

## REGULAR CITY COUNCIL MEETING

DECEMBER 2, 2008

7:00 P.M.

A Regular Meeting of the Terrell City Council was held on Tuesday, December 2, 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.**

Councilmember Tommy Spencer gave the opening prayer.

**3. Discuss and Consider Approval of Special City Council Workshop Minutes of October 23, 2008 and Regular City Council Meeting Minutes of November 18, 2008.**

Deputy Mayor Pro tem Don Thurman made a motion to approve Special City Council Workshop Minutes of October 23, 2008 and Regular City Council Meeting Minutes of November 18, 2008 with correction. The motion was seconded by Councilmember Ricky Jordan. Ayes – all; Nays – none. Motion carried.

*November 18, 2008 City Council Meeting Minutes*

**12. Discuss and Consider Appointments to the Planning and Zoning Commission.**

Deputy Mayor Pro tem Don Thurman made a motion to appoint Raylan Smith to replace Rusty Samples. The motion was seconded by Mayor Pro tem Jack Jones. Ayes – all; Nays – none. Motion carried.

Councilmember Tommy Spencer commented Jeff Crawford has missed several meetings due to his personal schedule. Council asked that Terry Capehart Municipal Development Director visit with Jeff Crawford to determine his interest in continuing to serve on the board.

Deputy Mayor Pro tem Don Thurman made a motion to re-appoint Aaron Cook to the Planning and Zoning Commission. The motion was seconded by Mayor Pro tem Jack Jones. Ayes – all; Nays – none. Motion carried.

**4. Hear Remarks from Visitors.**

None were made.

## NEW BUSINESS

**5. Discuss and Consider Terrell Economic Development Corporation Recommendation for Approval of Brock Supply Company Proposal.**

Danny Booth representing Terrell Economic Development Corporation presented to Council for discussion and consideration Terrell Economic Development Corporation Recommendation for Approval of Brock Supply Company Proposal. Councilmember Tommy Spencer made a motion to approve Terrell Economic Development Corporation Recommendation for Approval of Brock Supply Company Proposal with Terrell Economic Development Corporation paying 50% of the impact fees. The motion was seconded by Deputy Mayor Pro tem Don Thurman. Ayes – all; Naves – none. Motion carried.

**6. Discuss and Consider Approval of Agreement for Grant Administrative Services for the Texas Community Development Program Grant through the Office of Rural Community Affairs (ORCA) by TFGA – Tim F. Glendening & Associates, Inc.**

Steve Rogers, City Engineer and Tim Glendening representing Tim F. Glendening & Associates, Inc. presented to Council for discussion and consideration Agreement for Grant Administrative Servides for the Texas Community Development Program Grant through the Office of Rural Community Affairs (ORCA) by TFGA – Tim F. Glendening & Associates, Inc. Mayor Pro tem Jack Jones made a motion to approve Agreement for Grant Administrative Servides for the Texas Community Development Program Grant through the Office of Rural Community Affairs (ORCA) by TFGA – Tim F. Glendening & Associates, Inc. The motion was seconded by Councilmember Tommy Spencer. Ayes –all; Naves – none. Motion carried.

**7. Discuss and Consider Approval of Ordinance No. 2391 – Fire and Police Classification.**

Carol Holland, Director of Human Resources presented to Council for discussion and consideration Ordinance No. 2391 – Fire and Police Classification. Deputy Mayor Pro tem Don Thurman made a motion to approve Ordinance No. 2391 – Fire and Police Classification on first reading. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Naves – none. Motion carried.

