

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

**WORKSHOP, PUBLIC HEARING AND REGULAR TOWN COUNCIL MEETING**

**Tuesday September 6, 2016**

**Present:** Michael McClellan Mayor Pro-tem, Council members James Dominy, Neil Blais, Chip Norman, Nick Musteen, and Stephanie Shoemaker. **Absent:** David Hillock Mayor. **Staff:** Robert Brown, Matt Mueller, Doug Peach, Joe Florentino, Kathy Phillips, Karla Stovall, Dee Dee Hale, Jason Laumer, Lisa Reich, Jennette Killingsworth, Kevin Mattingly, Chad Hyde, Brian Roach, Jeremy Wilson, and Rodney Harrison.

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  - a. Items to be withdrawn from Consent Agenda.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 a future agenda for discussion, and recognition of excused absences. Knowledge and excuse Mayor Hillock's absence due to medical issue. Mayor Pro-tem McClellan noted that the Council meeting for October 4<sup>th</sup> would be cancelled due to National Night Out.
  - d. Presentation of monthly updates from department heads: **Town Manager Matt Mueller** reminded Council of the Special Meeting next Tuesday September 13<sup>th</sup> to adopt Tax Rate and Fiscal Year Budget.
  - e. Council to highlight items on the agenda needing further discussion or comments prior to the regular session. **None**
2. **Roll Call/Call to Order** Regular Town Council Immediately Following Council Workshop.
3. Pledge to the Flags:
  - a. United States Flag
  - b. Texas Flag
4. Announcements/Presentations:
  - a. Robert Medigovich Municipal Coordinator for Community Waste Disposal (CWD) presented Mayor Pro-tem McClellan with the Keep Texas Beautiful Certificate of Merit Award.
  - b. Mayor Pro-tem Michael McClellan read and presented Proclamation for National Payroll Week to Crystal Williamson.
  - c. Mayor Pro-tem Michael McClellan read Proclamation for Constitution Week.
5. Public Comments: **None**

6. Upon motion by Council member Norman and second by Council member Blais the members ***voted 6-0*** to approve the Consent Agenda as presented:
- a. **Minutes** of the August 16, 2016 Workshop, Public Hearings and Regular Meeting.
  - b. **Minutes** of the August 9, 2016 Budget Workshop.
  - c. **Agreement** for Architectural Consulting Services for the Service Center Expansion to Hidell & Associates Architects in an amount not to exceed \$93,400.00.
  - d. **Final Plat** Paloma Creek 3C from Petitt Barraza, generally located along Yellowthroat Drive and east of Spoonbill Drive, within Little Elm's ETJ.
  - e. **Annual** Update to Valencia Public Improvement District (PID) and Assessment Plan and Assessment Roll.
  - f. **Purchase** of the software license renewals for the period of August 1, 2016 to July 2017 at the unit prices listed.
  - g. **Authorize** the Town Manager to execute any and all contract documents associated with the renewal of employee benefits Blue Cross Blue Shield of Texas, Humana, Superior Vision and Mutual of Omaha.
7. **ANNOUNCEMENT: Council will now recess and convene into meeting of the TIRZ #3 Board. Will reconvene Regular Council Meeting immediately following adjournment of the TIRZ #3 Board.**

**Council recessed at 6:15 p.m.  
Reconvened at 6:19 p.m.**

8. Upon motion by Council member Musteen and second by Council member Shoemaker the members ***voted 6-0*** to adopt Ordinance No. 1346 an Ordinance of the Town of Little Elm, Texas, annexing adjacent and contiguous territory, as described in attached legal description and as depicted in the attached location map, to the Town of Little Elm, Texas; finding that all necessary and required legal conditions have been satisfied; providing that such area shall become a part of the Town and that the owners and inhabitants thereof shall be entitled to the rights and privileges of other citizens and be bound by the acts, ordinances, resolutions, and regulations of the Town of Little Elm now in effect and to be hereafter adopted; approving and adopting a Service Plan for the annexed area; further providing for amending and correcting the official boundaries of the Town as heretofore adopted; providing a savings clause; correcting the official zoning maps; providing a severability clause; providing a repealer clause; and providing an effective date. (Lincoln Park North)
9. Public Hearing regarding town initiated request to zone approximately 2.9 acres of land to Light Commercial (LC) and zone approximately 17.35 acres of land to Multi-family (MF), generally located on the northeast corner of University Drive and Oak Grove Parkway, outside Little Elm's town limits.

