

## REGULAR CITY COUNCIL MEETING

January 21, 2014

7:00 P.M.

A Regular City Council Meeting of the Terrell City Council was held on Tuesday, January 21, 2014, 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.

Mayor Pro Tem Ricky Jordan, gave the opening prayer.

3. Presentation by Lisa Sudbury regarding North Texas Kenshin Kan Karate Spring Camp.

Lisa Sudbury presented to Council the North Texas Kenshin Kan Karate Spring Camp.

4. Discuss and Consider Approval of Meeting Minutes of Special City Council Meeting of January 7, 2014, and Regular City Council Meeting of January 7, 2014.

Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Meeting Minutes of Special City Council Meeting of January 7, 2014, and Regular City Council Meeting of January 7, 2014. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

5. Hear Remarks from Visitors.

Dr. John Kegerreis spoke to Council supporting new police facility.

### NEW BUSINESS

6. Discuss and Consider Award of Project #PTF2013(261) FM 148 South.

Mike Sims, Assistant City Manager, presented to Council for discussion and consideration Award of Project #PTF2013(261) FM 148 South. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Award of Project #PTF2013(261) FM 148 South in an amount not to exceed

\$1,825,032.27. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

7. Discuss and Consider Work Authorization #15 Construction Management for FM 148 South.

Scott Young, Representing Raba Kistner, presented to Council for discussion and consideration Work Authorization #15 Construction Management for FM 148 South. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve and authorize City Manager to execute Work Authorization #15 Construction Management for FM 148 South in an amount not to exceed \$158,091.00. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

8. Discuss and Consider approval of Work Authorized 8B additional construction management on the Spur 557 Ramp Project.

Scott Young, Representing Raba Kistner, and Mike Sims, Assistant City Manager, presented to Council for discussion and consideration approval of Work Authorized 8B additional construction management on the Spur 557 Ramp Project. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve and authorize City Manager to execute Work Authorized 8B additional construction management on the Spur 557 Ramp Project in an amount not to exceed \$167,973.34. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

9. Discuss and Consider the results of an open bid to demolish three (3) substandard and dangerous residential structures, City of Terrell, Kaufman County, Texas.

Terry Capehart, Municipal Development Director, presented to Council for discussion and consideration the results of an open bid to demolish three (3) substandard and dangerous residential structures, City of Terrell, Kaufman County, Texas. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve the award of bid to demolish three (3) substandard and dangerous residential structures, City of Terrell, Kaufman County, Texas as follows: Baldhead Construction lowest bidder for 1315 North Frances in the amount of \$1,900.00, Pete's Construction lowest bidder on 225 Town North Drive in the amount of \$6,800.00 and Pete's Construction lowest bidder on 501 Reynolds Street in the amount of \$3,400.00. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

10. Discuss and Consider the abandonment of that certain portion of the Polly Drive right-of-way located adjacent to Lot 33, Block 1, Wallace Addition, City of Terrell, Kaufman County, Texas.

Terry Capehart, Municipal Development Director, presented to Council for discussion and consideration the abandonment of that certain portion of the Polly Drive right-of-way located adjacent to Lot 33, Block 1, Wallace Addition, City of Terrell, Kaufman County, Texas. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve on first reading Ordinance No. 2592 which refers to abandonment of that certain portion of the Polly Drive right-of-way located adjacent to Lot 33, Block 1, Wallace Addition, City of Terrell, Kaufman County, Texas. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

ORDINANCE NO. 2592

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS VACATING AND ABANDONING A PORTION OF THE POLLY DRIVE RIGHT-OF-WAY LOCATED ADJACENT TO LOT 33, BLOCK 1, WALLACE ADDITION, CITY OF TERRELL, KAUFMAN COUNTY, TEXAS.

