REGULAR CITY COUNCIL MEETING

January 7, 2014

7:00 P.M.

A Regular City Council Meeting of the Terrell City Council was held on Tuesday, January 7, 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.

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

3. Discuss and Consider Approval of Meeting Minutes of Special City Council Meeting of December 17, 2013, and Regular City Council Meeting of December 17, 2013.

Councilmember Charles Whitaker, made a motion to approve Meeting Minutes of Special City Council Meeting of December 17, 2013, and Regular City Council Meeting of December 17, 2013. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nayes - None. Motion carried.

Mayor Hal Richards recognized Don Lindsey, former Mayor, Debra Kelley, former Councilmember and Tom Aldinger, former Planning and Zoning Board member.

4. Hear Remarks from Visitors.

Don Lindsey spoke to Council supporting new police facility.

Debra Kelley spoke to Council supporting new police facility.

NEW BUSINESS

5. Discuss and Consider Acceptance of Public Safety Needs Assessment Report from Brinkley Sargent Architects.

Torry Edwards, City Manager; and Gina Erwin, Representing Brinkley Sargent; and Jody Lay, Chief of Police, presented to Council for discussion and consideration Acceptance of Public Safety Needs Assessment Report from Brinkley Sargent Architects. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve Public Safety Needs Assessment Report from Brinkley Sargent Architects including the proposed site at State Highway 34 and Rose Street. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nayes - None. Motion carried.

6. Discuss and Consider 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.

Greg Shumpert, Assistant City Attorney, presented to Council for discussion and consideration 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. Deputy Mayor Pro Tem D. J. Ory, made a motion to approve on first 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. Mayor Pro Tem Ricky Jordan, seconded the motion. Ayes - All. Nayes - None. Motion carried.

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.

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

Councilmember Charles Whitaker, made a motion to table appointment to Planning & Zoning Commission. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nayes - None. Motion carried.

CONSENT AGENDA

Deputy Mayor Pro Tem D. J. Ory, made a motion to approve and adopt on CONSENT AGENDA Ordinance No. 2587, Ordinance No. 2589 and Ordinance No. 2590 on second reading. Councilmember Tommy Spencer, seconded the motion. Ayes - All. Nayes - None. Motion carried.

8. Discuss and Consider Adoption On Second Reading Ordinance No. 2587 changing the Zoning Classification from Townhouse (TH-12) to Commercial (C) District on property located at 608 E. High Street; being Part of Lot 2, Block 434, Terrell Revised Addition; City of Terrell, Kaufman County, Texas.

ORDINANCE NO. 2587

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, CHANGING THE ZONING CLASSIFICATION FROM TOWNHOUSE (TH-12) TO COMMERCIAL (C) DISTRICT ON PROPERTY LOCATED AT 608 EAST HIGH STREET, BEING PART OF LOT 2, BLOCK 434, TERRELL REVISED ADDITION, 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 December 3, 2013, on a request to change the zoning from Townhouse (TH-12) District to Commercial (C) District on property located at 608 East High Street, being Part of Lot 2, Block 434, Terrell Revised Addition, City of Terrell, Kaufman County, Texas; and

Whereas, the City Council of the City of Terrell, Texas, held a public hearing on December 17, 2013, and has determined that it would be in the best interest of the citizens of Terrell to change the zoning from Townhouse (TH-12) District to Commercial (C) District, 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 Townhouse (TH-12) District to Commercial (C) District on property located at 608 East High Street, being Part of Lot 2, Block 434, Terrell Revised Addition, City of Terrell, Kaufman County, Texas.

Article II

That operation will be in conformance with requirements of the City of Terrell 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 Townhouse (TH-12) District to Commercial (C) District 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 17th day of December, 2013.
Passed and adopted this the 7th day of January, 2014.

9. Discuss and Consider Adoption On Second Reading Ordinance No. 2589 amending SUP-20 (Ord. No. 2492) on property located at 320, 380 & 381 Iron Horse Drive; being portions of Lots 1 & 2, Block A, Terrell Materials Addition; City of Terrell, Kaufman County, Texas.

ORDINANCE NO. 2589

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AMENDING ORDINANCE NO. 2492, ADOPTED ON JUNE 21, 2011, REVISING THE DEVELOPMENT CONDITIONS FOR SPECIFIC USE PERMIT (SUP-20) FOR ASPHALT AND CONCRETE BATCH PLANTS AND STORAGE AND DISTRIBUTION OF AGGREGATE, LIME, CEMENT AND BUILDING MATERIALS ON LAND LOCATED BETWEEN AND EAST OF THE INTERSECTION OF U.S. HIGHWAY 80 AND SPUR 557; BEING DESCRIBED AS PORTIONS OF LOTS 1 AND 2, TERRELL MATERIALS ADDITION, CONTAINING 112.8 ACRES MORE OR LESS, CITY OF TERRELL, KAUFMAN COUNTY, TEXAS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

ARTICLE I.

