

MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, HELD ON MAY 23, 2011 AT 7:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW, JERSEY VILLAGE, TEXAS.

A. CALL TO ORDER AND ANNOUNCE A QUORUM IS PRESENT

The meeting was called to order by Mayor Russell Hamley at 7:03 p.m. with the following present:

Mayor, Russell Hamley	City Manager, Mike Castro
Council Member, Joyce Berube	City Secretary, Lorri Coody
Council Member, Curtis Haverty	City Attorney, Bill Olson attending for Bobby Gervais
Council Member, Mark Maloy	
Council Member, Jill Klein	

Council Member, Rod Erskine was not present at this meeting.

Staff in attendance: Mark Bitz, Fire Chief; Eric Foerster, Chief of Police; Danny Segundo, Director of Public Works; Isabel Kato, Director of Finance; and Michael Brown, Director of Parks and Recreation.

The following City of Jersey Village Planning and Zoning Commission members were present:

Tom Eustace, Acting Chairman	Barbara Freeman, Commissioner
Harry Beckwith III, Commissioner	Justin Ray, Commissioner
Michael O'Neal, Commissioner	

Chairman, Debra Mergel and Commissioner Rick Faircloth were not present at this meeting. Commissioner Justin Ray was not present when the meeting was called to order, but joined the meeting in progress at 7:12 p.m.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

- 1. Prayer by: Chris Hunter, Boy Scout Troop 1944**
- 2. Pledge by: Austin Stephenson, Boy Scout Troop 1944**

Mayor Hamley called the remaining items on the agenda out of order as follows:

D. JOINT PUBLIC HEARING

- 1. Conduct Joint Public Hearing with Planning and Zoning Commission on amendments to the City's comprehensive zoning ordinance concerning the creation of a new District D – Jersey Village Crossing district, which primarily represents the property located south of the U.S. Highway 290 right-of-way and within the corporate city limits of the City of Jersey Village; and establishing the Form Based Code Requirements for this district.**

Mayor Hamley called the item and Acting Chairman Eustace announced a quorum for the Planning and Zoning Commission. Mayor Hamley opened the Joint Public Hearing at 7:05 p.m.

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Background information on the item is as follows:

On July 19, 2010, City Council authorized Kimley Horn and Associates (KHA) to undertake Phase 3 of a feasibility study associated with Transit Oriented Development (TOD). Council was presented with the results of Phase 1 at a work session conducted on October 12, 2009. Phase 2 of the study was approved by Council in October 2009 and results were presented in July 2010.

Phase 3 was necessary to complete the study and basically involved the following steps:

- a. Developing Form Based Codes;
- b. Refining the capital cost estimates for the infrastructure program;
- c. Providing planning support in reviewing Proposed TOD Plats and Developments; and
- d. Developing a fiscal framework for a municipal bond election.

On February 15, 2011, City Council and the Planning and Zoning Commission held a joint work session meeting for the purpose of discussing form based codes and to gain background information regarding implementation of these codes in the development of Jersey Village Crossing.

In addition to the work session meeting, the Planning and Zoning Commission met separately to discuss the implementation of form based code in the development of Jersey Village Crossing on February 15, March 3, and March 14, 2011. The Commission submitted its preliminary report to Council on March 21, 2011, and a Joint Public Hearing was ordered for May 23, 2011.

Mayor Hamley called those individuals signing up to speak on the matters as follows:

Rick Henry, 7409 Wright Road, Houston, TX 77041 (832) 331-7440 – Mr. Henry told Council that he has lived in the area for many years. He came to the meeting to voice his concern about the new regulations being proposed for a new District D. He lives just outside the City limits and is concerned about how the new requirements will affect his property should he be annexed.

Darin Gosda, Jr., 10940 W. Sam Houston Parkway North #300, Houston, TX 77064 (832) 678-4016 – Mr. Gosda addressed Council concerning the proposed code changes. He had several meeting handouts to which he referred. He first directed Council's attention to the aerial maps of the area south of US 290 where the code changes are proposed to take place. He explained that these maps depict that currently there is no retail development in this area. He then presented council with emails from outside professionals providing comments concerning the proposed form based code changes and emails from developers stating they are more interested in industrial development for this area. He finished his presentation in presenting Council with a copy of a contract that is currently being considered for this area pertaining to industrial usage of the property. He explained that should Council grant/approve the ordinance, the contract negotiations will be cancelled.

