

**MINUTES OF THE
CITY COUNCIL MEETING
Monday, October 14, 2019
REGULAR MEETING
6:00 p.m.**

PRESENT: Mayor Martin Woodruff, and Council members, Will Carpenter, Dr. Carmelina Holloway, Mike McQuiston, and Melinda Reeves.

ABSENT: Jay Davidson, Jake Hayes

OTHERS PRESENT: City Manager Brett Shannon, Finance Director Mike Erwin, Fire Chief Mike Richardson, Police Captain Delvon Campbell, Planning Director Dedra Ragland, Public Works and Airport Director Greg Hall, City Engineer Earl Smith, Library Director Patricia Peters, Building Official Wayne Smith, Planning Coordinator Cheryl Fuss, Deputy City Secretary Asucena Garcia, City Secretary Diane Cockrell, Consulting Attorney Patricia Adams, City Attorney Mason Woodruff and Brian Knox representing the Wise County Messenger.

CALL TO ORDER

Mayor Woodruff called meeting to order at 6:00 p.m.

MOMENT OF SILENCE

Mayor Woodruff declared a moment of silence.

PLEDGE OF ALLEGIANCE

Council member Carpenter led the pledge.

Planning and Zoning Report:

1. **CONSENT AGENDA** – ALL CONSENT AGENDA ITEMS LISTED ARE CONSIDERED TO BE ROUTINE BY THE CITY COUNCIL AND WILL BE RECOMMENDED IN ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A COUNCIL MEMBER SO REQUESTS, IN WHICH EVENT THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED IN ITS NORMAL SEQUENCE ON THE AGENDA. **(THE PLANNING AND ZONING COMMISSION RECOMMEND APPROVAL 5-0, COMMISSIONER KLOSE RECUSED.)**
 - A. CONSIDER TAKING ACTION REGARDING **REPLAT APPLICATION 2019-12**—MR. WILL KLOSE'S REQUEST, ON BEHALF OF CARY BOHN, TO FINAL PLAT LOT 1, BLOCK 162R, JAMES TARLETON ADDITION, BEING 0.312 ACRES AND A REPLAT OF A PORTION OF BLOCK 162, TARLETON ADDITION, OF THE CITY OF DECATUR, WISE COUNTY, TEXAS AND MORE COMMONLY REFERRED TO AS 402 W. WALNUT ST., DECATUR, TEXAS. A COMPLETE LEGAL DESCRIPTION OF THE PROPERTY IS FOUND ON THE PLAT EXHIBIT LOCATED IN THE STAFF REPORT.
 - B. CONSIDER TAKING ACTION REGARDING **REPLAT APPLICATION 2019-13**—MR. AND MRS. BRYAN BROWN'S REQUEST TO FINAL PLAT LOT 1R, BLOCK 16, SUNSET HILL ADDITION, BEING A REPLAT OF LOTS 4-32, BLOCK 16, IN THE SUNSET HILL ADDITION, CITY OF DECATUR, WISE COUNTY, TEXAS, AND MORE COMMONLY REFERRED TO AS 601 N. US HIGHWAY 81-287, DECATUR, TEXAS. A COMPLETE LEGAL DESCRIPTION OF THE PROPERTY IS FOUND ON THE PLAT EXHIBIT LOCATED IN THE STAFF REPORT.
 - C. CONSIDER TAKING ACTION REGARDING **REPLAT APPLICATION 2019-14**—MR. STEVEN HOMEYER'S REQUEST, ON BEHALF OF DECATUR HOLDINGS, LLC., TO FINAL PLAT LOT 2R, BLOCK 1, EAGLES LANDING BUSINESS PARK ADDITION, BEING A REPLAT OF LOT 2, BLOCK 1, EAGLES LANDING BUSINESS PARK ADDITION, CITY OF DECATUR, WISE COUNTY, TEXAS, AND MORE COMMONLY REFERRED TO AS 3101 ENTERPRISE DR., DECATUR, TEXAS. A COMPLETE LEGAL DESCRIPTION OF THE PROPERTY IS FOUND ON THE PLAT EXHIBIT LOCATED IN THE STAFF REPORT.
 - D. CONSIDER TAKING ACTION REGARDING **REPLAT APPLICATION 2019-15**—MR. VINA PATEL'S REQUEST, ON BEHALF OF VINA 1 LLC., TO FINAL PLAT LOT 1, BLOCK 2R,

