

## REGULAR CITY COUNCIL MEETING

OCTOBER 6, 2009

7:00 P.M.

A Regular Meeting of the Terrell City Council was held on Tuesday, October 6, 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**  
**COUNCILMEMBER #2 SANDRA WILSON**  
**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 Jack Jones gave the opening prayer.

**3. Discuss and Consider Approval of Special City Council Meeting Workshop Minutes of September 10, 2009 and Regular City Council Meeting Minutes of September 15, 2009.**

Mayor Pro tem Don Thurman made a motion to approve Special City Council Meeting Workshop Minutes of September 10, 2009 and Regular City Council Meeting Minutes of September 15, 2009. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

**4. Hear Remarks from Visitors.**

Kenneth Boyd – 403 Warren Street, Terrell, Texas voiced his concern to Council regarding the materials he used for his driveway (roof shingles) and he is now being told he has to remove them.

**5. Discuss and Consider Bid and Award of Contract for Bid No. 02-80-09 – Proposals for Actuarial Services.**

Frank Hinton, Consulting Auditor presented to Council for discussion and consideration Bid and Award of Contract for Bid No. 02-80-09 – Proposals for Actuarial Services. Councilmember Jack Jones made a motion to award Bid and Contract for Bid No. 02-80-09 – Proposals for Actuarial Services to Lewis & Ellis, Inc. in the amount of \$5,000. The motion was seconded by Mayor Pro tem Don Thurman. Ayes – all; Nays – none. Motion carried.

**6. Discuss and Consider Approval of Interlocal Agreement Between Tarrant County and City of Terrell.**

Jody Lay, Chief of Police presented to Council for discussion and consideration Interlocal Agreement Between Tarrant County and the City of Terrell. Councilmember Sandra Wilson made a motion to approve Interlocal Agreement Between Tarrant County and the City of Terrell. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

**7. Discuss and Consider Approval of Change Order No. 1 for Project 09-03 – South Alley Parking Improvements.**

No action taken.

**8. Discuss and Consider Approval of Amendment Number Two to the Potable Water Contract with North Texas Municipal Water District.**

Steve Rogers, City Engineer presented to Council for discussion and consideration Amendment Number Two to the Potable Water Contract with North Texas Municipal Water District. Councilmember Jack Jones made a motion to approve Amendment Number Two to the Potable Water Contract with North Texas Municipal Water District. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

**9. Discuss and Consider Approval of Multijurisdictional Pretreatment Agreement.**

Steve Rogers, City Engineer presented to Council for discussion and consideration Multijurisdictional Pretreatment Agreement. Mayor Pro tem Don Thurman made a motion to table this item to the next Council Meeting. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

**10. Discuss and Consider Approval of Pretreatment Budget Agreement.**

Steve Rogers, City Engineer presented to Council for discussion and consideration Pretreatment Budget Agreement. Councilmember Jack Jones made a motion to table this item to the next Council Meeting. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

**11. Discuss and Consider Approval of Ordinance No. 2432 – Updating the Industrial Pretreatment Program.**

Steve Rogers, City Engineer presented to Council for discussion and consideration Ordinance No. 2432 – Updating the Industrial Pretreatment Program. Mayor Pro tem Don Thurman made a motion to approve Ordinance No. 2432 – Updating the Industrial Pretreatment Program on first reading with changes so noted. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, REPEALING ORDINANCE 1922, PROVIDING REGULATIONS FOR THE DISPOSAL OF SEWAGE AND THE USE OF PUBLIC SEWERS; REGULATING THE DISCHARGE OF INDUSTRIAL WASTES INTO THE SANITARY SEWER OF THE CITY; REGULATION SEWER AND MISCELLANEOUS DISCHARGES; PROVIDING FOR A PERMIT SYSTEM WITH DENIAL, SUSPENSION, REVOCATION AND AN APPEALS PROCESS; PROVIDING A PENALTY CLAUSE, A REPEALING CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**12. Discuss and Consider Approval of Change Order No. 1 for Project 09-05 – Tanks Cleanup, Municipal Sludge Dewatering, Transporting and Disposal at the Kings Creek Wastewater Treatment Plant.**

Steve Rogers, City Engineer presented to Council for discussion and consideration Change Order No. 1 for Project 09-05 – Tanks Cleanup, Municipal Sludge Dewatering, Transporting and Disposal at the Kings Creek Wastewater Treatment Plant. Councilmember Sandra Wilson made a motion to approve Change Order No. 1 for Project 09-05 – Tanks Cleanup, Municipal Sludge Dewatering, Transporting and Disposal at the Kings Creek Wastewater Treatment Plant. The motion was seconded by Councilmember Jack Jones. Ayes – all; Nays – none. Motion carried.