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Bill Sudela, 11625 Charles, Houston, TX (832) 418-1019 – Mr. Sudela told Council that he agrees with everything that Mr. Gosda has told them and would add that in his review of the proposed ordinance he has found no provisions for compensating the current land owners for their property to accommodate the land use change. He explained that they plan to challenge the legality of the ordinance, if passed, upon the basis that there are no provisions for amortization of the land use change or compensation.

Robert Scherer, 7438 Wright Road, Houston, TX (713) 466-6450 – Mr. Scherer told Council that he is with SCS Construction and has a background in construction with 30 years of experience. He owns 15 acres of property in the area and does not believe that the area will develop in the manner that Council has planned because it will be too expensive.

A.J. Widacki, 8541 Ivy Falls Court, Jersey Village, TX (281) 807-4488- Mr. Widacki told Council that he is surprised at the comments he has heard this evening wherein meeting attendees have stated that they were unaware of this project. He told Council that it is well known that the City has been studying this proposal for some two years. He went on to say that when he was a member of the Council from 2002 through 2006; even then, discussions were had in connection with the Jones Road Extension to plan for the development of the City south of US 290. He reminded Council that there have been JV Star articles, public hearings, notices, and much more. So he is surprised at statements claiming lack of knowledge. He is in favor of the development and supports passage of the Ordinance.

Barbi Freeman, 15501 Jersey Drive, Jersey Village, TX (713) 466-6903 – Mrs. Freeman thanked Council for all the hard work that went into this project. She told Council that passage of the creation of a new District D with form base codes will promote development and business; not discourage it. She supports passage of the Ordinance.

John R. Banks, Jr., 7500 San Felipe # 700, Houston, TX 77063 (713) 785-5595 – Mr. Banks told Council that he represents Jones Road Properties and his client, along with Robert Ferguson, dedicated ROW to the City for the Jones Road Extension back in 2007. He told Council that this dedication was made upon the reliance that the area would remain zoned industrial and/or commercial. He told Council that developers will not develop the area should form base codes pass and as a result, the lack of development will cause the value of the property to drop. He also stated that without the City willing to compensate land owner, this would be considered a “wrongful taking” of their property. He does not support passage of the Ordinance.

Meg Belmantes, 406 Heidrich Street, Houston, TX (713) 254-7808 – Ms. Belmantes told Council that she did not support passage of the Ordinance as written. She represents the masonry community and had several recommendations for changes to the masonry provisions of the ordinance.

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With no one else signing up to speak, Mayor Hamley and Acting Chairman Eustace closed the joint public hearing at 7:30 p.m., and the Planning and Zoning Commission retired from the City Council meeting to conduct its posted meeting agenda at 7:30 p.m.

E. CITIZENS COMMENTS

Citizens who have signed a card and wish to speak to the City Council will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the presentation is on the agenda, the City staff and City Council Members are prevented from discussing the subject and may respond only with statements of factual information or existing policy. Citizens are limited to five (5) minutes for their presentation to the City Council.

No one having signed up to make citizen comments, Mayor Hamley called for the City Manager's Report as follows:

F. CITY MANAGER'S REPORT

City Manager, Mike Castro, gave his monthly report. In addition to the items listed below, he called Council's attention to item 13, Introduction of Police Officers – Bobby Allen Ferguson and Kenneth C. Smith. Chief of Police, Eric Foerster introduced the new officers.

- 1. Monthly Fund Balance Report, Red Light Camera Fund Report, Enterprise Funds Report, Governmental Funds Report, and Budget Projections as of April 2011**
- 2. Open Records Request and Solicitor's Permit Requests**
- 3. Fire Departmental Report and Communication Division's Monthly Report**
- 4. Police Activity Report, Warrant Report, Investigations/Calls for Service Report, Red Light Camera Summary Report, Crime Prevention Unit Monthly Report, and Staffing/Recruitment Report**
- 5. Municipal Court Collection Report, Municipal Court Activity Report, Municipal Court Courtroom Activity Report, Report Graphs, Speeding and Stop Sign Citations within Residential Areas Report, and Court Proceeds Comparison Report**
- 6. Public Works Departmental Report, Jones Road Construction Up-Date Detail Report, and Jones Road Construction Update Summary**
- 7. Combined Monthly and Annual Mileage Report**
- 8. Golf Course Monthly Report, Golf Course Financial Statement Report, and the Parks and Recreation Departmental Report**
- 9. Report from Code Enforcement**
- 10. Capital Improvements Projects Report**
- 11. White Oaks Bayou Capital Improvements Projects Report**
- 12. Golf Course Appreciation Letters and Article on Aerating and Maintenance**
- 13. Introduction of Police Officers – Bobby Allen Ferguson and Kenneth C. Smith**

G. CONSENT AGENDA

The following items are considered routine in nature by the City Council and will be enacted with one motion and vote. There will not be separate discussion on these items unless requested

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by a Council Member, in which event the item will be removed from the Consent Agenda and considered by separate action.