FLUSCHE ADDITION, BEING A REPLAT OF BLOCK 2, AND A PART OF STATE STREET (CLOSED BY ORDINANCE NO. 6-1-82), FLUSCHE ADDITION, AN ADDITION TO THE CITY OF DECATUR, WISE COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 3, PAGE 149, SURVEYORS' RECORDS, WISE COUNTY, TEXAS AND MORE COMMONLY REFERRED TO AS 1709 S. US HIGHWAY 81-287, DECATUR, TEXAS. A COMPLETE LEGAL DESCRIPTION OF THE PROPERTY IS FOUND ON THE PLAT EXHIBIT LOCATED IN THE STAFF REPORT.

Council member Holloway moved to approve the consent agenda as presented. Council member Carpenter seconded the motion. The motion passed unanimously.

Open Public Hearing: item 2 and 3 were addressed in the reverse order of the agenda.

2. HEAR STAFF REPORT AND PUBLIC COMMENTS AND CONSIDER FIRST READING OF AN ORDINANCE AMENDING APPENDIX "B," "ZONING," OF THE CODE OF ORDINANCES OF THE CITY OF DECATUR, TEXAS TO AMEND THE LAND USE MAP FROM A MEDIUM DENSITY RESIDENTIAL (MDR) LAND USE DESIGNATION TO A COMMERCIAL (COM) LAND USE DESIGNATION ON APPROXIMATELY 0.44 ACRES OF LAND AND INCLUDING APPROXIMATELY 0.06 ACRES TO THE CENTERLINE OF A 34' WIDE ALLEY; AND APPROXIMATELY 0.09 ACRES TO THE CENTERLINE OF W. COLLINS ST., A 50' WIDE ROW (CLOSED BY ORDINANCE 2016-03-04), AND APPROXIMATELY 0.09 ACRES TO THE CENTERLINE OF S. TRENCHARD ST. WHERE ADJACENT TO THE SUBJECT PROPERTY AND IS MORE COMMONLY REFERRED TO AS 800 S. TRENCHARD, DECATUR, TEXAS. **(COMPREHENSIVE PLAN AMENDMENT APPLICATION CP2019-02—DR. AAMIR ZUBERI'S REQUEST, ON BEHALF OF ZUBERI & ASSOCIATES.) (THE PLANNING AND ZONING COMMISSION RECOMMEND APPROVAL 6-0.)**

First reading was held.

3. HEAR STAFF REPORT AND PUBLIC COMMENTS AND CONSIDER FIRST READING OF AN ORDINANCE AMENDING APPENDIX "B," "ZONING," OF THE CODE OF ORDINANCES OF THE CITY OF DECATUR, TEXAS TO GRANT A ZONING CHANGE AND TO AMEND THE ZONING MAP FROM A SF-2, SINGLE FAMILY RESIDENTIAL ZONING DISTRICT TO A C-2, THOROUGHFARE BUSINESS ZONING DISTRICT FOR AN APPROXIMATE 0.44-ACRE TRACT OF LAND AND INCLUDING APPROXIMATELY 0.06 ACRES TO THE CENTERLINE OF A 34' WIDE ALLEY; AND APPROXIMATELY 0.09 ACRES TO THE CENTERLINE OF W. COLLINS ST., A 50' WIDE ROW (CLOSED BY ORDINANCE 2016-03-04), AND APPROXIMATELY 0.09 ACRES TO THE CENTERLINE OF S. TRENCHARD ST. WHERE ADJACENT TO THE SUBJECT TRACT AND IS MORE COMMONLY REFERRED TO AS 800 S. TRENCHARD, DECATUR, TEXAS. **(ZONING CHANGE APPLICATION ZC2019-04—DR. AAMIR ZUBERI'S REQUEST, ON BEHALF OF ZUBERI & ASSOCIATES,) (THE PLANNING AND ZONING COMMISSION RECOMMEND APPROVAL 6-0.)**

First reading was held.

