



City of Rowlett Meeting Minutes City Council

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

City of Rowlett City Council meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary at 972-412-6109 or write PO Box 99, Rowlett, Texas, 75030-0099, at least 48 hours in advance of the meeting.

Tuesday, April 1, 2008

5:30 PM

Municipal Building - 4000 Main Street

As authorized by Section 551.071(2) of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item herein.

The City of Rowlett reserves the right to reconvene, recess or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

1. CALL TO ORDER

Mayor Harper called the meeting to order at 5:30 p.m.

Excused: Deputy Mayor Pro Tem Gottel and Councilmember Mays

Present: Mayor Harper, Councilmember Alberts, Councilmember Maggiotto and Mayor Pro Tem Rushing

CONVENE INTO EXECUTIVE SESSION

The City Council convened into closed session at 5:30 p.m.

2. EXECUTIVE SESSION

2A The City Council shall convene into executive session pursuant to §551.071 of the TEXAS GOVERNMENT CODE to seek legal advice from the City Attorney regarding the upcoming special election under Chapter 143, Texas Local Government Code, and the State Civil Service Statutes. (10 minutes)

2B The City Council shall convene into executive session pursuant to §551.071 and §551.072 of the TEXAS GOVERNMENT CODE to seek legal advice from the City Attorney and to discuss the bid, auction, or sale of city owned property located between Kirby Road and Rowlett Road. (10 minutes)

2C The City Council shall convene into executive session pursuant to §551.071 and §551.072 of the TEXAS GOVERNMENT CODE to discuss with the City Attorney potential litigation, real property deliberations and acquisition of property to wit: Elgin B. Robertson Park. (5 minutes)

2D The City Council shall convene into executive session pursuant to §551.071 of the TEXAS GOVERNMENT CODE to seek legal advice from the City Attorney regarding litigation regarding the construction of Princeton Road. (5 minutes)

- 2E The City Council shall convene into executive session pursuant to § 551.071 of the TEXAS GOVERNMENT CODE to seek legal advice from the City Attorney and to discuss settlement of pending litigation related to FIVE LANDS, LTD. vs CITY OF ROWLETT.
- 2F The City Council shall convene into executive session pursuant to §551.071 of the TEXAS GOVERNMENT CODE to seek legal advice from the City Attorney to discuss settlement of pending litigation, CITY OF ROWLETT VS JONES. (5 minutes)
- 2G The City Council shall convene into executive session pursuant to § 551.071 of the TEXAS GOVERNMENT CODE for consultation with the City Attorney and under § 551.072 regarding possible right-of-way acquisitions and funding options with Dallas Area Rapid Transit (DART). (5 minutes)

RECONVENE INTO OPEN SESSION

The City Council reconvened into open session at 6:17 p.m.

3. WORK SESSION ITEMS (6:00 P.M.)

- 3A Annual joint meeting with Dallas and Rockwall County Commissioners and County Judges. (15 minutes)

Mayor Harper recognized each Commissioner; spoke regarding Commissioner Mike Cantrell's efforts to provide twelve (12) miles of new roads; spoke regarding Commissioner Lorie Grinnan's efforts to assist with finding an early voting site in Rowlett for Rockwall County that would stay open for the entire early voting period.

Commissioner Grinnan stated she would be happy to support an alternative site.

Commissioner Cantrell stated Mayor Harper has been nominated to chair the Dallas Regional Mobility Coalition's Finance Committee and nominated to serve on the Criminal Justice Planning and Advisory Board; spoke regarding the President George Bush Turnpike extension to begin construction in June; road and bridge funding; and capital improvement projects.

Commissioner Grinnan stated Rockwall County has been named again as the 3rd fastest county and the 1st in the state of Texas; concern for county roads; and spoke regarding a new county library opening on September 8, 2008.

