

## MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL

August 8, 2011

City of Richardson, Texas

A Regular Meeting of the City Council was held at 7:30 p.m., Monday, August 8, 2011 with a quorum of said Council present, to-wit:

Bob Townsend	Mayor
Laura Maczka	Mayor Pro Tem
Mark Solomon	Council member
Scott Dunn	Council member
Kendal Hartley	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
Samantha Woodmancy	Management Analyst
Pamela Schmidt	City Secretary
Sam Chavez	Asst. Director of Development Services - Planning

1. **INVOCATION – STEVE MITCHELL**
2. **PLEDGE OF ALLEGIANCE: U.S. AND TEXAS FLAGS – STEVE MITCHELL**
3. **MINUTES OF THE JULY 25, 2011 MEETING**

ACTION TAKEN: Mr. Omar moved approval of the minutes as written; second by Ms. Maczka and the motion was approved with a unanimous vote.

4. **VISITORS.** *(THE CITY COUNCIL INVITES CITIZENS TO ADDRESS THE COUNCIL ON ANY TOPIC NOT ALREADY SCHEDULED FOR PUBLIC HEARING. PRIOR TO THE MEETING, PLEASE COMPLETE A "CITY COUNCIL APPEARANCE CARD" AND PRESENT IT TO THE CITY SECRETARY. THE TIME LIMIT IS FIVE MINUTES PER SPEAKER.)*

Andrew Laska, 502 Hyde Park, addressed the Council with regard to its Statement of Goals and Near Term Action Items providing a list of items he would like included. He distributed a copy of his remarks to the Council.

Shelley McCall, 530 Highland Blvd., asked that the ordinance pertaining to Brick Row be pulled from the Consent Agenda. She felt it needed more work; that the applicant has not kept the promises made and did not feel that 77 more apartments were needed. In defense of Chris Ray, she stated he misunderstood the neighborhoods wishes. She stated that the neighborhood is not against the development but they do not want 77 more apartments.

Regina Ferree, 205 Betty Drive, Highland Terrace HOA Board, spoke in opposition to the proposed ordinance pertaining to Brick Row. She felt the development has abused the City's time and talents by continuing to ask for changes.

Betty Hart, 267 Queen Victoria Court, Rosehill Estates, speaking on behalf of Rick Hart, President of the Rosehill HOA, spoke in opposition to the development of more apartments and stated their desire for the developer to stick to the plan to create a quality development.

Ms. Schmidt reported there were approximately 10 cards submitted in opposition to the item by individuals who did not wish to speak.

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**5. ADMINISTER OATH OF OFFICE TO BOARDS AND COMMISSIONS MEMBERS.**

City Secretary Pam Schmidt administered the Oath of Office to Barbara McNutt, Arts Commission; Eron Linn, City Plan Commission Alternate; and Shamsul Arefin, Zoning Board of Adjustments/Building & Standards Commission Alternate. Mayor Townsend expressed his appreciation to the new members for their willingness to serve the community.

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**PUBLIC HEARING ITEMS:**

**6. PUBLIC HEARING, ZONING FILE 11-13: A REQUEST BY MICHAEL BUCKINGHAM, REPRESENTING NATIONAL AMERICAN UNIVERSITY, FOR A SPECIAL PERMIT FOR A PRIVATE UNIVERSITY AT 300 N. COIT ROAD (EAST SIDE OF COIT ROAD, APPROXIMATELY 1,500 FEET NORTH OF BELT LINE ROAD). THE PROPERTY IS CURRENTLY ZONED LR-M(2) LOCAL RETAIL.**

Mr. Keffler reported that the request was reviewed by the City Plan Commission on July 19, 2011 and recommended approval with a 6-1 vote. He advised that since the approval by the Plan Commission, the applicant has forwarded a request that the Council remove the five year limit on the permit if approved. He asked Sam Chavez, Asst. Director of Development Services – Planning, to brief the City Council.