Close Public Hearing

4. DISCUSS AND TAKE APPROPRIATE ACTION REGARDING COUNCIL RULES OF PROCEDURE FOR PUBLIC INPUT IN PUBLIC MEETINGS IN ACCORDANCE WITH HOUSE BILL 2840, INCLUDING RULES AND PROCESSES FOR RECOGNITION OF SPEAKERS, TIME LIMITS, APPLICABILITY TO CITY BOARDS, COMMISSIONS AND COMMITTEES MEETINGS, AND RELATED MATTERS.

City Attorney Woodruff introduced this item and turned it over to Consulting Attorney Patricia Adams to present, she shared the following power point information that is dictated by House bill 2840:

- The 86th Legislative Session adopted several laws that significantly change and limit municipal regulation.
- Of these bills, HB 2840, relating to the public's right to speak at meetings of a governmental body, was signed by the Governor on June 10, 2019.
- HB 2840 went into effect on September 1, 2019.
- County Affairs House Committee
 - HB 2840 seeks to give the public increased access to the decision-making process by providing for public comment before or during the consideration of each item on the meeting agenda.

- Business & Commerce Senate Committee
 - The practice of governing bodies to provide for public input and comment only at the conclusion of a meeting makes it too difficult for the public to properly weigh in on decisions being made because they are forced to wait through the entire meeting to provide an opinion on any subject matter being addressed at the meeting.

HB 2840: Public Right To Speak on Agenda Items Bill

- Amends the Texas Open Meetings Act to provide that “a governmental body shall allow each member of the public who desires to address the body regarding an item on an agenda for an open meeting of the body to address the body regarding the item at the meeting **before or during the body’s consideration of the item.**” Tex. Gov’t Code § 551.007(b).
 - The bill appears to apply to all agenda items—consent, discussion only, action items, work sessions.
- Before the passage of the bill, the public only had the right to observe, rather than speak at, an open meeting of a governmental body. The public now has the right to speak on each item on the agenda at an open meeting of all governmental bodies, except for state agencies. *Id.* § 551.007(a).

A Governmental Body includes the following:

- a municipal governing body in the state;
- a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

State agencies, including the Legislature, are exempted from the bill. The Texas Government Code definition of governmental body does not include a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members. (Tex. Gov’t Code §551.001(A))

In sum:

- (a) The governmental body must allow the public the right to speak on all items on the agenda either at the beginning of the meeting or during the meeting when the agenda item is being considered.
- (b) A governmental body may adopt reasonable rules concerning the public’s right to speak at an open meeting, including how long the person can speak. *Id.* § 551.007(c).
- (c) A governmental body that adopts rules regarding time limits must allow at least twice the amount of time for a non-English speaker who addresses the body through a translator. If the body has equipment that allows simultaneous translation, then the time may be the same as that provided to an English speaker. §551.007(d) Legislative history indicates that this would include persons who are hearing impaired and using sign language.
- (d) A governmental body may not prohibit public criticism of the body, including criticism of any act, omission, policy, procedure, program, or service. *Id.* § 551.007(e)
 - The City may adopt “reasonable rules regarding the public’s right to address the body... including rules that limit the total number of time that a member of the public may address the body on a given item.
 - Examples of Reasonable Rules:
 - (1) Require a person wishing to speak to complete a form reflecting their name and address and the number of the item they wish to address.
 - (2) If the item the public wants to address is on the agenda, the public may address it during the Public Forum section of the agenda, or when the agenda item is up for deliberation by Council.
 - (3) Agenda items which include public hearings will have all public comment at that Agenda item during the public hearing.
 - (4) In all cases, a member of the public may not interrupt the Council or speak without first being recognized by the Mayor.
 - (5) Council and staff, to the extent possible, reserve questions for the end of the citizen’s presentation, and the time for answering questions is not included in the overall time limitation. Comments are limited to three minutes, not including responses to questions asked of the public by staff or council. For purposes of keeping the minutes, all speakers must provide their Name and complete address before they address the item of concern.
 - Section 42.01: Disorderly Conduct

- (a) A person commits an offense if he intentionally or knowingly:
- uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;
 - makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;
 - abuses or threatens a person in a public place in an obviously offensive manner;

(b) an offense under this section is a Class C misdemeanor.

- Section 42.05: Disrupting Meeting or Procession

(a) a person commits an offense if, with intent to prevent or disrupt a lawful meeting, procession, or gathering, he obstructs or interferes with the meeting, procession, or gathering by physical action or verbal utterance.

(b) an offense under this section is a Class B misdemeanor.