- 3B Update from the Mayor. (5 minutes)

Mayor Harper updated the Council regarding upcoming events: April 10th - 11th Metroplex Mayor Best Practices; April 19th Appreciation Brunch for Library Volunteers; April 22nd

Public Safety Expo at the Community Centre; April 29th Joint meeting with the Planning and Zoning Commission; May 3rd Citizen Core Council Volunteer Appreciation Banquet; June 5th Town Hall meeting; June 11th Chamber Partnership Luncheon; and June 28th - 29th Festival of Freedom.

3C

Update from the City Manager.

This item followed Item 3F.

Craig Owens brought forth a PowerPoint presentation for the City Manager's Update. Results for Rowlett: Report on Progress and Activities (31 page PowerPoint presentation).

Top Priorities

- *Neighborhood Quality*
- *Economic Development*
- *Culture and Recreation*
- *Environment*
- *Transportation*
- *Public Safety*

Neighborhood Quality

- *To provide neighborhood-based services to the residents of Rowlett, in order to protect the value, appeal, and quality of homes and businesses in our community.*
- *Top 5 violations (Tier 1) - Closed Issues for January, February, March*
 - *Staff created interactive web site for Public Improvement District program*
 - *PID interactive website is online now - under the Planning & Zoning tab at rowlett.com*
 - *PID program brochures are now available*
 - *3 neighborhood meetings will be held from 6:30 - 8:00PM at:*
 - *April 10 Dorsey Elementary, 6200 Dexham*
 - *April 17 Rowlett Community Centre, 5300 Main*
 - *April 24 Christian City Church, 6005 Dalrock*
 - *Animal Services*
 - *Statistics for 2008:*

	January	February
Impoundments	130	112
Return to owner	33	45
Adoptions	54	54
Warning Citations	71	N/A
Animal Bites	3	2
 - *Vaccination Clinics for April ~ April 19 & 26, Saturdays, 2:30PM to 4:30PM*
 - *Rowlett Animal Shelter will participate with the North Shore Animal League of America for:*
 - *14th Annual Pet Adopt-A-Thon*
 - *Saturday, May 3, 10AM - 5 PM*
 - *Low-Cost Rabies Vaccination Clinic*
 - *Saturday, May 17, 2:30 - 4:30 PM*
 - *\$5 per cat or dog*

Economic Development

- *To provide economic development services to our existing businesses, prospective business and community, in order to attract investment to the City of Rowlett, and to promote a sustainable, vibrant economy.*

- *Economic Development Update*
 - *Entertainment Prospect ED tour of our vacant big box stores*
 - *Business owner downtown selling property and offering the City first right of refusal*
 - *Preparing for tradeshow (ICSC Recon Convention)*
 - *Plans submitted for McAllister's Deli - located in front of LA Fitness*
 - *Plans submitted for 11,485 s.f. retail and pharmacy at Lakeview & Silverlake CUP for Zaxby's Restaurant presented at P&Z meeting on 3/25*
 - *54,000 s.f. of office/warehouse approved by P&Z for Highpoint Industrial Park*
 - *New commercial permits issued: Goodyear and Andrew's Building*
 - *Single Family permits issued: 14*

Culture and Recreation

- *To provide cultural, entertainment and recreation services to the residents, businesses, and visitors of the City of Rowlett, in order to encourage a healthy, active community.*
- *Parks/Recreation Opportunities*
 - *Staff assisted in obtaining congressional park development grant data*
 - *Possible skate board equipment agreement with church*
 - *Cleaned debris in flooded park properties*
 - *Interviews began at Wet Zone for the 2008 season*

Council stated requests have been made to Congressman Sam Johnson and Congressman Ralph Hall for federal funding to enhance two (2) city parks.

