

REGULAR CITY COUNCIL MEETING

DECEMBER 7, 2010

7:00 P.M.

A Regular Meeting of the Terrell City Council was held on Tuesday, December 7, 2010 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 SANDRA WILSON
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 Don Thurman gave the opening prayer.

3. Hear Remarks from Visitors

Russell Jones – 405 S. Park Street spoke to Council regarding opposing re-zoning.
Sandra Mattox – 400 S. Park Street spoke to Council regarding opposing re-zoning.

NEW BUSINESS

4. Discuss and Consider a Request from Randall Noe Auto Group Regarding Alternative Exterior Materials per Section 37.4 of the Zoning Ordinance, in Order to Construct a New Building on Property Located at 98 State Highway 205, Being Norton 3rd Addition, as Recorded in Volume 2065, Page 553 of the Deed Records of Kaufman County, City of Terrell, Texas. (ZC-10-09).

Terry Capehart, Director of Municipal Development presented to Council for discussion and consideration a Request from Randall Noe Auto Group Regarding Alternative Exterior Materials per Section 37.4 of the Zoning Ordinance, in Order to Construct a New Building on Property Located at 98 State Highway 205, Being Norton 3rd Addition, as Recorded in Volume 2065, Page 553 of the Deed Records of Kaufman County, City of Terrell, Texas. (ZC-10-09). Councilmember Sandra Wilson made a motion to approve a Request from Randall Noe Auto Group Regarding Alternative Exterior Materials per Section 37.4 of the Zoning Ordinance, in Order to Construct a New Building on Property Located at 98 State Highway 205, Being Norton 3rd Addition, as Recorded in Volume 2065, Page 553 of the Deed Records of Kaufman County,

City of Terrell, Texas. (ZC-10-09). The motion was seconded by Councilmember Don Thurman. Ayes- all; Nays – none. Motion carried.

5. Discuss and Consider a Request from Jose Yanez for Approval of Alternative Exterior Materials per Section 37.4 of the Zoning Ordinance, in Order to Construct a New House in Traditional Architecture Style on Property Located at 114 Laroe Street, Being Lot 7, Block 410, Virginia Heights Addition, as recorded in Volume 3200, Page 301 of the Deed Records of Kaufman County, City of Terrell, Texas. (ZC-10-10)

Terry Capehart, Director of Municipal Development presented to Council for discussion and consideration a Request from Jose Yanez for Approval of Alternative Exterior Materials per Section 37.4 of the Zoning Ordinance, in Order to Construct a New House in Traditional Architecture Style on Property Located at 114 Laroe Street, Being Lot 7, Block 410, Virginia Heights Addition, as recorded in Volume 3200, Page 301 of the Deed Records of Kaufman County, City of Terrell, Texas. (ZC-10-10). Councilmember Don Thurman made a motion to approve a Request from Jose Yanez for Approval of Alternative Exterior Materials per Section 37.4 of the Zoning Ordinance, in Order to Construct a New House in Traditional Architecture Style on Property Located at 114 Laroe Street, Being Lot 7, Block 410, Virginia Heights Addition, as recorded in Volume 3200, Page 301 of the Deed Records of Kaufman County, City of Terrell, Texas. (ZC-10-10). The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

6. Discuss and Consider Resolution 674 Amending the Policy Governing the Resale, Sale or Disposition of Publicly Owned Land within the City of Terrell.

Terry Capehart, Director of Municipal Development presented to Council for discussion and consideration Resolution No. 674 – Amending the Policy Governing the Resale, Sale or Disposition of Publicly Owned Land within the City of Terrell. Deputy Mayor Pro tem Ricky Jordan made a motion to approve Resolution No. 674 – Amending the Policy Governing the Resale Sale or Disposition of Publicly Owned Land within the City of Terrell. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

RESOLUTION NO. 674

A RESOLUTION OF THE CITY OF TERRELL, TERRELL, TEXAS, AMENDING THE POLICY (ADOPTED BY RESOLUTION 651) GOVERNING THE RESALE, SALE OR DISPOSITION OF PUBLICLY OWNED LAND WITHIN THE CITY OF TERRELL.

WHEREAS, the Terrell City Council desires that resale, sale or disposition of publicly owned land shall be made in accordance with written policies approved by the governing body; and

WHEREAS, resale, sale or disposition policies must be consistent, provide clear directions, address public purpose issues, coordinate sales between various agencies, such as, County, City, School District or other vested agencies, determine that future use by private parties is consistent with the goals and recommendations of the City Council, Future Land Use Plan and other regulatory ordinances and statutes; and

WHEREAS, the City of Terrell City Council finds that the City Policy for the Resale, Sale or Disposition of Publicly Owned Land attached hereto (Exhibit "A") is in the best interests of the citizens, property owners, businesses and visitors of the City of Terrell.

