

**REGULAR CITY COUNCIL MEETING**

**July 23, 2013**

**7:00 P.M.**

A Regular City Council Meeting of the Terrell City Council was held on Tuesday, July 23, 2013, at 7:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

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

1. Call to order.

Mayor Hal Richards, called meeting to order.

2. Invocation.

Deputy Mayor Pro Tem D. J. Ory, gave the opening prayer.

3. Discuss and Consider Approval of Meeting Minutes of Special City Council Spring Retreat of May 30, 2013, Special City Council Meeting and Workshop of June 13, 2013, Special City Council Meeting of June 14, 2013, and Regular City Council Meeting of June 18, 2013.

Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Meeting Minutes of Special City Council Spring Retreat of May 30, 2013, Special City Council Meeting and Workshop of June 13, 2013, Special City Council Meeting of June 14, 2013, and Regular City Council Meeting of June 18, 2013. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nays - None. Motion carried.

4. Hear Remarks from Visitors.

There were no remarks from visitors.

## NEW BUSINESS

5. Discuss and Consider Resolution No. 737; A Resolution Of The City Council Of The City Of Terrell, Texas, Approving And Authorizing A Public Policy Position Regarding Advancing The Mission Of Animal Adoptions And Also Reducing The Rate Of Euthanasia of Impounded Animals Solely On The Basis Of Kennel Space Limitations At The Terrell Animal Adoption Center, A State Of Texas Certified And Inspected Animal Impoundment And Quarantine Facility, Governed By The Texas Department Of Health And Safety Zoonosis Division.

Jody Lay, Chief of Police recognized Dr. Gwendolyn Kines, Suzanne Shumpert, Deborah Hobson, Terrell Animal Alliance and Cheryl Wagoner for their support with the Terrell Animal Adoption Shelter.

Jody Lay, Chief of Police, and Deputy Mayor Pro Tem D. J. Ory, Presented to Council for Discussion and Consideration Resolution No. 737; A Resolution Of The City Council Of The City Of Terrell, Texas, Approving And Authorizing A Public Policy Position Regarding Advancing The Mission Of Animal Adoptions And Also Reducing The Rate Of Euthanasia of Impounded Animals Solely On The Basis Of Kennel Space Limitations At The Terrell Animal Adoption Center, A State Of Texas Certified And Inspected Animal Impoundment And Quarantine Facility, Governed By The Texas Department Of Health And Safety Zoonosis Division.

Suzanne Shumpert and Patty Boren came before Council to thank Council for their action and implore Council to provide Terrell Animal Adoption Center more funding.

Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Resolution No. 737; A Resolution Of The City Council Of The City Of Terrell, Texas, Approving And Authorizing A Public Policy Position Regarding Advancing The Mission Of Animal Adoptions And Also Reducing The Rate Of Euthanasia of Impounded Animals Solely On The Basis Of Kennel Space Limitations At The Terrell Animal Adoption Center, A State Of Texas Certified And Inspected Animal Impoundment And Quarantine Facility, Governed By The Texas Department Of Health And Safety Zoonosis Division. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

### **Resolution No. 737**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, APPROVING AND AUTHORIZING A PUBLIC POLICY POSITION REGARDING ADVANCING THE MISSION OF ANIMAL ADOPTIONS AND ALSO REDUCING THE RATE OF EUTHANASIA OF IMPOUNDED ANIMALS SOLELY ON THE BASIS OF KENNEL SPACE LIMITATIONS AT THE TERRELL ANIMAL ADOPTION CENTER, A STATE OF TEXAS CERTIFIED AND INSPECTED ANIMAL IMPOUNDMENT AND QUARANTINE FACILITY, GOVERNED BY THE TEXAS DEPARTMENT OF HEALTH AND SAFETY ZOOONOSIS DIVISION.**

**WHEREAS**, the City of Terrell City Council finds it in the best interest of the citizens of the City of Terrell to provide a State of Texas Certified Animal Impoundment and Quarantine Facility;

