

MINUTES
Town of Little Elm
214-975-0404
<http://www.littleelm.org>

WORKSHOP AND REGULAR TOWN COUNCIL MEETING
Tuesday April 17, 2012

Present: Charles Platt Mayor, Curtis Cornelious Mayor Pro-tem, Council members Richard Stevens, Stephanie Shoemaker, Brandon Gerard, and Bill Roebken. **Staff:** Doug Peach, Robert Brown, Kathy Phillips, Alan Dickerson, Diane Lawson, Dee Dee Hale, Jason Laumer, Dusty McAfee, Tony Chrisman, Kevin Mattingly, Waylan Rhodes, and Leslie Smith.

1. Call to Order Council Work Shop **at 6:00 p.m.**

- a. Items to be withdrawn from Consent Agenda. **NONE**
- b. Emergency Items if posted. **NONE**
- c. Request by the Town Council for items to be placed on the next regular council agenda for discussion, and recognition of excused absences. **NONE**
- d. Discussion regarding MDD-vs-Type A Sales Tax. **EDC Executive Director Jennette Killingsworth** informed the council of the following: **Type A Sales Tax:** (1) Area: City limits for purpose of promotion and development of new and expanded business enterprises to provide and encourage employment in the furtherance of public welfare, and create or retain full time jobs. (2) Projects: Authorized projects include land, buildings, equipment, facilities, and improvement associated with: Manufacturing & industrial facilities, Research & development facilities, Military facilities, Recycling facilities, Distribution centers, Small warehouse facilities, Primary job training facilities, Regional or national corporate headquarters facilities, and Infrastructural improvements. **Municipal Development District MDD:** (1) Area: City limits and ETJ for the purpose of financing development projects beneficial to the MDD. (2) Projects: Authorized projects include land, buildings, equipment, facilities, and improvements associated with: All Type A projects listed above as well as, A variety of recreational or community facilities, Affordable housing, Water supply facilities and water conservation programs, Business enterprises that create or retain primary jobs, and Business development in certain small municipalities. Comments per Attorney for EDC Jeff Moore: The first issue is the Type A sales tax would have to continue until all debts are paid. The LEEDC must pay all of its outstanding bonds and obligations before it can dissolve. Section 504.353(a) provides that “when the last of the Type A corporation’s obligations are satisfied, any remaining assets of the corporation shall be transferred to the authorizing municipality and the existence of the corporation is terminated.” Therefore, however long it takes to pay off the outstanding debts, bonds and obligations of the LEEDC will dictate how long it will take to dissolve the LEEDC. Once the LEEDC’s obligations are satisfied, the remaining assets are then transferred to the

Town's general fund. Additionally, any sales tax change would require a sales tax election held in May or November. It would take voter approval to make any sales tax change. The Type A sales tax could continue if the vote failed, and the ballot proposition was a joint ballot proposition to eliminate the Type A sales tax to adopt the MDD sales tax. The MDD sales tax is basically a Type B sales tax. Yet, it can be imposed in the Town limits as well as the ETJ. The Town Council appoints the directors. I think those are the highlights. There are no current rulings by the AG in regards to political subdivisions picking up a non-profit's debt. There are no guidelines that current state Type A debt can be transferred to MDD.

- e. Discussion on Cross Connection Control Program. **Public Works Director Kevin Mattingly** addressed this item: **Background:** Texas Commission on Environmental Quality requires an active cross connection control policy, as part of their ongoing efforts to provide safe, quality drinking water. As part of the 2010-2011 Fiscal Budget two positions were developed: Water Quality Specialist and Water Quality Technician. Following the hiring of these two positions the work began on developing a Cross Connection program and subsequent supporting documents such as; ordinance, customer inspection form, customer service inspection certificate, and Appendix A (Assessment of Hazard and Selection of Assemblies). During completion of the Ordinance and supporting documents, staff found the need to complete an impact survey/study from a cross-section of both commercial customers and the Town of Little Elm School District. Following is the out-come of the impact survey/study conducted. **Impact Survey Outcome:** Based on the Impact Survey conducted the need for a cross-connection Control Program is very apparent from the findings detailed on the Impact Assessment Worksheet. The findings showed there is a need to require updated annual testing costing \$175 for installation of multiple RPZ's, and assembly testing costing \$3,475. From the data collected and the age of commercial establishments the average needs would only require an updated annual testing to an existing cross connection device. **Implementation Timeline:** A realistic approach allowing phasing would be recommended based on severity of the associated risk posed by the site. Another contributing factor to the timeline is staffing levels and the availability of Water Quality personnel. The Little Elm ISD was determined to show to have the greatest financial impact and required devices will be phased in over a three year timeframe. New commercial sites will be issued requirements and placed on database. Kevin supplied Council a copy of the proposed Cross Connection Control Policy and proposed Ordinance No. 1098 adopting a Cross Connection Control Policy. The ordinance will be placed on the May 15th agenda for council consideration.
- f. Discussion on proposed Golf Cart Ordinance. **Police Chief Waylan Rhodes:** The proposed ordinance can reflect the Town's philosophy to maintain a quality of life that is in the best interest of the public health, safety and welfare of the citizens of Little Elm. It will address the operation of golf carts on public streets, establish definitions, establishing regulations for the operations of golf carts on public streets, and establish exceptions and prohibitions. After

discussion by council and changes to ordinance noted, Chief Rhodes stated he will bring back to council or consideration at a future meeting with the suggested changes, i.e. take out headlights, tail lights since only daytime use, and take out slow moving vehicles signage and reflectors needed. Keep mirror and parking brake stipulations. State law requires driver's license. List prohibited streets, etc.