### ORDINANCE NO. 2391

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AMENDING CHAPTER 9, SECTION 9-9. CIVIL SERVICE CLASSIFICATION PLAN; (a) CLASSIFICATION OF FIRE FIGHTERS AND (b) CLASSIFICATION OF POLICE OFFICERS, (1) POSITIONS APPOINTED BY THE CHIEF OF POLICE AND FIRE CHIEF; (2) POLICE OFFICER CLASSIFICATION; OF THE REVISED CODE OF ORDINANCES OF THE CITY OF TERRELL, TEXAS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

**8. Discuss and Consider Approval of Ordinance No. 2392 - Creating the Terrell Hospital Advisory Board.**

Torry Edwards, City Manager and Greg Shumpert, Assistant City Manager presented to Council for discussion and consideration Ordinance No. 2392 – Creating the Terrell Hospital Advisory Board. Torry Edwards designated Carol Holland, Director of Human Resources as the City Manager representative to the Board. Mayor Pro tem Jack Jones made a motion to approve Ordinance No. 2392 – Creating the Terrell Hospital Advisory Board on first reading. The motion was seconded by Deputy Mayor Pro tem Don Thurman. Ayes – all; Naves – none. Motion carried.

**ORDINANCE NO. 2392**

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING CHAPTER 2, ADMINISTRATION, BY THE ADDITION OF SECTION 12 PROVIDING FOR THE CREATION OF THE TERRELL HOSPITAL ADVISORY BOARD, TERRELL CITY CODE REVISED; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**CONSENT AGENDA**

Mayor Pro tem Jack Jones made a motion to adopt Ordinance No. 2388, Ordinance No. 2389 and Ordinance No. 2390 on second reading on CONSENT AGENDA. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Naves – none. Motion carried.

**9. Discuss and Consider Adoption on Second Reading of Ordinance No. 2388 – Amending Appendix 1, Fee Schedule, Section 28: Sewer Service Rates and Charges.**

**ORDINANCE NO. 2388**

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING APPENDIX 1, FEE SCHEDULE, SECTION 28: SEWER SERVICE RATES AND CHARGES, PARAGRAPH (1) OF THE REVISED CODE OF ORDINANCES OF THE CITY OF TERRELL, TEXAS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

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

THAT Appendix I, Fee Schedule, SECTION 28, SEWER SERVICE RATES AND CHARGES, PARAGRAPH (1) of the Revised Code of Ordinances of the City of Terrell, Texas, shall hereby be amended by adding a new classification to read as follows:

**SECTION I.**

**SECTION 28: SEWER SERVICE RATES AND CHARGES**

The following schedule of monthly rates or charges for sewer services furnished by the City shall be and such is hereby adopted and established as follows:

- (1) Residential Rates. All residential units shall be charged on the following basis:

Minimum bill	\$14.38 per month
Volume Charge for all Consumption per month*	\$2.31 per 1,000 gallons

\*Volume charges are based on winter-average (Dec., Jan., Feb.) water consumption.

- (2) Lt. Commercial Rates. All commercial customers shall be charged on the following basis:

Minimum bill	\$31.25 per month
Volume charge	\$2.31 per 1,000 gallons

Those businesses not being metered on an individual unit basis, shall be charged a minimum monthly bill per business.

- (3) Heavy Commercial/Industrial. All heavy commercial and industrial customers shall be charged on the following basis:

Minimum bill	\$106.25 per month
Volume charge	\$2.31 per 1,000 gallons

- (4) Pretreatment. All customers that require pretreatment of wastewater shall be charged on the following basis:

Minimum bill	\$425.00 per month
Volume charge	\$2.31 per 1,000 gallons

- (5) **Pretreatment Zero Discharge**

<b>Minimum bill</b>	<b>\$207.25 per month</b>
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**Volume charge** **\$2.31 per 1,000 gallons**

- (6) Customer Review. Where the city manager determines that wastewater charges should be based directly on the customer's contribution to the wastewater system, volume charges for the discharge shall be made as follows:

Volume charge for normal domestic wastewater per month	\$2.31 per 1,000 gallons of wastewater
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The customer shall pay for any required sampling in advance. The charge for sampling shall be as estimated by the pretreatment coordinator based upon the city's actual cost for similar services.

## SECTION II

All rates charged pursuant to this Ordinance shall be subject to an additional 4% Municipal Assessment

## SECTION III.

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

## SECTION IV.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of the 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.

## SECTION V.

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 THIS THE 18<sup>th</sup> day of November, 2008.

PASSED AND ADOPTED THIS THE 2<sup>nd</sup> day of December, 2008.

