

## **REGULAR CITY COUNCIL MEETING**

**JULY 21, 2009**

**7:00 P.M.**

A Regular Meeting of the Terrell City Council was held on Tuesday, July 21, 2009 at 7:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

<b>COUNCILMEMBER #1</b>	<b>HAL RICHARDS</b>
<b>COUNCILMEMBER #2</b>	<b>SANDRA WILSON</b>
<b>COUNCILMEMBER #3</b>	<b>RICKY JORDAN</b>
<b>COUNCILMEMBER #4</b>	<b>JACK JONES</b>
<b>COUNCILMEMBER #5</b>	<b>DON THURMAN</b>

**1. Call to order.**

Mayor Hal Richards called the meeting to order.

**2. Invocation.**

Mayor Pro tem Don Thurman gave the opening prayer.

Mayor Hal Richards recognized Judge Shumpert – a stalwart citizen of Terrell who passed away recently.

**3. Presentation of Awards.**

Chief of Police Jody Lay presented Guadalupe Gonzales and James Hamill with Life Saving Certification for their actions at a house fire at 400 Dellis Street.

Chief of Police Jody Lay recognized Citizens Police Academy and presented them with a commendation for their assistance to the Department.

**4. Discuss and Consider Approval of Special City Council Meeting and Workshop Minutes of June 11, 2009 and Regular City Council Meeting Minutes of June 16, 2009.**

Councilmember Jack Jones made a motion to approve Special City Council Meeting and Workshop Minutes of June 11, 2009 and Regular City Council Meeting Minutes of June 16, 2009. The motion was seconded by Mayor Pro tem Don Thurman.

**5. Hear Remarks from Visitors.**

Dan Sowers – 112 East Moore Avenue, Sarah Kegerreis speaking for John Kegerreis, Terrell Behavioral Consultants – 1314 W. Moore Avenue and Linda Craker – 203 West Moore Avenue and speaking for Gale Harris spoke to Council for South Ally Parking.

## **PUBLIC HEARING**

6. a.) **Conduct a Public Hearing to Receive Comment Regarding Juvenile Curfew Ordinance.**

Chief of Police Jody Lay gave opening comments regarding Juvenile Curfew Ordinance. Mayor Hal Richards opened a Public Hearing to Receive Comment Regarding Juvenile Curfew Ordinance. No one spoke for or against the Juvenile Curfew Ordinance. Mayor Hal Richards closed the Public Hearing.

- b.) **Discuss and Consider Approval of Ordinance No. 2419 – Juvenile Curfew Ordinance.**

Mayor Pro tem Don Thurman made a motion to approve Ordinance No. 2419 – Juvenile Curfew Ordinance on first reading. The motion was seconded by Councilmember Jack Jones. Ayes – all; Nays – none. Motion carried.

### **ORDINANCE NO. 2419**

AN ORDINANCE AMENDING CHAPTER 8, OFFENSES AND NUISANCES, SECTION 8, “CURFEW FOR MINORS” OF THE CODE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS, AS AMENDED, BY ADDING DEFINITIONS; REQUIRING THE CHIEF OF POLICE TO MAKE PERIODIC REPORTS TO THE CITY COUNCIL CONCERNING THE EFFECTIVENESS AND NEED FOR THE SECTION; REQUIRING THE CITY COUNCIL TO PERIODICALLY REVIEW THE EFFECTS OF THE SECTION ON THE COMMUNITY AND THE PROBLEMS THE SECTION IS INTENDED TO REMEDY; TO HOLD PUBLIC HEARINGS, AND TO ABOLISH, CONTINUE OR MODIFY THE SECTION; PROVIDING THAT FAILURE BY THE CITY COUNCIL TO CONDUCT SUCH PERIODIC REVIEWS AND HEARINGS SHALL CAUSE THE SECTION TO EXPIRE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

### **NEW BUSINESS**

7. **Discuss and Consider Bids and Award for Bid No. 09-80-01 – Proposal for Audit Services.**

Frank Hinton, the City of Terrell consulting auditor presented to Council for discussion and consideration Bids and Award for Bid No. 09-80-01 – Proposal for Audit Services. Councilmember Jack Jones made a motion to award contract for Audit to Pattillo, Brown and Hill for 2009, 2010 and 2011 in the amount of \$137,300. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

