REGULAR CITY COUNCIL MEETING

October 20, 2015

7:00 P.M.

A Regular City Council Meeting was held on Tuesday, October 20, 2015, 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 SANDRA WILSON ABSENT - (Excused)
COUNCILMEMBER #4 CHARLES WHITAKER
COUNCILMEMBER #5 D.J. ORY

1. Call to order.

Mayor Hal Richards called the meeting to order.

2. Invocation.

Mayor Pro Tem Charles Whitaker gave the opening prayer and led the Pledge of Allegiance.

3. Discuss and Consider Approval of Meeting Minutes of the Special City Council Meeting and Workshop of October 1, 2015 and the Regular City Council Meeting of October 6, 2015.

Councilmember D.J. Ory, made a motion to approve with corrections the Meeting Minutes of the Special City Council Meeting and Workshop of October 1, 2015 and the Regular City Council Meeting of October 6, 2015. Mayor Pro Tem Charles Whitaker seconded the motion. Ayes - All. Nayes - None.

A Special City Council Meeting was held on Tuesday, October 1, 2015, at 6:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

4. Hear Remarks from Visitors.

This time is set aside on the agenda to invite any person to address the Council on issues not subject to a public hearing. Routine administrative matters are best discussed with the appropriate City Staff before bringing them to the Council. Speakers should limit their comments to 3 minutes and are asked to speak into the microphone provided, identifying themselves for the record. The total amount of time set aside for this place on the agenda is 15 minutes. Comments of a personal nature directed at the Council or Staff are inappropriate.

There were no remarks from visitors.

PUBLIC HEARING

5. Conduct a Public Hearing and receive comments regarding a proposed annexation of approximately 1037.10 acres being more particularly described as follows; "Tract 1" being a 943.73 acre Political Subdivision situated in the JW Ward Survey, Abstract No. 595, and the JC Hale Survey, Abstract No. 202, the D McIver Survey, Abstract No. 331, the TB Finley Survey, Abstract No. 165 the MC Wing Survey, Abstract No. 512 and the R Turner Survey, Abstract No. 551 of Kaufman County, Texas; and "Tract 2" being a 93.37 acre Political Subdivision situated in the JC Hale Survey, Abstract No. 202, of Kaufman County, Texas.

Mary Gayle Ramsey, City Attorney, gave opening comments regarding a proposed annexation of approximately 1037.10 acres being more particularly described as follows; "Tract 1" being a 943.73 acre Political Subdivision situated in the JW Ward Survey, Abstract No. 595, and the JC Hale Survey, Abstract No. 202, the D McIver Survey, Abstract No. 331, the TB Finley Survey, Abstract No. 165 the MC Wing Survey, Abstract No. 512 and the R Turner Survey, Abstract No. 551 of Kaufman County, Texas; and "Tract 2" being a 93.37 acre Political Subdivision situated in the JC Hale Survey, Abstract No. 202, of Kaufman County, Texas. Ms. Ramsey read the questions with answers from the October 15, 2015 Special City Council Meeting and Workshop as follows:

How can traffic safety and street lighting at CR305 and FM148 be improved?	These are TxDot facilities. The City works with TxDot to facilitate safety and lighting improvements throughout the City. City Staff will follow up with TxDot on this issue.
How will the annexation affect taxes?	All annexed property will initially be zoned as agricultural. Tax exemptions such as homestead exemptions, over 65 exemptions and Ag exemptions are determined by the Kaufman County Single Appraisal District. The current tax rate for the City is $0.069 per $100.00 valuation. The taxes will be assessed by the Kaufman County Tax Assessor and be effective January 1, 2016 for non-agricultural tracts and January 1, 2019 for agricultural tracts.
What are the benefits of annexing into the City?	The municipal services to the annexed area are set forth in the Service Plan. These benefits include land use regulation and protection of property values.
How were the lines drawn for the proposed annexation?	State law limits the amount of property that can be annexed in any calendar year. The lines were drawn to comply with this provision.
When does the annexation take effect?	The property will become a part of the City upon the approval of the Ordinance by the City Council.