- *Libraries and Learning*
 - *Events:*
 - *April 13-18 is National Library Week, a time to celebrate the contributions of our nation's libraries and librarians and to promote library use and support*
 - *Children can vote for their favorite books during this week and receive surprise grab bags; each child can also make a book during Preschool Story Time on Friday, April 18 at 10:30 AM*
 - *AARP Tax-Aide income tax counseling and preparation continues on Saturdays 9:30AM - 2PM through April 12*
 - *Super Saturday on April 19 at 3 PM presents the Magic of Storytelling*
 - *The spring session of the GED tutoring classes continues through May 15*

Environment

- *To provide and promote environmental resource management services in order to ensure health and welfare, and to preserve the environment for our community.*
- *SH66/Eula Drive Water Tower*
 - *Final coating has been applied*
 - *Tower was filled on March 28; if test sample comes back good the water tower will be back in service this week*
 - *Clean up work will need to be finished before project is complete*
- *Crews are exercising the valves and checking fire hydrants throughout the city; working their way through one subdivision at a time*
- *March Clean-Up Campaign*
 - *As of 3/23, 162 dumpsters have been filled and taken away, amounting to about 532 tons*
 - *Will have final numbers on April 15*
- *Waterways Clean-up April 19*
 - *Sponsored by Keep Rowlett Beautiful*
 - *Meet at Herfurth Park, 4601 Centennial, 9AM -12PM*

Council stated that April 7th is the deadline for signing up for the lakeshore cleanup.

Transportation

- *To provide transportation services to our citizens and visitors, to ensure safe, efficient transportation options for the movement of people and goods through the City of Rowlett and surrounding areas.*
- *CIP Update: Word on the Street*
 - *Kenwood Heights Update:*
 - *The box culvert installation along Kenwood from Long Branch to the channel between Cypress and Maple is complete.*
 - *The waterline is complete and in service along Kenwood to Cypress and Kenwood to Maple.*
 - *The contractor has paved half of Kenwood from Wal-Mart to Maple.*
 - *Kenwood remains closed until the end of March 2008.*
 - *Project is 20% complete*
 - *Point Royal Estates Update:*
 - *The water line, sanitary sewer, and storm drain along Point Royal are complete*
 - *Contractor is currently working on the sanitary sewer lines and water lines along Cedar View and Ashe Bend*
 - *The franchise utility conflicts have been resolved without delaying the project.*
 - *The contractor has begun removing the old pavement on Point Royal and will begin the subgrade preparation.*
 - *The waterline construction on Scenic Drive in front of Cullins-Lakepointe Elementary will be completed after the school is out for the summer.*
 - *Project is 34% complete*
 - *Miller Road Phase 1 Update:*
 - *Contractor has installed concrete paving along Rowlett Rd. for the southbound lanes*
 - *Contractor has installed driveways to adjacent properties in these locations*
 - *Work will now begin on the final quadrant of Rowlett Rd. at Miller Road during the second week of March.*
 - *The contractor is excavating material in preparation to begin the eastbound lanes of Miller Road.*
 - *Estimated completion date - July 2008*
 - *Project is 72 % complete*
 - *Rowlett Road Phase 1 Update:*
 - *Completed paving for the southbound lanes of Rowlett Road and the eastbound lanes of Main Street (west of Rowlett Road); switched traffic on March 14*
 - *The colored stamped paving at the Rowlett-Main intersection has been installed for the southbound lanes.*
 - *The original contract project time has expired and liquidated damages will be assessed.*
 - *Estimated project completion date - June 2008*
 - *Project is 47% complete - paid invoices*
 - *Project is 60 % complete - construction*
 - *Rowlett Road Update:*
 - *Phase 2:*
 - *Estimated completion December 2011*
 - *6 lanes from Century Dr. to Miller Rd.*
 - *Phase 3:*
 - *Construction begins May 2008 to rehabilitate existing pavement*
 - *Estimated completion October 2009*
 - *4 lanes South of Miller Rd. to Lake Ray Hubbard*
- *Asphalt Street Reconstruction:*
 - *Overlay work is complete for:*

Merritt Rd.	Old Rowlett Rd.	Schrade Rd.
Miller Rd.	Main St.	South Chiesa Rd.
Chaha Rd.	Liberty Grove Rd.	Schrade Rd.