- 1. Consider approval of the Minutes for the Regular Session Meeting held on April 18, 2011 and the Work Session Meetings held on May 16, 2011 and May 17, 2011.**
- 2. Consider Resolution No. 2011-28, accepting the resignation of Crime Control and Prevention District Board Member Curtis Haverty, and appointing Harry Beckwith, III to the Crime Control and Prevention District.**

RESOLUTION NO. 2011-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, ACCEPTING RESIGNATION OF CURTIS HAVERTY, DIRECTOR OF THE JERSEY VILLAGE CRIME CONTROL DISTRICT AND APPOINTING REPLACEMENT.

- 3. Consider Ordinance No. 2011-21, amending the City's annual budget for fiscal year beginning October 1, 2010, and ending September 30, 2011 for the transfer in the amount of \$277,000 from the Impact fees Fund to the Utility Fund.**

ORDINANCE NO. 2011-21

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS, AMENDING THE BUDGET FOR FISCAL YEAR OCTOBER 1, 2010 THROUGH SEPTEMBER 30, 2011, IN THE AMOUNT OF \$277,000 FOR THE TRANSFER FROM THE IMPACT FEES FUND TO THE UTILITY FUND IN ORDER TO PAY FOR CASTLEBRIDGE WATER WASTE TREATMENT PLAN, SEATTLE WATER PLANT AND PHILIPPINE LIFT STATION GENERATOR.

- 4. Consider Ordinance No. 2011-22, amending the City's annual budget for the fiscal year beginning October 1, 2010, and ending September 30, 2011 to compensate for the 70% increase in Harris County radio fees.**

ORDINANCE NO. 2011-22

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS, AMENDING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010, AND ENDING SEPTEMBER 30, 2011 TO COMPENSATE FOR THE 70% INCREASE IN HARRIS COUNTY RADIO FEES; AND PROVIDING FOR SEVERABILITY.

Council Member Berube moved to approve items 1 through 4 on the consent agenda. Council Member Haverty seconded the motion. The vote follows:

Ayes: Council Members Berube, Haverty, Maloy, and Klein

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Nays: None

The motion carried.

H. REGULAR AGENDA

2. Consider Resolution No. 2011-30, authorizing the installation of speed control devices on Village Drive.

Background information on the item is as follows:

At the April City Council meeting, Jerry Roberts, a resident who lives at 16542 Village Drive, presented Council with a petition, signed by Village Drive residents, asking that the City place vibration/rumble bars along Village Drive to deter speeding.

In response to same, Mayor Hamley requested that staff research the cost, installation, and placement of temporary bolt down speed humps along Village Drive.

Accordingly, Staff presents the following options for Council's consideration:

Option 1 – The installation of speed humps; cost not to exceed \$2,000; or

Option 2 – The installation of rumble strips; cost not to exceed \$500.

Should the installation of option 1 or 2 be approved, the installation costs will be absorbed by existing funds budgeted for fiscal year 2010-2011. Installation will be provided by the City's street department.

Council engaged in discussion about the rumble strips and how they work. Public Works Director Segundo explained that the strips present drivers with "an awareness" as vehicles pass over the strips. Council continued to discuss this mechanism and whether or not it would be effective in controlling speed. Chief Foerster was asked about speeding and officer patrol coverage in this area. The Chief explained that this area is hard to work with policing patrols for there are not many speeders/violators in the area. In terms of the strips prohibiting speeders, he believes that the strips may work for this purpose, but only in the immediate area where they are located.

Discussion was had about the volume of traffic that passes through/down/along Village Drive. The Chief told Council that the speed trailer has recorded that there are some 22,000 cars traveling on Village Drive during a six (6) day period. He explained that this report showed that the average speed for cars exceeding the speed limit was 1.6 miles over the limit. He added that a patrol officer typically does not write a traffic citation to a vehicle traveling 1.6 miles over the speed limit. He also explained that since this is a through traffic route, many of the excessive readings on the report may very well have been either police or emergency vehicle traffic. With this in mind, Council engaged in discussion about the ability of emergency vehicles and police cruisers to make emergency calls should the rumble strips be installed. Both the Police and Fire Departments will not be affected by the rumble strips, but would be affected by the speed humps.