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

Section 1. The Terrell City Council hereby adopts Exhibit "A" attached hereto as the official policy which shall govern the resale, sale or disposition of publicly owned land.

Section 2. That this resolution shall hereby authorize the Mayor to enter into Interlocal Agreements with Kaufman County, Terrell Independent School District and Trinity Valley Community College for the purpose of implementing the policy shown as Exhibit "A", in which the City of Terrell shall act as Trustee for certain tax foreclosed properties for the purpose of neighborhood revitalization.

Section 3. That this resolution shall take effect immediately from and after its passage.

PASSED, ADOPTED AND APPROVED by the City Council of the City Terrell this the 7TH day of December, 2010.

EXHIBIT "A"

CITY OF TERRELL

Resale, Sale, or Disposition Policy of Publicly Owned Land

PURPOSE: To establish guidelines for the resale, sale, or disposition (including abandonment of rights-of-way or easements) of publicly owned land located within the corporate city limits of Terrell and its Extraterritorial Jurisdiction (ETJ).

APPLICABILITY: This policy shall apply to the resale, sale or disposition of all publicly held lands owned by the City of Terrell or held in public trust by the City of Terrell (for Neighborhood Revitalization) or by the County including, but not limited to property foreclosed on for delinquent taxes or outstanding liens; surplus properties acquired by purchase, condemnation, eminent domain, dedication, donation, etc.

PROCESS: To initiate the application of this policy, certain tracts or lots of land will be identified as being considered for resale, sale or disposition by either the County or City. City staff will conduct research to determine if the City, County, School District or other agencies have an interest in retaining the property for a public purpose. City staff shall then prepare a report and present the recommendation to the City Council. Upon receiving the recommendation, the City Council will consider the resale, sale or disposition in accordance with the following criteria:

Part One: Checklist for Staff review of resale, sale or disposition request.

- 1.) Engineering Department Review:

- a. Will all or part of the land be needed for future street improvements (as identified on Thoroughfare Plan), right-of-way, access, utility easements, or drainage and storm water management?
 - b. Does access to the property involve TxDOT controlled right-of-way and will any of the access points be required to get TxDOT approval?
 - c. Will all or part of the land be needed for future capital improvements such as, water towers, lift stations, pump stations, sewer treatment facilities, or government facilities such as libraries, fire or police stations, service centers, etc?
 - d. Is land needed for existing or future park facilities?
 - e. Is the property located in a flood plain or is it subject to drainage problems due to poor existing drainage?
 - f. Has the property had prior water and sewer services and are they still available?
 - g. Are new water and sewer services available to the property and do the existing mains have the capacity for new taps?
 - h. Is the sewer accessible by gravity flow or do pump systems have to be installed?
 - i. Will the property be subject to impact fees?
 - j. Has the land been subject to Phase I or Phase II environmental assessments?
 - k. Are there any known environmental contamination issues on the land?
- 2.) Municipal Development Review:
- a. If the land is vacant what were the past land uses if any?
 - b. What are the current land uses on the subject property and are the uses nonconforming or substandard?
 - c. What is the current zoning on the land or will rezoning be required prior to development?
 - d. Is the proposed use in conformance with the Future Land Use Plan and Zoning Ordinance?
 - e. Have there been or are there current liens against the property and what type are they?
 - f. Have code violations been assessed against the previous property owners and what types were they?
 - g. Has the land been platted, if not, will it be required to plat the property prior to development?
 - h. Do the lot dimensions meet current standards for development?
 - i. Does the lot have proper access for future or current development?
 - j. Are there large trees that would be required to be preserved by the landscape ordinance?
 - k. Is there adequate space for parking for current or future development?
 - l. Is it in the best interest of the City to divide and sell the property to adjacent property owners? Are the adjacent owners interested in acquiring the property?
 - m. Could the lot or property be land-banked for future residential development for neighborhood revitalization.
 - n. Who is responsible for any surveys or plats if needed to transfer the property?
 - o. Have any variances or specific use permits ever been granted for the property?
- 3.) Administration Review:
- a. Have all departments or other vested parties or agencies returned their reports to the City Secretary for preparation of Council reports?
 - b. Have the required notices or advertisements been posted?
 - c. Have any special licenses or permits been issued for the property, such as, game or dance hall, seasonal vendors, alcohol sales, private club, etc.?