11. Discuss and Consider a recommendation to the Kaufman County Tax Office regarding the proposed resale of five separate parcels held in trust by the County; being Lot 8B, Block 4, Nelson Addition (Case A-146); Lots 1, 2, 3A, Block 262, Meredith Addition (Case A-223); Lot C, Block 261, Terrell Revised Addition (Case N-305); Lots 3 & 4A, Block 240, Terrell Revised Addition (Case N-329); and Lot 1A, Block 24, Johnson Addition; City of Terrell, Kaufman County, Texas.

Terry Capehart, Municipal Development Director, presented to Council for discussion and consideration a recommendation to the Kaufman County Tax Office regarding the proposed resale of five separate parcels held in trust by the County; being Lot 8B, Block 4, Nelson Addition (Case A-146); Lots 1, 2, 3A, Block 262, Meredith Addition (Case A-223); Lot C, Block 261, Terrell Revised Addition (Case N-305); Lots 3 & 4A, Block 240, Terrell Revised Addition (Case N-329); and Lot 1A, Block 24, Johnson Addition; City of Terrell, Kaufman County, Texas. Mayor Hal Richards, made a motion to approve a recommendation to the Kaufman County Tax Office regarding the proposed resale of five separate parcels held in trust by the County; being Lot 8B, Block 4, Nelson Addition (Case A-146); Lots 1, 2, 3A, Block 262, Meredith Addition (Case A-223); Lot C, Block 261, Terrell Revised Addition (Case N-305); Lots 3 & 4A, Block 240, Terrell Revised Addition (Case N-329); and Lot 1A, Block 24, Johnson Addition; City of Terrell, Kaufman County, Texas. Councilmember Charles Whitaker, seconded the motion. Ayes - All. Nays - None. Motion carried.

12. Discuss and Consider appointments/reappointments to Terrell Economic Development Corporation.

Charles Whitaker made a motion to reappoint Jack Jones and Charles Gann to Terrell Economic Development Corporation. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nays - None. Motion carried.

13. Discuss and Consider appointment to Planning & Zoning Commission.

Deputy Mayor Pro Tem D. J. Ory, made a motion to appoint Carolyn Fairley to Planning & Zoning Commission to replace Raylan Smith. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

14. Discuss and Consider all matters incident and related to approving and authorizing publication of notice of intention to issue certificates of obligation, including the adoption of a resolution pertaining thereto.

Jason Hughes, Representing First Southwest, presented to Council for discussion and consideration all matters incident and related to approving and authorizing publication of notice of intention to issue certificates of obligation, including the adoption of a resolution pertaining thereto. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Resolution 756 authorizing publication of

notice of intention to issue certificates of obligation. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

**RESOLUTION NO. 756**

**A RESOLUTION APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION**

**CONSENT AGENDA**

Deputy Mayor Pro Tem D. J. Ory, made a motion to approve and adopt on CONSENT AGENDA Ordinance No. 2591 on second reading. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nays - None. Motion carried.

15. Discuss and Consider Adoption On Second Reading Ordinance No. 2591; An Ordinance Amending Chapter 8, Offenses And Nuisances, Section 8, "Curfew For Minors" Of The Code Of The City Of Terrell, Kaufman County, Texas, Requiring The Chief Of Police To Make Periodic Reports To The City Council Concerning The Effectiveness And Need For The Section; Requiring The City Council To Periodically Review The Effects Of The Section On The Community And The Problems The Section Is Intended To Remedy; To Hold Public Hearings, And To Abolish, Continue Or Modify The Section; Providing That Failure By The City Council To Conduct Such Periodic Reviews And Hearings Shall Cause The Section To Expire; Providing For Repeal Of Conflicting Ordinances; Providing For Severability; And Providing An Effective Date.

