

City Council Meeting Minutes

A regular meeting of the City of Dripping Springs City Council was held Tuesday, May 12, 2015, beginning at 7:00 PM at City Hall, 511 Mercer Street, Dripping Springs, Texas.

I. **CALL TO ORDER AND ROLL CALL - 5:30 p.m.**

Mayor & City Council Members/Board of Adjustment

Mayor Todd Purcell
Mayor Pro Tem Bill Foulds
Council Member Santos Alba
Council Member Charles Busbey
Council Member Wade King
Council Member John Kroll

City Staff/Appointed Officials

City Administrator Michelle Fischer
Deputy City Administrator Ginger Faught
Planning Director Jon Thompson
City Secretary Kerri Craig
Planning and Zoning Commission Chair Larry McClung
City Attorney Alan Bojorquez
City Treasurer Gina Gillis
DS Ranch Park Manager Lynne Dickinson

Mayor Todd Purcell called the meeting to order at 5:31pm. All present except Dripping Springs Ranch Park Manager Lynne Dickinson. Also present is Assistant City Attorney Theresa Pham.

II. **WORKSHOP**

No action to be taken. Staff Reports regarding Consent, Site Developments, Subdivisions, Zoning, On Site Sewage Facilities, Signs, Variances, Waivers, Special Exceptions, Annexations, Alternate Standards, Business, and Other Agenda Items listed below.

III. **EXECUTIVE SESSION**

The City Council for the City of Dripping Springs has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

- A. Consultation with City Attorney regarding the status and negotiations for the Roadway and Development Agreement concerning property at Roger Hanks Parkway and U.S. 290. (551.071 Consultation with City Attorney)
- B. Consultation with City Attorney regarding allocation of wastewater capacities and potential alternatives and options to currently planned wastewater discharge permitting plans, including potential additional area needed to meet wastewater service needs (551.071 Consultation with Attorney and 551:072 Purchase, Exchange, Lease or Value of Real Property)
- C. Consultation with City Attorney on the Status of Certain Bills Pending Before

the Texas Legislature and Potential Legal Implications for the City (551.071 Consultation with City Attorney)

Convened to executive session at 6:00pm. Present: Mayor Todd Purcell, Mayor Pro Tem Bill Foulds, Council Member Wade King, Council Member Charles Busbey, Council Member Santos Alba, City Administrator Michelle Fischer, Deputy City Administrator Ginger Faught, City Attorney Alan Bojorquez, Assistant City Attorney Theresa Pham, David Tuckfield and Andy Barrett. Recessed at 6:34pm.

IV. RECESS

V. RECONVENE AT 7:00 p.m.

VI. PLEDGE OF ALLEGIANCE

A. Pledge of Allegiance – Council Member Santos Alba leads the Pledge of Allegiance.

VII. PRESENTATION OF CITIZENS

Floor open to discussion on any subject. No action may be taken by law. Citizens wishing to speak shall do so after being recognized by the Mayor. The Mayor and City Council may establish a time limit as necessary. – No one speaks.

VIII. CONSENT ITEMS

The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of City Council meetings, it is intended that these items will be acted upon by the City Council with a single motion because no public hearing or determination is necessary. However, a City Council Member or citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the City Council voting on the consent agenda as a collective, singular item. Prior to voting on the consent agenda, the City Council may add additional items that are listed elsewhere on the same agenda.

A. Approval of Regular Meeting Minutes, April 21, 2015

B. Approval of Treasurer's Report for April 2015

C. Approval of Letter of Agreement Concerning Donation from Cannon Family, Ltd. to the City of Dripping Springs, Texas: Sixty Foot Right of Way for Extension of Rob Shelton Boulevard and Drainage Easement (*Sponsor: Council Member Kroll*)

D. Approval of Proclamation Declaring May 10, 2015 "Megan Beard Day"

Mayor Pro Tem Bill Foulds motions to approve consent items. Council Member Santos Alba seconds. VOTE: 5-0 in favor, motion passes.