9. **Discuss and Consider Approval of Recommendation to the Terrell City Council Regarding Alternative Exterior Materials per Section 37.4 of the Zoning Ordinance**

**on property located at 112 Westvue, 114 Westvue and 116 Westvue, described as Lots 5-7, Block C, Westvue, City of Terrell, Kaufman County, Texas.(ZC-09-02)**

Terry Capehart, Director of Municipal Development presented to Council for discussion and consideration a Recommendation to the Terrell City Council Regarding Alternative Exterior Materials per Section 37.4 of the Zoning Ordinance on property located at 112 Westvue, 114 Westvue and 116 Westvue, described as Lots 5-7, Block C, Westvue, City of Terrell, Kaufman County, Texas. (ZC-09-02). Deputy Mayor Pro tem Ricky Jordan made a motion to approve 112, 114 and 116 Westvue with four (4) specifications. The motion was seconded by Mayor Pro tem Don Thurman. Ayes – all; Naves – none. Motion carried.

**8. Discuss and Consider Approval Contract with Linebarger Goggan Blair & Sampson, LLP for Collection of City of Terrell Liens.**

Mary Gayle Ramsey, City Attorney presented to Council for discussion and consideration a Contract with Linebarger Goggan Blair & Sampson, LLP for Collection of City of Terrell Liens. Mayor Pro tem Don Thurman made a motion to authorize the City Manager to execute a contract with Linebarger Goggan Blair & Sampson, LLP for Collection of City of Terrell Liens. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Naves – none. Motion carried.

**10. Discuss and Consider Approval of Ordinance No. 2418 - Amending Appendix 1 – Fee Schedule, Section 2 – Library Fines and Fees.**

Rebecca Sullivan, Library Director presented to Council for discussion and consideration Ordinance No. 2418 - Amending Appendix 1 – Fee Schedule, Section 2 – Library Fines and Fees. Councilmember Sandra Wilson made a motion to approve Ordinance No. 2418 - Amending Appendix 1 – Fee Schedule, Section 2 – Library Fines and Fees on first reading. The motion was seconded by Councilmember Jack Jones. Ayes – all; Naves – none. Motion carried.

ORDINANCE NO. 2418

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS,  
AMENDING APPENDIX 1, FEE SCHEDULE, SECTION 2:  
LIBRARY FEES AND CHARGES OF THE REVISED CODE  
OF ORDINANCES OF THE CITY OF TERRELL, TEXAS;  
PROVIDING FOR REPEAL OF CONFLICTING  
ORDINANCES; PROVIDING FOR SEVERABILITY AND  
PROVING AN EFFECTIVE DATE.

**11. Discuss and Consider Award of Bid for Project 09-03 – South Alley Parking Improvements.**

Steve Rogers, City Engineer and Mike Sims, Assistant City Manager presented to Council for discussion and consideration Bid for Project 09-03 – South Alley Parking Improvements. Mayor Pro tem Don Thurman made a motion to award bid for Project 09-03 – South Alley Parking Improvements to Platinum Paving Company in the amount of \$79,190.50. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – Hal Richards, Don Thurman, Ricky

Jordan. Naves – none. Jack Jones abstained from vote. Sandra Wilson – no vote. Motion carried.

**12. Discuss and Consider Approval of Resolution No. 639 – Determining the Need and Public Necessity of Acquiring Certain Property for Right of Way and Authorizing the Acquisition of Property for Construction of a Water Transmission Line Along County Road 305 in Kaufman County, Texas.**

Steve Rogers, City Engineer presented to Council for discussion and consideration Resolution No. 639 – Determining the Need and Public Necessity of Acquiring Certain Property for Right of Way and Authorizing the Acquisition of Property for Construction of a Water Transmission Line Along County Road 305 in Kaufman County, Texas. Councilmember Jack Jones made a motion to approve Resolution No. 639 – Determining the Need and Public Necessity of Acquiring Certain Property for Right of Way and Authorizing the Acquisition of Property for Construction of a Water Transmission Line Along County Road 305 in Kaufman County, Texas. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Naves – none. Motion carried.