- d. Are there any outstanding unpaid utility bills or other fees on the property?
 - e. Have any citizens or adjacent property owners formally requested the sale of a certain lot or tract of land?
- 4.) Terrell Independent School District Review.
- a. Does the school district have an interest in acquiring the land for future expansion of school facilities?
 - b. Is the land adjacent to any existing or future school?
 - c. Is there an opportunity for the city and school district to jointly develop the land for recreational uses?
 - d. Can the land be used by the district for access to existing facilities to improve traffic safety in the vicinity of a school?
- 5.) Terrell Economic Development Corporation Review.
- a. Is the land located within or is it adjacent to any land controlled by the TEDC?
 - b. Could the land be used by the TEDC to further its mission of recruiting new businesses to Terrell?
 - c. Could the land be used in a public/private development partnership?
- 6.) City Attorney Review:
- a. Is all documentation or instruments available for the preparation of Title and Deed execution?
 - b. Have all of the requirements by State and Local Law been met?
 - c. Has a title search been initiated?

Part Two: Execution of Sale of Publicly Owned Property:

- 1.) After the city staff review is completed in accordance with the above criteria each department shall submit its recommendations to the Municipal Development Department for the preparation of the final report to be presented to the city council.
- 2.) The City Council, after reviewing the staff report, shall conduct a public meeting on the resale, sale or disposition of the subject properties, and other such consideration, shall exercise its prerogative to authorize the resale, sale, abandonment or other disposition of the property in accordance with established statutes and ordinances.
- 3.) If the subject property is held in trust by the County, the City Secretary shall forward the City Council's recommendation to the County for disposition.
- 4.) If the property is held by the City then the City Attorney shall prepare the documentation to execute the sale of the subject property and notify the City Secretary when the sale is complete for information distribution.
- 5.) Properties identified for Neighborhood Revitalization shall be processed for resale utilizing the following terms and conditions:
 - a. City staff shall request qualifications from residential builders, developers or non-profit entities for the purpose of developing and constructing houses on the selected tax foreclosed properties. The City shall qualify redevelopment partners for the resale and

redevelopment of selected tax foreclosed properties for neighborhood revitalization. Additional RFQs may be solicited from time to time at the discretion of the Municipal Development Director in order to replenish or add to the list of redevelopment partners on resale lots.

- b. Price points (initial sales price) of homes built under this policy shall meet the requirements based upon qualifying for moderate income, as verified by the City of Terrell Housing Director, in effect at the time the building permit application is submitted.
- c. After a list of redevelopment partners has been established and approved by the City, they will be eligible to bid on any and all lots which become available for resale under this Agreement. All sales of lots under this Agreement shall be “private” sales to pre-qualified purchasers in accordance with Section 34.05 of the Texas Tax Code.
- d. Purchaser means an individual, corporation, non-profit corporation, partnership, or other legal entity selected in the “Request For Qualifications” process and who has been awarded a bid to purchase and redevelop certain tax foreclosed lots within the City of Terrell.
- e. Purchasers of properties under this Agreement shall covenant to commence construction of a new residential structure within 180 days of executing a contract with the City and to complete the construction within an additional 180 days of commencing construction. Properties in which construction has not commenced within the allotted time shall revert Title ownership back to the City free of any liens, encumbrances or damages. The purchaser shall hold the City and all Parties to this Agreement harmless in the execution of this Agreement and performance of development contracts entered into by the purchaser for failing to perform as agreed.
- f. Additional terms and conditions as determined appropriate by the City may apply, such as, adopted building codes, ordinances and policies regarding construction of houses on selected tax foreclosed properties in order to effect the public purpose of neighborhood revitalization, improving property value and quality of housing in Terrell.
- g. A performance bond shall be required for each property purchased to insure completion of the construction as required in the contract. The City shall have the right to redeem such bonds if a purchaser fails to complete the construction of a home within one (1) year of executing the contract to complete the construction. A purchaser who buys multiple lots at the same time shall be granted additional time for construction at the discretion of the Municipal Development Director, however, commencement of construction shall still be required within six (6) months of the execution of the contract on at least one lot.
- h. The adopted Building Codes and Ordinances of the City of Terrell shall apply to all construction except that building permit and utility tap fees shall be waived. Lots in which prior utility services can be verified shall receive credit towards impact fees in accordance to the Impact Fee Ordinance.
- i. The initial home occupant (purchaser of the completed home) shall be an individual or family owner occupant, i.e. the initial occupation shall not be by rental or lease unless otherwise authorized by the City Council (see subsection (i) below).