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Discussion was also had about the ability to remove either of these products should residents decide they no longer want them placed along Village Drive. Staff explained that both products are easily removed.

Discussion was had about permanent radar signs being used to control speed along this street. It was pointed out that the radar trailer has been effective and the permanent signs would not prohibit emergency vehicles.

Mayor Hamley then called for a motion on this item. No motion being made, this Resolution failed for lack of a motion.

RESOLUTION NO. 2011-30 – FAILED – NO MOTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, AUTHORIZING THE INSTALLATION OF SPEED CONTROL DEVICES ALONG VILLAGE DRIVE.

- 3. Consider Resolution No. 2011-31, receiving the Planning and Zoning Commission’s Preliminary Report as it relates to amending the City’s Zoning Ordinance at Chapter 14, Article IV, Section 14-106(a)(19) by adding a subsection (d) to include auto body shops.**

Background information on this item is as follows:

The current zoning for District G and for the Motor Vehicle Overlay District does not permit the use of the property located at 18700 NW Freeway, which is the location of the old Saturn Car Dealership, as an auto body shop. Currently, this property has a “B” use classification.

A two-step process is required if the applicant wants to pursue a business venture of this type on this property. First, a zoning amendment is needed to permit “auto body shops” as a specific use in District G. Second, if the amendment is approved, the applicant must apply for a specific use permit to be authorized/permitted for this specific land use.

Because the applicant is under a contractual time constraint in acquiring the property, the application for the zoning amendment, and the application for the specific use permit are being processed “side-by-side.” In this “side-by-side” two-part process, it is important to note that the approval of the specific use permit is contingent upon the approval of the zoning change. In other words, if the zoning change is not approved, there is no need to consider the application for a specific use permit.

May 4, 2011, Group 1 Realty, Inc. filed the appropriate applications to begin the two-step process.

May 10, 2011 - Planning and Zoning – Summary of Actions

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First the Commission reviewed the application for zoning amendment, discussing the various districts in the City wherein auto body shops are permitted. It was determined that:

- “Servicing” is permitted in District K;
- “Service Stations” are permitted in District H; and
- “Gasoline Stations” are permitted in District G.

The differences between these three types were explored. The Commission also discussed the inclusion of “auto body shops” as a general land use as opposed to a specific land use, and they explored including the specific use of “auto body shops” in the Motor Vehicle Sales Overlay District as opposed to District G.

If the zoning amendment and the specific use permit are granted, the “B” use classification for this property will change to an “S1” use classification. This use classification change will require that the applicant make modifications to the property in order to bring the property into compliance with an “S1” use classification.

In addition to these required modifications, the Commission recommends certain special conditions to regulate the specific use permit which are listed in the preliminary report

With limited discussion on this item, Council Member Klein moved to approve Resolution No. 2011-31, receiving the Planning and Zoning Commission’s Preliminary Report as it relates to amending the City’s Zoning Ordinance at Chapter 14, Article IV, Section 14-106(a)(19) by adding a subsection (d) to include auto body shops. Council Member Haverty seconded the motion. The vote follows:

Ayes: Council Members Berube, Haverty, Maloy, and Klein

Nays: None

The motion carried.

RESOLUTION NO. 2011-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, RECEIVING THE PLANNING AND ZONING COMMISSION’S PRELIMINARY REPORT AS IT RELATES TO AMENDING THE CITY’S ZONING ORDINANCE AT CHAPTER 14, ARTICLE IV, SECTION 14-106(A)(19) BY ADDING A SUBSECTION (d) TO INCLUDE AUTO BODY SHOPS.

- 4. Consider Ordinance No. 2011-23, calling a joint public hearing of the City Council and the Planning and Zoning Commission concerning the proposal to amend the City’s zoning ordinance at Chapter 14, Article IV, Section 14-106(a)(19) by adding a subsection (d) to include auto body shops.**

Lorri Coody, City Secretary, explained that this item is to call for the joint public hearing on June 20, 2011 at 7:00 p.m. Council Liaison for the Planning and Zoning Commission, Curtis Haverty gave Council a summary of the Commission’s activities related to the zoning change

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request and the request of a specific use permit. Council engaged in limited discussion about the ability to charge sales tax on the actual car repair. The City's Finance Director, Mrs. Isabel Kato explained that the City would receive sales tax revenue on the parts sold by this establishment, but there would be no sales tax for services provided which includes car repair.