**RESOLUTION NO. 639**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, DETERMINING THE NEED AND PUBLIC NECESSITY OF ACQUIRING CERTAIN PROPERTY FOR RIGHT OF WAY AND AUTHORIZING THE ACQUISITION OF PROPERTY FOR CONSTRUCTION OF A WATER TRANSMISSION LINE ALONG COUNTY ROAD 305 IN KAUFMAN COUNTY, TEXAS**

**WHEREAS**, the City Council of the City of Terrell, Texas, (“City”) has been presented with engineering reports and other factual information demonstrating the need for establishing a new water transmission line along County Road 305 in Kaufman County, Texas;

**WHEREAS**, the City Council was advised that Rose Hill Special Utility District (SUD) needs to install a water transmission line running northward from Interstate 20 on the west side of existing County Road 305 in Kaufman County, Texas;

**WHEREAS**, in order to accomplish the project, the City of Terrell needs to acquire certain right of way and other property rights from four separate landowners located along the Proposed Route;

**WHEREAS**, the City of Terrell will engage in discussions and negotiations with the four landowners located along the route to secure the necessary right of way and property rights to facilitate the project;

**WHEREAS**, the acquisition of the property is necessary for a public purpose, that being the carrying out of the City of Terrell’s statutory and other legal obligations to its citizens;

**WHEREAS**, it is necessary that the City of Terrell, as a part of its comprehensive planning, acquire the necessary right of way and real property interests by negotiation or through the exercise of the right of condemnation pursuant to Chapter 21 of the Texas Property Code.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS,** that it is necessary to the exercise of the City's powers, rights, privileges and functions conferred upon it by statute and necessary to the public convenience and necessity that it acquire, construct and maintain a new water transmission line.

BE IT FURTHER RESOLVED that the project is necessary for a public purpose and that the City of Terrell may exercise the right to condemn any necessary property interests, if necessary.

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY UPON ITS PASSAGE.

PASSED AND APPROVED this 21<sup>st</sup> day of July, 2009.

**13. Discuss and Consider Appointments to Youth Advisory Commission.**

City Manager Torry Edwards and Lynnette Nadeau, Marketing Director presented to Council for discussion and consideration Appointments to Youth Advisory Commission. This item was passed.

**14. Discuss and Consider Approval of Resolution No. 638 - Authorizing Continued Participation with the Steering Committee of Cities served by Oncor and Authorizing the Payment of 10 Cents Per Capita to the Steering Committee to Fund Regulatory and Related Activities Related to Oncor Electric Delivery.**

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Resolution No. 638 - Authorizing Continued Participation with the Steering Committee of Cities served by Oncor and Authorizing the Payment of 10 Cents Per Capita to the Steering Committee to Fund Regulatory and Related Activities Related to Oncor Electric Delivery. Mayor Pro tem Don Thurman made a motion to approve Resolution No. 638 - Authorizing Continued Participation with the Steering Committee of Cities served by Oncor and Authorizing the Payment of 10 Cents Per Capita to the Steering Committee to Fund Regulatory and Related Activities Related to Oncor Electric Delivery. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

**RESOLUTION NO. 638**

**A RESOLUTION OF THE CITY OF TERRELL, TEXAS  
AUTHORIZING CONTINUED PARTICIPATION WITH  
THE STEERING COMMITTEE OF CITIES SERVED BY  
ONCOR; AND AUTHORIZING THE PAYMENT OF 10  
CENTS PER CAPITA TO THE STEERING COMMITTEE  
TO FUND REGULATORY AND RELATED ACTIVITIES  
RELATED TO ONCOR ELECTRIC DELIVERY.**

WHEREAS, the City of Terrell is a regulatory authority under the Public Utility Regulatory Act (PURA) AND HAS EXCLUSIVE ORIGINAL JURISDICTION OVER THE RATES AND SERVICES OF Oncor Electric Delivery Company (Oncor) within the municipal boundaries of the city; and

WHEREAS, the Steering Committee has historically intervened in Oncor (formerly known as TXU) rate proceedings and electric utility related rulemakings to protect the interests of municipalities and electric customers residing within municipal boundaries; and

WHEREAS, the Steering Committee is participating in Public Utility commission dockets and projects, as well as court proceedings, affecting transmission and distribution utility rates; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor; and

WHEREAS, in order for the Steering Committee to continue its participation in these activities which affects the provision of electric utility service and the rates to be charged, it must assess its members for such costs.