- j. Building permit fees, liens and other judgments against the property may be waived, however, a performance lien shall be placed against the property in the amount of all fees and liens waived which shall be removed twelve months after the sale to an owner occupant. Homes that are subsequently rented or leased shall be subject to the above performance lien.
- k. Minimum construction standards are as follows:

NOTE: The Municipal Development Director shall reserve the right, as part of the RFQ and bid processes, to establish quality requirements, maintenance standards, platting requirements and other development standards above the following stated minimums listed below deemed necessary for the revitalization of individual blocks and neighborhoods as impacted by individual resale properties offered under this policy.

- i. All construction shall meet the minimum standards of the International Building Codes and National Electrical Code as adopted.
- ii. Minimum house size shall be 1,100 square feet of air conditioned space for SF-6 lots, 1,200 square feet for SF-7.5 lots, and 1,500 square feet for SF-10 lots or larger.
- iii. Masonry exterior façade materials shall be required on 75% of the first floor and 50% of the second floor excluding covered porch areas.
- iv. Parking requirements: SF-6 - minimum of two (2) off street spaces one of which must be enclosed, SF-7.5 or larger lot - minimum of two (2) off street spaces both of which must be enclosed.
- v. Concrete driveway shall be required.

7. Discuss and Consider Amendment to Development Agreement with Terrell Market Center/Baylor:

- A.) Terrell Market Center TIF Application**
- B.) Baylor TIF Application**
- C.) Project Plan/Finance Plan Amendment**
- D.) TIF Resolution No. 3**
- E.) Terrell Market Center/Baylor Reimbursement Resolution No. 669.**
- F.) Terrell Market Center/Baylor Development Agreement Amendment Execution Resolution No. 670.**
- G.) Terrell Market Center/Baylor Development Agreement Amendment**

8. Discuss and Consider Amendment to LPAFA for FM148 construction:

- H.) FM 148 Resolution No. 671.**
- I.) FM 148 Funding Agreement Amendment**
- J.) FM 148 LPAFA Amendment**

9. Discuss and Consider Amendment to LPAFA for IH20 construction:

- K. IH 20 Resolution No. 672.**
- L. IH 20 Funding Agreement Amendment**
- M. IH 20 LPAFA Amendment**

10. Discuss and Consider New LPAFA for Spur 557 from FM148 to IH20 Environmental, Engineering and TXDOT Review:

- N. Spur 557 from FM148 to IH 20 Resolution No. 673.**
- O. Spur 557 from FM148 to IH 20 Funding Agreement**
- P. Spur 557 from FM148 to IH 20 LPAFA**

Councilmember Don Thurman made a motion to approve Resolution No. 669 (Item 7E.). The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

Councilmember Don Thurman made a motion to approve Resolution No. 670 (Item 7F.). The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

Councilmember Don Thurman made a motion to approve Resolution No. 671 (Item 8H.). The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

Councilmember Don Thurman made a motion to approve Resolution No. 672 (Item 9K.). The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

Councilmember Don Thurman made a motion to approve Resolution No. 673 (Item 10N.). The motion was seconded by Deputy Mayor Pro tem Ricky Jordan. Ayes – all; Nays – none. Motion carried.

**RESOLUTION NO. 669
REIMBURSEMENT RESOLUTION**

**A RESOLUTION OF THE CITY OF TERRELL, TEXAS,
AUTHORIZING REIMBURSEMENT OF FUNDS FOR TRACT 3 OF
THE TAX INCREMENT FINANCING REINVESTMENT ZONE NO.
ONE**

WHEREAS, the City Council of the City of Terrell, Texas, recognizes the importance of its role in local economic development; and

WHEREAS, on November 20, 2007 , the City Council approved Ordinance No. 2355 establishing Tax Increment Financing (TIF) Reinvestment Zone Number One, City of Terrell, Texas (TIF District), in accordance with the Tax Increment Financing Act, as amended

(V.C.T.A., Tax Code, Chapter 311, hereafter the “Act”) to promote development in the TIF District through the use of tax increment financing; and

WHEREAS, the City Council, pursuant to Ordinance No. 2384, approved on September 23, 2008, authorized the final TIF District Project Plan and Reinvestment Zone Financing Plan; and

WHEREAS, the two (2) prior City Council actions referenced above provide for the TIF District to provide funding on construction of roadways, utilities and drainage located in the TIF District; and

WHEREAS, on March 17, 2009, the City Council approved Resolution No. 626 authorizing reimbursement of funds for Tract 3 of the Tax Increment Financing Reinvestment Zone No. One;

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

Section 1. That the findings, determinations and certifications contained in the recitals above are incorporated herein for all purposes.

Section 2. That Terrell Market Center, LTD shall provide \$5,051,398.00 for the cost of designing and constructing roadways in Tax Increment Financing Zone Number One, City of Terrell, Texas, which shall be reimbursed from the TIF District Tax Increment Funds after construction of the roadway projects, in accordance with the terms of the development agreement and funding agreements between the City and Terrell Market Center, LTD, but only to the extent such TIF District Tax Increment Funds are available.