- 10. Discuss and Consider Adoption on Second Reading of Ordinance No. 2389 – Prohibiting the Use of Designated Groundwater from Beneath Certain Property Generally Located at 100 N. Griffith Avenue, Terrell, Texas 75160 and Supporting Certification of a Municipal Setting Designation by the Texas Commission on Environmental Quality.**

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, PROHIBITING THE USE OF DESIGNATED GROUNDWATER FROM BENEATH CERTAIN PROPERTY GENERALLY LOCATED AT 100 N. GRIFFITH AVENUE, TERRELL, TEXAS 75160 AND SUPPORTING CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Subchapter W, “Municipal Setting Designations,” of Chapter 361, “Solid Waste Disposal Act,” of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality to create municipal setting designations; and

WHEREAS, pursuant to Section 401.005(a) of the Texas Local Government Code, for the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality may regulate the pumping, extraction, or use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, to prevent the use of or contact with groundwater that presents an actual or potential threat to human health; and

WHEREAS, pursuant to Section 401.005(b) of the Texas Local Government Code, for the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of municipal ordinances; and

WHEREAS, the city council finds that:

- (1) The eligibility criteria of Section 361.803 of the Texas Health and Safety Code have been met;
- (2) This municipal setting designation ordinance will not have an adverse effect on the current or future water resource needs or obligations of the City of Terrell;
- (3) There is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of the designated property; and
- (4) This municipal setting designation ordinance is necessary because the concentration of chemicals of concern exceed concentrations considered safe for human ingestion; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL:

SECTION 1. That for purposes of this municipal setting designation ordinance, the “designated property” means the property described in Exhibit A attached to the ordinance.

SECTION 2. That for purposes of this municipal setting designation ordinance, “designated groundwater” means water below the surface of the designated property to a depth of 200 feet.

SECTION 3. That use of the designated groundwater from beneath the designated property as potable water, as defined in Section 361.801(2) of the Texas Health and Safety Code, and the following uses of or contacts with the designated groundwater are prohibited:

- (1) Human consumption or drinking.
- (2) Showering or bathing.
- (3) Cooking.
- (4) Irrigation of crops for human consumption.

SECTION 4. That the city council supports the application to the Texas Commission on Environmental Quality for certification of a municipal setting designation for the designated property.

SECTION 5. That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal, state, and local statutes, ordinances, rules, and regulations relating to environmental protection, and that this municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

SECTION 6. That approval of this municipal setting designation ordinance shall not be construed to subject the City of Terrell to any responsibility or liability for any injury to persons or damages to property caused by any chemical of concern.

SECTION 7. That within 60 days after adoption of this municipal setting designation ordinance, the Director of Public Works shall cause to be filed a certified copy of this municipal setting designation ordinance in the deed records of the county where the designated property is located.

SECTION 8. That within 60 days after adoption of this municipal setting designation ordinance, the Director of Public Works shall send a certified copy of this municipal setting designation ordinance to the Texas Commission on Environmental Quality.

SECTION 9. That the Director of Public Works shall notify the Texas Commission on Environmental Quality 60 days prior to any amendment or repeal of this municipal setting designation ordinance.

SECTION 10. That a person violating Section 3 of this municipal setting designation ordinance, upon conviction, is punishable by a fine not to exceed \$2,000, and that the Texas Commission on Environmental Quality shall be notified of any violations.

SECTION 11. It is the intention of the City Council that this municipal setting designation ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this ordinance shall not affect the validity or unconstitutionality of any other portion of this ordinance.

SECTION 12. That this municipal setting designation ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Terrell, and it is accordingly so ordained.

PASSED AND APPROVED ON THIS 18<sup>th</sup> DAY OF NOVEMBER, 2008.  
PASSED AND ADOPTED ON THIS 2<sup>ND</sup> DAY OF DECEMBER, 2008.