If my property is being used for an agricultural use, can I continue this use?	Yes. You also have the option to sign a Non-Annexation Agreement if you have a current agricultural exemption and remain outside the City limits for a period of three years.
Will current construction in progress be allowed?	Current construction in progress prior to the time of institution of annexation proceedings (roughly, December 1, 2015) will be allowed.
Why is Las Lomas exempt from taxation?	The Las Lomas subdivision is subject to a separate Development Agreement previously entered into by the City and Las Lomas developers.
What services will the City provide to justify payment of higher taxes?	The services the City will provide to the annexed area are set forth in the Service Plan.
Can I continue my current use of the property?	Under state law, a property owner may continue to use the land in the area annexed in the manner that the land was being used on the date the annexation proceedings were instituted (December 1, 2015) if the land use was legal at the time or beginning to use the land in the annexed area in the manner that was planned before the 90th day before the effective date of the annexation. There are certain exceptions to this provision.

Mike Sims, Assistant City Manager, read the Summary Statement regarding the Service Plan for the Annexed Area as follows:

CITY OF TERRELL
Public Hearing Summary Statement Regarding the Service Plan
10/20/2015

1. Kaufman County Sheriff's Department currently provides police protection. Terrell police will become the lead police service for the newly annexed area.

2. Kaufman County Emergency Service District No. 3 currently provides fire services through the Terrell Volunteer Fire Department. The City of Terrell will become the lead service provider for the newly annexed area. In addition, the City has a Mutual Aid Agreement with the Terrell Volunteer Fire Department.

3. The City contracts with Progressive Waste to provide waste management services; property owners may switch upon annexation or may continue with their current waste hauler for up to two (2) years.

4. Residents in the annexed area will have full access to City parks, the City pool, and the City library.

5. Existing water service is provided by Rose Hill Special Utility District (SUD). This will continue until the City elects to extend services. This will be based on new development, not on a timeline.

6. Wastewater service is currently provided by on-site septic systems. Based on City guidelines, new public facilities are not warranted at this time. Operation and maintenance of private on-site septic systems will continue to be the owner's responsibility.

7. The portion of County Road 305 in the annexed area will be designated a City street and will be maintained to City standards. IH 20, FM148, and Champion Road will remain State property, with the roadway and right-of-way maintained by TxDOT. Davis Lane and all other private driveways will remain private. No portion of County Road 304 right-of-way is in the current annexation area. It will remain in the Kaufman County roadway system.

8. Enforcement of health ordinances that address concerns such as overgrown weeds and brush, junk and abandoned vehicles, and animal control will begin within sixty (60) days of the annexation's effective date.

9. The City with provide Inspection services including, but not limited to, the review of building plans and issuance of permits (grading, construction, plumbing, mechanical and electrical) as of the date of annexation.

10. The inhabitants of the property annexed shall be entitled to all the rights and privileges of other citizens of the City and they shall be bound by the acts, ordinances, resolutions and regulations of the City.

11. Permanent zoning classifications and land uses will be according to the Terrell Comprehensive Plan, Future Land Use Map, and zoning ordinances. All land annexed will enter the City zoned agricultural.

12. The annexed property will be subject to valuation for City of Terrell property taxes effective January 1, 2016, at the effective rate of $0.69 per $100.00 valuation.

Mayor Hal Richards opened the public hearing.

Citizens who spoke in opposition of Annexation:

Norma Hennig - 1450 Champion - Owns the RV Park - they are established and feel that Kaufman Police provide a good service. They are members of the Chamber. Have 5 acres of adjoining land. How long to develop since it will be grand-fathered in. She opposes the annexation.

Rosa Allen - 11287 N. FM 148 - Opposes Annexation. Taxes are outrageous. Do not force annexation on them.

Rick Clark - 9900 CR 304 - Had questions about the 90 days prior to December. On September 1st they broke ground. Needs details of process.

Bobby Hamby - 10942 N. FM 148 - Has AG property. Can it remain AG Property?

Ms. Ramsey reiterated that current AG property will remain in it's current state.

Citizens who spoke in favor of Annexation:

Carlton Tidwell - 307 E. Elm Drive - He feels that it is important to protect the City's investment. Protect entrances, for example; the western end of Terrell is unique as it has a donut shop at the same location as Dreamers. People driving through Terrell see this and it's an embarrassment.