With no further discussion on this item, Council Member Berube moved to approve Ordinance No. 2011-23, calling a joint public hearing of the City Council and the Planning and Zoning Commission concerning the proposal to amend the City's zoning ordinance at Chapter 14, Article IV, Section 14-106(a)(19) by adding a subsection (d) to include auto body shops. Council Member Haverty seconded the motion. The vote follows:

Ayes: Council Members Berube, Haverty, Maloy, and Klein

Nays: None

The motion carried.

ORDINANCE NO. 2011-23

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS CALLING A JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION CONCERNING THE PROPOSAL TO AMEND THE CITY'S ZONING ORDINANCE AT CHAPTER 14, ARTICLE IV, SECTION 14-106(a)(19) BY ADDING A SUBSECTION (d) TO INCLUDE AUTO BODY SHOPS.

- 6. Consider Resolution No. 2011-33, receiving the Planning and Zoning Commission's Preliminary Report as it relates to the request of Group 1 Realty, Inc., 800 Gessner, Suite 500, Houston, TX 77024 (Applicant) and Capital Automotive Holdings, LLC, 8270 Greensboro Drive, Suite 950, McLean, VA 22101 (Owner), for a specific use permit to allow the operation of an auto body shop on a tract of land located at 18700 NW Freeway, Houston, TX 77065 within the city in zoning District G.**

Lorri Coody, City Secretary, presented the preliminary report. She reminded council of the background information provided on the earlier item of this agenda.

Council Member Maloy moved to approve Resolution No. 2011-33, receiving the Planning and Zoning Commission's Preliminary Report as it relates to the request of Group 1 Realty, Inc., 800 Gessner, Suite 500, Houston, TX 77024 (Applicant) and Capital Automotive Holdings, LLC, 8270 Greensboro Drive, Suite 950, McLean, VA 22101 (Owner), for a specific use permit to allow the operation of an auto body shop on a tract of land located at 18700 NW Freeway, Houston, TX 77065 within the city in zoning District G. Council Member Haverty seconded the motion. The vote follows:

Ayes: Council Members Berube, Haverty, Maloy, and Klein

Nays: None

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The motion carried.

RESOLUTION NO. 2011-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, RECEIVING THE PLANNING AND ZONING COMMISSION'S PRELIMINARY REPORT AS IT RELATES TO THE REQUEST OF GROUP 1 REALTY, INC., 800 GESSNER, SUITE 500, HOUSTON, TX 77024 (APPLICANT) AND CAPITAL AUTOMOTIVE HOLDINGS, LLC, 8270 GREENSBORO DRIVE, SUITE 950, MCLEAN, VA 22101 (OWNER), FOR A SPECIFIC USE PERMIT TO ALLOW THE OPERATION OF AN AUTO BODY SHOP ON A TRACT OF LAND LOCATED AT 18700 NW FREEWAY, HOUSTON, TX 77065 WITHIN THE CITY IN ZONING DISTRICT G.

- 7. Consider Ordinance No. 2011-24, calling a joint public hearing of the City Council and the Planning and Zoning Commission concerning the proposal to amend the city's zoning ordinance to grant a specific use permit to allow the operation of an auto body shop on a tract of land located at 18700 NW Freeway, Houston, TX 77065 within the city in zoning District G.**

Lorri Coody, City Secretary, explained that this item is to call for the joint public hearing on June 20, 2011 at 7:00 p.m. With limited discussion on this item, Council Member Berube moved to approve Ordinance No. 2011-24, calling a joint public hearing of the City Council and the Planning and Zoning Commission concerning the proposal to amend the city's zoning ordinance to grant a specific use permit to allow the operation of an auto body shop on a tract of land located at 18700 NW Freeway, Houston, TX 77065 within the city in zoning District G. Council Member Maloy seconded the motion. The vote follows:

Ayes: Council Members Berube, Haverty, Maloy, and Klein

Nays: None

The motion carried.

ORDINANCE NO. 2011-24

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS CALLING A JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION CONCERNING THE PROPOSAL TO AMEND THE CITY'S ZONING ORDINANCE TO GRANT A SPECIFIC USE PERMIT TO ALLOW THE OPERATION OF AN AUTO BODY SHOP ON A TRACT OF LAND LOCATED AT 18700 NW FREEWAY, HOUSTON, TX 77065 WITHIN THE CITY IN ZONING DISTRICT G.

I. CLOSE THE REGULAR SESSION

Mayor Hamley closed the Regular Session at 7:55 p.m. to Convene into Executive Session pursuant to the Texas Open Meetings Act, Government Code Section 551.071 – Consultation w/Attorney.

