

City of Dripping Springs
City Council

Regular Meeting Minutes
Tuesday, October 11, 2011

511 Mercer Street, Dripping Springs, Texas

5:30 p.m. – Workshop & Executive Session
7:00 p.m. – Business Items, Public Hearings, Action Items

I. CALL TO ORDER AND ROLL CALL – 5:30 p.m.

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 Charles Busbey

City Staff/Appointed Officials

City Administrator Michelle Fischer
Deputy City Administrator Ginger Faught
Planning Director Jon Thompson
Planning & Zoning Chair Larry McClung

City Secretary Jo Ann Touchstone
City Attorney Alan Bojorquez
Special Counsel Susan Zachos
City Treasurer Gina Gillis

Mayor Pro Tem Foulds calls meeting to order at 5:30 p.m. All present except Mayor Purcell, Ginger Faught, Alan Bojorquez, Susan Zachos, Larry McClung and Gina Gillis. Also present Attorney Jill Hoffman and Law Clerk Joseph Deeb with the Bojorquez Law Firm.

II. WORKSHOP

No action to be taken. Staff Reports regarding Consent, Site Developments, Subdivisions, Zoning, On Site Sewage Facilities, Signs, Variances, Waivers, Special Exceptions, Annexations, Alternate Standards, Business, and Other Agenda Items listed below.

- A. Ordinance No.1260.20 – An Ordinance of the City of Dripping Springs Amending Article 24.06 of the Dripping Springs Code of Ordinances; Modifying Regulations for Lighting in the City Limits; Providing for the Following: Rules; Standards; Procedures; Criminal Penalties Including Criminal Fines Not to Exceed \$500.00 Per Violation and Civil Fines of Up to \$500.00 per Violation; Repealer; Severability; and, an Effective Date
(Sponsor: Councilman Santos Alba)

III. 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).

Mayor Pro Tem Foulds motions to adjourn to Executive Session at 6:00 p.m. Those present: Mayor Pro Tem Foulds, Councilman Volpe, Councilman Alba, Councilman Phillip, Councilman Busbey, City Administrator Michelle Fischer, City Secretary Jo Ann

Touchstone, Jill Hoffman, Joseph Deeb, and Susan Zachos via telephone. Reconvened to Executive Session at 6: 35 p.m.

- A. Consultation with City Attorney Regarding Amendment to the Shops at Highpointe Development Agreement Between the City of Dripping Springs and Shops at Highpointe to Remove Section 2.1 of the Development Agreement for the tract legally described as Tract A, Sawyer Springs Subdivision, recorded in Volume 12, Page 240, Plat Record, Hays County, Texas, less 0.27 acres of land donated to Hays County as right of way for Sawyer Ranch Road, Carl J. Schwab, AIA, Realty America Group. *551.071 (Consultation with Attorney)*
 - B. Consultation with City Attorney regarding legal options available for responding to the election law changes attributable to Senate Bill 100 *551.071 (Consultation with Attorney)*
 - C. Consultation with City Attorney regarding the proposed divestiture by the Lower Colorado River Authority of its water and wastewater systems, and related actions by the Coalition of Central Texas Utilities Development Corporation and October 1, 2011 published notice of intent to create the West Travis County Public Utility Agency *551.072 (Deliberations about Real Property)*
- IV. **RECESS** – Mayor Pro Tem Foulds calls recess at 7:00 p.m. Reconvened to Regular Session at 7:08 p.m.

V. RECONVENE AT 7:00 p.m.

VI. PLEDGE OF ALLEGIANCE

- A. Pledge of Allegiance – Councilman Volpe leads the pledge.

VII. 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.

No one speaks.

VIII. CONSENT ITEMS

The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of City Council meetings, it is intended that these items will be acted upon by the City Council with a single motion because no public hearing or determination is necessary. However, a City Council Member or citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the City Council voting on the consent agenda as a collective, singular item. Prior to voting on the consent agenda, the City Council may add additional items that are listed elsewhere on the same agenda.

