

**CARROLLTON CITY COUNCIL
WORKSESSION AND REGULAR MEETING
APRIL 16, 2013**

The City Council of the City of Carrollton, Texas convened in a Regular Meeting and Worksession on Tuesday, April 16, 2013 at 5:45 p.m. with the following members present: Mayor Matthew Marchant, Mayor Pro Tem Jeff Andonian, Deputy Mayor Pro Tem Kevin Falconer, Councilmembers Anthony Wilder, Doug Hrbacek, Terry Simons, and Lisa Sutter. Councilmember Bob Garza was absent. Also present were City Manager Leonard Martin, Assistant City Managers Beth Bormann, Bob Scott and Marc Guy, Fire Chief John Murphy, Marketing Director Sheri Chadwick, Director of Development Services Ravi Shah, Senior Planner Michael McCauley, City Attorney Clayton Hutchins, and City Secretary Ashley D. Mitchell.

*****PRE-MEETING / EXECUTIVE SESSION***
5:45 P.M. – COUNCIL BRIEFING ROOM**

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

*****REGULAR MEETING 7:00 PM*****

Mayor Marchant called the meeting to order at 7:11 p.m.

INVOCATION led by Jeff Andonian

PLEDGE OF ALLEGIANCE led by Terry Simons

PUBLIC FORUM

7. Hearing of any citizen/visitor on items not listed on the regular meeting agenda. Citizens wishing to address the Council regarding items on the posted agenda will be called to speak during the Council's consideration of such items. 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 between 2 and 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.

There were no speakers.

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.*)

Mayor Pro Tem Andonian moved approval of Items 8 – 17; second by Deputy Mayor Pro Tem Falconer and the motion was approved with a 6-0 unanimous vote. Councilmember Garza was absent.

MINUTES

***8. Consider Approval Of The April 2, 2013 Regular Meeting Minutes.**

BIDS & PURCHASES

***9. Consider Approval For The Purchase Of Fire Fighter Protective Clothing From Casco Through An Interlocal Agreement With Buyboard In An Amount Not To Exceed \$90,000.00.**

***10. Consider Approval For Tree Trimming Services From Elite Tree Service For Various Departments In An Amount Not To Exceed \$67,500.00.**

***11. Consider Approval Of A Bid For Manhole Rehabilitation With Krapff Reynolds Construction Company In An Amount Not To Exceed \$39,984.00.**

***12. Consider Approval For The Purchase Of Self-Contained Breathing Apparatus, Accessories, And Supplies From Casco Through An Interlocal Agreement With Buyboard In An Amount To Not Exceed \$100,000.00.**

CONTRACTS & AGREEMENTS

***13. Consider Authorizing The City Manager To Approve Change Order No. 1 With RKM Utility Services, Inc. For The Parking Lot Reconstruction At Fire Station #2 And For The Two Worlds Of Keller Springs Street Replacements, Phase 3 Project In An Amount Of \$162,167.00, For A Revised Contract Amount Of \$1,205,562.00.**

RESOLUTIONS

***14. Consider A Resolution Authorizing The City Manager To Enter Into An Interlocal Agreement With North Central Council Of Governments (NCCOG) For Jail Payments From GPS.**

***15. Consider A Resolution Authorizing The City Manager To Enter Into A Rehabilitation Incentive Agreement with Kelly Plaza, LTD.**

***16. Consider A Resolution Authorizing the City Manager to Enter Into A Rehabilitation Incentive Agreement With MyHy Property, LP.**

***17. Consider A Resolution Authorizing The City Manager To Enter Into An Interlocal Agreement With Dallas County Road And Bridge District #4 For Asphalt Overlays Of Perry Road, Cox Street, Kirby Road And School Road In An Amount Not To Exceed \$246,681.80.**

PUBLIC HEARING - INDIVIDUAL CONSIDERATION

18. Hold A Public Hearing And Consider An Ordinance Amending Article VII Of The Comprehensive Zoning Ordinance Regarding Regulations For Renewable Energy Systems In Single-Family Residential Districts. Case No. 01-13ZT1/Article VII (Single-Family Residential District Regulations Amendment).

