

REGULAR CITY COUNCIL MEETING

MAY 5, 2009

7:00 P.M.

A Regular Meeting of the Terrell City Council was held on Tuesday, May 5, 2009 at 7:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

COUNCILMEMBER #1	HAL RICHARDS – ABSENT (EXCUSED)
COUNCILMEMBER #2	TOMMY SPENCER
COUNCILMEMBER #3	RICKY JORDAN
COUNCILMEMBER #4	JACK JONES
COUNCILMEMBER #5	DON THURMAN

1. Call to order.

Mayor Pro tem Jack Jones called the meeting to order.

2. Invocation.

Councilmember Tommy Spencer gave the opening prayer.

3. Citizen Recognition.

Mayor Pro tem Jack Jones presented Certificates of Appreciation to Kelly Lane and Johnny Dorsey for their service to the City of Terrell.

4. Discuss and Consider Approval of Special City Council Meeting and Workshop Minutes of April 16, 2009, Special City Council Meeting Minutes of April 21, 2009, Regular City Council Meeting Minutes of April 21, 2009 and Joint City Council Meeting and Workshop Minutes of April 23, 2009.

Deputy Mayor Pro tem Don Thurman made a motion to approve Special City Council Meeting and Workshop Minutes of April 16, 2009, Special City Council Meeting Minutes of April 21, 2009, Regular City Council Meeting Minutes of April 21, 2009 and Joint City Council Meeting and Workshop Minutes of April 23, 2009. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Nays – none. Motion carried.

5. Hear Remarks from Visitors.

None were made.

Mayor Pro tem Jack Jones recognized the Boy Scout attending the Council Meeting.

NEW BUSINESS

6. Discuss and Consider Approval of Ordinance No. 2410 – Replacing Chapter 5, Business Regulations – Section 5: Taxicabs.

Greg Shumpert, Assistant City Attorney presented to Council for discussion and consideration Ordinance No. 2410 – Replacing Chapter 5, Business Regulations – Section 5: Taxicabs. Councilmember Ricky Jordan made a motion to approve Ordinance No. 2410 – Replacing Chapter 5, Business Regulations – Section 5: Taxicabs on first reading. The motion was seconded Councilmember Tommy Spencer. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2410

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS REPLACING CHAPTER 5, BUSINESS REGULATIONS, SECTION 5, TAXICABS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

7. Discuss and Consider Approval of Ordinance No. 2411 – Budget Amendment.

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Ordinance No. 2411 – Budget Amendment. Deputy Mayor Pro tem Don Thurman made a motion to approve Ordinance No. 2411 – Budget Amendment on first reading. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2411

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.

8. Discuss and Consider Approval of Ordinance No. 2412 – Amending Chapter 8, Offenses and Nuisances, Section 17, Noise by Adding Sub-Section 13: Prohibiting the Use of Engine Brakes (Also Known as “Jake Brakes”).

Greg Shumpert, Assistant City Attorney presented to Council for discussion and consideration Ordinance No. 2412 – Amending Chapter 8, Offenses and Nuisances, Section 17, Noise by Adding Sub-Section 13: Prohibiting the Use of Engine Brakes (Also Known as “Jake Brakes”). Councilmember Ricky Jordan made a motion to approve Ordinance No. 2412 – Amending Chapter 8, Offenses and Nuisances, Section 17, Noise by Adding Sub-Section 13: Prohibiting the Use of Engine Brakes (Also Known as “Jake Brakes”) on first reading. The motion was seconded by Deputy Mayor Pro tem Don Thurman. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2412

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING CHAPTER 8, OFFENSES AND NUISANCES, SECTION 17, NOISE BY ADDING SUB-SECTION 13 PROHIBITING THE USE OF ENGINE BRAKES (ALSO KNOWN AS "JAKE BRAKES") TO THE TERRELL CITY CODE REVISED; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

CONSENT AGENDA

Councilmember Tommy Spencer made a motion to adopt Ordinance No. 2407, 2408 and 2409 on second reading on CONSENT AGENDA. The motion was seconded by Councilmember Ricky Jordan. Ayes – all; Nays – none. Motion carried.

9. Discuss and Consider Adoption on Second Reading of Ordinance No. 2407 – Amending Chapter 1, Section 11. Emergency Management.

