REGULAR CITY COUNCIL MEETING

February 19, 2013

7:00 P.M.

A Regular City Council Meeting of the Terrell City Council was held on Tuesday, February 19, 2013, at 7:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

COUNCILMEMBER #1 HAL RICHARDS
COUNCILMEMBER #2 TOMMY SPENCER
COUNCILMEMBER #3 RICKY JORDAN
COUNCILMEMBER #4 CHARLES WHITAKER
COUNCILMEMBER #5 D.J. ORY

1. Call to order.

Mayor Hal Richards, called meeting to order.

2. Invocation.

Councilmember Charles Whitaker, gave the opening prayer.

3. Recognition of Tom Overbeck with "Gene and Patricia Overbeck Fund".

Jim Harper, Fire Chief, recognized Tom Overbeck for his generous donation of funds for Carbon Monoxide Detectors.

4. Discuss and Consider Approval of Meeting Minutes of Special City Council Meeting and Workshop of January 31, 2013, and Regular City Council Meeting of February 5, 2013.

Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Meeting Minutes of Special City Council Meeting and Workshop of January 31, 2013, and Regular City Council Meeting of February 5, 2013. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nayes - None. Motion carried.

5. Hear Remarks from Visitors.

There were no remarks from visitors.

PUBLIC HEARING

6. a) Conduct a Public Hearing to receive comments regarding an approval of a Zoning Change from Single-Family 7.5 (SF-7.5) District to Light Industrial (LI) District in order to develop the land for a new automobile dealership; located at 110 State Highway 205; and being a approximately 3.0 acre portion of that certain tract of land conveyed to Rand Partners Limited Partnership recorded in the Deed Records of Kaufman County by instrument No. 2007-000100837; and being situated in the J.C. Hale Survey, Abstract No. 202, City of Terrell, Kaufman County, Texas. *(ZC-13-01)*

Terry Capehart, Municipal Development Director, gave opening comments regarding an approval of a Zoning Change from Single-Family 7.5 (SF-7.5) District to Light Industrial (LI) District in order to develop the land for a new automobile dealership; located at 110 State Highway 205; and being a approximately 3.0 acre portion of that certain tract of land conveyed to Rand Partners Limited Partnership recorded in the Deed Records of Kaufman County by instrument No. 2007-000100837; and being situated in the J.C. Hale Survey, Abstract No. 202, City of Terrell, Kaufman County, Texas. *(ZC-13-01)*. Mayor Hal Richards opened a Public Hearing to Receive Comments regarding an approval of a Zoning Change from Single-Family 7.5 (SF-7.5) District to Light Industrial (LI) District in order to develop the land for a new automobile dealership; located at 110 State Highway 205; and being a approximately 3.0 acre portion of that certain tract of land conveyed to Rand Partners Limited Partnership recorded in the Deed Records of Kaufman County by instrument No. 2007-000100837; and being situated in the J.C. Hale Survey, Abstract No. 202, City of Terrell, Kaufman County, Texas. *(ZC-13-01)*. No one spoke against an approval of a Zoning Change from Single-Family 7.5 (SF-7.5) District to Light Industrial (LI) District in order to develop the land for a new automobile dealership; located at 110 State Highway 205; and being a approximately 3.0 acre portion of that certain tract of land conveyed to Rand Partners Limited Partnership recorded in the Deed Records of Kaufman County by instrument No. 2007-000100837; and being situated in the J.C. Hale Survey, Abstract No. 202, City of Terrell, Kaufman County, Texas. *(ZC-13-01)*. No one spoke for an approval of a Zoning Change from Single-Family 7.5 (SF-7.5) District to Light Industrial (LI) District in order to develop the land for a new automobile dealership; located at 110 State Highway 205; and being a approximately 3.0 acre portion of that certain tract of land conveyed to Rand Partners Limited Partnership recorded in the Deed Records of Kaufman County by instrument No. 2007-000100837; and being situated in the J.C. Hale Survey, Abstract No. 202, City of Terrell, Kaufman County, Texas. *(ZC-13-01)*. Mayor Hal Richards closed the Public Hearing.