Mayor Marchant stated that the Council would not take action on Item 18 and that it would be discussed during the Worksession. He stated there were two appearance cards submitted and invited the speakers to the podium.

Jerry Roehrig, 2306 Stonebrook Circle, referred to an email previously sent to Council and added concerns about the Green Code, attachments on wind turbines, and the limited size and location of rain barrels.

Lee Roehrig, 2306 Stonebrook Circle, stated she was opposed primarily to the section regarding solar panels and felt it was discriminatory.

19. Hold A Public Hearing And Consider An Ordinance For Case No. 01-13SUP1 Edwards Mail Service To Establish A Special Use Permit For An Accessory Use On A Lot Separate From The Main Use. The Approximately 3.55-Acre Site Is Located At 900 West Crosby Road And Is Zoned (FWY) Freeway District With The (IH-35E) Interstate Overlay District.

Michael McCauley, Sr. Planner, stated the request is for approval of a Special Use Permit to allow Edwards Mail Service to store trailers for tractor-trailer combinations or 18-wheelers from their nearby business. The Planning & Zoning Commission recommended approval of the request with amended staff stipulations at its March meeting. The proposed ordinance reflects the recommendation. He stated the site is expected to be partially or wholly acquired by TxDOT for future right-of-way widening. Once the acquisition is complete, the applicant will know if the remaining portion is usable. Due to the forthcoming acquisition, the Commission did not recommend requiring the applicant to fully meet the landscaping ordinance, but to meet some of the requirements. He stated the Commission asked the Council to consider the applicant's Alternate Screening Plan that calls for trees every 50 ft on the eastern perimeter rather than 20 ft apart as well as panels between the 50 ft span. The landscaping in the front as it abuts Crosby Road would not change. He noted that the applicant was in attendance.

Councilmember Simons stated he was in favor of a minimal amount of landscaping but was not in favor of the panels. In response to Councilmember Wilder, Mr. McCauley stated the panel was part of the Alternate Landscape Plan.

Deputy Mayor Pro Tem Falconer stated that he preferred the landscaping rather than the panels and asked if the case was approved as presented, would it be the landscaping only and Mr. McCauley replied it would be the one the Commission recommended for approval.

Deputy Mayor Pro Tem Falconer moved approval of Case No. 01-13SUP1 without the panels; second by Mayor Pro Tem Andonian. Discussion was held about the motion and landscape requirements. **Deputy Mayor Pro Tem Falconer amended the motion to require the landscape plan to include trees set at 40 ft intervals and Mayor Pro Tem Andonian seconded with amendment.** Councilmember Hrbacek asked if setting the trees every 20 ft was a comprise from standard requirements and Mr. McCauley advised that the City Arborist advised that it was consistent with the ordinance. **The motion was approved with a 6-0 vote, Councilmember Garza absent.**

Mayor Marchant adjourned the Regular Meeting at 7:38 p.m. and announced that Council would convene in Worksession after a short recess.

*****WORKSESSION*****

Mayor Marchant called the Worksession to order at 7:49 p.m.

5. Briefing On State of Texas Emergency Assistance Registry (STEAR) System.

Prior to beginning the presentation, John Murphy, Fire Chief, explained to Council the various procedures that are followed prior to and during a festival in Carrollton to insure safety. With regard to Item 5, he stated that the STEAR program was launched in March 2013 and it stores information gathered on a voluntary basis from individuals within a city with access, functional, medical and/or other special need requirements. The program's data base can be used to determine the type of assistance that may be required during a disaster. He explained that it is a hybrid of the Transportation Assistance Registry (TAR) that was developed after Hurricane Rita as a result of the Governor's Task Force on Evacuation. The STEAR program requires citizens to renew their registration annually and he again stressed that it is voluntary. He explained that the program is labor intensive and that Elliot Reep, Carrollton Emergency Management Coordinator, will be the City's initial STEAR Data Custodian. He advised that the data is purged each year. Chief Murphy recommended the City participate in the program the first year followed by an evaluation of its effectiveness. He noted that there is no GIS system associated with the State's program at this time, but staff would be stressing the need for the connection. He stated they would be reaching out to various community organizations such as homeowner associations and nursing facilities.