- *Added: Castle Dr. and N. Chiesa Rd.*
- *Concrete Street Reconstruction:*
 - *Work in progress:*

University	Harbor	Seascape
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- *Alley Improvement Projects:*
 - *The design engineer submitted 90% plans to the City which have been reviewed and are scheduled to go out for bid in April.*
 - *Alleys included are:*

Brownlee	Grant	Pebble Beach
Chesham	Highgate	Vernon
College Park	Mariner	Willowbrook
Deerwood	Mediterranean	

Council questioned staff regarding the CIP projects to be designed so that money could be accessed.

Staff did not have additional information at this time.

Public Safety

- *To provide public safety services to the City of Rowlett citizens and visitors in order to reduce crime, injury, and damage to property and the environment.*
- *Public Safety Update*
 - *Police:*
 - *Police Department will be testing applicants for open police officer positions on Saturday, May 3, 2008*
 - *Pedal cyclist accident occurred on 03/19 at Port Isabel Dr/Alazan Bay and a pedestrian accident occurred on 3/24 in the 3200 block of Miller Road. Both drivers were arrested for failing to stop and render aid.*
 - *Safety Expo - April 22, 6PM at Community Centre*
- *Police Response Times Comparison: All Calls*
- *Police Response Times Comparison: Priority 1 Calls*
- *Fire Rescue:*
 - *The personal protective equipment Captain has attended meetings and training to implement the new Texas Fire Commission standard NFPA 1851.*
 - *This standard will change the maintenance, inspection, testing, replacement and cost associated with bunker gear*
 - *New glucometers were placed in-service on the Medic Units and Paramedic Engines*
 - *New diagnostic device is an updated technology replacing the old devices*
 - *Will increase the accuracy of field testing in detecting and treating blood sugar based emergencies*
 - *New units were added with no additional cost to budget*
 - *Deputy Fire Marshal has completed training in crime scene analysis and collection to aid the department in Arson investigation*
 - *The division is currently researching and preparing the Fire Code for the 2008 adoption*
 - *March 18: Emergency Operation Center (EOC) activated due to flooding conditions in Rowlett*
 - *Community hazard mitigated successfully with assistance from City staff, CERT, and RACES*
 - *March 20: Mutual Aid provided to City of Mesquite from Rowlett CERT and Emergency Manager for search and recovery of lost 14 year old boy*

- *Fire Rescue: Structure Fires - Property Loss*
- *Fire Rescue: Response Times*
- *Fire Rescue: Number of Structure Fires*
- *Fire Rescue: Percentage/Fire Containment*
- *Began airing the March "Rowlett On The Move" with Mayor Harper, City Manager Craig Owens and special guest City Engineer Shawn Poe; Shawn describes the process of building a street*

Other Activities

- *Staff developed an on-line survey and a printed mailer seeking citizen interest in serving on Bond Election Committee/s*
- *Festival of Freedom 2008 entertainment and fireworks contracts have been executed; began seeking festival sponsors*
- *Donations:*
 - *\$2000 from Wal-Mart to the Library*
 - *21 books from Ms. Boon to Library*

Council questioned the City Manager regarding changes with the Civil Service potential costs.

3D

Discussion of banning use of cell phones while driving in active school zones. (10 minutes)

Matt Walling, Police Chief brought forth a PowerPoint presentation for this item. Prohibiting Cell Phone Use In School Zones (9 page PowerPoint presentation).

Prohibiting Cell Phone Use In School Zones

- *Elements of Ordinance*
 - *Prohibits the following in an active school zone during official school days:*
 - *Use of a hand-held mobile device to:*
 - *Engage in a phone call*
 - *Create, send or read messages*
 - *Shall not apply to hands-free devices*
- *Implementation Requirements*
 - *Total Signs Required - 50*
 - *Cost: \$6,800 (materials)- currently unfunded*
- *Proposed Implementation Timeline:*
 - *8-12 Week Installation*
 - *Enact ordinance with new school year*
- *Public Education*
 - *Information would be distributed through GISD*
 - *Printed City News Publications/other printed publications*
 - *Web site*
 - *RTN 16 (City's Cable Information Channel)*
 - *News release/media outreach*
- *Summary:*
 - *New Ordinance*
 - *Requirements*
 - *Timeline*
 - *Public Education*

Council asked for the Traffic and Safety Committee's recommendations.