- A. Approval of Regular Meeting Minutes, September 13, 2011
- B. Approval of Regular Meeting Minutes, September 20, 2011
- C. Approval of Special Meeting Minutes, October 4, 2011
- D. Approval of Treasurer’s Report for September 2011
- E. Approval of Resolution 2012-1 – A Resolution of the City of Dripping Springs Designating an Official Newspaper for Fiscal Year 2012
- F. Approval of FY 2011 Founders Day Event Date, April 15th through 17th, 2011
- G. Approval of Appointment of Kimberly Gerlovich to Serve on Founders Day Commission, Term to Expire, June 2013
- H. Approval of Requests from YMCA for Waiver of Street Closure Fees and Sign Permit Fees for 5K Run Being Held Saturday, December 3, 2011
- I. Proclamation of the City of Dripping Springs Proclaiming the Month of October 2011 as National Domestic Violence Awareness Month

Mayor Pro Tem Foulds motions to move item I out of consent. Councilman Alba motions to approve items A through H. Councilman Phillip seconds. Motion passes, 5-0. Councilman Busbey reads Proclamation Proclaiming the month of October 2011 as National Domestic Violence Awareness Month. Sarah Brandon, representing HCWC, thanks Council and states services received for victims in Dripping Springs. Ms. Brandon also introduces three members of the Dripping Springs Color Guard who are taking a stand against violence.

Councilman Alba motions to approve proclamation. Councilman Busbey seconds. Motion passes, 5-0.

Councilman Busbey motions to move Business item B. Councilman Volpe seconds. Motion passes, 5-0. Councilman Phillip motions to approve. Councilman Busbey seconds. Mayor Pro Tem Foulds offers friendly amendment to have participants sign waiver indemnifying the City of any liability. Councilman Phillip accepts friendly amendment. Motion passes, 5-0.

IX. SITE DEVELOPMENTS/SUBDIVISIONS/ZONING/ON SITE SEWAGE FACILITIES/SIGNS/VARIANCES/WAIVERS/ALTERNATE STANDARDS/ANNEXATIONS

Consideration and Possible Action On:

A. Site Plan – Belterra Propane, 1.78 acres located at or near the northern intersection of Belterra Drive and Sawyer Ranch Road on the eastern side of Sawyer Ranch Road, *Owner, Barton Prideaux, Texas Community Propane (dba, Belterra Propane)*

1. Presentation – Stephen Delgado, P.E., states project and request. Report on file. Available for questions.
2. Planning Director’s Report – Planning Director Jon Thompson, report on file. Staff recommends approval.
3. Planning & Zoning Commission Report – Commissioner McClung states Commission discussed safety concerns presented from public hearing. Commission approved 7-0.
4. Public Hearing – Natalia Pagget, states concern for safety with houses being so close in proximity. Ms. Pagget states concern for lack of communication in approval process from the Developer. Ms. Pagget states that there is a safer alternative for natural gas and suggests Developer meet with neighbors. Terry Hernandez, states support for Ms. Pagget’s statements. James Martin, states he has researched the alternative of converting to natural gas and estimates the expense would be under 2K. Mr. Martin states that natural gas prices are regulated whereas propane prices are not. Mr. Martin states that the cost of conversion should be provided to homeowners so that they can decide for themselves which alternative to use.
5. Site Plan – Councilman Volpe motions to approve. Councilman Phillip seconds. Councilman Volpe states that the Council does not have grounds to deny. Motion passes, 5-0.

B. Sign Variance/Waiver Requests – Wagoner Tire, 1225 Hwy 290 West, *Russell Wagoner, Owner*

1. Presentation – None.
2. Sign Administrator’s Report – City Administrator Michelle Fischer, report on file. Staff recommends approval with conditions included in report.
3. Planning & Zoning Commission Report - Commissioner McClung states there was no presentation and no one spoke at the public hearing. Commission recommended signs be approved for aesthetics and approved 7-0.
4. Public Hearing – No one speaks.
5. Sign Waiver Request To Allow the Modification of a Non-Conforming Pole Sign To Identify New Occupants in Accordance With Section 26.04.002 (b) – Mayor Pro Tem Foulds motions to approve with staff recommendations and changing

that lighting be turned off one hour after closing and one hour prior to sunrise. Councilman Busbey seconds. Motion passes, 5-0.

6. Sign Variance Request from Section 26.06.068 (c), Projecting Signs, for the Signable Area To Exceed 24 Square Feet – Councilman Busbey motions to approve with same conditions as waiver item. Councilman Alba seconds. Motion passes, 5-0.
7. Sign Variance Request from Section 26.07.002 Cumulative Sign Limitations, (1) Single Unit Property, (D) for the Total Signable Area for a Corner Lot in a Non-Residential Area to Exceed 96 Square Feet – see line item 6.