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J. EXECUTIVE SESSION

- 1. Consult with Attorney pursuant to the Texas Open Meetings Act Section 551.071 regarding the Noise Mitigation Lawsuit brought against the Federal Highway Administration relating to the expansion of U.S. Highway 290.**

K. ADJOURN EXECUTIVE SESSION

Mayor Hamley adjourned the Executive Session at 8:38 p.m. and reconvened the Regular Session, stating that no official business was taken during the Executive Session.

L. CONVENE REGULAR SESSION

- 1. Discuss and take appropriate action on items considered in Executive Session.**

Mayor Hamley called this item for discussion. Hearing none, he called the remaining items on the agenda in the following order:

H. REGULAR AGENDA – Continued

- 9. Consider Resolution No. 2011-35, receiving the Planning and Zoning Commission's Final Report concerning the creation of a new District D – Jersey Village Crossing district, which primarily represents the property located south of the U.S. Highway 290 right-of-way and within the corporate city limits of the City of Jersey Village; and establishing Form Based Code Requirements for this district.**

Kimley-Horn Consultant, Joe Willhite and Gateway Consultant, Scott Polikov were present for this item.

Tom Eustace, Acting Planning and Zoning Chairman, presented the Final Report. He told Council that after considering all the information before it including that gathered at the Joint Public Hearing with City Council, the Planning and Zoning Commission recommends that:

The City's comprehensive zoning ordinance be amended to create a new District D – Jersey Village Crossing district, which primarily represents the property located south of the U.S. Highway 290 right-of-way and within the corporate city limits of the City of Jersey Village; and establish Form Based Code Requirements for this district.

He told Council that the Final Report and Recommendations of the Planning and Zoning Commission differs from that of the Preliminary Report in that a Section 3.9 has been added to the form base code requirements to address non-conforming buildings and signs. He presented Council with a copy of the new Section in order that they may review same.

Discussion was had about the amendment concerning non-conforming buildings and signs. Mr. Polikov explained the amendment. He told Council that this provision was inadvertently omitted from the form based code. This provision basically states that if a building is non-conforming in design once the code goes into effect, the owner can use the building without

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any significant changes. He reminded council that the adoption of the form based code requirements does not affect the non-conforming land use standards.

Discussions were had about the letter that was submitted to Council during the public hearing concerning Robert Ferguson and the dedication of right-of-way for the Jones Road Extension Project. Mr. Banks, during the public hearing section of this agenda, told Council that this dedication was made upon the reliance that the City would not change the zoning in the area from industrial or commercial. City Manager, Mike Castro responded. He told Council that the letter submitted during the public hearing session was misleading. He explained that in 2007, the City sent Mr. Ferguson a letter to which Mr. Ferguson responded by inserting into the letter that the City wrote certain information and questions. It is this product that was submitted this evening.

City Manager Castro went on to explain that upon receiving the “marked up letter” several years ago with the inserted questions, he responded to Mr. Ferguson via email in an attempt to answer his concerns. None of those email responses/answers were included in the letter that was presented at the public hearing tonight; and therefore, did not depict the true communications between the parties. City Manager Castro assured Council that at no time did he as City Manager make any agreements assuring Mr. Ferguson that the zoning requirements for that area would not change. He closed by saying the email communication is available for review.

Council engaged in discussion about the negative comments that were received during the public hearing. The Consultants were asked to comment if it is uncommon to receive negative comments. Mr. Polikov explained that in his experience there are typically negative public hearing comments made because meeting attendees have not read or do not understand the proposed changes. He stated that it was an oversight that the non-conforming building and sign language was not included in the form based code document and felt that had this language been included, many of the negative comments made this evening would not have been stated. He also stated that it has been his experience that once an ordinance passes, the negative comments stop.

With no further discussion on the matter, Council Member Berube moved to approve Resolution No. 2011-35, receiving the Planning and Zoning Commission’s Final Report concerning the creation of a new District D – Jersey Village Crossing district, which primarily represents the property located south of the U.S. Highway 290 right-of-way and within the corporate city limits of the City of Jersey Village; and establishing Form Based Code Requirements for this district, including the amendments pertaining to Section 3.9 of the Form Based Code Requirements. Council Member Klein seconded the motion. The vote follows:

Ayes: Council Members Berube, Haverty, Maloy, and Klein

Nays: None

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The motion carried.