Mr. Chavez stated the request for a special permit for a private university on the east side of Coit Road, just north of Belt Line Road. The applicant intends to occupy a 4,500 sq ft lease space on the upper level of a two-story retail shopping center that includes a 14-story office tower. The proposed lease space includes administrative offices, interview rooms and two classrooms that could accommodate approximately 40 students. No correspondence has been received in favor or in opposition to the request from Richardson residents, but did receive letters from residents of the city of Dallas that object to the proposed request. He reported that on July 19, 2011, the City Plan Commission recommended approval of the request with a 6-1 vote with an additional condition that the special permit be limited to five years. He further advised that the applicant would ask the Council to remove the five year time limit.

Mr. Omar asked for clarification with regard to the 5 year restriction. Mr. Chavez stated that Council could ask for a review of the permit, which would cause a review through the normal zoning process. Mayor Townsend noted that a review of the permit could occur at any time. In

response to Mr. Omar about the types of things that would allow for a review of the permit, Mr. Chavez stated zoning code violations could cause the Council to review the permit.

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

Mike Buckingham, President of Real Estate Operations for National American University, 3800 Fairway Hills Drive, Rapid City, South Dakota, introduced the other University staff members in attendance and available for questions. He distributed information about the University and relinquished the floor to Dr. Ron Shape to present the request and stated he would like some rebuttal time.

Dr. Ron Shape, 5201 S. Hwy. 16, Rapid City, SD, provided the history of the University and referred to the presentation handout distributed by Mr. Buckingham. He stated that he has been with the National American University (NAU) for the last 20 years holding various positions included teaching and administrative. He stated that they serve the non-traditional adult learner, typically 28 – 34 years old work adults with approximately 70% of the students being female. Several are single parent homes who attend classes at night taking one or two courses leading up to graduation. He advised that NAU is a 70 year institution has been and continues to be a family owned institution for the last 50 years. He stated that they are a Certificate, Associate, Bachelor and Master Degree granting institution. He stated that most students prefer the online classes but know that they can meet with them at any time. He stated that they do no compromise on the quality of the academic programs offered or regarding regulatory compliance. He noted that the NAU has several accreditations and stated it is a regionally accredited institution by the North Central Association of the Higher Learning Commission and referred to other accreditations for the various programs such as nursing.

Mr. Mitchell asked about the criteria for locations. Dr. Shape stated they look at population in a demographic area of 7-10 miles that students will physically come to the University and looks for a population that is 50-60% with high school diploma and some college that has not completed a degree. He stated they look at accessibility, signage and sufficient parking, which generally leads them to retail type environments. Probably half of the sites are in retail centers.

In response to Mr. Omar, Dr. Shape stated the University's commitment is a 10-year lease with multiple renewal terms. There would be 10 – 12 staff members plus faculty members for teaching on site. Mr. Buckingham stated the budget for the interior finishes is \$425,000 and another \$100,000 for furniture, computers and equipment. Mr. Omar asked about the impact of the investment and the 5-year restriction for the special permit. Dr. Shape stated they would not enter into this type of relationship if he thinks it will jeopardize the students. He noted that the students are non traditional students that would not complete a degree in a standard 2 year or 4 year time frame. He stated the building space meets all of their criteria.

Jonathon Slager, 1427 E. Primrose Drive, Salt Lake, owner of the Promenade Center for about a year. Mr. Mitchell commended Mr. Slager for the updates he was making to the outside of the building. He stated the goal is to have retail in the center and asked what his preference is considering the significant investment made. Mr. Slager stated that when they acquired the Center, there was 30% retail. He noted that the Center can serve both retail as well as the type of use that is being offered by NAU. He stated that an unanchored retail center is really hard to fill despite the volume of traffic on Coit Road. He felt that NAU will attract retail users to the Center because it will bring more people to the area. With the University, they would be at 55% occupied. He underscored that leaving the 5-year restriction is asking the University not to come and asked the Council to remove the restriction. He felt the University is a great use for

the city and would bring good traffic and did not envision it doing any harm. Mr. Mitchell asked for clarification regarding the zoning on the property and Mr. Chavez stated the entire property is zoned Local Retail which allows an office. Currently the ground level is used for retail and the top portion, including the 14-story building, is predominately office use. Mr. Slager listed the various users of the center. Mr. Mitchell stated he did not understand how the University would generate foot traffic that would enhance retail. He felt that non-retail uses in retail areas don't enhance retail; they drive retail away. He felt that the enhancements combined with the traffic counts were a great combination to attract some good retail. Mr. Slager stated that Compass Bank has training on site and felt this was comparable use, and he and his associates feel the use would drive retail traffic. He stated he would not lease to the University if he thought he could get a higher and better use or if he thought it would be bad for the building or the property.

