Staff recommends approval.
3. Planning & Zoning Commission Report – Commissioner Koenig states Commission recommended approval.
4. Public Hearing – No one speaks.
5. Special Exception – Councilman Volpe motions to approve. Mayor Pro Tem Foulds seconds. Motion passes, 4-0.

F. Leal Vineyard – Site Plan, Phase 1, 3601 Creek Road, *Frank Leal, Owner*

1. Presentation – Erin Banks, Engineer, report on file.
2. Development Coordinator's Report – Development Coordinator Jon Thompson, report on file. Staff recommends approval and notes neighbors concerns and that the property is in the ETJ.
3. Planning & Zoning Commission Report – Commissioner Koenig states Commission approved 5-0 with staff recommendations. Commissioner Koenig states seven people spoke at the public hearing as well as the applicant. Concerns were traffic, noise, air, water, and noise pollution. The Commission recommended further discussions between the applicant and neighbors to get the big picture of the entire future development.
4. Public Hearing – Barbara Johnson McArthur, neighbor. States concerns for future development beyond vineyard. Concerned for traffic, noise, lighting, and environmental impact. Ms. Johnson states there are a group of concerned neighbors on both sides of Creek Road and Mount Gainor Road of about 40 families who share these concerns.

Melanie Cambron, neighbor at Holder Lane. Ms. Cambron states concern for noise pollution and environmental impact.

Former Governor Mark White states he has spoken directly with Frank Leal and is supportive of the agricultural use. Mr. White states this is not appropriate land use for a concert or event venue.

Gary Wright, neighbor. Mr. Wright states support for vineyard and is not supportive of an event venue. States concern for traffic and pollution.

Marianne Simmons, neighbor. Ms. Simmons states concern for water quality as an agricultural neighbor. Ms. Simmons states concern as a residential neighbor for lighting and noise and traffic pollution.

Anna Marie Whiden Speer, neighbor. States concern for parking, security, noise, hours of operation, wildlife impact,

Paul Green, President of Creek Road Homeowner's Association, echoes thoughts of all neighbors. States initial support of vineyard. Concern has been raised about what kind of development is occurring, there has not been enough heard about the project. The amount of land being used for agriculture and grapes is 1/3 of other vineyards in the area.

Frank Leal, addresses water quality issue in regard to sprays. He states there is a reason for six acres due to this. Mr. Leal states that he is willing to work with the neighbors. He states he is looking toward dim lighting, weddings, jazz concerts, and not hard rock concerts upwards of 5000 people. He is looking to bring wine culture to the Hill Country and work with neighbors and get to know the area and people and compliment the neighborhood.

Vicki Beal, neighbor. Concerned for trash, creek, foot traffic, water quality, parking.

5. Site Plan - Mayor Purcell states we do not have jurisdiction over land use in the ETJ. Councilman Volpe inquires of Mr. Thompson if a parking plan would be submitted in the future and inquires regarding impervious cover. Mayor Pro Tem Foulds inquires what triggers this development to be commercial rather than agricultural. Discussion regarding parking and number of people expected on site. Councilman Volpe and Mayor Pro Tem Foulds state they would like to see a parking plan. Mayor Pro Tem Foulds asks for staff recommendations. Mr. Bojorquez states options of tabling and keeping active, having applicant request postponement to submit parking plan, or denying, which would start the process over. Mayor Pro Tem Foulds motions to table. Councilman Volpe seconds. Councilman Phillip inquires what grounds we have for not approving. Motion passes, 4-0.

G. Dripping Springs Ranch, Phase 2, Tr 4 – Replat & Construction Plans, Fawn Meadow Drive and Cattle Trail Drive, *Gene Williams, Owner*

1. Presentation – Gene Williams, report on file.
2. Development Coordinator’s Report – Development Coordinator Jon Thompson, report on file. Staff recommends approval for items G and H, contiguous.
3. Planning & Zoning Commission Report – Commissioner Koenig states Commission approved.
4. Public Hearing – No one speaks.
5. Replat & Construction Plans – Councilman Phillip motions to approve. Councilman Alba seconds. Motion passes, 4-0.

H. Rancho Bella – Preliminary & Final Plat, Fawn Meadow Drive and Cattle Trail Drive, *Gene Williams, Owner*

1. Presentation -
2. Development Coordinator’s Report -
3. Planning & Zoning Commission Report -
4. Public Hearing -
6. Preliminary & Final Plat - Councilman Phillip motions to approve. Councilman Alba seconds. Motion passes, 4-0.