Staff stated the recommendation was for an ordinance to be put into place.

Council asked if staff agreed.

Staff answered in the affirmative.

Council voiced concern regarding making the City safer continuously rather than a few sections safer for a couple of hours a day.

Council deferred this item back to the Traffic and Safety Committee to consider a restriction throughout the entire city and establish a city-wide ban.

3E Presentation and discussion of 2008 Citizens' Survey Results. (15 minutes)

This item was presented during regular session following Item 7B.

Paul Ruggiere, Ph.D., Director at the University of North Texas Survey Research Center, stated the purpose of the survey was to measure the quality of life in Rowlett, ratings of City services and communications with citizens. The questionnaire was developed by using the 2007 survey as a starting point and staff used a process to prioritize the questions or deleted questions to make room for others. The average telephone survey took eighteen (18) minutes to complete and used random-digit dialing; briefly went over the different ratings.

Council commented there were no real surprises, but areas can be improved upon.

3F Discuss and provide staff direction with regard to the Boards and Commission's Handbook. (5 minutes)

This item followed Item 3B.

Susie Quinn, City Secretary, spoke concerning the Boards and Commission Handbook and possible revisions to the handbook

Council directed staff to bring the Tax-Increment Financing Board information to the April 15th meeting for further discussion.

Council spoke about possibly amending the boards and commission application.

4. DISCUSS REGULAR SESSION ITEMS

No items were asked to be pulled from the Consent Agenda to be individually considered.

Work Session adjourned at 7:24 p.m.

CONVENE INTO THE COUNCIL CHAMBERS (7:30 P.M.)

Convened in the Council Chambers at 7:38 p.m.

5. INVOCATION

The invocation was led by Pastor Michael Hankins, Church in the City.

6. PLEDGE OF ALLEGIANCE

Mayor Harper led the Pledge of Allegiance.

7. PRESENTATIONS AND PROCLAMATIONS

7A Present a Proclamation for National Library Week, April 13 - 19, 2008.

Mayor Harper presented Jeff Timbs, Library Manager, and Pat Harris and Debbie Keys, Library Advisory Board, with a proclamation.

7B Proclamations for the 2008 Rowlett Arts and Humanities Commission Regional Art Show winners.

Mayor Harper and Mayor Pro Tem Rushing presented each winner of the 2008 Rowlett Arts and Humanities Commission Regional Art Show with a proclamation. Carol Ann Maggiotto, Chair of the Arts and Humanities Commission, presented checks to the first place winners.

7C Update from the Mayor.

Mayor Harper spoke briefly concerning the President George Bush Turnpike Extension; the public hearings DART Line Rail Extension to be held in May; the Bond Election Survey; the Charter Review Commission; Economic Development Strategic Plan; the July 9th Chamber of Commerce Luncheon; the April 5th Stars and Stripes Military Fundraiser; the April 17th 23rd Citizens' Police Academy; April 19th Rowlett Waterways Cleanup from 9:00 a.m. thru 12:00 p.m.; Early Voting for the May 10th Municipal Election; and the May 1st Mayor's Prayer Breakfast.

7D Receive the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2007, which includes the independent auditors' report.

This item followed Item 3E which was presented during the regular session.

Brian Funderburk, Financial Services Director, briefly spoke concerning the Comprehensive Annual Financial Report.

John Manning, presented the independent auditors' report which he read into the record as required by City Charter.