Section 3. That the total participation by the TIF District for project costs incurred in the design and construction of said improvements shall not exceed \$5,051,398.00, all in accordance with the terms of said development agreement.

Section 4. That nothing in this Resolution shall be construed to require the City to approve reimbursements from any source of City funds other than the TIF District Tax Increment Fund or to require the City to issue Tax Increment bonds, said issuing of such bonds being within the sole discretion of the City Council; and upon expiration of the terms of the TIF District as provided in Ordinance No. 2355, any funds advanced by Terrell Market Center, LTD under the Development Agreement with interest accrued thereon that remain unreimbursed, due to lack or unavailability of TIF District Funds shall no longer be considered project costs of the TIF District, and the obligation of the TIF District or the City to reimburse shall automatically expire.

Section 5. That this Resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Terrell, and it is accordingly so resolved.

PASSED AND APPROVED on this 7th day of December, 2010.

**RESOLUTION NO. 670
AMENDED DEVELOPMENT AGREEMENT
EXECUTION RESOLUTION**

**A RESOLUTION OF THE CITY OF TERRELL, TEXAS, AUTHORIZING
THE AMENDMENT OF THE DEVELOPMENT AGREEMENT
BETWEEN TERRELL MARKET CENTER, LTD AND BAYLOR
HEALTH CARE SYSTEM ON BEHALF OF THE TAX INCREMENT
FINANCING REINVESTMENT ZONE NO. ONE**

WHEREAS, the City Council of the City of Terrell, Texas recognizes the importance of its role in local economic development; and

WHEREAS, on November 20, 2007, the City Council approved Ordinance No. 2355 establishing Tax Increment Financing (TIF) Reinvestment Zone Number One, City of Terrell, Texas (TIF District), in accordance with the Tax Increment Financing Act, as amended (V.C.T.A., Tax Code, Chapter 311, hereafter the "Act") to promote development in the TIF District through the use of tax increment financing; and

WHEREAS, the City Council, pursuant to Ordinance No. 2384, approved on September 23, 2008, authorized the final TIF District Project Plan and Reinvestment Zone Financing Plan; and

WHEREAS, the two (2) prior City Council actions referenced above provide for the TIF District to provide funding on construction of roadways, utilities and drainage located in the TIF District; and

WHEREAS, on March 17, 2009, the City Council approved Resolution No. 627 authorizing the execution of a Development Agreement between Terrell Market Center, Ltd and Baylor Healthcare System on behalf of the Tax Increment Financing Reinvestment Zone No. One.

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

Section 1. The City Manager is hereby authorized to execute an Amended Development Agreement between Terrell Market Center, Ltd., Baylor Health Care System and the City of Terrell, on behalf of the Tax Increment Financing District, in an amount not to exceed \$5,051,398.00 for funding for roadway design and construction. In the event the cost exceeds \$5,051,398.00 the scope of the project shall be reduced to remain within the budget or Terrell Market Center, Ltd agrees to fund the excess above \$5,051,398.00 with no TIF reimbursement.

Section 2. That Terrell Market Center, LTD shall be reimbursed from the TIF District Tax Increment Funds in accordance with the terms of the Development Agreement, but only after construction of the roadway projects and only to the extent such TIF District Tax Increment Funds are available for such purpose.

Section 3. That nothing in this Resolution shall be construed to require the City to approve reimbursements from any source of City funds other than the TIF District Tax Increment Fund or

to require the City to issue Tax Increment bonds, said issuing of such bonds being within the sole discretion of the City Council; and upon expiration of the terms of the TIF District as provided in Ordinance No. 2355, any funds advanced by Terrell Market Center, LTD under the Development Agreement with interest accrued thereon that remain unreimbursed, due to lack or unavailability of TIF District Funds shall no longer be considered project costs of the TIF District, and the obligation of the TIF District or the City to reimburse shall automatically expire.

Section 4. That this Resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Terrell, and it is accordingly so resolved.

PASSED AND APPROVED on this the 7th day of December, 2010.