ORDINANCE NO.2407

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS AMENDING CHAPTER 1, SECTION 11. EMERGENCY MANAGEMENT OF THE CODE OF ORDINANCES OF THE CITY OF TERRELL ESTABLISHING A PROGRAM INCLUDING MITIGATION, PREPAREDNESS, RESPONSE AND RECOVERY PHASES OF COMPREHENSIVE EMERGENCY MANAGEMENT; ACKNOWLEDGING THE APPOINTMENT OF AN EMERGENCY MANAGEMENT DIRECTOR; AUTHORIZING THE APPOINTMENT OF AN EMERGENCY MANAGEMENT COORDINATOR; AND PROVIDING FOR THE DUTIES AND RESPONSIBILITIES OF THOSE OFFICES; IDENTIFYING AN OPERATIONAL ORGANIZATION; GRANTING NECESSARY POWERS TO COPE WITH ALL PHASES OF EMERGENCY MANAGEMENT WHICH THREATEN LIFE AND PROPERTY IN THE CITY OF TERRELL AUTHORIZING COOPERATIVE AND MUTUAL AID AGREEMENTS FOR RELIEF WORK BETWEEN THIS AND OTHER CITIES OR COUNTIES AND FOR RELATED PURPOSES; PROHIBITING UNAUTHORIZED WARNING AND ALL-CLEAR AND MAKING VIOLATIONS OF THE EMERGENCY MANAGEMENT PLAN A MISDEMEANOR PUNISHABLE BY FINE NOT TO EXCEED \$1000.00 OR CONFINEMENT IN JAIL FOR A TERM NOT TO EXCEED 180 DAYS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Terrell finds that the identification of potential hazards and the prevention or mitigation of their effects must be an on-going concern of the City if the lives and property of the populace are to be protected; and

WHEREAS, the City Council hereby declares that the preparation of a Comprehensive Emergency Management plan, and the means for its implementation, for the protection of lives and property in the City of Terrell from natural or man-caused disasters or threat thereof is immediately essential; and

WHEREAS, the City Council further finds that in times of disasters which may imperil the safety of the inhabitants of the City, or their property, it becomes necessary to effectuate and place into operation the preconceived plans and preparations with a minimum of delay; and

WHEREAS, the City Council finds, therefore, that the preparation, and implementation of such plans are now imperative.

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

That Chapter 11 of the Code of Ordinances, City of Terrell, Texas, is hereby amended to read as follows:

Section 1. ORGANIZATION

There exists the office of Emergency Management Director of the City of Terrell, which shall be held by the Mayor in accordance with state law.

- (a) An Emergency Management Coordinator may be appointed by and serve at the pleasure of the Director;
- (b) The Emergency Management Coordinator may appoint a Deputy Emergency Management Coordinator to assist him/her in the management of the program.
- (c) The Director shall be responsible for a program of comprehensive emergency management within the City and for carrying out the duties and responsibilities set forth in this order. He/she may delegate authority for execution of these duties to the Coordinator, but ultimate responsibility for such execution shall remain with the Director.
- (d) The operational Emergency Management organization of the City of Terrell shall consist of the officers and employees of the City so designated by the Director in the Emergency Management Plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the Emergency Management Plan.

Section 2. EMERGENCY MANAGEMENT DIRECTOR - POWERS AND DUTIES

The duties and responsibilities of the Emergency Management Director shall include the following:

- (a) Conduct an on-going survey of actual or potential hazards which threaten life and property within the city and an on-going program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.
- (b) Supervision of the development and approval of an emergency management plan for the City of Terrell, and shall recommend for adoption by the City Council all mutual aid arrangements, Memorandums of Understanding, and Statements of Agreements deemed necessary for the implementation of such plan.
- (c) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of 7 days except by or with the consent of the City Council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
- (d) Issuance of necessary proclamations, regulations or directives which are necessary for carrying out the purposes of this order. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the City Secretary.
- (e) Direction and control of the operations of the Terrell Office of Emergency Management organization as well as the training of Emergency Management personnel.
- (f) Determination of all questions of authority and responsibility that may arise within the Emergency Management organization of the City.
- (g) Maintenance of liaison with other municipal, county, district, state, regional or federal Emergency Management organizations.
- (h) Marshaling of all necessary personnel, equipment or supplies from any department of the City to aid in carrying out of the provisions of the emergency management plan.
- (i) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which said city is located and with other municipalities within the county, for the county-wide coordination of Emergency Management efforts.