**13. Discuss and Consider Approval of Change Order No. 2 for Project 09-05 – Tanks Cleanup, Municipal Sludge Dewatering, Transporting and Disposal at the Kings Creek Wastewater Treatment Plant.**

Steve Rogers, City Engineer presented to Council for discussion and consideration Change Order No. 2 for Project 09-05 – Tanks Cleanup, Municipal Sludge Dewatering, Transporting and Disposal at the Kings Creek Wastewater Treatment Plant. Councilmember Sandra Wilson made a motion to approve Change Order No. 2 for Project 09-05 – Tanks Cleanup, Municipal Sludge Dewatering, Transporting and Disposal at the Kings Creek Wastewater Treatment Plant. The

motion was seconded by Mayor Pro tem Don Thurman. Ayes – all; Nays – none. Motion carried.

**14. Discuss and Consider Appointments to Terrell Park Board.**

Mayor Pro tem Don Thurman made a motion to appoint Abbie Craven to replace Robert Lee on the Terrell Park Board. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

**15. Discuss and Consider Approval of Ordinance No. 2433 – Budget Amendment.**

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Ordinance No. 2433 – Budget Amendment. Councilmember Sandra Wilson made a motion to approve Ordinance No. 2433 – Budget Amendment on first reading. The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2433

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 Approval of Funding from Pauline Allen Gill Foundation.**

Mayor Hal Richards and Steve Rogers, City Engineer presented to Council for discussion and consideration Funding from Pauline Allen Gill Foundation. Mayor Pro tem Don Thurman made a motion to authorize the Mayor to execute an agreement with Pauline Allen Gill Foundation for funding. The motion was seconded by Deputy Mayor Pro Ricky Jordan. Ayes – all; Nays – none. Motion carried.

**CONSENT AGENDA**

Councilmember Jack Jones made a motion to adopt Ordinance No. 2430 and Ordinance No. 2431 on second reading on CONSENT AGENDA. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

**17. Discuss and Consider Adoption on Second Reading of Ordinance No. 2430 – Fire and Police Classification.**

ORDINANCE NO. 2430

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.

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

ARTICLE I.

THAT, Chapter 9, Section 9-9. (a) Classification of Fire Fighters and (b) Classification of Police Officers, (1) Positions appointed by Chief of Police (2) Police Officer Classifications in the Police Department of the Revised Code of Ordinances of the City of Terrell, Texas, be and is hereby amended to read as follows:

SECTION 9-9(a). CLASSIFICATION OF FIRE FIGHTERS

Fire Fighters of the City of Terrell Fire Department are classified as follows, and the numbers of positions of each classification thereof are as follows, with the salary per position as stated adjacent to each classification:

SECTION 9-9 (a) (1) Positions appointed by fire chief

CLASSIFICATION	NUMBER OF POSITIONS	BASE MONTHLY SALARY
Battalion Chief	1	\$3,843.00

CLASSIFICATION	NUMBER OF POSITIONS	BASE MONTHLY SALARY
Captains	3	\$3,660.00
Driver-Engineer	6	\$3,298.00
Fire Fighter	12	\$3,234.00

SECTION 9-9 (b)(1) Positions appointed by chief of police

CLASSIFICATION	NUMBER OF POSITIONS	BASE MONTHLY SALARY
Assistant Chief of Police	0	\$0.00

SECTION 9-9(b)(2) Police Officer Classifications

Police Officers of the City of Terrell Police Department are classified as follows, and the numbers of positions of each classification thereof are as follows, with the salary per position as stated adjacent to each classification.

CLASSIFICATION	NUMBER OF POSITIONS	BASE MONTHLY SALARY
Captain	3	\$4,233.00
Sergeant	5	\$3,660.00
Corporal	6	\$3,540.00
Patrol Officer	24	\$3,330.00

Each police officer as classified herein has civil service protection, upon completion of a one-year probationary period upon hire. A classified position may be filled only from an eligibility list that results from an examination held in accordance with Chapter 143 of the Texas Local Government Code.

ARTICLE II.

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

ARTICLE 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 in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

ARTICLE 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 THIS 15<sup>th</sup> DAY OF SEPTEMBER, 2009.