b) Discuss And Consider Approval Of Ordinance No. 2564; An Ordinance Of The City Of Terrell, Texas, Changing The Zoning From Single-Family 7.5 (Sf-7.5) District To Light Industrial District (Li) On Property Located At 110 State Highway 205, Terrell, Texas, Being Approximately 3.0 Acres Of Land, A Portion Of That Certain Tract Of Land Conveyed To Rand Partners Limited Partnership And Being Situated In The J.C. Hale Survey, Abstract No. 202, City Of Terrell, Kaufman County, Texas; Providing For The Repeal Of Conflicting Ordinances; Providing For A Penalty; Providing For Severability And Providing An Effective Date.

Terry Capehart, Municipal Development Director, Presented to Council for Discussion and Consideration Approval Of Ordinance No. 2564; An Ordinance Of The City Of Terrell, Texas,

Changing The Zoning From Single-Family 7.5 (SF-7.5) District To Light Industrial District (LI) On Property Located At 110 State Highway 205, Terrell, Texas, Being Approximately 3.0 Acres Of Land, A Portion Of That Certain Tract Of Land Conveyed To Rand Partners Limited Partnership And Being Situated In The J.C. Hale Survey, Abstract No. 202, City Of Terrell, Kaufman County, Texas; Providing For The Repeal Of Conflicting Ordinances; Providing For A Penalty; Providing For Severability And Providing An Effective Date. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Approval Of Ordinance No. 2564; An Ordinance Of The City Of Terrell, Texas, Changing The Zoning From Single-Family 7.5 (SF-7.5) District To Light Industrial District (Li) On Property Located At 110 State Highway 205, Terrell, Texas, Being Approximately 3.0 Acres Of Land, A Portion Of That Certain Tract Of Land Conveyed To Rand Partners Limited Partnership And Being Situated In The J.C. Hale Survey, Abstract No. 202, City Of Terrell, Kaufman County, Texas; Providing For The Repeal Of Conflicting Ordinances; Providing For A Penalty; Providing For Severability And Providing An Effective Date. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nayes - None. Motion carried.

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, CHANGING THE ZONING FROM SINGLE-FAMILY 7.5 (SF-7.5) District TO LIGHT INDUSTRIAL DISTRICT (LI) ON PROPERTY LOCATED AT 110 STATE HIGHWAY 205, TERRELL, TEXAS, BEING APPROXIMATELY 3.0 ACRES OF LAND, A PORTION OF THAT CERTAIN TRACT OF LAND CONVEYED TO RAND PARTNERS LIMITED PARTNERSHIP AND BEING SITUATED IN THE J.C. HALE SURVEY, ABSTRACT NO. 202, CITY OF TERRELL, KAUFMAN COUNTY, TEXAS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

NEW BUSINESS

7. Discuss and Consider Resolution 727; A Resolution Of Continuing Support Of The City Council Of The City Of Terrell, Texas, Authorizing The Submission Of A Request To Become A Reservation System Participant In The Texas Department Of Housing And Community Affairs Home Program; And Authorizing The City Manager To Act As The City's Chief Executive Officer And Authorized Representative In All Matters.

Debbie Zajac, Housing Director, Presented to Council for Discussion and Consideration Resolution 727; A Resolution Of Continuing Support Of The City Council Of The City Of Terrell, Texas, Authorizing The Submission Of A Request To Become A Reservation System Participant In The Texas Department Of Housing And Community Affairs Home Program; And Authorizing The City Manager To Act As The City's Chief Executive Officer And Authorized Representative In All Matters. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Resolution 727; A Resolution Of Continuing Support Of The City Council Of The City Of Terrell, Texas, Authorizing The Submission Of A Request To Become A Reservation System Participant In The Texas Department Of Housing And Community Affairs Home Program; And Authorizing The City Manager To Act As The City's Chief Executive Officer And Authorized Representative In All Matters. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nayes - All. Motion carried.

