

## REGULAR CITY COUNCIL MEETING

February 5, 2013

7:00 P.M.

A Regular City Council Meeting of the Terrell City Council was held on Tuesday, February 5, 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. Discuss and Consider Approval of Meeting Minutes of Special City Council Meeting and Workshop of January 17, 2013, and Regular City Council Meeting of January 22, 2013.

Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Meeting Minutes of Special City Council Meeting and Workshop of January 17, 2013, and Regular City Council Meeting of January 22, 2013. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nays - None. Motion carried.

4. Hear Remarks from Visitors.

Darlene LaJune, residing at 1413 S. Medora, Terrell, Texas 75160, and Brenda Caradine, residing at 1412 S. Medora, Terrell, Texas 75160, came before Council to discuss high weeds, grass and trash at the home of neighbor.

### NEW BUSINESS

5. Discuss and Consider Developers Agreement Regarding the Residential Economic Incentive Program for Tower Place.

Terry Capehart, Municipal Development Director, Presented to Council for Discussion and Consideration Developers Agreement Regarding the Residential Economic Incentive Program for Tower Place. Deputy Mayor Pro Tem D. J. Ory, made a motion to authorize City Manager to execute Developers Agreement Regarding the Residential Economic Incentive Program for Tower

Place. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

6. Discuss and Consider Resolution No. 725; A Resolution Of The City Of Terrell, Texas, Designating Persons Authorized To Request And Sign For Funds Under The City's Texas Community Development Program Project.

John Rounsavall, City Secretary, Presented to Council for Discussion and Consideration Resolution No. 725; A Resolution Of The City Of Terrell, Texas, Designating Persons Authorized To Request And Sign For Funds Under The City's Texas Community Development Program Project. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Resolution No. 725; A Resolution Of The City Of Terrell, Texas, Designating Persons Authorized To Request And Sign For Funds Under The City's Texas Community Development Program Project. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

#### RESOLUTION NO. 725

A RESOLUTION OF THE CITY OF TERRELL, TEXAS, DESIGNATING PERSONS AUTHORIZED TO REQUEST AND SIGN FOR FUNDS UNDER THE CITY'S TEXAS COMMUNITY DEVELOPMENT PROGRAM PROJECT.

WHEREAS, the City Council of the City of Terrell must designate persons authorized to sign on behalf of the city for funds available through the Texas Community Development Program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Terrell, Texas, as follows:

SECTION 1. That the following persons are hereby approved and designated as the authorized signatories for the city's participation in the Texas Community Development Program:

1. City Manager
2. City Secretary

PASSED AND APPROVED this 5th day of February, 2013.

7. Discuss And Consider Resolution No. 726; A Resolution Of The City Of Terrell, Texas, Calling The Regular Municipal Election For The City Of Terrell, Texas For The Election Of Mayor To Be Held On May 11, 2013.

John Rounsavall, City Secretary, Presented to Council for Discussion and Consideration Resolution No. 726; A Resolution Of The City Of Terrell, Texas, Calling The Regular Municipal Election For The City Of Terrell, Texas For The Election Of Mayor To Be Held On May 11, 2013. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Resolution No. 726; A Resolution Of The City Of Terrell, Texas, Calling The Regular Municipal Election For The City Of Terrell, Texas For The Election Of Mayor To Be Held On May 11, 2013. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

#### RESOLUTION NO. 726

A RESOLUTION OF THE CITY OF TERRELL, TEXAS, CALLING THE REGULAR MUNICIPAL ELECTION FOR THE CITY OF TERRELL, TEXAS FOR THE ELECTION OF MAYOR TO BE HELD ON MAY 11, 2013.

**WHEREAS**, the term of office for Mayor will expire at the conclusion of three (3) years in office, as provided by an amendment to the Charter of the City of Terrell, Texas; and

**WHEREAS**, the second Saturday in May is the date set for the regular election of Mayor; and

**WHEREAS**, authority is vested in the Mayor of the City of Terrell to call said regular election and to appoint election officials to conduct said election;

**NOW THEREFORE BE IT PROCLAIMED BY THE MAYOR OF THE CITY OF TERRELL, TEXAS that:**

An election be held on the 11<sup>th</sup> day of May, 2013 for the purpose of:

Electing a Mayor for the City of Terrell.

- A. The **Mayor** so elected shall be a resident of the City of Terrell and shall be elected by the vote of the qualified voters of the City of Terrell, Texas, at large, and shall serve a term of three years.