WHEREAS, the City Council of the City of Terrell, Texas, following a public hearing and recommendation by the Planning and Zoning Commission, held a public hearing on December 17, 2013, on a request to amend Ordinance No. 2492 to revise the Development Conditions for a Specific Use Permit (SUP-20) for Asphalt and Concrete Batch Plants and Storage and Distribution of Aggregate, Lime, Cement and Building Materials to allow silos to be constructed to an overall height of eighty-eight (88') feet including conveyors, auxiliary or mechanical equipment on land located at 320, 380, and 381 Iron Horse Drive; and being described as portions of Lots 1 and 2, Terrell Materials Addition, containing 112.8 acres more or less; 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, has determined that it would be in the best interest of the citizens of Terrell to amend Ordinance No. 2492 revising the Specific Use Permit (SUP-20) as requested;

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

ARTICLE II.

THAT Ordinance No. 2492 is amended and the Specific Use Permit (SUP-20) for Asphalt and Concrete Batch Plants and Storage and Distribution of Aggregate, Lime, Cement and Building Materials on land located at 320, 380, and 381 Iron Horse Drive; and being described as portions of Lots 1 and 2, Terrell Materials Addition, containing 112.8 acres more or less; City of Terrell, Kaufman County, Texas, shall be constructed and operated in accordance with the Concept Plan and Comprehensive Site Plan attached as Exhibits A & B and with the following Development Conditions:

1. A tree specified on the site plan to be planted as a screening device on the seven (7') foot tall berm located to the west and south of the facility and adjacent to the railroad main line shall be spaced at a distance of not more than fifty feet (50') on center. The berm shown on the approved site plan and located adjacent to Spur 557 shall be a minimum of seventy-five feet (75') in width and a minimum of seven feet (7') in height;
2. That the landscaped buffer shown on the approved site and located adjacent to U.S. Highway 80 shall be a minimum of fifty feet (50') in width and a minimum of seven feet (7') in height;
3. That the landscaped berm shown on the approved site plan and located at the western quadrant of the property shall be a minimum of seven feet (7') but shall be increased to a required maximum height of ten feet (10') as engineering standards allow;
4. That the landscaped buffer shown on the approved site plan and located along the future County Road 305 shall be a minimum of twenty-five feet in width;
5. That a five feet (5') landscaped setback shall be provided along each interior property line;
6. That existing vegetation within the delineated flood plain as shown on the Concept Plan (Exhibit B) shall be maintained to the greatest extent possible;
7. That a minimum of five (5) acres located at the northwest corner of the property and designated as "Open Space" on the approved site plan shall be reserved for use by the City of Terrell for an entry monument or enhanced vegetation;
8. That a street sweeper shall be maintained on the property full-time for the purpose of controlling dust on all paved areas;
9. That all free standing signs within the property shall be monument signs and the visual appearance of the entries into the facility shall be enhanced;
10. The overall height of any silo including conveyor, auxiliary or mechanical equipment (as measured from finished grade) shall not exceed eighty-eight (88') feet.
11. That the height of material stockpiles shall be limited to a maximum of forty (40') feet.
12. The thickness of the pavement on the extension of County Road 305 as shown on the approved site plan shall be a minimum of twelve (12") inches.
13. That a water truck shall be on site and manned during all periods of operations to control dust.
14. The roadway improvements identified in the study (along with the required phasing) shall be made a condition of this Specific Use Permit and shall be completed if necessary prior to the issuance of the appropriate building permit (or other identified method of measurement) identified in the study.
15. The exterior of all structures (including silos) shall be painted beige, unless an alternative color is subsequently approved by the City Council, and shall maintained in a manner that does not exhibit fading of painted surfaces or other clearly noticeable visual defects from beyond the bounding property lines. Notwithstanding the previous, all exterior structures shall be painted at a frequency of not less than once every seven (7) years.

ARTICLE IV.

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

ARTICLE V.

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 VI.

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 17TH DAY OF DECEMBER, 2013.
PASSED AND ADOPTED THIS THE 7TH DAY OF JANUARY, 2013.

10. Discuss and Consider Adoption On Second Reading Ordinance No. 2590 changing the zoning classification from Retail (R) District to Planned Development (PD-8) on property located at 100 FM 148; being all of that certain called 14.42 acre tract of land as recorded in a deed to the Terrell Economic Development Corporation, Volume 3768, Page 325, Deed Records of Kaufman County; City of Terrell, Kaufman County, Texas.

ORDINANCE NO. 2590

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, CHANGING THE ZONING CLASSIFICATION FROM RETAIL DISTRICT (R) TO PLANNED DEVELOPMENT (PD-8) 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, 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 December 3, 2013, on a request to change the zoning from Retail District (R) to Planned Development (PD-8) 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, Texas; and

Whereas, the City Council of the City of Terrell, Texas, held a public hearing on December 17, 2013, and has determined that it would be in the best interest of the citizens of Terrell to change the zoning from Retail District (R) to Planned Development (PD-8), 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 Retail District (R) to Planned Development (PD-8) 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, Texas. (As fully described herein as Exhibit "B" – Legal Description)

Article II

That operation will be in conformance with requirements of the City of Terrell 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 Retail (R) District to Planned Development (PD-8), 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 17th day of December, 2013.
Passed and adopted this the 7th day of January, 2014.

11. 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.

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

This item was passed by Council.

13. 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