RESOLUTION NO. 2011-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, RECEIVING THE PLANNING AND ZONING COMMISSION'S FINAL REPORT CONCERNING THE CREATION OF A NEW DISTRICT D – JERSEY VILLAGE CROSSING DISTRICT, WHICH PRIMARILY REPRESENTS THE PROPERTY LOCATED SOUTH OF THE U.S. HIGHWAY 290 RIGHT-OF-WAY AND WITHIN THE CORPORATE CITY LIMITS OF THE CITY OF JERSEY VILLAGE; AND ESTABLISHING THE FORM BASED CODE REQUIREMENTS FOR THIS DISTRICT.

- 10. Consider Ordinance No. 2011-25, amending Chapter 14, Article IV of the Code of Ordinances of the City of Jersey Village, Texas, by amending certain Sections of Chapter 14, Article IV to add a new zoning District D – Jersey Village Crossing; revising the official zoning map to add District D; correcting and re-numbering section numbers in Chapter 14, amending Section 14-85 relating to designation of newly annexed areas, amending Section 14.88(a) related to District D; making findings and provisions relating to the subject; providing a severability clause; providing for repeal; providing a penalty as provided by Section 14-87 of the Code; and providing an effective date.**

Danny Segundo, Director of Public Works, explained that this item is to create a new District D – Jersey Village Crossing and to implement form based code within that district.

Council engaged in discussion about the following items:

1. The number of acres within the City limits south of US 290;
2. The number of acres involved in the creation of the new District D;
3. The number of businesses that will fall inside the borders of the newly created District D that will result in non-conforming land uses and non-conforming buildings/signs; and
4. The evaluation/economics of the plan.

Joe Willhite and Scott Polikov fielded these questions and answered accordingly.

Council also engaged in discussion about the amendments to the Form Base Code Requirements by adding a Section 3.9 to address non-conforming buildings and signs. The Consultants explained how the non-conforming building and sign requirements work, particularly how the 65% improvement cap is applied over a three-year rolling period.

There was also discussion about proper notice to the affected parties. The City Secretary explained in detail the notice requirements, stating that:

1. Notice was posted in the Houston Chronicle – Cy-Fair Section on April 28, 2011
2. Notice was posted on the City's website on April 21, 2011
3. Letters were sent to property owners and adjacent property owners within 200 feet of the affected property on April 21, 2011

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4. Signs were posted throughout the area in accordance with Section 14-10(b)(2)b of the Jersey Village Code of Ordinances on May 13, 2011.

Council discussed the fairness of the amendment in terms of the current property owners and the City's objective to maintain direction with its master plan. The Consultants believe that the non-conforming building/sign clause coupled with the City's existing non-conforming land use standards makes the amendment fair. They believe that with the passage of this ordinance, the market will take care of things over time.

This led to discussion about the experience that the Consultants had when they met with landowners and what type of information was conveyed to the landowners concerning the city's plans. The Consultants told Council that at no time were landowners misled. They were told about the proposed plans to develop the area and they were invited to join in the public meetings to discuss same.

Council Member Berube moved to approve Ordinance No. 2011-25, amending Chapter 14, Article IV of the Code of Ordinances of the City of Jersey Village, Texas, by amending certain Sections of Chapter 14, Article IV to add a new zoning District D – Jersey Village Crossing; revising the official zoning map to add District D; correcting and re-numbering section numbers in Chapter 14, amending Section 14-85 relating to designation of newly annexed areas, amending Section 14.88(a) related to District D; making findings and provisions relating to the subject; providing a severability clause; providing for repeal; providing a penalty as provided by Section 14-87 of the Code; and providing an effective date, including the amendments added by the Planning and Zoning Commission concerning Section 3.9 addressing Non-Conforming Buildings and Signs. Council Member Haverty seconded the motion.

Discussion continued on the item. Mention was made on the length of time the City has invested in this project. There was also mention of other projects around the Houston area that had been reviewed that were similar to this project. It was noted that some of these projects were developed successfully without form base codes. This led to discussion on how this plan brings opportunity for the City to add additional tax revenues without having to increase the taxes for current residents. This is an orderly master plan that calls people to Jersey Village to open businesses. The plan has been reviewed and approved by the Planning and Zoning Commission. It is a good plan as it provides property owners an idea of how this property will develop over time.

The vote follows:

Ayes: Council Members Berube, Haverty, Maloy, and Klein

Nays: None

The motion carried.