- a. Staff Comments: ***Town Planner Lisa Reich*** stated this is a Town-initiated zoning request. The proposed Light Commercial District and Multi-Family requested zoning is proposed to match the current uses of the properties, and the proposed FLUP designations of Retail/Office and High Density Residential, respectively, are complimentary to the proposed zoning. Staff recommends approval of the proposed zonings and FLUP designations. On August 18<sup>th</sup> the Planning and Zoning Commission unanimously recommended approval of the proposed zonings and FLUP designations.
- b. Opened Public Hearing ***at 6:23 p.m.***
- c. Received Public Comments: ***None***
- d. Closed Public Hearing ***at 6:24 p.m.***
- e. Upon motion by Council member Musteen and second by Council member Blais the members ***voted 6-0*** to adopt Ordinance No. 1347 an Ordinance of the Town of Little Elm, Texas, amending the Comprehensive Zoning Ordinance of the Town of Little Elm, Texas, by zoning approximately 2.9 acres of land to Light Commercial District (LC) and designating a Retail/Office Future Land Use Plan Category, and zoning approximately 17.35 acres of land to Multi-Family District (MF) and designating a High Density Residential Future Lane Use Plan Category, generally located on the northeast corner of Oak Grove Parkway and University Drive, and a sliver located south of University Drive and East of Oak Grove Parkway, outside of Little Elm's town limits; providing a saving clause; correcting the official zoning map; providing a penalty; providing a severability clause; providing a repealer clause; and providing an effective date.

10. Public Hearing on the request to rezone approximately 28.3 acres of land to Planned Development – Single Family (PD-SF), and rezone approximately 13.765 acres from Agricultural (AG) to Planned Development-Single Family (PD-SF) to allow for expansion of Hillstone Pointe subdivision, generally located on the northeast corner of University Drive and Oak Grove Parkway, outside and within, respectively, the town limits of Little Elm, Denton County, Texas.

- a. Staff Comments: ***Town Planner Lisa Reich*** informed council that the request to zoning approximately 28.3 acres was received by the Town. That the 13.765 acre tract was annexed by a boundary adjustment agreement between the Town of Lincoln Park and the Town of Little Elm effective May 4, 2015. A public hearing at that time was never conducted on the zoning of this property, so the Agricultural (AG) zoning that is automatically assigned as a place-holder to newly annexed property remains. Staff proposes to amend PD #1261 to include the subject properties in the Hillstone Pointe single family subdivision, and hold them to the existing Planned Development regulations, which are attached. In addition staff proposes to assign the Low Density Residential Future Land Use Plan category to both properties. Staff is recommending approval of the proposed zonings and FLUP designations. On August 18<sup>th</sup> the Planning and Zoning Commission voted unanimously to approve.
- b. Opened Public Hearing ***at 6:27 p.m.***
- c. Received Public Comments: Resident asked if any one lived on property.