**CITY OF ROWLETT, TEXAS
COMMENTS AND SUGGESTIONS
FOR THE YEAR ENDED SEPTEMBER 30, 2007**

SEGREGATION OF DUTIES

We noted in the Planning and Development office that the permit clerk has access and responsibility for all functions in the office concerning cash. The clerk can take payments,

enter transactions, reconcile and make deposits. The clerk has the ability to edit charges made to transactions with no review. In addition, the clerk is in control of petty cash and holds keys unlocked in a desk drawer that accesses the petty cash and deposit bag.

An essential element of any preventive control system is a segregation of duties in such a manner so that no single individual could perpetrate an error and conceal it without being discovered on a timely basis. Also, limited access to functions in the computer system will prevent the possibility of any individual from altering records leaving management with no way of discovering significant errors or dollar loss.

IT internal controls should be implemented to separate functions that are allowed for staff to those functions allowed for administrative purposes. All staff members should have limited access to all functions. When changes are made to permit fees and payments, a procedure should be in place to explain the reason for the change and all documents supporting the authorization should be kept. A report that details all changes should be created so that management can easily identify all authorized changes.

SECURITY OF CASH

During our evaluation of cash collection points throughout the City, we noted instances at the Municipal Court, Planning and Development office, and in the Utility Department where one cash drawer is being used by multiple individuals during the day for cash collections. The use of separate cash drawers by individuals collecting cash will allow management to more easily identify discrepancies in cash counts during the reconciliation process.

We recommend each person collecting cash have his or her own cash drawer with a removable money tray that can be locked or otherwise secured when not in use by that individual. Access to the drawer should be limited to the individual collecting cash and one other individual in a supervisory role. These drawers should be balanced daily to identify any discrepancies on a timely basis. This procedure would protect the person responsible for the funds as well as others from false accusation in the event of a shortage since only two people would have access to the funds.

8. CITIZENS' INPUT

- 1. Stanley Pollard, 3110 Sycamore Street, Rowlett - spoke concerning the emergency transportation plan; contracts for construction within the City; and paving problems.*
- 2. Laurieann Dygowski, 7242 Liberty Grove, Rowlett - spoke concerning an art show at Inwood National Bank.*
- 3. Deborah Crosby, 8506 Coventry Drive, Rowlett - spoke concerning civil service.*
- 4. Jeffrey Sheldon, 7242 Liberty Grove, Rowlett - spoke concerning the Charter Review Commission; and civil service.*

9. CONSENT AGENDA

Mayor Harper explained the procedure regarding the Consent Agenda and the rights of each Councilmember and each citizen to have any consent agenda item removed to be considered individually.

City Secretary read the items into the record.

- 9A** Consider approving minutes from the February 19, 2008 Regular Council Meeting, the March 4, 2008 Regular Council Meeting, and the March 5, 2008 Special Worksession.

This Matter was approved on the Consent Agenda.

- 9B** Consider an ordinance amending ORD-002-08 and ORD-009-08, calling for the May 10, 2008 general and special elections, to correct the dates and times for Early Voting.

This Matter was approved as ORD-011-08 on the Consent Agenda.

- 9C** Consider a resolution authorizing approval to enter into an interlocal agreement between North Central Texas Council of Government (NCTCOG), Gabriel Roeder Smith & Company (GRS), and the City of Rowlett for actuarial consulting services to assist in compliance with GASB #43 and #45 - Other Post Employment Benefits (OPEB).

This Matter was adopted as RES-035-08 on the Consent Agenda.

- 9D** Consider a resolution authorizing the second one-year renewal options of Section I mowing services for Code Enforcement to 4-D Property Maintenance in the unit amounts bid per section as provided herein beginning on April 15, 2008.

This Matter was adopted as RES-036-08 on the Consent Agenda.

- 9E** Consider a resolution awarding the annual bids for mowing services to the lowest bidders meeting specifications in the unit amounts bid per section with estimated annual amounts per section in the estimated annual amounts as provided herein.

This Matter was adopted as RES-037-08 on the Consent Agenda.