Dorothy Wernsman, 7948 Hillfawn Circle, Dallas, stated she was very concerned about the school coming to the neighborhood directly across the street from her home. She questioned the credibility of the school and addressed the lack of oversight. She questioned how it would improve the neighborhood and businesses and felt that things would not go in a positive direction with such a school in the neighborhood. She strongly encouraged the Council include the 5-year restriction as recommended by the Plan Commission.

Taylor LeMaster, 6361 Lang Circle, Dallas, representing the owner of the property, felt the University was the type of business they would like in the Center and would be a catalyst for redeveloping the shopping center. He stated the second level of the Center is more of a flex office/retail type mix and the first level is true retail. It was his belief that retailers and other good businesses will want to be around the University as well. Mr. Omar asked why they thought that a university would not be a negative for other retail businesses. Mr. LeMaster stated the property is different from standard retail centers and felt this property lends itself perfectly for the university use where it may not work in a retail area with an anchor. Mr. Omar asked about the vetting process and Mr. LeMaster stated they looked at their past locations, experiences and signage, and all of those things were reviewed prior to lease. He stated that he did not necessarily agree with the term "shady nature" of the University and remarked that any business can have negative reviews. With respect to demographics, Mr. Slager stated that anyone who wants to further their education is a good demographic. He stated there haven't been any problems with other NAU locations. In response to Mr. Mitchell, Mr. LeMaster felt the University could be a catalyst for restaurants, dry cleaners and other service type retailers.

Mike Cagle, 4529 Lorraine, Dallas, Marketing, stated he has leased property on Campbell Road and Coit for about 30 years and stated that the product is a two story retail, which doesn't work. He referred to another retail use that they tried to bring to the site that refused because it was not viewed as retail. He felt the University was a use that works well with good retail centers and office buildings. He stated that the 5-year restriction puts the University in a bad position when talking with students.

Mr. Omar asked about the 5-year restriction and Mr. Slager stated if the Council keeps the 5-year restriction on the permit the University would not sign the lease. Mr. Solomon asked to allow the person who has been leasing facilities for the University to make a statement.

Jerry Cobb, 4329 Melissa, Dallas, stated that across the country, municipalities and developers want the University because of the lack of retail or large amount of vacant retail space. He stated that they have found that because the students are high caliber students, it has helped drive additional retail users to the centers. He also noted that it take a long time to recoup the investment, so the hope is that they would be there 10-15 years and become well established.



Ms. Maczka asked about the amount of growth expected and asked how they expect to draw students since there are many secondary education uses in the area. Mr. Cobb stated that online training is one of the biggest growth avenues for any education, but having the ability to have the personal contact is one of things that make them successful. He felt the unemployment rate across the Country is indicative of the amount of need for retraining. He stated it is an industry that is going through change but it is a healthy change.

Mr. Mitchell asked about the hours of operation and Dr. Shape stated it is usually 8 a.m. to 10 p.m. Monday through Friday. Most of the courses are offered 6:00 p.m. – 10:00 p.m. and most of the counseling is during the day. Most of the traffic would be in the evening. Mr. Omar asked about expansion opportunity in the space and Dr. Shape stated their hope is that they would expand and grow, and growth would not have to be contiguous.

In rebuttal, Dr. Shape referred to employment information of the students and clarified that the University is approved by the Texas Workforce Commission and although they are not required to, they publicly share all of the information that's before the Council, plus more. He noted that the latest cohort of students in the State of Missouri that went through the University's nursing program had a 100% pass rate on the NCLEX exam, which is exceptional for any institution, and noted one of the University's students was named Missouri Student Nurse of the Year. He remarked on other achievements in other categories. He stated their commitment to quality goes beyond the standard.

