

## MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL

October 11, 2010

City of Richardson, Texas

A Regular Meeting of the City Council was held at 7:30 p.m., Monday, October 11, 2010 with a quorum of said Council present, to-wit:

Gary Slagel	Mayor
Bob Townsend	Mayor Pro Tem
Mark Solomon (absent)	Council member
John Murphy	Council member
Bob Macy	Council member
Steve Mitchell	Council member
Amir Omar	Council member

City staff present:

Bill Keffler	City Manager
Dan Johnson	Deputy City Manager
Michelle Thames	Assistant City Manager Administrative Services
David Morgan	Assistant City Manager Community Services
Cliff Miller	Assistant City Manager Development Services
EA Hoppe	Assistant to the City Manager
Pamela Schmidt	City Secretary
Sam Chavez	Asst. Director of Development Services

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1. **INVOCATION**
  2. **PLEDGE OF ALLEGIANCE: U.S. AND TEXAS FLAGS**
  3. **MINUTES OF THE SEPTEMBER 27, 2010 MEETING**

ACTION TAKEN: Mr. Murphy moved approval of the minutes as presented; second by Mr. Townsend and the motion was approved with a 6-0 vote.

***Mayor Slagle announced that Council member Solomon was absent.***

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4. **VISITORS - None**

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5. **PUBLIC HEARING AND CONSIDER APPROVAL OF ORDINANCE NO. 3794: ZONING FILE 10-11: A REQUEST BY EUNGSUN LAW, REPRESENTING CEL EDUCATIONAL SYSTEM OF TEXAS, INC., FOR A SPECIAL PERMIT TO ALLOW CENTER OF ENGLISH LANGUAGE CLASSROOMS IN AN EXISTING LAW OFFICE AT 222 MUNICIPAL DRIVE, CURRENTLY ZONED LR-M(2) LOCAL RETAIL.**

Mr. Keffler advised that the City Plan Commission reviewed the request on September 7, 2010 and received a 7-0 vote in favor of recommending approval. He asked Sam Chavez, Asst. Director of Development Services – Planning, to further brief the Council.

Mr. Chavez stated the request is for approval of a Special Permit and ordinance for classrooms for the Center of English Language. The site is generally located at the north side of Municipal Drive east of Gateway Boulevard. The classrooms would occupy approximately 1500 sq. ft. of a 3300 sq. ft. law office for teaching English language skills. He advised that the classroom would act as a satellite location of the main school, which is located at Forest and Marsh Lane in Dallas. He advised that no correspondence has been received and confirmed the City Plan Commission's recommendation of approval.

Mayor Slagel opened the public hearing and invited the applicant to present the request.

Chris Hung, CME Development, representing the owners of the building, noted that the site meets the requirements of the City of Richardson.

There were no speakers to address the request.

ACTION TAKEN: Mr. Macy moved to close the public hearing; second by Mr. Mitchell and the motion was approved with a 6-0 vote.

Mr. Macy moved to approve ZF 10-11 and Ordinance No. 3794; second by Mr. Mitchell and the motion was approved with a 6-0 vote.

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*Mayor Slagel changed the order of the agenda and stated that Item 7 would be heard first.*

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**7. PUBLIC HEARING AND CONSIDER APPROVAL OF ORDINANCE NO. 3795: ZONING FILE 10-14: A REQUEST BY MICHAEL AND RUTH PRECKER FOR A SPECIAL PERMIT TO ALLOW A RAIN WATER HARVESTING SYSTEM FOR IRRIGATION PURPOSES ON THEIR RESIDENTIAL LOT LOCATED AT 2103 PRAIRIE CREEK DRIVE WEST, CURRENTLY ZONED R-2000-M RESIDENTIAL.**

Mr. Keffler advised that the City Plan Commission reviewed the request at the September 7, 2010 meeting and voted 4-3 in favor with the condition that the tank be completely screened on all sides. He stated that the Commissioner's who voted against the motion had concerns relative to screening. He asked Mr. Chavez to review the request.

Mr. Chavez stated the request is for a special permit and consideration of Ordinance 3795 for a rainwater harvesting system on a residential lot located at 3103 Prairie Creek Drive West. The proposed 650 gallon tank would be located at the northeast corner of the house and would be proposed from the alley and street with two "L" shaped wooden trellises and vines. He stated that the tank is approximately 7½ ft wide by 6½ ft tall and 2½ ft deep and would be painted to match the exterior brick color of the home. The tank would not be connected to the City's domestic lines. He advised that the City Plan Commission recommended approval with the condition that the tank be completely screened with an opaque screen or fence. He stated that the commissioners that voted against the motion were in favor of the rain water harvesting system, but were opposed to the amount of screening that was made as part of the condition due to the photos of the site.