- d. Closed Public Hearing **at 6:28 p.m.**
- e. Upon motion by Council member Norman and second by Council member Shoemaker the members **voted 6-0** to adopt Ordinance No. 1348 an Ordinance of the Town of Little Elm, Texas, amending the Comprehensive Zoning Ordinance, herefore amended, by zoning approximately 28.3 acres of land to Planned Development-Single Family (PD-SF4), and rezoning approximately 13.765 acres of land from Agriculture District (AG) to Planned Development-Single Family District (PD-SF4) to allow for the expansion of Hillstone Pointe Subdivision (Ordinance No. 1261), and assigning the Future Lane Use Plan Category Low Density Residential to the total area of approximately 42.065 acres, generally located on the northeast corner of University Drive and Oak Grove Lane; providing a savings clause; correcting the official zoning map; providing a penalty; providing a severability clause; providing a repealer clause; and providing an effective date.

11. Public Hearing regarding request for a Specific Use Permit for self-storage on approximately 1.99 acres of land generally located north of Old Witt Road and approximately 300 feet west of FM 423, currently zoned Light Industrial (LI).

- a. Staff Comments: **Town Planner Lisa Reich** reported to council that Chapter 106 of the Little Elm Code of Ordinances requires self-storage uses to obtain a Specific Use Permit (SUP) to legally operate in Light Industrial (LI) districts. An SUP is required of uses that zoning ordinance may allow, but uses that should be specially approved for situational suitability. The purpose of the SUP requirement is to allow the Town to determine the appropriateness of a proposal. Thus, Council has broad discretionary approval of the requested SUP. The Future Lane Use Plan (FLUP) designates the subject property with a Business Commercial land use category, which is appropriate for the use of self-storage. The requested SUP, if approved, would not be in conflict with the FLUP. The subject property is located on approximately 1.99 acres on Old Witt Road, flanked by auto repair and outdoor auto storage to the west and soon- to-be opening retail strip to the east. A manufacturing company operates to the north and the property to the south is the City of Frisco. This property will have direct access from Old Witt Road and a new fire lane will be split between the subject property and the auto repair to the west. An easement for cross access to the Crossing Church to the northeast will be included in the plat, although it will not be constructed at this time. This easement will be directly south of the communication tower that is screened by a masonry wall and is to remain. The architectural elevations exceed the requirement for Industrial zoning districts, and meet the 80% brick/stone requirement for primary facades, as shown in the attached conceptual renderings. In the attached regulations, the applicant proposes a reduction of required building articulation and auxiliary design standards due to the proportions that would be required on the extra-large structure. The building is proposed to be 4 stories and have a height of approximately 53 feet, which is less than the 60 foot maximum height restriction. Most of the landscaping requirements meet compliance, aside from the small amount of interior canopy trees due to the large building footprint, and the canopy trees requirement along the eastern property line, which is proposed, instead to have groups of slender evergreen shrubs that are

3 feet tall at the time of planting to create screening. Both of these are listed in the regulations. Other items in the regulations include burying the overhead power lines that are not along Old Witt Road, removing wooden fencing and only replacing the fencing that compiles with the Code of Ordinances, a reduction in parking, and allowing for an apartment for the property manager, if necessary.

***Making note*** that a protest form was submitted by an adjacent property owner than owns more than 20% of the land within the 200 foot buffer. This triggers the requirement that this zoning request shall not be approved unless three-fourth of the present council members vote in support of the application. Staff does not offer a recommendation. On August 18<sup>th</sup> the Planning and Zoning Commission made a recommendation to approve the proposed zoning with a vote of 3-2.