Mr. Omar moved to close the public hearing; second by Mr. Solomon and the motion was approved with a unanimous vote.

Mayor Townsend opened the floor for discussion. Mr. Omar spoke in support of the University because the owner is doing exactly what the City ask property owners to do and because he felt that those wanting to attend school there are on the path to improving themselves. Mr. Mitchell felt that leasing the area to a business that is not retail is not setting the bar high enough and he could not support the use in a retail center. He felt it would not be the catalyst that some believe it will be. Mr. Dunn stated the HOA members have talked to him in support of the use and he stated that it is not the City's duty to regulate the education industry. He state he was leaning in support of the request with a 10 year restriction. Mr. Solomon stated it was his understanding that the Federal Government is regulating the four year institutions better now than before and he was in support of the use because he felt the Center was more of an office development. He felt the investment by the owner would be recaptured and he stated he would be in favor of the 10-year lease requirement. Mr. Mitchell clarified that his comments do not reflect any dissatisfaction with the National American University or their accreditations. He believed that having retail in retail areas is best.

**ACTION TAKEN:** Mr. Solomon moved approval of Zoning File 11-13 with the stipulation that it be a SUP and that it be for 10 years; second by Mr. Dunn. Mr. Mitchell underscored that the motion changed the recommendation of the Plan Commission with a 10 year restriction. The motion was approved 5-2, Ms. Maczka and Mr. Mitchell in opposition.

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**7. PUBLIC HEARING AND CONSIDER ORDINANCE NO. 3832, AUTHORIZING THE CITY OF RICHARDSON TO PARTICIPATE IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE ("ACT"), PROVIDING TAX INCENTIVES; DESIGNATING A LIAISON**

**FOR COMMUNICATION WITH THE INTERESTED PARTIES; AND NOMINATING FOSSIL PARTNERS LP, A TEXAS LIMITED PARTNERSHIP TO THE OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM (“OOGEDT”) THROUGH THE ECONOMIC DEVELOPMENT BANK (“BANK”) AS AN ENTERPRISE PROJECT (“PROJECT”).**

Mr. Keffler stated the item was reviewed during the August 1<sup>st</sup> Work Session noting that there is no incentive relationship with the City of Richardson with the application. He noted this would be the third time the Council participates in the Enterprise Project in this manner. He asked Mr. Johnson to brief the Council.

Mr. Johnson stated Fossil has been active in the community in economic development and is very active right now as they are involved in a campus consolidation into the 535,000 sq ft campus at 901 Central, formerly occupied by Blue Cross Blue Shield. He stated that Fossil will expend an estimated \$40 Million in capital investment and business personal property as they make that new occupancy. Fossil has been in Richardson since 1984 and currently are estimated to have 800 employees and in a very active recruitment process. He stated that Fossil name is well recognized as a global leader in watch and fashion merchandise. He explained that the State Enterprise Zone program is designed to provide State support to qualified businesses that make these kinds of significant investments and recruit and retain key employment. The City of Richardson has been asked to participate in selected aspects of the application process and the City’s participation doesn’t create any new obligation, but has previously provided a local incentive support package. The obligation is between the applicant and the State. It is a competitive grant and receipt of the applications occur on a quarterly basis due September 1, 2011. Fossil’s acceptance will allow them to receive five annual grants totaling an estimated \$1.25 million over the five year period, again based on their capital investment and employment level. It will have not impact on local sales tax or revenue patterns. While the titles are similar, he clarified that this is not the State Enterprise Fund. He concurred with Mr. Keffler’s earlier comments that Richardson has supported two prior applications, Blue Cross Blue Shield and TriQuint, and both received State funding. Proper posting and notice has occurred and he recommended approval of the proposed Ordinance.

Mayor Townsend opened the public hearing. There were no speakers.

Mr. Mitchell moved to close the public hearing; second by Mr. Hartley and the motion was approved with a unanimous vote.

**ACTION TAKEN:** Mr. Mitchell moved to approve Agenda Item No. 7; second by Mr. Hartley and the motion was approved with a unanimous vote.