RESOLUTION NO. 727

A RESOLUTION OF CONTINUING SUPPORT OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AUTHORIZING THE SUBMISSION OF A REQUEST TO BECOME A RESERVATION SYSTEM PARTICIPANT IN THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS HOME PROGRAM; AND AUTHORIZING THE CITY MANAGER TO ACT AS THE CITY'S CHIEF EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS

WHEREAS, the City Council of the City of Terrell desires to develop a viable urban community, including decent housing and a suitable living environment; and

WHEREAS, certain substandard housing conditions exist which represent a health and safety threat to families residing in such structures; and

WHEREAS, the City Council opted into the Reservation System on April 5, 2011, and requests Re-Certification at this time; and

WHEREAS, the City Council supports the City's application for funding;

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

1. That the City Council authorizes approval for the request to TDHCA to become a Reservation System participant to access HOME funds;

2. That the City has unencumbered funds for cash reserves in the amount of $80,000, to be utilized, if necessary, during the RSP agreement term;

3. That eligible match, if applicable, will be provided in accordance with the State HOME Rule at 10 TAC Chapter 23; and

4. That the City Council directs and designates Torry Edwards, the City Manager, as the City's Chief Executive Officer and Authorized person to execute the RSP agreement; as well as Authorized Representative to act in all matters in connection with this application and the City's participation in the HOME Program.

PASSED AND APPROVED THIS 19th day of February, 2013.

8. Discuss and Consider Project 12-05, 2013 Utility System Upgrades, Phase 3 bids.

Steve Rogers, City Engineer, and Allen Ross, Representing Schaumburg & Polk, Presented to Council for Discussion and Consideration Project 12-05, 2013 Utility System Upgrades, Phase 3 bids. Deputy Mayor Pro Tem D. J. Ory, made a motion to award the lowest bidder in the amount not to exceed $1,117,741.00 to Saber Development Corporation and approve Project 12-05, 2013 Utility System Upgrades, Phase 3 bids. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nayes - None. Motion carried.

9. Discuss and Consider Appointment to Terrell Building Standards Commission.

Deputy Mayor Pro Tem D. J. Ory, Presented to Council for Discussion and Consideration Appointment to Terrell Building Standards Commission. Deputy Mayor Pro Tem D. J. Ory, made a motion to appoint Ann Carraway Bruce to finish the term of Ken Schoen's position expiring March, 2014. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nayes - None. Motion carried.

10. Discuss and Consider Racial Profiling Analysis Report.

Jody Lay, Chief of Police, Presented to Council for Discussion and Consideration Racial Profiling Analysis Report. Mayor Pro Tem, Ricky Jordan, made a motion to approve Racial Profiling Analysis Report. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nayes - None. Motion carried.

CONSENT AGENDA

Mayor Pro Tem D. J. Ory made a motion to approve and adopt on CONSENT AGENDA Ordinance No. 2561, Ordinance No. 2562, and Ordinance No. 2563 on second reading. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nayes - None. Motion carried.

11. Discuss and Consider Adoption on Second Reading Ordinance No. 2561; An Ordinance Of The City Council Of The City Of Terrell, Texas, Amending Section 5-2 (A) Sale Of Alcoholic Beverage Adding (I) Regulating The Hours Of The Sale Of Certain Alcoholic Beverages Except For Private Clubs Within The City Of Terrell; Providing A Savings Clause; And Providing An Effective Date.

