

MINUTES
RICHARDSON CITY COUNCIL
WORK SESSION & COUNCIL MEETING
FEBRUARY 11, 2013

WORK SESSION – 6:00 P.M.:

• **Call to Order**

Mayor Townsend called the meeting to order at 6:00 p.m. with the following Council members present:

Bob Townsend	Mayor
Laura Maczka	Mayor Pro Tem
Mark Solomon	Councilmember
Scott Dunn	Councilmember
Kendal Hartley	Councilmember
Steve Mitchell	Councilmember
Amir Omar	Councilmember

The following staff members were also present:

Dan Johnson	City Manager
David Morgan	Deputy City Manager
Cliff Miller	Assistant City Manager Development Services
Don Magner	Assistant City Manager Community Services
Shanna Sims-Bradish	Assistant City Manager Admin/Leisure Services
Samantha Woodmancy	Management Analyst
Aimee Nemer	City Secretary
Michael Spicer	Director of Development Services
Susan Smith	Assistant Director of Development Services
Israel Roberts	Development Review Manager

A. Review and Discuss Items Listed on the City Council Meeting Agenda

Michael Spicer, Director of Development Services, reviewed Public Hearing cases 13-01, 13-02, and 13-03. Don Magner, Assistant City Manager, reviewed Sign Control Case 3-04.

B. Report on Items of Community Interest

Councilmember Solomon wished everyone a Happy Mardi Gras.

**C. Attend Revitalization Awards Winners Reception in Alcove at 6:30 p.m. – 7:30 p.m.
Adjourn to the City Council Chamber.**

1. **INVOCATION – SCOTT DUNN**
2. **PLEDGE OF ALLEGIANCE: U.S. AND TEXAS FLAGS – SCOTT DUNN**
3. **MINUTES OF THE JANUARY 28, 2013 AND FEBRUARY 4, 2013 MEETINGS**

Council Action

Councilmember Omar moved to approve the Minutes as presented. Councilmember Hartley seconded the motion. A vote was taken and passed, 7-0.

4. PRESENTATION TO THE WINNERS OF RICHARDSON'S 2012 COMMUNITY REVITALIZATION AWARDS.

2012 Community Revitalization awards were presented to the following:

Quick Trip
Jack in the Box
Govindjis Jewelry
The Swanson Residence
The Wallace Residence
The Kirk Residence
The Guinn Residence
The Kazmann Residence

5. VISITORS

Mr. David Farnham and Mr. Douglas Malcolm spoke in opposition to the rental registration program. Mr. Farnham submitted his comments for the record; attached as Exhibit A to the Minutes.

PUBLIC HEARING ITEMS:

- 6. PUBLIC HEARING, ZONING FILE 13-01: A REQUEST BY MICHAEL HAMPTON, REPRESENTING LEND LEASE, FOR A SPECIAL PERMIT FOR A MOTOR VEHICLE SERVICE STATION WITH MODIFIED DEVELOPMENT STANDARDS TO BE LOCATED AT 3601 N. JUPITER ROAD (SOUTHWEST CORNER OF PRESIDENT GEORGE BUSH TURNPIKE AND JUPITER ROAD). THE PROPERTY IS CURRENTLY ZONED LR-M(2) LOCAL RETAIL.**

Public Hearing

The Public Hearing was opened at 8:00 p.m. Michael Hampton, representing the applicant, was present to address questions from Council. Mr. Dan Mister addressed Council regarding the lack of handicap spaces closer to the door. The applicant was amenable to adding handicap spaces closer to the door. With no further comments, Councilmember Mitchell moved to close the Public Hearing, seconded by Councilmember Omar, with a vote of 7-0.

Council Action

Councilmember Solomon moved to approve as presented. The motion was seconded by Councilmember Dunn. A vote was taken and passed, 7-0.