Mary Gayle Ramsey, at the direction of Mayor Hal Richards, clarified that current exemptions will not be affected. Property Owners have the right to Non-Annexation but October 23rd is the deadline to execute the agreement. She directed citizens to appear at her office or Greg Shumpert, Assistant City Attorney, office to sign in front of a notary. Citizens are to bring the legal description of the property and proof of AG status from the tax office.

Mayor Hal Richards closed the public hearing.

NEW BUSINESS

6. Discuss and Consider approval of an Acquiescence to Encroachment for property located at 509 Warren Street, being Lot 4, Block 9 of the Warren Addition, City of Terrell; and being the same land described in a deed to Ray Lawrence Witke as recorded in Volume 84, Page 38, Deed Records of Kaufman County, Texas.

Terry Capehart, Municipal Development Director, presented to Council for discussion and consideration approval of an Acquiescence to Encroachment for property located at 509 Warren Street, being Lot 4, Block 9 of the Warren Addition, City of Terrell; and being the same land described in a deed to Ray Lawrence Witke as recorded in Volume 84, Page 38, Deed Records of Kaufman County, Texas. Councilmember D.J. Ory made a motion to authorize the City Manager to approve an Acquiescence to Encroachment for property located at 509 Warren Street, being Lot 4, Block 9 of the Warren Addition, City of Terrell; and being the same land described in a deed to Ray Lawrence Witke as recorded in Volume 84, Page 38, Deed Records of Kaufman County, Texas. Mayor Pro Tem Charles Whitaker seconded the motion. Ayes - All. Nayes - None.

7. Discuss and Consider award of bid to mitigate asbestos and demolish the City owned building located at 105 N. Rockwall, being Lots 1A & 1B, Block 106, Western Addition, City of Terrell, Kaufman County, Texas.

Terry Capehart, Municipal Development Director, presented to Council for discussion and consideration award of bid to mitigate asbestos and demolish the City owned building located at 105 N. Rockwall, being Lots 1A & 1B, Block 106, Western Addition, City of Terrell, Kaufman County, Texas. Councilmember D.J. Ory made a motion to authorize the City Manager to execute the contract not to exceed $43,726. Deputy Mayor Pro Tem Tommy Spencer seconded the motion. Ayes - All. Nayes - None.

Award of bid to TEC Environmental in the amount of $34,676.00 who will utilize a local contractor EvoTran for the demolition portion of the project.

ESEI consulting services in the amount of $7,650.00.

State of Texas Department of State Health Services Permit in the amount of $1,400.00.

TOTAL BID AMOUNT: $43,726

8. Discuss and Consider a request by the family members of Fred and Mamie Frazier, Sr. to add an honorary street name topper (Fred and Mamie Frazier, Sr.) to portions of Rochester Street, from S. Rockwall Street to S. Frances Street in accordance with established City policy set forth in Resolution 636 for naming or renaming of public facilities, streets and parkland.

Terry Capehart, Municipal Development Director, presented to Council for discussion and consideration a request by the family members of Fred and Mamie Frazier, Sr. to add an honorary street name topper (Fred and Mamie Frazier, Sr.) to portions of Rochester Street, from S. Rockwall Street to S. Frances Street in accordance with established City policy set forth in Resolution 636 for naming or renaming of public facilities, streets and parkland. Councilmember D.J. Ory made a motion to accept a request by the family members of Fred and Mamie Frazier, Sr. to add an honorary street name topper (Fred and Mamie Frazier, Sr.) to portions of Rochester Street, from S. Rockwall Street to S. Frances Street in accordance with established City policy set forth in Resolution 636 for naming or renaming of public facilities, streets and parkland. Deputy Mayor Pro Tem Tommy Spencer seconded the motion. Ayes - All. Nayes - None.

9. Discuss and Consider appointments and reappointments to the Planning and Zoning Commission.

Terry Capehart, Municipal Development Director, presented to Council for discussion and consideration appointments and reappointments to the Planning and Zoning Commission. Mayor Pro Tem Charles Whitaker made a motion to approve the reappointments of Bruce Loflin and Bruce Bryant and appointments of Trini Jones and Tom Aldinger, following his resignation from the Zoning Board of Adjustments. Deputy Mayor Pro Tem Tommy Spencer seconded the motion. Ayes - All. Nayes - None.