C. Amendment to the Shops at Highpointe Development Agreement Between the City of Dripping Springs and Shops at Highpointe to Remove Section 2.1 of the Development Agreement for the tract legally described as Tract A, Sawyer Springs Subdivision, recorded in Volume 12, Page 240, Plat Record, Hays County, Texas, less 0.27 acres of land donated to Hays County as right of way for Sawyer Ranch Road, *Carl J. Schwab, AIA, Realty America Group*

1. Presentation – Charles Schwab, states appeal request and current economic conditions, history of meeting with neighbors, concept plan proposed. Mr. Schwab states proposed tax base. Mr. Schwab addresses the Blue Sky Ranch neighborhood's list of concerns and is available for questions.
2. Planning Director's Report – Planning Director Jon Thompson, report on file. Staff recommended removal of convenience store from overlay. Mr. Thompson states a town hall meeting was held between the applicant and neighbors.
3. Planning & Zoning Commission Report - Commissioner McClung states Mr. Schwab gave presentation, 3 people spoke at the public hearing, main concern being that an existing agreement was being changed. Commission discussed neighbor concerns, options at other corners, and the motion to deny in order to keep it moving forward. Motion passes, 7-0.
4. Public Hearing – Taylor Sisson, resident of Blue Sky Ranch, states the original formation of the agreement. The residents support the original agreement. Mr. Sisson states there was a good meeting with the applicant.

Helen Darling, states that a lot of time and effort was put into the agreement four years ago and all of the items that were covered (setbacks, runoff, traffic, aesthetics, property value, etc.) and neighbors concerns that these not be amended.

Mr. Schwab states he would like to see the list and was of the opinion that the Developer was the only one making conditions. Mr. Schwab states there is a lack of responsiveness to move forward. Mr. Schwab states that the request for no action was made out of understanding that there would be an additional meeting with the neighbors.

Roger Eason, neighbor, states the neighbors are not responding with a list and that the developer needs to come up with concessions.

5. Discussion Regarding Amendment to Development Agreement – No Action To Be Taken – Mayor Pro Tem Foulds states he is supportive of the neighbors fear of the unknown. Councilman Volpe states concern that this development could happen on two other tracts, one of which we have no regulation authority and the other very limited within our ETJ. Councilman Phillip states he is not eager to modify the agreement and has not heard compelling agreements from the developer to do so. Councilman Phillip states that Trudy's is under a Development Agreement and annexed. CVS is not. If this proposed use (gas station) goes on any other corner without City regulation it will not be aesthetically pleasing. Councilman Busbey states that the initial plan to build out and what the

Developer gave up at the time and what is proposed for the area commercially.

D. Site Plan - Dripping Springs Preparatory School, located at the northwest intersection of Nutty Brown Road and Trinity Hills Drive (aka, Belterra, Phase 2, Phase 5B, Block C, Lot 1), *James McCann, P.E.*

1. Presentation – Alex Clark, civil engineer. Report on file. Available for questions.
2. Planning Director’s Report – Planning Director Jon Thompson, report on file. Staff recommends approval and issuance of building permit when lighting, landscaping, and exterior design are approved.
3. Planning & Zoning Commission Report – Commissioner McClung states Commission approved 7-0.
4. Public Hearing – Wade Lintz, resident, states the residents have discussed with Makar that driveways would not be directed out onto Trinity Hills. Can this driveway exit elsewhere?

Darrell Reams, concurs with Mr. Lintz statement.

Staff provides language from agreement regarding driveways exiting onto Trinity Hills. Applicant states hours of operation, 6:30 to 6:30 M – F.

5. Site Plan – Councilman Phillip motions to approve with staff recommendations. Councilman Volpe seconds. Councilman Volpe inquires of applicant whether the driveway to Trinity Hills can be moved. Motion passes, 5-0.

E. Planned Development District # 3 - Planned Development District Agreement Between the City of Dripping Springs and Dripping Springs United Methodist Church (DSUMC), 28900 Ranch Road 12, *James McCann, P.E.*

1. Presentation – Mike Firlie and Don Greer give presentation.
2. Planning Director’s Report – Planning Director Jon Thompson, report on file. Mr. Thompson states much work has been done between staff and applicant.
3. Sign Administrator’s Report – City Administrator Michelle Fischer, report on file.
4. Planning & Zoning Commission Report - Commissioner McClung states no one spoke at the public hearing. The Commission felt good about it overall and worked through the variances. Commissioner James was on the committee for Planning and Zoning representation. The Commission approved the variances and agreement to go forward to council, 7-0.