I. Commercial Hall Tract Development Agreement between the City of Dripping Springs and Aus S.T. Kyle, Ltd, 17.5870 acres, situated in the George W. Lindsay Survey No. 138, Abstract No. 289, and the Edward W. Brown Survey No. 136, Abstract No. 44, both in Hays County Texas, Volume 2724, Page 103), *John Lloyd, Owner*

1. Presentation -
2. Development Coordinator’s Report -
3. Planning & Zoning Commission Report -
4. Public Hearing – No one speaks.
5. Alternate Standard to Allow Appropriation of Impervious Cover on a Lot by Lot basis, not to exceed eighty percent (80%) impervious cover on each lot and not to exceed sixty percent (60%) over the entire project. -
5. Commercial Hall Tract Development Agreement -

J. Residential Hall Tract Development Agreement between the City of Dripping Springs and Aus S.T. Kyle, Ltd, 132.6017 acres, situated in the George W. Lindsay Survey No. 138, Abstract No. 289, the Edward W. Brown Survey No. 136, Abstract No. 44 and the Philip A. Smith Survey No. 26, Abstract No. 415, all in Hays County, Texas, Volume 2724, Page 103, *John Lloyd, Owner*

1. Presentation -

2. Development Coordinator's Report -
3. Planning & Zoning Commission Report -
4. Public Hearing – No one speaks.

5. Variance from Subdivision Ordinance No. 1230.6, Section 11.3.4--Approach Roads and Access: Variance to allow a single point for vehicular access for a subdivision with more than 50 lots. -
6. Variance from Subdivision Ordinance No. 1230.6, Section 11.3.4(b) and Section 14.2—Lot Frontage: Variance to allow a minimum lot frontage of 20 feet for flag lots. -
7. Variance from Subdivision Ordinance No. 1230.6, Section 14.3—Irregular Shaped Lots: Variance to allow irregular shaped lots and/or flag lots. -
8. Variance from Subdivision Ordinance No. 1230.6, Section 11.21.1—Maximum Block Length (Urban Subdivision): Variance to allow residential blocks in an urban subdivision to exceed one thousand two hundred (1,200) feet between the center lines of intersections.
9. Variance from Subdivision Ordinance No. 1230.6 , Section 11.22—Cul-de-Sac: Variance to Allow a Cul-de-Sac Street length in excess of 2,000 feet.
10. Variance from Zoning Ordinance No. 1220.01, Section 3.4.4—Minimum Lot Setback Requirements: Variance to allow a minimum of 10 foot side yard and 15 foot rear yard setbacks.
11. Variance from Zoning Ordinance No. 1220.01, Section 3.4.4—Area Regulations: Variance to Allow up to 50% Impervious Cover on a Lot.
12. Variance from Zoning Ordinance No. 1220.01, Section 5.23—Flag Lots: Variance to Allow Flag Lots in Excess of ten percent (10%) of the entire Subdivision.
13. Residential Hall Tract Development Agreement

Mayor Pro Tem Foulds motions to table items I and J. Councilman Volpe seconds. Motion passes, 4-0.

K. Reconsideration of Master Signage Plan & Sign Variance Requests to Allow Off Premise Directional Signs– Belterra, *Eric Willis, Director of Finance Operations, Makar Properties*

1. Presentation – Eric Willis, states request.
2. Sign Administrator's Report – report on file.
3. Public Hearing – No one speaks.
4. Sign B13 – Southbound Belterra Drive, Directional
5. Sign B14 – Northbound Belterra Drive, Directional
6. Sign B15 – Southbound Belterra Drive, Directional
7. Sign B16 – Southbound Estes Drive, Directional
8. Sign B17 – Northbound Belterra Drive, Informational
9. Sign B18 – Northbound Belterra Drive, Informational
10. Sign B19 – Northbound Belterra Drive, Informational
11. Sign B21 – Eastbound Trinity Hills Drive, Directional

Mayor Pro Tem Foulds motions to approve. Councilman Phillip seconds. Motion passes, 3-0-1. Councilman Volpe abstains.

VI. BUSINESS

Consideration and Possible Action On

- A. Request from the Friends of the Pound House Foundation for Waiver of Site Development Permit Fee and Building Permit Fee for the Instillation of a Portable Building to Serve as Office and Welcome Center at 570 Founders Park Road, *Dr. Dennis Cannon, Vice President* – Mayor Pro Tem Foulds motions to approve doing at cost. Councilman Alba seconds. Councilman Volpe states he would

prefer to waive fee completely. Mayor Pro Tem Foulds inquires of Mr. Thompson what our costs are. Mr. Thompson states staff time of his own, approximately 30 minutes. Motion passes 3-1-0. Councilman Volpe opposed.