- b. Opened Public Hearing ***at 6:49 p.m.***
- c. Received Public Comments: Applicant Jarrod Yates 2200 Kava Plano, Texas was present and gave council power point presentation. That he would like to work with Council and Staff to make the project work. Dave Carrington 2027 Witt Road Frisco, Texas addressed the council on his concerns of the height, traffic and decrease in his property value. Liz Perkins 2584 Rain Dance Drive, Little Elm, Texas spoke against the proposed storage basically due to the height of the buildings. Other concerns by council was color, height, hours of access and was this the ideal location. Statement was made that with the zoning on the property and town ordinances others could come in a build up to the 60 feet in height.
- d. Closed Public Hearing ***at 6:52 p.m.***
- e. Upon motion by Council member Norman and second by Council member Musteen the members ***voted 6-0 to Reopened Public Hearing and Table*** until the September 20<sup>th</sup> meeting Ordinance No. 1349 an Ordinance of the Town of Little Elm, Texas amending the Comprehensive Zoning Ordinance of the Town on Little Elm, Texas, herefore amended, by issuing a Specific Use Permit for Self-Storage Use on approximately 1.99 acres of land currently zoned Light Industrial District (LI), generally located north of Old Witt Road and approximately 300 feet west of FM 423, providing that the Specific Use Permit is established subject to certain conditions as set forth herein; providing a savings clause; correcting the official zoning map; providing a penalty; providing a severability clause; providing a repealer clause; and providing for an effective date.

12. **Public Hearing:** Conduct Public Hearing to receive public comments and take necessary action on the Proposed Budget for the Town of Little Elm FY 2017.

- a. Staff Comments: ***Chief Financial Officer Karla Stovall*** stated that the purpose of the public hearing is to comply with Local Government Code and the Town Charter requirement for budget adoption. The Proposed Budget was discussed at a Council Workshop on August 9<sup>th</sup> and has been placed on file with the Town Secretary in addition to being placed on the Town's web site for public inspection. A Notice of the Budget Hearing as published in the Denton Record Chronicle. The council cannot take any action regarding the budget at this hearing. The sole purpose of the public hearing is to provide the public an opportunity to address council regarding the proposed budget for Fiscal Year 2017.

- b. Opened Public Hearing *at 7:27 p.m.*
  - c. Received Public Comments: Resident asked what changes if any.
  - d. Closed Public Hearing *at 7:28 p.m.*
  - e. Upon motion by Council member Blais and second by Council member the members Dominy *voted 6-0* to postpone the final budget vote until the September 13, 2016 Council Meeting at 6:00 p.m. at Town Hall at 100 W. Eldorado Parkway, Little Elm, Texas 75068.
13. Public Hearing: Conduct 2<sup>nd</sup> public hearing on the Town's proposed Property Tax Rate for the Town of Little Elm for Fiscal Year 2017.
- a. Staff Comments: *Chief Financial Officer Karla Stovall* informed council that this was the 2<sup>nd</sup> public hearing on the proposed Property Tax Rate for the Fiscal Year 2017. In accordance with the "Truth in Taxation" laws of the State of Texas, if an entity's proposed tax rate exceeds the effective rate, the entity is required to vote to place a proposal for adoption of budget and tax rate, publish notices and conduct two public hearings. Town Council conducted the first of the two required hearings on August 16, 2016. The second public hearing is held tonight September 6, 2016. The Town Council cannot take any action regarding the tax rate at these public hearings. The sole purpose of the public hearing is to provide the public an opportunity to address council regarding the proposed tax rate. **Make note:** (d) *Announcement* that must be read at the close of the public hearing.
  - b. Opened 2<sup>nd</sup> Public Hearing *at 7:30 p.m.*
  - c. Received Public Comments: Resident asked if any changes.
  - d. **Announcement:** "The Little Elm Town Council will consider the Ordinance to adopt the Tax Rate for the Town of Little Elm Fiscal Year 2017 at the September 13, 2016 Council Meeting at 6:00 p.m. at the Town Hall located at 100 W. Eldorado Parkway, Little Elm, Texas 75068. Members of the public are encouraged to attend the hearings and express their views to the Mayor and Council".
  - e. Closed 2<sup>nd</sup> Public Hearing *at 7:31 p.m.*
14. Public Hearing: to discuss a proposal by the Town to add amenities to Little Elm Park, which will include activities in the 100-year floodplain. The 100-year floodplain is the land that is predicted to flood during a 100-year storm, which has a 1% change of occurring in any given year. The Town proposes to request grant-funding from the Texas Parks and Wildlife Department to install additional amenities at Little Elm Park, including, but not limited to overnight campsites and restrooms. The minimal anticipated environmental impacts to the 100-year floodplain will be discussed and open for public comments during the meeting. The Town will take action regarding authorizing by resolution the submittal of the application to the Texas Park and Wildlife Department at this meeting. People who may be affected by activities in the floodplain and those who have an interest in the protection of the natural environment will be given the opportunity to express their concerns and providing information about these areas. Staff will be available at the meeting to provide clarification and address any questions.