PASSED AND ADOPTED THIS 6<sup>TH</sup> DAY OF OCTOBER, 2009.

**18. Discuss and Consider Adoption on Second Reading of Ordinance No. 2431 – Providing for the Monthly Collection and Reporting of Hotel Occupancy Tax.**

**ORDINANCE NO. 2431**

**AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING ORDINANCE NUMBER 2099; PROVIDING FOR THE MONTHLY COLLECTION AND REPORTING OF A HOTEL OCCUPANCY TAX; PROVIDING A PENALTY FOR THE FAILURE TO REPORT OR COLLECT THE TAX; PROVIDING CERTAIN DEFINITIONS PROVIDING FOR CERTAIN EXEMPTIONS; PROVIDING FOR THE CITY COUNCIL TO ENACT A BUDGET FOR EXPENDITURES OF FEES COLLETED THROUGH THE HOTEL OCCUPANCY TAX; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE:**

WHEREAS, Section 351.001 V.A.T.S., Municipal Hotel Occupancy Taxes, sets forth the authority of the municipality to levy by ordinance a hotel occupancy tax upon the cost of occupancy of any room or other hotel facility used for sleeping, within the corporate limits of said city where the charge for the room is \$2.00 or more per day; and

WHEREAS, the City Council has found that it would be in the best interest of the City of Terrell for the Hotel Occupancy Taxes to be reported and paid monthly;

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

Ordinance No. 2099 is hereby amended to read as follows:

SECTION 1. Definitions.

The following words, terms and phrases are defined as follows:

1. Hotel: Any building or buildings in which the public may, for a consideration, obtain sleeping accommodations, including hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, excluding hospitals, sanitariums and/or nursing homes.
2. Consideration: The cost of a room in a hotel that is ordinarily used for sleeping but not including the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.
3. Occupancy: The use or possession, or the right to the use or possession of any room or rooms in a hotel if the room is one which is ordinarily used for sleeping and if the occupant is not a permanent resident as hereinafter defined.
4. Occupant: Anyone who, for a consideration, uses, possesses, or has the right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license, contract or agreement, other than a permanent resident as hereinafter defined.

5. Person: Any individual, company, corporation or association owning, operating, managing or controlling any hotel.
6. Monthly period: The regular calendar months of the year.
7. Permanent resident: Any occupant who has or shall have the right to occupancy of any room or rooms in a hotel for at least thirty (30) consecutive days during the calendar year or preceding year.

SECTION 2. Tax Levied; Amount; Exemptions.

There is hereby levied a tax of seven percent (7%) of the price paid for a room in a hotel on every person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use of possession or for the right to the use or possession of a room that is in a hotel, costs two dollars (\$2.00) or more per day, and is ordinarily used for sleeping. The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except those services related to the cleaning and readying of the room for possession.

Exceptions are as follows:

1. No tax shall be imposed upon a permanent resident.
2. No tax shall be imposed upon federal or state employees traveling on official business.
3. No tax shall be imposed upon diplomatic personnel who present a Tax Exemption card duly issued by the United States Department of State.
4. No tax shall be imposed upon federal or state military personnel traveling on official military business. This exemption does not include military staff on leave or between stations.

SECTION 3. Collection of Tax.

Every person owning, operating, managing or controlling any hotel shall collect the tax levied by this ordinance for the City of Terrell.

The hotel operator shall be entitled to one percent (1%) of the hotel occupancy tax revenues collected as reimbursement for the operator's administrative costs for collecting the tax. However, as provided below, this reimbursement may be forfeited at the direction of the city if the hotel operator fails, for any reason, to timely pay over the tax, to timely file a report as required by the city, or to file a false report with the city,

SECTION 4. Monthly Reports to City Secretary.

On the twentieth (20<sup>th</sup>) day of the month, every person required to collect the tax imposed hereby shall file a report with the City Secretary of taxes collected showing the price paid for all room occupancies in the preceding month, the amount of tax collected on such occupancies, and any other information the City Secretary may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report. The report shall be in a form prescribed by the City Secretary. The City Secretary is hereby authorized and directed to take all actions necessary to carry out the terms of this ordinance. The City Secretary shall have the authority to request and receive within a reasonable time documentation for information contained in the report to the city by the hotel. The hotel operator shall also furnish a copy of the quarterly tax report filed by the hotel with the State Comptroller regarding the State Hotel Occupancy Tax.

SECTION 5. Power of the City Secretary; Access to Books and Records.