EXHIBIT A

11. **Discuss and Consider Adoption on Second Reading of Ordinance No. 2390 - Prohibiting the Use of Designated Groundwater from Beneath Certain Property Generally Located at 1602 West Moore Avenue, Terrell, Texas 75160 and Supporting Certification of a Municipal Setting Designation by the Texas Commission on Environmental Quality.**

ORDINANCE NO. 2390

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, PROHIBITING THE USE OF DESIGNATED GROUNDWATER FROM BENEATH CERTAIN PROPERTY GENERALLY LOCATED AT 1602 W. MOORE AVENUE, TERRELL, TEXAS 75160 AND SUPPORTING CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Subchapter W, “Municipal Setting Designations,” of Chapter 361, “Solid Waste Disposal Act,” of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality to create municipal setting designations; and

WHEREAS, pursuant to Section 401.005(a) of the Texas Local Government Code, for the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality may regulate the pumping, extraction, or use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, to prevent the use of or contact with groundwater that presents an actual or potential threat to human health; and

WHEREAS, pursuant to Section 401.005(b) of the Texas Local Government Code, for the purpose of establishing and enforcing a municipal setting designation, the governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of municipal ordinances; and

**WHEREAS**, the city council finds that:

(1) The eligibility criteria of Section 361.803 of the Texas Health and Safety Code have been met;

(2) This municipal setting designation ordinance will not have an adverse effect on the current or future water resource needs or obligations of the City of Terrell;

(3) There is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of the designated property; and

(4) This municipal setting designation ordinance is necessary because the concentration of chemicals of concern exceed concentrations considered safe for human ingestion; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL:**

SECTION 1. That for purposes of this municipal setting designation ordinance, the “designated property” means the property described in Exhibit A attached to the ordinance.

SECTION 2. That for purposes of this municipal setting designation ordinance, “designated groundwater” means water below the surface of the designated property to a depth of 200 feet.

SECTION 3. That use of the designated groundwater from beneath the designated property as potable water, as defined in Section 361.801(2) of the Texas Health and Safety Code, and the following uses of or contacts with the designated groundwater are prohibited:

- (1) Human consumption or drinking.
- (2) Showering or bathing.
- (3) Cooking.
- (4) Irrigation of crops for human consumption.

SECTION 4. That the city council supports the application to the Texas Commission on Environmental Quality for certification of a municipal setting designation for the designated property.

SECTION 5. That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal, state, and local statutes, ordinances, rules, and regulations relating to environmental protection, and that this municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

SECTION 6. That approval of this municipal setting designation ordinance shall not be construed to subject the City of Terrell to any responsibility or liability for any injury to persons or damages to property caused by any chemical of concern.

SECTION 7. That within 60 days after adoption of this municipal setting designation ordinance, the Director of Public Works shall cause to be filed a certified copy of this municipal setting designation ordinance in the deed records of the county where the designated property is located.

SECTION 8. That within 60 days after adoption of this municipal setting designation ordinance, the Director of Public Works shall send a certified copy of this municipal setting designation ordinance to the Texas Commission on Environmental Quality.

SECTION 9. That the Director of Public Works shall notify the Texas Commission on Environmental Quality 60 days prior to any amendment or repeal of this municipal setting designation ordinance.

SECTION 10. That a person violating Section 3 of this municipal setting designation ordinance, upon conviction, is punishable by a fine not to exceed \$2,000, and that the Texas Commission on Environmental Quality shall be notified of any violations.

SECTION 11. It is the intention of the City Council that this municipal setting designation ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this ordinance shall not affect the validity or unconstitutionality of any other portion of this ordinance.

SECTION 12. That this municipal setting designation ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Terrell, and it is accordingly so ordained.

**PASSED AND APPROVED ON THIS 18<sup>TH</sup> DAY OF NOVEMBER, 2008.**

**PASSED AND ADOPTED ON THIS 2<sup>ND</sup> DAY OF DECEMBER, 2008.**

EXHIBIT A

**END OF CONSENT AGENDA**

- 12. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government Code to Discuss the Following:**
- a.) **Section 551.071 – Consultation with Attorney.**
  - b.) **Section 551.074 – Personnel Matters – Police Chief Search.**

This item was passed.

- 13. Reconvene into Regular Session and Consider Action, if any, on Items Discussed in Executive Session.**

This item was passed.

- 14. 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**