**WHEREAS**, the City of Terrell recognizes the certified Animal Impoundment and Quarantine Facility must adhere to humane housing standards established by the State of Texas and included within those standards are reasonable expectations that animals will not be housed in inhumane, unclean and overcrowded living conditions over an extended term;

**WHEREAS**, the City of Terrell recognizes that quarantined animals, by law, must be housed individually for an extended period and the individual housing constrains the housing capacity for otherwise healthy animals in the facility;

**WHEREAS**, the City of Terrell has created an Animal Advisory Committee, as well as the appointment of a Shelter Veterinarian, both for the purpose of providing guidance to the City in maintaining compliance with the law and the health of the animals and the facility;

**WHEREAS**, the City of Terrell understands and expects the State of Texas to annually inspect and re-certify the facility as meeting those standards;

**WHEREAS**, the City of Terrell understands there are both criminal and civil penalties for failure to operate such a facility at those State of Texas approved standards;

**WHEREAS**, the City of Terrell has spent a significant amount of public dollars upgrading the facility in order to preserve the state of health of the facility for the animals;

**WHEREAS**, the City of Terrell converted the euthanasia methods to the most humane methods available for public shelters;

**WHEREAS**, the City of Terrell has expanded its marketing approach in order to maximize efforts at getting healthy animals adopted according to the law and increased the percentage of animals successfully adopted out of the shelter from 2011 to 2012 by 203%;

**WHEREAS**, the City of Terrell has sponsored the creation of large, viable volunteer group, comprised of 30 members of citizens, who specifically work toward the adoption or rescue of animals held in the facility;

**WHEREAS**, the City of Terrell has created the position of Adoption Coordinator, as well as a social media website, both dedicated to daily, ongoing adoption promotion and efforts;

**WHEREAS**, the City of Terrell corporately believes healthy, homeless animals reasonably deserve an opportunity to live a normal, healthy life with an owner who is capable of providing reasonable veterinarian care and a healthy living environment;

**WHEREAS**, the City of Terrell maintains policies and procedures, implemented daily, to safeguard the animal population, preserve humane living conditions, the health of the animals, the healthful state of the facility and the health of the employees; and

**WHEREAS**, the City of Terrell expresses its intent to never euthanize an animal for spatial considerations without having first exhausted all reasonable efforts to get animals adopted or rescued from the facility and only if the act is based on a threat to healthy conditions at the facility.

**Now Therefore, Be It Resolved By The City Council Of The City Of Terrell, Texas** as follows:

**SECTION 1.** The City of Terrell has a public policy intended to utilize euthanasia as an absolute last extreme measure in order to maintain healthful conditions at the animal impoundment and quarantine facility.

**SECTION 2.** The Chief of Police or designee shall ensure all reasonable efforts to get animals adopted or rescued from the facility are exhausted before authorizing an animal be euthanized for spatial reasons and only when it is abundantly clear spatial conditions threatened the health of facility and animals, as determined by the Chief of Police.

**SECTION 3.** The Animal Control Department will publish a monthly report identifying the number of animals euthanized for spatial reasons.

Passed and Adopted this 23rd day of July, 2013.

6. Discuss and Consider Professional Architectural Services Agreement with Brinkley Sargent Architects for needs assessment of Public Safety Facility.

Jody Lay, Chief of Police, Presented to Council for Discussion and Consideration Professional Architectural Services Agreement with Brinkley Sargent Architects for needs assessment of Public Safety Facility. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Professional Architectural Services Agreement with Brinkley Sargent Architects for needs assessment of Public Safety Facility in an amount not to exceed \$35,000.00. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

7. Discuss and Consider Southern Software's Police Records Management Software System.

Jody Lay, Chief of Police, Presented to Council for Discussion and Consideration Southern Software's Police Records Management Software System. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve and authorize City Manager to execute documents for Southern Software's Police Records Management Software System. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

8. Discuss and Consider Change Order No. 1 for Project 11-03 Texas Community Development Block Grant Program CDBG No. 712360.