#### II.

Ballots shall be used for said election, which ballots shall be prepared in accordance with the Texas Election code, so as to permit the electors to vote "for" the candidate of the following office which shall be set forth in substantially the following form:

Mayor .....(Names of Candidates)

Early voting, both by personal appearance and by mail, will be conducted by the City Secretary in accordance with the *Texas Election Code*. The polling place for early voting by personal appearance shall be:

Terrell City Hall, 201 East Nash Street, Terrell, Texas.

Early voting shall commence on April 29, 2013 and continue through May 7, 2013 on weekdays during regular business hours, as required by the *Texas Election Code*, and early voting shall be held on the dates and times ordered by the Officer in compliance with the *Texas Election Code*.

On Election Day, the polls shall open at 7:00 A.M. and shall close at 7:00 P.M.

The General Election, both by personal appearance and by mail, will be conducted by the City Secretary in accordance with the *Texas Election Code*. The polling place for the General Election by personal appearance shall be:

Terrell City Hall, 201 East Nash Street, Terrell, Texas.

The General Election shall commence on the date as required by the *Texas Election Code*.

A copy of this Resolution shall be delivered to the presiding judges for Districts No. 2, 3, 4 and 5 by the City Secretary not later than 20 days from this date, together with a current description of the election precincts as approved by the Terrell City Council.

Each presiding judge shall appoint not less than two (2) nor more than four (4) qualified clerks to serve and assist in the holding of said election, provided that if the presiding judge herein appointed actually serves, that the alternate presiding judge shall be a clerk. Each official shall be compensated at the rate of \$10.00 per hour, not to exceed a total of 15 hours. Each presiding judge shall receive additional compensation in the amount of \$25.00 for delivering the returns to the Central Counting Station. Each presiding judge shall attempt to appoint at least one official fluent in both the English and Spanish language.

All qualified electors residing in Districts No. 2, 3, 4 and 5 of the City of Terrell shall be permitted to vote at said election. This election shall be held and conducted in accordance with the Texas Election Code. All election materials and proceedings shall be printed in both English and Spanish.

The City Secretary is appointed as Early Voting Clerk, to serve without additional compensation. Applications for early voting by mail shall be taken between March 12, 2013 and May 3, 2013. Mailing address is P.O. Box 310, Terrell, TX 75160.

The Terrell Municipal Building located at 201 East Nash Street, Terrell, Texas, is hereby designated as the Central Counting Station.

**Helen Dixon** is appointed **Presiding Judge** of the **Central Counting Station**.

**Marilyn Webster** is appointed **Early Voting Ballot Board Judge**.

The Early Voting Ballot Board Judge will deliver the early voted ballots to the Central Counting Station Judge at 5:00 P.M. Tabulating of voted ballots will start at 7:00 P.M.

Persons wishing to file as candidates for Mayor shall file a sworn application for a place on the ballot with the City Secretary on January 30, 2013, and no later than 5:00 P.M. on March 1, 2013, and must meet the requirements to serve as a Mayor as set forth in the City of Terrell Charter.

An executed copy of this Resolution shall serve as proper notice of the calling of said election. Said notice, including a Spanish translation hereof, shall be posted in a public place in each election precinct of the City and on the bulletin board used for the posting of meetings of the City Council of the City of Terrell at least twenty-one (21) days prior to the date of the election by the City Secretary or his designee, who shall make a record at the time of posting stating the date and place of posting to be preserved for the period of preserving precinct election records.

**PASSED AND APPROVED** on this the 5th day of February, 2013.

8. Discuss And Consider 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.

Greg Shumpert, Assistant City Attorney, and John Rounsavall, City Secretary, Presented to Council for Discussion and Consideration 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. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve 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. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

**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.**

9. Discuss and Consider 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.

John Rounsavall, City Secretary, Presented to Council for Discussion and Consideration 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. Mayor Pro Tem Ricky Jordan, made a motion to approve 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. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

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.

10. Discuss and Consider 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.

John Rounsavall, City Secretary, Presented to Council for Discussion and Consideration 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. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve 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. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

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.

## CONSENT AGENDA

Mayor Pro Tem D. J. Ory made a motion to approve and adopt on CONSENT AGENDA Ordinance No. 2560 on second reading. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

11. Discuss and Consider Adoption on Second Reading Ordinance No. 2560; An Ordinance Of The City Of Terrell, Texas Amending Chapter 11, Traffic Regulations, Section 42, Parking Restrictions By The Addition Of Subsection J, Regulating The Standing Or Parking Of Idling Motor Vehicles In Residential Areas; Providing For Penalty; Providing For Repeal Of Conflicting Ordinances; Providing For Severability; And Providing An Effective Date.