IX. ZONING

Consideration and Possible Action on:

A. Ordinance No. 1220.111: An Ordinance Amending the Zoning Classification of 310 Old Fitzhugh Road (Legal Description: 0.63 acre, Philip A. Smith Survey, ABS 415) from Commercial Services (CS) to General Retail (GR), *Tasha Nikora, Applicant*

1. Presentation - None

2. Planning Director's Report – Planning Director Jon Thompson, report on file. Staff recommends approval of Ordinance 1220.111.

3. Planning & Zoning Commission Report – Planning and Zoning Commission Chair

Larry McClung states that the Commission voted to approve Ordinance 1220.111.

4. Public Hearing – No one speaks
 5. Ordinance No. 1220.111 – Council Member Wade King motions to approve Ordinance 1220.111. Council Member Santos Alba seconds. VOTE: 5-0 in favor, motion passes.
- B. Ordinance No. 1220.112: An Ordinance Amending the Zoning Classification of 251 Old Fitzhugh Road (Legal Description: 0.37 acres, Philip A. Smith Survey, Abs. 415) and 275 Old Fitzhugh Road (Legal Description: 1.165 acres, Philip A. Smith Survey, Abs. 415, 9-2316-02-16 and W.T. Chapman, 2nd Addition, Part of Block 4) from Single-Family Residential District - Low Density (SF-1) to General Retail (GR), *Maureen Casedy Shanklin (251 Old Fitzhugh Road) and Dennis Dement (275 Old Fitzhugh Road), Owners*
1. Presentation - None
 2. Planning Director's Report - Planning Director Jon Thompson, report on file. Staff recommends approval of Ordinance 1220.112.
 3. Planning & Zoning Commission Report - Planning and Zoning Commission Chair Larry McClung states that the Commission voted to approve Ordinance 1220.112.
 4. Public Hearing – No one speaks.
 5. Ordinance No. 1220.112 – Council Member Santos Alba motions to approve Ordinance 1220.112. Council Member Wade King seconds. VOTE: 5-0 in favor, motion passes.
- C. Conditional Use Permit Application for Rolling in Thyme and Dough to Allow the Operation of an Outdoor Kitchen from a Mobile Food Trailer, Located at 333 West Highway 290, *Fabienne Bollom, Applicant*
1. Presentation – Jerome Bollom, Applicant's son, provides an overview of the request.
 2. Planning Director's Report - Planning Director Jon Thompson, report on file. Staff recommends approval of the Conditional Use Permit.
 3. Historic Preservation Commission Report – Planning Director Jon Thompson states that the Historic Preservation Commission voted to approve the Certificate of Appropriateness.
 4. Planning & Zoning Commission Report - Planning and Zoning Commission Chair Larry McClung states that the Commission voted to approve the Conditional Use Permit.
 5. Public Hearing – No one speaks.
 6. Conditional Use Permit – Council Member John Kroll motions to approve the Conditional Use Permit to Allow the Operation of an Outdoor Kitchen from a Mobile Food Trailer. Council Member Santos Alba seconds. Council discusses with the applicant the wastewater connection and tank, why they need the trailer and its location, and the regulations regarding Conditional Use Permits. VOTE: 5-0 in favor, motion passes.

X. SITE DEVELOPMENTS

Consideration and Possible Action On:

- A. Dripping Springs Independent School District Stadium Improvements, 940 Hwy 290 W, *Sean Friend, PE, Cunningham Allen, Applicant*
1. Presentation – None.
 2. Planning Director's Report - Planning Director Jon Thompson, report on file. Planning & Engineering staff's recommendation is for this Site Development to be approved with the following conditions: The lighting plans are not considered approved with this site plan, but will be approved administratively.
 3. Planning & Zoning Commission Report - Planning and Zoning Commission Chair Larry McClung states that the Commission voted to approve the Site Development Plan according to staff's recommendation.
 4. Public Hearing – No one speaks.
 5. Site Development Plan – Council discusses the impact these improvements will have on the surrounding area in terms of lighting, traffic, parking, and noise. Mayor Pro Tem Bill Foulds motions to approve the Site Development Plan according to staff's recommendation. Council Member Santos Alba seconds. VOTE: 4-0-1 in favor, Council Member John Kroll abstains, motion passes.