- g. Presentation of monthly updates from department heads: **Finance Director Alan Dickerson** reported to council that staff would be going out for RFP's for auditing services. A budget kick-off meeting with department heads was conducted last week. He would have budget calendar to council soon. Staff is moving forward with the bond sales; and has closed out of RTI/Lobo project grant. Informed council that he, Dianne Lawson and Robin Bromiley had been to a GOAT conference in Austin and that Little Elm was on the radar; several people from other towns inquired about us. Public Works Director Kevin Mattingly reported the Courtesy Drop Site was still closed; staff will be hosting a Specialty Collection on May 12 for e-waste, document shredding and household hazardous waste. Stage 3 water restrictions had been reduced to allow for one (1) day a week, on residents trash day. The Water for Life Expo was a huge success with a full house for all three (3) seminars; all was very well received.
- h. Council to highlight items on the agenda needing further discussion or comments prior to the regular session. **NONE**

- 2. **Presentations and Announcements:** Robert Medigovich/CWD Municipal Coordinator presented council with Community Waste Disposal Annual Review and picnic table that was constructed from 100% recyclable materials. He reported that the town recycled 2,255 tons; saving 38,335 trees, 9,245,500 kilowatt hours of electricity, 856,900 gallons of oil, and 15,785,000 gallons of water. He also reported on the numerous events in the town that CWD and their employee participated in.
- 3. **Roll Call/Call to Order Regular Town Council Immediately Following Council Workshop.**
- 4. **Opening Prayer:** Pastor Curtis Cornelious-Praise Fellowship Worship Center.
- 5. **Pledge to the Flags:**
 - a. United States Flag
 - b. Texas Flag
- 6. **Public Comments:** Stan Hayes informed the council of the newly formed Little Elm Community Chorus. They would be performing on Sunday at 3:00 p.m. in Lewisville at the Medical Center of Lewisville Grand Theater. They will sign prior to the Turtle Creek Choir. He invited all to attend. They will also be performing at the Arts & Sound by the Lake event in May. They will be utilizing the new message boards for events and upcoming auditions.

7. Upon motion by Council member Cornelious and second by Council member Gerard the members **voted 6-0** to approve the Consent Agenda as presented:
 - a. **Minutes** of the April 3, 2012 Workshop and Regular Meeting.
 - b. **Authorize** Purchase of Front Deck Riding Mower from Professional Turf Products in the amount of \$20,995.36.
8. **Reports and requests for Town Council consideration and appropriate action:**
 - a. Upon motion by Council member Cornelious and second by Council member Gerard the members **voted 6-0** to authorize the Town Manager to enter into Service Agreement Quote #Q120327MFM2 with Siemens to provide Service Calls and Acid Washes on as need basis for maintenance of Lo/Pro Air Scrubbers at Waste Water Treatment Plant.
 - b. Upon motion by Council member Gerard and second by Council member Shoemaker the members **voted 6-0** to approve the Construction Project Change Order #5 in the amount of \$187,952.15 for the Town's Lobo Lane Improvement Project to Quality Excavation, Ltd. of Aubrey, Texas and authorize the Town Manager to execute the same.
 - c. Upon motion by Council member Roebken and second by Council member Gerard the members **voted 6-0** to accept and approve Cash and Quarterly Investment Report for quarter ending March 31, 2012.
 - d. Upon motion by Council member Cornelious and second by Council member Roebken the members **voted 6-0** to accept and approve Quarterly Budget Report for quarter ending March 31, 2012.
9. **The Town Council held a Closed (executive) session meeting at 7:33 p.m.** pursuant to Chapter 551, Texas Government Code, Vernon's Texas Code Annotated, in accordance with the authority contained in:

Section 551.087 Deliberation regarding Economic Development negotiations:

- (1) To discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or
 - (2) Deliberate the offer of a financial or other incentive to a business prospect described by subsection (1).
- a. Town Center
 1. Tenant Lease Properties

- 2. Developer
 - 3. Estimated Time Frame
- b. FM 423 at Little Elm Parkway
 - 1. Rosebriar
 - 2. UCD Development
 - c. Healthcare Campus & Facilities

Section 551.071: Consultation with Town Attorney to receive legal advice concerning legal matters and contemplated litigations.

(1) Tri-Dal, LTD v Town of Little Elm.

10. **Reconvene into Open Session at 8:30 p.m.** Discussion and consideration to take any action necessary as the result of the closed (executive) session.

Section 551.087 Deliberation regarding Economic Development negotiations: **NO ACTION TAKEN**

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- (2) Deliberate the offer of a financial or other incentive to a business prospect described by subsection (1).

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(1) Tri-Dal, LTD v Town of Little Elm. **NO ACTION TAKEN**

11. **FYI:** (All matters are provided to the Town Council for informational purposes only)

- a. Town Secretary Monthly Report for March 2012.
- b. Development Services Monthly Report for March 2012.
- c. Thank You to Police & Fire Department.
- d. Thank You to Fire Department.
- e. Public Works Monthly Report.

12. Adjourned Work Shop and Regular Meeting **at 8:30 p.m.**

Respectfully,



Town Secretary

PASSED AND APPROVED this _____ day of _____ 2012.