**ORDINANCE NO. 2591**

**AN ORDINANCE AMENDING CHAPTER 8, OFFENSES AND NUISANCES, SECTION 8, "CURFEW FOR MINORS" OF THE CODE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS, REQUIRING THE CHIEF OF POLICE TO MAKE PERIODIC REPORTS TO THE CITY COUNCIL CONCERNING THE EFFECTIVENESS AND NEED FOR THE SECTION; REQUIRING THE CITY COUNCIL TO PERIODICALLY REVIEW THE EFFECTS OF THE SECTION ON THE COMMUNITY AND THE PROBLEMS THE SECTION IS INTENDED TO REMEDY; TO HOLD PUBLIC HEARINGS, AND TO ABOLISH, CONTINUE OR MODIFY THE SECTION; PROVIDING THAT FAILURE BY THE CITY COUNCIL TO CONDUCT SUCH PERIODIC REVIEWS AND HEARINGS SHALL CAUSE THE SECTION TO EXPIRE; 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:**

**ARTICLE I.**

That Chapter 8, Offenses and Nuisances, Section 8, Curfew for Minors shall be as follows:

**SECTION 8: CURFEW FOR MINORS**

A. **Definitions.** In this section:

- (1) **Curfew Hours** means:
  - (a) 11:00 p.m. on any Sunday Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
  - (b) 12:30 a.m. until 6:00 a.m. on any Friday or Saturday.
- (2) **Date of the Adoption of this Section** means July 28, 2006.
- (3) **Emergency** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (4) **Establishment** means any privately-owned place of business operated for a profit to which the public is invited including, but not limited to any place of amusement or entertainment.
- (5) **Guardian** means:
  - (a) a person who, under court order, is the guardian of the person of a minor; or
  - (b) a public or private agency with whom a minor has been placed by a court.
- (6) **Minor** means any person under seventeen (17) years of age.
- (7) **Officer** means a police officer.
- (8) **Operator** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes, but is not limited to, the members or partners of an association or partnership and the officers of a corporation.
- (9) **Parent** means a person who is:
  - (a) a natural parent, adoptive parent, or step-parent of another person; or
  - (b) at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (10) **Public Place** means any place to which the public, or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (11) **Remain** means to:
  - (a) linger or stay; or

(b) fail to leave premises when requested to do so by an officer or the owner, operator, or other person in control of the premises.

(12) **This Section** means Chapter 8, Section 8 of the Terrell City Code.

## **B. Offenses**

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

(2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

## **C. Defenses**

(1) It is a defense to prosecution under Subsection (b) that the minor was:

accompanied by the minor's parent or guardian;

on an errand at the direction of the minor's parent or guardian without any detour or stop;

in a motor vehicle involved in interstate travel;

engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

involved in an emergency;

on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Terrell, a civic organization, or another similar entity that takes responsibility for the minor;

exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(1) It is a defense to prosecution under Subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

**D. Enforcement.**

Before taking any enforcement action under this Section, an officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense, in Subsection (C) is present.

**E. Penalties.**

(1) A person who violates a provision of this Section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500.00).

(2) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Subsection (B)(1) of this Section and shall refer the minor to juvenile court.

**F. Report By the Chief of Police**

On or before the third anniversary of the date of the adoption of this Section the Chief of Police shall review this Section, report to the City Council, and make recommendations concerning the effectiveness of and need for this Section. The Report By the Chief of Police shall specifically include the following information:

- (1) The practicality of enforcing this Section and any problems with enforcement identified by the Police Department;
- (2) The impact of this Section on crime statistics;
- (3) The number of persons successfully prosecuted for a violation of this Section; and
- (4) The City's net cost of enforcing this Section.

**City Council Review.**

On or before the third anniversary of the date of the adoption of this Section, and every third year thereafter, the City Council shall:

review this Section's effects on the community and on the problems the Section was intended to remedy;

conduct public hearings on the need to continue the Section; and

abolish, continue or modify the Section.

Failure by the City Council to act in accordance with paragraphs (G) (1) - (3) shall cause this Section to expire.

## **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 judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and section 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 7th day of January, 2014.

PASSED AND ADOPTED THIS the 21st day of January, 2014.

16. 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.

This item was passed by Council.

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

This item was passed by Council.

18. 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**