

**CARROLLTON CITY COUNCIL
REGULAR MEETING and WORKSESSION MINUTES**

APRIL 17, 2007

The City Council of the City of Carrollton, Texas convened in a Regular Meeting and Worksession on Tuesday, April 17, 2007, at 5:45 p.m. with the following members present: Mayor Becky Miller, Mayor Pro Tem Larry Williams Councilmembers Tim Hayden, John Mahalik, Pat Malone, Matthew Marchant, Terry Simons and Herb Weidinger. Also present were Assistant City Managers Beth Bormann, Marc Guy, Bob Scott, Director of Managed Competition Tom Guilfooy, Assistant to the City Manager Erin Kasal, City Attorney Clayton Hutchins and City Secretary Ashley Mitchell.

***** PRE-MEETING / EXECUTIVE SESSION *****

1. Mayor and Council **reports and information sharing.**
2. Receive **supplemental staff information** and responses to questions.

***** WORKSESSION *****

5. Discuss **Location of Future City Council Worksessions.**

Council concurred to conduct work session items in the Council chambers and will not video tape those sessions at this time.

6. Discuss **Potential Changes to Zoning Ordinance Regarding Restaurants With A Private Club For Mixed-Use Developments.**

Marc Guy, Assistant City Manager stated that since the passage of the election and the Alcoholic Beverage ordinance in 2004, restaurants are no longer required to receive a private club permit upon approval of a Special Use Permit by the City Council, with the exception of any properties annexed into the City after 2004. One of the propositions on the ballot that passed for properties within the City of Carrollton city limits at that time was to allow the sale of alcoholic beverages in a restaurant with a food and beverage certificate under certain provisions. While the option for a restaurant to receive a private club permit upon Council approval is still available, most restaurants now obtain the food and beverage certificate through TABC (Texas Alcoholic Beverage Commission) under our new ordinance provisions. However, any new restaurants locating on properties annexed subsequent to 2004 or in the future will only be allowed to apply for a restaurant with a private club through a Special Use Permit and approved by Council subject to the ordinance in place prior to 2004.

While Proposition 2 also passed in the 2004 election allowing both the sale of beer and wine for off-premise consumption under certain restrictions for properties within the city limits as well, the purpose of this discussion is regarding restaurants with food and beverage certificates and the restaurant with a private club permit in place prior to 2004. However, please note that properties annexed subsequent to 2004 and in the future are considered "dry," and retailers are prohibited from selling beer and wine for off-premise consumption. One of the fundamental changes with the passage of the new 2004 ordinance and the private club permit was in the distance requirements and also in the

ratio of food sales to alcohol sales. Since the food and beverage certificate is issued through TABC, the distance requirements are those mandated by TABC. Those distance requirements are that restaurants with a food and beverage certificate are prohibited within 300 feet of a church, public school or public hospital. However, the prohibition does **not** include the distance from a residential zoning district, as required with the restaurant with a private club permit under the Comprehensive Zoning Ordinance. Also, the food to beverage ratio under the new ordinance or Food and Beverage certificate is 50:50, whereas it is 60:40 under the private club permit.

Since the Shops at Prestonwood was annexed into the City recently, restaurants locating in the retail tract of the development that serve alcoholic beverages would only be able to operate if they were approved with an SUP for a private club. However, due to the mixed-use concept, the restaurants could not meet the distance requirements (300' from residentially zoned districts), as the townhomes within this development are too close to the retail tract within this development. Therefore, it is likely that restaurants serving alcoholic beverages would not be able to locate on this property, and most fine dining establishments simply will not locate unless they are able to serve alcoholic beverages since approximately 11% or more of their sales are from alcoholic beverages.

The purpose of this memo is to provide Council with information regarding the discrepancies between the food and beverage certificate and the restaurant with a private club permit and to discuss alternatives to making the distance requirements and other provisions of the two ordinances more compatible so that mixed-use developments, such as the Shops at Prestonwood and other mixed-use developments that may be located on tracts that may be annexed into the City in the future, have the same opportunities for success with respect to attracting quality restaurants.