Mayor Slagel opened the public hearing and invited the applicant to the podium

Mike and Ruthie Precker, 2103 Prairie Creek Drive West, specifically thanked Mr. Chavez and Mr. Shacklett for their assistance and professionalism. He stated they would never do anything to diminish the neighborhood. He advised that had planned a landscape renovation and the renovation to compliment the park across the street. They used self-sustaining plants that were native to Texas and water thrifty. The plan is to use the collected rain water in the garden. He described the system and the location adjacent to the house. He stated that installing a cedar fence would make the project unfeasible and asked that a live screen be allowed. He stated that the device is a white plastic that they would paint to match the color of the house.

Mr. Murphy stated that the Plan Commission and Council would like to provide some consistency in what people can expect to see as they drive down the street. He noted that screening is required for recreational vehicles, trailers and other concerns and asked the applicant if he would be willing to use a living screen. Mr. Precker stated he thought the trellis would provide the screening needed.

Mr. Omar asked about more detail on the design of the trellis. Mr. Chavez stated the intent of the trellis is to wrap around the devise while leaving access at the middle area. Mr. Omar stated he drove by the location and did not think site would be an issue and felt a trellis with a vine would provide adequate screening.

Mr. Mitchell applauded the desire to install the system and asked the applicant about his hesitation to the cedar fence. Mr. Precker stated he did not find the system objectionable and noted that a fence would add a lot of costs to an already expensive project. He felt the requirement of the fence is a real disincentive. Mrs. Precker stated they chose this particular device because they felt it was less physically obtrusive to others. Mrs. Precker stated they chose the proposed system because they felt it would be less noticeable than the round barrels.

Mr. Macy spoke in agreement with the idea and the proposed trellis and commended the applicant. Mr. Townsend also applauded the applicant for the proposal. The height of the device is 7 ft and the device is 2 ½ feet wide. Mrs. Precker stated the house fascia is above the height of the device. Mr. Townsend stated he was in favor of the request with use of a trellis to screen the device. Mayor Slagel explained that he is somewhat concerned about the device and used recreational vehicles as an example to address the need for screening. Mr. Precker noted his neighbor does not have a window facing the area where the device would be installed.

Mr. Mitchell asked about screening requirements of utilities. Mr. Chavez stated that the device would not be visible from the street or the alley. Mr. Morgan clarified that water softeners are required to be screened. Mayor Slagel asked the applicant what type of screening would be used and the Precker's replied that it would probably be a jasmine or other type of evergreen vine. Mr. Murphy suggested a hedge that would grow upward and provide a good screen.

**ACTION TAKEN:** Mr. Murphy moved to close the public hearing; second by Mr. Omar and the motion was approved with a 6-0 vote.

Mr. Murphy moved approval of ZF 10-14 as forwarded by the Plan Commission with the exception that the screening requirement might be a living screen, does not have to be a hardwood cedar fence, but must be screened from the street. Mr. Omar asked if the trellis would be a living screen and Mr. Chavez replied that it would not. A living screen would be a hedge. Mr. Murphy stated he would be amenable to the screen from the rear. Mr. Chavez stated it could be a living screen and/or trellis with vines and that would take care of both concerns. Mr. Mitchell stated his preference to delay action on the request while staff prepares

a recommendation. Mr. Murphy stated he did not want to delay the installation. Mr. Omar asked about the height of a living screen and the height of the proposed trellis. Mr. Chavez stated that the minimum height of a living screen is 2 ft and the trellis would be the height of the existing fence. Mr. Chavez also noted his hesitance with Council authorizing the request before a decision is made on the required screening. Mr. Omar felt the trellis would cover the height of the unit immediately where the shrub could take a few years to reach a similar height and preferred approving the trellis. Mr. Townsend spoke in favor of the trellis and vines for this special permit.

Mr. Murphy clarified his motion to approve a living screen or provide a trellis with vines to provide screening and the vine must be green year round; second by Mr. Macy and the motion was approved with a 6-0 vote.