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

I.

That the City is authorized to continue its membership with the Steering Committee of Cities Served by Oncor to protect the interests of the City of Terrell and protect the interests of the customers of Oncor Electric Delivery residing and conducting business within the City limits.

II.

It is further authorized to pay its assessment to the Steering Committee ten cents (\$0.10) per capita based on the population figures for the city shown in the latest TML Directory of City Officials.

III.

A copy of this Resolution and the assessment payment check made payable to "Oncor Cities Steering Committee" shall be sent to:

Jay Doegey, Chair  
Oncor Cities Steering Committee  
c/o City Attorney's Office  
Mail Stop 63-0300  
P.O. Box 90231  
Arlington, Texas 76004-3231

PRESENTED AND PASSED on this the 21st day of July, 2009 by a vote of all ayes and zero nays at a regular meeting of the City Council of the Terrell.

**15. Discuss and Consider Approval of Ordinance No. 2420 - Budget Amendment.**

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Ordinance No. 2420 – Budget Amendment. Deputy Mayor Pro tem Ricky Jordan made a motion to approve Ordinance No. 2420 – Budget Amendment on first reading. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nayses – none. Motion carried.

**ORDINANCE NO. 2420**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE ANNUAL BUDGET FOR THE YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009, AS PASSED AND ADOPTED ON SEPTEMBER 16, 2008 TO PROVIDE FOR INCREASES IN CERTAIN ACCOUNTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**16. Discuss and Consider Appointment to Tax Increment Financing Board.**

Councilmember Jack Jones made a motion to appoint Mike Cronin to the Tax Increment Financing Board. The motion was seconded by Mayor Pro tem Don Thurman. Ayes – all; Nays – none. Motion carried.

**CONSENT AGENDA**

Councilmember Jack Jones made a motion to adopt Ordinance No. 2413, Ordinance No. 2415, Ordinance No. 2416 and Ordinance No. 2417 on second reading on CONSENT AGENDA. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

**17. Discuss and Consider Adoption on Second Reading Ordinance No. 2413 – Approving a Request for a Specific Use Permit (SUP) for a Reclamation and Recycling Facility on Property Located at 203 S. Blanche, Described as All of the Greater Terrell Warehouse Addition and all of Block 1, Original Town of Terrell and Part of the Abandoned Union Pacific Railroad Right-of-Way, City of Terrell, Kaufman County, Texas.**

**ORDINANCE NO. 2413**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE (ORD. 2371) AND ESTABLISHING SPECIFIC USE PERMIT NUMBER SEVENTEEN (SUP-17) FOR A RECLAMATION AND RECYCLING FACILITY ON PROPERTY LOCATED AT 203 S. BLANCHE STREET, BEING A 2.08 ACRE TRACT OF LAND, BEING ALL OF THE GREATER TERRELL WAREHOUSE ADDITION AND ALL OF BLOCK 1, ORIGINAL TOWN OF TERRELL AND PART OF THE ABANDONED UNION PACIFIC R.R. R.O.W, 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 April 27, 2009 on a request for a Specific Use Permit for a reclamation and recycling facility on property located at 203 S. Blanche, described as all of the Greater Terrell Warehouse Addition and all of Block 1, Original Town of Terrell and part of the abandoned Union Pacific R.R. R.O.W, City of Terrell, Kaufman County, Texas.; and

**WHEREAS**, the City Council of the City of Terrell, Texas held a public hearing on May 19, 2009 and has determined that it would be in the best interest of the citizens of Terrell to approve Specific Use Permit Number Seventeen (SUP-17); 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 Comprehensive Zoning Ordinance is hereby amended and that Specific Use Permit Number Seventeen (SUP-17) is established on property located at 203 S. Blanche, described as all of the Greater Terrell Warehouse Addition and all of Block 1, Original Town of Terrell and part of the abandoned Union Pacific R.R. R.O.W, 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**

All operations, activities, and uses associated with the recycling of ferrous and nonferrous materials at this location and under the conditions of this Specific Use Permit shall be in accordance with the special conditions set forth in Exhibit A of this ordinance. Failure to comply with all of these conditions at all times may result in the revocation of this SUP and the certificate of occupancy and may subject responsible parties to other fines and penalties as may be assessed by city, state or federal codes and statutes.