CONSENT AGENDA

Councilmember D.J. Ory, made a motion to adopt on CONSENT AGENDA Ordinance No. 2646 on second reading. Mayor Pro Tem Charles Whitaker seconded the motion. Ayes - All. Nayes - None. Motion carried.

10. Discuss and Consider Adoption on Second Reading Ordinance No. 2646; An Ordinance Of The City Of Terrell, Kaufman County Texas, Amending Chapter 5, Business Regulations, Section 6, Vendors And Solicitors; Providing For Repeal Of Conflicting Ordinances; Providing For Severability; And Providing An Effective Date.

ORDINANCE NO. 2646

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY TEXAS AMENDING CHAPTER 5, BUSINESS REGULATIONS, SECTION 6, VENDORS AND SOLICITORS; 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 5, Business Regulations, Section 6, Vendors and Solicitors shall be amended in its entirety as follows:

SECTION 5-6: VENDORS AND SOLICITORS

A. Purpose.

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

B. Definitions.

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

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

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

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

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

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

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

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

8. *Services* is used in its broadest sense and shall include property of every kind.

9. *Charitable purpose* shall mean any philanthropic, religious or other non-profit objectives including the benefit of the poor, needy, sick, refugee, handicapped persons; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization, or the benefit of any educational institution.

10. *Solicit funds or Solicitation of funds* shall mean any request for the donation of money, property, or anything of value, or the pledge of a future donation of money, property, or anything of value; or the selling or offering for sale of any property, real or personal, tangible or in-tangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications or brochures upon the representation, express or implied, that the proceeds of such sale will be used for a charitable purpose as such term is defined herein. Expressly excluded from the meaning of "solicit funds" or "solicitation of funds" are any offer of membership in any organization and any solicitation of funds covered by this definition are limited to a solicitation communicated in the physical presence of any individual on public property within the corporate limits of the City.

11. *"Aggressive solicitation"* shall mean:

a. Intentionally or recklessly making any physical contact with or
touching another person in the course of the solicitation without the person's consent;

b. Following the person being solicited if that conduct is:

(1) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

(2) intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

c. Continuing to solicit a person within five (5) feet of the person being solicited after the person has made a negative response;

d. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;

e. Using obscene or abusive language or gestures toward the person being solicited;

f. Approaching the person being solicited in a manner that:

(1) is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

(2) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

12. Automated Teller Machine means a device, linked to a bank's account records which is able to carry out banking transactions.

13. Automated Teller Facility means the area comprised of one or more automatic teller machines together with any adjacent space that is made available to banking customers.

14. Bank includes a bank, savings bank, savings and loan association, credit union, trust company or similarly financial institution.

C License Required

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

No vendor having acquired a license from the City of Terrell shall be allowed to engage in the business of selling, displaying, or offering for sale any pre-packaged food, beverage, goods, services or merchandise at any Special Event without first seeking approval for the same from the Sponsoring Organization.

D. Application

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

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

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

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

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

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

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

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

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

E. Health Permit Not Required

This section does not apply to any vendor engaged in the sale or distribution of prepared and/or cooked food or beverages that require the issuance of a health permit.

F. Issuance of License and Payment of Fees

Not later than thirty (30) days after the filing of a completed application for a vendor's license, the applicant shall be notified by the City Secretary of the decision on the issuance or denial of the license. If it is found that the applicant has fully complied with all provisions of this article, said applicant will be required to pay a license fee in the amount of One Hundred Twelve Dollars ($112.00) for a three month period, One Hundred Seventy Dollars ($170.00) for a period of from three to six months and Two Hundred Twenty Six Dollars ($226.00) for a period of twelve months for such license.

G. License not transferable

The license provided for in this article shall not be transferrable nor give authority to more than one (1) person to sell or exhibit food, beverages, goods, wares and

merchandise either by agent or clerk or in any other way than his own proper person, but any person having obtained

such license may have the assistance of one (1) or more persons in conducting the sale or exhibit who shall have the authority to aid that principal but not to act for or without him.