- Council may still impose rules of decorum

The conclusion was that a Resolution drafted by Attorney Adams and City Attorney Woodruff will be brought back to the Council for consideration.

5. DISCUSS AND TAKE APPROPRIATE ACTION REGARDING NOMINATIONS FOR WISE COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS FOR A TWO YEAR TERM BEGINNING JANUARY 1, 2020.

Council took no action to nominate new candidates. There will be a vote considered in December for nominations on the ballot.

6. DISCUSS AND TAKE APPROPRIATE ACTION REGARDING CONTRACT OF SERVICE BETWEEN WISE COUNTY AND THE DECATUR PUBLIC LIBRARY FOR SERVICES AS A COUNTY LIBRARY 2019-2020 AND APPOINT THE MAYOR TO EXECUTE THE AGREEMENT.

Council member Carpenter moved to approve the contract as presented and authorize Mayor Woodruff to execute the agreement. Council member Holloway seconded the motion. The motion passed unanimously.

7. CONSIDER A REQUEST OF THE DECATUR POLICE DEPARTMENT FOR THE CLOSURE OF THE 100 BLOCK OF E MAIN (MAIN STREET BETWEEN TRINITY AND N STATE AND BETWEEN MAIN AND WALNUT) AT THE REQUEST OF THE JUNIOR CLASS SPONSOR FOR THE DECATUR HIGH SCHOOL FOR PROM PHOTOS BETWEEN THE HOURS OF 4 PM AND 7 PM ON SATURDAY, APRIL 18, 2020.

Council member Holloway moved to approve the request as presented. Council member Carpenter seconded the motion. The motion passed unanimously.

8. CONSIDER AND TAKE ACTION ON AN ENCROACHMENT AGREEMENT BETWEEN THE CITY OF DECATUR AND JAMES WOOD (JWM DEALERSHIP PROPERTY, LLC), FOR HAIL CANOPIES LOCATED IN PUBLIC DRAINAGE AND UTILITY EASEMENTS LOCATED AT 2110 SOUTH US HWY 81/287, (HYUNDAI DEALERSHIP) AND AUTHORIZE CITY MANAGER TO EXECUTE THE AGREEMENT.

Council member Carpenter moved to approve the encroachment agreement as presented and authorize the city manager to execute. Council Member Holloway seconded the motion. The motion passed unanimously.

9. CONSIDER AND TAKE ACTION ON AN ENCROACHMENT AGREEMENT BETWEEN THE CITY OF DECATUR AND JAMES WOOD (JWM DEALERSHIP PROPERTY, LLC), FOR HAIL CANOPIES LOCATED IN PUBLIC DRAINAGE AND UTILITY EASEMENTS LOCATED AT 2111 SOUTH US HWY 81/287, (GMC DEALERSHIP) AND AUTHORIZE CITY MANAGER TO EXECUTE THE AGREEMENT.

Council member Reeves moved to approve the encroachment agreement as presented and authorize the city manager to execute. Council member Carpenter seconded the motion. The motion passed unanimously.

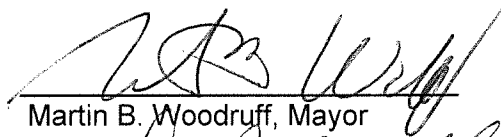
10. CONSENT AGENDA – All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

- A. CONSIDER APPROVAL OF MINUTES OF COUNCIL MEETING HELD SEPTEMBER 23, 2019.
- B. CONSIDER APPROVAL OF BILLS AND INVOICES FOR SEPTEMBER 2019.
- C. CONSIDER ZONING BOARD OF ADJUSTMENT APPOINTMENT OF MASON CLINESMITH AS AN ALTERNATE MEMBER FOR A TERM TO EXPIRE OCTOBER 1, 2021.

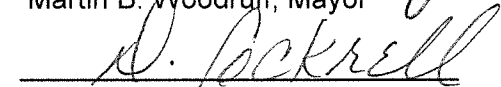
Council member Carpenter moved to approve the consent agenda as presented. Council member Holloway seconded the motion. The motion passed unanimously.

ADJOURNMENT

There being no further business, Mayor Woodruff declared the meeting adjourned at 7:00 p.m.



Martin B. Woodruff, Mayor



Diane Cockrell, TRMC, CMC, City Secretary