Possible Revisions to the Comprehensive Zoning Ordinance Regarding SUP for Private Club in Mixed-Use Developments:

APPLICATION REQUIREMENTS:

1. Require only one SUP for an entire retail area within a mixed-use development in lieu of an SUP for each footprint.

BUILDING REQUIREMENTS:

1. Remove the minimum 2,100 square foot requirement for restaurants located within a mixed-use district.
2. Remove the requirement that a minimum of twenty (20) percent of the total floor area of the restaurant located within a mixed-use district be occupied by food preparation and storage.

FOOD SERVICE REQUIREMENTS:

1. Revise the 60:40 ratio of food to alcohol to 50:50 (same as Food and Beverage Certificate) for mixed-use districts.
2. Also revise the 60:40 ratio of food to alcohol to 50:50 (same as Food and Beverage Certificate) for a private club allowed in an area totally separate from the restaurant of a hotel or motel in mixed-use districts.

LOCATION REQUIREMENTS:

1. Apply exactly the same TABC distance requirements, i.e. only 300' from a church, public school or public hospital within mixed-use districts.

TIME LIMIT:

1. Revise the time limit for obtaining an application for a building permit from one (1) year after approval of a private club from Council to three (3) years for mixed-use districts.

ALCOHOL AWARENESS PROGRAM:

1. Remove the submittal of the Alcohol Awareness Program with the SUP for mixed-use developments, as TABC regulates this program.

The proposed amendments to the City's ordinance will protect and enhance community sustainability and allow future restaurants in only mixed-use developments annexed into the City subsequent to 2004 to be under most of the same requirements as regulated by the TABC.

There may be financial implications on the current operating budget regarding this request.

Council concurred with staff recommendations.

7. Briefing on Gas Drilling and Production Ordinance.

Clayton Hutchins, City Attorney stated that the subject of exploration for gas and the subsequent drilling and production is receiving a lot of attention in the Metroplex. As you are aware, it is important for any municipality to apply reasonable regulations to ensure property rights and protect the health, safety and general welfare of the public.

Future impact to the community can be controlled by the proper regulations of these activities on private property and on property where the city may hold mineral rights. To be prepared for the potential of such drilling and production in Carrollton, staff has developed a gas drilling and production ordinance for Carrollton. The ordinance language has been modeled after the City of Fort Worth's gas drilling and production ordinance since that appears to be the standard being followed by most cities, and which we understand to have been fairly well received by the exploration industry.

Recently, staff forwarded this draft ordinance to oil and gas exploration, drilling and production companies for their feedback. To date, we have received a few technical comments that have been appropriately incorporated into the draft ordinance. It is also our understanding that the preponderance of drilling opportunities is west of IH-35E and away from residential neighborhoods.

MAJOR HIGHLIGHTS:

The following is a brief explanation of the substantial highlights of the proposed Gas Drilling and Production ordinance:

- **Purpose** – The purpose of the ordinance is to allow the orderly exploration, development and production of available natural gas resources within the city, under proper and reasonable safeguards, regulations and limitations so as to protect the health, safety and general welfare of the public and the environment.

Well Location – Gas well drilling and production is to be allowed only upon approval of a Special Use Permit on property zoned for the (IH) Interim Holding District, (SF-12/20) Single-Family Residential District, the (LI) Light Industrial District, the (HI) Heavy Industrial District, or as part of a Planned Development which specifically allows the drilling and production of gas wells. The (SF-12/20) Single-Family District is included, as large areas of undeveloped land to the west of Interstate 35-E, including McInnish Park, are zoned as such.

- **Well Setbacks** – Wells are required to be drilled a minimum of 600 feet from any residence, except that a well may be drilled within 150-600 feet of an existing residence when written consent of all neighboring property owners is submitted. In addition, wells cannot be drilled within 600 feet of any of the following: religious institution, public building, hospital, public or private school, retail or commercial building, or within 600 feet of any playground, athletic field, swimming pool, picnic area or other similar public park facilities. No well may be drilled within 150 feet of any property line; this setback will prevent drilling on sites generally less than 2 acres.

- **Permit Application Process** – All gas well permit applications are to be submitted with a standard Special Use Permit application and are to include such information as: the operator of the proposed gas well, a map showing the transportation route of any equipment, chemicals or waste products, and a site plan of the proposed drilling location. The approval process will follow the normal development process of the city. Once a complete application is received and reviewed by staff, the case will go before a public hearing at the Planning and Zoning Commission. If approval is recommended by the Commission, the case will go before City Council for final action. After that, the application can be submitted for construction permitting.