- B. Request from Van Granger of Frosty's Christmas Trees to Rent a Portion of the Triangle from November 25th through December 23rd, 2009 for the Annual Sale of Christmas Trees, Van Granger, Owner – Councilman Phillip motions to approve with no increase in lot fee, reimbursement of electricity. Councilman Volpe seconds. Motion passes, 4-0.
- C. Resolution No. 2009-20 – An Ordinance of the City of Dripping Springs Adopting by Rule a "Wastewater Extension Policy" to Govern Extensions of the City's South Regional Wastewater System Collection Lines – Councilman Phillip motions to approve. Mayor Pro Tem Foulds seconds. Motion passes, 4-0.
- D. Resolution No. 2009-21 – A Resolution of the City of Dripping Springs Authorizing the Application to the Go Texan Rural Community Bootstrap Bucks Program – Councilman Phillip motions to approve. Councilman Alba seconds. Motion passes, 4-0.
- E. Agreement between the City of Dripping Springs and Weigelt Enterprises, LLC for Rob Shelton Boulevard and Pond Landscaping and Irrigation Maintenance – Councilman Phillip motions to accept staff recommendation of bronze level. Mayor Pro Tem Foulds seconds. Motion passes, 4-0.
- F. Request from Kirby Springs Ranch Property Owners Association for Waiver or Reduction of Building Permit Fee for Installation of A Security Gate at Kirby Springs Subdivision Entry, *Sherrie Parks, President* – Ms. Parks states that there has been some preliminary work done that they feel was not in violation of any permits. She shows a drawing of proposed work to be done. Mr. Gary Conner requests Council deny request, comments on file. Larry Clements, requests Council to deny request, comments on file. Councilman Volpe motions to deny. Mayor Pro Tem Foulds seconds. Motion passes, 4-0.
- G. Memorandum of Understanding between the City and the Dripping Springs Independent School District Regarding Wastewater Service and Impact Fees – Mayor Pro Tem Foulds motions to approve. Councilman Phillip seconds. Motion passes, 4-0.
- H. Ordinance No. 1550.10 – An Ordinance of the City of Dripping Springs Creating the Dripping Springs Farmers Market Association – Mayor Pro Tem Foulds motions to approve. Councilman Volpe seconds, motion passes, 4-0.
- I. Adoption of the Dripping Springs Farmers Market Rules and Regulations – Councilman Volpe motions to approve. Councilman Alba seconds. Motion passes, 4-0.
- J. Ordinance No. 1070.44 – An Ordinance Amending the Fee Schedule Ordinance 1070.1, Setting Fees for the City of Dripping Springs Farmers Market – Councilman Volpe motions to approve. Councilman Alba seconds. Motion passes, 4-0.
- K. Letter of Intent between Howard Land & Cattle, Ltd., a Texas limited partnership (Howard), and the City regarding wastewater impact fees and the parties intent to transfer to the City certain real property rights to install subsurface wastewater drip irrigation for the disposal of treated domestic wastewater on property owned by Howard adjacent to the City's existing South Regional Wastewater Treatment Facilities located at 23127 RR 150, Dripping Springs 78620 and related utility service agreements. – Councilman Volpe motions to table. Councilman Alba seconds. Motion passes, 4-0.

- L. Casting of City's Votes in the Pedernales Electric Cooperative General Board Election – Mayor Pro Tem Foulds motions to have Councilman Williams or staff cast the City's vote. Councilman Alba seconds. Motion passes, 4-0.

Mayor Pro Tem Foulds motions to move item B from Exec Session to regular session. Councilman Alba seconds. Mayor Pro Tem Foulds moves to return impact fees paid by Eric Howard with the stipulation that the City did not require these fees nor did the City modify the fees or suggest the fees be refunded. Councilman Volpe seconds. Motion passes, 4-0.

VII. EXECUTIVE SESSION

The City Council for the City of Dripping Springs has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

- A. Consultation with City Attorney regarding "Letter of Intent" between Howard Land & Cattle, Ltd., a Texas limited partnership (Howard), and the City regarding the parties intent to transfer to the City certain real property rights to install subsurface wastewater drip irrigation for the disposal of treated domestic wastewater on property owned by Howard adjacent to the City's existing South Regional Wastewater Treatment Facilities located at 23127 RR 150, Dripping Springs 78620 and related negotiations regarding impact fees and wastewater utility service (*551.071: Consultation with Attorney and 551.072: Purchase, Exchange, Lease or Value of Real Property*).
- B. Consultation with City attorney regarding payment of impact fees under the terms of the June 6, 2007 "Wastewater Service and Impact Fee Agreement between Howard Land & Cattle, Ltd. and the City of Dripping Springs (*551.071: Consultation with Attorney and 551.072*)
- C. Consultation with City Attorney regarding deliberations about real property acquisition for improvements and extension of Roger Hanks Parkway *551.072 (Deliberations about Real Property)*
- D. Consultation with City Attorney regarding the Memorandum of Understanding between the City and the Dripping Springs Independent School District regarding wastewater service and impact fees. (*551.071: Consultation with Attorney*)
- E. Consultation with City Attorney Regarding Interlocal Agreement between the City of Dripping Springs and Dripping Springs Independent School District for the Conveyance of the Stephenson Building Property and Karhan Park Property, *551.072 (Deliberations about Real Property)*
- F. Consultation with City Attorney Regarding Commercial Lease Agreement for the Dear Hall Office Spaces Between the City of Dripping Springs and Grace Food Pantry, *551.071 (Consultation with Attorney)*

VIII. ANNOUNCEMENTS

- A. Regular City Council Meeting, June 16, 2009
- B. Regular Parks & Recreation Meeting, June 22, 2009
- C. Regular Planning & Zoning Commission Meeting, June 23, 2009
- D. Regular Historic Preservation Commission Meeting, July 6, 2009
- E. Regular Founders Day Commission Meeting, June 16, 2009

IX. ADJOURN - Councilman Volpe motions to approve. Mayor Pro Tem Foulds seconds. Motion passes, 4-0. Meeting adjourned at 9:05 p.m.