- 7. PUBLIC HEARING, ZONING FILE 13-02: A REQUEST BY BRIAN WILSON, REPRESENTING TOLL BROTHERS, FOR AMENDMENTS TO THE EXISTING SPECIAL CONDITIONS TO ALLOW THE USE OF STUCCO ON THE SOUTH ELEVATIONS OF HOMES FOR THREE (3) LOTS ADJACENT TO THE RESERVE SUBDIVISION FOR THE DEVELOPMENT LOCATED AT THE SOUTHEAST CORNER OF RENNER ROAD AND SHARP LANE. THE PROPERTY IS CURRENTLY ZONED RP-1500-M PATIO HOME.**

Public Hearing

The Public Hearing was opened at 8:11. Ryan Buchard, representing the applicant, addressed Council. Mr. Buchard explained why the amendments were being requested. With no further

comments, the Public Hearing was closed at 8:17 p.m. with a motion made by Councilmember Mitchell, seconded by Councilmember Hartley, and passed unanimously.

Council Action

Councilmember Solomon moved to approve the request, stipulating that the remaining lot has to be masonry and the stucco colors on the two homes should be neutral and earth tone. Mayor Pro Tem Maczka seconded the motion, noting that the overall approved count of 25 homes remains the same. A vote was taken and passed, 7-0.

8. **PUBLIC HEARING, ZONING FILE 13-03: A REQUEST BY MAXWELL J. FISHER, REPRESENTING MASTERPLAN, TO REVOKE ORDINANCE 2635-A, A SPECIAL PERMIT FOR A DRIVE-THROUGH RESTAURANT, AND APPROVAL OF A SPECIAL PERMIT FOR A MOTOR VEHICLE REPAIR SHOP – MAJOR TO BE LOCATED AT 1380 W. BELT LINE ROAD (NORTHEAST CORNER OF BELT LINE ROAD AND COIT ROAD). THE PROPERTY IS CURRENTLY ZONED C-M COMMERCIAL.**

Public Hearing

The Public Hearing was opened at 8:29 p.m. A representative of the applicant addressed questions from Council. Mr. Malone, owner representative, also addressed Council. With no further public comments, the Public Hearing was closed at 8:48 with a motion by Councilmember Mitchell, seconded by Councilmember Solomon, and passed unanimously.

Council Action

Councilmember Mitchell moved to revoke Ordinance No. 2635-A; and to deny the request for a Special Permit. Mayor Pro Tem seconded the motion. A vote was taken and passed, 6-1 with Councilmember Omar voting in opposition.

9. **CONSENT AGENDA:**

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:

- A. **ADOPTION OF ORDINANCE NO. 3897, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND ZONING MAP BY GRANTING A CHANGE IN ZONING FROM I-FP(2) INDUSTRIAL TO PD PLANNED DEVELOPMENT FOR A 11.13-ACRE TRACT OF LAND, BEING A PORTION OF LOT 4, BLOCK 3, OF THE ROCKWELL SUBDIVISION, IN THE CITY OF RICHARDSON, DALLAS COUNTY, TEXAS.**

B. **AUTHORIZE THE ADVERTISEMENT OF THE FOLLOWING BIDS:**

1. **BID #32-13 – HEIGHTS PARK IRRIGATION CONVERSION. BIDS TO BE RECEIVED BY THURSDAY, FEBRUARY 28, 2013 AT 2:00 P.M.**
2. **BID #37-13 – CITY OF RICHARDSON FIRE TRAINING CENTER LIVE FIRE PROPS AND HIGH TEMPERATURE LINING SYSTEMS. BIDS TO BE RECEIVED BY THURSDAY, MARCH 7, 2013 AT 2:00 P.M.**

C. CONSIDER AWARD OF BID #24-13 – WE RECOMMEND THE AWARD TO SUMMIT INTEGRATION SYSTEMS FOR THE UPGRADE OF THE RICHARDSON ROOM AND GRAND HALL AUDIO CONTROL SYSTEMS IN THE AMOUNT OF \$86,630.

D. CONSIDER REJECTION OF BID #23-13 – WE RECOMMEND REJECTING ALL BIDS RECEIVED FOR THE ANNUAL CONTRACT FOR GRAFFITI REMOVAL/WALL WASHING AND PAINTING.

Council Action

Councilmember Solomon moved to approve the Consent Agenda, Items A-D, as presented. Councilmember Hartley seconded the motion. A vote was taken and passed, 7-0.