H. Duration of license; display required

The license provided for in this article shall continue so long as the licensee is conducting business in the city. Such license shall be prominently displayed in a conspicuous place on the premises where business is being conducted. Said license shall include the effective date and ending date of the license.

I. Insurance or Bond Required

Before any license shall be issued under the provisions of this article, the application shall be accompanied by a bond or insurance policy in an amount not less than fifty thousand and no/100 dollars ($50,000.00) acceptable to the City Secretary to cover any and all property damage, injuries, including injury resulting in death, or wrongful fraudulent or illegal conduct of the vendor while conducting business in the city. The bond or insurance policy shall remain in full force and effect during the entire duration of the license as provided in this article and one (1) year thereafter.

J. Exemptions

The following vendors are exempt from the fee provisions of Sections E, H and I of this article but shall otherwise be required to comply with all other provisions.

11. Religious, non-profit, philanthropic and/or charitable organizations including, but not limited to, public or private schools as provided in Section N below

2. Any individual selling newspapers or magazines, or distributing free samples from his or her person.

3. The vending of pre-packaged food or drinks from a motor vehicle or other non-stationary means (i.e. push carts).

K. Restrictions Applicable to all Vendors

1. <u>Stands</u>. Vendor stands shall not:

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

2. <u>Hours of Operation</u>. - Except for the vending of pre-packaged food or drinks from a motor vehicle or other non-stationary means within construction, manufacturing or similar areas in the manner specified in subsection 8 below, vendors shall be allowed to engage in the business of vending only between the hours of 8:00 A.M. to 10:00 P.M. All vending stands must be removed during

non-vending hours.

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

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

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

6. Noise - No vendor may sound any device which produces an unreasonably loud and raucous noise to attract public attention.

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

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

   a. Stop, stand or park the vehicle within 20 feet of any intersection, within any other prohibited area, or during prohibited hours;
   b. Conduct business in such a way as would increase traffic congestion or delay, constitute a hazard to life or property, interfere with an abutting property owner, or obstruct emergency vehicles.

M. Denial, Suspension or Revocation of License

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

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

g. Failure to submit monthly reports of sales tax receipts to the City Secretary.

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

N. Charitable Solicitations

1. Unlawful Solicitation on Public Property

a. It shall be unlawful for any person, directly or through an agent or employee, to solicit funds for charitable purposes within the corporate limits of the City unless such person shall have first obtained a certificate of registration from the City Secretary as hereinafter provided.

b. It shall be unlawful for any individual, as the agent or employee of another, to solicit funds for charitable purposes in the City unless his principal or employer has received a certificate of registration as hereinafter provided.

c. It shall be unlawful for any individual, as agent or employee of another, to solicit funds for charitable purposes in the City without a facsimile copy of the certificate of registration in his or her possession. Such facsimile copy of the certificate of registration shall be shown upon request to all persons solicited and to any police officer or public official of the City.

d. It shall be unlawful to solicit for charitable purposes within the City between the hours of 8:00 p.m. and 8:00 a.m.

e. It shall be unlawful for any person, directly or though an agent or employee, to solicit funds for charitable purposes within the corporate limits of the City after the expiration of any certificate of registration issued as hereinafter provided.

f. It shall be unlawful for the person registering or the agents or employees thereof to solicit funds in the City for a charitable purpose other than that set out in the registration statement upon which the certificate of registration was issued.

g. It shall be unlawful for any person who shall solicit funds for charitable purposes in the City to represent, in connection with such solicitation of funds, that the

insurance of a certificate of registration by the City constitutes an endorsement or approval of the purposes of such solicitation of funds by the City or any department, officer or employee thereof.

h. It shall be unlawful for any person issued a certificate of registration hereunder to fail to file any financial statement that this article requires to be filed with the City Secretary.

i. It shall be unlawful for any person to solicit:

(1) in an aggressive manner in a public area;
(2) at a bus station or at a facility operated by a transportation authority for passengers;
(3) within twenty five (25) feet of
(a) an automated teller facility;
(b) the entrance or exit of a bank;
(c) the entrance or exit of a check cashing business or at a marked crosswalk;

(4) on either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit;

(5) at a sidewalk café or the patio area of a bar or restaurant.