6. Discuss Centennial Celebration.

Sheri Chadwick, Marketing Director, stated that the Centennial Gala is scheduled for May 31 at the Senior Center and advised that 102 tickets have been sold to date. She talked about the sponsors that have agreed to participate, and she noted that staff is still working on finalizing the program for the evening as it pertains to entertainment and dinner. She mentioned that the Vintage Baseball game against Farmers Branch would be at 1:00 p.m. on June 1.

18. Discuss An Ordinance Amending Article VII Of The Comprehensive Zoning Ordinance Regarding Regulations For Renewable Energy Systems In Single-Family Residential Districts. Case No. 01-13ZT1/Article VII (Single-Family Residential District Regulations Amendment).

Michael McCauley, Sr. Planner, stated the ordinance is a result of discussions by the Redevelopment Subcommittee who focused on three of the most recognized renewable energy topics; solar panels, wind turbines and rainwater harvesting systems. The goal of the Subcommittee was to regulate the uses to reduce their impacts on neighbors. He reported that the Planning & Zoning Commission recommended approval at its March meeting with one change, Option B, to allow the homeowner to locate solar panels on alternate locations of the roof by submitting, with the permit application, a study showing that the location is at least 10% more efficient than the most efficient non-alternate location. He advised that the homeowner can obtain the information via the National Renewable Energy Laboratories website or the contractor could provide it. In response to Mayor Marchant, Ravi Shah, Director of Development Services, described the website and software program and stated that the homeowner would be able to print out the results to provide to the City.

Deputy Mayor Pro Tem Falconer felt that the Property Standards Board option (Option A) provides a way for homeowners to explain extenuating circumstances, to show what the panel or panels would look like and was a way to keep one person from adversely affecting their neighbors.

Councilmember Sutter voiced a concern with it going to the Property Standards Board because it would be subject to personal interpretation.

City Attorney Clayton Hutchins advised that if Council prefers Option A, the case would have to be referred back to the Planning & Zoning Commission because the Commission made a specific recommendation, Option B. Mr. McCauley stated both options were provided to the Commission and advised that the case could be placed on the Commission's June agenda.

Mayor Pro Tem Andonian asked if the ordinance requires the plane of the panels to be the same as the plane of the roof and Mr. Shah replied affirmatively. Mayor Pro Tem Andonian stated the main issue before the Council is whether or not to give latitude to residents whose most westwardly or southwestwardly facing plane of the house happens to be the front face of the house. Mr. Shah added that the ordinance also addresses an elevation facing an arterial or collector road.

Councilmember Sutter stated she would like the ordinance to have the B option and allow there to be an evaluation. She stated that she did not like being so restrictive because solar panels are the way of the future.

Councilmember Hrbacek asked for clarification about special exceptions. Deputy Mayor Pro Tem Falconer stated the special exception was included by the Planning & Zoning Commission. He stated that the Subcommittee felt the panel should not be allowed on the front of the house that would face the thoroughfare. He felt that Option B was overly bureaucratic. He stated the exception could be deleted and solar panels could be allowed on that side of the house.

Councilmember Wilder asked if Council preferred Option A, would language be needed and Marc Guy, Asst. City Manager, responded that in addition to adding it to the Single Family District, there would be an amendment to the section that outlines responsibilities and authority of the Property Standards Board and basically use the same criteria in Option B. Mr. Guy stated that each of the technologies has been around for some time and as the technology improves, Council will need to revisit the ordinance to recognize and address the changes. He used the changes in satellite dishes as an example. Mayor Marchant asked about solar panels and rain barrels that currently exist and Mr. Guy replied that those would have non-conforming rights. With regard to multi-family districts, Mr. Shah stated that due to cost, staff has not seen any interest for solar panels.