## **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 16<sup>th</sup> day of June, 2009.

**PASSED AND ADOPTED** this the 21<sup>st</sup> day of July, 2009.

## **EXHIBIT A SPECIFIC USE PERMIT (SUP-17) – SPECIAL CONDITIONS**

### **SITE REQUIREMENTS:**

1. Screening – a solid eight (8') foot tall screen wall constructed of decorative steel fence panels painted to match the main building with a continuous coping covering all raw edges of the panels both top, bottom and ends. Panels are to be maintained in good condition, free of rust, graffiti, peeling paint and structural damage. A solid planting of shrubs is to be placed at the exterior base of the screen wall to a minimum height of three (3') tall with trees spaced at 30 feet intervals.

2. Security wire shall not protrude outside the front face of the screening or be lower than six (6') feet above the ground or be within three hundred (300') from any residential structure.
3. All recycled materials shall be stored in bins and shall not be stored directly on the ground at any time. Bins shall be placed on suitably paved surfaces and not on bare ground or in grassy areas.
4. The security gate shall not be of a solid material such that police patrols cannot see within the service yard.

#### MATERIAL HANDLING REQUIREMENTS:

1. The following materials shall be prohibited for secondary metal recyclers to purchase including manhole covers, electric light poles, guard rails, street signs, traffic signs, traffic signals, funeral markers or vases, communication/transmission/service wire, historical markers, railroad equipment or any item marked with identifiers from a governmental entity, utility company, cemetery or railroad.
2. Catalytic converters shall not be purchased from individuals but shall only be collected directly from automotive repair centers in which each catalytic converter has a traceable invoice to a particular vehicle from which it was removed.
3. The Terrell Police Department shall have the right to inspect the premises as deemed appropriate.
4. Hazardous materials, liquids or automotive parts containing liquids or fluids such as batteries or transmissions shall not be stored or recycled at this facility.
5. Recycling facility operator shall:
  - a. Take and maintain a digital photograph of each individual coming on the premises to sell or deliver materials.
  - b. Take and maintain a digital photograph of each vehicle used by the seller to deliver materials to the facility.
  - c. Record a thumbprint of each individual coming on the premises to sell or deliver materials and require the seller to present written documentation evidencing that the seller is the legal owner of the metals or is lawfully entitled to sell them or sign a statement that the seller is the legal owner or lawfully entitled to sell the metal.
  - d. Hold all materials purchased from individuals for a minimum of 72 hours before disposing of them.
  - e. Pay for all materials purchased from individuals on premise with either a company check or through cash cards issued by the recycler in which the card holder's positive identification, thumbprint, address, and phone number has been recorded may be utilized to pay for materials in cash. All materials bought from individuals on premise shall be photographed and held for 72 hours before disposal or distribution.

18. **Discuss and Consider Adoption on Second Reading Ordinance No. 2415 – Amending Section 12-7 of Chapter 12 of the Code of Ordinances of the City of Terrell, Texas Pertaining to the Due Date for Utility Bills and providing that Water, Sewer and Garbage Collection Charges be Considered as One (1) bill; Providing that Multiple Occupancies on Single Meter be Billed Cooperatively, Establishing Policy for Determining Service Charges for Multiple Occupancies on Single Meters, Average Winter Water Usage.**

**ORDINANCE NO. 2415**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING SECTION 12-7 OF CHAPTER 12 OF THE CODE OF ORDINANCES OF THE CITY OF TERRELL, TEXAS, WITH THE ADDITION OF SECTION G., AVERAGE WINTER WATER USAGE; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

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

**ARTICLE I**

That Chapter 12, Section 12-7, Utility Billing Procedure of the Code of Ordinances of the City of Terrell, Texas, is hereby amended by adding item G., **Average Winter Water Usage.**

**Sec. 12-7. Utility Billing Procedure**

**G. Average Winter Water Usage**

Each Year during the month of April, the City shall compute the monthly average water usage for each residential customer for the month of December, January and February hereinafter called the Average Winter Water Usage.