- **Bond, Demand Letter of Credit, Indemnity and Insurance** – A bond or letter of credit is to be maintained by the operator for not less than \$50,000. The operator is to maintain a standard commercial liability policy of \$1,000,000 per drill site, as well as \$5,000,000 of environmental pollution liability. All insurance documents will be reviewed by the City Attorney prior to approval of a Special Use Permit.

- **On-Site Procedures** – All drilling and production operations are to be conducted in such manner as to minimize dust, vibration, noxious odors and noise. The following performance standard for sound will apply:

- During drilling, no on-site activity shall produce a sound greater than 78 dB(a) (about as loud as a nearby alarm clock) when measured 300 feet from the drilling equipment.
- During fracturing, no on-site activity shall produce a sound greater than 85 dB(a) (heavy city traffic).
- During production, no on-site activity shall produce a sound greater than 65 dB(a) (a noisy restaurant). Lighting shall be directed downward and shielded so as to prevent the direct illumination of public roads and adjacent property and to minimize glare.
- During the exploration phase, a chain link fence with screening fabric or slat inserts shall be constructed around the drilling site.
- During the production phase, in addition to the screening fabric or slats, shade and ornamental trees will be required, located so as to best screen the visual corridors to the site.

Council concurred with staff recommendations.

3. Council will convene in **Executive Session** pursuant to Texas Government Code:
- **Section 551.071** for private consultation with the City Attorney to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the City Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the City Council.
 - **Section 551.072** to discuss certain matters regarding real property.
 - **Section 551.074** to discuss personnel matters.
 - **Section 551.087** to discuss Economic Development.
4. Council **reconvened in open session** to consider action, if any, on matters discussed in the Executive Session. No action was taken

Mayor Miller recessed the Worksession at 7:00 p.m.

INVOCATION by Mayor Pro Tem Larry Williams.

PLEDGE OF ALLEGIANCE by Boy Scout Troop 114.

PRESENTATIONS

9. Recognition of **Carrollton McCoy Heat, Boys 2007 TAAF State Basketball Champions.**

Chad Hyde, Athletics manager stated that the Carrollton McCoy Heat won the 2007 TAAF youth basketball state championships in Austin, TX this past March. They also won the city sponsored league tournament in February. Council recognized the Carrollton McCoy Heat and presented team championship trophy showing their great success and dedication to Carrollton and T.A.A.F. sports programs.

10. Present a **Proclamation Declaring April 15 - 21, 2007 as National Library Week (NLW).**

Mayor Miller presented a proclamation to Cheri Gross, Library Director and members of the Friends of the Library that declared April 15-21, 2007 as National Library Week.

PUBLIC FORUM

11. **Hearing of any citizen/visitor on items not listed on the regular meeting agenda.** Citizens/visitors should complete an appearance card located on the table at the entrance to the City Council Chambers. Speakers must address their comments to the presiding officer rather than to individual Council members or staff; Stand at the podium, speak clearly into the microphone and state your name and address prior to beginning your remarks; Speakers will be allowed a maximum of 5 minutes for testimony; Speakers making personal, impertinent, profane or slanderous remarks may be removed from the room; Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations will not be permitted; No placards, banners or signs will be permitted in the Chambers or in any other room in which the council is meeting. In accordance with the State Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. Action can only be taken at a future meeting.

Debbie Cormier, 2032 Stradivarius Lane, concerned with the dredging of Woodlake. Agrees with the project but concerned with the habitat.

James Dillman, 1813 Stewart Drive, stated that he is has been a resident since 1998 and proud to live in Carrollton.

John Nieson, 2035 Oakbluff Drive, concerned with the petition submitted. Would like assurance that the city is committed to diversity.

Warren Sippell, 2108 Stein Way, stated that he read about the petition regarding prohibiting Council from participating in any activities with the Gay and Lesbian community. The City has made an effort to be diverse and applaud Council for efforts in the community to build participation and not through exclusion. He asks the council to stand by their commitment to represent all the citizens of Carrollton.