- a. Staff Comments: **Director of Development Service Jason Laumer** informed council that a public hearing is one of the needed requirements in order to apply for the Texas Parks & Wildlife Department Outdoor Grant. The grant if awarded would be to assist in the development of campsites at Little Elm Park. With additional amenities such as restrooms.
- b. Opened Public Hearing **at 7:34 p.m.**
- c. Received Public Comments: A local resident commended council on the amenities in the parks and improvement being made.
- d. Closed Public Hearing **at 7:35 p.m.**
- e. Upon motion by Council member Norman and second by Council member Dominy the members **voted 5-1** (Council member Blais abstained due to potential conflict of interest) to adopt Resolution No. 09061603 a Resolution by the Town of Little Elm designating the Town Director of Development as responsible for, acting for, and on behalf of the Town of Little Elm in dealing with the Texas Parks and Wildlife Department for the purpose of participating in the Local Park Grant Program, herein after referred to as the "Program"; certifying that the Town of Little Elm is eligible to receive program assistance; certifying that the Town of Little Elm matching share is readily available; and dedicating the proposed site for permanent (or for the term of the lease of the property) Public Park and Recreational Uses.

15. Reports and requests for Town Council consideration and appropriate action:

- a. Upon motion by Council member Shoemaker and second by Council member Musteen the members **voted 6-0** to approve Resolution No. 09061602 a Resolution of the Town Council of the Town of Little Elm, Texas giving consent to the Issuance of Unlimited Tax Road Bonds by Highway 380 Municipal Management District No. 1, a Conservation and Reclamation District located with the corporate boundaries of the Town.
- b. Upon motion by Council member Shoemaker and second by Council member Norman the members **voted 5-1** (Council member Blais abstained due to potential conflict of interest) to approve Resolution No. 09061604 a Resolution by the Town of Little Elm to prohibit drilling or mining or the reopening of any abandon well or mine in the public parkland located within Little Elm Park.
- c. Upon motion by Council member Blais and second by Council member Dominy the members **voted 6-0** to approve the 380 Economic Development Program and Agreement Amendment #2 between the Town of Little Elm and Palladium USA International, Inc. and authorize the Town Mayor to execute agreement for the same.

16. Council convened in Executive Session **at 7:45 p.m.** pursuant to Texas Government Code:

- Section 551.071 for private consultation with the Town Attorney to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.

a. Matters relating to City of Lakewood Village and Boundary Adjustments.

- Section 551.072 to discuss certain matters regarding real property.
- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

17. Reconvened into Open Session *at 8:16 p.m.* Discussion and consideration to take any action necessary as the result of the Executive Session.

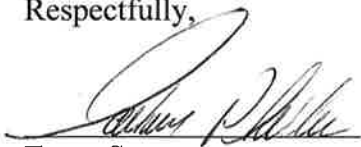
- Section 551.071 for private consultation with the Town Attorney to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.

a. Matters relating to City of Lakewood Village and Boundary Adjustments. ***No Action Taken***

- Section 551.072 to discuss certain matters regarding real property. ***No Action Taken***
- Section 551.076 to discuss security matters. ***No Action Taken***
- Section 551.087 to discuss Economic Development. ***No Action Taken***

18. Adjourned Work Shop and Regular Meeting *at 8:17 p.m.*

Respectfully,



Town Secretary

Passed and Approved this 20<sup>th</sup> day of September 2016.