ORDINANCE NO. 2561

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AMENDING SECTION 5-2 (a) SALE OF ALCOHOLIC BEVERAGE ADDING (i) REGULATING THE HOURS OF THE SALE OF CERTAIN ALCOHOLIC BEVERAGES EXCEPT FOR PRIVATE CLUBS WITHIN THE CITY OF TERRELL; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Terrell, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 ofthe Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, Section 105.03(b) of the Texas Alcoholic Beverage Code provides that a mixed beverage permit holder may sell and offer for sale mixed beverages between 7 a.m. and midnight on any day except Sunday; and on Sunday, he may sell mixed beverages between midnight and 1:00 a.m. and between 10 a.m. and midnight, except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer; and

WHEREAS, Section 105.03(d) of the Texas Alcoholic Beverage Code provides that a city may adopt an ordinance to extend the hours of sale of mixed beverages by a holder of a mixed

beverage late hours permit to allow the sale and offer for sale of mixed beverages between midnight and 2 a.m. on any day; and

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

Section 1. That Section 5-2 (a) of the Code of Ordinances of the City of Terrell is hereby amended by the addition of "Alcoholic Beverages", which shall hereafter read as follows:

"ALCOHOLIC BEVERAGES

Section 5-2(a) DEFINITIONS

MIXED BEVERAGES shall have the same meaning as set forth in Section 1.04 of the Texas Alcoholic Beverage Code.

Section 5-2 (i) HOURS OF SALE OF MIXED BEVERAGES

(A) Mixed beverages shall not be sold, offered for sale, or delivered at any time not permitted by this section.

(B) Mixed beverages may be sold, offered for sale, or delivered between 7 a.m. and 2:00 a.m. on any day.

(C) A person commits an offense if the person sells or offers for sale an alcoholic beverage during the prohibited hours or consumes or permits the consumption of an alcoholic beverage on the person's licensed or permitted premises during the prohibited hours."

Section 2. Unless specifically provided otherwise in a special use permit at the time of issuance or renewal, each valid and unexpired special use permit for on-premises consumption of alcoholic beverages granted prior to the adoption of this ordinance shall be deemed amended to authorize the sale of mixed beverages for on-premises consumption during the extended hours authorized by this ordinance if the permit holder thereof obtains a late hours permit for that location from the Texas Alcoholic Beverage Commission.

Section 3. The City Secretary of the City of Terrell is directed to publish in the official newspaper of the City, the caption, penalty clause, and effective date of this ordinance as required by law and the City Charter.

Section 4. This Ordinance shall take effect and be in full force from and after the date of its passage and publication as required by law.

PASSED AND APPROVED on first reading this the 5th day of February, 2013.
PASSED AND ADOPTED on second reading this the 19th day of February, 2013.

12. Discuss and Consider Adoption on Second Reading Ordinance No. 2562; An Ordinance Of The City Of Terrell, Kaufman County Texas Amending Chapter 5, Business Regulations, Section 6, K Peddlers, Solicitors And Vendors; Providing For Repeal Of Conflicting Ordinances; Providing For Severability; And Providing An Effective Date.

ORDINANCE NO. 2562

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY TEXAS AMENDING CHAPTER 5, BUSINESS REGULATIONS, SECTION 6, K, PEDDLERS, SOLICITORS AND VENDORS; 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 1. Chapter 5, Business Regulation, Section 6, K, Peddlers, Solicitors and Vendors of the Code of Ordinances of the City of Terrell; Texas is hereby repealed in its entirety.

SECTION 2. The Code of Ordinances is hereby amended by adopting a new section 6.1 to read as follows:

ARTICLE I.

That Chapter 5, Business Regulations, Section 6.1, Peddlers, Solicitors and Vendors shall be amended as follows:

SECTION 6.1: VENDORS AND SOLICITORS

A. Purpose.

The primary purpose of the public streets, sidewalks, and other public ways is for use by vehicular and pedestrian traffic. Vending on such public ways promotes the public interest by contributing to an active and attractive pedestrian environment. Reasonable regulation of vending on public ways and in public places is necessary to protect the public health, safety and welfare. To protect local residents against trespassing by Peddlers, Solicitors, and Vendors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not desire to receive merchandise or services. The regulations contained in this ordinance are not intended in any way to prohibit or hamper speech that is protected by the constitution of both the United States and the State of Texas but merely to regulate specific activities, which are commercial in nature. This entire ordinance is and shall be deemed an exercise of the police power of the State of Texas and of the City of Terrell for the process set forth above.

B. Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. Peddlers, Solicitors, and Vendor shall mean any person firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a business of selling or offering for sale, food, beverages, goods, services, wares and merchandise or engages in soliciting orders for the sale of goods, services, wares and merchandise for future delivery and who, in furtherance of such purposes, hires, leases, uses or occupies any stand, motor vehicle, tent, or from his or her person.

2. Motor Vehicle shall mean any vehicle used for the displaying, storing, or transportation of articles for sale by a vendor which is required to be licensed and registered by the state department of motor vehicles. This term is to include, but not be limited to, trailers, trucks, buses, and automobiles.

3. Stand shall mean any newsstand, table, bench, booth, rack, handcart, pushcart, or any other fixture or device which is not required to be licensed and registered by the department of motor vehicles, and is used for the display, storage, or transportation of articles offered for sale by a vendor.

4. Special Event shall mean any occasion including, but not limited to, fairs, shows, exhibitions, citywide celebrations, festivals, etc., within a specifically defined area of the city for a period of time not to exceed five (5) days.

5. Public Place shall mean any public road, street, alley, park, building, or other property of the city or any other place to which people commonly congregate for the purpose of business, recreation, or amusement.

6. "Door-to-door selling" shall mean going to one or more residence within the City in person or by the agent for the purpose of peddling, soliciting, or vending, who engages in a business of selling or offering for sale, food, beverages, goods, services, wares and merchandise or engages in soliciting orders for the sale of goods, services, wares and merchandise for future delivery

7. Merchandise is used in its broadest sense and shall include property of every kind.

8. Services is used in its broadest sense and shall include any work done for the benefit of another person.

9. Temporary shall mean any such business for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month, in or upon which such business is to be operated or conducted.

C. License Required

It shall be unlawful for any vendor or solicitor to engage in the business of selling, displaying, or offering for sale any food, beverage, goods, services or merchandise at any public place within the City of Terrell without first obtaining a license from the City Secretary.

D. Application

Every person desiring to engage in the business of a vendor as defined in Section A above shall apply for a license from the City Secretary. The application must include the following:

The full name, home address, permanent business address (if any), telephone number, driver's license number, and proof of identity;

A brief description of the nature, character, and quality of the food, beverages, goods or merchandise to be sold;

The specific location, if any, in which the vendor intends to conduct business;

If the vendor is employed by or is an agent of another, the name and business address of the principal/hiring person, firm, association, organization, company or corporation;

If a motor vehicle is to be used in the vending business, a description of the vehicle, together with the motor vehicle registration number, license number, and a copy of the vehicle's current proof of liability insurance;

A copy of the vendor's current State of Texas Sales Tax Permit together with written documentation from the State Comptroller that all sales taxes that may be due and owing by the vendor have been fully paid;

A complete listing of any other licenses or permits issued to applicant by the City of Terrell within the past five (5) years;

A written statement from the property owner consenting to applicant's use of his/her property for the sales activities indicated in the permit application.

E. Health Permit

The application of any vendor engaged in the sale or distribution of food or beverages shall also be referred to the local heath department for approval of a valid health permit. The health permit shall be required in addition to the vending license required by this article. Such vendor's equipment shall be subject to inspections by the health department at the time of application and at periodic intervals thereafter.

F. Issuance of License and Payment of Fees

Not later than thirty (30) days after the filing of a completed application for a vendor's license, the applicant shall be notified by the City Secretary of the decision on the issuance or denial of the license. If it is found that the applicant has fully complied with all provisions of this article, said applicant will be required to pay a license fee in the amount of Eighteen Hundred Dollars

($1,800.00) for such license. The purpose of the fee is to partly defray the expenses of surveillance and inspection of the premises and property of the licensee, and the enforcement of the provisions of this article.