David Wozniak, 1343 Barclay Drive, stated that he has lived in Carrollton for 13 years and has enjoyed the excellent services Carrollton has to offer. He urged the council to take no further action on the petition. He stated that diverse communities or groups tend to make better decisions.

Carol Franzen, 1307 Tierra Calle of Carrollton stated that she is proud to live in this city and that her children are being raised in a diverse community that embraces everyone.

Dennis Hamilton, 1641 W. Hebron Parkway, stated that he has been a member of the community for 19 years and the Minister of Horizon Unitarian Church. He is proud to stand with the Gay and Lesbian community to obtain recognition for equal rights. He stated that the community should support the elected officials when they support the equality of rights for all people.

Chris Robinson, 1418 Tierra Calle, stated that his experience in the city has been great. The neighborhood he lives in is very close knit and accepting of his family's lifestyle. He hoped that the diversity and acceptance doesn't stop.

Lee Nicora, 2931 Rayswood Drive, stated that she has lived in Carrollton for 35 years. She stated that the group bringing the petition had that right but it was presumptuous of them to state that they knew what was right for all 120,000 citizens. She believes for the petition group to ask the elected officials to only represent one specific group over another is absurd.

Matthew Vanoy, 1515 Shannon Place, stated that he has lived in Carrollton for 6 years. He has grown great friendships with the neighborhood and community. He hopes that the diversity does not change in the future.

Todd Cormier, 2032 Stradivarius Lane, stated that he believes that the lifestyle described in the petition is not back by religion. He does not believe that the Gay and Lesbian lifestyle is not approved by the higher creator.

Brad Faidley, 2048 Oak Bluff Drive, stated that he has lived in Carrollton for 2 years. He is surprised that someone has brought about this petition and touted it as what is in the best interest of Carrollton.

Reverend Colleen Darraugh, 2735 Villa Creek #290 Farmers Branch, states that the world is very diverse in how everyone looks, sounds and how they think about everything from politics to religion. She thanks the council for the legacy they have had as an entity that supports all people of the city. She encouraged that history to continue.

Morris Garcia, 1021 Orlando Circle of Plano stated that he is the President of Collin County Gay & Lesbian Alliance and is made a joint statement on behalf of the Dallas Gay & Lesbian Alliance and its' President Pete Webb. He stated that both groups are proud to support equality and inclusion in Carrollton. They believe that it is only fair and just for elected officials to represent all citizens as a whole.

Mrs. Dear, PO Box 11624 of Carrollton stated that she is against the petition. She stated that she believes the petition is a blatant effort to force the petitioners' beliefs on the administration of city government. She stated that the growth of the community depends on the fair and equal treatment of the citizens here. She is proud of the Mayor and Council members who followed her example.

CONSENT AGENDA (**All items marked with a single asterisk are part of a Consent Agenda and require no deliberation by the Council. Each Council member has the prerogative of removing an item from this agenda so that it may be considered separately. Contracts and agreements are available in the City Secretary's Office.*)

Councilmember Hayden moved approval of Consent Agenda Item No. 12 – 16. Second by Mayor Pro Tem Williams. The vote was cast 7-0 in favor of the motion.

BIDS AND PURCHASES

- *12. Consider approval of Bid # 07-025 for **Baseball Field Dugout and Backstop Renovations from Wall Enterprises** in an amount not to exceed \$36,780.00.
- *13. Consider approval of Bid #07-027 for **Crack Sealing Services from Pavement Services** for an amount not to exceed \$364,000.00.

RESOLUTIONS

- *14. Consider a resolution **Appointing Grant Thornton LLP as the City's Independent Auditors and Authorizing the City Manager to enter into a Contract with Grant Thornton LLP for Independent Auditing Services for the Fiscal Year 2007 Financial Statements** in an amount not to exceed \$83,800.
- *15. Consider a resolution **Authorizing the City Manager to Declare a Public Necessity, Authorizing Acquisition of Right-of-Way and Easements for the Widening of Whitlock Lane Between Old Denton Road and IH-35E.**
- *16. Consider a resolution **Supporting the Cities Aggregation Power Project, Inc. ("CAPP") 2007 Legislative Agenda.**

Mayor Miller adjourned the meeting at 8:31 p.m.

Larry Williams, Mayor Pro Tem

ATTEST:

Ashley D. Mitchell, City Secretary