2. Registration - Statement

a. All persons desiring to solicit funds for charitable purposes in the City shall file with the City Secretary a registration statement on forms provided by the City Secretary, containing the following:

(1) The name of the person registering and desiring to solicit funds for charitable purposes.

(2) Whether the person registering is an individual, partnership, corporation or association; and

(a) If an individual, his or her business or residence address and telephone number.

(b) If a partnership, the names of all partners and the principal business address and telephone number of the partnership.

© If a corporation, whether it is organized under the laws of Texas, or is a foreign corporation, its

mailing address, business location, telephone number and the names of the officers and directors of the corporation.

(d) If an association, the association's principal business address and telephone number, along with the names of the association's officers directors or trustees. If the association is part of a multi-state organization or association, the mailing address and business location of its principal headquarters shall also be given.

(3) A brief description of the charitable purpose for which the funds are to be solicited, and an explanation of the intended use of the funds toward that purpose.

(4) The names of all individuals authorized to incur expenses related to the solicitation or to disburse any proceeds of the solicitation.

(5) The name, mailing address and telephone number of the individual who will have organizational responsibility for the solicitation of funds.

(6) The time period within which the solicitation of funds is to be made, giving the dates of the beginning of solicitation and its projected conclusion, not to exceed four (4) months.

(7) A description of the methods and means by which the solicitation of funds is to be accomplished.

(8) The total amount of funds proposed to be raised.

(9) A projected schedule of salaries, wages, fees, commissions, expenses and costs that the person registering reasonably believes will be expended and paid in connection with the solicitation of funds or in connection with their disbursement together with an estimated percentage of the total projected collections which the cost of solicitation will comprise. These figures shall cover the entire time period during which the solicitation is to be made.

(10) A statement to the effect that if a certificate of registration is granted, such certificate will not be used as or represented to be an endorsement by the City of any of its officers or employees.

(11) The signature of an individual on behalf of the person registering.

3. Fees

a. Every registration statement, except as exempt as exempted herein, shall be accompanied by a registration fee of ten dollars ($10.00). Such fee will be nonrefundable, irrespective of whether a certificate of registration is issued.

b. Any public or private school sanctioned group, religious or philanthropic group shall be exempt from the requirement to provide the ten dollar ($10.00) registration fee.

4. Certificate of Registration - Issuance

Within ten (10) working days from the receipt of the registration statement, the City Secretary shall either issue a certificate of registration, as provided above, or notify the person registering that the registration does not comply with the requirements of section a. above, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued.

5. Form

The City Secretary shall prescribe the form of the certificate of registration, which shall include a statement that "The issuance of the Certificate of Registration is not an endorsement by the City of Terrell or any of its departments, officers or employees.

6. Expiration; filing of financial statements within the specified time of termination of solicitation.

a. Each certificate of registration issued by the City Secretary shall expire at the termination of the solicitation period specified in the registration statement or four (4) months from the date of issuance, whichever is less.

b. No later than thirty (30) days from the expiration of its certificate of registration, each person registering shall file a closing statement with the City Secretary. The closing statement shall be a financial statement that is on a form provided by the City Secretary for this purpose and shall be signed by the appropriate individual on behalf of the person registering.

c. The closing statement shall indicate the total funds collected or pledged from the solicitation of funds, the purpose or purposes (with the amount of funds for each purpose) for which such funds have been or will be disbursed by the person registering, any incurred but unpaid expenses resulting from the solicitation of funds, and all other anticipated disbursement of collected or pledged funds. The monetary value represented by any property or goods that have been collected or pledged shall be estimated to the nearest multiple of ten dollars ($10.00) to satisfy the requirement to indicate total funds collected or pledged.

7. Public Disclosure

All registration statements and closing statements filed with the City Secretary, whether or not a certificate of registration has been issued, shall be public records and shall be available for inspection by members of the public during the City Secretary's regular business hours. Copies may be obtained at the fees prescribed by law for copies of city records.

8. Exceptions

The solicitation of funds for charitable purposes by any organization or association from its members shall be exempt from the operation of Subsections 1 through 7 above.

9. Solicitation from occupant of motor vehicle

a. It shall be unlawful for any person or organization to solicit funds for charitable or welfare purposes from an occupant of any motor vehicle which is on a public street or on a street, roadway or parking area of any city park, whether or not the person or organization soliciting funds is or is not on a public street or other public property.

b. It shall be unlawful for any person to cause, aid, solicit, engage, or direct a minor to engage in conduct prohibited by this section.