- (j) Supervision of, and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving Emergency Management within the City.
- (k) Authorizing of agreements, after approval by the City Attorney, for use of private property for public shelter and other purposes.
- (l) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein.
- (m) Other requirements as specified in Texas Disaster Act 1975 (V.T.C.S. Article 6889-7 - Texas Codes Annotated, Government Code Chapter 418).

Section 3. EMERGENCY MANAGEMENT PLAN

A comprehensive Emergency Management Plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization, establish and designate divisions and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this order. As provided by state law, the plan shall follow the standards and criteria established by the Governor's Division of Emergency Management of the State of Texas. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the Governor's Division of Emergency Management of the State of Texas. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The Emergency Management Plan shall be considered supplementary to this order and have the effect of law during the time of a disaster.

Section 4. INTERJURISDICTIONAL PROGRAM

The Mayor is hereby authorized to join with the County Judge of the County of Kaufman in the formation of an Emergency Management Council for the County of Kaufman and shall have the authority to cooperate in the preparation of a joint Emergency Management Plan should it be desired, and in the appointment of a joint Emergency Management Coordinator, as well as all powers necessary to participate in a county-wide program of emergency management insofar as said program may affect the City of Terrell.

Section 5. OVERRIDE

At all times when the orders, rules, and regulations made and promulgated pursuant to this order shall be in effect, they shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

Section 6. LIABILITY

This order is an exercise by the City of its governmental functions for the protection of the public peace, health, and safety and neither the City of Terrell, the agents and representatives of said City, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with,

any order, rule, or regulation promulgated pursuant to the provisions of this order shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the City of Terrell a license of privilege, or otherwise permits the City to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or man-made disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.

Section 7. COMMITMENT OF FUNDS

No person shall have the right to expend any public funds of the City in carrying out any Emergency Management activity authorized by this ordinance without prior approval by the City Council, nor shall any person have any right to bind the City by contract, agreement or otherwise without prior and specific approval of the City Council unless during a declared disaster. During a declared disaster, the Mayor may expend and/or commit public funds of the County/City when deemed prudent and necessary for the protection of health, life, or property.

Section 8. OFFENSES; PENALTIES

- (a) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the Emergency Management Organization in the enforcement of any rule or regulation issued pursuant to this order, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this order.
- (b) It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the Emergency Management organization of the City of Terrell unless authority to do so has been granted to such person by the proper officials.
- (c) Any unauthorized person who shall, operate a siren or other device, so as to simulate a warning, or the termination of a warning, shall be in violation of this order and may be subject to the penalties imposed by this order.
- (d) Convictions for violations of the provisions of this order shall be punishable by fine not to exceed one thousand dollars (\$1,000.00) or confinement in jail for a term not to exceed 180 days.

Section 9. SEVERABILITY

If any portion of this order shall, for any reason, be declared invalid such, invalidity shall not affect the remaining provisions thereof.

Section 10. LIMITATIONS

This order shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation.

Section 11. REPEAL

All orders, parts of orders, or resolutions in conflict herewith are expressly repealed.

Approved on first reading on this the 21st day of April, 2009.

Adopted on second reading on this the 5th day of May, 2009.

10. Discuss and Consider Adoption on Second Reading of Ordinance No. 2408 – Adopting the City of Terrell Emergency Operations Plan.

ORDINANCE NO. 2408

AN ORDINANCE ADOPTING THE CITY OF TERRELL, TEXAS EMERGENCY MANAGEMENT PLAN AND AUTHORIZING THE EMERGENCY MANAGEMENT DIRECTOR (MAYOR), ACCORDING TO TEXAS GOVERNMENT CODE SECTION 418, TO SIGN THE NECESSARY DOCUMENTS AUTHENTICATING THE PLAN PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, local governments are responsible for preparing for a disaster which threatens the public health, safety, and welfare of its residents; and

WHEREAS, in disaster situations, effective leadership, coordination, and unified on-scene command is required to effectively respond to an incident and to insure that adequate resources are applied to all disaster and emergency incident relief efforts; and