This average shall be used to determine the annual residential sewer rate for each residential customer served by the City.

To qualify for the Average Winter Water Usage you must have resided at your residence prior to September 30 of the year requested. Residential Sewer Rates for all new services or for services started after September 30 shall be charged for 6,000 gallons, until an Average Winter Water Usage can be established.

**ARTICLE II**

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

**ARTICLE III**

That 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

That this Ordinance shall take effect immediately from and after its passage.

PASSED AND APPROVED on first reading this the 16<sup>th</sup> day of June, 2009.  
PASSED AND APPROVED on final reading this the 21<sup>st</sup> day of July, 2009.

#### 19. Discuss and Consider Adoption on Second Reading Ordinance No. 2416 - Budget Amendment.

#### ORDINANCE NO. 2416

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE ANNUAL BUDGET FOR THE YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009, AS PASSED AND ADOPTED ON SEPTEMBER 16, 2008 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:

<b><u>IMPACT FEE FUND EXPENDITURES</u></b>	<b>BUDGETED</b>	<b>AMOUNT</b>	<b>AMENDED</b>
027-11-4408 Project 09-02 State Highway 34 Utility Relocations Phase 2	\$ -0	\$154,500.00	\$154,500.00

#### 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 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 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 16<sup>th</sup> day of June, 2009.

Passed and Adopted on this the 21<sup>st</sup> day of July, 2009.

- 20. Discuss and Consider Adoption on Second Reading Ordinance No. 2417 – Approving a Request for a Specific Use Permit (SUP) for a Communications Tower on Property Located at 305 W. College Street, City of Terrell, Kaufman County, Texas (SUP-18).**

#### **ORDINANCE NO. 2417**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE (ORD. 2371) AND ESTABLISHING SPECIFIC USE PERMIT NUMBER EIGHTEEN (SUP-18) FOR A COMMUNICATIONS TOWER ON PROPERTY LOCATED AT 305 W. COLLEGE STREET, 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 1, 2009 on a request for a Specific Use Permit for a communications tower on property located at 305 W. College Street, City of Terrell, Kaufman County, Texas.; and

**WHEREAS**, the City Council of the City of Terrell, Texas held a public hearing on June 16, 2009 and has determined that it would be in the best interest of the citizens of Terrell to approve Specific Use Permit Number Eighteen (SUP-18); 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 Comprehensive Zoning Ordinance is hereby amended and that Specific Use Permit Number Eighteen (SUP-18) is established on property located at 305 W. College Street, 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**

All operations, activities, and uses associated with the communications tower at this location and under the conditions of this Specific Use Permit shall be in accordance with the special conditions set forth in Exhibit A of this ordinance. Failure to comply with all of these conditions at all times may result in the revocation of this SUP and the use of the tower.

## **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 16<sup>th</sup> day of June, 2009.

**PASSED AND ADOPTED** this the 21<sup>st</sup> day of July, 2009.

## **EXHIBIT A**

### **SPECIFIC USE PERMIT (SUP-18) – SPECIAL CONDITIONS**

#### **SITE REQUIREMENTS:**

1. The maximum allowed height of the tower and all attachments shall not exceed one hundred thirty feet (130') tall.
2. The tower shall be for the exclusive use of the Terrell ISD and may not be used for the co-location of any private franchise equipment. (exception: co-location of other government communications equipment such as emergency broadcast equipment or 911 emergency communications equipment shall be allowed upon the execution of an interlocal agreement with the TISD.)
3. The placement of the tower shall be in accordance with the approved site plan which meets all of the setbacks required by the Zoning Ordinance of the City of Terrell.
4. The construction of the tower and its foundation shall be in accordance with the sealed engineering drawings submitted with the application for the building permit.

5. Inspections of the structural integrity of the tower shall be conducted periodically by a qualified engineer at intervals determined appropriate by the manufacturer of the tower with a copy of the inspection report being forwarded to the City of Terrell Building Official.

**END OF CONSENT AGENDA**

**21. Adjourn.**

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**Hal Richards, Mayor**

**Attest:**

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**John Rounsavall, City Secretary**