Councilmember Wilder asked about the 30 gallon limit for rain barrels and Mr. McCauley stated the 30 gallon barrel size is available and it isn't as visible as larger barrels. Mr. Hutchins stated a change in the size of the barrel is a minor change and would not have to be revisited by the Planning & Zoning Commission. Deputy Mayor Pro Tem Falconer stated that there are safety concerns and requiring a permit insures the rain collection systems are installed correctly.

Councilmember Sutter noted that the Home Depot website did not include any 30 gallon rain barrels. Deputy Mayor Pro Tem Falconer reiterated that if a homeowner installs a rain collection system, requiring a permit insures it will be installed properly.

Mayor Marchant asked about the Green Construction Code and Mr. Shah replied that there are several technical issues with the installation of solar panels and wind turbines, and the Green Construction Code is the only source document to insure proper installation of the devices and the same applies to the rain collection systems.

Councilmember Sutter felt that the 30 gallon size limit for the rain barrel system was too low and preferred a 40 or 50 gallon size so residents would not have to get a permit.

Councilmember Hrbacek stated he would like to have a process in place to address extenuating needs.

Mayor Pro Tem Andonian noted that he checked various on-line locations and was able to find barrels of various sizes including 30 gallon and smaller.

Councilmember Simons stated his preference to pull the item from the agenda and send it back to the Planning & Zoning Commission. In response to Mayor Marchant, Mr. Hutchins advised that a motion was not needed; the Council could pull it from the agenda and direct the City Manager to send back to the Planning & Zoning Commission with direction from the Council.

Mayor Marchant clarified that the question before the Council is to decide if Option A was preferred and if the Council wanted to delete the location restriction. Councilmember Wilder stated he would delete both options and allow solar panels as long as it meets the requirements and the Fire Code. Discussion was held about restricting panels that face a street, collector or arterial roadway. Mayor Marchant suggested the wording "for lots backing onto arterial streets, such systems shall not be directly visible from such street." Councilmember Hrbacek felt the ordinance should include a review process by the Property Standards Board for exceptions. Councilmember Wilder suggested a staff directive to have an annual review of the ordinance.

Mr. Hutchins described the difference between a hardship and a variance. Mayor Pro Tem Andonian stated that staff would alert Council if hardships and problems became evident and a general consensus was reached to move forward. Mayor Marchant clarified that the consensus was to ask the Planning & Zoning Commission to reconsider No. 4 to read, “Roof Mounted Panels/Modules: A. For lots backing onto arterial streets, such system shall not be directly visible from said streets. B. Panels shall meet the Fire Code as adopted by the City of Carrollton.” Mr. Guy added that the ordinance would include a statement that refers to the Transportation Plan to clearly define arterial streets.

With regard to rain barrels, Deputy Mayor Pro Tem Falconer stated the intent was to regulate the use of rain harvesting systems that use barrels larger than 30 gallons. He stated the size could be increased but he also felt the ordinance needs to address the use of several unpermitted barrels. Mr. Shah felt it was important to have a threshold. A general consensus was reached to allow a total of 50 gallons of collection capacity without requiring a permit.

*****EXECUTIVE SESSION*****

3. Council convened in **Executive Session** at 8:35 p.m. 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.
 - Settlement Agreement Proposal For *Shomari Staten vs. David Tatom and City of Carrollton*
 - Discuss Camelot Landfill Application
- **Section 551.072** to discuss certain matters regarding real property.
- **Section 551.074** to discuss personnel matters.
- **Section 551.076** to discuss security matters.
- **Section 551.087** to discuss Economic Development.

4. Council **reconvened in open session** at 9:39 p.m. to consider action, if any, on matters discussed in the Executive Session. No action.

City Manager Leonard Martin provided additional information sharing items.

Mayor Marchant adjourned the meeting at 9:45 p.m.

ATTEST:

Ashley D. Mitchell, City Secretary

Matthew Marchant, Mayor