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**6. PUBLIC HEARING ZONING FILE 10-12: A REQUEST BY CHRIS RAY, REPRESENTING CENTENNIAL PARK RICHARDSON, LTD., TO REVISE THE PD DEVELOPMENT RIGHTS TO ALLOW 300 APARTMENT UNITS OR 300 CONDOMINIUM UNITS RATHER THAN JUST 300 CONDOMINIUM UNITS FOR LOTS 1A, BLOCKS A, B, O AND Q AS WELL AS AN ADDITIONAL 1.9 ACRES LOCATED NORTH OF THE PD BOUNDARY, WHICH IS TO BE ADDED TO THE PD AS PART OF THE REQUEST. THE PROPERTY IS LOCATED AT THE NORTHWEST QUADRANT OF SPRING VALLEY ROAD AND GREENVILLE AVENUE, CURRENTLY ZONED PD PLANNED DEVELOPMENT.**

Mr. Keffler stated the request is to amend an earlier ordinance approved in January 2007. The Plan Commission recommended approval of the request with the condition that the tract of land located on the west side of the creek be allowed to have the option for condominiums or apartments, and the tracts on the east side of the creek remain as condominium units only. Since the original action on September 7, 2010, the applicant intends to proceed with the original request with some changes. He asked Mr. Chavez to brief the Council.

Mr. Chavez stated the request was to amend the Spring Valley Station PD to include an additional 1.9-acre tract of land located at the northern boundary of the site and to amend the development rights to allow apartments and/or condominiums in lieu of condominiums only on the remaining four tracts including the 1.9 acre tract. The site is generally located at the northwest corner of Greenville Avenue and Spring Valley Road. The current PD allows a maximum of 500 apartments, which are currently constructed or under construction; 300 condominium units over the balance of the property and 150 townhomes for a total of 950 residential units. As proposed, the request does not increase the number of allowable residential units and would result in a slight decrease in density as a result of the additional 1.9 acre tract. He explained that on September 7, 2010, the City Plan Commission recommended approval of the applicant's request with a vote of 5-2 with special condition that the tracts of land located on the west side of the drainage channel, Lot 1A, Block Q, Lot 1A, Block O and the new 1.9 acre tract have the option to do either condominiums or apartments, but restrict or maintain the development rights for condominiums only on the other two tracts which are Lots 1A, Block A and Lot 1, Block B and referred to Exhibit C.

Mayor Slagel opened the public hearing and invited the applicant to present the request.

David Gleeson, 7007 Prestonshire Lane, Dallas, L&B Realty Advisors, co-general partners with Winston Capital in this project. He stated the zoning that was granted in 2007, which includes the option or ability to build 300 for-sale units in addition to the 500 for-rent units, was accepted somewhat reluctantly noting that the condominium market is very high risk. He stated that

condominiums are successful in some areas, but are more cyclical in this area. He noted a quote by Mike Puls of Foley & Puls stating that condos won't work for 20 years. He stated that their client made it clear that they have no intention of building condominiums now or in the future. He stated that the costs of building between condominiums and apartments is the legal work, engineering for creating plats, and developing Homeowner Associations. The big cost is in marketing, a higher profit margin because of the higher risk and the financial costs. He also stated that approximately 50% of the units would have to be presold before construction would begin. He stated that parcels 1, 2 and 3 on the east side of the creek are the properties that pertain to request. Parcels 1 and 2 were intended to have the podium design, which means ground level parking with a very expensive parking structure that has to support three stories of residential units on top of it. The current zoning on parcels 1, 2, 3 & 4 and phase 4 are zoned to permit four-story height. He stated they would agree to reduce the building heights on parcels 1 and 2 to three stories to be more consistent with the profile of the townhouses to the east and would want to retain the four-story height on parcel 3 fronting on Spring Valley. He stated that there is approximately 3200 sq ft of retail space in building B and 13,000 sq ft of retail space in building A and even with use of the best marketing teams, they have not had one written offer or proposal to lease any of the space. He also advised that visibility for parcel #3 would be diminished by the retail development proposed by Richard Barge. He provided an elevation for Phase II. He stated that if the request is approved, the client has agreed to reduce the 300 units that are currently allowed to 225 with 75-80 on the west side of the creek and the balance on the east side of the creek. The corner at Greenville and Spring Valley would be retained for future retail use.