G. License not transferable

The license provided for in this article shall not be transferable nor give authority to more than one (1) person to sell or exhibit food, beverages, goods, wares and merchandise either by agent or clerk or in any other way than his own proper person, but any person having obtained such license may have the assistance of one (1) or more persons in conducting the sale or exhibit who shall have the authority to aid that principal but not to act for or without him.

H. Duration of license; display and identification badge

The license provided for in this article shall continue so long as the licensee is conducting business in the city, but in no event shall it continue for more than one year from the date of its issuance. Such license shall be prominently displayed in a conspicuous place on the premises where business is being conducted. Further, each licensee and each assistant, if any, must, at the licensee's sole expense obtain a photo identification badge from the City Secretary, or his authorized representative, showing the individual's name, the address wherein the vending business is to be conducted, and the effective period of the license.

I. Insurance or Bond Required

Before any license shall be issued under the provisions of this article, the application therefore shall be accompanied by a bond or insurance policy in an amount not less than $50,000.00 acceptable to the City Secretary to cover any and all property damage, injuries, including injury resulting in death, or wrongful fraudulent or illegal conduct of the vendor while conducting business in the city. The bond or insurance policy shall remain in full force and effect during the entire duration of the license as provided in this article and one (1) year thereafter.

J. Temporary Vending License - Special Events

Vendors wishing to conduct business at any special event shall apply to the city for a Temporary Vending License. Application for such a license must be made at least seven (7) days prior to the beginning of the event. The license is valid only for the duration of the special event or the expiration of five (5) days, whichever comes first. The fee for issuance of a Temporary Vending License shall be sixty dollars ($60.00) payable to the City Secretary at the time of issuance. Vendors granted a temporary license shall be subject to the same application and operating regulations as other vendors, except where otherwise specified.

K. Exemptions

The following vendors are exempt from the fee provisions of Section F together with Sections I and J of this article but shall otherwise be required to comply with all other provisions.

1. Religious, non-profit, philanthropic and/or charitable organizations including, but not limited to, public or private schools;

2. Any individual selling newspapers or magazines, or distributing free samples from his or her person.
3. Any individual that sells goods and services on the property or a parking lot of a existing business open to the General Public during business hours of the business. Provided the individual has filed an application with the City Secretary and provides documentation authorizing the individual to sell goods and services on the property.

L. Restrictions Applicable to all Vendors

Stands. Vendor stands shall not:

a. Exceed 20 feet in length, 10 feet in width or 13 feet in height;
b. Impede access to the entrance or driveway of any adjacent building;
c. Occupy more than half of the available sidewalk width or 20 feet of such sidewalk, whichever is less.

2. Hours of Operation. – Except for the vending of food or dinks from a motor vehicle or other non-stationary means within construction, manufacturing or similar areas in the manner specified in subsection 8 below, vendors shall be allowed to engage in the business of vending only between the hours of 8:00 A.M. to 6:00 P.M. All vending stands must be removed during non-vending hours. When Temporary Vending Permits are issued for special events under the provisions of Section J above, the applicant may request from the city an exception to the usual hours of operation. All stands and other vending operations must be removed during non-operating hours.

3. Handicapped Areas - No vendor shall conduct business within 20 feet of any handicapped parking space or access ramp.

4. Removal of Trash - All trash or debris accumulating within 50 feet of any vending stand shall be collected by the vendor and deposited in an authorized trash container. All vendors selling food or beverages must provide trash receptacles adjacent to or as a part of their stands.

5. Prohibited Areas. A vending license issued pursuant to this ordinance is valid only on specified public ways or in public places of the City of Terrell. The City shall prohibit vendors from selling on specified public ways or in public places if it determines such prohibitions are necessary for the protection of public health and safety. Vendor stands and motor vehicles are prohibited within 20 feet of a fire hydrant, fire escape, loading zone, or the driveway of a fire station, police station or hospital.