Steve Rogers, City Engineer, Presented to Council for Discussion and Consideration Change Order No. 1 for Project 11-03 Texas Community Development Block Grant Program CDBG No. 712360. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Change Order No. 1 for Project 11-03 Texas Community Development Block Grant Program CDBG No. 712360. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

9. Discuss and Consider Proposal from Freese and Nichols, Inc. for Engineering Services Water, Wastewater, and Roadway Impact Fee Update.

Steve Rogers, City Engineer, Presented to Council for Discussion and Consideration Proposal from Freese and Nichols, Inc. for Engineering Services Water, Wastewater, and Roadway Impact Fee Update. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Proposal from Freese and Nichols, Inc. for Engineering Services Water, Wastewater, and Roadway Impact Fee Update and authorize City Manager to execute contract in an amount not to exceed \$159,500.00. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nayses - None. Motion carried.

10. Discuss and Consider Proposal from Freese and Nichols, Inc. for Engineering Services Water Conservation and Drought Contingency Plan Updates.

Steve Rogers, City Engineer, Presented to Council for Discussion and Consideration Proposal from Freese and Nichols, Inc. for Engineering Services Water Conservation and Drought Contingency Plan Updates. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Proposal from Freese and Nichols, Inc. for Engineering Services Water Conservation and Drought Contingency Plan Updates and authorize City Manager to execute contract in amount not to exceed \$29,400.00. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nayses - None. Motion carried.

11. Discuss and Consider Resolution No. 735; A Resolution Of The City Of Terrell, A Resolution Of The City Council Of The City Of Terrell, Texas, Authorizing Improvements At The Terrell Municipal Airport For Hangar Development.

Steve Rogers, City Engineer, Presented to Council for Discussion and Consideration Resolution No. 735; A Resolution Of The City Of Terrell, A Resolution Of The City Council Of The City Of Terrell, Texas, Authorizing Improvements At The Terrell Municipal Airport For Hangar Development. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Resolution No. 735; A Resolution Of The City Of Terrell, A Resolution Of The City Council Of The City Of Terrell, Texas, Authorizing Improvements At The Terrell Municipal Airport For Hangar Development. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nayses - None. Motion carried.

#### **RESOLUTION NO. 735**

#### **A RESOLUTION OF THE CITY OF TERRELL, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AUTHORIZING IMPROVEMENTS AT THE TERRELL MUNICIPAL AIRPORT FOR HANGAR DEVELOPMENT**

**WHEREAS**, the City of Terrell, Texas, is a municipal corporation situated in Kaufman County, Texas, and a governmental entity as defined by Section 791.003 of the Texas Government Code; and

**WHEREAS**, the Terrell City Council has determined it to be in the best interest of the citizens of the City of Terrell to make certain improvements to the Terrell Municipal Airport; and

**WHEREAS**, the general description of the improvements is for hangar development; and

**WHEREAS**, the City of Terrell, Texas, will make and construct such improvements for hangar development in a manner consistent with the Airport Layout Plan as approved by the State of Texas; and

**WHEREAS**, the City of Terrell, Texas, commits to maintaining airport minimum standards, rates and charges that are reasonable and nondiscriminatory; and

**WHEREAS**, the total project cost is estimated to be \$1,155,000.00; and

**WHEREAS**, the City of Terrell project cost is estimated to be \$228,000.00; and

**WHEREAS**, the City of Terrell, Texas, has available and will provide at least ten (10%) of the project costs with local funds and understands that any additional costs above \$600,000.00 for the vertical building in federal or state funds cannot be increased;

**NOW , THEREFORE, BE IT RESOLVED**, that the City Council of the City of Terrell, Texas, directs the City Manager to execute on behalf of the City of Terrell, Texas, all contracts and agreements with the Texas Department of Transportation, and such other parties as shall be necessary and appropriate for the implementation of the improvements to the Terrell Municipal Airport.