Mr. Townsend asked about rental rates for the apartments and Mr. Gleeson stated that under the original budget the average rent was \$1130 month. Unfortunately, in the past three years, the market caused the rents to be reduced to \$960 average. The typical lease is 12 – 13 months, but under special circumstances, a short term lease would be approved. Their goal is to lock in long term leases. He stated that zero lot line properties or patio homes are not totally out of the question, but it is not risk free and it would be costly to redo the utility stubbings.

Mr. Macy noted that the Council had just worked and approved an ethics ordinance and questioned Mr. Gleeson's remark about accepting condominiums that was unlikely to occur. Mr. Gleeson replied that his client did so because of the amount of time it had taken to get to the point they were at in 2007. He stated that unfortunately the market has diminished greatly for condominiums as well as townhomes. Mr. Macy stated that accepting the plan in 2007 with the intent to return with a change reflected poor integrity.

Mr. Mitchell stated Council wants the area to be successful and asked if any dialogue had occurred with the neighborhood of Highland Terrace and other areas adjacent to the area on the current change. Mr. Gleeson stated that he has met with the five townhome owners. Mr. Mitchell stated a concern about the lack of dialogue with the adjacent homeowner associations and underscored the need to have such dialogue.

Mr. Omar stated he was a little troubled with losing retail on first floor for apartments due to blocked visibility and felt it would be confusing to pedestrians. He asked how many apartment units would be added based on not having retail and Mr. Gleeson replied there would be about 12 units. Mr. Omar felt that retail was incredibly important and was troubled with losing it. He asked for the amount of retail square footage that would be lost and Mr. Gleeson replied that he could not answer the question because the building was never designed and the answer would "zero" because it was not feasible to build retail there.

Mr. Murphy stated that apartment density on the west side of the creek was not a problem, but wanted a buffer for the townhouses. He shared the concerns of other Council members with regard to retail and provided suggestions for a preference for townhouses. Mr. Gleeson noted the changes because they were required to have rear entry townhouses rather than front entry and thanked him for the suggestions.

Mayor Slagel asked about the formation of an entertainment area and Mr. Gleeson replied there was some review but have no intention at this time to pursue the assembly of parcels. Mayor Slagel provided historical information of the planning.

Mr. Mitchell stated he is very concerned about the movement away from retail and stated the vision was a pedestrian area with retail on both sides of the roadway. Mr. Gleeson stated the development is not unique with vacant retail space and they would not be asking to change it if the spaces were being taken. More roof tops would give more ammunition to make retail more attractive. He stated that signage and visibility is very important to retailers. Mayor Slagel felt they need to step back and review the concept of the area. He felt the Council needs more time to consider the request. Mr. Gleeson stated that they were \$8M over budget and 1 ½ years behind schedule. Mr. Omar stated he was real hesitant to change Parcel #3 until retail has been given a real chance to succeed. He stated he likes what he has seen, but felt it needs to be cleaned up and developed more before it succeeds. He felt that Building A would be complete in July 2011. Mr. Omar stated he likes what he is seeing and would not mind living there, but not right now until it is cleaned up.

Mr. Murphy stated he likes the idea of delaying a decision to give him a chance to work with Mr. Barge about the visibility concern and other concerns. Mr. Mitchell agreed with a delay on the item to work through the concerns. Mr. Gleeson stated they have talked with Mr. Barge and purchase of the site was not able to be completed. Mr. Townsend felt the request should be denied and started over.

Maryan Schirm, 320 Huffhines, spoke against more apartments and noted the concerns voiced by her father many, many years ago. She encouraged Council to review the original proposal and delay action.

Richard Buford, 264 Queen Victoria Court, stated he was against apartments due to security concerns. He stated he has a built-in fear of any low-rent area. He underscored that his total concern is security.

Barbara Edmondson, 301 Prince Albert Court, asked the Council to not allow the area to lapse into an inferior property. She was against allowing more apartments. She felt covenants should be in place to keep condos from turning into rental property.

Jim McConnell, 418 Grace Drive, stated he can live with apartments on the west side, but doesn't like the idea of apartments. He felt that ownership help the property to maintain its value and encouraged the Council to delay action. He encouraged Council to maintain the integrity of Richardson.

Rick Hart, 267 Queen Victoria Court, President Rose Hill Estates HOA, stated it is their position that ownership is preferable to apartments and noted the long process required to address poorly maintained complexes. He encouraged Council to stand firm to the original plan. He noted that the goal of an investor is not the same as that of a resident.

Barbara O'Dell, 5801 Kensington, provided a history of the areas in Richardson that she has lived and talked about the plan to move to Brick Row. She spoke against apartments and stated she would feel safe with other townhouses next door.