XI. ANNEXATION

- A. Ordinance No. 1803.77: An Ordinance of the City of Dripping Springs Annexing the Following Property Into the Corporate City Limits: 5.27 Acres (Within the Caliterra Subdivision) out of the P.A. Smith Survey No. 26 Abstract No. 415, Being a Portion of the 591 .858 Acre Tract Conveyed to Development Solutions CAT, LLC, of Record in the Official Public Records of Hays County, Texas.
1. Public Hearing – No one speaks.
 2. Ordinance No. 1803.77 - Council Member Santos Alba motions to approve Ordinance 1803.77. Mayor Pro Tem Bill Foulds seconds. VOTE: 4-0-1 in favor, Council Member Charles Busbey abstains, motion passes.

XII. BOARD OF ADJUSTMENT

Consideration and Possible Action on:

- A. Sign Variance Requests for Sonic Drive In #65, located at 400 East Highway 290, *John F. Patton, Director of Development, Austin Sonics, Inc., Applicant*
1. Presentation – None.
 2. Sign Administrator's Report – City Administrator Michelle Fischer, report on file. Staff recommends approval of the Variance Request to Allow Electrical Menu Boards with the following conditions: 1) The applicant removes all signs stated to be removed in the Variance Application; 2) The applicant brings all exterior lighting into compliance as stated in the Variance Application; 3) The applicant complies with the Lighting Ordinance Lighting Curfews and the property does not exceed 100,000 lumens per net acre; 4) The applicant dims the order confirmation monitors when the business is closed, if possible; and 5) The applicant removes the signage on the back sides of the menu boards that are visible from the highway, with the exception that a small Sonic logo be allowed as approved by the Sign Administrator. Staff recommends approval of the Variance Request to Allow a

Monument Sign to be Located within the Setback from Right-of-Way with the following conditions: 1) The applicant removes all signs stated to be removed in the Variance Application; 2) The applicant brings all exterior lighting into compliance as stated in the Variance Application; 3) The applicant complies with the Lighting Ordinance Lighting Curfews and the property does not exceed 100,000 lumens per net acre; and 4) Should the sign need to be removed, altered or relocated in the future due to road, drainage, sidewalk, or utility maintenance, installation, or expansion, it will be done so at the applicant's expense.

Administrative Fine: Staff recommends that Sonic obtain a sign permit for each menu board and pay an application fee of \$100 per sign in accordance with Section 2.9 of the Fee Schedule. Staff also recommends that Sonic pay an administrative fine of \$150 for violating the Lighting Ordinance. The total for the recommended menu board sign permit fees and administrative fine is \$2,950.00.

3. Planning & Zoning Commission Report - Planning and Zoning Commission Chair Larry McClung states that the Commission voted to approve staff's recommendations for both of the variance requests and the administrative fines.
4. Public Hearing – John Patton with Austin Sonic Drive-In's states that they didn't think they were violating any ordinances, but have done everything they can to get into compliance. It would cost us \$15,000 to \$25,000 to replace these signs. We have permanently removed the lighting from the back side of the menu boards and they are blank, so we do not believe they should be considered signs. These additional fines are hard on us and we believe they are too high.
5. Variance Request to Allow Electrical Menu Boards
6. Variance Request to Allow a Monument Sign to be Located within the Setback from Right-of-Way
7. Administrative Fine

Council discusses the history of this item, the various paths the City could take to address the issue, and the amount of time the City has spent on this issue. Mayor Pro Tem Bill Foulds motions to approve the Variance Request to Allow Electrical Menu Boards according to staff's recommendations with the condition that the administrative fine be paid. Council Member Santos Alba seconds. Council discusses the fairness of the fine, the Lighting Ordinance, the amount of time staff has spent on this issue, and the responsibility of companies moving to Dripping Springs to ensure they are in compliance with our City ordinances. VOTE: 5-0 in favor, motion passes. Council Member Kroll motions to reconsider the vote. Council Member Charles Busbey seconds. Mayor Pro Tem Bill Foulds motions to approve the Variance Request to Allow Electrical Menu Boards according to staff's recommendations with the condition that the administrative fine be paid. Council Member Santos Alba seconds. VOTE: 5-0 in favor, motion passes. Mayor Pro Tem Bill Foulds motions to approve the Variance Request to Allow a Monument Sign to be Located within the Setback from Right-of-Way according to staff's recommendation. Council Member Santos Alba seconds. Council discusses lighting compliance and the lighting ordinance. VOTE: 4-1 in favor, Council Member Charles Busbey votes Nay, motion passes. Council Member Charles Busbey motions to approve the Administrative Fee issued at \$150 instead of \$2,950. Motions dies due to lack of a second. Council Member John Kroll motions to issue an Administrative Fine of \$2,000. Mayor Pro Tem Bill Foulds seconds. Council discusses the total costs to the City in relation to this issue. VOTE: 4-1 in