That this Resolution shall become effective immediately upon its passage and approval.

**PASSED AND APPROVED** this 23rd day of July, 2013.

12. Discuss and Consider Resolution No. 736; A Resolution Of The City Council Of The City Of Terrell, Texas, Authorizing The City Manager To Execute The North Central Texas Public Works Mutual Aid Agreement On Behalf Of The City Of Terrell, Texas.

Steve Rogers, City Engineer, Presented to Council for Discussion and Consideration Resolution No. 736; A Resolution Of The City Council Of The City Of Terrell, Texas, Authorizing The City Manager To Execute The North Central Texas Public Works Mutual Aid Agreement On Behalf Of The City Of Terrell, Texas. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Resolution No. 736; A Resolution Of The City Council Of The City Of Terrell, Texas, Authorizing The City Manager To Execute The North Central Texas Public Works Mutual Aid Agreement On Behalf Of The City Of Terrell, Texas. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

#### **RESOLUTION NO. 736**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS,  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE NORTH CENTRAL  
TEXAS PUBLIC WORKS MUTUAL AID AGREEMENT ON BEHALF OF THE  
CITY OF TERRELL, TEXAS**

**WHEREAS**, the City of Terrell, Texas, is a local government located in Kaufman County, Texas; and

**WHEREAS**, the City of Terrell is authorized to enter into emergency mutual aid agreements with participating local governments and/or public/political subdivisions located wholly within the State of Texas; and

**WHEREAS**, the City of Terrell recognizes the vulnerability of people and communities located within local governments and public subdivisions to damage, injury and loss of life and property resulting in emergencies, disasters or civil emergencies and recognizes that such incidents may present equipment and personnel requirements beyond the capability of each individual governmental entity; and

**WHEREAS**, the City Council of the City of Terrell desires to secure the benefits of mutual aid for the citizens of Terrell for the protection of life and property in the event of an emergency, disaster or civil emergency or public works emergency; and

**WHEREAS**, the City of Terrell has determined that it will be beneficial to the citizens of Terrell to enter into and be a party to the North Central Texas Public Works Mutual Aid Agreement; and

**WHEREAS**, the City Manager of the City of Terrell is the chief administrative officer of the City and is a person authorized to execute documents on behalf of the City.

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

That the City of Terrell, Texas, enter into and become a party to the North Central Texas Public Works Mutual Aid Agreement and that the City Manager of the City of Terrell, Texas, shall be and is hereby authorized to execute the North Central Texas Public Works Mutual Aid Agreement and any and all documents on behalf of the City of Terrell relating to this Agreement.

PASSED AND APPROVED this 23rd day of July, 2013.

13. Discuss and Consider Approval of consulting services with PKF Consulting.

Danny Booth, Representing Terrell Economic Development Corporation, Presented to Council for Discussion and Consideration Approval of consulting services with PKF Consulting. Councilmember Charles Whitaker, made a motion to approve consulting services with PKF Consulting in an amount not to exceed \$30,000.00. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nays - None. Motion carried.

14. Discuss and Consider VEKA Project.

Danny Booth, Representing Terrell Economic Development Corporation, Presented to Council for Discussion and Consideration VEKA Project. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve VEKA Project. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

15. Discuss and Consider approval of the Developers Agreement regarding the Residential Economic Incentive Program for Calvary Oaks Land Partnership, LP. and authorize the City Manager to execute the agreement.

Terry Capehart, Municipal Development Director, Presented to Council for Discussion and Consideration approval of the Developers Agreement regarding the Residential Economic Incentive Program for Calvary Oaks Land Partnership, LP. and authorize the City Manager to execute the agreement. Councilmember Charles Whitaker, made a motion to approve the Developers Agreement regarding the Residential Economic Incentive Program for Calvary Oaks Land Partnership, LP. and authorize the City Manager to execute the agreement. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nayses - None. Motion carried.