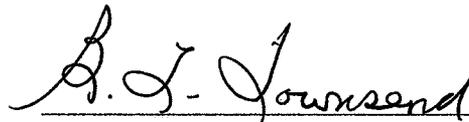
10. RECEIVE THE SIGN CONTROL BOARD MINUTES OF THE FEBRUARY 6, 2013 MEETING.

Council Action

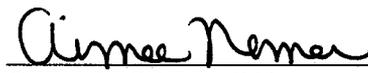
Councilmember Solomon moved to approve the receipt of the Sign Control Board Minutes. Councilmember Dunn seconded the motion. A vote was taken and passed, 5-2 with Mayor Pro Tem Maczka and Councilmember Mitchell voting in opposition.

ADJOURNMENT

With no further business, the meeting was adjourned at 9:20 p.m.


MAYOR

ATTEST:


CITY SECRETARY

My name is David Farnham. I appreciate the opportunity to speak to the council tonight.

You'll remember the tenant Josh from the last time we were here a month ago. He was the nice, professional young man who loves living in Richardson with his wife and daughter and looks forward to purchasing a home here someday. But he's really upset by the idea of city inspectors coming into his home against his objections.

He couldn't be here tonight because he's traveling on business, but he asked me to update you on his situation. Now his landlord is being prosecuted for Josh's refusal to allow the inspections, which again is a violation of the city's own ordinance. And now Josh is being coerced by his landlord to allow the inspections; in fact, the landlord tried to find a way to evict Josh so she could get a new tenant in the house who would let the city have its way.

We intervened to prevent this, but Josh is afraid that his landlord won't renew his lease and might be forced to move, which he really doesn't want to. And again we have the same problem: a landlord being prosecuted because the tenant has exercised his rights under the constitution and under your own ordinance. Does this seem right to you?

And then there's the case of my own tenant on Maryland Drive in Richardson. This is a couple with two children, one at Pearce High School and the other at Greenwood Hills Elementary. I was prosecuted by the city because they refused to allow an inspection, and, in fact, he has told me that he won't be renewing his lease if the city somehow forces the inspection. My fear is they may move anyway just to not have to deal with the inspections.

Your city manager and city attorney have assured you that Richardson's rental registration/inspection ordinance is on firm legal ground. I'd like you to be informed as we move forward on this issue about the areas in which this may not be true.

THE ORDINANCE

The governing ruling on administrative searches by local governments is a US Supreme Court case called Camara.

1. The court refers repeatedly to "urban blight" and "area searches." This allows for targeted inspections of clearly blighted areas, whether owned or rented, not wholesale inspections of rental properties.
2. The court calls for a balancing test between the government's "reasonable legislative interest" in conducting the search and the rights of the occupant. It's clear from the council's discussions prior to approving the ordinance in 2003 that there was no interest in the health and safety of tenants, but rather repeated, specific concern about street parking and occupancy levels.

3. The court envisions the administrative searches as being non-intrusive and having little impact on the occupant. The inspections have a 42-point checklist, including every electrical cover plate and every room in the house, hardly non-intrusive.

HOW THE ORDINANCE IS IMPLEMENTED BY CITY STAFF

- a. Your inspectors try to coerce tenants to consent to the inspections.
- b. They prosecute landlords for the tenants' refusal to consent to searches, in violation of the ordinance.
- c. An administrative warrant for the search was issued by the Richardson municipal judge, though he is appointed by the city council and therefore is not a "neutral or disinterested party," as the Supreme Court required in *Camara*.
- d. The municipal court judge limits the inspection language of the ordinance so that conviction is assured.

In short, you are very likely being informed wrongly that your ordinance will stand a constitutional test and that your inspectors and municipal court officials aren't abusing their power.

One last thing, in your response to our last visit, you said there had been ample opportunity for input on the ordinance and that you constantly assess the effectiveness of your programs.

First, You have all the addresses of registered landlords in the city. If you were interested in our input when you revised the ordinance why didn't you mail us a notice of the hearing?

Second, your own director of community services said only one of 644 inspections in 2012 ended in a non-pass. Doesn't this suggest your program is unnecessary, especially in light of the privacy objections.