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**ACTION ITEMS:**

**8. VARIANCE 11-08: A REQUEST FOR APPROVAL OF A VARIANCE FROM THE SUBDIVISION AND DEVELOPMENT CODE; ARTICLE III, SECTION 21-47(G), SCREENING AND OPEN SPACE, TO PERMIT ADDITIONAL GROUND LEVEL EQUIPMENT, STORAGE TANKS AND UTILITIES WITH THE INSTALLATION OF ADDITIONAL LANDSCAPING ALONG ALMA ROAD. THE 92.44-ACRE SITE IS LOCATED AT 300 W. RENNER ROAD, NORTHWEST CORNER OF RENNER ROAD AND ALMA ROAD.**

Mr. Keffler stated that the Plan Commission reviewed the request at its July 19 meeting and recommended approval of the request with conditions. He stated the request pertains to the Texas instruments Wafer Fab with regard to screening.

Mr. Chavez stated the item was a request for approval of a variance from Article III, Section 21-57(g) of the Subdivision and Development Code with regard to required screening of ground mounted equipment. The existing outdoor service and storage areas are currently buffered from the DART rail line as required as part of the approval of the Wafer Fab facility in 2004. In 2007, the Code was amended to require the tallest ground mounted equipment to be screened from view of any streets and adjoining property by means of a masonry wall or living screen or combination thereof. As part of the full operation, TI needs to expand service and storage area to install additional equipment including storage tanks up to 104 ft in height. To date, no public input has been received and the Plan Commission recommended approval of the request on a vote of 6-1 with the following conditions: Utility Area 1 shall be limited to utilities up to 50 ft in height; Utility Area 2 shall be limited to utilities up to 50 ft in height and limited to five utilities between 50 and 110 ft in height; and the requirement for the installation of a combination of shade and ornamental trees along Alma Road. He provided photos superimposed with proposed additional landscaping and drawings illustrating the site line of the proposed equipment.

**ACTION TAKEN:** Mr. Omar moved approval of VAR 11-08; second by Ms. Maczka and the motion was approved with a unanimous vote.

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ALL ITEMS LISTED UNDER ITEM 9 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:

**9. CONSENT AGENDA:**

Mayor Townsend stated he would like Item 9A4 to be pulled for separate discussion. Mr. Omar requested Item 9A3 be removed for separate action as well.

**ACTION TAKEN:** Mr. Mitchell moved approval of the remaining Consent Agenda items; second by Mr. Dunn and the motion was approved with a unanimous vote.

**A. Consider the following Ordinances:**

1. Ordinance No. 3829 amending the Comprehensive Zoning Ordinance and Zoning Map to amend Ordinance No. 3752, Section 2, by removing Special Condition No. 8, regarding the maximum number of pad sites and/or freestanding buildings for a tract of land zoned PD Planned Development for LR-M(2) uses with Special Conditions.
2. Ordinance No. 3830 amending the Comprehensive Zoning Ordinance and Zoning Map to grant a change in zoning to grant a Special Permit for a Motor Vehicle Repair Shop - Major located at 405 South Central Expressway, on a 3.3-Acre tract of land zoned C-M Commercial, said tract being described as Lot 1, Texas Automotive Center in Dallas County, Texas.

3. Ordinance No. 3831 amending the Comprehensive Zoning Ordinance and Zoning Map by amending the Spring Valley Station District, Ordinance 3588, as heretofore amended and restating the Planned Development for Transit-Oriented Development by granting a change in zoning from R-950 M Zoning District for a 1.9-acre tract of land described in Exhibit "A-1" to the Spring Valley Station District; by amending the Spring Valley Station District Development regulations by amending the development rights to allow a maximum of 77 of the 300 condominium units to be constructed as apartments on Lot 1B, Block O as described in Exhibit "A-2" and the tract described in Exhibit "A-1" and as depicted on Exhibit "B"; by allowing surface parking for the 77 units located on the properties described in Exhibit "A-1" and Exhibit "A-2"; and by prohibiting residential construction on Lot 1B, Block Q as described in Exhibit "A-3" and as depicted on Exhibit "B"; providing as a Special Condition that amenities including, but not limited to, a pool and cabana shall be constructed and completed on Lot 1B, Block Q, McKamy Park Addition no later than March 1, 2012, for the benefit of tracts of land zoned PD Planned Development, said tracts being further described in Exhibits "A-1", "A-2", and "A-3" prior to issuance to certain Certificates of Occupancy.
4. Ordinance No. 3833 amending Chapter 23 of the Code of Ordinances, Sections 23-271, 23-272, 23-273, and 23-274 regarding the Emergency Water Management Plan, including designated water restriction stages, and related policies for triggering criteria, mandatory landscape/outdoor watering restrictions within each stage, enforcement and variances, and take appropriate action.