WHEREAS, a key component in assuring an effective response is to develop and maintain a comprehensive Emergency Management Plan; and

WHEREAS, the Emergency Management Plan establishes the City's overall command structure for addressing an emergency situation and provides a framework for activation, implementation and maintenance of the Plan; and

WHEREAS, the City Council has determined that maintenance of the City of Terrell Emergency Management Plan is in the best interest of the residents of the City;

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

SECTION 1. AUTHORIZATION

That the Terrell Emergency Management Plan is hereby adopted and the Mayor, the City's Emergency Management Director according to Texas Government Code Section 418, is authorized to sign and attest to the authentication of said Plan. Said Emergency Management Plan is attached to this ordinance as Exhibit A.

SECTION 2. SEVERABILITY.

In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of law, all valid parts that are severable from the invalid parts shall remain in full force and effect. If any part of this ordinance is found to be invalid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in effect.

SECTION 3. REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the City of Terrell prior to the effective date of this ordinance.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

SECTION 5. LIMITATIONS

This order shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation.

Approved on first reading on this the 21st day of April, 2009.

Adopted on second reading on this the 5th day of May, 2009.

- 11. Discuss and Consider Adoption on Second Reading of Ordinance No. 2409 – Adoption a Hazard Mitigation Action Plan.**

ORDINANCE NO. 2409

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS
ADDING CHAPTER 1 SECTION 11(a). HAZARD
MITIGATION ACTION PLAN TO THE CODE OF
ORDINANCES OF THE CITY OF TERRELL, TEXAS;
PROVIDING FOR A SEVERABILITY CLAUSE; AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, certain areas of the City of Terrell, Texas are subject to natural and man-made hazards with the potential to cause damages to people or properties within the City; and

WHEREAS, the City of Terrell, Texas desires to prepare and mitigate for such circumstances;
and

WHEREAS, under the Disaster Mitigation Act of 2000, the United States Federal Emergency Management Agency (FEMA) requires that local jurisdictions have in place a FEMA-approved Hazard Mitigation Action Plan as a condition of receipt of certain future Federal mitigation funding after November 1, 2004; and

WHEREAS, the City of Terrell, Texas and its partner organizations which respond to disasters has initiated development of a Hazard Mitigation Action Plan covering the City of Terrell, Kaufman County, Texas.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY COUNCIL OF TERRELL, TEXAS HEREBY:

THAT: Chapter 1 Section 11(a). Hazard Mitigation Action Plan is hereby added to the City of Terrell Code of Ordinances.

Section 1.

The City Council hereby adopts this Hazard Mitigation Action Plan for the City of Terrell, Texas; and

Section 2.

Vests the Terrell Office of Emergency Management and the Emergency Management Coordinator with the responsibility, authority, and the means to:

- (a) Inform all concerned parties of this action.
- (b) Develop an addendum to this Hazard Mitigation Action Plan if the City's unique situation warrants such an addendum.

Section 3.

Appoints the Terrell Office of Emergency Management and the Emergency Management Coordinator to assure that the Hazard Mitigation Action Plan be reviewed at least annually and that any needed adjustment or addendum to the City's Hazard Mitigation Action Plan be developed and presented to the City Council for consideration.

Section 4.

Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Action Plan.

Section 5. Severability

If any portion of this Ordinance shall, for any reason, be declared invalid, such invalidity shall not affect the remaining provisions thereof.

Section 6. Limitations

This Ordinance shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation.

Section 7. Repeal

All Ordinances, parts of Ordinance, or Resolutions in conflict herewith are expressly repealed.

Approved on first reading on this the 21st day of April, 2009.

Adopted on second reading on this the 5th day of May, 2009.

END OF CONSENT AGENDA

12. Receive City Manager's Reports and Correspondence:

- a.) Special City Council Meeting and Workshop - Thursday, May 7, 2009 – 6:00 p.m.
- b.) Special City Council Meeting and Workshop – Thursday, May 14, 2009 – 6:00 p.m.

City Manager Torry Edwards presented Reports and Correspondence to Council.

13. Adjourn.

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

Hal Richards, Mayor

Attest:

John Rounsavall, City Secretary