Passed The Consent Agenda

A motion was made by Councilmember Alberts, seconded by Mayor Pro Tem Rushing, including all the preceding items marked as having been adopted on the Consent Agenda. The motion carried by the following vote:

Ayes: 4 - Mayor Harper, Councilmember Alberts, Councilmember Maggiotto and Mayor Pro Tem Rushing

Excused: 2 - Deputy Mayor Pro Tem Gottel and Councilmember Mays

10. ITEMS FOR INDIVIDUAL CONSIDERATION

- 10A Consider appointments to the Traffic and Safety Committee as listed by Resolution No. 10-19-041, Resolution No. RES-138-06 and Ordinance No. ORD-027-07.

Mayor Harper read the item into the record.

One (1) Regular member position is available to be filled for the Traffic and Safety Advisory Committee.

James Moseley was appointed, by acclamation, as a Regular member, upon his acceptance.

One (1) Alternate member position is available since Mr. Moseley was appointed as a Regular member.

Wendy Huckabee was appointed, by acclamation, as an Alternate member, upon her acceptance.

- 10B Conduct a public hearing and consider an ordinance adopting the proposed text amendments to the Rowlett Development Code.

Mayor Harper read the item into the record.

Keri Samford, Planning and Community Development Director stated "In June 2006, we unified our Development Codes; and as it's been implemented since then, we have found items that are either in conflict or don't necessarily mesh with what we've been doing. So back in...at the October 2007 Joint Work Session of the City Council and Planning and Zoning Commission, the Council directed staff to go back and identify those issues and take them to the Planning and Zoning Commission to begin the process. At which time, the Planning and Zoning Commission discussed a list of proposed changes during the Work Session in December 2007 and then held a public hearing at their February 26, 2008 meeting. The Commission recommended approval for the City Council. The ordinance is attached; if you have any questions...also I would like to say there was an additional handout handed out at the Work Session at which time it was on non-conforming uses and it's a more stringent paragraph that's included in there and because its more stringent and conflicts with another code, we're asking that that be removed. So the non-conforming uses will not be allowed to expand and continue."

Mayor Harper stated "Council, this information was made available to you in your packet and of course, the handout given to you during the Work Session. Are there any comments or questions? Mr. Maggiotto."

Councilmember Maggiotto replied "Just a motion, Mayor."

Mayor Harper stated "Before we have the motion, Mr. Maggiotto, was there any one else? Actually, this is a public hearing, Mr. Maggiotto. I have to open the hearing first. Any other comments or questions? Thank you, Keri. What we do now is we will open a public hearing and the public hearing is for those present to speak for or against the proposal. So consider the hearing open at this time (9:04 p.m.). Is anyone present who wishes to come forward and speak for or against agenda Item 10B? No one is coming forward so we will close the public hearing. Do we have someone coming?"

Mayor Pro Tem Rushing replied "We do have someone coming."

Mayor Harper stated "Please come forward, Mr. Pollard. I don't mean to be moving too quickly. The public hearing is open. Stanley Pollard."

Stanley Pollard replied "That's fine, Mayor. I would like to make an observation and I do not know and don't pretend to know, haven't looked at what you guys have that's been presented. I can tell you from personal experience, I've been on the Planning and Zoning Commission when much of the current document was discussed and the recommendations of the Planning and Zoning Commission was at the time and seeing the final product that was presented to the City Council; I'll say that it was very different. And a lot of the concerns and a lot of the things that the P&Z at that time, back in 2005, had to come to agreement and many hours that we've spent on it. It was disconcerting to see that a lot of those were thrown out; in the document that was adopted by City Council. I think that...and again, I don't pretend to know what's in the current document. I'm hoping that some of those were ironed out. I would like to see that when you as a Council redo this document and pass it that you put back a lot of items that were taken out of the Commission and put in the hands of staff and put those back into the Commission. Citizens of this City and I think they ought to have a lot more input than what the current document does. Regardless of what you think about the people, several city councilmembers both sitting now and past, were on the P&Z and knew. They got citizens' input and took those into account with developers and with the City's wants and wishes and the Council's and now a lot of that input is out. I can stand here and name off many, many items that were taken out of the current document that was in before. I don't want to bend your ear but I would suggest that y'all look at the document very thoroughly before you adopt it and look at putting some of those back. Thank you."