6. Noise - No vendor may sound any device, which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio sound amplifier, or similar device to attract public attention.

7. Monthly Reports - All vendors shall provide a copy of their monthly report of sales tax receipts to the City Secretary.

Motor Vehicles - No vendor vending from a motor vehicle shall:

Stop, stand or park the vehicle within 20 feet of any intersection, within any other prohibited area, or during prohibited hours;

Conduct business in such a way as would increase traffic congestion or delay, constitute a hazard to life or property, interfere with an abutting property owner, or obstruct access to emergency vehicles.

M. Denial, Suspension or Revocation of License

Any license issued under this ordinance may be denied, suspended or revoked for any of the following reasons:

a. Fraud or misrepresentation in the application or this license;
b. Fraud or misrepresentation in the course of conducting the business of vending;
c. Conducting the business of vending in any way contrary to the provisions of this ordinance;
d. Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare;
e. Conviction of any felony offense or any misdemeanor offense involving moral turpitude while holding a vending license from the City of Terrell or for a period of 5 years prior to the date of the application for a vending license;
f. Suspension or cancellation of health department authorization for a food and beverage vending unit.

2. Upon denial, suspension or revocation, the city shall deliver written notice to the applicant/license holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the applicant/license holder's place of business or mailed to the applicant/license holder's last known address.

N. Renewals

Licenses may be renewed, provided an application for renewal and license fees are received by the city no later than the expiration date of the current license. Applications received after that date shall be processed as new applications. They city shall review each application for renewal to determine that the applicant is in full compliance with the provisions of this ordinance.
If the city finds that the application meets the above requirements, the city shall renew said license for a period of one year upon payment of all applicable license fees.

O. Appeals

Any person who is denied a license or whose license has been suspended or revoked may appeal same by filing a written notice of appeal to the Terrell City Council. All appeals must be filed with the City Secretary within ten (10) days after notice of denial, suspension or revocation of a license. The appeal shall be heard by the Terrell City Council within thirty (30) days after receipt. At least five (5) days notice of the date of the hearing shall be given to the applicant, license holder. Based on the hearing of the appeal and the facts relative thereto, the City Council will either sustain or reverse the decision to deny, suspend or revoke the license. The decision of the City Council shall be final.

P. Penalties

Violation of any application provision of this chapter shall be punishable by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) and each day that any violation continues shall constitute a separate offense. However, an offense related to any provision related to any provision of this chapter which also constitutes an offense to state law shall be punishable in accordance with the applicable state law.

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 the 5th day of February, 2013.
Passed and Adopted this the 19th day of February, 2013.

13. Discuss and Consider Adoption on Second Reading Ordinance No. 2563; An Ordinance Of The City Of Terrell, Texas, Amending The Annual Budget For The Year Beginning October 1, 2012, And Ending September 30, 2013, As Passed And Adopted On September 4, 2012 To Provide For Increases In Certain Accounts; Providing For Severability; And Providing An Effective Date.

ORDINANCE NO. 2563

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE ANNUAL BUDGET FOR THE YEAR BEGINNING OCTOBER 1, 2012, AND ENDING SEPTEMBER 30, 2013, AS PASSED AND ADOPTED ON SEPTEMBER 4, 2012 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:

GENERAL FUND REVENUES	BUDGETED	AMOUNT	AMENDED
010-00-3842-00 Donations - Fire Department	$-0-	$ 4,800.00	$ 4,800.00

GENERAL FUND EXPENDITURES	BUDGETED	AMOUNT	AMENDED
010-33-4505-00 Carbon Monoxide Detectors Fire Department	$-0-	$ 4,800.00	$ 4,800.00

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 5th day of February, 2013.
Passed and Adopted on this the 19th day of February, 2013.

END OF CONSENT AGENDA

14. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government Code to Discuss the following:
    a.) Section 551.072 - Deliberations about Real Property.

Council adjourned into Executive Session.

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

There was no action taken in Executive Session.

16. 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