16. Discuss and Consider approval of the Developers Agreement regarding the Residential Economic Incentive Program for the Baldhead New Home Construction Company and authorize the City Manager to execute the agreement.

Terry Capehart, Municipal Development Director, Presented to Council for Discussion and Consideration approval of the Developers Agreement regarding the Residential Economic Incentive Program for the Baldhead New Home Construction Company and authorize the City Manager to execute the agreement. Councilmember Tommy Spencer, made a motion to approve Developers Agreement regarding the Residential Economic Incentive Program for the Baldhead New Home Construction Company and authorize the City Manager to execute the agreement. Deputy Mayor Pro Tem D. J. Ory, seconded the motion. Ayes - All. Nayses - None. Motion carried.

17. Discuss and Consider Appointments to Library Advisory Board.

Councilmember Charles Whitaker, made a motion to table Appointments to Library Advisory Board. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nayses - None. Motion carried.

18. Discuss and Consider Appointments to Terrell Planning and Zoning Commission.

Mayor Pro Tem Ricky Jordan, made a motion to table Appointments to Terrell Planning and Zoning Commission. Deputy Mayor Pro Tem D. J. Ory, seconded the motion. Ayes - All. Nayses - None. Motion carried.

19. Discuss and Consider Reappointment to Zoning Board of Adjustments.

Councilmember Charles Whitaker made a motion to table Reappointment to Zoning Board of Adjustments. Motion died for lack of second. Mayor Hal Richards made a motion to reappoint Gene Glaeser to Zoning Board of Adjustments. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nayses - None. Motion carried.

## CONSENT AGENDA

Councilmember Tommy Spencer, made a motion to approve and adopt on CONSENT AGENDA Ordinance No. 2571, Ordinance No. 2572 and Ordinance No. 2573 on second reading. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

20. Discuss and Consider Adoption On Second Reading Ordinance No. 2571 changing the Zoning Classification from Light Industrial (LI) District to Retail (R) District on property located at 100 FM 148; being all of that certain called 14.42 acre tract of land as conveyed from Precisionaire, Inc. to the Terrell Economic Development Corporation recorded in Volume 3768, Page 325 of the Deed Records of Kaufman County; and being situated in the J.C. Hale Survey, Abstract No. 202, City of Terrell, Kaufman County, Texas. (Case No. ZC-13-04).

### **Ordinance No. 2571**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, CHANGING THE ZONING CLASSIFICATION FROM LIGHT INDUSTRIAL DISTRICT (LI) TO RETAIL DISTRICT (R) ON PROPERTY LOCATED AT 100 F.M. 148, BEING ALL OF THAT CERTAIN 14.464 ACRE TRACT OF LAND BEING SITUATED IN THE J.C. HALE SURVEY, ABSTRACT NO. 202; AND BEING THE SAME LAND CONVEYED TO THE TERRELL ECONOMIC DEVELOPMENT CORPORATION FROM PRECISIONAIRE, INC. RECORDED IN VOLUME 3768, PAGE 325 OF THE DEED RECORDS OF KAUFMAN COUNTY, CITY OF TERRELL, KAUFMAN COUNTY, TEXAS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

### **Article I.**

**Whereas**, the Planning and Zoning Commission of the City of Terrell, Texas, held a public hearing on May 28, 2013 on a request to change the zoning from Light Industrial District (LI) to Retail District (R) on property located at 100 F.M. 148, being all of that certain 14.464 acre tract of land being situated in the J.C. Hale Survey, Abstract No. 202; and being the same land conveyed to the Terrell Economic Development Corporation from Precisionaire, Inc. recorded in Volume 3768, Page 325 of the Deed Records of Kaufman County, City of Terrell, Kaufman County, Texas; and

**Whereas**, the City Council of the City of Terrell, Texas held a public hearing on June, 18, 2013 and has determined that it would be in the best interest of the citizens of Terrell to change the zoning from Light Industrial District (LI) to Retail District (R), City of Terrell, Kaufman County, Texas; and

**Whereas**, the City Council has determined that all notice requirements have been given in compliance with the laws and ordinances of the City of Terrell and State Law.