Keenan Smith also present. Mayor Pro Tem Foulds asks Mr. Smith to review exterior design. Mr. Smith states it was a very good process and the applicant was very willing to comply with ordinances. Mr. Smith states support for plan and positioning at northern gateway to city. Mr. Smith is available for questions.

5. Public Hearing – No one speaks.
6. Variance Request from Dripping Springs Code of Ordinances: Chapter 30 Zoning, Section 3, Zoning Districts, 3.14.3, Height Regulations, Governmental/Utility/ Institutional (GUD) Zoning Classification, (a) Main Buildings, to Exceed Allowable Height of Two and One Half Stories – Councilman Phillip motions to approve with modified language striking “religious significance”. Councilman Busbey seconds. Motion passes, 4-1. Councilman Volpe opposed.
7. Variance Request from Dripping Springs Code of Ordinances: Chapter 30 Zoning, Section 5, Development Standards and Regulations, 5.29.2., Special Height Regulations, To Not Add One Additional Foot To the Width And Depth Of The Front, Side, And Rear Yards For Each Foot That Such Structures Exceed The District Height Limit – Councilman Phillip motions to approve. Councilman Alba seconds. Motion fails, 5-0.
8. Variance Request from Dripping Springs Code of Ordinances: Chapter 28 Subdivisions and Site Development, Section 28.04.018 (a) Cuts and Fills,

- to Exceed A Maximum of Six Feet Fill – Mayor Pro Tem Foulds motions to table items 8 and 9. Councilman Phillip seconds. Motion passes, 5-0.
- 9. Variance Request from Dripping Springs Code of Ordinances: Chapter 28 Subdivisions and Site Development, Section 28.04.018 (b) Cuts and Fills, to Exceed A Maximum of Six Feet Cut – see line item 8.
- 10. Variance Request from Dripping Springs Code of Ordinances: Chapter 28 Subdivisions and Site Development, Article 28.03 Parkland Dedication, Section 28.03.007 (c) to Waive Cash in Lieu Requirement When Dedicating Private Parkland – Councilman Volpe motions to approve. Councilman Alba seconds. Motion passes, 5-0.
- 11. Sign Variance Request from Dripping Springs Code of Ordinances: Chapter 26, Signs, Section 26.06.062 Monument Signs: Multi-Unit Complexes (b) to Exceed the Maximum Signable Area Allowed of 80 Feet – Councilman Volpe motions to approve items 11 and 12. Councilman Phillip seconds. Motion passes, 5-0.
- 12. Alternative Design Request to Allow the Installation of an Archway Sign, Which is not Listed as a Permissible Sign in Dripping Springs Code of Ordinances: Chapter 26, Signs – See line item 11.
- 13. Ordinance No. 1220.62 – Planned Development District #3 – An Ordinance of the City of Dripping Springs establishing regulations and guidelines for Planned Development District # 3- Councilman Phillip motions to table item 13 and 14. Mayor Pro Tem Foulds seconds. Motion passes, 5-0.
- 14. Planned Development District #3 Agreement – see line item 13.
- F. Site Plan – Harrison Ranch Park Site Improvements Construction Plans – 29401 Ranch Road 12
 - 1. Presentation, RVi, Barbara Austin and Peter Duffrene – None.
 - 2. Planning Director’s Report – Planning Director Jon Thompson, report on file. Staff recommends approval.
 - 3. Planning & Zoning Commission Report – Commissioner McClung states no one spoke at public hearing. Commission approved 7-0.
 - 4. Public Hearing – No one speaks.
 - 5. Site Plan – Councilman Alba motions to approve. Mayor Pro Tem Foulds seconds. Motion passes, 5-0.

X. REPORTS OF AGENCIES, COMMISSIONS & STAFF

- A. Farmers Market Report – Market Manager Jo Ann Touchstone – report on file.
- B. Report on Charro Ranch Park Improvements and Volunteer Activities – Councilman Joe Volpe – Councilman Volpe thanks Hays County Master Naturalists, Rich Moore, and others for hard work and improvements at Charro Ranch Park.