O. Appeals

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

P. Civil and Criminal Penalties

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this
Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

1. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding Five Hundred Dollars ($500.00).
Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a Class C Misdemeanor.

2. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring action to enforce the provisions of this Ordinance and to seek remedies allowed by law, including but not limited to, the following:

a. Injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and

b. A civil penalty of up to One Hundred Fifty Dollars ($150.00) per day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and other available relief.

ARTICLE II.

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

ARTICLE III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not

affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the city council without the incorporation
in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

ARTICLE IV.

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

PASSED AND APPROVED THIS the 6th day of October, 2015.

PASSED AND ADOPTED THIS the 20th day of October, 2015.

Councilmember D.J. Ory, made a motion to adopt on CONSENT AGENDA Ordinance No. 2647 on second reading. Mayor Pro Tem Charles Whitaker seconded the motion. Ayes - All. Nayes - None. Motion carried.

11. Discuss and Consider Adoption on Second Reading Ordinance No. 2647 amending Ordinance No. 2534 - Building Permit and Development Fees regarding an update to Section A.3 - New Commercial Construction and Addition Permit Fee calculations in order to reflect current construction costs based on the 2015 International Code Council Valuation Data Table.

ORDINANCE NO. 2647

AN ORDINANCE, AMENDING ORDINANCE 2534 AND APPENDIX 1 - SECTION 6 - FEE SCHEDULE, OF THE CODE OF ORDINANCES OF THE CITY OF TERRELL, TEXAS, UPDATING THE FEE SCHEDULE FOR NEW COMMERCIAL BUILDING PERMITS; PROVIDING FOR THE REPEAL OF ALL PREVIOUS OUTDATED AND CONFLICTING FEE SCHEDULES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the current fee schedule for new commercial construction is based on the 2009 International Code Council (ICC) Construction Cost Valuation Tables and the costs of construction has substantially increased over the past two code publication cycles; and

WHEREAS, in order to accurately reflect the true valuation of a project and to base the permit fee on the true valuation as published by the ICC, the City of Terrell has the desire to provide accurate, readily available and easily calculated permit fees to improve customer service and make the development process efficient and customer friendly; and

WHEREAS, the New Commercial Construction and Additions permit fee is based on the ICC Building Valuation Data published every three (3) years and it is necessary to evaluate the valuation trends on a regular basis in order to keep the permit fees current; and

WHEREAS, the City Council, after careful consideration of the matter, hereby finds and declares that permit and application fees imposed upon residential and nonresidential development should be equitable, and do not impose an unfair burden on such development; are in the best interest of the general welfare of the City and its residents by promoting safe building practices;

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

Appendix 1, Fee Schedule, as set forth in the City of Terrell Code of Ordinances, is hereby amended by the revisions to Section 6.A.3 - New Commercial Construction and Additions, to be updated as follows (all other Sections are to remain the same):

ARTICLE I.

The following Fee Schedule shall be official Development Fee Schedule for the City of Terrell:

FEE SCHEDULE:

A. Basic Building Permit Fees:

Type Permit	Fee
1. New Residential Construction	
Single-Family	$600/dwelling unit
Townhouse	$450/dwelling unit
Multi-family	$300/dwelling unit
2. Residential Repairs, Alterations or Remodels to existing structures (including electrical, mechanical, plumbing, fence, irrigation, roofing, foundation, carport, accessory building, or separate subcontracts for new construction:	$6.00/$1,000 valuation $35.00 minimum
3. New Commercial Construction and Additions:	
a. Industrial	$0.35/square foot
b. Institutional	$0.47/square foot
c. Retail	$0.48/square foot
d. Commercial	$0.53/square foot
e. Restaurant	$1.10/square foot
f. Medical	$1.60/square foot
4. Commercial Shell Building or Tenant Finish Out:	50% of new construction fee

5. **Commercial Repairs, Alterations or Remodels to existing structures (including electrical, mechanical, plumbing, fence, irrigation, roofing, sign (permanent or electrical), foundation, etc. or separate subcontracts for new construction:** $8.00/$1,000 valuation