Mayor Harper replied "Thank you, Mr. Pollard. Mr. Maggiotto, could I ask you a question as our representative on the Council to the Planning and Zoning Commission? I believe they've been deliberating over these changes for some weeks. Is that accurate?"

Councilmember Maggiotto replied "Yes, Mayor."

Mayor Harper stated "Did you see any lack of involvement by the P&Z and major changes from what was proposed to what staff has brought forward?"

Councilmember Maggiotto replied "I think what Mr. Pollard is alluding to is really prior to this Council being seated in May 2007. I would not presume at this time to bring that up since the membership on that P&Z prior to 2007 is different than what exists today, so in holding with what the current Planning and Zoning Commission has worked out with staff, which is presented to us tonight. I think that's where we should remain focused."

Mayor Harper stated "Thank you, sir. Any other comments? The public hearing is still open; anyone in the audience who wishes to speak for or against? I will close the public hearing (9:08 p.m.) and ask the Council one more time, any comments or questions before we actually consider the ordinance? That being the case, is there a motion, Council?"

Councilmember Maggiotto replied "Yes, Mayor. I would propose that we adopt the recommendations provided in the packet and add the following which Ms. Samford alluded to; it is the recommendation to remove Section 77-903(b)(3) and to insert the following 'a non-conforming use shall be changed to another non-conforming use or a non-conforming structure shall not be remodeled, enlarged, expanded or altered if located within the Northshore Zoning District along SH 66, along the President George Bush Turnpike corridors, or within any district zoned commercial highway C-A.'"

Mayor Harper stated "Thank you. Go ahead, Mr. Berman."

David Berman, City Attorney stated "Before our second is made on that one, let me just obtain clarification. My understanding is that Section 77-903(b)(3), staff's recommendation is that (b)(3) be removed. The text that you just read, my understanding of the motion, seems to suggest that you are asking that the text that you just read be inserted into the Code when in fact staff's recommendation is that that text which currently exists be removed from the Code."

Councilmember Maggiotto replied "Oh, okay. That's fine."

Mr. Berman stated "The other concern I had is your motion is to accept and adopt the ordinance as said forth in the revised packet, yes?"

Councilmember Maggiotto replied "Correct."

Mr. Berman stated "Because the original packet didn't have it in there but the revised one does."

Councilmember Maggiotto replied "Okay, yes and to the City Attorney, I'll amend my motion to simply state the recommendation to remove Section 77-903(b)(3)."

A motion was made by Councilmember Maggiotto, seconded by Mayor Pro Tem Rushing, that this matter be adopted as amended as ORD-012-08 The motion carried by the following vote:

Ayes: 4 - Mayor Harper, Councilmember Alberts, Councilmember Maggiotto and Mayor Pro Tem Rushing

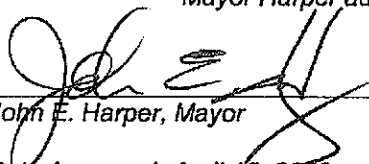
Excused: 2 - Deputy Mayor Pro Tem Gottel and Councilmember Mays

TAKE ANY NECESSARY OR APPROPRIATE ACTION ON CLOSED/EXECUTIVE SESSION MATTERS

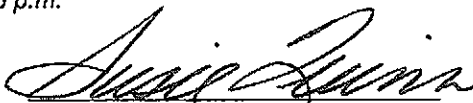
No actions were taken during the Executive Session.

11. ADJOURNMENT

Mayor Harper adjourned the meeting at 9:08 p.m.



John E. Harper, Mayor
Date Approved: April 15, 2008



Susie Quinn, City Secretary