XI. BUSINESS

Consideration and Possible Action On:

- A. Public Hearing on Annexation for inclusion of the following property in the City of Dripping Springs Corporate City Limits:
 - 128.6414 acres being a portion of that 157.2938 acre tract of land, being 142.3578 acres out of the George W. Lindsay Survey No. 138, Abstract No. 289, 14.5887 acres out of the Phillip A. Smith Survey No. 26, Abstract No. 415 and 0.3473 acres out of the Edward W. Brown Survey No. 136, Abstract No. 44, Hays County, Texas as conveyed by deed recorded in Volume 2724, Page 103 of the Hays County Deed Records
 - No one speaks.
- B. Request from St. Martin De Porres Catholic Church for Waiver of Certain Street Closure Requirements Related to Their First Annual 5K Walk/Run on Saturday, November 12, 2011 (*Sponsor: Councilman Doug Phillip*) - See *under consent items*.

- C. Ordinance No. 5600.11 - An Ordinance Amending Chapter 8, Article 8.03 of the Dripping Springs Code of Ordinances; Providing For A Burn Ban In The City Limits To Coincide With A Burn Ban Enacted By Hays County; Prohibiting Specific Outdoor Burning Activities Including the Ignition of Tobacco Products or Barbeque Grills at City Parks; and Providing for the Following: Findings of Fact; A Purpose; Definitions; Exceptions; An Effective Date; Enforcement Clause Including Injunctive Relief and a Criminal Fine Not to Exceed \$2,000 and Civil Penalties Not To Exceed \$500 Per Violation; Severability; and Proper Notice and a Meeting *(Sponsor: Councilman Doug Phillip)*
1. Public Hearing – No one speaks.
 2. Ordinance No. 5600.11 – Mayor Pro Tem Foulds motions to approve with change to strike propane and allow charcoal and wood fires for city sponsored events with approval of the Fire Chief. Councilman Phillip seconds. Motion passes, 5-0.
- D. Ordinance 1240.09 - An Ordinance of the City of Dripping Springs, Texas, Administering the Newly-Enacted Comprehensive Plan by Enacting a Temporary Moratorium on the Acceptance, Review, and Approval of Conditional Use Permits for Special Accessory Structures, Including Water Stand Pipes and Tanks, Church Steeple, Domes and Spires, Windmills, Barns, Wind Turbines, Solar Panel Arrays, and Rainwater Collection Systems; and Providing For the Following: Popular Name; Findings of Fact; A Purpose; Compliance Required; Scope of Jurisdiction; Applicability; Effective Date; Duration; Temporary Suspension of Certain Approvals; Enforcement, Including Criminal Fines Not To Exceed \$500.00 and Civil Penalties Not To Exceed \$500.00 Per Violation; A Repealer; Severability; and Proper Notice and Meeting *(Sponsor: Mayor Purcell)*
1. Public Hearing – No one speaks.
 2. Ordinance No. 1240.09 – Mayor Pro Tem Foulds motions to approve subject to staff recommendations to include an exception for Planned Development District Agreements. Councilman Alba seconds. Motion passes, 4-1. Councilman Volpe opposed.
- E. Resolution No. 2012-2 – A Resolution Of The City Of Dripping Springs, Texas, Identifying Certain Preferences Regarding Conducting General Elections in Response to the Enactment of Senate Bill 100 by the Texas Legislature During the 2011 Regular Session – Mayor Pro Tem Foulds motions to approve resolution with items 1 and 3. Councilman Phillip seconds. Motion passes, 5-0.
- F. Appointment of the City of Dripping Springs Planning and Zoning Commission to act as the City's Capital Improvements Advisory Committee to advise the City in an advisory capacity regarding wastewater impact fees, as authorized by Texas Local Government Code section 395.058 *(Sponsor: Mayor Pro Tem Foulds) – Mayor Pro Tem Foulds motions to approve. Councilman Phillip seconds. Motion passes, 5-0.*
- G. Contract Between the City of Dripping Springs and the Dripping Springs Water Supply Corporation Regarding the Use of CODE RED Emergency Notification System *(Sponsors: Mayor Purcell and Mayor Pro Tem Foulds) – Councilman Volpe motions to direct staff to begin contract negotiations. Councilman Volpe seconds. Motion passes, 5-0.*

XII. ANNOUNCEMENTS

- A. Regular City Council Meeting, October 18, 2011 at p.m.
- B. Regular Parks & Recreation Meeting, October 17, 2011 at 6:00 p.m.
- C. Regular Planning & Zoning Commission Meeting, October 25, 2011 at 7:00 p.m.
- D. Regular Historic Preservation Commission Meeting, November 7, 2011 at 5:30 p.m.
- E. Regular Founders Day Commission Meeting, October 17, 2011

XIII. ADJOURN

Councilman Alba motions to adjourn. Councilman Phillip seconds. Motion passes, 5-0.