B. Consider Resolution No. 11-22 adopting Amended Financial Policies.

**ITEMS REMOVED FROM CONSENT AGENDA:**

**9A3. Consider approval of Ordinance No. 3831 – Spring Valley Station District.**

Mr. Omar stated he would like to ask the applicant questions before voting on the item and Mayor Townsend concurred with the request. Mr. Omar asked the applicant to describe what changes or improvements have been made since the last Council meeting.

Chris Ray, 744 Brick Row, Richardson, distributed photographs of the property and commented on the various items such as removal of concrete debris, trash and debris, completion of the medians and general clean up of the property. He stated they also re-stabilized the corner of Spring Valley and Greenville Avenue so the northwest corner of the intersection has new sod and continue to stabilize the retail pad sites. He noted that David Weekly Homes also replaced the banners for the townhome sites. He felt that the one item that would cause continued conversation is the creek. He explained that they send people into the creek to clear the area of debris, but everyone has a different vision for the creek, which will cause discussion and concern. He noted the importance to keep the creek clear and stated they are letting the natural vegetation to establish itself recognizing that some of it would be good and some would be bad.

Mr. Mitchell commended Mr. Ray and his team for the effort put forward in the past two weeks, and asked him to address retail. Mr. Ray stated MetroPCS advised that they are dedicated to being in the space by the end of the year. In addition to the Chinese food restaurant, Italian restaurant, MetroPCS and dry cleaners, he also has a frozen yogurt business and is speaking



with a yoga business that has been in Addison for 15 years. He stated they are also talking to a local accounting business. The drivers for retail is low rent space for the right retailer and high tenant improvements. He stated the leases are 3 – 5 years in term.

Ms. Maczka asked about the developments relationship with the nearby residents. Mr. Ray replied that he felt the relationship with the neighborhood is better than in the past and felt it was a very good experience to meet with the Highland Terrace HOA 3 or 4 weeks ago. He explained that he must have miss-took the intention of individuals in the meeting to be an official stance. He stated that a comment was made about supporting 77 units but there was a lengthy exchange about safeguarding the residents, and he apologized for the misunderstanding.

Mr. Dunn asked how the condominiums would be built different from apartments. Mr. Ray replied that he would spend another \$30,000, approximately, to survey the units so they could be sold individually with its own legal description. In order to sale condominiums, it would have to be priced below the townhomes and at this point, the cost per foot of building apartments or condominium would be the same. They would have the same façade, same exterior, same HOA would maintain the outside and the difference would be the paperwork for ownership. He noted that in most cities, multi family is the zoning designation rather than apartment or condominium. With regard to the new tract, Mr. Ray stated they have owned it since 2007 and it was always their intention to bring it into the PD when the area was developed.

Mr. Mitchell stated it was his opinion that the 77 units would not impact the retail and asked for Mr. Ray's opinion. Mr. Ray stated that every unit counts and it also shows that they are not a stale development. He felt it would also affect the townhome owners by letting them know that they are moving toward stabilization. The ultimate goal is to have the development sustain itself and the additional units help the overall perception of the project. Mr. Mitchell voiced concern that the number of condominiums continues to diminish and he is not sure that the sustainability will be reached without building the condominiums to the east. Mr. Ray stated they want to build what they said they would build and if there is a market for it, they will do it. He stated he would not submit anything to staff again without first talking to Council and the neighborhood, even if it is exactly what they have zoning for. He also stressed that every two weeks counts with regard to delay because of the many approvals needed throughout the development process.