favor, Council Member Charles Busbey votes Nay, motion passes.

XIII. BUSINESS

Consideration and Possible Action On:

- A. Resolution No. 2015-28: A Resolution of the City of Dripping Springs Consenting to the Creation of the Legacy Municipal Utility District (Rutherford Ranch)
 - 1. Draft Legislation – Deputy City Administrator Ginger Faught provides an overview of the Resolution and recommends approval.
 - 2. Resolution 2015-28 – Mayor Pro Tem Bill Foulds motions to approve Resolution 2015-28. Council Member Santos Alba seconds. Council discusses the future development of this area. VOTE: 5-0 in favor, motion passes.

- B. Ordinance No. 1251.28: An Ordinance of the City of Dripping Springs Amending the Sign Ordinance
 - 1. Staff Report – City Administrator Michelle Fischer, report on file. Staff recommends approval.
 - 2. Public Hearing – No one speaks.
 - 3. Ordinance No. 1251.28 - Council Member Santos Alba motions to approve Ordinance 1251.28 according to staff's recommendation. Motion dies due to a lack of a second. Mayor Todd Purcell asks Council to communicate direction to staff on this item so a revised ordinance can be brought back before the Council. No action taken.

- C. Revised Job Description for City Maintenance Director
 - 1. Job Description Council Member Charles Busbey motions to approve the Revised Job Description for City Maintenance Director. Council Member Wade King seconds. VOTE: 5-0 in favor, motion passes.

- D. Contractor Agreement with Canyon Creek Landscaping, Inc. for Installation of Landscaping on Mercer Street
 - 1. Staff Report – City Administrator Michelle Fischer, report on file. Staff recommends approval.
 - 2. Agreement – Council Member Santos Alba motions to approve the Contractor Agreement with Canyon Creek Landscaping for Installation of Landscaping on Mercer Street. Mayor Pro Tem Bill Foulds seconds. VOTE: 5-0 in favor, motion passes.

- E. Ordinance No. 1100.65: An Ordinance of the City of Dripping Springs Amending the FY 2015 Budget
 - 1. Staff Report – City Administrator Michelle Fischer, report on file. Staff recommends approval.
 - 2. Ordinance 1100.65 - Council Member Charles Busbey motions to approve Ordinance 1100.65. Council Member Santos Alba seconds. VOTE: 5-0 in favor, motion passes.

XIV. REPORTS OF AGENCIES, COMMISSIONS AND STAFF

- A. Farmers Market Manager's Monthly Report
- B. Maintenance Director's Monthly Report
- C. Dripping Springs Ranch Park Monthly Report
- D. Economic Development Committee's Monthly Report

XV. ANNOUNCEMENTS

- A. Regular City Council Meeting, May 19, 2015 at 6:00 p.m.
- B. Regular Planning & Zoning Commission Meeting, May 26, 2015 at 7:00 p.m.
- C. Regular Historic Preservation Commission Meeting, June 1, 2015 at 5:30 p.m.
- D. Regular Parks & Recreation Commission Meeting, June 8, 2015, at 6:00 p.m.
- E. Regular Farmers Market Association Board Meeting, June 9, 2015 at 10:00 a.m.

- XVI. ADJOURN** – Council Member Santos Alba motions to adjourn the meeting. Council Member Wade King seconds. VOTE: 5-0 in favor, motion passes. Meeting adjourns at 8:20pm.