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ORDINANCE NO. 2011-25

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF JERSEY VILLAGE, TEXAS, BY AMENDING CERTAIN SECTIONS OF CHAPTER 14, ARTICLE IV TO ADD A NEW ZONING DISTRICT D – JERSEY VILLAGE CROSSING; REVISING THE OFFICIAL ZONING MAP TO ADD DISTRICT D; CORRECTING AND RE-NUMBERING SECTION NUMBERS IN CHAPTER 14, AMENDING SECTION 14-85 RELATING TO DESIGNATION OF NEWLY ANNEXED AREAS, AMENDING SECTION 14.88(A) RELATED TO DISTRICT D; MAKING FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL; PROVIDING A PENALTY AS PROVIDED BY SECTION 14-87 OF THE CODE; AND PROVIDING AN EFFECTIVE DATE.

1. Consider Resolution No. 2011-29, appointing a Commissioner to fill the unexpired term ending September 30, 2011 for Position One on the Planning and Zoning Commission.

Lorri Coody, City Secretary, introduced the item. She told Council that Harry Beckwith, in taking his seat on the Council, will tendered his resignation from his seat on the Planning and Zoning Commission effective May 23, 2011 upon taking his oath of office. He served in position One for this Commission since November of 2008 and his current term expires September 30, 2011.

In order to prepare for this item the following actions were taken to inform residents of this opening and extend invitation for consideration of applications:

1. A notice was placed in the May 2011 JV Star;
2. A notice was placed on the City's website; and
3. Letters were written extending invitation to former applicants expressing an interest in this Commission.

Five applications were received and presented for Council's review.

Mayor Hamley opened the floor for nominations. Council Member Berube nominated Ratan R. Jha for Planning and Zoning Commissioner, Position One to fill the unexpired term ending September 30, 2011. Council Member Haverty seconded this nomination. Discussion ensued. The vote follows:

Ayes: Council Members Berube and Haverty

Nays: Council Members Maloy and Klein

Having a "tie vote," in accordance with Article II, Section 2.05 of the City's Charter, the Mayor's vote follows:

Nay: Mayor Hamley

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The nomination failed.

Mayor Hamley called for additional nominations. Council Member Maloy moved to nominate Jon Peterson for Planning and Zoning Commissioner, Position One to fill the unexpired term ending September 30, 2011. Council Member Klein seconded the nomination. The vote follows:

Ayes: Council Members Haverty, Maloy, and Klein

Nays: Council Member Berube

The nomination carried.

RESOLUTION NO. 2011-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, APPOINTING A MEMBER TO FILL THE UNEXPIRED TERM FOR POSITION ONE ON THE PLANNING AND ZONING COMMISSION.

5. Consider Resolution No. 2011-32, electing a Mayor Pro Tem.

Mayor Hamley called the item for discussion. With limited discussion, Council Member Haverty nominated Council Member Berube to serve as Mayor Pro Tem. Council Member Maloy seconded the nomination. The vote follows:

Ayes: Council Members Haverty, Maloy, and Klein

Nays: None

Abstained: Council Member Berube

The motion carried.

RESOLUTION NO. 2011-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, ELECTING A MAYOR PRO TEM.

8. Discuss with possible action Resolution No. 2011-34, relating to Council Liaison Assignments.

Mayor Hamley called the item for discussion. Council Member Haverty nominated Harry Beckwith to serve as Liaison to the Planning and Zoning Commission. Council Member Berube seconded the nomination. The vote follows:

Ayes: Council Members Berube, Haverty, Maloy, and Klein

Nays: None

The motion carried.

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RESOLUTION NO. 2011-34

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, APPOINTING COUNCIL LIAISONS TO VARIOUS BOARDS AND COMMITTEES.

C. ELECTION MATTERS

1. Issuance of Certificate of Election to Newly Elected Officials and Administer Oath of Office to Elected Officials.

City Secretary, Lorri Coody introduced the item. She reminded Council that since there were no contested races for the May 14, 2011 General Municipal Election, on March 21, 2011, Council passed an Ordinance cancelling that election and declaring the unopposed candidates elected.

The Newly Elected Members of the Council are:

Mayor	Russell Hamley
Councilmember - Place 2	Rod Erskine
Councilmember - Place 3	Harry Beckwith III, PE

In accordance with state election laws, Ms. Coody presented the Certificate of Election and administered the Oath of Office to Mayor, Russell Hamley and Council Member, Harry Beckwith.

Council Member, Rod Erskine was previously sworn into office on May 17, 2011.

2. Recognition and Presentation of Service Award to Council Member Curtis Haverty for his years of service to the City of Jersey Village. *Russell Hamley, Mayor*

Mayor, Russell Hamley, recognized and presented a service plaque to outgoing Council Member Curtis Haverty for his years of service to the City of Jersey Village.

L. ADJOURN

There being no further business on the Agenda the meeting was adjourned at 9:40 p.m.

Lorri Coody, City Secretary