RESOLUTION NO. 671

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, CONFIRMING SUPPORT FOR THE FM 148 LOCAL PROJECT ADVANCE FUNDING AGREEMENT For a Category 10 – Miscellaneous Project (On State System)

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, the Local Government prepared and submitted to the State an application for consideration under the Local Project Advance Funding Agreement (LPAFA) for the project which is briefly described as all engineering, right of way and environmental funding necessary to make the expansion of FM 148 from two lanes to four lanes between Spur 557 and IH 20 ready for construction, hereinafter called the Project; and

WHEREAS, a Master Agreement Governing Local Project Advance Funding Agreement (MAFA) between the Local Government and the State has been adopted, effective August 24, 2007, and states the general terms and conditions for transportation projects developed through this LPAFA; and

WHEREAS, it is considered to be in the public interest to expedite the planning and construction of the expansion of FM 148 from two lanes to four lanes between Spur 557 and IH 20; and

WHEREAS, on March 17, 2009, the City Council approved Resolution No. 628 confirming support for the FM 148 L.P.A.F.A. in order to advance the design of the project and construction.

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

PART 1: That the City agrees to contribute 100% funding for project elements ineligible for State funding under the LPAFA and MAFA;

PART 2: That the City Council pledges to contribute 100% of the funding for the design and construction of the expansion of FM 148 from two lanes to four lanes between Spur 557 and IH 20, such funding amounts currently estimated to be \$ 1,676,280.00;

PART 3: That the City Manager and City staff is hereby directed to continue all their efforts and cooperation with the Texas Department of Transportation for the planning and construction of FM 148 from two lanes to four lanes between Spur 557 and IH 20.

PART 4: That the Mayor is hereby authorized to execute a Local Transportation Project Advance Funding Agreement with TxDOT and a funding agreement with Terrell Market Center for the FM 148 Project.

PART 5: That this Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED on this the 7th day of December, 2010.

RESOLUTION NO. 672

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TERRELL, TEXAS, CONFIRMING SUPPORT FOR THE I.H.
20 LOCAL PROJECT ADVANCE FUNDING AGREEMENT
For a Category 10 – Miscellaneous Project (On State System)**

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, the Local Government prepared and submitted to the State an application for consideration under the Local Project Advance Funding Agreement (LPAFA) for the project which is briefly described as all engineering, right of way and environmental funding necessary to make the westbound frontage road on IH 20 from Spur 557 to FM 148 ready for construction, hereinafter called the Project; and

WHEREAS, a Master Agreement Governing Local Project Advance Funding Agreement (MAFA) between the Local Government and the State has been adopted, effective August 24, 2007, and states the general terms and conditions for transportation projects developed through this LPAFA; and

WHEREAS, it is considered to be in the public interest to expedite the planning and construction of a westbound frontage road on IH 20 from Spur 557 to FM 148; and

WHEREAS, on March 17, 2009, the City Council approved Resolution No. 628 confirming support for the IH 20 L.P.A.F.A. in order to advance the design of the project and construction.

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

PART 1: That the City agrees to contribute 100% funding for project elements ineligible for State funding under the LPAFA and MAFA;

PART 2: That the City Council pledges to contribute 100% of the funding for the design and construction of a westbound frontage road on IH 20 from Spur 557 to FM 148, such funding amounts currently estimated to be \$ 3,230,118.00;

PART 3: That the City Manager and City staff is hereby directed to continue all their efforts and cooperation with the Texas Department of Transportation for the planning and construction of a westbound frontage road on IH 20 from Spur 557 to FM 148.

PART 4: That the Mayor is hereby authorized to execute a Local Transportation Project Advance Funding Agreement with TxDOT and a funding agreement with Terrell Market Center for the I.H. 20 Project.

PART 5: That this Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED on this the 7th day of December, 2010.

RESOLUTION NO. 673

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, CONFIRMING SUPPORT FOR THE SPUR 557 EASTBOUND FRONTAGE ROAD FROM FM 148 TO I 20 LOCAL PROJECT ADVANCE FUNDING AGREEMENT For a Category 10 – Miscellaneous Project (On State System)

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, the Local Government prepared and submitted to the State an application for consideration under the Local Project Advance Funding Agreement (LPAFA) for the project which is briefly described as all engineering, right of way and environmental funding necessary to make the eastbound frontage road on Spur 557 from FM 148 to IH 20 ready for construction, hereinafter called the Project; and

WHEREAS, a Master Agreement Governing Local Project Advance Funding Agreement (MAFA) between the Local Government and the State has been adopted, effective August 24, 2007, and states the general terms and conditions for transportation projects developed through this LPAFA; and

WHEREAS, it is considered to be in the public interest to expedite the planning and construction of a eastbound frontage road on Spur 557 from FM 148 to IH 20; and

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

PART 1: That the City agrees to contribute 100% funding for project elements ineligible for State funding under the LPAFA and MAFA;

PART 2: That the City Council pledges to contribute 100% of the funding for the design of an eastbound frontage road on Spur 557 from FM 148 to IH 20, such funding amounts currently estimated to be \$ 145,000.00;

PART 3: That the City Manager and City staff is hereby directed to continue all their efforts and cooperation with the Texas Department of Transportation for the planning and eventual construction of an eastbound frontage road on Spur 557 from FM 148 to IH 20.