   $45.00 minimum

6. **Commercial Plan Review Fee:** 25% of above permit fee

   (only applies to projects over $50,000 or requires TDLR registration)

B. **Other Permits and Fees**

1. **Grading Permit** $100.00
   (deducted from permit fee if construction commences within 6 months - must submit grading plan or engineering)

2. **Moving Fee** (using public street/requires Police permit) $75.00
   (moving of any structure or building over 240 square feet)

3. **Demolition Permit**
   Residential $35.00
   Commercial $100.00
   (must have asbestos survey)

4. **Advertising Sign Permit** (temporary, banners, etc.) $25.00

5. **Certificate of Occupancy**
   $100.00

6. **Food Establishment Permit – due by January 15th**
   $245.00/year
   (If not paid by January 15th add $50.00 late fee)

7. **Temporary Food Permit** $45.00
   (valid for 14 consecutive days)

8. **Re-inspection Fee**
   (at discretion of building inspector)
   $45.00 1st re-inspection
   $90.00 2nd re-inspection
   $180.00 3rd re-inspection

9. **After Hours Inspections** $45.00/hour

10. **Unpermitted Work** triple permit fees (work performed without permits or by unregistered or unlicensed trades)

11. **License Registration Fee** (all trades) $35.00 per year from registration date

C. **Work exempt from permits:**

1. The repair or replacement of an existing fence in a residential district in which approved materials are used and all other requirements are met (permit required but at no charge for fence replacement).
2. Roof repairs in which less than 10% of the roof area is involved.
3. Cosmetic improvements such as painting, cabinets, counter-tops, tile, non-structural repairs, replacement of wall materials involving less than 10% of any wall, or floor covering installation such as carpet, etc.
4. Appliance installation which does not require the device to have additional electrical, gas, or plumbing services installed.
5. Prefabricated above ground swimming pools which are less than 24 inches deep and do not exceed 5,000 gallons.
6. Retaining walls less than 4 feet tall.
7. Playground equipment in residential districts.
8. Exemptions from permit requirements shall not be deemed to grant authority to perform any work that is in any manner in violation of City or State Codes.

D. **Fire Prevention Fees**

1. **Fire Sprinkler System Permit (Plan Review & Inspection)**
$0.008/square foot
$150.00 minimum

2. **Fire Alarm Permit (Plan Review & Inspection)**
$0.008/square foot
$150.00 minimum

3. **Special Fire Department Permits or Inspections** (fire pump test, smoke control systems, chemical fire extinguishing systems, flammable liquid or gas storage, refueling facilities, burn permits, fireworks or pyrotechnics displays, etc.)
$150.00

ZONING APPLICATION FEES:

1. **Zoning Change Request** $200.00

2. **Specific Use Permit** $200.00

3. **Appeal to the Zoning Board of Adjustment** $100.00

PLAT APPLICATION FEES:

1. **Preliminary Plat - Residential**	$100.00
2. **Construction Plat – Commercial**	$100.00 < 5 acres $350.00 5 acres to < 25 acres $750.00 25 acres to < 100 acres $750.00 + $5.00/acre > 100 acres
3. **Final Plat – Residential** (plus County Filing Fees)	$200.00
4. **Final Plat – Commercial** (plus County Filing Fees)	$200.00
5. **Other Plats - Replats, Minor, Amended, etc.**	$100.00 + County Filing Fees

ARTICLE II.

No amendment or ordinance shall be required to update Section A.3 - New Commercial Construction and Additions if the update is based on the published ICC Building Valuation Data Table. The Municipal Development Director is authorized to evaluate the ICC Building Valuation Data and adjust the per square foot multiplier in Section A.3. in order to accurately determine the valuation of a project to calculate the proper permit fee for new commercial construction. However, any update or revision to the basic permit fees within the Fee Schedule shall require an ordinance amendment.

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 unconstitutionally shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the city council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

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 on this the 6th day of October, 2015.

Passed and Adopted on this the 20th day of October, 2015.

END CONSENT AGENDA

12. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government Code to discuss the following:

Council passed this item.

a. Section 551.072 - Deliberation Regarding Real Property.

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

Council passed this item.

14. 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