**Now, Therefore, be it ordained** by the City Council of the City of Terrell, Texas:

**That** the zoning classification be and is hereby changed from Light Industrial District (LI) to Retail District (R) on property located at 100 F.M. 148, being all of that certain 14.464 acre tract of land being situated in the J.C. Hale Survey, Abstract No. 202; and being the same land conveyed to the Terrell Economic Development Corporation from Precisionaire, Inc. recorded in Volume 3768, Page 325 of the Deed Records of Kaufman County, City of Terrell, Kaufman County, Texas. (As fully described herein as Exhibit “A” – Legal Description)

### **Article II**

That operation will be in conformance with requirements of the zoning ordinance. In addition, the official Zoning Map of the City of Terrell, Texas shall be annotated to show the change in zoning status from Light Industrial District (LI) to Commercial District (C), thereon.

### **Article III**

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

### **Article III**

Any person, entity or corporation violating any provisions of this ordinance shall be considered in violation of the adopted Comprehensive Zoning Ordinance of the City of Terrell and be subject, upon conviction, to the penalties and remedies therein.

### **Article IV**

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 V**

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such case provides.

**Passed and approved** this the 18th day of June, 2013.

**Passed and adopted** this the 23rd day of July, 2013.

21. Discuss and Consider Adoption On Second Reading Ordinance No. 2572 adopting proposed revisions to the Zoning Ordinance No. 2526, Section 32.2 Use Charts, Chart 7, adding a Specific Use Permit (SUP) requirement for Massage Establishment to the Central Business (CBD) District. The proposed revisions are to be applied generally in the City of Terrell, Kaufman County, Texas. (ZC-13-03).

**ORDINANCE NO. 2572**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AMENDING THE ZONING ORDINANCE, ORDINANCE NO. 2526, OF THE CITY OF TERRELL, TEXAS, AMENDING SECTION 32.2 USE CHARTS, CHART 7 OF THE ZONING ORDINANCE; ADDING A SPECIFIC USE PERMIT (SUP) REQUIREMENT FOR MASSAGE ESTABLISHMENT IN THE CENTRAL BUSINESS DISTRICT (CBD); PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on May 28, 2013, the Planning and Zoning Commission conducted a public hearing and approved the amendment of the Zoning Ordinance No. 2526; Section 32.2 – Use Charts, Chart 7; adding a Specific Use Permit (SUP) requirement for massage establishment in the Central Business District (CBD); and

**WHEREAS**, the City Council of the City of Terrell, Texas, conducted a public hearing on June 18, 2013, and has approved the recommendation of the Planning and Zoning Commission; and has determined that all notice requirements have been given in compliance with State Law and the ordinances of the City of Terrell, Texas; and

**WHEREAS**, the City Council of the City of Terrell, Texas, after due consideration of the public comments and a recommendation from the Planning and Zoning Commission has determined that it would be in the best interest of the citizens of Terrell to amend Section 32.2 of the Zoning Ordinance; Use Charts, Chart 7, adding a Specific Use Permit (SUP) requirement for massage establishment in the Central Business District (CBD).

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of Terrell, Texas:

**ARTICLE I.**

**THAT** the Zoning Ordinance No. 2526, Section 32.2 Use Charts be and is hereby amended in accordance with Exhibit "A" attached hereto and by reference made a part hereof for all purposes.

**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 of the City of Terrell, Texas, 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.

#### **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 18th day of June, 2013.

**PASSED AND ADOPTED** this the 23rd day of July, 2013.

22. Discuss and Consider Adoption On Second Reading Ordinance No. 2573 establishing Specific Use Permit (SUP-27) for a Massage Establishment as defined in the Comprehensive Zoning Ordinance; located at 105 W. Moore Ave; being Lots 8A & 8B, Block 82, Terrell Original Addition, City of Terrell, Kaufman County, Texas. (Case No. SUP-27).