PART 4: That the Mayor is hereby authorized to execute a Local Transportation Project Advance Funding Agreement with TxDOT and a funding agreement with Terrell Market Center for the Spur 557 eastbound frontage road from FM 148 to IH 20.

PART 5: That this Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED on this the 7th day of December, 2010.

11. Discuss and Consider Terrell Economic Development Corporation Project at County Road 305 and Spur 557.

Mike Sims, Assistant City Manager and Carlton Tidwell representing Terrell Economic Development Corporation presented to Council for discussion and consideration Terrell Economic Development Corporation Project at County Road 305 and Spur 557. Councilmember Sandra Wilson made a motion to approve Terrell Economic Development Corporation Project at County Road 305 and Spur 557. The motion was seconded by Councilmember Don Thurman. Ayes – all; Nays – none. Motion carried.

12. Discuss Airport Project.

Steve Rogers, City Engineer presented to Council for discussion Airport Project. There was no action taken on this item.

CONSENT AGENDA

Deputy Mayor Pro tem Ricky Jordan made a motion to adopt on second reading Ordinance No. 2471, Ordinance No. 2472 and Ordinance No. 2473 on CONSENT AGENDA. The motion was seconded by Councilmember Sandra Wilson. Ayes – all; Nays – none. Motion carried.

13. **Discuss and Consider Adoption of Ordinance No. 2471 – Amending Chapter 4, Building Regulations, Section 20: Alarm Systems; Adding Section N: Service Fees – New Installations-Exemptions.**

ORDINANCE NO. 2471

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING - CHAPTER 4, BUILDING REGULATIONS, SECTION 20; ALARM SYSTEMS; ADDING SECTION N SERVICE FEES-NEW INSTALLATIONS-EXEMPTIONS. 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, KAUFMAN COUNTY, TEXAS THAT:

SECTION I.

Chapter 4, Building Regulations, Section 20: Alarm Systems shall be amended as follows:
adding Section N Service fees–New installations–Exemptions

N. Service fees–New installations–Exemptions.

- (1) False Burglar Alarms. The City may assess the permit holder of an alarm site, or anyone who operates or causes to be operated an alarm system without an alarm permit issued by the City, a fee in the following amount, as applicable, for the signaling of a false burglar alarm:
- (a) \$50.00, if the alarm site has had more than three (3) but fewer than six (6) other false burglar alarms in the preceding 12-month period;
 - (b) \$75.00, if the alarm site has had more than five (5), but fewer than eight (8) other false burglar alarms in the preceding 12-month period; or
 - (c) \$100.00, if the alarm site has had eight (8) or more other false burglar alarms in the preceding 12-month period.

A false burglar alarm shall not be considered to have occurred unless a response is made by an agency of the City within 30 minutes of the alarm notification, and the agency determines from an inspection of the interior or exterior of the premises that the alarm was false.

- (2) False Fire Alarms. If, within any twelve-month period, two (2) false fire alarm notifications are emitted from an alarm site, the City may assess the permit holder of that alarm site, or anyone who operates or causes to be operated an alarm system without an

alarm permit, a fee of one hundred fifty dollars (\$150.00) for each subsequent false alarm notification emitted from the site within the same twelve-month period.

(3) False Robbery Alarms. If, within any twelve-month period, three (3) false robbery alarm notifications are emitted from an alarm site other than a financial institution, the City may assess the permit holder of that alarm site, or anyone who operates or causes to be operated an alarm system without an alarm permit a fee of seventy-five dollars (\$75.00) for each subsequent false robbery alarm notification emitted from the site within the same twelve-month period.

(4) False Emergency Medical Assistance Alarms. If, within any twelve-month period, two (2) false emergency medical assistance alarms are emitted from an alarm site, the City may assess the permit holder of that alarm site, or anyone who operates or causes to be operated an alarm system without an alarm permit, a fee of fifty dollars (\$50.00) for each subsequent false emergency medical assistance alarm notification emitted from the alarm site within the same twelve-month period.

(5) False Robbery Alarms – Financial Institutions. The City may assess the permit holder for a financial institution alarm site, or anyone who operates or causes to be operated a financial institution alarm system without an alarm permit, fees in accordance with the Financial Institution Fee Schedule set forth below, for the indicated number of false robbery alarm notifications emitted from the site within any twelve (12) month period.