### Ordinance No. 2560

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS AMENDING CHAPTER 11, TRAFFIC REGULATIONS, SECTION 42: PARKING RESTRICTIONS BY THE ADDITION OF SUBSECTION J, REGULATING THE STANDING OR PARKING OF IDLING MOTOR VEHICLES IN RESIDENTIAL AREAS; PROVIDING FOR PENALTY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Terrell City Council finds the adoption of this Ordinance serves a public purpose and protects the health, safety and welfare of the citizens of the City of Terrell by limiting the pollution created by motor vehicles with a gross vehicle weight rating of eight thousand pounds (8,000 lbs.) or greater unnecessarily idling within the residential areas of the City; and

**WHEREAS**, the standing and parking of idling motor vehicles with a gross vehicle weight rating of eight thousand pounds (8,000 lbs.) or greater releases particles which can cause lung damage and aggravate existing lung diseases such as asthma; and

**WHEREAS**, the standing and parking of idling motor vehicles with a gross vehicle weight rating of eight thousand pounds (8,000 lbs.) or greater for extended periods of time is generally unnecessary, contributes to noise pollution and wastes fuel; and

**WHEREAS**, the City Council finds that the noise generated by idling parked motor vehicle with a gross vehicle weight rating of eight thousand pounds (8,000 lbs.) or greater constitutes a public nuisance.

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

Chapter 11, Traffic Regulations, Section 42: Parking Restrictions is hereby amended by the addition of Subsection J, Regulation Of Standing Or Parked Idling Motor Vehicles with a gross vehicle

weight rating of eight thousand pounds (8,000 lbs.) or greater in Residential Areas, to read as follows:

## **ARTICLE I**

### **REGULATION OF STANDING OR PARKED IDLING MOTOR VEHICLES:**

No standing or parked motor vehicles with a gross vehicle weight rating of eight thousand pounds (8,000 lbs.) or greater shall be allowed to idle for more than a total of ten (10) minutes within a sixty (60) minute period except under the following circumstances:

1. the motor vehicle is an official City of Terrell vehicle being utilized for official City of Terrell business;
2. the motor vehicle idles while forced to remain motionless because of traffic, an official traffic control device or signal or at the direction of a law enforcement official;
3. a police, fire, ambulance, public safety, other emergency or law enforcement motor vehicle or any motor vehicle used in an emergency capacity, idles while in an emergency or training mode and not for the convenience of the vehicle operator;
4. the motor vehicle is owned by an electric utility and is operated for electricity generation or hydraulic pressure to power equipment necessary in the restoration, repair, modification or installation of electric utility service;
5. when the motor vehicle idles due to mechanical difficulties over which the operator has no control;
6. a bus idles a maximum of fifteen (15) minutes in any sixty (60) minute period to maintain passenger comfort while non-driver passengers are on board;
7. an armored motor vehicle idles when a person remains inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded;
8. when idling of the motor vehicle is required to operate auxiliary equipment to accomplish the intended use of the vehicle (such as loading, unloading, mixing or processing cargo; controlling cargo temperature; construction operations), provided that this exemption does not apply when the vehicle is idling solely for cabin comfort or to operate non-essential equipment such as air conditioning, heating, microwave ovens or televisions;
9. a motor vehicle idles as part of a government inspection to verify that all equipment is in good working order, provided idling is required as part of the inspection;
10. the primary propulsion engine idles for maintenance, servicing, repairing or diagnostic purposes if idling is necessary for such activity.

## **ARTICLE II**

### **Penalty**

Any person or persons violating any provision of this subsection shall be guilty of a misdemeanor

and, upon conviction, shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) for each offense.

### **ARTICLE III**

#### **Repeal**

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

### **ARTICLE IV**

#### **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 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 without such unconstitutional phrase, clause, sentence, paragraph or section.

### **ARTICLE V**

#### **Effective Date**

This Ordinance shall 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 first reading this the 22nd day of January, 2013.

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

### **END OF CONSENT AGENDA**

12. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government Code to Discuss the following:
  - a.) Section 551.071 - Consultation with Attorney - pending or contemplated litigation.

Council adjourned into Executive Session.

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

There was no action taken in Executive Session.

14. 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**