#### **ORDINANCE NO. 2573**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, GRANTING SPECIFIC USE PERMIT No. 27 (SUP-27) FOR MASSAGE ESTABLISHMENT ON PROPERTY LOCATED AT 105 WEST MOORE AVENUE, BEING LOTS 8A & 8B, BLOCK 82, TERRELL ORIGINAL ADDITION; CITY OF TERRELL, KAUFMAN COUNTY, TEXAS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and City Council conducted public hearings on May 28, 2013 and June 18, 2013 respectively regarding a request to grant a Specific Use Permit for a Massage Establishment on land located on property located at 105 W. Moore Ave, being Lot 8A & 8B, Block 82, Terrell Original Addition; City of Terrell, Kaufman County, Texas; and

**WHEREAS**, the City Council has determined that all notice requirements have been given in compliance with State Law and the ordinances of the City of Terrell; and

**WHEREAS**, the City Council of the City of Terrell, Texas after due consideration of public comments and a recommendation from the Planning and Zoning Commission has determined that it would be in the best interest of the citizens of Terrell to grant the Specific Use Permit as requested;

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of Terrell, Texas:

#### **ARTICLE I.**

**THAT** Specific Use Permit No. 27 (SUP-27) be and is hereby granted for a Massage Establishment on land located on property located at 105 W. Moore Ave, being Lot 8A & 8B, Block 82, Terrell Original Addition; City of Terrell, Kaufman County, Texas; City of Terrell, Kaufman County, Texas in compliance with the following requirements:

1. The hours of operation shall be restricted to the hours of 9:00 a.m. to 9:00 p.m. Monday through Saturday;
2. The validity of the Certificate of Occupancy shall be contingent upon maintaining a valid State license to operate a massage establishment and valid State licenses for all massage therapists;
3. The displayed business signage on the building shall not include the word “massage” anywhere visible to the public.
4. The validity of the Certificate of Occupancy shall be contingent upon operating in accordance with State and Local health, safety and welfare codes.
5. The facility shall be open and subject to inspections by the State Department of Health, the City Building Official (or his designee), the City Fire Marshal, or City Health Inspector during normal operating business hours upon proper display of identification and/or credentials.
6. State required licenses and the City issued Certificate of Occupancy shall be prominently displayed within the premises in a location readily accessible to the public for viewing at all times.
7. The owner, operator or manager of the Massage Establishment shall notify the City Building Official of any change in status of the State required licenses of any individual or the business within three (3) business days of the change including the hiring of any new massage therapists or individuals required to have a license by the State.
8. The issuance of the Certificate of Occupancy is contingent upon verification by the Building Official that another massage establishment is not within 1,000 feet of this massage establishment by the closest distance as measured from property line to property line.

## **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.

## **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 18th day of June, 2013.

**PASSED AND ADOPTED** this the 23rd day of July, 2013.

**END OF CONSENT AGENDA**

23. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government Code to Discuss the following:
- a.) Section 551.071 - Consultations with Attorney - pending or contemplated litigation.
  - b.) Section 551.072 - Deliberations about Real Property.
  - c.) Section 551.087 - Deliberation Regarding Economic Development Negotiations.

This item was passed by Council.

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

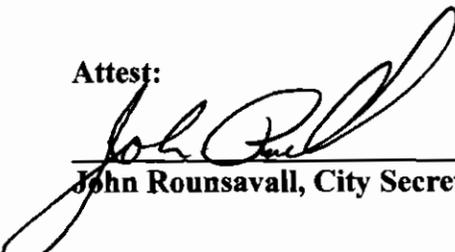
This item was passed by Council.

25. 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:

  
\_\_\_\_\_  
**John Rounsavall, City Secretary**