The City Secretary shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied hereby and shall, upon reasonable notice, have access to books and records necessary to enable him to determine the correctness of any report filed under the provisions of this ordinance including, but not limited to, the amount of taxes

due to the City of Terrell.

SECTION 6. Penalties.

If any person should fail to file a tax report as required herein or should file a false report or fail to pay the tax when due to the City, said person shall be liable to the City for its reasonable attorney's fees and penalty equal to fifteen percent (15%) of the total amount of the tax owed. Delinquent taxes shall draw interest at the rate of ten percent (10%) per annum beginning sixty (60) days from the date due.

Any person violating any provision of this article, including but not limited to, hotel operators who fail to collect the tax, fail to file a report, file a false report, or who are delinquent in their tax payment, shall be guilty of a misdemeanor and shall, upon conviction, be fined in any sum not to exceed Five Hundred and No/100 Dollars (\$500.00). Each twenty-four (24) hour period of any such violation shall constitute a separate offense.

SECTION 7. Additional Penalties.

The City is hereby authorized to take any or all of the following actions against any person required to collect the tax imposed hereby and pay said collection over to the City and/or has failed to file a report, filed a false report, or failed to pay the tax when due:

1. Require the forfeiture of any revenue the city allowed the hotel operator to retain for its cost of collecting the tax;
2. Bring suit against the hotel for noncompliance; and/or
3. Bring suit against the hotel seeking any other remedies provided under Texas law.

SECTION 8. Additional Authorization to bring Suit.

The City Attorney is hereby authorized to bring suit against any person required to collect the tax imposed hereby, is required to pay said collection over to the City and who has failed to file a report, filed a false report, or failed to pay the tax when due. Such suit may seek to collect such tax not paid or to enjoin such person from operating a hotel in the city until the tax is paid or the report is filed or both, as applicable and as provided in the injunction.

SECTION 9. Use of Revenue Derived from Levy of Hotel Occupancy Tax.

The revenue derived from any hotel occupancy tax imposed and levied by this ordinance may be used only to promote tourism and the convention and hotel industry with such use being limited to the following:

1. The acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities (as such is defined in V.A.T.S. Tax Code, Section 351.001);
2. The furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
3. Advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
4. The encouragement, promotion, improvement, and application of the arts including, but not limited to, instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and creative arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution and exhibition of these major art forms; and
5. Historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to

visit preserved historic sites or museums

- a.) which are at or in the immediate vicinity of convention center facilities; or
- b.) which are located elsewhere in the municipality or its vicinity that would be frequented by tourists, convention delegates, or other visitors to the municipality.

Revenue derived from the hotel occupancy tax shall be expended only in a manner which directly enhances and promotes tourism and the convention and hotel industry as herein before delineated. Such revenue shall not be used for general revenue purposes or for general governmental operations of the municipality which are not directly related to promoting the hotel and convention industry or tourism in the municipality.

SECTION 10. Budget and Allocation of Funds.

1. The Terrell City Council shall determine the maximum amount and/or percentage of funds to be expended during the next fiscal year.
2. Each person or organization requesting consideration of funds shall submit a written proposal to the City Secretary on or before July 15 of each year containing as a minimum the following:
  - a.) The purpose for which the funds are requested. This purpose may be an event (e.g. Heritage Jubilee), project (e.g. Restoration of the Robert Terrell house), or program (e.g. operation of monthly historical tour) or other purpose under V.A.T.S. Tax Code, Subsection (a), Section 351.101,
  - b.) A statement setting forth how the expenditure will directly enhance and promote tourism and the convention and hotel industry as outlined in V.A.T.S. Tax Code, Subsection (a), Section 351.101.
  - c.) A detailed budget proposal showing a statement of their expected costs.
3. On or before August 15 of each year the City Secretary shall forward to the Terrell City Council a copy of all requests for funds which have been submitted under the provisions of subsection (2) above together with any and all written recommendations for expenditures. The Terrell City Council will, following an evaluation of all applicable requests and recommendations, approve a final budget for the expenditure of funds collected through the Hotel Occupancy Tax for that year.

SECTION 11. Repeal of Conflicting Ordinances.

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

SECTION 12. Severability

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 judgement 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 13. Effective date

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 15<sup>TH</sup> DAY OF SEPTEMBER, 2009.  
PASSED AND ADOPTED ON THIS THE 6<sup>TH</sup> DAY OF OCTOBER, 2009.

**19. 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**