William Bohan, 265 Queen Victoria Court, spoke against the request and provided a history a time in his life where his property went through a period of unrest and stated he did not want such a scenario to occur again.

Andrew Laska, 502 Hyde Park, talked about a pattern of deceit by the developer since the beginning of the project and felt the Council needed to keep this in mind when considering requests. He spoke in favor of delaying a decision. He suggested the TIF agreement should be renegotiated to terms that benefit the citizens in the long term.

Kevin Williams, 748 Matthew Place, stated his only reservation about moving to Brick Row was because there was not a construction plan for parcels 1, 2 and 3, but was going on the assumption of condominiums because that is what he was told and the information that was on the website. He felt the west side of the creek should be apartments and the east side of the creek should be some combination of owner occupied properties. He spoke against apartments.

Yann Jtun Maa, 736 Matthew Place, stated everything she saw when considering her move to Brick Row was that it would be something like Mockingbird Station, and voiced her concern that it may not evolve as planned. She urged the Council to table or to deny the request.

Gary Flatt, 752 S. Greenville, stated his agreement with the Council and felt that if apartments are allowed, within five years, the homeowners will move and rent their homes.

ACTION TAKEN: Mr. Townsend moved to close the public hearing; second by Mr. Mitchell and the motion was approved with a 6-0 vote.

Mayor Slagel stated his agreement with what was discussed and felt the best thing to do was to deny the request without prejudice. Mr. Murphy stated he would like an adjustment from what has been proposed and stated the Council needs to consider the impact of those currently living in Brick Row. Mayor Slagel felt the plan is substantially changing and felt any new plan should be considered by the Plan Commission. Mr. Mitchell voiced his agreement and most importantly, the developer needs to meet with the residents. Mr. Omar stated he still felt the project still has a lot of merit, but needs more time to develop and be viable. He was in support of delay.

ACTION TAKEN: Mr. Townsend moved to deny ZF 10-12 without prejudice; second by Mr. Mitchell and the motion was approved with 6-0 vote.

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ALL ITEMS LISTED UNDER ITEM 8 OF THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION IN THE FORM LISTED BELOW. THERE WILL BE NO SEPARATE DISCUSSIONS OF THESE ITEMS. IF DISCUSSION IS DESIRED, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED SEPARATELY:

**8. CONSENT AGENDA:**

Mayor Slagel noted that Mr. Omar would abstain from voting on Item D2 due to a conflict of interest.

ACTION TAKEN: Mr. Omar moved to approve the Consent Agenda with the exception of Item D2; second by Mr. Murphy and the motion was approved with a 6-0 vote.

ACTION TAKEN: Mr. Mitchell moved approval of Item D2; second by Mr. Townsend and the motion was approved with a 5-0 vote (Mr. Omar abstained).

- A. Approve Ordinance No. 3793, amending the Comprehensive Zoning Ordinance and Zoning Map to grant a change in zoning to grant a Special Permit for a Drive-Thru restaurant with special conditions on a 0.63-acre tract of land zoned LR-M(2) Local Retail, said tract being described as part of Lot 4D, Richardson Square Addition in Dallas County, Texas.
- B. Approve Resolution No. 10-24, approving the terms and conditions of a grade crossing improvements agreement by and between the Kansas City Southern Railway Company and the City of Richardson, Texas; and authorizing its execution by the City Manager.
- C. Authorize the City Manager to execute a new contract, or amend the current contract, for retail purchase of electricity to begin on October 1, 2013 and terminate no later than September 30, 2016 and subject to budget approval.
- D. Award of the following bids:
  - 1. Bid #56-10 – authorization to issue a Purchase Order to Estrada Concrete for the 2010 Citywide street repair in an amount not to exceed \$1,000,000.
  - 2. Bid #01-11 – authorization to issue a Purchase Order to AT&T for cellular telephone service in the amount of \$126,500 through the State of Texas Department of Information Services Contract #DIR-SDD-597 and issue a purchase order to Verizon Wireless for cellular data in the amount of \$65,515 through contract #DIR-SDD-604.
- E. Award of competitive sealed proposal #902-10 – award to Classic Protective Coatings, Inc., for the Lockwood Tank Rehabilitation in the amount of \$494,530.

Mayor Slagel adjourned the meeting at 10:11 p.m.

  
MAYOR

ATTEST:

  
CITY SECRETARY