Financial Institution Fee Schedule

| | |
|--|------------------------------|
| 4th alarm notification | \$ 75.00 |
| 5th alarm notification | 100.00 |
| 6th alarm notification | 150.00 |
| 7th alarm notification | 200.00 |
| 8th alarm notification | 250.00 |
| 9th alarm notification | 300.00 |
| 10th alarm notification | 350.00 |
| 11th and subsequent alarm notification | 350.00 and Permit Suspension |

(6) New Alarm System Installation. If a person notifies the City and applies for an alarm permit before the installation of a new alarm system, no service fee shall be assessed during the first sixty (60) days after installation, and alarm notifications during that period will not be counted in determining when a service fee will be assessed, provided the permit holder has met the requirements of this article.

(7) Non-Assessment of Service Fee. A service fee shall not be assessed if the responding Police or Fire Department personnel determine that the alarm notification was caused by:

- (a) A natural or manmade catastrophe;
- (b) Severe weather that causes physical damage to the alarm system or alarm site;
- (c) Telephone line outage; or
- (d) A criminal offense.

(8) Time for Payment. A permit holder shall pay a fee assessed under this section within thirty (30) days after receipt of notice that it has been assessed.

(9) Exemption from Service Fees. The following alarm sites shall be exempt from alarm service fees, but shall comply with all other requirements of this article:

(1) Alarm sites or alarm systems owned or operated by:

- (a) The United States Government;
- (b) The state;
- (c) Political subdivision of the state;
- (d) Kaufman County; or
- (e) The City of Terrell; and

(2) Alarm sites where the alarm system is a Personal Emergency Response System; provided, however, that:

- (a) a reasonable inspection and reinspection fee shall be charged for any Personal Emergency Response System that causes at least five (5) false alarms within a 12-month period, and
- (b) service of an alarm signal device that, because of mechanical malfunction or faulty equipment, causes at least five (5) false alarms in a 12-month period, shall be discontinued until repaired to the satisfaction of the City. A false alarm caused by human error or an act of God shall not be considered mechanical malfunction or faulty equipment.

(10) Exemption. Alarm systems operated by the Police Department of the City shall be exempt from the provisions of this article.

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 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 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 the 16th day of November, 2010.
Passed and Adopted this the 7th day of December, 2010.

14. Discuss and Consider Adoption of Ordinance No. 2472 – Budget Amendment.

ORDINANCE NO. 2472

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE ANNUAL BUDGET FOR THE YEAR BEGINNING OCTOBER 1, 2010, AND ENDING SEPTEMBER 30, 2011, AS PASSED AND ADOPTED ON SEPTEMBER 21, 2010 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:

| <u>UTILITY FUND EXPENDITURES</u> | BUDGETED | AMOUNT | AMENDED |
|---|-----------------|---------------|----------------|
| 020-51-4450 Equipment Rental | 37,950.00 | 21,800.00 | 59,750.00 |
| 020-52-4450 Equipment Rental | 91,080.00 | 21,800.00 | 11,2880.00 |

| | | | |
|------------------------------|-----------|-----------|-----------|
| 020-61-4450 Equipment Rental | 40,480.00 | 21,800.00 | 62,280.00 |
| 020-62-4450 Equipment Rental | 55,660.00 | 21,800.00 | 77,460.00 |

**EQUIPMENT REPLACEMENT FUND
REVENUE**

| | | | |
|--------------------------------|------------|-----------|------------|
| 025-00-3337 Lease Utility Fund | 225,170.00 | 87,200.00 | 312,370.00 |
|--------------------------------|------------|-----------|------------|

**EQUIPMENT REPLACEMENT FUND
EXPENDITURES**

| | | | |
|-----------------------------|-----|-----------|-----------|
| 025-25-4511 020 (1) Backhoe | -0- | 87,200.00 | 87,200.00 |
|-----------------------------|-----|-----------|-----------|

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 unconstitutionally 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 16th day of November, 2010.

Passed and Adopted on this the 7th day of December, 2010.

- 15. Discuss and Consider Adoption of Ordinance No. 2473 – Amending Appendix 1, Section 28: Sewer Service Rates and Charges- Paragraph (5 and 6).**

ORDINANCE NO. 2473

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING APPENDIX 1, SECTION 28: SEWER SERVICE RATES AND CHARGES, PARAGRAPH (5 and 6) 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:

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 16th day of November, 2010.

PASSED AND ADOPTED THIS THE 7th day of December, 2010.

END OF CONSENT AGENDA

16. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government Code to Discuss Section 551.071 – Consultation with Attorney.

This item was passed.

17. Reconvene into Regular Session and Consider Action, if any, on Item Discussed in Executive Session.

This item was passed.

18. Adjourn.

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

Jack Jones, Mayor Pro tem

Attest:

John Rounsavall, City Secretary