Mr. Solomon asked about the Townhome HOA dues and Mr. Ray stated that he does not administer that HOA so didn't know about the dues. Mayor Townsend stated he had heard comments from the townhome owners that the dues for the pool and cabana would be automatically added to the due and Mr. Ray replied that the townhome HOA would have to vote on how they would participate with regard to use of the pool and cabana. The majority of the members would bind the entire HOA. He stated that the development is a majority townhome lot owner that he would be paying HOA dues on to support the pool and it would be a very minimal burden to the existing residents.

Mr. Hartley asked for clarification about the time line. Mr. Ray stated he expects to be in front of the Council for about six months based on the requirements of the PD. The pool would be completed in the first quarter of 2012. He felt the pool amenity would help sell the townhomes and is a big reason why it is being built. He stated that even if the existing townhome owners don't want it, they would still build it.

Mr. Omar stated that the longer it goes before there are some significant wins, the bigger the microscope is on the development. He admitted that although many of the things mentioned

two weeks ago have been resolved, he was still concerned. He felt that everyone wants to see some real effort from him to make the development as successful as possible. Mr. Ray understood that the aesthetics of the development is important now and will continue to be. Mr. Mitchell commended Mr. Ray for the work over the last two weeks, stated his concern with diminishment of the number of condominiums, the increase in the number of rental units, and felt that voting in favor of the request is premature. He stated he would like Mr. Ray to go back to the neighborhoods and townhome owners to develop a plan that would work without the amount of current dissension. He stated would vote against the ordinance. Mr. Omar disagreed with Mr. Mitchell in that he did not think Mr. Ray needed to develop a new plan, felt the request is a new item in the PD and stated his concern that approval of the incentive of the 77 apartments may sway him away from taking care of the little things. He stated that because of the things he saw at the property today, he would vote against the request. Mr. Hartley asked Mayor Townsend about the feelings of the townhome owners and Mayor Townsend stated they were okay with the apartments on the west side of the creek, but would not be in favor of apartments on the east side of the creek. Mr. Mitchell remarked that there is a townhome owner who told him that they are not in favor of the request for the reasons voiced by him and Mr. Omar. Mr. Dunn clarified that two weeks ago he stated “no condos east of the creek” and meant to say “no apartments east of the creek” and stated he was ready to move forward.

**ACTION TAKEN:** Mr. Solomon moved to approve Ordinance No. 3831; second by Mr. Dunn and the motion was approved with a 5-2 vote, Mr. Mitchell and Mr. Omar in opposition.

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#### **9A4. Consider approval of Ordinance No. 3833 amending Chapter 23 of the Code of Ordinances**

Mr. Keffler stated that based on the Staff's assessment of the water conservation program, he recommended the City enhance the existing ordinance to parallel existing initiatives on the part of the other cities in the District and also provide for staff believes will be more convenient and accommodating to the citizens. He read the specific areas that would be changed with the newly proposed ordinance provided to Council during the Work Session.

**ACTION TAKEN:** Mr. Solomon moved to approve Ordinance No. 3833 with changes to Section 23-71 (1), Section 23-272 (2)(a), (2)(c), (2)(d), (3)(a) and Section 23-272 (b) as read by the City Manager; second by Mr. Omar. The motion was approved with a unanimous vote.

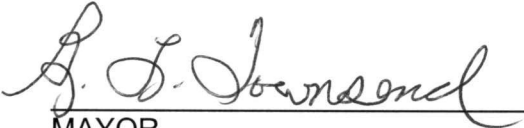
Mayor Townsend recessed the meeting at 10:00 p.m. and announced that Council would convene in Executive Session after a brief recess.

#### **EXECUTIVE SESSION**


- In compliance with Section 551.087 of the Texas Government Code, Council will convene into a closed session at 10:10 p.m. to discuss the following:
  - Deliberation Regarding Economic Development Negotiations
    - Commercial Development – Glenville Dr./Lookout Dr. Area
- Council will reconvene into open session at 10:35 p.m. take action, if any, on matters discussed in executive session.

ACTION TAKEN: No action.

Mayor Townsend adjourned the meeting at 10:36 p.m.

  
MAYOR

ATTEST:

  
CITY SECRETARY

